

Approved
9/20/01

LAND USE COMMISSION

Minutes of Meeting

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

September 6, 2001

COMMISSIONERS PRESENT: Bruce A. Coppa
Pravin Desai
Isaac Fiesta, Jr.
Lawrence N.C. Ing
M. Casey Jarman
Merle Kelai
Peter Yukimura

COMMISSIONERS ABSENT: P. Roy Catalani (excused)
Stanley Roehrig

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

Holly Hackett, Court Reporter

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

PRESENTATION

Pacific Star, LLC v. The Sierra Club, et al.

Deputy Attorney General Charleen Aina reported that a stipulation to dismiss the action in federal district court with respect to Civil No. 00-00762 SOM/LEK was filed

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at District Court on August 22, 2001, dismissing without prejudice as to the defendants in their official capacities and with prejudice as to the defendants in their individual capacities. The state declaratory judgment action (Civil No. 00-1-0208K) is still pending, awaiting the signature of the judge approving as to form dismissal with prejudice all the constitutional claims that Pacific Star made in both the federal court and the Chapter 91 appeal (Civil No. 00-1-0209K).

ACTION

A00-730 – LANIHAU PARTNERS L.P.

Chairperson Kelai announced that this was an action to consider Petitioner Lanihau Partners L.P.'s Motion to Amend Petition for Land Use District Boundary Amendment by replacing Lanihau Partners L.P. as the petitioner with Lanihau Properties, LLC, the new owner of the Petition Area. The subject petition is a request to reclassify approximately 337 acres of land currently in the Conservation District into the Urban District at Honokohau, North Kona, Hawaii for the development of a mix of light industrial and commercial uses, as well as the expansion of the existing quarry and quarry-related uses.

On August 31, 2001, the Commission received a letter from Lester J. Ishado, Deputy Corporation Counsel of the County of Hawai'i stating that the County of Hawai'i takes no position on the motion to amend petition by replacing Lanihau Partners L.P., as petitioner, with Lanihau Properties, LLC and that he will not be attending today's meeting.

Appearances

Michael Moore, Esq., Attorney for Petitioner

James Greenwell, President of Lanihau Management Corporation

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

Abe Mitsuda, Land Use Division, Office of Planning

Argument was heard from Mr. Moore. Mr. Chang had no comments.

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Commissioner Jarman moved to Amend Petition for Land Use District Boundary Amendment by replacing Lanihau Partners L.P. as the petitioner with Lanihau Properties, LLC, the new owner of the Petition Area. The motion was seconded by Commissioner Coppa and polled as follows:

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

ACTION AND HEARING

A00-734 – CASTLE & COOKE HOMES HAWAII, INC. & PACIFIC HEALTH COMMUNITY, INC. (Oahu)

Chairperson Kelai announced that this was a hearing of the Land Use Commission to consider reclassifying approximately 1,247.983 acres of land currently in the Agricultural District into the Urban District at Waipio and Waiawa, Oahu, for residential, school, commercial, and medical park complex uses. The Land Use Commission was conducting this hearing pursuant to a notice published on June 11, 2001 in the Honolulu Star Bulletin and the Hawaii State & County Public Notices of MidWeek.

On August 7, 2001, the Commission received Intervenor Sierra Club's Motion To Stay Proceedings In Castle & Cooke Homes Petition To Remove Over 1,200 Acres Of Land From The Agricultural District Until HRS Chapter 343 Is Complied With.

On August 14, 2001, the Commission received Petitioner's Memorandum in Opposition to Motion to Stay Hearing Until Petitioner Complies With HRS Chapter 343.

On August 28, 2001, the Commission received the Department of Planning and Permitting's No Position to the Motion to Stay Hearing Until Petitioner Complies With HRS Chapter 343.

On August 29, 2001, the Commission received Intervenor Sierra Club's Reply Memorandum to Castle & Cooke Homes' Motion in Opposition to Sierra Club's Motion to Stay Proceedings Until Compliance With HRS Chapter 343.

The Commission entered the following correspondence into evidence:

1. Memorandum dated July 3, 2001, from Edward T. Teixeira, Vice Director of Civil Defense.

Chairperson Kelai made the following announcement: “The Commission will be conducting a field trip to see the proposed project site. If any interested party or member of the public wishes to attend, we will be assembling at the Beretania Street sidewalk fronting the State Capitol. A fifty (50)-passenger bus will depart from that location at 12:15 p.m. It is expected that the bus will return at 3:15-3:30 p.m. to the same location. If you wish to utilize your own transport, please rendezvous with the bus at 1:00 p.m. at the new regional park in Waipio.”

Appearances

Dickson Lee, Esq., representing Petitioner Castle & Cooke Homes Hawai'i, Inc.

William Yuen, Esq., representing Petitioner Pacific Health Community

Rodney Sato, Esq., representing Petitioner Pacific Health Community

Jane Howell, Esq., City & County of Honolulu Corporation Counsel

Bob Stanfield, Department of Planning and Permitting

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

Abe Mitsuda, Land Use Division, Office of Planning

Jeff Mikulina on behalf of Sierra Club, Hawai'i Chapter

Richard Poirier on behalf of Mililani/Melemanu/Waipio Neighborhood Board #25

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

Deputy Attorney General John Delleria provided an orientation of the legal issues that were presented by Intervenor' Sierra Club's Motion To Stay Proceedings In Castle & Cooke Homes Petition To Remove Over 1,200 Acres Of Land From The Agricultural District Until HRS Chapter 343 Is Complied With. He announced that after the parties have addressed the motion and have made their arguments, the Commissioners will have an opportunity to ask questions and make whatever statements they wish to

make. He also stated that the Commissioners may wish to meet in executive session for further advice, which will require a vote of six Commissioners.

Arguments were heard from Mr. Mikulina, Mr. Lee, Ms. Howell, Mr. Yuen, Mr. Chang, and Mr. Poirier with respect to Intervenor Sierra Club's Motion To Stay Proceedings In Castle & Cooke Homes Petition To Remove Over 1,200 Acres Of Land From The Agricultural District Until HRS Chapter 343 Is Complied With. Questions were asked by the Commissioners.

Commissioner Coppa moved to deny Intervenor Sierra Club's Motion To Stay Proceedings In Castle & Cooke Homes Petition To Remove Over 1,200 Acres Of Land From The Agricultural District Until HRS Chapter 343 Is Complied With. The motion was seconded by Commissioner Ing and polled as follows:

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

Nays: Commissioner Jarman

PUBLIC WITNESSES

1. Doug Fabrey
2. Rodger McClosky
3. Representative Marcus Oshiro
4. Todd Anderson

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. 6 through 18 and 41-A through 66 were admitted into evidence by the Land Use Commission.

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Mr. Yuen stated that exhibit nos. 67 through 70 as listed on Petitioner's Amended Exhibit List would be introduced at a later date.

PETITIONER'S WITNESSES

1. Dr. Edmund Whang
2. Dr. Randall Suzuka

John Deller, Deputy Attorney General, pointed out the guidelines for Land Use Commission site visits and gave instructions regarding purposes and procedures for the subject field trip.

The meeting was adjourned at 12:05 p.m. with the announcement that the Commission will be taking a field to the project site at 12:15 p.m. The meeting will reconvene tomorrow morning at 8:30 a.m.