

WINDWARD PLANNING COMMISSION
COUNTY OF HAWAII

HEARING TRANSCRIPT
NOVEMBER 6, 2009

A regularly advertised hearing on the COUNTY COUNCIL'S AMENDMENT TO CHAPTER 25, HAWAII COUNTY CODE, RELATING TO CONCURRENCY STANDARDS FOR PARKS AND RECREATIONAL AND FIREFIGHTING FACILITIES IN CHANGE OF ZONE ACTIONS was called to order at 12:41 p.m. in the County of Hawaii, Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawaii, with Chairman Rell Woodward presiding.

PRESENT: Rell Woodward
Takashi Domingo
Andrew Iwashita
Zendo Kern
Shelly Ogata
Wallace Ishibashi

Brandon Gonzalez, Deputy Corporation Counsel
BJ Leithead Todd, Planning Director
Norman Hayashi, Planning Program Manager
Jeff Darrow, Staff Planner
Maija Cottle, Staff Planner

And two people from the public in attendance.

INITIATOR: COUNTY COUNCIL

Amendment to Chapter 25, Article 2, Division 4, Hawaii County Code 1983 (2005 Edition, as amended) relating to concurrency standards for parks and recreational facilities and firefighting facilities in change of zone actions.

WOODWARD: Now we've got Agenda Item No. 5. This is déjà vu all over again. We did this last year. We have to do this again. County Council initiated amendment to Chapter 25, concurrency. Maija.

COTTLE: Okay, this is a County Council initiated amendment to the Zoning Code; and it is changing concurrency requirements on rezoning actions. This would be to add additional concurrency requirements for parks and recreation facilities as well as police facilities, and we have quite, I'm sorry, not police, fire facilities. We have quite a long write-up of a recommendation on this. The Director is recommending that the Commission send an unfavorable recommendation to the County Council. And I think she's going to explain her reasons in more detail.

WOODWARD: Planning Director.

LEITHEAD TODD: I have a number of concerns over the proposed language. Part of the concern is that it only, it uses just active parks as the standard for measuring whether you have adequate park facilities. So as an example in Hilo you have your Bayfront Park where you have all your canoe facilities there; but that's not considered an active park because it doesn't have any ballfields on it. So it would not be considered in your computation of five acres. Similarly, in Hilo you have Onekahakaha Beach Park, Richardson, Four Miles, none of those would be computed as part of that five acres because none of them have developed recreational facilities like a gymnasium or a ballfield; and so I had an objection to that. Because somebody might come in, like let's say you had Kohanaiki who was coming in and proposing a development, and in exchange for that development they were going to give you 700-acres next to the ocean as an ocean park but there are no ballfields, there are no soccer fields, there's no gymnasium -. And so under this standard you could not approve that proposal because you weren't getting an active five-acre park out of it.

It also impacts small rezonings because in areas of in-fill or somebody who wants to -. Let's say you've got a 20,000-square foot lot and you want to rezone it to create two 10,000-square foot lots but you didn't have these five acres of active park close by, you couldn't do that. And so the only people I felt who could really comply with this in an area where there were inadequate parks under this five-acre of active would be somebody who had a very large piece of land who could then set aside some of it for a park. So somebody like a Palamanui who can come in and say, okay, I'm going to give you 20 acres for a park. And so I had some problems with how that was adjusted.

The other thing is that there are so many things here that are beyond the control of property owners. And I felt that, you know, the real issue is that if the Council or the Planning Commission is unhappy with the proposed rezoning you can put conditions, you can require fair share, and if, it might be much better to try and collect people's contribution towards construction of facilities from the smaller parcels than to just do a flat out no on it.

But my principal objection in the parks area was the fact that you could not consider the beach parks or passive parks of somebody who wanted to give you some place that was just going to be forest and it was just going to be trails. That would not count as the five-acre park space.

WOODWARD: Any discussion? It seems to me that this, like I say, this is being revisited. The County Council threw this at us last year. And what it essentially would do, my understanding is it would prohibit rezoning County-wide until the County met its own requirements as far as infrastructure. And so anybody that was trying to put together anything would have to essentially contribute more than their fair share to bring that part of the County up to its own imposed conditions. And I think that's absolutely unfair. So this is the same thing we saw before. And I assume that's your interpretation also, Madam Director?

LEITHEAD TODD: Yes.

WOODWARD: Okay.

IWASHITA: Mr. Chair?

WOODWARD: Yes, sir, Mr. Iwashita.

IWASHITA: I guess, you know, concurrency to me in part -. Just the crazy way I think, it goes together with my whole thing about community development planning and needing to, you know, really use that process. And this is, otherwise you end up with, you know, efforts like these to try and tweak things here and there, right, which may or may not have unintended consequences. So I can understand the concern raised on both sides. I am, everybody knows I'm in favor of a more measured pace in terms of where we go; and so I guess that's just my little conflict that's going on in terms of addressing this.

LEITHEAD TODD: Mr. Chair?

WOODWARD: Planning Director.

LEITHEAD TODD: Our legal counsel has mentioned something else to me that I guess I was just looking at the substance and hadn't really noticed that in the resolution. And where they record the votes of the Council Members they have Council Members Pilago and Higa listed, and Jacobson -.

WOODWARD: Ghost voters.

LEITHEAD TODD: Listed as having voted on this measure in September of 2009; and they are not recording what the votes of Council Members Onishi, Enriques, and Greenwell are on the measure. So -. I didn't look at that part, I'm very sorry. I, you know, missed -.

WOODWARD: Well, I knew this was recycled but I didn't know they were that -.

LEITHEAD TODD: I missed that part. And I guess, just about everybody else missed it too since it looks like J Yoshimoto and Kenny Goodenow signed off it; and I think this was the form that, you know, was put forward. So I think it's going to have egg on everybody's faces. So I'm not sure if the resolution that's transmitted to us is valid.

IWASHITA: I move to send it back.

WOODWARD: You move to what, send it back?

IWASHITA: To refer this matter back to the County Council because it's procedurally incorrect. We don't, you can't have unelected officials forwarding us something to consider. You know, it requires a, they have to clean up the record.

WOODWARD: All right, okay. Do I have a second?

DOMINGO: Second.

WOODWARD: All right. Any discussion? Okay, Maija.

COTTLE: Thank you, Mr. Chairman. Commissioner Iwashita?

IWASHITA: Yes.

COTTLE: Commissioner Domingo?

DOMINGO: Aye.

COTTLE: Commissioner Ishibashi?

ISHBASHI: Aye.

COTTLE: Commissioner Kern?

KERN: Aye.

COTTLE: Commissioner Ogata

OGATA: Aye.

COTTLE: And Mr. Chairman?

WOODWARD: Aye.

COTTLE: Okay motion passes six to zero to send it back.

WOODWARD: Okay.

IWASHITA: Mr. Chair, just for the record, I want to commend our counsel for being very diligent and thorough.

WOODWARD: Yes, indeed. I agree.

The discussion ended at 12:50 p.m.

Respectfully submitted,

Sharon M. Nomura, Secretary
Windward Planning Commission