

LAND USE COMMISSION  
MEETING MINUTES

**July 14, 2011 – 9:30 a.m.**

**Site Visit for A11-790 Kula Ridge, LLC**

**Starting at Kula Community Center, Lower Kula Road, Kula, Hawaii**

COMMISSIONERS PRESENT: Normand Lezy  
Ronald Heller  
Ernest Matsumura  
Nicholas Teves, Jr.  
Napua Makua  
Chad McDonald

COMMISSIONERS EXCUSED: Kyle Chock  
Thomas Contrades  
Lisa Judge

STAFF PRESENT: Orlando Davidson, Executive Officer  
Bert Saruwatari, Staff Planner  
Riley Hakoda, Staff Planner/Acting Chief Clerk

Executive Officer Davidson described the protocol for the site visit to those present at 9:38 a.m. and the site visit began thereafter. The site visit concluded at 10:28 a.m.

**July 14, 2011 – 1:30 p.m.**

**HALEAKALA ROOM  
Mākena Beach and Golf Resort  
5400 Mākena Alanui  
Mākena, Maui, Hawai`i, 96753**

COMMISSIONERS PRESENT: Normand Lezy  
Ronald Heller  
Ernest Matsumura  
Nicholas Teves, Jr.  
Napua Makua

Chad McDonald

COMMISSIONERS EXCUSED: Kyle Chock  
Thomas Contrades  
Lisa Judge

STAFF PRESENT: Orlando Davidson, Executive Officer  
Diane Erickson, Deputy Attorney General  
Bert Saruwatari, Staff Planner  
Riley Hakoda, Staff Planner/Acting Chief Clerk

COURT REPORTER: Holly Hackett

AUDIO TECHNICIAN: Walter Mensching

### **CALL TO ORDER**

Chair Lezy called the meeting to order at 1:33 p.m.

### **APPROVAL OF MINUTES**

Chair Lezy asked if there were any corrections or additions to the June 30, 2011 minutes. There were none. Commissioner Teves moved to approve the minutes. Commissioner Matsumura seconded the motion. The minutes were unanimously approved by a voice vote (6-0).

### **TENTATIVE MEETING SCHEDULE**

Executive Officer Davidson provided the following:

- The regular tentative meeting schedule for the calendar year 2011 was distributed in the handout material for the Commissioners.
- The next meeting is planned for August 4, 2011 and will involve a site visit to the A06-771 D.R. Horton-Schuler Homes LLC Petition Area and any new petitions for intervention in that docket.
- The September 21-23, 2011 HCPO Conference Hotel is not able to handle any more bookings and alternate accommodations are being sought. Details to follow in the coming week.

- Any questions or concerns- please contact LUC staff.

### **A11-790 Kula Ridge, LLC (Maui)**

Chair Lezy announced that this was a hearing to consider the reclassification of approximately 34.516 acres of land from the Agricultural District to the Urban District and approximately 16.509 acres of land from the Agricultural District to the Rural District at Kula, Maui, Hawai'i for a mix of residential, park and open space uses.

### **APPEARANCES**

Martin Luna, Esq., represented Petitioner Kula Ridge LLC

Clayton Nishikawa, Managing Director, Kula Ridge LLC

Michael Hopper, Esq., Deputy Corporate Counsel, represented County of Maui Planning Department

Jeffery Dack, Planner, County of Maui Planning Department

Bryan Yee, Esq., represented State Office of Planning

Jesse Souki, Esq., State Office of Planning

Chair Lezy updated the Petition record and asked if Petitioner was willing to abide by the Commission's policy on reimbursement of hearing expenses. Mr. Luna replied that Petitioner would comply.

Chair Lezy described the procedures to be followed for the hearing and acknowledged the request of the Kula Community Association ("KCA") to participate in the hearing. Chair Lezy stated that section 205-4 (f), HRS, allowed a representative of a community group to provide such testimony and there were no comments and/or objections to this course of action.

### **PUBLIC WITNESSES**

#### **1. Bobbie Patnode (KULA COMMUNITY ASSOCIATION)**

Ms. Patnode represented that she was Vice President of the KCA and provided the reasons why her organization wanted to be included in the proceedings. Ms. Patnode described the water and safety concerns

that the KCA had and what the proposed conditions for the proposed project attempted to address.

Mr. Yee requested clarification on the roadway Ms. Patnode was referring to during her testimony. Ms. Patnode identified the roadway as Lower Kula Road.

2. Richard Mayer (KULA COMMUNITY ASSOCIATION)

Mr. Mayer submitted written testimony and provided further details regarding the KCA concerns and proposed conditions that the KCA wanted the Commission to consider during its deliberations. Mr. Mayer also shared his concerns and observations about the Kula Ridge Mauka project and the Petition Area, and the ownership of the land under the Kula Community Center.

Mr. Hopper had no questions.

Mr. Yee requested clarification on whether sidewalks had been promised to the KCA. Mr. Mayer replied that he had a letter saying that sidewalks would be provided on the makai side of the roadway and that he would supply a copy of the letter. Mr. Yee requested clarification on comments by the Maui Police Department. Mr. Mayer responded that he believed that the Maui Police had commented at a County Council meeting that there was a need for sidewalks due to traffic conditions in the area and that he would try to provide the council meeting transcripts.

There were no further questions for Mr. Mayer.

3. C. Mike Kido

Mr. Kido stated that he was speaking on behalf of the Pacific Resources Partnership and submitted written testimony and provided reasons why his organization supported the proposed project.

There were no questions for Mr. Kido.

4. David Gleason

Mr. Gleason stated that he was a long-time area resident and provided his reasons for supporting the Petition.

There were no questions for Mr. Gleason.

5. Terry Artades

Mr. Artades described the reasons why he supported the proposed project.

There were no questions for Mr. Artades.

6. Alan Kaufman

Dr. Kaufman stated that he was a veterinarian and a local goat farmer who resided next to the Petition Area and described his concerns about the proposed project. Despite his concerns, he expressed support for the proposed project.

Mr. Yee requested clarification on how Dr. Kaufman perceived existing agricultural operations would deal with the future urbanized area and what measures needed to be taken to ensure that the urban dwellers were aware of his type of operation. Dr. Kaufman provided his opinion on how agriculture and urban living could co-exist in the area.

There were no questions for Dr. Kaufman.

7. Bruce U`u

Mr. U`u described why he supported the proposed project and shared his opinions on why there was a lack of affordable housing in the area.

There were no questions for Mr. U`u.

8. Penny Humphries

Ms. Humphries stated that she opposed the proposed project and described her concerns and how her property would be negatively affected.

There were no questions for Ms. Humphries.

9. Mariya Doneś

Ms. Doneś described her concerns about the proposed project and what she felt needed to be further addressed by its developers.

There were no questions for Ms. Doneś.

10. John Wilson

Mr. Wilson provided his concerns about the proposed project and suggested possible solutions that could be included during deliberations.

There were no questions for Mr. Wilson.

11. Ms. Maria Rawe

Ms. Rawe stated that she opposed the project and described her reasons why.

There were no questions for Ms. Rawe.

12. Fred Rawe

Mr. Rawe described his perception of the proposed project and why he opposed the Petition.

There were no questions for Mr. Rawe.

13. Scott Prather

Mr. Prather described how he grew up in the area and how he envisioned the proposed project would affect his family's future and that of the surrounding area.

There were no questions for Mr. Prather.

14. Dana Naone-Hall

Ms. Hall submitted maps and exhibits and described her concerns about the proposed project and its relationship to the neighboring Kula Ridge Mauka proposed development; and the cultural and archaeological resources of the region.

There were no questions for Ms. Hall.

15. Richard Pohle

Dr. Pohle submitted written testimony and described why he supported the proposed project in order to obtain water for the Maui upcountry area.

There were no questions for Dr. Pohle.

There were no other public witnesses.

The Commission went into recess at 3:08 p.m. and reconvened at 3:26 p.m.

## PRESENTATION OF EXHIBITS

### Petitioner

Mr. Luna offered Petitioner's Exhibits 1-43 and described the changes and updates to Exhibits 5 & 5A (aerial maps) and Exhibits 23 and 23A (expert witness Tom Nance's resume update) that had been revised. There were no objections to Petitioner's exhibits with the revisions as noted and they were admitted to the record.

County

Mr. Hopper offered County's Exhibits 1-7 and noted that he would be adding Exhibit 8 and submitting an amended Exhibit List. There were no objections to admitting County's exhibits 1-8 to the record.

OP

Mr. Yee noted changes and revisions to Office of Planning's proposed Exhibit List and described why he substituted Exhibit 3A for Exhibit 3. Mr. Yee offered Exhibits 1, 2, 3A and 4-13 to be admitted. There were no objections to admitting OP's exhibits 1-13 to the record with the revision as noted.

## PRESENTATIONS

### PETITIONER'S WITNESSES

Mr. Luna described the stipulations that the Parties had agreed to and noted that, with the Commission's permission, his expert witnesses, Bruce Lee, surveyor, and Robert Hobdy, flora/fauna would not be called. Mr. Luna added that in response to public testimony, he would make his archaeologist, Michael Dega, and agricultural expert, Bruce Plasch, available for questions.

Mr. Yee acknowledged that the Parties stipulated to the credentials of the expert witnesses. Chair Lezy confirmed with the Parties that the stipulations were accurate and that only exceptions to the experts' submitted materials needed to be addressed. Mr. Luna, Mr. Hopper and Mr. Yee responded that they were in agreement and would stand on the materials that they had submitted.

1. Michael Munekiyo, Principal, Munekiyo and Hiraga

Mr. Munekiyo described his company's affiliation with the Petitioner and its role in preparing the proposed Petition for consideration by the Commission.

Mr. Hopper requested clarification on the conditions for approval that the Petitioner had agreed to during its 201H approval process. Mr. Munekiyo described the considerations and alteration of plans that had been made to conform to Maui County's approval conditions.

Mr. Yee requested to defer his cross-examination till Mr. Munekiyo had concluded all of his testimony.

The Commissioners had no questions for Mr. Munekiyo.

## 2. Tom Nance- Hydrologist

Mr. Nance described the water system options that he perceived were available to the proposed project, what considerations had been made in designing them and what water sources might supply the project's needs.

Mr. Hopper asked if Mr. Nance was aware of the Maui County Code requirements for supplying water to the proposed project. Mr. Nance acknowledged that he was and described the various considerations and methodologies involved in his study and recommendations to obtain subdivision approval; and what potential water rates could be.

Mr. Hopper asked if Mr. Nance's recommendations could be perceived as "jumping the line". Mr. Nance replied that "jumping the line" was not accurate and provided his perception of why his recommendations did not justify that description.

Mr. Yee requested clarification on why Mr. Nance considered his recommendations to supply water to the proposed project were viable. Mr. Nance described the actions that he needed to take, the various considerations that had been made to arrive at his conclusions and what his role in the Petition proceedings was.

Mr. Luna requested clarification on the water quality analysis that needed to be done if a well was drilled to supply the proposed water supply. Mr. Nance provided his perspective of what needed to be done if a well was used to supply water for his proposed systems.

Commissioner Heller asked if Mr. Nance was recommending a private water system. Mr. Nance replied that he was only describing the water systems options that the proposed project had.

Commissioner Heller requested further clarification on the considerations that needed to be addressed if a private water system was selected. Mr. Nance described the considerations that he felt needed to be

addressed if a private water system were used for the proposed project and the importance of timing in deciding on what action to take; and that supplying water from a private system could be done since ample water was available, but its cost would be a major consideration.

There were no further questions for Mr. Nance.

3. Michael Dega, Archaeologist

Mr. Dega described the considerations and methodology used to conduct his study of the Petition Area.

Mr. Luna requested clarification on Ms. Hall's submitted materials and identified them as Petitioner's Exhibits 44 A-G. Mr. Dega responded that Exhibits 44 A-G were maps of an area identified as Kula Ridge Mauka and were not in the Petition Area. Mr. Luna also requested clarification on SHPD compliance and archaeological monitoring requirements for the Petition Area. Mr. Dega described the measures he had taken to ensure that historical preservation and archaeological monitoring was being done by Petitioner and confirmed that SHPD approval had been obtained.

Mr. Hopper requested clarification on actions taken to comply with requirements for the County Council 201H approval. Mr. Dega described the archaeological studies that he had performed in the Petition Area and in the upper adjacent area identified as Kula Ridge Mauka and how the findings in the two locations differed. Mr. Dega also confirmed that all of the sites that had been mentioned in Ms. Hall's public testimony were in the Kula Ridge Mauka area.

Mr. Yee requested clarification of what parcel 23 represented on the map that Ms. Hall had submitted. Mr. Dega responded that parcel 23 represented Kula Ridge Mauka and described why the sites in Kula Ridge Mauka would not be disturbed by activity in the Petition Area as alleged by Ms. Hall and how the SHPD archaeological monitoring plan would protect against that.

Commissioner Makua requested clarification on an area visited during the site visit and the amount of man-hours spent on the archaeological study. Mr. Dega described the landmark that was used

during the site visit to designate where Kula Ridge Mauka was and estimated the amount of time it took to complete his study.

There were no further questions for Mr. Dega.

4. Kimokeo Kapahulehua

Mr. Kapahulehua was offered by Mr. Luna to testify on cultural aspects of the Petition Area. Mr. Kapahulehua described his experience with performing cultural assessments and provided details of the services he had performed for the Petitioner.

Mr. Hopper had no questions.

Mr. Yee requested clarification on the results and experience that Mr. Kapahulehua had in performing cultural impact assessments; and how his report had been prepared. Mr. Kapahulehua described the considerations and methodology he used for his report.

Commissioner Makua requested clarification on the identities of the subjects that were chosen to be interviewed for the study. Mr. Kapahulehua described his selection process and confirmed the identities of his subjects.

There were no further questions for Mr. Kapahulehua.

There were no further witnesses at this time.

Chair Lezy asked for the number of witnesses each of the Parties had and discussion ensued to determine the sequence of appearances for the July 15, 2011 hearing.

There being no further business to discuss, Chair Lezy recessed the meeting at 4:42 p.m.