

BOARD OF APPEALS
COUNTY OF HAWAI'I

MINUTES
APRIL 11, 2008

The County of Hawai'i Board of Appeals met in regular session at 10:00 a.m. in the County of Hawaii, Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawai'i, with Chairman Joel Gimpel presiding.

PRESENT: Joel Gimpel
David Drury
Peter Hendricks
Karen Maedo
Kim Tavares

ABSENT & EXCUSED: Kelly Ann Soo

Renee Schoen, Counsel to the Board
Alice Kawaha, Staff to the Board

The Chair introduced the Board to Members from the public.

PUBLIC STATEMENTS There was no one wishing to make a public statement.

The Chair at this time stated that Pacific Horizons Development Co. LP's BOA 07-000049 is continued to the June 13, 2008 meeting; Derrick and Sonia Liu's BOA 07-00046 is withdrawn, Surety Kohala Corporation's BOA 08-000056 is continued to the May 9, 2008 meeting and Alan S. Rudo's and Rebecca M. Almony's BOA 08-000057 is withdrawn.

BOA 07-000051 The Board took this item up at 10:02 a.m. with
JAMES H. REDDEKOPP, JR. AND HAWAIIAN VANILLA COMPANY, INC. approximately 12 people from the public in attendance.
PAAUILO HOMESTEADS,
HAMAKUA

PETITIONER: JAMES H. REDDEKOPP, JR. AND HAWAIIAN VANILLA COMPANY, INC. (BOA 07-000051) - Adoption of Findings of Fact, Conclusions of Law, and Decision and Order regarding the Appeal of Decision by the Planning Director dated October 11, 2007 Notice of Violation (ZCV 07-098E), relating to Operation of a Restaurant and Retail Establishment within an Agricultural District without an approved Special Permit. The property consists of approximately 29,926 square feet and is located on the south side of Paauilo Mauka Road, Paauilo Homesteads, Hamakua, Hawai'i, TMK: (3) 4-3-013:27.

The appellant, James H. Reddekopp, and the Planning Director's representatives, Amy Self and Daryn Arai were in attendance.

Mr. Reddekopp stated he had no objections to the proposed Findings of Fact, Conclusions of Law, and Decision and Order.

It was moved by Mr. Hendricks and seconded by Mr. Drury that the proposed Findings of Fact, Conclusions of Law and Decision and Order be adopted with the following corrections: Page 6, Item 12, first sentence add the word “actions” after the word “corrective;” Page 7, delete Items 21 and 22, as it was determined at the hearing that conduct of agricultural tourism on the property was not what the applicant was cited for. Ms. Self had no objections to the corrections. A roll call vote was taken and motion carried with five ayes (Hendricks, Drury, Tavares, Maedo and Gimpel) and one absent and excused (Kelly Soo).

BOA 08-000054
CFI INC.
HONOKAA,
HAMAKUA

The Board took this item up at 10:12 a.m. with approximately 17 people from the public in attendance.

PETITIONER: CFI INC. (BOA 08-000054) - Appeal of Decision by the Planning Director dated December 27, 2007 relating to Notice of Violation and Order (ZCV 07-062E), regarding structure encroachment into side yard setback. The property consists of approximately 4.00 acres and is located across of Tex Drive In & Restaurant, at the junction of Mamalahoa Highway and Old Mamalahoa Highway, Honokaa, Hamakua, Hawai‘i, TMK: (3) 4-5-10:80.

The petitioner’s representative, D. J. Cook, and the Planning Director’s representative, Amy Self, were in attendance.

Mr. Cook said he submitted the petition because of the wording in the Planning Director’s December 27, 2007 letter to the First Assembly of God-Kahului, Maui Church, which said “Because of our error in approving the building permit plans, without first confirming the ‘property exchange,’ we need to grant you a zoning variance.”

Ms. Self admitted that the Planning Director’s December 27, 2007 letter should not have had that language that Mr. Cook expressed his concern about. She stated that per the Charter the Board can only make rulings on final decisions of the Planning Director and the Director has not yet made a decision on whether to grant or deny the variance. She added that a variance request was just filed with the Planning Department on March 27th and the Director has 60 days from the date of submittal to make its decision. She then moved to dismiss the appeal until such time the Director makes a decision on the variance.

In response to Mr. Hendrick’s inquiry, Mr. Cook said he was advised by the Planning Department to submit an appeal to the Board of Appeals and apologized to the Board.

Mr. Hendricks and Mr. Drury expressed their concern of the Planning Department staff misinforming Mr. Cook of the process.

A voice vote of all members in attendance was unanimous on the motion to dismiss the appeal.

BOA 07-000049
PACIFIC HORIZONS
DEVELOPMENT CO. LP
KUKUIOPAE 1ST,
SOUTH KONA

The Board took this item up at 10:21 a.m. with approximately 15 people from the public in attendance.

PETITIONER: PACIFIC HORIZONS DEVELOPMENT CO. LP (BOA 07-000049) -

Adoption of Findings of Fact, Conclusions of Law, and Decision and Order regarding the Appeal of Decision by the Planning Director dated May 29, 2007 Denial of the Variance Application (VAR 07-028) relating to minimum water supply requirements of Chapter 23, Subdivision Code, for a proposed 6-lot subdivision. The subject property consists of approximately 47.906 acres and is located on the west (mauka) side of Mamalahoa Highway at approximately the 96 mile marker, Kukuiope 1st, South Kona, Hawai'i, TMK: (3) 8-7-10:9.

The Chair stated this item is continued to the Hilo June 13th meeting.

BOA 07-000046
DERRICK AND
SONIA LIU
AHUALOA HOMESTEADS,
HAMAKUA

The Board took this item up at 10:22 a.m. with approximately 15 people from the public in attendance.

PETITIONERS: DERRICK AND SONIA LIU (BOA 07-000046) - Continued hearing on the Appeal of Decision by the Planning Director dated March 19, 2007 First Recurring Violation (ZCV 06-019E) relating to operation of an "Amusement and Recreation Facility, Major Outdoor" (motorcycle and dirt bike race track) in an Agricultural District. The property consists of approximately 19.5 acres and is located on the south side of Kapuna Road, Ahualoa Homesteads, Hamakua, Hawai'i, TMK: (3) 4-6-8:24.

The Chair stated the Board has received a Motion to Withdraw the appeal and a copy of the Settlement and Mutual Release Agreement which was signed by all the parties.

It was moved by Ms. Tavares and seconded by Mr. Hendricks that the Board accept the motion to withdraw the appeal. Motion was unanimously carried by a voice vote of all Members in attendance.

BOA 08-000056
SURETY KOHALA
CORPORATION
KAPA'AU,
NORTH KOHALA

The Board took this item up at 10:23 a.m. with approximately 14 people from the public in attendance.

PETITIONER: SURETY KOHALA CORPORATION (BOA 08-000056) - Appeal of Decision by the Planning Director dated January 14, 2008, relating to the determination of pre-existing lots. The property consists of approximately 378.77 acres and is located to the south of Kapa`au Village and at the end of Kapa`au Road, North Kohala, Hawai'i, TMK: (3) 5-4-3:2.

It was moved by Mr. Hendricks and seconded by Mr. Drury that the hearing be continued to the May 9, 2008 meeting in Kona. Motion carried unanimously by a voice vote.

BOA 08-000057 The Board took this item up at 10:24 a.m. with
ALAN S. RUDO AND approximately 14 people from the public in attendance.
REBECCA M. ALMONY
HAWAIIAN PARADISE PARK,
PUNA

PETITIONER: ALAN S. RUDO AND REBECCA M. ALMONY (BOA 08-000057) -
Appeal of Decision by the Planning Director dated January 18, 2008, Notice of Violation and Order (ZCV 2007-118E), for operating a School without an approved Special Permit within an Agricultural Zone District. The property consists of approximately 1.00 acre and is located on the west side of Puakalo (30th) Street, Hawaiian Paradise Park Subdivision, Puna, Hawai‘i, TMK: (3) 1-5-17:49.

It was moved by Ms. Tavares and seconded by Ms. Maedo that the Board accept the withdrawal of the appeal per the April 10, 2008 letter from the appellants. Motion was unanimously carried by a voice vote of all Members in attendance.

BOA 08-000055 The Board took this item up at 10:25 a.m. with
BEN AKAMINE approximately 14 people from the public in attendance.
WAIAKEA HOMESTEADS,
SOUTH HILO

PETITIONER: BEN AKAMINE (BOA 08-000055) - Appeal of Decision by the Planning Director dated January 17, 2008, approval of Variance application (VAR 07-075), to landowner Charles Allen Jr., from Chapter 25, Zoning Code, relating to minimum yards. The property consists of approximately 7,413 square feet and is located on the Puna side of Puainako Street across of Waiakea Elementary School, Waiakea Homesteads, South Hilo, Hawai‘i, TMK: (3) 2-4-9:53.

(SEE EXHIBIT A)

MINUTES The Board took up the following minutes at this time, 11:48 a.m.

January 25, 2008 – It was moved by Mr. Drury and seconded by Mr. Hendricks that the minutes be approved as circulated. Motion was unanimously carried by a voice vote of all Members in attendance.

February 8, 2008 – The Board deferred approval of the minutes to a future meeting.

ADMINISTRATIVE The Board at this time, 11:49 a.m. took up the following under
MATTERS Administrative Matters:

Status of appeals filed on Board of Appeals decisions - Corporation Counsel – Ms. Schoen had nothing new to report at this time.

Other Board matters – No other matters were brought before the Board.

ANNOUNCEMENTS

Ms. Kawaha announced that the next meeting of the Board of Appeals is scheduled for May 9th in Kona.

ADJOURNMENT

There being no further business the Chair declared the meeting adjourned at 11:50 a.m.

Respectfully submitted,

Sharon M. Nomura, East Hawai'i Secretary

A T T E S T:

Joel Gimpel, Chairman
Board of Appeals