

LAND USE COMMISSION
Minutes of Meeting
Conference Room 405
State Office Tower, Leiopapa A Kamehameha
235 South Beretania Street
Honolulu, Hawaii

Approved
6/28/01

June 14, 2001

COMMISSIONERS PRESENT: P. Roy Catalani
Bruce A. Coppa
Pravin Desai
Isaac Fiesta, Jr.
Merle Kelai
Peter Yukimura

COMMISSIONERS ABSENT: Lawrence N.C. Ing
M. Casey Jarman
Stanley Roehrig

STAFF PRESENT: John Deller, Esq., Deputy Attorney
General
Anthony J.H. Ching, Executive
Officer
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 9:30 a.m.

ACTION

DR01-24 – STEVEN K. BAKER

Chairperson Kelai announced that this was an action meeting to consider Petitioner's legal description in metes and bounds of the Property pursuant to

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Declaratory Order clarifying the location of the State Land Use Urban District Boundary of Petitioner's land at Niu, Oahu.

On May 24, 2001, the Commission received from Petitioner a metes and bounds map and description of Lot 1, File Plan 279, Niu Beach Lots, Portion Former Kalaniana'ole Highway and Portion of Accreted Land and of the Conservation District area.

Appearances

Grace Nihei Kido, Esq., representing petitioner

Linden Joesting, Deputy Attorney General, Office of Planning

Abe Mitsuda, Land Use Division, Office of Planning

Ms. Kido presented her arguments on Petitioner's legal description in metes and bounds of the Property, with no objections from Mr. Mitsuda of the Office of Planning.

Commissioner Catalani moved to accept Petitioner's legal description in metes and bounds of the Property pursuant to Declaratory Order clarifying the location of the State Land Use Urban District Boundary of Petitioner's land at Niu, Oahu. The motion was seconded by Commissioner Desai and unanimously passed by the following votes:

Ayes: Commissioners Catalani, Desai, Coppa, Fiesta, Yukimura and Kelai

AR&R01-15

Chairperson Kelai announced that this matter before the Commission was an action to consider David Kimo Frankel's Petition for Rulemaking.

Appearances

David Kimo Frankel

Executive Officer, Anthony Ching, presented an overview of rulemaking procedures and staff analysis of Mr. Frankel's rulemaking petition.

Mr. Frankel presented his arguments to the Commission. Mr. Frankel circulated a copy of a Garden Island Rentals Magazine ad that was introduced as an Exhibit.

PUBLIC WITNESSES

1. Dan Davidson
2. John Ray
3. Hiroshi Sakai
4. John Michael White
5. David Blane
6. Kathy Sokugawa on behalf of Randall Fujiki
7. Mary Begier
8. Larry McElheny
9. Gabriela Taylor
10. William Reese Liggett
11. Alexandra Avery

Mr. Frankel presented his closing arguments.

Commissioner Catalani moved to go into executive session to discuss legal matters relating to Mr. Frankel's petition for rulemaking with our deputy attorney general. The motion was seconded by Commissioner Fiesta and unanimously approved by voice votes.

Commissioner Coppa moved to deny Mr. Frankel's Petition for Rulemaking. The motion was seconded by Commissioner Fiesta. Following discussion, the Commissioners were polled as follows:

Ayes: Commissioners Desai, Coppa, Fiesta, Yukimura and Kelai

Nays: Commissioner Catalani

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Fiesta moved to approve the minutes for the meeting dates of May 31 and June 1, 2001. The motion was seconded by Commissioner Desai and unanimously approved by voice votes.

2. ADOPTION OF DECISION AND ORDER

Commissioner Fiesta moved to adopt the Order Granting Petitioner's Correction of Transcript of Hearings on March 8 and 9, 2001 for Docket No. A00-732 – TSA Corporation. The motion was seconded by Commissioner Desai and unanimously approved by voice votes.

3. STAFF REPORT ON ANNUAL REPORT MONITORING

Russell Kumabe, staff planner, provided the Commission with an update of the status of petitioners' compliance in filing of 1999-2000 annual reports.

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OTHER PENDING MATTERS

1. Litigation Update – Pacific Star, LLC v. The Sierra Club, et al., Civil No. 00-1-0209K (3rd Circuit). Executive Officer, Anthony Ching, reported on behalf of deputy attorney general, Charleen Aina, that the Federal Court denied all counts of the Land Use Commissioners' Motion for Judgment on the Pleadings in Civil No. 00-00762 SOM/LEK. Mr. Ching also reported that the parties have stipulated that the Commissioners are not being sued in their individual capacities and that Federal proceedings are likely to proceed. We are still awaiting Judge Ibarra's written order.

The meeting was adjourned at 12:00 p.m.