

LAND USE COMMISSION

Minutes of Meeting  
Sandal II Room  
Hawaii Naniloa Resort  
93 Banyan Drive  
Hilo, Hawaii 96720

May 2, 2002

COMMISSIONERS PRESENT: P. Roy Catalani  
Bruce Coppa  
Pravin Desai  
Isaac Fiesta  
Lawrence Ing  
M. Casey Jarman  
Stanley Roehrig

COMMISSIONERS ABSENT: Merle Kelai  
Peter Yukimura

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

Presiding Officer Ing called the meeting to order at 9:40 a.m.

A89-643 McCLEAN HONOKOHAU PROPERTIES (Hawaii)

Presiding Officer Ing announced that this matter before the Commission is an action meeting to consider Kaloko-Honokohau National Historical Park's untimely application to intervene in the proceeding for incremental redistricting of approximately 31.742 acres currently in the Agricultural and Conservation District into the Urban District at Honokohau, North Kona, Hawaii for a commercial industrial subdivision and quarrying activities.

APPEARANCES

Robert Smolenski, Esq., representing Petitioner

Robert McClean, Petitioner

Jeannette McClean, Petitioner

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

Norman Hayashi, County of Hawaii, Planning Department

Phyllis Fujimoto, County of Hawaii, Planning Department

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

Abe Mitsuda, Land Use Division, Office of Planning

Lorene Maki, Land Use Division, Office of Planning

Mr. Stanley Bond, resource manager, Kaloko-Honokohau National Park, announced that the Park is withdrawing its application to intervene.

A89-643 McCLEAN HONOKOHAU PROPERTIES (Hawaii)

Presiding Officer Ing announced that this matter before the Commission is a hearing to consider Petitioner's application for incremental redistricting of approximately 31.742 acres currently in the Agricultural and Conservation District into the Urban District at Honokohau, North Kona, Hawaii for a commercial industrial subdivision and quarrying activities.

APPEARANCES

Robert Smolenski, Esq., representing Petitioner

Robert McClean, Petitioner

Jeannette McClean, Petitioner

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

Norman Hayashi, County of Hawaii, Planning Department

Phyllis Fujimoto, County of Hawaii, Planning Department

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

Abe Mitsuda, Land Use Division, Office of Planning

Lorene Maki, Land Use Division, Office of Planning

Petitioner's Exhibits 1-10 and Witness and Exhibits List were entered into the record as evidence by the Land Use Commission.

The County stated that they would not be presenting any witnesses, but offered the April 11, 2002, written testimony of Planning Director, Christopher Yuen. This written testimony was entered into the record by the Land Use Commission.

The State Office of Planning submitted their Witness and Exhibits List. These items were subsequently entered into the record by the Land Use Commission.

Russell Kumabe, staff planner, oriented the Commission on the incremental redistricting area using LUC maps and tables. Photos taken of Increments I and II during the Commission's April 2002 field trip were displayed and described to the Commission. Staff recommended favorable consideration of Petitioner's request for redistricting of Increment II.

Petitioner's Witness

1. Robert McClean

Mr. McClean briefly described the completed and planned developments of Increment I and II of the Petition Area, and responded to questions and concerns raised by the commissioners.

Arguments and comments were heard from Mr. Smolenski and Mr. Chang.

Questions and comments were also delivered by the Commissioners. There was much discussion with respect to the installation of a sewerline and wastewater treatment plant outside of the Petition Area.

The County of Hawaii's Exhibit List was then entered into the record by the Land Use Commission.

State's Witness

1. Abe Mitsuda, Land Use Division, Office of Planning

Mr. Mitsuda provided an update to Commissioner Roehrig's concern regarding the installation of a sewerline. Mr. Mitsuda indicated that in the original conditions, "Petitioner shall fund and construct the necessary wastewater disposal improvements on the proposed property for eventual hookup to the municipal sewer system as determined by the State Department of Health." He noted that the Office of Planning had been working with the McCleans who have been agreeable to the conditions as well as modifications. Mr. Mitsuda also recommended the addition of a new condition to address impacts to cultural resources in response to concerns raised by the OEQC.

Commissioner Fiesta moved to approve incremental redistricting subject to original conditions, plus negotiated additional conditions with the National Park Service, plus the additional condition suggested by Office of Planning. Commissioner Roehrig seconded the motion and was polled as follows:

Ayes: Commissioners Fiesta, Roehrig, Coppa, Desai, Jarman, Catalani, Ing

A00-730 LANIHAU PROPERTIES, LLC (Hawaii)

Presiding Officer Ing announced that this matter before the Commission was an action meeting to consider Petitioner's motion for reconsideration of action on the Final Environmental Impact Statement as it relates to their application for reclassification of approximately 336.984 acres of land currently in the conservation district into the urban district at Honokohau, North Kona, Hawaii for the development of a mix of industrial and light industrial commercial uses and quarry activities.

APPEARANCES

R. Ben Tsukazaki, Esq., representing Petitioner

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

Norman Hayashi, Planning Department, County of Hawaii

Phyllis Fujimoto, Planning Department, County of Hawaii

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

Abe Mitsuda, Land Use Division, Office of Planning

The parties provided a brief statement as to why this motion is in order.

Mr. Tsukazaki submitted for circulation Exhibit A of this motion, which is an excerpt of the hearing transcript for April 5, 2002, and Exhibit B which is an excerpt of Robert's Rules of Order, Ninth Edition. Mr. Tsukazaki noted that it was his intention to use these exhibits as support for this client's motion.

Commissioner Jarman noted that under LUC rules and Chapter 343, if Petitioner is dissatisfied with the Commission's decision, there is a provision under LUC rules to

ask for reconsideration. Chapter 343 also permits petitioner to go to the OEQC to appeal a decision made by the Land Use Commission, especially if the Petitioner felt that the Commission did not apply the law as it is bound to by law.

Commissioner Fiesta moved that the Land Use Commission enter into executive session to consult with its attorney regarding this issue. Commissioner Coppa seconded the motion and the motion was approved by voice votes.

The commission entered into executive session at 12:00 p.m. The meeting reconvened at 12:20 p.m.

Arguments and comments were heard from Mr. Tsukazaki, Mr. Ishado, and Mr. Chang.

Questions were asked by the Commissioners. Concerns were raised by Commissioners Jarman and Roehrig.

Presiding Officer Ing ruled that as the Petitioner was not a member of the Land Use Commission or Assembly as required under Robert's Rule of Order, the Petitioner's motion is out of order.

Commissioner Fiesta moved to reconsider the Commission's rejection of the Final Environmental Impact Statement. Commissioner Coppa seconded the motion and was polled as follows:

Ayes: Commissioners Fiesta, Coppa, Desai, Ing

Nays: Commissioners Roehrig, Jarman, Catalani

The motion failed as it did not have the requisite 5 votes necessary for passage of any motion before the Land Use Commission.

Commissioner Roehrig moved to continue this matter in order to allow for potential amendment. Commissioner Catalani seconded the motion and was polled as follows:

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

Nays: Commissioners Jarman

The motion passed with a vote of 6 to 1 with 2 absences.

Executive Officer Anthony Ching reported that the Commission has scheduled a field trip to the Kamehameha Schools Hawaii Campus at approximately 4:00 p.m. this afternoon.

Commissioner Jarman moved to amend the agenda to reflect new item #4 regarding the issue of Castle & Cooke, etal's motion to extend time up to 90 days. Commissioner Desai seconded the motion and was polled as follows:

Ayes: Commissioners Jarman, Desai, Coppa, Ing

Nays: Commissioners Roehrig, Fiesta, Catalani

The motion failed with a vote of 4 ayes, 3 nays, and 2 absences.

The meeting was adjourned at 1:16 p.m.