

Minutes of Meeting

Approved
8/24/01

County Council Room
Hawaii County Building
25 Aupuni Street, Room 201
Hilo, Hawaii

August 9, 2001

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

COMMISSIONER ABSENT: Merle A. K. Kelai

STAFF PRESENT: Anthony J.H. Ching, Executive Officer
Diane Erickson, Esq., Deputy Attorney
General
Russell Kumabe, Staff Planner
Bert Saruwatari, Staff Planner
Teri Hee, Chief Clerk
Andrea Vasconcellos, Court Reporter

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

CONTINUED ACTION

A93-701 – KAUPULEHU DEVELOPMENTS (Hawaii)

Vice Chairperson Ing announced that this matter before the Commission was a continued action meeting to consider the Draft Proposed Findings of Fact, Conclusions of Law, and Decision and Order as prepared by staff pursuant to the Order Requiring Preparation of Proposed Findings of Fact, Conclusions of Law, and Decision and Order

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issued on June 29, 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.

Appearances

R. Ben Tsukazaki, Esq., representing petitioner

Lester Ishado, Esq., Corporation Counsel, County of Hawaii

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

Abe Mitsuda, Land Use Division, Office of Planning

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

Vice Chairperson Ing announced that the Commission just received a facsimile letter from Michael Matsukawa stating that he would not be able to attend today's meeting.

After much discussion, Commissioner Roehrig moved to distribute to the parties his Draft Proposed Findings of Fact, Conclusions of Law, and Decision and Order, with his further amendments. The motion was seconded by Commissioner Fiesta and polled as follows:

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

Nays: Commissioner Jarman

A lunch recess was taken at 12:30 noon to reconvene at 1:30 p.m.

- 1:35 p.m. -

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MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Jarman moved to approve the minutes for the meeting date of July 18-19, 2001. The motion was seconded by Commissioner Fiesta and unanimously approved by voice votes.

HEARING

A00-733 – HARRISON J. AND SHARENE Z. KLEIN (Hawaii)

Pursuant to a notice published in the Honolulu Star Bulletin and the Hawai'i Tribune-Herald and notices sent to all parties, a hearing was called by the Land Use Commission in the matter of the petition by Harrison J. and Sharene Z. Klein, to consider reclassifying approximately 2.621 acres of land currently in the Conservation District into the Urban District at Keonepoko Iki, Puna, Hawaii for improvements to an existing single-family residential dwelling and related improvements and the cultivation of ti-leaf plants, coconut trees and palms.

Appearances

Steven Lim, Esq., representing Petitioner

Norman Hayashi, County of Hawai'i Planning Department

Lester Ishado, Esq., Corporation Council, County of Hawai'i

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

EXHIBITS

1. Petitioner's Exhibit Nos. 1 and 2 were admitted into evidence by the Land Use Commission.

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2. County's Exhibit No. 1 was admitted into evidence by the Land Use Commission.

3. Office of Planning's Exhibit Nos. 1, 2 and 3 were admitted into evidence by the Land Use Commission.

Russell Kumabe, staff planner, oriented the Commission to the subject area on the Land Use District Boundaries and tax maps.

PETITIONER'S WITNESSES

1. Steven Lim
2. Harrison Klein

COUNTY'S WITNESS

1. Norman Hayashi

STATE'S WITNESS

1. Abe Mitsuda

Upon completion of presentations by the parties, Vice Chairperson Ing declared that the hearing was closed. Vice Chairperson Ing instructed all parties of the post hearing procedures. Proposed findings from the parties are due by August 31, 2001 and the parties have until September 7, 2001 in which to respond.

HEARING

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

Pursuant to a notice published in the Honolulu Star Bulletin and the Hawai'i Tribune-Herald and notices sent to all parties, a hearing was called by the Land Use Commission in the matter of the petition by The Newton Family Limited Partnership, to consider reclassifying approximately 885.40 acres of land currently in the Conservation

into the Agricultural District at Kukuau, South Hilo, Hawaii, for an agricultural subdivision.

The Commission entered the following correspondence into evidence:

1. Letter dated March 28, 2001 from Christopher Yuen transmitting a letter dated March 12, 2001 from Mr. Francis I. Pacheco of the Waiakea Soil and Water Conservation District.
2. Memoranda dated June 28, 2001, from Linnel T. Nishioka, Deputy Director of the Commission on Water Resource Management (CWRM).

Appearances

A. Bernard Bays, Esq., representing Petitioner

Norman Hayashi, County of Hawai`i Planning Department

Lester Ishado, Esq., Corporation Council, County of Hawai`i

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

Bert Saruwatari, staff planner, oriented the Commission to the subject area on the Land Use District Boundaries and tax maps.

EXHIBITS

1. Petitioner's Exhibit Nos. 1, 1A through 1K, 2, 3, 3A through 3W, and 4 through 14 were admitted into evidence by the Land Use Commission.
2. County's Exhibit No. 1 was admitted into evidence by the Land Use Commission.

3. Office of Planning's Exhibit Nos. 1, 2, and 3 were admitted into evidence by the Land Use Commission.

PETITIONER'S WITNESSES

1. James Bell
2. George Newton

MISCELLANEOUS (continued)

2. ELECTION OF OFFICERS

Commissioner Fiesta moved to elect Merle Kelai as Chairperson. The motion was seconded by Commissioner Roehrig. Commissioner Roehrig moved to close the nominations for chairperson. The motion was seconded by Commissioner Yukimura. Commissioner Kelai was unanimously elected as chairperson by voice votes. Commissioner Fiesta moved to elect Lawrence Ing as Vice-Chairperson. The motion was seconded by Commissioner Yukimura. Commissioner Roehrig moved to close the nominations for vice-chairperson. The motion was seconded by Commissioner Fiesta. Commissioner Ing was unanimously elected as vice-chairperson by voice votes.

3. ADOPTION OF DECISION AND ORDERS

Commissioner Jarman moved to adopt the Order Denying Petitioner's Amended Motion To Correct Transcript Of Hearings On May 31, 2001 And June 1, 2001 for Docket No. A00-732 – TSA Corporation. The motion was seconded by Commissioner Fiesta and unanimously approved by voice votes.

Commissioner Jarman moved to adopt the Order Granting Petition For Intervention Filed By The Sierra Club, Hawai'i Chapter for Docket No. A00-734 – Castle & Cooke Homes Hawai'i, Inc. & Pacific Health Community, Inc. The motion was seconded by Commissioner Coppa and unanimously approved by voice votes.

Commissioner Jarman moved to adopt the Order Granting Petition For Intervention Filed By The Mililani/Melemanu/Waipio Neighborhood Board #25 for

Docket No. A00-734 – Castle & Cooke Homes Hawai`i, Inc. & Pacific Health Community, Inc. The motion was seconded by Commissioner Coppa and unanimously approved by voice votes.

OTHER PENDING MATTERS

1. Tentative Meeting Schedule – Executive Officer Anthony Ching reported that the Commission would be considering Sierra Club’s Motion to Stay Proceedings in Castle & Cooke Homes Petition to Remove Over 1200 Acres of Land from the Agricultural District Until HRS Chapter 343 is Complied With on September 6th. He also noted that HCDCH motions as well as status updates from Halekua Development Corporation and White Hat Development Corporation would probably be heard on the September 20-21 meeting.

Commissioner Desai and Commissioner Yukimura were not present to the proceedings at this time.

HEARING (continued)

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

PETITIONER'S WITNESSES (continued)

3. Paul Rosendahl

COUNTY'S WITNESS

1. Norman Hayashi

STATE'S WITNESS

1. Abe Mitsuda

Vice Chairperson Ing announced that the hearing is closed except for the limited purpose of receiving into the record written correspondence from the Department of Land and Natural Resources confirming representations made to the Land Use

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Commission regarding their comments and advice regarding this docket pursuant to HRS 6E-42. Vice Chairperson Ing instructed all parties of the post hearing procedures. Proposed findings from the parties are due by August 31, 2001 and the parties have until September 7, 2001 in which to respond.

MISCELLANEOUS (continued)

OTHER PENDING MATTERS (continued)

2. Litigation Update – Pacific Star, LLC v. The Sierra Club, et al., Civil No. 00-1-0209K (3rd Circuit). Executive Officer Anthony Ching provided an update of the pending litigation in this matter.

The meeting was adjourned at 5:05 p.m.