

LAND USE COMMISSION  
MINUTES OF MEETING

March 19, 2004

Maile Room  
Maui Coast Hotel  
2259 South Kihei Road  
Kihei, Maui, Hawaii

COMMISSIONERS PRESENT: P. Roy Catalani  
Bruce Coppa  
Isaac Fiesta  
Kyong Su Im  
Lawrence Ing  
Randall Sakumoto  
Peter Yukimura

COMMISSIONERS ABSENT: Pravin Desai  
Steven Montgomery

STAFF PRESENT: Anthony Ching, Executive Officer  
Russell Suzuki, Deputy Attorney General  
Bert Saruwatari, Staff Planner  
Caroline Lorenzo, Secretary  
Holly Hackett, Court Reporter

The meeting was called to order by Chair Ing at 8:45 a.m.

A89-650 WAIHEE OCEANFRONT HAWAII, (MAUI)

APPEARANCES

Rick Kiefer, Esq., representing Maui Coastal Land Trust  
Dale Bonar, Maui Coastal Land Trust  
Burt Sakata, representing Intervener  
Maureen Bond, Waihee Oceanfront Hawaii, Inc.  
Tom Leuteneker, Esq., representing Petitioner  
Jane Lovell, Esq., representing County of Maui Department of Planning  
John Chang, Esq., representing the State Office of Planning  
Abe Mitsuda, State Office of Planning

There were no public witnesses.

Mr. Leuteneker provided a brief summary of Petitioner's amended motion. He also provided the Commission and the State Office of Planning with copies of his proposed order.

Ms. Lovell indicated that the County has met with Petitioner and its representatives and discussed some issues of concern. She felt that these concerns could be satisfied as long as the conditions that the Office of Planning was suggesting are included in the final order.

A recess was taken at 8:52 a.m. to provide the County opportunity to review Petitioner's proposed order, which was just circulated to the parties and the Commission.

The meeting reconvened at 8:59 a.m.

Mr. Chang stated that the Office of Planning filed its statement with the Commission and asked Mr. Mitsuda to elaborate.

Mr. Mitsuda briefly summarized its statement, which was filed with the Commission and referred to Exhibit 2. He stated that the Office of Planning supported retention of lands in the Conservation District and stated no objection to the escrow funds being returned to the Petitioner. He also believed that the 35 acres associated with the Dowling Company were to remain in the Urban District.

Ms. Lovell indicated that she does not think the County will have an objection to the funds being returned immediately to the Petitioner, but would like to have some connection with the lifting of the other conditions and closing of sale.

Vice Chair Catalani moved that the Maui Coastal Land Trust Lands currently in the Conservation District remain in the Conservation District, that 63.282 acres in the Urban district revert back to the Agricultural district, that the funds be released to the Petitioner, that the two conditions relating to the Maui Coastal Land Trust Lands being placed in conservation easement and title passes to the Maui Coastal Land Trust Lands be deleted, that the Petitioner provide recorded deeds to the Commission showing transfer of ownership of these parcels within 60 days of closing, that within 30 days of the execution of the conservation easements for the lands being purchased by the trust - a copy of the easement be provided to the Commission, and that Petitioner or successor provide bi-annual reports to the Commission, the Office of Planning, and the Maui Planning Department or until the trust has executed the appropriate conservation easement. Commissioner Fiesta seconded the motion. The Commission was polled as follows:

Ayes: Commissioners Catalani, Fiesta, Coppa, Im, Sakumoto, Yukimura, and Ing

The motion passed with 7 ayes and 2 absent.

Vice Chair Catalani also moved that the Dowling Lands remain within the Urban district; that the Commission delete conditions on title except for those stated in Office of Planning's March 17, 2004 memorandum specifically keeping Conditions 12, 13, 16, 21 (relating to data recovery of site #2461), 22, and 23; that Petitioner shall provide recorded deeds to the Commission showing transfer of ownership for these parcels within 60 days; that within 30 days of entering into a development agreement with the Department of Hawaiian Home Lands the developer shall provide the Commission with a fully executed copy of this agreement; that there shall be no use or development of subject property being purchased by Mr. Dowling's entity or any developer other than a residential development pursuant to a development agreement with the Department of Hawaiian Home Lands and approved by the Department of Hawaiian Home Lands in accordance with all applicable state, county, and federal laws; that Petitioner shall provide bi-annual reports to the Commission, the Office of Planning, and the Maui Planning Department until the developer has completed the residential subdivision pursuant to any development agreement executed with the Department of Hawaiian Home Lands; and that the Order be recorded with the Bureau of Conveyances. Commissioner Fiesta seconded the motion. The Commission was polled as follows:

Ayes: Commissioners Catalani, Fiesta, Coppa, Im, Sakumoto, Yukimura, and Ing

The motion passed with 7 ayes and 2 absent.

The meeting was adjourned at 9:40 a.m.

(See LUC Transcript for more details on this matter.)