

LAND USE COMMISSION
MINUTES OF MEETING

March 6, 2009

Windward Community College
Paliku Theatre
45-720 Kea`ahala Road
Kāne`ohe, Hawai`i

COMMISSIONERS PRESENT: Duane Kanuha
Vladimir Devens
Kyle Chock
Thomas Contrades
Lisa Judge
Normand Lezy
Nicholas Teves, Jr.

COMMISSIONERS ABSENT: Ransom Piltz
Reuben Wong

STAFF PRESENT: Orlando Davidson, Executive Officer
Diane Erickson, Deputy Attorney General
Bert Saruwatari, Staff Planner
Riley Hakoda, Staff Planner
Holly Hackett, Court Reporter
Walter Mensching, Audio Technician

CALL TO ORDER

Chair Kanuha called the meeting to order at 9:34 a.m.

CONTINUED HEARING

A07-777 HAWAIIAN MEMORIAL LIFE PLAN, LTD. (O`AHU)

Chair Kanuha announced that this was a continued hearing to consider the reclassification of approximately 56.459 acres of land currently in the Conservation District to the Urban District at Kāne`ohe, Ko`olaupoko, O`ahu, Hawai`i, for cemetery expansion and the preservation of historic sites at TMK: 4-5-33: por. 1

Since yesterday's proceedings, Chair Kanuha noted that the Commission received additional written public testimonies from Todd Cullison; Ross Murakami; the Hawai`i Kai Community Church; Ka`Ailehua; and Senator Jill Tokuda, Representative Pono Chong, and Representative Ken Ito.

PUBLIC WITNESSES

1. Representative Ken Ito

Representative Ito testified in opposition to the proposed cemetery expansion. He cited concerns about the impact to the environment as well as concerns about water and rockfalls.

Mr. Yuen questioned Representative Ito as to whether he was aware that Petitioner has made a commitment to increase the size of the proposed retention basins to accommodate the increase in storm runoff from a 50-year storm event as opposed to a 10-year storm event as required by the City and County code. Representative Ito responded in the affirmative.

Neither the other parties nor the Commission had any questions for Representative Ito.

2. Senator Jill Tokuda

Senator Tokuda testified in opposition to the proposed cemetery expansion. She noted that residents have a sense of place and a deep connection with the land. She also indicated that there should be a balance between development and open space. She believed that with the expansion, however, there was a move toward development.

Mr. Yuen asked Senator Tokuda whether she was aware that Petitioner dropped the residential development from the proposal, and that the entire project will consist of an expansion of the cemetery as well as the preservation of the cultural complex. Senator Tokuda stated that she was aware of the change but was still in opposition as the project would still take land out of the Conservation District. She also alluded to the concerns of the State Historic Preservation Division about preserving the historic and culturally significant sites as a complex.

Mr. Yuen had no further questions for Senator Tokuda.

Neither the other parties nor the Commission had any questions for Senator Tokuda.

At this time, Chair Kanuha briefly described to the audience the Commission's quasi-judicial proceedings and the role of the Commission and parties in this matter.

3. Remy Akana

Ms. Akana testified in support of the proposed cemetery expansion. She related her experiences on the passing of her grandfather.

There were no questions for Ms. Akana.

4. Linda Rose Herman

Ms. Herman testified in support of the proposed cemetery expansion. She noted that the expansion will provide opportunities for people in times of death.

There were no questions for Ms. Herman.

5. Grace Manio

Ms. Manio, an HMP employee, testified in support of the proposed cemetery expansion. She pointed out that the expansion would provide choices for people.

There were no questions for Ms. Manio.

6. William Kostron

Mr. Kostron, an HMP counselor, testified in support of the proposed cemetery expansion. He shared stories of families who laid loved ones to rest at HMP.

There were no questions for Mr. Kostron.

Commissioner Judge entered the proceedings at 9:56 a.m.

7. Vic Poyo

Mr. Poyo, a 45-year HMP employee, testified in support of the proposed cemetery expansion. He related that more families will be able to use the services of HMP. He expressed concern that there was a need to accommodate families.

There were no questions for Mr. Poyo.

The Commission went into recess at 10:12 a.m. and reconvened at 10:24 a.m. Commissioner Judge excused herself from the proceedings.

8. Tammy Lee Chong

Ms. Chong, an 8-year HMP employee, testified in support of the proposed cemetery expansion. She expressed her affection for HMP, which she believed was more of a park than a cemetery. She noted that it was a beautiful, peaceful, and harmonious place. She pointed out that the expansion would provide everybody with choices.

There were no questions for Ms. Chong.

9. Michael Bass

Mr. Bass testified in support of the proposed cemetery expansion. He spoke of the special requirements of the Jewish population in Hawaii.

There were no questions for Mr. Bass.

10. Naomi Kahele

Ms. Kahele, an HMP employee, testified in support of the proposed cemetery expansion. She believed that the expansion would address the needs of the current and future generations.

There were no questions for Ms. Kahele.

Commissioner Judge returned to the proceedings at 10:33 a.m.

11. Edith Kahele

Ms. Kahele testified in support of the proposed cemetery expansion. She believed that it was important for families to be laid to rest together. She also noted that things have been done to prevent flooding. She noted that HMP has not flooded.

There were no questions for Ms. Kahele.

12. Maria Barrows

Ms. Barrows testified in support of the proposed cemetery expansion. She believed that space was needed for people. She further believed that the concerns of both sides could be met if they talked about the issues.

There were no questions for Ms. Barrows.

13. Alicia Naniho

Ms. Naniho, a 30-year HMP employee, testified in support for the proposed cemetery expansion. She spoke to the need for families to be together.

There were no questions for Ms. Naniho.

14. Gardenia Martinez

Ms. Martinez, a 26-year HMP employee, testified in support of the proposed cemetery expansion. She noted that people needed choices and the expansion would provide that.

There were no questions for Ms. Martinez.

15. Pat Newalu

Ms. Newalu, a 15-year HMP employee, testified in support of the proposed cemetery expansion. She related her personal experiences with her father. She also noted that having choices was good.

There were no questions for Ms. Newalu.

16. Bill Sager

Mr. Sager, a member of the Kaneohe Neighborhood Board, testified in opposition to the proposed cemetery expansion. He related the board's actions with respect to the expansion. He also read the testimony of Roy Yanagihara, chair of the board, who supported the expansion.

Mr. Yee asked Mr. Sager to clarify his as well as Mr. Yanagihara's position on the expansion.

There were no further questions for Mr. Sager.

The Commission went into recess at 11:11 a.m. and reconvened at 11:30 a.m.

17. Steve Holmes (provided written testimony)

Mr. Holmes testified in opposition to the proposed cemetery expansion. He referred to his efforts in getting the Department of Transportation to declare approximately 20 acres of State-owned land adjacent to the H-3 Freeway that HMP was interested in as surplus to ultimately protect the Petition Area from development. He noted that unfortunately the "ball got dropped." He asked that the Commission deny the Petition. He noted that if it passed, he will work with community groups to use the County's power of condemnation to acquire the land and add it to the City and County's inventory of nature preserves. He added that a fund was available to purchase the property and pieces that were threatened by inappropriate development should be a priority.

Mr. Yuen asked Mr. Holmes if he was aware that the Kawa`ewa`e Heiau was not part of the reclassification request. Mr. Holmes responded in the affirmative.

Mr. Watkins asked Mr. Holmes for the tax map key information of the 20 acres referred to in his testimony. Mr. Holmes stated that he will work with Councilmember Barbara Marshall's staff to provide that information.

There were no further questions for Mr. Holmes.

18. Duane Pang

Mr. Pang testified in support of the proposed cemetery expansion. He stated that he was satisfied with the plans to protect the Kawa`ewa`e Heiau. He noted that there was a need for more room at HMP to address the needs of the next generation.

There were no questions for Mr. Pang.

19. Hank Liljedahl

Mr. Liljedahl testified in opposition to the proposed cemetery expansion. He pointed out that he was a resident of Pohai Nani and represented the Hui at Pohai Nani, which was the association of residents. He noted that the majority of the residents were not in favor of the expansion. He expressed concern that if the expansion were built, it would take away the surrounding beauty that currently existed.

There were no questions for Mr. Liljedahl.

20. Allan Schildknecht

Mr. Schildknecht testified in opposition to the proposed cemetery expansion. He expressed concern about grading and runoff issues associated with the expansion. He believed that the topographic information on the maps was not accurate.

There were no questions for Mr. Schildknecht.

21. Reverend Andy Kikuta (submitted written testimony from the Hawai`i Kai Community Church)

Reverend Kikuta testified in support of the proposed cemetery expansion. He noted that they relied on HMP as well as Borthwick to service their funeral needs. He found their services to be professional, caring, and flexible.

There were no questions for Reverend Kikuta.

22. Stephen Boggs

Mr. Boggs testified in opposition to the proposed cemetery expansion. He stated that he opposed it because of the likely effect on public attitudes toward the Commission and the government in general. He spoke about the efforts to ensure that there was a sustainable future environment. He pointed out that when land was put aside for conservation use, the public, after such efforts, believes that the land was under some kind of protection. He believed that to have the land reused after giving the trust to the government to protect it made people suspicious and that suspicion increased when the need for that new use has not been made obvious to everyone. He referenced the public testimony thus far and noted that much of it focused on the need to have a cemetery in Kāne`ohe and to even have HMP continue. However, he pointed out that HMP will be full sooner or later; therefore, most of the testimony today was irrelevant to that point. He added that there will need to be more land for cemeteries in the Kāne`ohe area, but what has not been stated, he noted, was a clear case that the Petition Area was the only land that could serve that purpose.

Mr. Yuen asked Mr. Boggs if he recognized the need for additional cemetery space in Kāne`ohe, where did he suggest that it go. Mr. Boggs replied that there was land outside of the Conservation District which could be used for that purpose in the future, such as the golf course that was in financial difficulty. Mr. Watkins asked him to identify the golf course he was talking about. Mr. Boggs replied that he was referring to the golf course at Maunawili.

There were no further questions for Mr. Boggs.

23. Don Hibbard

Mr. Hibbard testified in opposition to the proposed cemetery expansion. He expressed concern about reclassifying the Petition Area from the Conservation District to the Urban District.

There were no questions for Mr. Hibbard.

24. Henry Acevedo

Mr. Acevedo testified in support of the proposed cemetery expansion. He noted that it was important to provide families with a final resting place as well as to make room for our children and our childrens' children. He believed that families should be provided with products and services that they could afford at the time that they were needed.

There were no questions for Mr. Acevedo.

25. Glenn Ida

Mr. Ida testified in opposition to the proposed cemetery expansion. He shared his personal experiences with his mother who was a resident at Pohai Nani.

Commissioner Judge asked Mr. Ida to clarify his position on the expansion. Mr. Ida clarified that he was against the Petition.

There were no further questions for Mr. Ida.

The Commission went into recess at 11:58 a.m. and reconvened at 1:23 p.m.

26. Royce Kovacich

Ms. Kovacich testified in opposition to the proposed cemetery expansion. She stated that she did not want a cemetery in her backyard. She questioned whether it was required that the Commission reclassify the Petition Area before the City and County zoned the land for cemetery use. She opposed having conservation lands developed for a graveyard. She was more concerned about conserving the land, keeping Kāne`ohe country, and thinking about land for the living rather than for the dead.

There were no questions for Ms. Kovacich.

27. Jerome Andrade

Mr. Andrade testified in support of the proposed cemetery expansion. He noted that the expansion would address the needs of the community.

There were no questions for Mr. Andrade.

28. Renise Bayne

Ms. Bayne testified in support of the proposed cemetery expansion. She shared her personal experience following the death of her husband and how HMP provide assistance to her during that time.

There were no questions for Ms. Bayne.

29. Puanani Akaka

Ms. Akaka testified in opposition to the proposed cemetery expansion. She discussed the importance of the Kawa`ewa`e Heiau. She stated that it was important to keep as much of the Hawaiian culture as possible. She also raised concerns about the impacts to Kāne`ohe Bay from the expansion and the need to preserve what we have and to prevent disasters. She believed that family togetherness was not as important as was believed.

There were no questions for Mr. Akaka.

30. Dr. Sol Naluai (submitted written testimony)

Dr. Naluai testified in opposition to the proposed cemetery expansion. He believed that buying a cemetery plot was tantamount to buying title to real estate. He expressed concern about runoff and pollution to Kāne`ohe Bay. He noted that once conservation lands were developed, they were lost forever.

There were no questions for Dr. Naluai.

31. Alicia Maluafiti

Ms. Maluafiti testified in support of the proposed cemetery expansion. She believed that sacrifices should be made to accommodate the future generations. She also spoke about efforts to control the feral cat populations at HMP.

There were no questions for Ms. Maluafiti.

32. Pauline MacNeil (submitted written testimony)

Ms. MacNeil testified in opposition to the proposed cemetery expansion. She was in favor of conserving conservation land. Instead of the expansion, she proposed a green burial ground such as existing in Mill Valley, California, and San Jacinto, Texas.

Mr. Watkins asked Ms. MacNeil to explain the concept behind a green burial ground. Ms. MacNeil provided a brief background of the concept and the features and practices that characterize such facilities.

There were no further questions for Ms. MacNeil.

33. Mahealani Cypher (submitted written testimony)

Ms. Cypher provided testimony in opposition to the proposed cemetery expansion. She noted that there were a dozen no trespassing signs leading to the trails to the Kawa`ewa`e Heiau. As a result, she did not feel welcomed. She spoke for the need for the continued preservation of the wahi kapu lands. She specifically mentioned her concerns about the proposed road and the restroom in the planned mausoleum on the Pohai Nani side of the Petition Area.

Mr. Yee questioned Ms. Cypher about the nature of her concern regarding the mausoleum. She stated that her concern was one of proximity; she believed that there was not enough of a buffer. Mr. Yee then asked her whether her concern centered specifically on the proposed restroom in the mausoleum or was her concern directed to any structure. She stated that it depended on how good the buffer was. While potential disturbance to the complex during construction was an issue, she reiterated her concern about the proximity of the proposed mausoleum. Upon further questioning, she confirmed that her concerns about the road pertained to the proposed road through the cultural preserve. She hoped that if the expansion was approved that the road be done in a culturally sensitive manner, and that the Ko`olaupoko Hawaiian Civic Club be consulted along the way. She stated that they would like the landowner to revisit the plan and if it can avoid going through the complex, that would be the optimum choice. Ms. Cypher referenced the previous testimony about a land swap with some State land on the other side of the cemetery, which she noted would be a better option than disturbing this area.

There were no further questions for Ms. Cypher.

34. Gretchen Gould

Ms. Gould testified in opposition to the proposed cemetery expansion. She expressed the need to preserve trees and the circle of green that they provided. She espoused the benefits of trees. She also expressed concern about the potential impacts to Kāne`ohe Bay, and that the existing cemetery was already considered a major polluter to Kāwā Stream. She noted that plans such as the Ko`olaupoko Sustainable Communities Plan and the Kāne`ohe Bay Master Plan need to be used and revered as guidelines.

Mr. Yuen asked whether it would make a difference if the trees were exotic trees as opposed to native trees. She stated that they were still considered trees and they were green. She added that there was a big difference at looking at a whole band of trees and looking at flattened green land.

Mr. Yee asked her where she obtained her information regarding Kāwā Stream. Ms. Gould stated she could not remember.

There were no further questions for Ms. Gould.

35. Calt Ferreira

Mr. Ferreira testified in opposition to the proposed cemetery expansion. He wondered if this expansion was allowed, where would development stop. He believed that they should expand elsewhere.

There were no questions for Mr. Ferreira.

36. Laura Morgenstein

Ms. Morgenstein testified in opposition to the proposed cemetery expansion. She pointed out that Donna Rewick, who had signed up to testify but was not present at this time, also opposed the expansion. Ms. Morgenstein cited the natural beauty of the area and noted the dangerous precedent that would be set if the expansion was permitted.

There were no questions for Ms. Morgenstein.

37. Pilipo Souza

Mr. Souza noted that he could understand the interests of both sides and the burden that the Commission has in light of the Native Hawaiian land use issues pending before the U.S. Supreme Court. He believed that land preservation must be essentially kept, and the job of the Commission was to ensure that the air, water, and soil were not harmed.

There were no questions for Mr. Souza.

Commissioner Chock excused himself from the proceedings at 2:21 p.m.

38. Robert Snyder

Mr. Snyder testified in opposition to the proposed cemetery expansion. He noted that in Kāne`ohe, there was no green spaces left. He stated that preserve lands have to be preserved.

There were no questions for Mr. Snyder.

39. Elizabeth Reilley

Ms. Reilley testified in opposition to the proposed cemetery expansion. She expressed the need to consider the big picture as well as the fact that there were the Windward O`ahu Regional Plan, the Ko`olaupoko Sustainable Communities Plan, the General Plan, and the Hawa`i State Plan. She believed that the expansion threatened the integrity of the policies put forth by these plans regarding growth and the need to conserve conservation land. She noted that the approval of the expansion would set a precedent and regarded the request as premature. Finally, she related that it was her understanding that on P-2 land outside the urban growth boundary, cemeteries were a permitted use so she was rather confused why the urban designation was being requested.

Mr. Yuen asked if she was aware that a cemetery was proposed out in Hawai`i Kai. She responded in the affirmative and noted that it was located on P-2 land outside the urban growth boundary and they did not ask for an urban designation.

There were no further questions for Ms. Reilley.

At this time, Chair Kanuha called for those individuals who signed up to testify but did not respond at the time their names were called. None of the individuals called appeared to testify. A member of the public pointed out that she just found about the hearing just recently and after listening to the testimony, she had a lot of questions. She wanted to know what the next step would be in the process after today's hearing. Chair Kanuha explained to the audience the nature of the Commission's quasi-judicial process and its role in this proceeding. She questioned whether there would be another opportunity to provide comments on the proposed cemetery expansion as she wanted to hear the testimony of the individuals who were not present. Chair Kanuha noted that the public testimony portion of the hearing would be available at every hearing the Commission held but that the actual proceedings themselves were confined to the parties' presentations.

40. Ursula Retherford

Ms. Retherford testified in opposition to the proposed cemetery expansion. She stated that conservation land should be preserved. She believed that it was important to adhere to the planning directives and plans that have been established. She then related her cemetery experiences in Switzerland.

There were no questions for Ms. Retherford.

The hearing adjourned at 2:41 p.m.

(For more details on this matter, see LUC transcript of March 6, 2009.)