

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Ekolu Room
Royal Waikoloan Hotel
Waikoloa, Hawaii

December 2, 1988

*Approved
1/27/89*

COMMISSIONERS PRESENT: Renton Nip, Chairman
Lawrence Chun, Vice-Chairman
Allen K. Hoe
Toru Suzuki
Robert Tamaye
Allen Kajioka
Frederick P. Whittemore
Teofilo Phil Tacbian

COMMISSIONERS ABSENT: Sharon R. Himeno

STAFF PRESENT: Esther Ueda, Executive Officer
Terence Yamamoto, Esq, Deputy Attorney
General
Raymond Young, Staff Planner
Darlene Kinoshita, Chief Clerk

Holly Hackett, Court Reporter

Chairman Nip called the meeting to order.

CONTINUED HEARING

A88-621- KAHALA CAPITAL CORPORATION (Awake'e)

Today's proceeding was a continuation of the hearing which was adjourned yesterday at 5:35 p.m.

Appearances

Sandra Pechter Schutte, Esq., Attorney for Petitioner

Glenn Hara, Esq., Attorney for Petitioner

Albert Lono Lyman, Director, Planning Department,
County of Hawaii

Tim Lui-Kwan, Deputy Director, Planning Department,
County of Hawaii

Virginia Goldstein, Planning Department, County of
Hawaii

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

John Anderson, Esq., Deputy Attorney General, Office
of State Planning

Abe Mitsuda, Land Use Division, Office of State
Planning

Jean Nishida, Land Use Division, Office of State
Planning

Christopher Yuen, Esq., Attorney for Intervenors

Commissioner Suzuki and Commissioner Tamaye were
absent from the proceeding at this time.

EXHIBITS

1. State's Exhibit No. 2 through 10 were admitted
into evidence by the Land Use Commission.

2. Intervenor's Exhibit L-I through M-I were admitted
into evidence by the Land Use Commission.

STATE'S WITNESSES

1. Harold Masumoto

Commissioner Suzuki and Tamaye joined the proceeding
at this time.

2. John Ford

INTERVENOR'S WITNESSES

1. Ken Nagasawa

2. James Juvik, Ph.d

Chairman Nip instructed all parties of the post-hearing procedures and declared the hearing closed.

A lunch recess was taken at 11:43 to reconvene at 1:00 p.m.

- 1:00 p.m. -

ACTION

A87-617 - SIGNAL PUAKO CORPORATION (Hawaii)

Chairman Nip announced that the Commission would take action in the matter of the petition by Signal Puako Corporation to reclassify approximately 1060 acres of land currently in the Agricultural District into the Urban District at Waikoloa, South Kohala, Hawaii for residential, commercial, and golf course.

Appearances

Jan Sullivan, Esq., Attorney for Petitioner

Roy Takeyama, Esq., Attorney for Petitioner

Robert McIntosh, Petitioner

Albert Lono Lyman, Director, Planning Dept., County of Hawaii

Virginia Goldstein, Planning Dept., County of Hawaii

John Anderson, Esq., Deputy Attorney General, Office of State Planning

Jean Nishida, Land Use Division, Office of State Planning

Closing arguments were heard from Jan Sullivan, Albert Lono Lyman, and John Anderson. After hearing arguments, parties were questioned by the Commissioners.

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

Commissioner Hoe moved to grant the Petitioner's request to amend the district boundary and grant reclassification of the property consisting of approximately 1,060 acres, which is the subject of Docket No. A87-617, which is situated at Waikoloa, South Kohala, County and State of Hawaii, as identified by Hawaii tax map key 6-8-01, a portion of 2536, 37, 38, 39, 40, 41, and 42 from the Agricultural District into the Urban District, subject to the following conditions as set forth and delineated by the proposed stipulations as filed with this Commission on November 16, 1988 by the Petitioner and the State of Hawaii:

1. Petitioner shall provide housing opportunities for low, low-moderate, moderate income Hawaii residents by offering for sale at least 30 percent of the units at prices which families with an income range up to 120 percent of the County of Hawaii's median income can afford, and thirty percent (30%) of the units at prices which families with an income range of one hundred twenty to one hundred forty percent (120-140%) of the County of Hawaii's median income can afford.

This condition may be fulfilled through projects under such terms as may be mutually agreeable between the Petitioner and the Housing Finance and Development Corporation of the State of Hawaii. This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation, through construction of rental units to be made available at rents which families in the specified income ranges can afford.

This affordable housing requirement shall be implemented concurrently with the completion of the market units for the residential project. The determination of median income, as that term is used in this condition, shall be based on median income figures that exist at the time that this condition must be implemented.

2. Petitioner shall develop, at its expense and in coordination with the State Department of Land and Natural Resources and the County of Hawaii Department of Water Supply, the necessary water source, storage, and transmission facilities to provide an adequate supply of potable water to the Property prior to development of the Property.

3. Petitioner shall ensure that a buffer area along the boundary of the Property fronting the Queen Kaahumanu Highway right-of-way will be preserved to protect natural open space and scenic views. This buffer area shall be preserved in perpetuity either through the establishment of a conservation easement pursuant to Chapter 198, HRS, as amended, or such other means as shall be reviewed and approved by the Office of State Planning of the State of Hawaii.

The buffer area shall be comprised of approximately two hundred twenty-five (225) acres and shall extend inland from the Queen Kaahumanu Highway right-of-way to a depth of approximately one thousand two hundred (1,200) feet. The depth of the buffer area may vary and the actual boundary lines of the buffer area may meander to a lesser or greater depth to accommodate the Project's development plan and preservation of natural open space and scenic views. Exceptions shall be made for infrastructure improvements or corridors that may be necessary to service the developed portions of the Property. The approximate boundaries of the natural open space buffer area are reflected in Petitioner's Exhibit LL which is attached hereto and incorporated herein as Exhibit B.

4. Petitioner shall participate in the funding and construction of present and future transportation improvements at project access points as identified and deemed necessary by the State Department of Transportation. Such improvements may include a highway overpass or underpass. Petitioner shall also participate in the funding and construction of other on-site and off-site transportation improvements necessitated by the proposed development and in designs and schedules accepted by and coordinated with the State Department of Transportation, provided that the extent of the Petitioner's participation shall not exceed its share of the increased community traffic impacts in the region and, provided further that, in the event the County adopts an impact fee for transportation improvements, the foregoing requirements shall not include or double-count the cost of any specific traffic improvements which may also be included in the County's impact fee computation.

5. Petitioner shall design, locate and construct a 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 adjoining properties.

6. Petitioner shall immediately stop work on the impacted area and contact the State Historic Preservation Office should any archaeological resources such as artifacts, shell, bone, or charcoal deposits, human burial, rock or coral alignments, paving or walls be encountered during the Project's development.

7. Petitioner shall provide a maximum of sixteen (16) acres within the Property for public school site(s), as the State Department of Education may determine to be necessary to service the Property, at no cost to the State of Hawaii. These school site(s) shall be provided, if there is a need for such site(s), in location(s) designated for community facilities on Petitioner's master plan, or in location(s) as may be mutually agreeable to the Petitioner and the State Department of Education.

8. Petitioner shall provide annual reports to the Land Use Commission, The Office of State Planning and the County of Hawaii Planning Department in connection with the status of the Project and Petitioner's progress in complying with the conditions imposed.

9. Petitioner shall develop the Property in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of the Property.

10. Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the Property covered in the petition, prior to development of the Property.

11. The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely, 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 Signal Puako Corporation subject to eleven conditions was unanimously approved as follows:

Ayes: Commissioner Hoe, Suzuki, Tacbian, Kajioka, Chun, Whittemore, Tamaye, and Chairman Nip.

CONTINUED HEARING

A83-554 - FARMS OF KAPUA (Hawaii)

Chairman Nip announced that the present matter before the Commission is a continuation of the reopened hearing which had begun on April 26, 1988.

Appearances

Jan Sullivan, Esq., Attorney for Petitioner

Roy Takeyama, Esq., Attorney for Petitioner

Steve Zukerman, For Petitioner

Fred Gianini, Esq., Deputy Corporation Counsel, County of Hawaii

Albert Lono Lyman, Director, Planning Department, County of Hawaii

Tim Lui-Kwan, Deputy Director, Planning Department, County of Hawaii

Virginia Goldstein, Planning Department, County of Hawaii

John Anderson, Esq., Deputy Attorney General, Office of State Planning

Abe Mitsuda, Land Use Division, Office of State Planning

Paul Lucas, Esq., Esq., Attorney for Intervenor

Alan Murakami, Esq., Attorney for Intervenor

Commissioner Tamaye did not participate in this proceeding due to a previously declared conflict of interest.

STATE'S WITNESS

1. Ross Cordy

EXHIBITS

1. Petitioner's Exhibit R-1 through R-7 were admitted into evidence by the Land Use Commission.

2. County's Exhibit R-1 was admitted into evidence by the Land Use Commission.

3. State's Exhibit R-1 through R-3 were admitted into evidence by the Land Use Commission.

4. Intervenor's Exhibit R-1 through R-10 were admitted into evidence by the Land Use Commission.

Commissioner Hoe moved to table this matter until such time as the Petitioner has developed and presented to Dr. Cordy's agency a mitigation plan. The motion was seconded by Commissioner Suzuki. The motion was defeated by voice votes.

PETITIONER'S WITNESS

1. Paul Rosendahl

MISCELLANEOUS

1. Adoption of Minutes

The minutes for the following meeting date was approved as circulated: November 17, 1988.