

LAND USE COMMISSION

Minutes of Meeting

Nahele Room
Sandalwood Clubhouse
2500 Honoapiilani Hwy.
Waikapu, Maui

Approved
9/23/99

August 26, 1999

COMMISSIONERS PRESENT: P. Roy Catalani
Pravin Desai
Isaac Fiesta, Jr.
Lawrence N.C. Ing
M. Casey Jarman
Merle Kelai (portion of proceedings)
Stanley Roehrig
Peter Yukimura

STAFF PRESENT: Esther Ueda, Executive Officer
James Chang, Deputy Attorney General
Bert Saruwatari, Staff Planner
Teri Hee, Chief Clerk

Lynnann Nicely, Court Reporter

Chairperson Kelai called the meeting to order at 9:45 a.m.

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Ing moved to approve the minutes for the meeting date of August 5, 1999. The motion was seconded by Commissioner Yukimura and unanimously approved by voice votes.

2. LITIGATION MATTERS

a) Deputy Attorney General James Chang reported to the Commission that the Kaupulehu Development Supreme Court appeal is still pending.

b) The opening briefs on the Lanai Resort Partners Supreme Court case will be filed on Monday, August 30, 1999.

c) The Circuit Court's decision regarding the Molokai Ranch Circuit Court case; Civil No. 97-0383(1), (DR97-20) is still pending.

3. BUDGET

Executive Officer, Esther Ueda, discussed the stricter budget policies and pointed out that the budget is now broken down into quarters and if you don't use the money set aside for a particular quarter, you will lose it.

4. AR&R98-14

a) The Commission authorized the use of court reporters for the upcoming hearings on the proposed rule amendments.

b) Executive Officer, Esther Ueda, encouraged the Commission members to attend the rule amendment hearings on their respective islands.

Commissioner Yukimura moved to go into executive session to discuss procedural matters with our deputy attorney general. The motion was seconded by Commissioner Ing and unanimously moved by voice votes.

ACTION

A73-367 - JOSEPH FLORES (Kauai)

Chairperson Kelai announced that the Commission would take action to consider (1) Petition of PHP, L.L.C., To Be Substituted As Petitioner; and (2) Petitioner's Motion to Withdraw Land Use Commission Approvals and Revert Land Use District Boundary Classification to Agriculture which consists of approximately 16.7 acres of land situated in the Urban District at Lawai Homesteads, Koloa, Kauai.

On August 24, 1999, the Commission received a letter from Dee M. Crowell stating that the County of Kauai Planning Department will not be attending today's meeting and has no objections to Petitioner's Motion to Withdraw Land Use District Boundary Classification to Agricultural.

Appearances

Walton Hong, Esq., Attorney for Petitioner

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

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Abe Mitsuda, Land Use Division, Office of Planning

Bert Saruwatari, staff planner, oriented the Commission to the special permit area on the Land Use District Boundaries and tax maps and gave a summary of the subject request.

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

Commissioner Jarman moved to approve the Petition of PHP, L.L.C., To Be Substituted As Petitioner. The motion was seconded by Commissioner Ing and unanimously carried by voice votes.

Commissioner Roehrig moved to approve the Motion to Withdraw Land Use Commission Approvals and Revert Land Use District Boundary Classification to Agriculture. The motion was seconded by Commissioner Ing and polled as follows:

Ayes: Commissioners Roehrig, Fiesta, Ing, Jarman, Yukimura, Catalani, Desai, and Kelai

ACTION

A99-728 - HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII, STATE OF HAWAII (Oahu)

Chairperson Kelai announced that the Commission would take action to consider reclassifying approximately 1,300 acres of land currently in the Agricultural District into the Urban District at Honouliuli, Ewa, Oahu, for residential, commercial, sports complex, school site, park and open space uses.

On August 24, 1999, the Commission received a letter from Jane H. Howell stating that the City Department of Planning and Permitting will not be attending today's meeting and support the adoption of Commissioner Desai's proposed findings.

Appearances

John C. Wong, Esq., Attorney for Petitioner

Yvonne Izu, Esq., Attorney for Intervenor

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

David Blane, Director, Office of Planning

Arguments were heard from Mr. Wong, Ms. Ogata-Deal, and Ms. Izu.

Questions were asked by the Commissioners.

It was determined by Chairperson Kelai that all of the Commissioners present were eligible to participate in the action on the petition.

Deputy Attorney General John Wong made the following amendments to Commissioner Desai's motion as shown in ramseyer format:

Condition 13

13e. Should Petitioner sell various residential or commercial components prior to the completion of the construction of the master infrastructure, any such sale shall be conditioned upon the completion of the appropriate master infrastructure improvements for that portion of the residential or commercial component [prior to final development].

Condition 16

16. Prior to [development] construction of any residential or commercial uses within the Petition area, Petitioner, or its successors and assigns, shall submit a Regional Park, Open space and Pedestrian/Bikeway Master Plan to the City for its review and approval.

Condition 17

17. Prior to [development] construction of any residential or commercial uses within the Petition area, Petitioner, or its successors and assigns, shall submit a conceptual Urban Design Plan to the City for its review and approval. The Urban Design Plan shall depict the overall design theme and architectural character of streetscapes, residential neighborhoods and town centers. The Plan shall also include a conceptual landscape plan showing treatment of project entries, major roadways, and common areas.

Condition 21

21. Residential and commercial components of the project will not be developed and major site work for these areas shall not be undertaken until master drainage and infrastructure improvements for those components are completed.

At this time, disclosures were made by Commissioner Roehrig and Commissioner Jarman. There were no objections by the parties to have Commissioner Roehrig and Commissioner Jarman participate in the proceedings.

Commissioner Desai moved on Docket No. A99-728 - Housing and Community Development Corporation of Hawaii, State of Hawaii, that the Commission accept his Proposed Findings of Fact, Conclusions of Law, and Decision and Order, and to incorporate Mr. Wong's changes to condition nos. 13e, 16, 17, and 21, as amended. The motion was seconded by Commissioner Roehrig.

Commissioner Roehrig made the following amendments to Commissioner Desai's motion as shown in ramseyer format:

Findings of Fact No. 21

21. Petitioner is committed to putting in the required infrastructure for the Project and contribute to development of the UHWOC or such other University of Hawai'i expenditures as the Board of Regents shall determine once funding is available or as the Project is sold to individual developers.

Findings of Fact No. 69

69. The major social impacts associated with the Project are summarized as follows:

- Provision of needed housing for O'ahu;
- Enhancement of Kapolei's customer base;
- Development of a new community focus at the sports complex;
- Increase in traffic and congestion;
- Possible impacts on social life due to construction noise or dust;
- Competition for community resources and facilities, namely parks and schools;
- Continued transformation of 'Ewa into a bedroom community; and
- Financing for development of the [UHWOC] University of Hawai'i facilities.

Findings of Fact No. 178

178. The State of Hawai'i will incur major costs as developer but also gain significant revenues from the Project. Development costs are estimated to be about \$95 million for infrastructure and \$27.5 million for the sports complex. Revenues include receipts from land sales, taxes on construction-related cash flows, operating revenues for the sports complex, and new income associated with visitor spending due to the sports complex.

Petitioner will be able to cover its development costs and supply the [UHWOC] University of Hawai'i with funds [for infrastructure soon] after major land sales occur. Overall, the Project will result in continuing cash flows for the State over and beyond State costs. By 2022, the net balance of revenues to the State over costs of the Project is estimated as \$193 million to \$245 million (1997 dollars).

Proposed Decision and Order

3. The Petitioner shall contribute to the development, funding, and/or construction of public school and University of Hawai'i facilities as determined by and to the satisfaction of the State Department of Education (DOE) and the University of Hawai'i. The Petitioner, [and] the DOE, and University of Hawai'i shall enter into [a] written [agreement] agreements on this matter prior to the Petitioner obtaining approval for City and County of Honolulu zoning.

Arguments were heard from Mr. Wong and Ms. Ogata-Deal.

The amended motion was seconded by Commissioner Catalani and polled as follows:

Ayes: Commissioners Desai, Fiesta, Ing, Yukimura, Catalani, Roehrig, and Kelai

Abstain: Commissioner Jarman

A lunch recess was taken at 11:45 a.m. to reconvene at 1:00 p.m.

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CONTINUED HEARING

A92-684 - STATE OF HAWAII, DEPARTMENT OF TRANSPORTATION,
AIRPORTS DIVISION (Maui)

Presiding Officer Jarman announced that this matter before the Commission is a continuation of the hearing previously held on July 8, 9, 1999 to reclassify approximately 210.471 acres of land currently in the Agricultural District into the Urban District at Kahului, Maui for expansion of Kahului Airport and facilities.

Commissioner Kelai was excused from this proceeding due to a previously declared conflict of interest.

Appearances

Bruce T. Matsui, Esq., Attorney for Petitioner

Kelly Cairns, Esq., Deputy Corporation Counsel, County of Maui

Gary Zakian, Esq., Deputy Corporation Counsel, County of Maui

Bill Medeiros, Planning Department, County of Maui

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

Lorene Maki, Land Use Division, Office of Planning

Isaac Hall, Esq., Attorney for Intervenor

Presiding Officer Jarman raised concerns of the Commission with respect to how to further proceed with the hearings so that the witnesses' testimony could be heard faster and not drag on. There was concern that some of the testimony has been going outside of the scope of the witnesses' expertise and the estimated times that were given at the prehearing conference with respect to the direct testimony were not being followed. Further discussion was held regarding a need to find a process that would work better for everyone. Commissioner Roehrig suggested that the parties get together and produce some kind of issue statement and also figure out how much time is going to be needed to discuss each issue.

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PUBLIC WITNESS

1. Neola Caveny

PETITIONER'S WITNESSES (Cont'd.)

1. Phillip L. Bruner
2. Stephen Allison
3. David Ziemann
4. Bryant T. Brothers

Presiding Officer Jarman announced that the Commission will be continuing the hearing tomorrow morning at 9:00 a.m.

The meeting was adjourned at 6:00 p.m.