

STATE OF HAWAII
LAND USE COMMISSION

Approved 1/26/87

Minutes of Meeting

Resolution Room, Kona Hilton Hotel
Kailua-Kona, Hawaii

January 13, 1987

COMMISSIONERS PRESENT: Teofilo Phil Tacbian, Chairman
Frederick Whittemore, Vice-Chairman
William Yuen
Richard Choy
Toru Suzuki
Robert Tamaye (Portion of Proceedings)
Lawrence Chun

COMMISSIONERS ABSENT: Everett Cuskaden

STAFF PRESENT: Esther Ueda, Executive Officer
Benjamin Matsubara, Special Deputy
Attorney General
Raymond Young, Staff Planner
Darlene Kinoshita, Chief Clerk
Jean Marie McManus, Court Reporter

Chairman Tacbian called the meeting to order.

ACTION

A86-599 KONA BEACH DEVELOPMENT VENTURE, L.P.

Chairman Tacbian announced that the Commission would take action in the matter of the petition by Kona Beach Development Venture, L.P. to reclassify approximately 470.13 acres of land currently in the Conservation District into the Urban District at Kohanaiki, North Kona, Hawaii for resort, residential, commercial, golf course, and marina uses. A hearing was conducted by the Land Use Commission on October 21, 1987, October 22, 1987, and November 6, 1987.

Appearances

James Funaki, Esq., Attorney for Petitioner

Norman Hayashi, County of Hawaii

Minutes - January 13, 1987

Page 2

Everett Kaneshige, Esq., Deputy Attorney General,
Department of Planning and Economic Development

Abe Mitsuda, Land Use Division, Department of Planning
and Economic Development

It was determined by Chairman Tacbian that all of the
Commissioners present today were eligible to participate in the
action of the petition.

Closing arguments were heard from James Funaki, Norman
Hayashi, and Everett Kaneshige. After hearing arguments,
examinations by the Commissioners were held.

Commissioner Yuen moved to go into Executive Session
to consult with the Deputy Attorney General certain legal
issues. It was seconded by Vice-Chairman Whittemore and
unanimously carried by voice votes.

Commissioner Chun moved to reopen the hearing to
obtain additional information no later than March 6, 1987. It
was seconded by Commissioner Yuen.

A lunch recess was taken at 12:02 p.m. to reconvene at
1:30 p.m.

- 1:30 p.m. -

A86-599 - KONA BEACH DEVELOPMENT VENTURE, L.P. (Cont'd)

Commissioner Chun withdrew his motion to reopen the
hearing. It was seconded by Commissioner Yuen and unanimously
carried by voice votes.

It was noted for the record that Commission Tamaye has
joined the Commission and participated in the rest of the
proceedings.

Commissioner Chun moved for approval of Docket No.
A86-599 - Kona Beach Development Venture, L.P. to reclassify
approximately 470.13 acres of land situated in Kohanaiki, North
Kona, Hawaii from the Agricultural District into the Urban
District for resort, residential, commercial, golf course, and
marina uses subject to the following conditions:

1. Petitioner shall provide housing opportunities for low and moderate income Hawaii residents and for employees employed on the Property by constructing and offering for sale or rent, on a preferential basis on its own or in cooperation with either or both the Hawaii Housing Authority and the County of Hawaii, within or without the Property, a number of residential units not less than ten percent (10%) of the residential units to be developed on the Property to residents of Hawaii and/or employees employed on the Property of low or moderate income as determined by the Hawaii Housing Authority or County of Hawaii from time to time, or by contributing to the development of such housing without the Property. The preferential residential units shall be offered for sale at prices that would enable such purchasers to qualify for and obtain State-assisted financing (e.g. Act 105 or Hula Mae) or Federally-insured or assisted financing (e.g. FHA Section 245 Program) intended to encourage home ownership by low and moderate income families or employees.

2. The Petitioner shall provide public access from Queen Kaahumanu Highway to the shoreline. Petitioner shall provide space for parking stalls at the access(es). Petitioner shall maintain a continuous trail along the seaward boundary of the Property and such access shall be integrated with the shoreline trails on adjacent lands. The accesses shall be available to the public for recreational use. Petitioner shall coordinate plans for public access with the Department of Land and Natural Resources and the County of Hawaii.

3. Petitioner shall establish a pond management plan for the anchialine pond complex in coordination with the Department of Land and Natural Resources, the County of Hawaii, and other appropriate agencies. The anchialine pond management plan shall include provisions for a buffer zone of no less than forty feet in width measured from the edge of the anchialine pond basin area to the outer edge of the buffer zone.

4. The Petitioner shall prepare preservation and data recovery plans for all significant historic sites which plans shall be submitted to the Department of Land and Natural Resources and the County of Hawaii Planning Department for their review and comment.

5. The Petitioner shall develop and maintain on-site facilities such as sewage treatment plants, dry wells and ponding areas to insure that the nearshore, offshore and deep ocean waters remain in pristine condition. The Petitioner shall also develop and coordinate a monitoring system with the Natural Energy Laboratory of Hawaii and the Hawaii Ocean Science and Technology Park.

6. The Petitioner shall provide a buffer area and develop and maintain a storm drainage system that does not adversely affect the existing wildlife habitat at Kaloko Fishpond in coordination with the Department of Land and Natural Resources, the U.S. Fish and Wildlife Service, the U.S. Park Service, and other appropriate agencies.

7. Petitioner shall grant to the State of Hawaii a noise easement in a form prescribed by the State Department of Transportation on any portion of the Property subject to noise levels exceeding 55 LDN as determined by the Department of Transportation noise contour map provided by the Department of Transportation for the year 1990.

8. The Petitioner shall apply sound attenuation measures on all residential units on the Property that are subject to noise levels greater than 60 LDN. Petitioner shall not construct residential or resort condominium development on any portion of the Property subject to noise levels greater than 65 LDN.

9. The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely motion, and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

The motion was seconded by Commission Yuen.

The motion to approve the petition with nine conditions was unanimously approved as follows:

Ayes: Commissioner Chun, Yuen, Suzuki, Whittemore, Tamaye, Choy, and Chairman Tacbian

It was noted for the record by Chairman Tacbian that the Commission will attach the approved Department of Transportation's 1990 LDN map with its Decision and Order. The approved Department of Transportation's 1990 LDN map will be provided by the Department of Planning and Economic Development.

A86-605 - KEAUHOU INVESTMENT COMPANY AND KONA COAST PROPERTIES, LTD., A JOINT VENTURE

Chairman Tacbian announced that the Commission will take action in the matter of the Petition by Keauhou Investment Co. and Kona Coast Properties, Ltd., A Joint Venture to reclassify approximately 44.3 acres of land currently in the Agricultural District into the Urban District at Pahoehoe 2nd, North Kona, Hawaii for single and multi-family residential use. A hearing was conducted by the Land Use Commission on November 6, 1986 and November 7, 1986.

Appearances

T. David Woo, Jr. Esq., Attorney for Petitioner

Norman Hayashi, County of Hawaii

Everett Kaneshige, Esq., Deputy Attorney General,
Department of Planning and Economic Development

Abe Mitsuda, Land Use Division, Department of Planning
and Economic Development

It was determined by Chairman Tacbian that all of the Commissioners present today were eligible to participate in the action of the petition.

Closing arguments were heard from T. David Woo, Norman Hayashi, and Everett Kaneshige. After hearing arguments, examinations by the Commissioners were held.

Commissioner Choy moved for approval of Docket No. A86-605 Keauhou Investment Company and Kona Coast Properties, Ltd., A Joint Venture to reclassify approximately 44.3 acres currently in the Agricultural District into the Urban District for single and multi-family residential use at Pahoehoe 2nd, North Kona, Hawaii subject to the following conditions:

1. The Petitioner shall provide housing opportunities for low and moderate income Hawaii residents by developing a housing rental program, or offering for sale, or providing a cash distribution to either the Hawaii Housing Authority or County of Hawaii, or any combination thereof, meeting with the approval of either the Hawaii Housing Authority or County of Hawaii. The amount of units shall be equal to ten percent (10%) of residential units to be developed on the project area. The definition of low and moderate income families' income shall be determined by standards promulgated by the Hawaii Housing Authority and the County of Hawaii from time to time.

2. Petitioner shall design and construct a drainage system which will either contain development runoff within the Property or, if channelized to the ocean, minimize adverse impacts on nearshore ecosystems and Class AA water.

3. Petitioner shall fund the design and construction of highway improvements for access to the Property and any other improvements fronting the Property as may be required by the County of Hawaii or by the State Department of Transportation.

4. Petitioner shall design, locate and construct the private sewage treatment plant as may be required by the County of Hawaii and the State Department of Health so as to minimize adverse impacts on the adjoining properties.

5. Petitioner shall prepare preservation and data recovery plans for all significant historic sites which plans shall be submitted to the Department of Land and Natural Resources and the County of Hawaii Planning Department for their review and comment.

6. The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely motion, and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

The motion was seconded by Commissioner Suzuki.

The motion to approve the petition with six conditions was unanimously approved as follows:

Ayes: Commissioner Chun, Yuen, Suzuki, Whittemore, Tamaye, Choy, and Chairman Tacbian.

CONTINUED HEARING

A86-601 - RICHARD SMART REVOCABLE PERSONAL TRUST (Hawaii)

The present matter before the Commission was a continuation of the hearing which had begun on July 8, 1986.

Appearances

Benjamin Kudo, Esq., Attorney for Petitioner

Gary Wong, Esq., Attorney for Petitioner

Richard Smart, Petitioner

Norman Hayashi, County of Hawaii

Everett Kaneshige, Esq., Deputy Attorney General,
Department of Planning and Economic Development

Abe Mitsuda, Land Use Division, Department of Planning
and Economic Development

Joan Yim, Land Use Division, Department of Planning
and Economic Development

EXHIBITS

Petitioner's Exhibit 1 through 17 were admitted into evidence. Petitioner's original Exhibit 11 was substituted by a new Exhibit 11. Petitioner also submitted Exhibit 11a.

County's Exhibit 1 was admitted into evidence.

State's Exhibit 1 was admitted into evidence.

Staff Planner, Raymond Young, oriented the Commission to the area being requested for reclassification on the USGS and tax maps.

PUBLIC WITNESSES

1. Mike O'Kieffe

2. Neil (Willis) Morris
3. Elaine Flores
4. Gary Carvalho

PETITIONER'S WITNESSES

1. Richard Smart
2. James Bell

Before continuing with Petitioner's witnesses, Chairman Tacbian allowed County's witness, Quirinio Antonio, to testify out of turn.

Thereafter Petitioner's other witnesses were called.

PETITIONER'S WITNESSES

3. William Bonk

MISCELLANEOUS

Adoption of Decision and Orders

The Decision and Orders for the following dockets were adopted:

A86-607 Hawaiian Trust Company, Ltd., A Hawaii Corporation and Trustee of George Galbraith Trust (Oahu)

A86-603 Huehue Ranch (Hawaii)

Adoption of Minutes:

The minutes for the following meeting dates were approved as circulated: December 16, 1986 and December 17, 1986.

Chairman Tacbian continued the hearing until January 14, 1987 at 8:30 a.m. The hearing was adjourned at 4:46 p.m.