

LAND USE COMMISSION
MEETING MINUTES

November 17, 2011 – 9:30 a.m.
Leiopapa A Kamehameha Building Room 204,
235 S. Beretania Street Honolulu, HI 96813

COMMISSIONERS PRESENT: Normand Lezy
Ronald Heller
Napua Makua
Nicholas Teves, Jr
Chad McDonald
Thomas Contrades
Kyle Chock (departed the meeting at 3:50
p.m.)
Ernest Matsumura

COMMISSIONERS EXCUSED: Lisa Judge

STAFF PRESENT: Orlando Davidson, Executive Officer
Diane Erickson, Deputy Attorney General
(departed meeting at 2:55 p.m.)
Scott Derrickson, Staff Planner
Riley Hakoda, Staff Planner/Acting Chief Clerk

COURT REPORTER: Holly Hackett

AUDIO TECHNICIAN: Todd Bodden

CALL TO ORDER

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

APPROVAL OF MINUTES

Chair Lezy asked if there were any corrections or additions to the November 3-4, 2011 minutes. There were none. Executive Officer Davidson polled the Commission and the minutes were unanimously approved by vote (8-0).

TENTATIVE MEETING SCHEDULE

Executive Officer Davidson provided the following:

- The tentative meeting schedule for the remainder of the calendar year 2011 was distributed in the handout material for the Commissioners.
- The first 6 months of tentative meeting schedules for 2012 are posted on the LUC website.
- Any questions or concerns- please contact LUC staff.

ACTION

A06-771 D.R. HORTON-SCHULER HOMES, LLC., (O`ahu)

Chair Lezy announced that this was a continued meeting on A06-771 D.R. HORTON – SCHULER HOMES, LLC , a Delaware limited liability company, d.b.a. D.R. Horton-Schuler Division, Honouliuli, `Ewa, O`ahu, To Amend The Agricultural Land Use District Boundaries Into The Urban Land Use District For Approximately 1,525.516 Acres Of Land at Honouliuli, `Ewa District, O`ahu, Hawai`i, Tax Map Key Nos.: (1) 9-1-17:4 (por.), 059 and 072; (1) 9-1-18: 001 and 004.

APPEARANCES

Benjamin Kudo, Esq., Naomi Kuwaye, Esq. and Yuko Funaki, Esq., represented Petitioner D.R. Horton-Schuler Homes LLC

Cameron Nekota, D.R. Horton-Schuler Homes LLC

Dawn Takeuchi-Apuna, Esq., Deputy Corporate Counsel, represented City and County of Honolulu, Department of Planning and Permitting (DPP)

Tim Hata, DPP

Bryan Yee, Esq., represented State Office of Planning (OP)

Mary Lou Kobayashi, OP

Dr. Kioni Dudley, represented Intervenor Friends of Makakilo (FOM)

Linda Paul, Esq., legal advisor to FOM

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Tatyana Cerullo, Esq. and Elizabeth Dunne, Esq., represented Intervenor The Sierra Club

Eric Seitz, Esq. and Sierra Devine, Esq., represented Intervenor Clayton Hee State Senator Clayton Hee

Chair Lezy updated the record and described the procedures for the proceedings and informed the parties that Intervenor Sierra Club and Intervenor Friends of Makakilo had asked to be allowed to file final witness and exhibit lists no later than Monday, November 21, 2011. Chair Lezy stated that the Chair was inclined to grant the requests; and that any party that had any objections to proposed witnesses or exhibits filed by the Intervenors should file their objections no later than Monday, November 28, 2011. Chair Lezy added that the Commission would meet on December 1, 2011 to rule on any objections and other matters. There were no questions or comments regarding the procedures or matters regarding the witness and exhibit lists.

Chair Lezy asked if there were any Public Witnesses who wished to give testimony.

PUBLIC WITNESSES

1. State Senator Will Espero

Senator Espero submitted written testimony, described his community involvement and shared the reasons why he supported the proposed project.

Dr. Dudley requested clarification on Senator Espero's past employment with Petitioner. Senator Espero replied that he was employed by Petitioner from 2005-2007 as a Community Relations Manager and described the details of his position and how he had supported development in West O`ahu as a community member.

Mr. Seitz requested further clarification on Senator Espero's employment and reasons for taking a pro-development position. Senator Espero expressed that he was no longer employed by the Petitioner and continued to support development in the region by various developers. Senator Espero provided his opinion on how he envisioned development on O`ahu would occur, how farm produce would continue to be supplied

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to the community even with the loss of the agricultural land in the Petition Area and where Aloun Farms would relocate its operations if the Petition were granted. Senator Espero also shared why he believed the Petitioner would successfully complete the proposed project and how it would benefit the state.

Commissioner Heller requested clarification on whether Senator Espero was expressing the views of the State Senate or as an individual. Senator Espero replied that he was providing his personal views.

There were no further questions for Senator Espero.

2. Stuart Scott

Mr. Scott submitted a CD and written testimony by Richard Heinberg, Senior Fellow of the Post Carbon Institute and requested to be allowed to present Mr. Heinberg's testimony to the Commission in an audio-visual format since Mr. Heinberg was unable to attend the LUC hearing. Petitioner's counsel objected on the basis that Mr. Heinberg was not present to be cross examined. Chair Lezy asked if Mr. Scott could arrange for Mr. Heinberg to make a "live" presentation to allow for questioning by the Parties. Mr. Scott replied that he would work with LUC staff to attempt to do that.

Mr. Scott then provided his concerns about Senator Espero's testimony and why the proposed project should be denied.

There were no questions for Mr. Scott

3. Christine Camp

Ms. Camp submitted written testimony, stated that she was the Government Affairs Chair for the Kapolei Chamber of Commerce and provided the reasons why her organization supported the Petition.

Dr. Dudley requested clarification on Ms. Camp's role and relationship with respect to the Kapolei Chamber of Commerce. Ms. Camp described her business background and relationship to the Kapolei Chamber of Commerce.

There were no further questions for Ms. Camp.

4. Rodolpho Ramos

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Mr. Ramos described his involvement in community groups focused on the future planning for the Ewa region and why he supported the proposed project.

There were no questions for Mr. Ramos

5. Fred Lau

Mr. Lau described his business relationship with the Petitioner; and his efforts to develop alternative farming methods that could be used in the proposed project with the UH College of Tropical Agriculture, including aquaponics.

Dr. Dudley requested clarification on how Mr. Lau proposed to have alternative farming methods adopted into the proposed project. Mr. Lau replied that he needed more time to calculate the efficiencies of the new farming methods that he was studying and was advocating a balance between development and agriculture by suggesting that considerations for a more sustainable community be included in the proposed project.

There were no further questions for Mr. Lau.

6. Maile Kanemaru

Ms. Kanemaru stated that she was Director of the Honolulu "Weed and Seed" program and described her work in the local community and how Petitioner had supported the Weed and Seed program's efforts.

Mr. Yee requested clarification on whether Ms. Kanemaru was testifying on behalf of "Weed and Seed" in favor of the Petition. Ms. Kanemaru replied that she was.

There were no further questions for Ms. Kanemaru.

7. Stephen Pearson

Mr. Pearson provided his concerns about the effects of "Peak Oil" and its impact to Hawai'i and food availability; and stated that he disagreed with Senator Espero's perspective and offered his opinion of how Hawai'i could be more sustainable and why agricultural land should be preserved.

There were no questions for Mr. Pearson.

8. Mike Golojuch Sr.

Mr. Golojuch shared his community involvement experiences and provided the reasons why he supported the proposed project

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There were no questions for Mr. Golojuch.

9. Garrett Apuzen-Ito

Mr. Ito stated that he worked at the University of Hawai`i as a geologist and described why he felt it was important to preserve agricultural land and natural resources. Mr. Ito expressed why development should occur elsewhere and what the possible negative consequences of the earth's dwindling fossil fuel supplies and loss of agricultural land could be.

Mr. Kudo asked if Mr. Ito was aware that the proposed project offered an opportunity for its residents to live and work in same community to avoid commuting. Mr. Ito responded that planning communities to accomplish that goal was in line with what he was advocating, but not at the expense of sacrificing agricultural land.

Mr. Kudo asked if Mr. Ito was aware that the article in the Honolulu Star-Advertiser about affordable housing that was referred during his testimony was Petitioner's project. Mr. Ito acknowledged that it was.

There were no questions for Mr. Ito.

The Commission went into recess at 10:47 a.m. and reconvened at 10:58 a.m. (Deputy Attorney General Erickson returned at 11:02 a.m.)

10. Sean Tiwanak

Mr. Tiwanak submitted written testimony and provided his perspective of how development in the area should occur and what his concerns were with existing regional conditions and the additional impacts of the proposed project.

There were no questions for Mr. Tiwanak

11. Roger Rivera

Mr. Rivera stated that he was a long time area resident and described his reasons for supporting the Petition.

There were no questions for Mr. Rivera

12. Mike Lwin

Mr. Lwin stated that he was the senior pastor of the New Hope Leeward Church in Waipahu and described how his church members

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might benefit from the proposed project, and why he supported the Petition.

Mr. Kudo requested clarification on where Pastor Lwin might choose to permanently locate his church in the future. Pastor Lwin described the various criteria his church was using to decide where to locate their church.

Mr. Yee requested further clarification on where Pastor Lwin might permanently locate his church and how the choice of locating in the Petition Area came about. Pastor Lwin stated that his church had approached the Petitioner to inquire about the feasibility of establishing a facility in the proposed project and described the features that were desired for his church site.

Dr. Dudley requested clarification on how Pastor Lwin had calculated the travel time savings benefits that the proposed project would offer his congregation. Pastor Lwin described the considerations and methodology that he used to arrive at his conclusions and what benefits he envisioned the proposed project would have for his congregation.

There were no further questions for Pastor Lwin

13. Victoria Cannon

Ms Cannon shared her reasons for opposing the Petition and why the Commission should deny it.

There were no questions for Ms. Cannon.

14. . Reggie Castaneros

Mr. Castaneros stated that he was the President of the Building Trades Council; that his organization would stand by its submitted written testimony and that he was appearing to answer any questions the Commission might have.

There were no questions for Mr. Castaneros.

15. Sidney Higa

Mr. Higa described how he was assisting members of the community who were unemployed and why he supported the proposed project.

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There were no questions for Mr. Higa.

16. Harmony Bentocino

Ms. Bentocino shared her reasons for wanting to preserve O`ahu's agricultural land and why the Commission should deny the Petition.

There were no questions for Ms. Bentocino.

17. David Arakawa- Land Use Research Foundation (LURF)

Mr. Arakawa submitted written testimony and stated that he was appearing on behalf of LURF; and described how his organization was involved in Important Agricultural Land (IAL) issues; and the efforts LURF had made in establishing the current laws and legislation that applied to IAL.

Mr. Kudo requested clarification on who the IAL initial stakeholders were, and how the IAL legislation was formulated. Mr. Arakawa described who the IAL planning participants were and how they achieved the final proposed legislation.

Mr. Kudo asked if the IAL designation was intended to be a land use limitation. Mr. Arakawa replied that IAL designation was tied to helping farmers be viable and described how counties were expected to participate in designating IAL parcels.

Dr. Dudley asked if the Petition Area had been designated IAL. Mr. Arakawa replied that the Petition Area had not been designated IAL by either the State or the County and described the urban growth boundaries and other IAL criteria that made such designations difficult.

Mr. Seitz requested clarification on why LURF was testifying before the Commission. Mr. Arakawa described why LURF was participating in the proceedings and who was eligible to submit requests for IAL consideration.

There were no further questions for Mr. Arakawa.

18. Alice Fisher

Ms. Fisher shared her perspective of how world, national and local events were negatively impacting past land use decisions and why she opposed the Petition.

Dr. Dudley requested clarification on how retraining of the work force could occur. Ms. Fisher expressed how she perceived members of the work force would obtain training and transition to other jobs.

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There were no further questions for Ms. Fisher.

19. Cynthia Frith

Ms. Frith described her concerns about and reasons for opposing the proposed project.

There were no questions for Ms. Frith

20. Thad Spreg

Mr. Spreg submitted written testimony and described his concerns about the proposed project and his reasons for opposing it

There were no questions for Mr. Spreg.

21. Derrick Tsutomi

Mr. Tsutomi described how he had trained to be an architect with the Petitioner by helping design features in the proposed project; and why he supported granting the Petition.

There were no questions for Mr. Tsutomi.

22. Glenn Oamelda

Mr. Oamelda described why he opposed the Petition due to the negative impacts that he felt it would bring to the region and recommended that additional planning/reviews/studies be performed.

There were no questions for Mr. Oamelda

23. Pearl Johnson

Ms. Johnson stated that she represented the League of Women Voters and described why her organization opposed the Petition.

There were no questions for Ms. Johnson

24. Matt Lopresti

Mr. Lopresti provided his reasons for supporting the proposed project.

Dr. Dudley asked how Mr. Lopresti proposed more business could be developed for Kapolei. Mr. Lopresti expressed his opinion on what needed to be done to improve business conditions for the district.

There were no further questions for Mr. Lopresti

25. Anthony Aalto

Mr. Aalto shared his opinions and reasons for opposing the proposed

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project and urged the Commission to focus on more urban core redevelopment.

There were no further questions for Mr. Aalto

26. Kahumana Mook

Kahu Mook provided his vision of how development in Hawai'i should occur and encouraged everyone to work together for their children and a better future.

There were no questions for Mr. Mook.

27. Mitchell Tynanis.

Mr. Tynanis provided his reasons for supporting the proposed project.

There were no questions for Mr. Tynanis.

The Commission went into recess at 1:53 p.m. and reconvened at 2:07 p.m.

ADMISSION OF EXHIBITS

SENATOR HEE

Mr. Seitz offered Intervenor Senator Hee's Exhibits 62, 63, and 64.

Discussion ensued over procedural and communication issues that Petitioner had with the Intervenors in the case. Mr. Kudo voiced his concerns about how the offering of exhibits differed from how he originally thought Intervenor exhibits would be allowed and how communication by the Intervenors to the LUC was occurring when a pending action was before the Commission. Chair Lezy determined that the exhibits would be allowed and cautioned the Parties to be cognizant of LUC communication protocol and to avoid any communication that could be perceived as *ex parte* going forward.

PETITIONER WITNESSES

1. Dr. Ann Bouslog

Dr. Bouslog was offered as a Real Estate Market Assessment and Economic Impacts expert and had submitted prior written testimony and market reports.

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Dr. Bouslag used a PowerPoint presentation to describe the methodology, considerations and findings of her studies for the proposed project; and also what timeline and market conditions she had used in arriving at her conclusions; and how her findings differed from DPP's studies.

(Deputy Attorney General Erickson departed the meeting at 2:55 p.m. with the approval of the Chair.)

Questions

DPP- Ms. Takeuchi-Apuna had no questions.

OP-

Mr. Yee requested clarification on how the number of entitled housing units for the Petition Area was calculated and why they differed from DPP's figures. Dr. Bouslag described how she had performed her calculations and collected her data and why they differed from DPP's results. Chair Lezy asked what report Dr. Bouslag was referring to in her comments about housing units. Dr. Bouslag replied that it was a DPP report (a review of the `Ewa Development Plan) that was released via email for public review in the last week.

Senator Hee-Mr. Seitz had no questions.

The Sierra Club-

Ms. Cerullo requested clarification on various aspects of the real estate and economic analyses that were done by Dr. Bouslag and whether consideration was given to the Hawai'i State Plan and the associated Hawai'i Revised Statutes and Hawai'i Administrative Rules related to urbanizing agricultural land. Dr. Bouslag replied that she had not looked at the Hawai'i State Plan or its associated Statutes or Administrative Rules and described the methodology and considerations that were utilized to assess and formulate her studies' modeling and what different conditions and situations were used for her reports on job creation and housing estimates.

Friends of Makakilo-

Dr. Dudley requested clarification on how various factors might affect the findings and calculations for job creation and housing demand made during the course of Dr. Bouslag's studies; and why downtown Kapolei business

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development had not materialized. Dr. Bouslag described the considerations and assumptions she had made to formulate her studies and provided her opinion on why development had been slow to occur in the downtown Kapolei district and how it was experiencing the “growing pains” of a developing city and would eventually mature to serve the region. Dr. Bouslag also provided her perspective on the farm industry as related to her studies and how she anticipated consumers would be able to afford housing units in the proposed project.

(Commissioner Makua excused herself at 3:15 p.m. and returned at 3:18 p.m.)

Commissioner Questions

Commissioner Heller requested clarification on how housing demand and supply considerations were made to determine pricing for units in the proposed project. Dr. Bouslag described the various factors that were used to formulate the supply and demand schedules for her studies.

Commissioner Chock requested clarification on how future market absorption rates and the different residential product types were calculated. Dr. Bouslag described the current absorption rates in the `Ewa area and how she had arrived at her projections.

Chair Lezy requested clarification on new non-typical business opportunities that were described as being associated with the proposed project. Dr. Bouslag described the types of businesses that she thought would be introduced in the proposed project that would be unique to the Petition Area.

Chair Lezy requested clarification on the overall projected housing needs as it related to the primary urban core development and redevelopment. Dr. Bouslag described how she perceived future growth and development in the urban core would occur.

The Commission went into recess at 3:50 p.m. and reconvened at 4:05 p.m. (Commissioner Chock departed the meeting with the approval of the Chair- 7 Commissioners remained.)

2. Bruce Plasch

Dr. Plasch was offered as an expert witness in Agricultural Economics and had prepared written testimony and reports that had been submitted to the Commission regarding available farm lands, crop production and water sources that could support the farming industry.

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Dr. Plasch updated his 2009 testimony and described events that had affected his findings and recommendations since that time. Dr. Plasch also described how his findings differed from statements made by the Intervenors and public witnesses regarding the productivity of the agricultural land in the Petition Area and the types of crops that could be produced using various farming techniques.

Questions

DPP- Ms. Takeuchi-Apuna had no questions.

OP- Mr. Yee requested clarification on what existing farmers in the Petition Area were doing to acquire replacement lands to sustain their operations. Dr. Plasch described how he perceived what existing farmers had done or might do to obtain land to continue their operations and transition their crops to them.

Mr. Yee requested clarification on how technology, water and soil needs for farming operations could be economically provided. Dr. Plasch described the various findings and recommendations that he had made to determine and provide for the water and soil needs of agricultural land on Oahu and how soil ratings were impacted by these factors. Dr. Plasch also described the wastewater treatment plant improvements and water delivery systems that he anticipated would be done; farmland leasing market prices and availability that he was aware of, factors involved in acquiring or selling farmland; factors involved in trying to make a commercial farm profitable; and how technological advances had changed farming methods and the economic dynamics of the industry.

Mr. Yee also asked for clarification on what recommendations had been made to improve water quality and water distribution systems to support and sustain agricultural operations. Dr. Plasch described the water treatment and delivery systems that he had recommended and how he foresaw their development in the coming years to become financially feasible.

Mr. Yee requested clarification on relocation assistance that had been rendered to the farmers who had leases in the Petition Area. Dr. Plasch described the discounted rents that had been allowed and was not aware of other types of assistance that may have been given.

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Mr. Yee asked whether the “civic farm” features of the proposed projects had been analyzed and included in the considerations for relocation of farmlands. Dr. Plasch replied that he had concentrated on the commercial farming that was occurring in the Petition Area and that the “civic farms” had not been included in the consideration of farm relocations; and provided his perspective on the proposed “civic farm” features for the Petition Area.

Friends of Makakilo

Dr. Dudley requested clarification of what “civic farm” areas in the Petition Area were in active farm production. Dr. Plasch described the acreage that he thought was in active production and the farms responsible for each area.

Dr. Dudley requested clarification on the operation or ownership of the farmlands in the Petition Area and what lands would be used to replace them in other parts of Oahu for the Castle & Cooke Homes “Koa Ridge” project and the proposed D.R. Horton-Schuler project. Dr. Plasch provided his perception of how the agricultural replacement lands would occur and indicated on Petitioner’s exhibit map where the replacement lands were located.

(Commissioner Teves departed the meeting at 5:25 p.m. with the approval of the Chair- 6 Commissioners remained.)

Dr. Dudley requested clarification on the requirements and status of the Wahiawa and Schofield wastewater treatment plants to discharge R1 water and how the Central O`ahu replacement lands were currently being used. Dr. Plasch shared his understanding of the certification status for the Schofield and Wahiawa treatment plants; how water would be provided to the agricultural lands in the area; what the topography of the replacement lands were and how they were being utilized

Dr. Dudley requested to continue his questioning in the morning.

Chair Lezy acknowledged Dr. Dudley’s request and announced that the meeting would continue in the same room on November 18, 2011 at 9:00 a.m.

The meeting was recessed at 5:37 p.m.

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