

LAND USE COMMISSION  
MINUTES OF MEETING

April 20, 2005

King Kamehameha's Kona Beach Hotel  
75-5660 Palani Road  
Kailua-Kona, Hawaii

COMMISSIONERS PRESENT: P. Roy Catalani  
Isaac Fiesta, Jr.  
Lisa Judge  
Kyong-su Im  
Steven Montgomery  
Randall Sakumoto  
Peter Yukimura

COMMISSIONERS ABSENT: Michael Formby

STAFF PRESENT: Diane Erickson, Deputy Attorney General  
Anthony Ching, Executive Officer  
Max Rogers, Staff Planner  
Sandra Matsushima, Chief Clerk  
Holly Hackett, Court Reporter  
Walter Mensching, Audio Technician

Chair Catalani called the meeting to order at 10:05 a.m.

ADOPTION OF MINUTES

Vice Chair Sakumoto noted a correction on page 11, third paragraph, last sentence be changed to "...the proposed action warrants an anticipated finding of no significant impact."

Chair Catalani also noted that Diane Erickson was not present at the March 16, 2005 meeting. Russell Suzuki was the Deputy Attorney General that day.

Vice Chair Sakumoto then moved to adopt the Land Use Commission meeting minutes of March 16, 2005 with the noted corrections. Commissioner Judge seconded the motion. Said motion was approved by voice votes.

### TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported the following schedule:

- June 1-2 – previously scheduled for Kona dockets, rescheduled to June 2-3 in Maui to accommodate the many Maui dockets.
- May 18-19 Kona – scheduled for the opening of the HELCO hearing and continuation of other Big Island dockets. The LUC will return to the Big Island on July 13-14. Please note that meeting dates in Kona will be shifted to Wednesdays and Thursdays when they conflict with the Hawaii County Planning Commission's Friday meeting dates.

Mr. Ching also reported a new Maui Land and Pineapple docket for a residential subdivision called Kauhale Lani. The September 22-23 meetings are tentatively scheduled on Maui for a field trip to this site or possibly to Lanai for the Manele Bay Golf Course docket.

### LEGISLATIVE UPDATE

Mr. Ching reported that there are four (4) nominees appointed by the Governor to this Commission whose terms will be effective on July 1.

#### Hawaii

Duane Kanuha  
Hilo, Hawaii  
Manager, Strategic Alternatives International LLC

#### Kauai

Thomas Contrades  
Kapaa, Kauai  
ILWU Local 142 Business Agent

At-Large

Nicholas Teves, Jr.  
Honolulu, Hawaii  
President, Commercial Electric, Inc.

At-Large

Ransom A.K. Piltz  
Wailuku, Hawaii  
President, Piltz Electric

Mr. Piltz may be on board as an interim member before July 1<sup>st</sup> as he is replacing former Commissioner Desai's vacant seat. This term expires on 2006. All others will be appointed to a 4-year term.

Mr. Ching then reported and discussed with the Commission the analysis of HB 109 and HB 1640. After a brief discussion, Mr. Ching noted that he will continue to keep the Commission apprised and welcome any comments from them.

A04-747 KAMEHAMEHA INVESTMENT CORPORATION (Hawaii)

Chair Catalani stated that this was an action meeting to consider Petitioner's Motion for Extension of Time pursuant to Section 15-15-51(e), Hawaii Administrative Rules.

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

Chair Catalani noted that there were no public witnesses.

Mr. Tsukazaki described Petitioner's motion and explained that simply there is a 365-day requirement for processing of a district boundary amendment. After conferring with the Executive Officer of the Land Use Commission and the confirmation of the anniversary date being May 3, 2005, it was apparent that Petitioner needed to seek an extension in order to ensure timely action by the LUC. Mr. Tsukazaki further explained that the basis for the motion has cited the relevant rules and that

Petitioner has been in contact with the parties prior to this meeting. All parties have no objections to this motion for extension.

Vice Chair Sakumoto posed a few questions on the status of a draft decision and order.

Chair Catalani had a few questions related to the DOE condition and other issues from the State, such as the DOT requirement.

After a brief discussion, there were no further questions.

Commissioner Fiesta moved that the Commission approve and accept Petitioner's Motion for Extension of Time. Vice Chair Sakumoto seconded the motion. The Commission was polled as follows:

Ayes: Commissioners Fiesta, Sakumoto, Judge, Im, Montgomery, Yukimura, and Catalani.

The motion passed with 7 ayes and 1 absent.

#### A04-744 HILUHILU DEVELOPMENT LLC (Hawaii)

Chair Catalani stated that this was an action meeting to reclassify approximately 725.2 acres of land currently in the Conservation and Agricultural Districts into the Urban District at the ahupua`a Kau, North Kona, Hawaii.

#### APPEARANCES

Alan Okamoto, Esq. represented Petitioner

Jerel Yamamoto, 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

Judith Henry, State Office of Planning

## PUBLIC WITNESSES

### 1. Jerry Schneyer

Mr. Schneyer briefly summarized his testimony and stated that Makalei Drive is not designed or built as a connector road. Mr. Schneyer asked that the Commission impose conditions on the roads going through Palamanui and suggested as a safer alternative, that they not be allowed to connect to Makalei Drive.

The County and the State had no questions.

Vice Chair Sakumoto posed a few questions related to the alternate roads and any discussions with the developers.

Vice Chair Montgomery also had questions and concerns regarding the alternate road connectors and responses from the County Council.

Chair Catalani posed a few questions related to the alternate route and its proximity to the dry land forest area.

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

### 2. Duane Erway

Mr. Erway stated that he is President of Plan and Protect Kona. He briefly summarized his testimony and stated his concern with issues of ground water pollution, shore-line pollution, destruction of the coral reefs, and chemicals used in the golf course. Mr. Erway requested that three (3) conditions be imposed for this project:

- Golf course design and build to Audubon Gold or Silver standards;
- A non-toxic barrier for subterranean termites be used under any cement slabs of homes/buildings;
- Water monitoring procedures.

Mr. Okamoto stated that Hiluhilu has agreed to pursue and implement an Audubon Silver standard for golf courses.

Ms. Leithead-Todd commented that Petitioner has agreed to participate in coastal water monitoring and ground water monitoring and have undertaken mitigation measures with the Department of Health.

Mr. Chang noted that the State had no questions.

Commissioner Im posed questions and concerns related to the subterranean termites, and any discussions with the developers.

Vice Chair Montgomery also had a few questions related to the subterranean termites, and alternative measures, such as using a mesh lining.

Commissioner Judge questioned the difference between the Audubon's Gold versus Silver standards for golf courses.

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

3. Michael Hess

Mr. Hess stated that he is a concerned citizen and expressed his reservations of the Palamanui subdivision and his objection to the connection to Makalei Drive. Mr. Hess added that because of safety issues and the long term implications of this decision, he is concerned that all the new developments will draw heavy traffic to this area.

There were no questions posed by the parties or the Commission.

A recess break was taken at 11:20 a.m. The meeting reconvened at 11:40 a.m.

4. Mikahala Roy

Ms. Roy expressed her appreciation for all the greetings and condolences her family has received during their recent bereavement. Ms. Roy then testified that she is representing Kulana Huli Honua and expounded on the importance of preserving these lands.

After a brief discussion, there were no further questions.

## Admission of Exhibits by the Parties

Mr. Okamoto stated that a revised Exhibit 42 Integrated Natural Resource Management Plan (INCRMP) has been distributed to the parties. There were no objections by the parties. Said exhibit was admitted into evidence as the Petitioner's revised Exhibit 42.

Mr. Chang noted that the state has a new submittal, a letter dated April 5, 2005 from the DLNR's Lisa Hadway, DOFAW NARS Manager, Hawaii Branch, regarding the Reconnaissance Survey of State Unencumbered Land Puukala, North Kona. There were no objections by the parties. Said exhibit was admitted into evidence.

Mr. Okamoto began his presentation and explained that the parties had discussed various versions of the stipulation, however, they were on a short timeline and were only able to discuss the basic conditions of the decision and order with staff. Mr. Okamoto then discussed issues and summarized the changes made by the Petitioner to the IMCRMP.

Vice Chair Sakumoto requested that Petitioner provide the redline version of the INCRMP. Mr. Okamoto replied in the affirmative.

Mr. Okamoto discussed issues of a potential DOE agreement, affordable housing requirements, wastewater treatment plant, traffic and road provisions, golf course Audubon International Silver standards, indigenous plants and species of concern.

Ms. Leithead-Todd had questions and concerns related to the protection of native plants and the species of concern.

Mr. Chang posed a few questions on the April 5 letter from Ms. Hadway regarding the preservation of the dry land forest.

Commissioner Im raised a few questions on the uses of the 120-room hotel that is being proposed and the potential traffic impacts. Commissioner Im also inquired about the design of the wastewater infrastructure.

Commissioner Judge had a few questions on hazardous materials and the golf course irrigation water.

Vice Chair Montgomery noted a concern regarding the public's testimony of Makalei Drive and the steep slope. He had questions and concerns related to the traffic alternatives and the County's long-term solution for the mauka makai road.

Vice Chair Sakumoto raised a few questions related to the Makalei Estates road, its grade, and if its current condition meets the standards for dedication to the County. Vice Chair Sakumoto also inquired about utilities connection.

Commissioner Im posed questions related to the extension of the main water line, construction on Makalei Drive, and whether the type of golf course was slated for public or private membership only.

Chair Catalani had a few questions on the INCRMP and the arbitrator selected by the LUC.

Vice Chair Sakumoto had questions and concerns related to the testimony of Ms. Hadway and the possibility of a memorandum of understanding with the Division of Forestry and Wildlife covering the protection of the dry land forest on the state owned property. Mr. Chang noted that the state will follow up and try to provide the Commission with a response before the action meeting on this docket.

Commissioner Im had a few questions related to the dry land forest and the fire protection fencing.

After a brief discussion, Chair Catalani commented that the parties should continue to work together to draft the appropriate findings and seek a stipulation before the next meeting in May.

Commissioner Fiesta suggested that an Election of Officers be included on the agenda for the next meeting of the LUC.

The meeting adjourned at 1:10 p.m.

*(Please refer to LUC Transcript of April 20, 2005 for more details on this matter.)*