

LAND USE COMMISSION  
MINUTES OF MEETING

June 4, 2004

Conference Room 405  
Leiopapa A Kamehameha  
235 So. Beretania Street  
Honolulu, Hawaii

COMMISSIONERS PRESENT: P. Roy Catalani  
Bruce Coppa  
Kyong-Su Im  
Lawrence Ing  
Steven Montgomery  
Randall Sakumoto  
Peter Yukimura

COMMISSIONERS ABSENT: Pravin Desai  
Isaac Fiesta

STAFF PRESENT: Russell Suzuki, Deputy Attorney General  
Anthony Ching, Executive Officer  
Bert Saruwatari, Staff Planner  
Sandra Matsushima, Chief Clerk  
Holly Hackett, Court Reporter

Chair Ing called the meeting to order at 9:05 a.m.

DOCKET NO. A88-634 ALEXANDER & BALDWIN, INC. (Maui)

Chair Ing stated that this was an action meeting on Docket No. A88-634 Alexander & Baldwin, Inc. to consider Petitioner's Motion for Order to Amend Findings of Fact, Conclusions of Law, and Decision and Order dated May 17, 1990; and to determine whether the Land Use Commission is the Appropriate Accepting Authority pursuant to Chapter 343, Hawaii Revised Statutes, for the incremental redistricting of Phase II of the subject docket consisting of approximately 33.530 acres of land currently in the Agricultural District to the Urban District at Kahului, Maui, Hawaii, for a light industrial subdivision; and to

determine whether the proposed action may have a “significant effect” and warrant the preparation of an Environmental Impact Statement pursuant to Chapter 343, Hawaii Revised Statutes.

On April 26, 2004, the Commission received a Motion for Order to Amend Findings of Fact, Conclusions of Law, and Decision and Order dated May 17, 1990.

On May 7, 2004, the Commission Received the Application to Approve Phase II for Incremental Redistricting from Agricultural to Urban Classification and an Environmental Impact Statement Preparation Notice for Maui Business Park Phase II.

### APPEARANCES

Ben Matsubara, represented Alexander & Baldwin, Inc.

Stanley Kuriyama, Alexander & Baldwin, Inc.

Ann Cua, County of Maui, Department of Planning

John Chang, Esq., represented Office of Planning

Abe Mitsuda, Office of Planning

### Staff Report

#### 1. Bert Saruwatari

Mr. Saruwatari, staff planner, provided a GIS map orientation of the area and briefly summarized the staff report. There were no questions by the parties and the Commission.

Mr. Matsubara stated that the motion to amend the Findings of Fact, Conclusions of Law, Decision and Order relates to a decision and order entered in 1990 by the LUC. Mr. Matsubara then described the total project and areas of concern. The motion seeks to clarify the district boundary lines for either lots of the Maui Business Park Phase I that are affected by this motion.

Vice Chair Coppa entered the meeting at this time at 9:25 a.m.

Mr. Matsubara requested to enter into the record, exhibits 13 and 14a to 14g. There were no objections by the parties.

Chair Ing asked who the owners were of these eight lots. Mr. Matsubara explained that after LUC reclassification, the property was subdivided and sold. The eight property owners have submitted letters of support, entered as exhibits 14a through 14g.

Ms. Cua stated that the County did not have a formal presentation and had no objections to the amendment of the decision and order.

Mr. Chang commented that the State also had no objections and added that Jadine Urasaki of the Department of Transportation Statewide Planning was available to answer any questions the Commission may have.

### Motion

Commissioner Yukimura moved to approve the Petitioner's Motion to Amend the Findings of Fact, Conclusions of Law, and Decision and Order dated May 17, 1990 on docket number A88-634. Vice Chair Coppa seconded the motion.

The Commission was polled as follows:

Ayes: Commissioners Yukimura, Coppa, Catalani, Im, Montgomery, Sakumoto, and Ing.

The motion passed with a vote of 7 ayes and 2 absent.

Chair Ing stated that they will now determine whether the LUC is the appropriate approving authority.

### Staff Report

#### 1. Anthony Ching

Mr. Ching provided a brief summary of the staff report. There were no questions by the parties and the Commission.

Mr. Matsubara stated that on May 7, 2004, they filed an Application to Approve Phase II for Incremental Redistricting from Agricultural to Urban and an EIS Prep Notice for Maui Business Park and Phase II. Mr. Matsubara added that they have proposed that the LUC is the accepting agency and that they took

the cautious approach and submitted an EIS of the entire area covering the impact of the Maui Business Park and Phase II.

Ms. Cua stated that the County had no objections to the preparation of an EIS for the project and to the LUC being the accepting authority.

Mr. Chang noted that the State also had no objections.

### Motion

Vice Chair Coppa moved that the LUC review and accept the EIS subject to this docket and that the Prep Notice is warranted. The motion was seconded by Commissioner Yukimura.

The Commission was polled as follows:

Ayes: Commissioners Coppa, Yukimura, Catalani, Im, Montgomery, Sakumoto, and Ing.

The motion passed with 7 ayes and 2 absent.

Mr. Matsubara noted an additional housekeeping item, that Exhibit 15 be entered into the record. There were no objections by the County or the State.

A recess break was taken at 9:40 a.m. The meeting reconvened at 10:00 a.m.

### DOCKET NO. A97-721 MAKENA RESORT, CORP. (Maui)

Chair Ing stated that this was an action meeting on Docket No. A97-721 Makena Resort, Corp. (Maui) to consider Petitioner's Motion for Third Amendment to the Findings of Fact, Conclusions of Law, and Decision and Order dated February 19, 1998.

On May 25, 2004, the Commission received Petitioner Makena Resort Corp.'s Motion for Third Amendment to the Findings of Fact, Conclusions of Law, and Decision and Order dated February 19, 1998.

## APPEARANCES

Christopher Kobayashi, Esq. Represented Petitioner Makena Corp.

Roy Figueiroa, Vice President, Makena Corp.

Ann Cua, County of Maui, Department of Planning

John Chang, Esq., represented Office of Planning

Abe Mitsuda, Office of Planning

Mr. Figueiroa stated that much time has gone by to reach an agreement with the State Department of Transportation (DOT), and they have been unable to come to an agreement with the DOT as to what their pro rated share for regional traffic improvements would be. Mr. Figueiroa explained that he was still going through the zoning approval process and added that they have made improvements on the state road leading to their project. The re-striping of Piilani Highway to change it from 2 lanes to 4 lanes had been completed. He added that they had agreed they would spend \$400,000, which would be their share for the design. Presently, they have spent \$360,000 on the design and the work is very nearly completed with only a punch list of items remaining. The roadway is opened and being used by the public. Mr. Figueiroa noted that they would like to extend the time to reach a definite amount regarding the pro rata share.

Vice Chair Coppa asked if Mr. Figueiroa knew when they would finally reach an agreement since they have already spent the \$360,000.

Mr. Figueiroa stated that they are looking at the impact of their development and still have not received any approval on the zoning. He added that they have been trying to analyze and identify what impacts their development would have on the regional transportation system but does not have any solution and that they were willing to continue discussion with DOT.

Commissioner Im asked if they knew what the problem was between the developer and the DOT. Mr. Kobayashi replied that it was their understanding that the DOT was still discussing the matter internally.

Commissioner Im asked if they had met with the DOT regarding a date when they will have these figures. Mr. Kobayashi replied that they have met with the DOT but deferred further comment to the DOT representative.

Ms. Cua stated that the County does not object to the extension of time and added that their only concern was that a two-year extension might not be an adequate time for the petitioner to reach an agreement with the DOT. Ms. Cua noted that their change in zoning was still being reviewed by the county council. It appeared that it will be a while before the county council approves the project zoning.

Mr. Chang stated that the State had no objections to the motion, and added that Jadine Urasaki was available from the DOT.

Ms. Urasaki stated that authority lies with the county and that they have been working on legislation because they currently do not have the authority to implement any impact fees. The DOT only has authority on Oahu to establish impact fees. They have tried to get legislation passed this year, but the measure was not adopted. The DOT needs to continue to work with the counties on a formula for fair share regional improvements. In addition, the County of Maui still has not adopted their rates on what they will be charging the developers.

Mr. Chang stated that up to this year, the DOT could not get the money even if an agreement was made for the state to develop the roadways. He added that the county has nothing set up in this area.

Vice Chair Coppa commented that the developer keeps putting out money and the DOT has no formula in place, so this petitioner keeps fronting the money.

Mr. Chang stated that as far as our other petitioner on Maui, the Maui County had established what the rate was going to be and how they were to divide it up.

Ms. Cua clarified that the petitioner from Kapalua Mauka came in voluntarily and agreed to contribute \$3,500 per unit and that was based on the draft impact fee proposal. The county does not have the authority to say you need to contribute X dollars per unit. The County's study was done for the West and South Maui regions and based on that, the developer felt that they could voluntarily provide \$3,500 per unit.

Commissioner Im asked why it was not possible for the DOT to create a formula in their best judgment, then impose that formula to the developer with a condition that if the county has a different formula later, the developer will work

with the county. He added that unless the county comes up with something totally different, they should use the good faith effort and developer obligations.

Ms. Urasaki stated that they need to first develop a strategic plan and until then, it is difficult to come up with those numbers. They also need to work cooperatively with the counties in this effort.

### Motion

Vice Chair Coppa moved to approve a 4-year extension and to have a status report and update on this issue from the DOT on a yearly basis. Commissioner Montgomery seconded the motion.

Commissioner Sakumoto noted that he personally felt that they were caught between a need to insure that an imposed condition was satisfied and also recognize the fact that they cannot hold this over the petitioner indefinitely. He believed that it was not the intent of the LUC to impose this condition on the petitioner for an indefinite time period. He further noted that the authority to modify or delete the conditions imposed by the order is something they could consider if the petitioner has already put in a lot of money and the DOT still has not come to the table with the formula.

The Commission was polled as follows:

Ayes: Commissioners Coppa, Montgomery, Catalani, Im, Sakumoto, Yukimura and Ing.

The motion passed with 7 ayes and 2 absent.

Chair Ing called for an Executive Session at 10:40 a.m.

The open meeting adjourned at 11:55 a.m.

*(Please refer to the Land Use Commission transcript of June 4, 2004 for additional details on all of the above matters.)*