

Approved 2/7/02

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

February 1, 2002

COMMISSIONERS PRESENT: Merle Kelai (portion of proceedings)
Bruce Coppa
Isaac Fiesta, Jr.
P. Roy Catalani
Peter Yukimura
Stanley Roehrig
M. Casey Jarman
Pravin Desai (portion of proceedings)

COMMISSIONERS ABSENT: Lawrence N. C. Ing

STAFF PRESENT: Diane Erickson, Esq., Deputy Attorney General
Anthony J.H. Ching, Executive Officer
Russell Kumabe, Staff Planner
Bert Saruwatari, Staff Planner
Caroline Lorenzo, Secretary
Holly Hackett, Court Reporter

Chairman Kelai called the meeting to order at 8:30 a.m.

ACTION

A00-732 – TSA CORPORATION (Hawaii)

Chairman Kelai announced that this matter before the Commission is a continuation of the hearing last heard on January 18, 2002 to consider reclassifying 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.

It was determined by Chairman Kelai that all of the Commissioners present were eligible to participate in the action on the petition.

Appearances

Nathan Natori, Esq., representing Petitioner

Rodney Funakoshi, Wilson, Okamoto & Associates

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

Norman Hayashi, Planning Department, County of Hawaii

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

Judith Henry, Land Use Division, Office of Planning

Nicole Walthall, Esq., representing Intervener KAHO

Stanley Bond, representing Intervener KAHO

All parties presented its position statement before the Land Use Commission in the following order: Petitioner, County of Hawaii, State, and Intervener.

Executive Officer, Anthony Ching, distributed and oriented the parties on the Wastewater Conditions of Approval, and provided an index to Commissioner Roehrig's Proposed Findings of Fact, Conclusions of Law, and Decision and Order. Mr. Ching also announced that for housekeeping purposes, all parties must speak clearly into the microphones.

Commissioner Fiesta moved to hear Commissioner Roehrig's summary of amendments for discussion purposes only. Commissioner Catalani seconded the motion and was unanimously approved by voice votes.

Commissioner Roehrig discussed his proposed order and its amendments before the Land Use Commission.

The Commission discussed and deliberated, and amendments were made to the Proposed Findings of Fact, Conclusions of Law, and Decision and Order. The following is a summary of the motions made and approved by the Commission.

Findings of Fact 1-146

Commissioner Fiesta moved to adopt Findings of Fact 1-146 as amended. The motion was seconded by Commissioner Coppa and polled as follows:

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

Findings of Fact 147-214

Commissioner Fiesta moved to adopt Findings of Fact 147-214 as amended. The motion was seconded by Commissioner Yukimura and polled as follows:

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

Findings of Fact 215-309

Commissioner Fiesta moved to adopt Findings of Fact 215-309 as amended. The motion was seconded by Commissioner Coppa and polled as follows:

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

Findings of Fact 310-369

Commissioner Fiesta moved to adopt Findings of Fact 310-369 as amended. Commissioner Coppa seconded the motion and polled as follows:

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

Findings of Fact 370-427

Commissioner Fiesta moved to adopt Findings of Fact 370 – 427 as amended. The motion was seconded by Commissioner Desai and polled as follows:

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

A lunch recess was taken at 12:15 p.m. to reconvene at 12:45 p.m.

- 12:55 p.m. -

Chairman Kelai excused himself from the proceedings at this time. Commissioner Coppa was appointed by Chairman Kelai to serve as Presiding Officer.

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

Findings of Fact 428 – 553

Commissioner Fiesta moved to adopt Findings of Fact 428-553 as amended. The motion was seconded by Commissioner Jarman and polled as follows:

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

Conclusions of Law

Commissioner Fiesta moved to adopt the Conclusions of Law. The motion was seconded by Commissioner Roehrig and polled as follows:

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

Commissioner Desai was present to the proceedings at this time.

Decision and Order

Wastewater, 1a – 1g

Amendments were suggested and substantial agreement was received.

Sewer Laterals

Commissioner Catalani suggested that the Commission address Office of Planning's condition to condition no. 2. This condition should target properties still owned by TSA Corporation within those phases.

Commissioner Fiesta moved to enter into Executive Session to discuss the legalities regarding sewer laterals. The motion was seconded by Commissioner Yukimura and unanimously approved by voice votes.

The meeting was reconvened at 1:32 p.m.

Storm & Surface Water Runoff, 3a – 3h

Amendments were suggested and substantial agreement was received.

Pollution Prevention, 4a – 4g

Amendments were suggested and substantial agreement was received.

Groundwater Quality Monitoring, 5

Amendments were suggested and substantial agreement was received.

Regional and Local Transportation, 6a – 6f

Amendments were suggested and substantial agreement was received.

Financial Contribution Plan, 7

Amendments were suggested and substantial agreement was received.

Affordable Housing, 8

Amendments were suggested and substantial agreement was received.

Archaeological History Sites, 9a – 9b

Amendments were suggested and substantial agreement was received.

Soil and Dust Control, 10

Amendments were suggested and substantial agreement was received.

Civil Defense, 11-16

Amendments were suggested and substantial agreement was received.

Commissioner Catalani excused himself from the proceedings at this time.

Commissioner Jarman moved to enter into Executive Session to discuss items that were deferred for legal opinion. The motion was seconded by Commissioner Yukimura and unanimously approved by voice votes.

The meeting was reconvened at 3:00 p.m.

Commissioner Roehrig moved to adopt the Proposed Findings of Fact, Conclusions of Law, and Decision and Order as amended with note that the parties will have a chance to comment on the amendments and receive legal opinion on some of the issues. The motion was seconded by Commissioner Fiesta and polled as follows:

Ayes: Commissioners Roehrig, Fiesta, Jarman, Yukimura, Desai, and Coppa

Commissioner Fiesta moved to adopt the Findings of Fact, Conclusions of Law, and Decision and Order for service upon the parties. Commissioner Jarman seconded the motion and polled as follows:

Ayes: Commissioners Fiesta, Jarman, Yukimura, Desai, Roehrig, and Coppa

Mr. Ching announced that staff will be working over the weekend and seek to have the modified proposed order to the parties by close of business, Monday, February 4, 2002, and that those who desire an email transmittal of the final order should leave an email address with staff.

The meeting was adjourned at 3:10 p.m.