

Approved
6/14/01

LAND USE COMMISSION

Minutes of Meeting

King Kamehameha's Kona Beach Hotel

Eha Room

75-5660 Palani Road

Kailua-Kona, Hawaii

May 31, 2001

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

COMMISSIONER ABSENT: Isaac Fiesta, Jr.

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
Esther Ueda, Consultant
Holly Hackett, Court Reporter

Chairperson Kelai called the meeting to order at 9:40 a.m.

ACTION

A93-701 – KAUPULEHU DEVELOPMENTS (Hawaii)

Chairperson Kelai announced that this matter before the Commission was an action meeting to consider the Proposed Findings of Fact, Conclusions of Law, and Decision and Order, and Exceptions to the parties' Proposed Findings of Fact,

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Conclusions of Law, and Decision and Order submitted by the parties pursuant to the Commission's Prehearing Order issued on January 2, 2001, Order Establishing Procedures for Further Proceedings on Remand issued on February 15, 2001, and material requested by the Commission at its meeting on April 5, 2001, in response to the Hawaii Supreme Court's decision in *Ka Pa'akai O Ka'aina, et al. v. Land Use Commission, et al.*, Sup. Ct. Nos. 21124 and 21162.

Bert Saruwatari, staff planner, oriented the Commission to the subject area on the Land Use District Boundaries maps and concept plans map (Petitioner's Exhibit 12).

Appearances

R. Ben Tsukazaki, Esq., representing petitioner

Patricia O'Toole, Corporation Counsel, County of Hawaii

Michael J. Matsukawa, Esq., representing Intervenor Ka Pa`akai O Ka`aina

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

Abe Mitsuda, Land Use Division, Office of Planning

Executive Officer Anthony Ching gave a project orientation and staff assessment of the record.

Chairperson Kelai introduced Anthony Ching as the new Land Use Commission Executive Officer.

Chairperson Kelai noted that a representative for Intervenor Plan to Protect was not present.

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

PUBLIC WITNESSES

1. Leina`ala Keakealani Lightner
2. Ku`ulei Keakealani

Commissioner Roehrig moved to go into executive session to discuss legal matters relating to Kaupulehu Developments with our deputy attorney general. The motion was seconded by Commissioner Coppa and unanimously approved by voice votes.

A lunch recess was taken at 11:40 a.m. to reconvene at 12:45 a.m.

- 1:05 p.m. -

PUBLIC WITNESSES (cont'd.)

3. Mikahala Roy
4. David Roy

Questions were asked by the Commissioners.

Commissioner Roehrig's motion, as amended, directed the Commission staff to prepare a draft Proposed Findings of Fact, Conclusions of Law, and Decision and Order to be issued by this Commission within 30 days of the Commission's May 31, 2001, meeting. The parties will then have 30 days in which to comment on the draft Proposed Findings of Fact, Conclusions of Law, and Decision and Order. This Commission shall thereafter schedule a meeting to hear oral arguments from the parties and make a decision in this matter. Following discussion by the Commissioners, the motion was seconded by Commissioner Ing and polled as follows:

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

Nays: Commissioner Jarman

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CONTINUED HEARING

A00-732 – TSA CORPORATION (Hawaii)

Chairperson Kelai announced that this matter before the Commission was a continuation of the hearing previously held on March 8 and 9, 2001, to reclassify approximately 102.016 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

Rodney Funakoshi, Wilson, Okamoto & Associates

Patricia O'Toole, County of Hawaii Planning Department

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

Judith Henry, Land Use Division, Office of Planning

Nicole Walthall, Esq., representing Intervenor

Stanley Bond, representing Intervenor

Mr. Bond made an oral motion to have Nicole Walthall represent the Kaloko-Honokohau National Park as their counsel. Chairperson Kelai granted Mr. Bond's request.

Mr. Natori presented his arguments on Petitioner's Motion to Correct Transcript of Hearings on March 8 and 9, 2001.

Commissioner Roehrig moved that the Land Use Commission accept Petitioner's Motion to Correct Transcript of Hearings on March 8 and 9, 2001. The motion was seconded by Commissioner Yukimura and unanimously passed by voice votes.

PETITIONER'S WITNESSES (cont'd.)

1. Hideki Hayashi
2. Pete Pascua

Commissioners Coppa, Desai, and Kelai were not present to the proceedings at this time.

EXHIBITS

1. Petitioner's Exhibit Nos. 7.A (errata sheet), 7.F1, 11.A, 45, 46, 47, 48-A, 48-B, 48-C, and 49 through 54 were admitted into evidence by the Land Use Commission.
2. County's Exhibit Nos. 4 through 11 were admitted into evidence by the Land Use Commission.
3. Office of Planning's Exhibit Nos. 6 through 9 were admitted into evidence by the Land Use Commission.
4. Intervenor's Exhibit Nos. 25A, 26 and 27 were admitted into evidence by the Land Use Commission.

Ms. Walthall requested to add one more witness, Eric Guinther, who is an expert in biology.

PETITIONER'S WITNESSES (cont'd.)

3. Hideki Hayashi
4. Tom Nance

The meeting was adjourned at 5:05 p.m. with the announcement that the Commission will reconvene tomorrow at 9:00 a.m.