

Approved
3/8/01

LAND USE COMMISSION

Minutes of Meeting

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

February 16, 2001

COMMISSIONERS PRESENT: P. Roy Catalani
Bruce A. Coppa
Pravin Desai (Portion of Proceedings)
Isaac Fiesta, Jr.
Lawrence N.C. Ing
M. Casey Jarman
Merle Kelai (Portion of Proceedings)
Stanley Roehrig
Peter Yukimura

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

Holly Hackett, Court Reporter

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

CONTINUED ACTION

A00-733 - HARRISON J. & SHARENE Z. KLEIN

Chairperson Kelai announced that this was a continued action meeting to consider whether the anticipated effects discussed in Petitioner's Final Environmental Assessment to reclassify approximately 2.621 acres of land currently in the Conservation District into the Agricultural District at Keonepoko Iki, Puna, Hawaii, for the cultivation of ti-leaf plants, coconut trees, and palms and recommence a commercial farming operation constitutes a "significant effect" pursuant to Chapter 343, H.R.S.

Appearances

Steven S.C. Lim, Esq., representing petitioner

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

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

Lorene Maki, Land Use Division, Office of Planning

Arguments were heard from Mr. Lim, Ms. O'Toole and Mr. Chang.

Questions were asked by the Commissioners.

Commissioner Jarman 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 Desai and unanimously passed by the following votes:

Ayes: Commissioners Desai, Fiesta, Ing, Yukimura, Catalani, Roehrig, Coppa, Jarman, and Kelai

ACTION

A00-731 - DESTINATION VILLAGES KAUAI, LLC (Kauai)

Chairperson Kelai announced that the Commission would take action to consider reclassifying approximately 153.696 acres of land currently in the Agricultural District into the Urban District at Makaweli, Kauai, for the development of a resort and accessory uses.

On February 9, 2001, the Commission received Petitioner's Statement of No Objection to the Proposed Findings of Fact, Conclusions of Law, and Decision and Order Proposed By Commissioner Stanley H. Roehrig.

On February 13, 2001, the Commission received County of Kauai's Statement of No Objection to the Proposed Findings of Fact, Conclusions of Law, and Decision and Order Proposed By Commissioner Stanley H. Roehrig.

On February 13, 2001, the Commission received a facsimile letter from Bruce Pleas requesting to testify.

The Commission also received approximately 43 facsimile letters in opposition to the project. These letters will be part of the Chapter 92 minutes and will not appear in the contested case record.

Commissioner Coppa was excused from this proceeding due to a previously declared conflict of interest.

PUBLIC WITNESSES (Pursuant to Chapter 92 Proceedings)

1. Joseph Manini
2. Arius Hopman (testimony read by Bruce Pleas)
3. Cha Smith
4. Bruce Pleas

Appearances

Michael Belles, Esq., representing petitioner

Scott Ezer, Helber, Hastert & Fee

Laurel Loo, Esq., Deputy Corporation Counsel

Dee Crowell, Planning Director, Kauai County Planning
Department

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

Abe Mitsuda, Land Use Division, Office of Planning

Lorene Maki, Land Use Division, Office of Planning

Mr. Belles presented his final argument. Ms. Loo and Mr. Chang had no objections to the Proposed Findings of Fact, Conclusions of Law, and Decision and Order proposed by Commissioner Roehrig.

Questions were asked by the Commissioners.

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Commissioner Jarman voiced her comments and suggested changes to Commissioner Roehrig's Proposed Findings of Fact, Conclusions of Law, and Decision and Order.

A lunch recess was taken at 11:35 a.m. to reconvene at 12:30 p.m.

- 12:40 p.m.

Commissioner Desai was not present at the proceedings at this time.

A00-731 - DESTINATION VILLAGES KAUAI, LLC (Kauai) (cont'd.)

After much discussion, Commissioner Jarman suggested that Commissioner Roehrig work with the LUC deputy attorney general and staff to change the proposed order to address the issues relative to the Ka Pa`akai O Ka `Aina case more clearly.

Commissioner Roehrig moved to send the Proposed Decision and Order to the deputy attorney general for revisions to address the concerns of Commissioner Jarman and to take action at the next Commission meeting. The motion was seconded by Commissioner Fiesta and polled as follows:

Ayes: Commissioners Fiesta, Ing, Jarman, Yukimura, Catalani, Roehrig, and Kelai

Commissioner Kelai excused himself from the proceedings at this time.

A83-558 - MSM & ASSOCIATES, INC. (Oahu)

Vice Chairperson Ing announced that this matter before the Commission was an action to consider Haseko (Ewa), Inc.'s and Haseko Homes, Inc.'s Motion for Release From Decision and Order Entered on September 21, 1984 which reclassified approximately 181 acres of land from the Agricultural District into the Urban District at Oneula, Ewa, Oahu, Hawaii for marina, residential, commercial, public facility, and park uses (Motion for Area IC, Relief from condition No. 7 and Motion for Lot 13133).

On February 13, 2001, the Commission received a letter dated February 9, 2001 from T.D. Yearout, Captain, U.S. Coast Guard, Acting Commander, Fourteenth Coast Guard District.

On February 13, 2001, the Commission received a letter dated February 13, 2001 from T. K. Hohl, Captain, U.S. Navy, Chief of Staff.

On February 14, 2001, the Commission received Testimony of the Office of Planning in Opposition to Haseko's Motion for Relief from Condition No. 7 of the Decision and Order Entered on September 21, 1984.

On February 15, 2001, the Commission received Testimony of the Office of Planning in Support of the Motion for Release of Area 1C and Lot 13133 from Decision and Order Entered on September 21, 1984.

Appearances

Wayne Costa, Esq. for Petitioner

Yvonne Izu, Esq. for Petitioner

Kathy Sokugawa, Department of Planning and Permitting

Bob Sumitomo, Department of Planning and Permitting

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

Abe Mitsuda, Land Use Division, Office of Planning

Russell Kumabe, staff planner, oriented the Commission to the petition area and provided background information on the petition.

Arguments on the motion were heard from Mr. Costa, Ms. Sokugawa, and Mr. Chang.

After hearing Petitioner's argument, questions were asked by the Commissioners.

Mr. Costa made a motion to withdraw Petitioner's motion to release condition 7. Commissioner Yukimura moved to accept Petitioner's motion to withdraw its motion to release condition 7. The motion was seconded by Commissioner Fiesta and polled as follows:

Ayes: Commissioner Coppa, Yukimura, Catalani, Roehrig, Fiesta, Jarman, and Ing

Commissioner Coppa moved to approve Petitioner's Motion for Release From Decision and Order Entered on September 21, 1984 for Area IC and Lot 13133 which reclassified approximately 181 acres of land from the Agricultural District into the Urban District at Oneula, Ewa, Oahu, Hawaii for marina, residential, commercial, public facility, and park uses. The motion was seconded by Commissioner Fiesta and polled as follows:

Ayes: Commissioners Coppa, Fiesta, Ing, Jarman, Yukimura, Catalani, and Roehrig

A00-732 - TSA INTERNATIONAL, LIMITED

Vice Chairperson Ing announced that this was an action meeting to consider Kaloko-Honokohau National Historical Park's untimely application to intervene in the proceeding for district boundary amendment to reclassify approximately 102 acres of land currently in the Conservation District into the Urban District at Kaloko, North Kona, Hawaii, for the development of a mix of light industrial and industrial-commercial uses.

Appearances

Nathan Natori, Esq., representing Petitioner

Stanley Bond, representing Intervenor

Gary Barbano, representing Intervenor

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

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

Arguments were heard from Mr. Bond, Mr. Natori, Ms. O'Toole and Mr. Chang.

Commissioner Roehrig moved to accept Kaloko-Honokohau National Historical Park's application to intervene. The motion was seconded by Commissioner Coppa and polled as follows:

Ayes: Commissioners Roehrig, Coppa, Catalani, Fiesta,
Jarman, Yukimura, and Ing

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Fiesta moved to approve the minutes for the meeting dates of January 19, 2001. The motion was seconded by Commissioner Coppa and unanimously approved by voice votes.

2. ADOPTION OF DECISION AND ORDER

Commissioner Coppa moved to adopt the Order Granting Request To Amend Condition No. 4 for Docket No. SP70-85 - Waikoloa Development Company. The motion was seconded by Commissioner Fiesta and unanimously approved by voice votes.

OTHER PENDING MATTERS

1. Mr. Saruwatari gave a legislative update of the pending bills affecting the Land Use Commission.
2. Litigation Update - Ms. Ueda reported that Deputy Attorney General Charleen Aina would be representing the Commissioners in their U.S. District Court lawsuit.
3. Tentative Meeting Schedule - The March 15-16 meeting date has been moved to the following week, March 22-23.
4. Field Trip Procedures for Docket No. A00-732/TSA International, Limited - Mr. Saruwatari reported that Ms. Aina advised the Commission to videotape the field trip. On March 8, the scheduled hearing will be opened in the morning and the field trip will be held after lunch. Staff will be coordinating the arrangements for the field trip. The Commissioners were advised to dress appropriately.

The meeting was adjourned at 2:40 p.m.