MINUTES FOR THE
MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES

DATE:	FRIDAY, MARCH 9, 2007
TIME:	9:00AM
PLACE:	KALANIMOKU BUILDING LAND BOARD CONFERENCE ROOM 132 1151 PUNCHBOWL STRET HONOLULU, HI 96813

Chairperson Peter Young called the meeting of the Board of Land and Natural Resources to order at 9:04 a.m. The following were in attendance:

MEMBERS

Mr. Peter Young
Mr. Ron Agor
Mr. Samuel Gon III
Mr. Tim Johns
Mr. Jerry Edlao
Mr. Robert Pacheco

STAFF

Mr. Sam Lemmo, OCCL
Mr. Russell Tsuji, LAND DIV.
Ms. Kimberly (Tiger) Mills, OCCL
Mr. Randy Ishikawa, AG

OTHERS

Mr. David Smith, Attorney
Ms. Caren Diamond
Mr. John Akima
Ms. Billie Akima
Mr. Greg Mooers, Planner
Mr. Randy Vitousek
Ms. Tricia Dang (Wilson Okamoto)
Mr. Mike Carroll

{NOTE: language for deletion is [bracketed], new/added is underlined}

Item A-1 Minutes of February 23, 2007.

Mr. Russell Tsuji representing the Land Division had some changes to D-3 and D-6.

Unanimously approved as amended (Agor, Gon)

Item K-1 Appointment and Selection of a Hearing Officer to Conduct All Hearings for One Contested Case Regarding Conservation District Enforcement Case KA 06-72 Unauthorized Construction of a Chain Link Fence Located Within the Conservation District Located at Wainiha, Hanalei, Island of Kauai, TMK: (4) 5-8-009:025.

Mr. Sam Lemmo, administrator for Office of Conservation and Coastal Lands, reported this is a violation case per their yearly review. A petition was filed by the land owner for a contested hearing. Staff recommends authorizing a hearing officer to run a contested case hearing and delegate authority to the chairperson for selection.

Randy Ishikawa, Deputy Attorney General, clarified there are two petitions for the contested case hearing. The Attorney General's position is this is a violation proceeding. The contested case hearing request brought by the landowner applicant is the matter before the Board and another filed by Ms. Caren Diamond who is here. The contested case being granted for which a hearing officer will be appointed is the one requested by the landowner. This is without prejudice to Ms. Diamond's rights to participate or intervene in that contested case hearing.

Mr. David Smith, Attorney replied he had no objections.

Ms. Caren Diamond clarified she was not contesting OCCL's decision and wishes to intervene in the contested case hearing.

Chairperson Young stated that the Hearing Officer will take that up.

Unanimously approved as submitted (Agor, Gon)

Item K-2 Conservation District Use Application (CDUA) OA-3390 for Kalanianaole Highway Improvements, Interim Rock fall and Roadway Subsidence Mitigation Located at Makapu'u, Waimanalo, Island of Oahu, TMK: (1) 4-1-014:002 & 013.

Mr. Sam Lemmo reported project is using 3.4 acres of State land and will be used for public purpose. State is proposing mitigating the rock fall hazards and a FONSI was published in Environmental Notice. Staff recommends approval of the project subject to 17 conditions. There were no findings of significant impact.

Member Sam Gon stated he recalled there were some plants of question, but if there was no finding of significant impact maybe not.

Mr. Lemmo explained OCCL staff member, Ms. Kimberly "Tiger" Mills submittal indicated there were some disturbed plants above the site.

Member Timothy Johns commented Ms. Mills did a good job on the submittal. It's nice to have a comprehensive one.

Unanimously approved as submitted (Johns, Gon)

Item K-4 Contested Case HA-06-03 Request to Extend the Processing Period in Order to Process a Contested Case Hearing for Conservation District Use Application (CDUA) HA-3269 for the Cohen Single Family Residence (SFR) at Pao`o, North Kohala, Island of Hawai`i TMK (3) 5-7-001:005

Unanimously approved as submitted (Pacheco, Edlao)

Item K-5 CDUA HA-3377for the Peter and Ellen Durst Single Family Residence in Keawaiki Lots, Kahauloa, South Kona, Hawai`i, TMK (3) 8-3-05:6

Mr. Lemmo reported Durst family proposed to build a 200 sq. ft. second family residence. A FONSI was issued in Jan. 8, 2007 Environmental Notice. It will be built on hard lava with minimal erosion. Applicant will integrate native plants with the area. Staff is concerned with the 832 sq. ft. semi detached unit consisting of 2 bedrooms, 2 baths and a common room. It looks like a second dwelling where they do not feel complies with the rules which states not more than one single family shall be authorized within the conservation district. Staff is requesting to approve with modifications. Condition 14 requests specifically to disapprove the semi-detached building.

Member Rob Pacheco asked what would need to be done to the second dwelling to approve it in this situation?

Mr. Lemmo replied they had a similar case in Hamakua where the family had to take down the walls.

Member Jerry Edlao inquired they cannot build with the condition? They can't build the 2 bedroom at all?

Mr. Lemmo explained yes or they could redesign. The rules state one single family residence per lot in a conservation district. Staff is concerned with 2 or 3 residences per lot in a conservation district when it looks like one. In this case it looks like a guest house.

Member Edlao concerned with possible bed & breakfast commercial business starting up in a conservation district.

Mr. Greg Mooers, consultant to the Durst family, reported he processed the CDUA for the applicants and for the previous owners. It is not their intention to have more than one single family dwelling. The County of Hawaii has this concern, too. The architect was made aware of the rules in making the rooms connected and creating a single roof. He told the family not to add a wet bar in the guest wing. There are a total of three bedrooms in the residence now. The County had the applicants sign a single family agreement for a single family dwelling where the County could do on site inspections. The applicant's intent is not to create a commercial business. They wanted to create a design to let in more air flow and light to the structures, a more sustainable design. They would like to keep the same design, under a single roofline and not add an additional kitchen.

Member Gon asked have you looked at all the conditions including number 14?
Mr. Mooers replied yes the family is aware of them. They believe it is a single family dwelling.

Member Pacheco moved to approve striking condition 14 and the second paragraph on page six of the submittal.

Unanimously approved as amended (Pacheco, Gon)

Item K-3 CDUA OA-3397 by Richard Pohle for an After-the Fact Permit for Boat Ramp at Mokapu, Kane`ohe, Ko`olaupoko, O`ahu, TMK (1) 4-4-21:23, 37

Unanimously approved as submitted (Johns, Edlao)

Item D-8 Grant of Term, Non-Exclusive Easement to John Akima, Jamilynne K.U. Akima and Jyen M. Akima Trust for Seawall, Filled Land and Boat Ramp Purposes, Kahaluu, Koolaupoko, Oahu, TMK: (1) 4-7-01:05 seaward. (ODLO/Al)

Mr. Russell Tsuji representing the Land Division stated there are no changes.

Mr. John Akima and Ms. Billie Akima stated they are fine with it.

Unanimously approved as submitted (Edlao, Johns)

Item D-5 Amend Prior Board Action of July 14, 2006, under Agenda Item D-5, for Sale of Remnant to Abutting Owner, Waikiki, Honolulu, Oahu; current TMK is (1) 2-6-27:52. (ODLO/Al)

Item D-6 **After the Fact Grant of Perpetual, Non-Exclusive Easement to the City and County of Honolulu for Underground Drainage Line Purposes, Waikiki, Honolulu, Oahu, TMK: 2-6-27:52. (ODLO/Al)**

Motion made to withdraw
Withdrawn (Johns, Pacheco)

Item D-4 **Amendment of the development agreement for master-planned project at Kealakehe, North Kona, Island of Hawaii, Hawaii. Tax Map Keys: (3) 7-4-08: 71, 999 and portion of 3. (PROJECT DEVELOPMENT/Gavin)**

Motion made to withdraw
Withdrawn (Pacheco, Johns)

Item D-7 **Approval of Unilateral Agreement and Declaration for Conditional Zoning for lands situate at Waikiki, Honolulu, Oahu, Hawaii; TMK: (1) 2-7-36:04 and 16 (PLANNING & DEVELOPMENT/Keith)**

Mr. Tsuji reported they wish to make a zoning change application with the County. It is 24,000 sq. ft. and is the only residential R5 property on Kapahulu Avenue. Dept. of Planning and Permitting supports their zoning change. Ms. Michelle Matson is in opposition. She claims there was a community plan. That plan was never brought to DLNR for our approval. It was a 90,000 sq. ft. community center or parking lot. It would take up part of the golf course, part of the Board of Water Supply land and some State land (24,000 sq. ft.) which was the old Health Clinic. Dept. of Planning & Permitting supports Land Division's rezoning application and the parking would be self contained on the State lot (no street parking).

Member Johns asked do we normally enter into unilateral agreements at the County level?

Mr. Tsuji replied yes if we're going for a zone change.

Mr. Randy Ishikawa, representing the Attorney General's office stated he spoke to Keith Chun, Planner with Land Division, on the content of the unilateral agreement and that the State can subject itself to zoning pursuant to statutes, such as HRS 171-41.

Mr. Tsuji asked the Board amend Staff's submittal by adding a Recommendation No. 4 authorizing the Chairperson to write letter to interested government officials informing them that the Land Board reaffirmed its support of Land Division's efforts to rezone these lands to B-2 (Community Business District) and to issue a Lease by Public Auction for Uses consistent with such a zoning change.

Member Johns asked is the Kapahulu Business Association supportive of this?

Mr. Tsuji replied there are various associations. There was a revocable permit use for parking. They do not oppose the zoning change. Another association wants to use it as a parking lot. Ms. Michelle Matson wanted a parking lot. Most businesses in the area have no parking. The State rarely gets involved with running a public parking facility unless it is connected with a State run facility (Airport). Here, the plan is to issue a lease; it will not be a State run facility.

Member Johns asked who is the representative for the area?

Mr. Tsuji answered Ann Kobayashi who was initially ok with the project, but is now not supporting it due to Michelle Matson. She intends to hold up the project. The Land Board can live with the conditions in the unilateral agreement.

The Board unanimously reaffirmed its support of Land Division's efforts to rezone these lands to B-2 (Community Business District) and to issue a Lease by Public Auction for Uses consistent with such zoning change.

Unanimously approved as amended (Johns, Gon)
The Board amended Staff's Submittal by adding a Recommendation No. 4 that authorizes the Chairperson to write letters to interested government officials informing them that the Land Board reaffirmed its support of Land Division's efforts to rezone these lands to B-2 (Community Business District) and to issue a Lease by Public Auction for Uses consistent with such a zoning change.

Item D-1 **Reconsideration of Rent under General Lease No. S-5523 to The Volcano Art Center, Lessee, for Educational and Artistic Activities Purposes, Puna, Hawaii, TMK: (3) 1-9-5:9 (ADMINISTRATION/Charlene)**

Item D-2 **Amend Prior Board Action of April 1, 2005 (Item D-4) Cancellation of Revocable Permit No. S-7189 to Palekoki Ranch, Inc. and Issuance of Month-to-Month Revocable Permit to Raymond Lorenzo for Pasture Purposes; Kaao, Ouhi, Pakiloa and Kalua, Hamakua, Hawaii; TMK: (3) 4-5-01:07 & 13 (HDLO/Joanne)**

Item D-3 **Mutual Cancellation of General Lease No. S-5670, Big Island Farmers Market, LLC, for Aquaculture Purposes, North Kohala, Hawaii, TMK: (3) 5-5-07:05 (HDLO/Gordon)**

Item D-9 **Approval of Lease with Department of Agriculture and Department of Transportation on behalf of the Department of Land and Natural Resources, Engineering Division for Baseyard Purposes and Consent**

to Lease of Land under Governor's Executive Order No. 4096 to Department of Agriculture and Governor's Executive Order No. 3443 to Department of Transportation, Halawa, Oahu, TMK: (1) 9-9-10: portion of 34 and portion of Lot 2 of Federal Aid Interstate project No. I-H3-1 (38). (ADMINISTRATIN/Charlene)

Unanimously approved as submitted (Johns, Pacheco)

A request was made to revise K Items in agenda. K-3 is K-5, K-4 is K-3 and K-5 is K-4.

Motion made to the Agenda to revise the K items accordingly.
Unanimously approved as amended (Johns, Edlao)

Adjourned 9:45a.m.

Respectfully submitted,

Adaline Cummings
BLNR Secretary

Approved as submitted:

PETER T. YOUNG
Chairperson
Department of Land and Natural Resources