

BOARD OF APPEALS
COUNTY OF HAWAI'I

MINUTES
AUGUST 8, 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
Charlene Hart
Karen Maedo
Kim Tavares

ABSENT & EXCUSED: Pete Hendricks

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.

BOA 08-000055 The Board took this item up at 10:02 a.m. with four people
BEN AKAMINE from the public in attendance.
WAIAKEA,
SOUTH HILO

PETITIONER: BEN AKAMINE (BOA 08-000055) - Hearing pursuant to the Board's actions at the June 13, 2008 meeting: 1) examine the adequacy of notice provided to the landowner Charles Allen, Jr.; 2) examine reopening the case to allow the landowner, Charles Allen, Jr. to present evidence and examine witnesses. This matter relates to the 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.

The Board acknowledged the withdrawal of the above petition as the petitioner has reached an accommodation with the landowner, Charles Allen, Jr.

BOA 08-000065 The Board took this item up at 10:03 a.m. with four people
TAS MAN CO, LLC from the public in attendance.
NINOLE, KAHUKU
AND KAPENA,
NORTH HILO

PETITIONER: TAS MAN CO, LLC (BOA 08-000065) - Appeal of Decision by the Planning Director dated April 3, 2008, Notice of Violation and Order (ZCV-2008-007E) Special Management Area Violation (SMA/V 08-01) and Shoreline Setback Violation (SSV 08-01), relating to unpermitted grading and cutting of trees without first obtaining an SMA permit. The subject property consists of 1.098 acres and is located on the makai side of Highway 19 near mile marker 19 in the town of Ninole, Kahuku and Kapena, North Hilo, Hawai`i, TMK: (3) 3-2-2:105.

The Board acknowledged the continuance of the above appeal to its October 10, 2008 meeting as the appellant and Director are in the process of finalizing a settlement.

BOA 08-000067
WILLIAM L. GEORGE
AND GAY P. GEORGE
AHUALOA,
HAMAKUA

The Board took this item up at 10:03 a.m. with four people from the public in attendance.

PETITIONER: WILLIAM L. GEORGE AND GAY P. GEORGE (BOA 08-000067) - Appeal of the Planning Director's Decision to Sign the Settlement Agreement and Mutual Release dated April 10, 2008 with Derrick Liu and Sonia Liu. The matter relates to a previous appeal BOA 07-000046 relating to an 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 Board acknowledged the granting of the request of the Planning Director's attorney to continue the hearing to October 10, 2008.

BOA 08-000069
KOKO PALMS
KEAUKAHA LLC &
PACIFIC ISLAND
INVESTMENTS LLC
KEAUKAHA,
SOUTH HILO

The Board took this item up at 10:04 a.m. with four people from the public in attendance.

PETITIONER: KOKO PALMS KEAUKAHA LLC & PACIFIC ISLAND INVESTMENTS LLC (BOA 08-000069) - Appeal of the Director of Public Works' Decision for denial of use of alternate roofing materials and methods of construction relating to Section 62 requirements of the Hawaii Building Code. The subject property is bordered by Kalaniana'ole Street, Hapai Avenue and Apapane Street, near the County's Onekahakaha Beach Park, Keaukaha, South Hilo, Hawai`i, TMK: (3) 2-1-14:5.

(SEE EXHIBIT A)

RECESSED

The Chair recessed the meeting at 11:15 a.m.

RECONVENED The meeting reconvened at 11:18 a.m.

BOA 08-000066 The Board took this item up at 11:18 a.m. with
CHARMAINE KEANU four people from the public in attendance.
KAWALA,
KA'U

PETITIONER: CHARMAINE KEANU (BOA 08-000066) - Appeal of Decision by the Planning Director dated April 14, 2008, relating to Approval of Special Management Area Minor Permit No. 08-000077 to LLC Kawala for Consolidation and Resubdivision of twelve (12) lots. The subject property consists of approximately 1044.245 acres, and is located to the south (makai) of Na`alehu Village at Kawala, Ka`u, Hawai`i, TMK: (3) 9-5-10:1.

The Chair granted Amy Self's request for a continuance to the October Hilo meeting.

ADMINISTRATIVE The Board took up the following administrative matters at this
MATTERS time, 11:19 a.m.

Status of appeals filed on Board of Appeals decisions - Corporation Counsel - Ms. Schoen gave a brief chronology of the appeal filed in the Supreme Court regarding the appeal of Edmund Jin and Eva Y. Lu (BOA 06-000043) as follows: The Planning Director denied a water variance for the use of a catchment system, the Board of Appeals reversed the Planning Director's decision, the Circuit Court reversed the Board's decision as the Board shifted the burden of proof erroneously, and the property owners have filed an appeal to the Supreme Court, with the opening brief due September 5, 2008. In light of the appeal before the Supreme Court Appeal, Ms. Schoen said this matter will be discussed further in executive session at the next meeting, noting the Circuit Court's decision and other pertinent material will be provided to the Board for its perusal before the executive session.

MINUTES The Board took up the following minutes at this time,
11:22 a.m.

July 11, 2008 – It was moved by Ms. Maedo and seconded by Ms. Tavares that the minutes be approved. Motion was unanimously carried by a voice vote of all members in attendance.

RECESSED The Chair called a recess at 11:23 a.m.

RECONVENED The meeting reconvened at 1:35 p.m.

BOA 08-000063 The Board took this item up at 1:35 p.m. with four people
RESOLUTE INC. from the public in attendance.
HOLUALOA,
NORTH KONA

PETITIONER: RESOLUTE INC. (BOA 08-000063) - Hearing pursuant to the Board's actions at the July 11, 2008 meeting, including advise from the Board's Counsel relating to the effect of the votes taken on the appeal. This matter relates to the Appeal of Decision by the Planning Director dated March 17, 2008 denial for additional farm dwelling agreement

application. The subject property consists of 500.734 acres and is located within Waiono Meadows Ranch Subdivision, Lot 10-A-1 Condominium Project, approximately 2.25 miles east of the intersection of Waiono Meadows Drive and Mamalahoa Highway, Holualoa, North Kona, Hawai`i, TMK: (3) 7-6-1:1.

At this time Ms. Lugo requested the matter be continued as the parties involved have reached a settlement and need to finalize the written settlement. The Chair expressed his approval as he did not want to have this matter be in limbo and have the Board be in a relatively new position, except for one Supreme Court case.

It was moved by Mr. Drury and seconded by Ms. Tavares that the matter be continued to the next Hilo meeting. Motion was carried by a voice vote of all members in attendance.

ANNOUNCEMENTS The following announcement was made:

Next Meeting – Ms. Kawaha noted the next meeting is scheduled for 10:00 a.m. on September 5, 2008 in the Department of Liquor Control Room, Hilo Lagoon Centre, 101 Aupuni Street, Suite 230, Hilo, Hawai`i.

ADJOURNMENT There being no further business the Chair declared the meeting adjourned at 1:37 p.m.

Respectfully submitted,

Sharon M. Nomura, East Hawaii Secretary

A T T E S T:

Joel Gimpel, Chairman
Board of Appeals