

Explanation of Petition

The Board of Appeals hearing on Friday December 8, 2006 specifically will address the Planning Director's Motion to Dismiss the case on the grounds that the Board of Appeals does not have the jurisdictional authority to hear the three issues presented. The intervenors, Parker Ranch and Kaomalo LLC [the Parker Ranch-Schuler Homes joint venture] have joined in the Planning Director's Motion to Dismiss. Very simply put, the Planning Director claims that in the absence of a "final decision" in this matter, the Board does not have the authority to address these issues at this time . [The Planning Director has yet to issue the final approval for the Luala'i III subdivision.]

Assuming the Board of Appeals denies the Motion to Dimiss, the substantive matters are set for hearing on February 9th. The February hearing may possibly be scheduled for in Waimea.

Amy Self Deputy Corp Counsel is representing the Planning Director , Chirstopher Yuen Carlsmith Ball LLP is representing Parker Ranch/Kaomalo LLC (attorneys Steven Lim and Andrew Son) I am representing the Petitioners Jan Herron Whitehead (lives in DHHL Pu'u Kapu Farmlots) and Laverne Till (lives in Waimea Elderly Housing off Kamamalu Street).

Oversimplifying the issues in the case:

1(primary issue): Whether, in the context of the Luala'i III subdivision, the Planning Director has the authority to waive the requirement in the Parker Ranch Rezoning Ordinance that requires construction of the relevant phases of the Connector Road "in conjunction with development in the immediately surrounding areas".
The Luala'i III project (TMK's 3-6-7-02 lots 57,59, and 60) is located immediately adjacent to a substantial portion of phase I of the Connector Road corridor, and immediately adjacent to the entire length of phase 3 of the Connector Road corridor. Based on the Exhibits contained in the petition to the Board of Appeals, the Planning Director has allowed Parker Ranch to proceed with grading for the Luala'i III project without including grading of any of the Connector Road; and, at this time, is allowing the Engineering Division of Public Works to approve the Infrastructure plans for the Luala'i III project without inclusion of infrastructure plans for any of the Connector Road. Petitioners therefore have raised the issue as to whether the Planning Director has the authority to modify the terms of the Rezoning Ordinance .

The other two (preliminary issues) concern:

1. the Planning Department's removal from the Luala'i III subdivision file communications between the Planning Department and Parker Ranch/Kaomalo and its consultants regarding the connector road obligation, and the communications between Planning and the Engineering Division regarding the decision to approve Luala'i III construction plans that omit plans for Connector Road infrastructure. Petitioners believe these documents are unprivileged and therefore should be available for public inspection.

2. Whether the Planning Director must require the Luaia'i III subdivision's conformity with the County's General Plan, in particular with the specific transportation course of action for implementation of the Parker Ranch Connector Road.