

LAND USE COMMISSION
MINUTES OF MEETING

October 7, 2004

Mokuola Ballroom
Hilo Hawaiian Hotel
71 Banyan Drive
Hilo, Hawaii

COMMISSIONERS PRESENT: P. Roy Catalani
Michael Formby
Pravin Desai
Isaac Fiesta
Kyong-su Im
Lisa Judge
Steve Montgomery

COMMISSIONERS ABSENT: Randall Sakumoto
Peter Yukimura

STAFF PRESENT: Anthony Ching, Executive Officer
Bert Saruwatari, Staff Planner
Maxwell Rogers, Staff Planner
Holly Hackett, Court Reporter
Walter Mensching, Audio Technician

Chair Catalani called the meeting to order at 9:54 a.m.

TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported the following schedule:

- The next meeting will be held in Maui on October 21 and 22 to hear the Kuleana Ku`ikahi docket.
- The November 4 and 5 meetings will also be held in Maui.

There were no questions posed by the Commission.

LUC REIMBURSEMENT POLICY UPDATE

Mr. Ching presented a power point presentation and discussed the Land Use Commission's operating funds, hearing expenses, the HAR 15-15-49 reimbursement rule and projected an adverse impact on the Commission's available operating budget.

Commissioner Montgomery had questions related to any potential relief given to qualified petitioners, reimbursement policies, and the nature of budget increases.

Commissioner Desai's questions and concerns were in reference to requirements placed upon the LUC with respect to the venue and length of the hearings.

After a brief discussion, Mr. Ching proposed that Commission consider taking action on this matter at the next meeting.

ELECTION OF OFFICERS

Commissioner Fiesta moved to nominate Commissioner Montgomery as Vice-Chair of the Commission. The motion was seconded by Commissioner Judge. Said motion was approved by voice votes.

A04-753 AINA NUI CORP

Chair Catalani stated this is an action meeting on Docket No. A04-753 Aina Nui Corporation to determine whether the Land Use Commission is the appropriate accepting authority and whether the proposed action may have a "significant effect" to warrant the preparation of an environmental impact statement.

APPEARANCES:

Naomi Kuwaye, Esq., represented Petitioner
Benjamin Kudo, Esq., represented Petitioner
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Catalani noted that there were no public witnesses.

Chair Catalani also noted that the City and County of Honolulu's Department of Planning and Permitting is excused from the proceedings but had provided email correspondence in which it indicated that it agrees with Petitioner's motion.

Petitioner presented its case where it offered to prepare an EIS and concurs that the Land Use Commission is the appropriate accepting authority.

There were no questions from the parties and the Commissioners.

Commissioner Im moved to approve the acceptance of the Land Use Commission as the appropriate accepting authority and that the project would have a significant effect. Commissioner Fiesta seconded both motions. The Commission was polled as follows:

Ayes: Commissioners Im, Fiesta, Desai, Formby, Judge, Montgomery, and Catalani.

The motion passed with a vote of 7 ayes and 2 absent.

A87-617 PUAKO HAWAII PROPERTIES (fka) SIGNAL PUAKO CORP

Chair Catalani stated that this is an action meeting on Docket No. A87-617 Puako Hawaii Properties (fka) Signal Puako Corporation to consider Bridge Aina Lea, LLC's Motion to Amend Corporate Ownership and to Amend Land Use Commission Order dated July 1, 1991 and to Amend Paragraph (1) to Comply with Existing Hawaii County Standards and Requirements.

APPEARANCES:

John Carroll, Esq., represented the Petitioner
Tom Dunn, Esq., represented the Petitioner
Christopher Gregory, Esq., represented the Petitioner
Hoolae Paoa, CEO of Bridge Aina Lea
James Baldwin, Project Director of Bridge Aina Lea
Norman Hayashi, County of Hawaii Planning Department
Bobbie Jean Leithead-Todd, Esq., represented County of Hawaii Planning Department
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Catalani noted that there were no public witnesses at this time.

Chair Catalani asked the Petitioner to focus his presentation on the affordable housing aspect of the motion.

Mr. Carroll made a presentation of its case and discussed the projected size and number of constructed units (107) off-site with the remainder of affordable units on-site.

Ms. Leithead-Todd had questions in reference to timelines, the affordable housing conditions, and the number of market units.

Mr. Paoa discussed the number of proposed housing units and timelines.

There were no questions from Commissioners.

Mr. Baldwin provided a PowerPoint presentation of the project.

Chair Catalani had questions regarding the location and timing of affordable and market units.

A recess break was taken at 11:07 and the meeting reconvened at 11:20 a.m.

Cross Examination

Ms. Leithead-Todd had questions relative to housing credits qualifications.

Mr. Chang's questions were in reference to another site, if necessary, that would accommodate the additional affordable units.

Commissioner Fiesta had questions and concerns regarding traffic impacts and work commutes experienced on the island of Hawaii, and the limited number of affordable homes; problems that already exist on the Big Island.

Commissioner Desai's questions were relative to reducing the project density and the number of affordable homes to be built.

Vice Chair Montgomery had a few questions on the justification to reduce affordable housing for this project, and an analysis of the property's conditions that run-with-the-land. Vice Chair Montgomery indicated the need for more information on both these matters.

The Commissioners discussed matters related to financial ability of the Petitioner and the financial aspects of the project

Commissioner Judge had a few questions regarding the affordable housing rules, and the timeframe to build these homes.

Commissioner Im had questions and concerns relative to Petitioner's argument to reduce affordable housing. Commissioner Im suggested that the Petitioner work with the County to revise the motion and to further provide financial information to support their argument.

Chair Catalani added that the Commission is trying to understand financially why the Petitioner is reducing the 1,000 affordable housing units to 90 units.

After a discussion, Mr. Carroll requested to defer the motion until the December commission meeting in Kona.

Chair Catalani noted that he would allow Miles Miyasato of Hawaii Operating Engineers to provide testimony at this time.

PUBLIC WITNESS

1. Miles Miyasato

Mr. Miyasato stated that he was testifying as a concerned member of the community. He discussed the need for roadway improvements in the area and added that he supports this project.

After a brief discussion, there were no questions by the parties and the Commission.

Commissioner Fiesta moved that the Commission defer the motion until the next meeting on the Big Island. The motion was seconded by Commissioner Im. The Commission was polled as follows:

Ayes: Commissioners Fiesta, Im, Desai, Formby, Judge, Montgomery, and Catalani.

Nays: None

The motion passed with a vote of 7 ayes and 2 absent.

A lunch break was taken at 12:30 p.m. The meeting reconvened at 1:40 p.m.

A04-744 HILUHILU DEVELOPMENT, LLC

Chair Catalani stated that this is an action meeting on Docket No. A03-744 Hiluhilu Development, LLC to consider acceptance of the Final Environmental Impact Statement for the reclassification of approximately 725.2 acres of land currently in the Conservation and Agricultural District in to the Urban District.

APPEARANCES:

Alan Okamoto, Esq. representing the Petitioner

Roger Harris, Petitioner's representative

Jeff Overton, Environmental Planner, Group 70

Norman Hayashi, County of Hawaii Planning Department

Bobbie Jean Leithead-Todd, Esq., represented County of Hawaii Planning Department

John Chang, Esq., represented State Office of Planning

Abe Mitsuda, State Office of Planning

PUBLIC WITNESS:

1. Jan Yokota

Ms. Yokota stated that she is the Director of CIP at the University of Hawaii. Ms. Yokota discussed issues relative to infrastructure improvements, potable water, roadways, design standards and the MOU.

2. Rodney Freitas

Mr. Freitas stated that he is the Chancellor of West Hawaii Community College. He testified that he is in support of the project and expounded on the urgency for UH to have a new site.

After a brief discussion, there were no further questions.

Admission of Exhibits by the Parties

Mr. Okamoto submitted three exhibits from petitioner. There were no objections by the County and the State. Said exhibits were admitted into the record.

The County had questions and concerns regarding their recommendation for airport access and mauka connection to the highway, and the timelines of the roadway infrastructure.

The State's questions were related to petitioner working with the other state agencies, such as the DOT, DLNR, DHHL, and UH to resolve access problems.

Vice Chair Montgomery commended the Petitioner on the quality of studies in the appendix and asked a few questions in reference to the chemical treatment for termite control.

A recess break was taken at 2:45 p.m. and the meeting reconvened at 3:05 p.m. Commissioner Fiesta left the proceedings at this time.

Staff Report

1. Maxwell Rogers

Mr. Rogers, staff planner, provided a GIS map orientation of the area and briefly summarized the staff report.

Commissioner Im sought clarification of the master plan and additional information on the assisted living units for seniors.

After a brief discussion, there were no further questions by the parties and the Commission.

Commissioner Judge moved to accept the FEIS based on the exhibits and testimony provided, and corrections to the master plan proposed by Commissioner Im. The motion was seconded by Vice Chair Montgomery. The Commission was polled as follows:

Ayes: Commissioners Judge, Montgomery, Im, Desai, Formby, and Catalani.

Nays: None

The motion passed with a vote of 6 ayes and 3 absent.

SP00-393 KAMEHAMEHA SCHOOLS BERNICE PAUAHI BISHOP ESTATE and BR93-699 OFFICE OF STATE PLANNING, STATE OF HAWAII

Chair Catalani state that this is an action meeting on SP00-393 Kamehameha Schools Bernice Pauahi Bishop Estate and BR93-699 Office of State Planning, State of Hawaii to consider the petitioner's Motion to consolidate for hearing (1) Motion to Release Conditions 3, 4, 5, 7, 12, 13, 14, 17, and 18 from Decision and Order Entered on April 7, 2000, in Docket No. SP00-393 and (2) Motion to Release Conditions 2, 4, 7, 8, 11 and 15 in the Order Partially Approving Motion, entered on April 7, 2000, in Docket No. BR93-699.

Appearances:

Linnel Nishioka, representing Kamehameha Schools Bernice Pauahi Bishop Estate
Lane Ishida, Esq., Kamehameha Schools Bernice Pauahi Bishop Estate
Peter Uchiyama, Kamehameha Schools Bernice Pauahi Bishop Estate
Yukio Takemoto, Kamehameha Schools Bernice Pauahi Bishop Estate
Norman Hayashi, County of Hawaii Planning Department
Bobbie Jean Leithead-Todd, Esq., represented County of Hawaii Planning Department
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Catalani noted that there were no public witnesses.

Staff Report

1. Anthony Ching

Mr. Ching provided a map orientation and a video of traffic at the intersection of Volcano and Pa'ahana fronting the property taken in May of this year. Mr. Ching referenced

staff's diagram of the intersection. The video was taken on a school day before school started in the morning and for the duration of the morning peak hour.

Ms. Nishioka made a presentation of its case and stated that the Petitioner seeks to consolidate the motions.

Mr. Chang pointed out that the consolidation might affect the part of the boundary review that is outside of the footprint of the Property.

Vice Chair Montgomery moved to consolidate the two motions. The motion was seconded by Commissioner Im. The Commission was polled as follows:

Ayes: Commissioners Montgomery, Im, Desai, Formby, Judge and Catalani.
Nays: None

The motion passed with a vote of 6 ayes and 3 absent.

Ms. Nishioka stated that the Petitioner is requesting to withdraw certain conditions and believes that petitioner has satisfied conditions 7g and 8.

The County had no objections to the release of conditions.

Mr. Chang had questions and concerns regarding the traffic study as the school is not fully built out and that the upper level students were not included in this component of the school.

Commissioner Im's questions and concerns were relative to any downside should the conditions be released and the other issues of project mitigation raised by the DOT.

Commissioner Formby had questions in reference to the DOT negotiations.

Commissioner Judge raised questions that were relative to the relationship of the agricultural subdivision to school traffic.

Vice Chair Montgomery had questions regarding the school's ride sharing policies.

Commissioner Desai left the proceedings at 4:00 p.m.

STATE'S WITNESS

- 1. Stanley Tamura

Mr. Tamura stated that he is the district engineer at the DOT's Hawaii District. Mr. Tamura identified the deceleration lane and noted that the lanes are needed for safety and capacity.

A recess break was taken at 4:20 p.m. The meeting reconvened at 4:38 p.m.

Commissioner Formby's questions were regarding the ownership of the property for the acceleration to deceleration lanes. Mr. Tamura replied that the DOT did not own the footage.

Vice Chair Montgomery had questions and concerns regarding the regional traffic problems and the analysis of the traffic study.

Commissioner Im's questions were in reference to the DOT and petitioner working together to satisfy the LUC condition.

Chair Catalani had questions and concerns relative to the acceleration and deceleration lanes, and the shoulder lane.

Mr. Takemoto stated that the master plan does not exceed the 1120 students and that the high school student enrollment will be expanded. Eighty percent are currently driven by bus and twenty percent are driven by parents during regular school hours.

After a discussion, Commissioner Im moved that the petitioner has not met the condition related to meeting the DOT needs.

After discussion and deliberation, the commission amended the motion so as to allow the petitioner to withdraw conditions 2 and 11 from the boundary review and conditions 12 and 3 from the special permit; timelines for a position statement from the DOT regarding regional traffic, and to defer action relating to 7g from the special permit, and 7 and 8 from the boundary review.

Commissioner Judge seconded the amended motion. The Commission was polled as follows:

Ayes: Commissioners Im, Judge, Montgomery, Formby, and Catalani.

Nays: None

The motion passed with a vote of 5 ayes and 4 absent.

A recess break was taken at 6:05 p.m. and the meeting reconvened at 6:18 p.m.

A04-747 KAMEHAMEHA INVESTMENT CORPORATION

APPEARANCES:

R. Ben Tsukazaki, Esq. represented Petitioner
Norman Hayashi, County of Hawaii Planning Department
Bobbie Jean Leithead-Todd, Esq., represented County of Hawaii Planning Department
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning
Lorene Maki, State Office of Planning

PUBLIC WITNESSES

1. Ray Soon

Mr. Soon stated that he is in support of the project and also the implementation of the project. He added that no changes will be made to the master plan and discussed issues of education and stewardship of resources.

Vice Chair Montgomery's questions and concerns were in reference to the many people who testified against this project at the last hearing and regarding statements of policy level issues.

Chair Catalani's questions were relative to the goals of the Kamehameha Investment Corporation.

Commissioner Judge's questions were relative to the need for the West Hawaii campus and its plan.

2. William Meilcke

Mr. Mielcke stated that he is in support of the project and noted that it is an important aspect of Bishop Estate's plan, which was authorized to proceed by its board of directors and trustees.

Commissioner Im had questions and concerns regarding Bishop Holding Corporation, the role of the outside developer, and the master plan.

STATE'S WITNESS

1. Stanley Tamura

Mr. Tamura stated that he is the district engineer at the DOT's Hawaii Division. Mr. Tamura testified that the development would adversely affect traffic upon full build out.

After a brief discussion, Chair Catalani adjourned the meeting at 7:18 p.m.

(Please refer to LUC Transcript of October 7, 2004 for more details on this matter.)