

PLANNING COMMISSION
COUNTY OF HAWAI'I

MINUTES
DECEMBER 3, 2004

The Planning Commission reconvened in regular session on December 3, 2004 at 8:30 a.m. in the Hapuna Beach Prince Hotel, Hau/Lehua Room, 62-100 Kaunaoa Drive, Kohala Coast, Hawaii with Chairman Fred Galdones presiding.

PRESENT:	Fred Galdones	ABSENT & EXCUSED:	René Siracusa
	C. Kimo Alameda		William Graham
	Earl Fujikawa		
	Jeffrey McCall		Ivan Torigoe, Deputy
	Francis Smith		Corp. Counsel
	Hannah Springer		Kiran Emler, DPW
			Representative
	Christopher J. Yuen, Planning Director		
	Norman Hayashi, Planning Program Manager		
	Phyllis Fujimoto, Staff Planner		
	Jeff Darrow, Staff Planner		

And no one from the public in attendance.

ELECTION OF The Commission took up the election of 2005 officers at this time.
2005 OFFICERS

The Nomination Commission, consisting of Commissioners Fujikawa and Smith, came up with the following slate of officers.

Chairman – Fred Galdones
First Vice-Chairman – Hannah Springer
Second Vice-Chairman – C. Kimo Alameda

The nominees accepted the nomination and there was no discussion.

It was moved by Commissioner Smith and seconded by Commissioner Fujikawa that the nominations be closed. Motion was unanimously carried by a voice vote of all Commissioners in attendance.

It was moved by Commissioner Fujikawa and seconded by Commissioner Alameda to accept the slate of officers for 2005. Motion was unanimously carried by a voice vote of all Commissioners in attendance.

MINUTES The Commission took up the following minutes at this
time, 8:32 a.m.

September 16, 2004 - It was moved by Commissioner Springer and seconded by Commissioner McCall that the Commission receive and accept the minutes as circulated. Motion was unanimously carried by a voice vote of all Commissioners in attendance.

October 1, 2004 - It was moved by Commissioner Springer and seconded by Commissioner Fujikawa that the Commission receive and accept the minutes as circulated. Motion was unanimously carried by a voice vote of all Commissioners in attendance.

October 22, 2004- It was moved by Commissioner Springer and seconded by Commissioner McCall that the Commission receive and accept the minutes as circulated. Motion was unanimously carried by a voice vote of all Commissioners in attendance.

ADMINISTRATIVE
MATTERS

The Commission took up the following administrative matters at this time, 8:34 a.m.

Status of appeals filed on Planning Commission decisions – Corporation Counsel – Mr. Torigoe stated he had nothing new to report on this matter.

Other Commission matters – Mr. Hayashi reported Lynette Sanemitsu will be serving as the Planning Commission’s secretary for West Hawaii starting January. Mr. Yuen reported that replacements for Commissioners Smith, Fujikawa and Thibadeau have not been found as yet and asked Commissioners Smith and Fujikawa to serve for another 90 days or until a replacement is found. Mr. Hayashi noted the next meeting is scheduled for December 17th in Hilo and the subsequent meeting for January 21st in Kona, noting the 2005 meeting schedule has been circulated to the Commission.

Report on Planning Department Projects – There was no report given on this matter.

TRAINING

The following are recapitulations of matters discussed under Training:

Sunshine Law Workshop – Mr. Hayashi reported on a recently-held Sunshine Law Workshop conducted by Leslie Kondo, noting he will be transmitting the written information to the Commission. He said some of the things that were discussed to not conduct individual site inspections on items on the agenda, noting the Commission could appoint a task force to do a site inspection and make a report; under certain circumstances, two individuals could discuss an item on the agenda but not more than three; and anything that may or may possibly come before the Commission should not be discussed with an applicant, applicant’s representative, opponent of the applicant, neighboring property owners, or members of the public.

In response to the Commissioners’ inquiries, Mr. Yuen noted that it is possible for the Commission to discuss a subject matter that has already been acted upon by the Commission; however, he cautioned that that matter may come back if an applicant asks for a time extension, etc. He said if an applicant wishes to find out why a Commissioner

voted a certain way so they could provide more information to address a concern, that really should be asked at the Commission meeting.

Commissioner McCall questioned how Commissioners should deal with having past experiences or prior knowledge of a matter before the Commission. Mr. Yuen noted that Commissioners would not get in trouble if they use their overall knowledge and judgment about a situation as Commissioners are appointed because they know something about the Community, emphasizing that they should provide any information at the Commission meeting and not discuss it outside of the meeting. Mr. Yuen then suggested Commissioners call, write, fax or email the Planning Department before the meeting to ask that the Planning Department research a certain matter of interest or concern, to which Mr. Hayashi noted from the staff's standpoint they would like to be prepared instead of being caught off-guard at the Commission meeting. Mr. Yuen agreed with Commissioner Fujikawa that a Commissioner could ask Corporation Counsel whether or not to bring something up of a personal experience or knowledge.

For Commissioner Springer's information, Mr. Yuen said if a Commissioner wants an application to be approved or denied, they have to be present at the meeting to vote and not have their comments on their thoughts read into the record, as it would be more in the nature of testifying. He said the overall philosophy of the Sunshine Law is that decisions are to be made by a group, like the Planning Commission, and it should be made at the meeting in public as a result of what is presented at the meeting, and after discussion and consideration by the members of the group.

Regarding Commissioner McCall's inquiry, Mr. Yuen said a Commissioner could disqualify himself and testify if a neighbor had an application right next to his home; however, for ordinary applications where there is no direct conflict, he would discourage a Commissioner from stepping down from its role to provide testimony as it disqualifies the Commissioner from voting on the application. Mr. Yuen added that a Commissioner could still argue for or against an application without stepping down from its role as a Commissioner and the role of the Commissioner is stronger than a member of the public since the Commissioner gets to vote on the application.

Mr. Hayashi noted that the Planning Staff, in consultation with the Office of Corporation Counsel, will prepare a manual for the Commissioners as to their role, and include the various statutes that affect the Commission.

Mr. Yuen commended the Commission for not using executive sessions to do decision-making and keeping to the spirit of the Sunshine Law.

General Plan – Mr. Yuen gave some background information and updated the Commission as to the status of the General Plan which was last updated in 1989. He noted when the Planning Commission sent the draft to the Council in January 2002, the Council subsequently held a lot of meetings and workshops but never took action on it. He said the new Council plans to pass a Draft 1 with amendments, which would come back to the Planning Commission for review.

In response to the Commission's inquiry, Mr. Yuen said the Commission should still follow the current General Plan as it is still the overall guide and framework that the County operates under. He added that he would not say that any section has any precedence over the other, such as economic development over beauty and historic preservation; and if there is any conflict, it is up to the decision-maker to decide what is the right balance.

County Housing Policy Relating to Land Use Approvals – Mr. Yuen said the Administration is proposing to increase the in-lieu fee option to provide affordable housing, noting since 1998 until the last few months the Council has approved all requests for in-lieu fees. He said the way the fee will be calculated will be the difference between the affordable price and what the lot or house is sold for times 20 percent. He referred to inclusionary zoning, which would include a mix of people in a new subdivided area.

For Commissioner Springer's information, Mr. Yuen said the in-lieu fee collected has to be earmarked for affordable housing but it would be under the Council's control. He said other possible areas that the money could be used for would be homeless shelters or other kinds of government housing programs, noting his concern of the private sector not being able to provide affordable homes to at least one-third of the population. He noted the County last developed affordable housing back in the early nineties but currently have an RFP to start development of affordable homes within Waikoloa Village.

Commissioner Springer later stated that having ½-acre lots in an estate setting are not satisfying the needs of people who are working at the resort and driving in from Ocean View, or places even further than that. Mr. Yuen said this is where the Housing Policy would come in where if a project is passed in an area such as Kailua-Kona, the applicant is made aware that the County expects and will require a certain level of affordable housing. He pointed out that the only possible way to obtain affordable housing in Kailua-Kona would be with some kind of government subsidy, such as the government providing the land and major infrastructure and the developer provide such things as the interior roadways, electric, and the homes. He noted he is considering asking the State land between Palani Road and Kealakehe Highway be set aside for affordable housing because it is nonceded land and that the County has put some planning money in the latest CIP for a connector road from Palani to Kealakehe Parkway.

For Chairman Galdones' information, Mr. Yuen said that for every rezoning ordinance that would create new residential uses, he will be recommending a condition be imposed that the applicant would have to follow Chapter 11. He added that he felt the County does a good job in monitoring the affordable housing condition.

In response to Commissioner Fujikawa's inquiry, Mr. Yuen said one can fulfill the affordable housing requirement by doing a rental housing project. He added that if a developer does a multi-family rental project, there would probably have to be a rezoning

action, but for a farm worker housing project within the Ag district no rezoning is required.

Mr. Yuen expressed his concern of people living in Ocean View or a great distance away from their place of work because the land is inexpensive but then create a major traffic congestion and there is no way to really improve the situation without building a completely new highway. He said this is why he continues to push for some rezoning in the Kailua-Kona area, so there would be less people having to travel a great distance, noting it is better to build two miles of road between Kealahehe Parkway and Palani than some day having to replace Highway 11 between Napoopoo and Ocean View.

In response to Commissioner Fujikawa's inquiry, Mr. Yuen explained what the County classifies as affordable homes, referring to the HUD formula and noting it depended a lot upon the interest rates of the mortgage.

Commissioner Fujikawa questioned why the State could not give the County land to create affordable housing in the area past the airport. Mr. Yuen noted that in the Laiopua project the State transferred most of the lands to Hawaiian Homes to develop housing. He said most of the State lands are ceded and tied up in a law suit that says the State does not have the right to sell these lands to the general public for housing, noting the ceded lands are State lands that were originally owned by the Hawaiian Kingdom. He said a piece of State land is inexpensive by virtue of it being State land but one has to find a good location to piggy-back the infrastructure to in order to provide affordable housing.

Commissioner Springer questioned if the State could develop rental properties on their properties so there would be no alienation of the land itself from the ceded inventory, noting she did not think the Legislature has approved any payments to the Office of Hawaiian Affairs at this time. Mr. Yuen noted they could and he does know the State is interested, but he was not sure how OHA is treating rental income now from housing.

Commissioner Springer also questioned if developers could make contributions to something like a mortgage fund for people that qualify either within their employment pool or in the general public so that properties closer to the workplace might become accessible to people if they can cover the down payment. Mr. Yuen noted that some of the resorts have programs like that and satisfied their affordable housing requirement. He said those programs are good and really help the employee but the problem with it is they do not necessarily address the supply side of the picture where people are bidding for that same pool of houses that are out there in the market, noting the County has to do things that encourage the supply of more units into the price range or it will just bid up the units that are existing.

Agricultural Zoning – In response to Commissioner Springer's inquiry, Mr. Yuen said the Draft General Plan designates the area along the Kawaihae Road as rural and the County zoning that correlates to Rural is either an RA or FA zone. Commissioner Springer noted her concern of the inclusion of RA designation.

Public Access – For the Commission’s information, Mr. Yuen said one parking space per ten developed units is a formula used. He said rather than limiting parking spaces or having a parking lot miles away from an area, such as historic sites, he would prefer to have signs or other things that keep people off.

Enforcement – Commissioner Springer questioned whether there was sufficient funding for enforcement of the resources like fisheries. Mr. Yuen noted that the County does not get directly involved Fish and Game regulations and enforcement, but he would be happy to testify at the Legislature when the DOCARE budget is before the Legislature.

Concurrent Policy – Mr. Yuen said they are preparing an ordinance that talks about concurrency where infrastructure should keep up with zoning, noting the County already has concurrency for water where the County either does not grant zoning or if the County does grant zoning an applicant cannot do anything with the zoning until water is available and roads within a subdivision where an applicant would have to build the interior roadway system before subdivision approval is granted. He said where the County has fallen behind is in the regional road network; but that the County has to be cautious in applying this because they are still looking at having housing closer to the job site as a positive on the transportation and road situation. He noted that concurrency will be applied differently for housing than for commercial and other kinds of developments.

County Subdivision Code – Mr. Yuen pointed out that the Subdivision Codes needed to be revised to allow narrower streets, etc. so the cost of a lot would not be so high.

ANNOUNCEMENTS No announcements were made.

ADJOURNMENT There being no further business, at 10:15 a.m., it was moved by Commissioner Springer and seconded by Commissioner Fujikawa that the meeting be adjourned. Motion was unanimously carried by a voice vote of all Commissioners in attendance.

Respectfully submitted,

Sharon M. Nomura, Secretary

A T T E S T:

Earl Fujikawa, First Vice-Chairman
Planning Commission

To be approved by the Planning Commission