

LAND USE COMMISSION

Minutes of Meeting

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

December 2, 1997

COMMISSIONERS PRESENT: Rupert K. Chun
M. Casey Jarman
Peter Yukimura
P. Roy Catalani
Merle A.K. Kelai
Herbert Kaopua, Sr.
Isaac Fiesta, Jr. (Portion of
Proceeding)

*approved
1/22/98*

COMMISSIONERS ABSENT: JoAnn Mattson
Lawrence N.C. Ing

STAFF PRESENT: Jon Itomura, Deputy Attorney General
Leo Asuncion, Jr., Staff Planner
Bert Saruwatari, Staff Planner
Darlene Kinoshita, Chief Clerk

Michelle Kauth, Court Reporter

Presiding Officer Jarman called the meeting to order.

ACTION

A81-525 - Y-O LIMITED PARTNERSHIP (Hawaii)

Presiding Officer Jarman announced that the Commission would take action to consider Petitioner's Motion for Third Extension of Time to Apply for Redistricting of Phase II which consists of approximately 195.246 acres of land situated in the Agricultural District at Kaloko and Kohnaiki, North Kona, Hawaii.

Appearances

Paul Sato, Esq., for Petitioner

Yaeko Kotani for Petitioner

Patricia O'Toole, Esq., Deputy Corporation Counsel, County of Hawaii

Norman Hayashi, Planning Department, County of Hawaii

Ann Ogata-Deal, Esq., Deputy Attorney General, Office of Planning

Richard Egged, Jr., Director, Office of Planning

Bert Saruwatari, staff planner, oriented the Commission to the area requesting redistricting on the Land Use District Boundaries and tax maps and gave a summary of the petition.

The Commission receive the following:

1. Letter dated November 26, 1997 from Virginia Goldstein, Director, Planning Department, County of Hawaii
2. Letter dated December 1, 1997 from Paul Sato, Esq.
3. Office of Planning's Response to Petitioner's Motion for Third Extension of Time to Apply for Redistricting of Phase II filed on December 1, 1997.

Arguments on the motion were heard from Mr. Sato.

Commissioner Fiesta moved to grant Petitioner's Motion for Third Extension of Time to Apply for Redistricting of Phase II. The motion was seconded by Commissioner Kelai and polled as follows:

Ayes: Commissioners Fiesta, Kaopua, Kelai, Yukimura, Catalani, Chun, and Jarman

CONTINUED HEARING

A94-705 - COUNTY OF HAWAII, PLANNING DEPARTMENT

Presiding Officer Jarman announced that this matter before the Commission is a continuation of the hearing which was previously held on August 22, 1996. Presiding Officer Jarman also announced that the Commission would take action on Intervenor, E Mau Na Ala Hele's motion to declare the petition still defective.

Appearances

Patricia O'Toole, Esq., Deputy Corporation Counsel, County of Hawaii

Virginia Goldstein, Director, Planning Department, County of Hawaii

Norman Hayashi, Planning Department, County of Hawaii

Ann Ogata-Deal, Esq., Deputy Attorney General, Office of Planning

Richard Egged, Jr., Director, Office of Planning

Lorene Maki, Land Use Division, Office of Planning

Steven S.C. Lim, Esq., Attorney for Kam Investments

Eric Maehara, Esq., Attorney for Hawaiian Development Corporation

Benjamin Kudo, Esq., Attorney for Queen Liliuokalani Trust

Judith Graham, for E Mau Na Ala Hele

At this time, a disclosure was made by Commissioner Catalani and Commissioner Jarman. There were no objections by the parties to have the Commissioners participate in the proceedings.

Leo Asuncion, Jr., staff planner, oriented the Commission to the area proposed for reclassification on the Land Use District Boundaries and tax maps.

Arguments on Intervenor, E Mau Na Ala Hele's Motion to Declare the Petition Still Defective were heard from Ms. Graham, Ms. O'Toole, Ms. Ogata-Deal, Mr. Lim, Mr. Maehara, and Mr. Kudo.

Commissioner Chun moved to go into executive session to seek legal clarification from our deputy attorney general regarding Section 15-15-50 of the LUC's rules and regulations. The motion was seconded by Commissioner Kaopua and unanimously approved by voice votes.

EXHIBITS

The following exhibits were admitted into evidence by the Land Use Commission:

- a. February 9, 1995 from Francis I. Kuailani
- b. March 8, 1995 from Robert E. Bethea, Esq.
- c. March 22, 1995 from Glenn A. Santos, Hawaii Island Chamber of Commerce
- d. April 17, 1995 from Michael S. Ginoza, Japanese Chamber of Commerce & Industry of Hawaii

- e. April 25, 1995 from Jay Sasan, Hawaii Island Portugese Chamber of Commerce
- f. April 8, 1996 from Lin McIntosh, Kona-Kohala Chamber of Commerce
- g. December 26, 1996 from H. Peter L'Orange, Planning and Flood Control Committee
- h. November 25, 1997 from Susie R. Green
- i. November 25, 1997 from Charles F. Hosley
- j. November 25, 1997 from Philip C. Hoffman
- k. November 26, 1997 from Mr. & Mrs. Kim Sherman
- l. The County of Hawaii's Exhibit Nos. 1, 2A through 2M, 3A through 3Ma, 3N, 3N-A, 3O through 3X, and 4 through 24.
- m. State's Exhibit Nos. 1, 1a through 4.
- n. Kam Investment Exhibit Nos. 1 and 2.
- o. Hawaiian Dev. Corporation Exhibit Nos. 1 through 6.
- p. Queen Liliuokalani Exhibit Nos. 1 and 2.
- q. E Mau Na Ala Hele's Exhibit Nos. 1 through 44.

PUBLIC WITNESSES

- 1. Ilan Shavely
- 2. Joe Castilli
- 3. Nancy Pisicchio
- 4. Clarence Medeiros
- 5. Duane Erway
- 6. Sandra Scarr

A lunch recess was taken at 12:05 to reconvene at 1:05 p.m.

- 1:05 p.m. -

Commissioner Fiesta was absent from the proceeding at this time.

ADOPTION OF DECISION AND ORDERS

A89-649 - Lanai Resort Partners (Manele)

Commissioner Kelai moved to adopt the Order Granting Renewal of Petitioner's Motion to Amend Condition No. 10. The motion was seconded by Commissioner Kaopua and polled as follows:

Ayes: Commissioners Yukimura, Chun, Jarman, Kaopua, and Kelai

Commissioner Kelai move to adopt the Order Setting Petitioner's Motion to Amend Condition No. 10 for Contested Case Hearing. The motion was seconded by Commissioner Kaopua and polled as follows:

Ayes: Commissioners Yukimura, Chun, Jarman, Kaopua, and Kelai

CONTINUED HEARING

A94-705 - COUNTY OF HAWAII, PLANNING DEPARTMENT

STATE'S WITNESS

1. Richard Egged, Jr.

Commissioner Fiesta joined the proceeding at this time.

INTERVENOR - QUEEN LILIUOKALANI'S WITNESSES

1. Frank Jahrling
2. James Bell

PETITIONER'S WITNESS

1. Ross Cordy

Commissioner Kelai moved to continue the hearing until a clarification from Mr. Hibbard, Historic Preservation Division, DLNR, regarding concurrence is received. The motion was seconded by Commissioner Kaopua and unanimously approved by voice votes.

MINUTES - December 1, 1997

Page 6

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Kelai moved to approve the minutes for the following meeting date: November 13, 1997. The motion was seconded by Commissioner Kaopua and unanimously approved by voice votes.

2. The Commission approved assessing Petitioner on Docket No. A97-722 - Maui Electric Co., Ltd., advertising fees for rescheduling of the hearing.

The meeting was adjourned at 3:50 p.m.