

1 LAND USE COMMISSION

2 STATE OF HAWAI'I

3 DELIBERATION AND ACTION

4 All-790 KULA RIDGE, LLC (Maui))

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8 TRANSCRIPT OF PROCEEDINGS

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10 The above-entitled matter came on for a Public Hearing

11 at the Maui Arts & Cultural Center, Alexa Higashi

12 Meeting Room, One Cameron Way, Kahului, Maui, Hawai'i,

13 commencing at 9:20 a.m. on January 6, 2012, pursuant

14 to Notice.

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REPORTED BY: HOLLY M. HACKETT, CSR #130, RPR

20 Certified Shorthand Reporter

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1 A P P E A R A N C E S

2 COMMISSIONERS:
KYLE CHOCK
3 RONALD HELLER
LISA M. JUDGE
4 NORMAND LEZY (Chairman)
CHAD McDONALD
5 JAYE NAPUA MAKUA
ERNEST MATSUMURA
6 NICHOLAS TEVES, JR.

7

8 EXECUTIVE OFFICER: ORLANDO DAVIDSON
ACTING CHIEF CLERK: RILEY HAKODA
9 STAFF PLANNERS: SCOTT DERRICKSON

10 DEPUTY ATTORNEY GENERAL: DIANE ERICKSON, ESQ.

11 AUDIO TECHNICIAN: WALTER MENCHING

12

13 Docket No. A11-790 Kula Ridge, LLC

14 For the Petitioner: STEVEN LIM, ESQ.
JENNIFER BENCK, ESQ.

15

For the County: MICHAEL HOPPER, ESQ.
16 Deputy Corporation Counsel
JEFFREY DACK

17

For the State: BRYAN YEE, ESQ.
18 Deputy Attorney General
JESSE SOUKI
19 Director Office of Planning

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1 CHAIRMAN LEZY: (gavel) Morning. This is a
2 meeting of the state of Hawai'i Land Use Commission.

3 This is a deliberation/action meeting on Docket No.
4 All-790 Kula Ridge, LLC to consider the
5 reclassification of approximately 34.516 acres of land
6 from the Agricultural District to the Urban District,
7 and approximately 16.509 acres of land from the
8 Agricultural District to the Rural District at Kula,
9 Maui, Hawai'i for a mix of residential, park and open
10 spaces uses TMK Nos. 2-3-001:174 and 023. Will the
11 parties please make their appearances.

12 MR. LIM: Morning, Mr. Chairman, Members of
13 the Commission. Happy new year. I'm Steven Lim along
14 with Jennifer Benck for Carlsmith Ball on behalf of
15 Martin Luna. And with us also today to my right is
16 Mr. Clayton Nishikawa the manager of Kula Ridge, LLC
17 who's here with his wife and family.

18 CHAIRMAN LEZY: Good morning. Happy new
19 year to everyone.

20 MR. HOPPER: Good morning, Mr. Chair and
21 Members of the Commission, this is Michael Hopper on
22 behalf of the Maui Planning Department. With me is
23 Jeffrey Dack. And we also have Clayton Yoshida here.

24 CHAIRMAN LEZY: Good morning.

25 MR. SOUKI: Good morning, Chair, Members of

5

1 the Commission, Jesse Souki with the Office of
2 Planning.

3 CHAIRMAN LEZY: Thank you. Let me update
4 the record on this docket. Oral argument for this

5 docket concluded on November 3, 2011. From November
6 4, 2011 to December 6, 2011 the Commission received
7 written correspondence and email from Dick Mayer, Matt
8 Holten, Jerry Fornelia, Samia Rebecca Presley and
9 Jaydan Puahala and Janet Quinton.

10 On December 19, 2011 the Commission received
11 a Petition opposing the Project with 441 signatures
12 from Penny Humphries.

13 Before I call on public witnesses let me
14 remind you that all the public testimony from the
15 previous hearings held in this matter has been
16 transcribed and is part of the record. For those of
17 you testifying again, the Commission would appreciate
18 if you could please confine your testimony to new
19 information.

20 Because the Commission needs time to conduct
21 its deliberations this morning a one minute time limit
22 will be enforced for all of those who are testifying
23 in this matter. Your consideration is appreciated.
24 Thank you. Mr. Davidson, who's signed up for public
25 testimony?

6

1 MR. DAVIDSON: We have five sign-ups. The
2 first one is Scott Nunokawa followed by Randy Piltz.

3 SCOTT NUNOKAWA
4 being first duly sworn to tell the truth, was examined
5 and testified as follows:

6 THE WITNESS: Yes.

7 CHAIRMAN LEZY: Please state your name, your
8 address and proceed.

9 THE WITNESS: Good morning and aloha. My
10 name is Scott Nunokawa. I'm here testifying on behalf
11 of myself. Thank you, Chairman Lezy and Commission
12 members for giving me the opportunity to speak. Since
13 I'm limited to one minute I'll kind of abbreviate what
14 I came to say.

15 Basically I'd like the Commission to
16 consider in the deliberations that it's easy with the
17 economy the way it is on Maui to forget about our
18 long-term lack of accessible priced housing
19 particularly in the Upcountry area. But the problem
20 hasn't gone away. So at best it's dormant waiting for
21 the next big eruption. This is a countywide problem
22 and it requires countywide solutions.

23 Upcountry should not be immune to being a
24 part of that discussion. It should not be immune to
25 the solutions required for that to become hopefully a

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1 reality some day; that we are not turning our
2 residents away; we're not having a situation where our
3 children are not being able to come home, where
4 there's no reason why Upcountry people who have grown
5 up there shouldn't have the opportunity to come back
6 home.

7 And, quite frankly, I don't think that it's

8 sound policy to allow a minority of people who already
9 live in a particular area to outweigh the many voices
10 of people who believe that this is a good Project.

11 MR. DAVIDSON: Thirty seconds.

12 THE WITNESS: And we should move forward.
13 No project is perfect. You can always pick a project
14 apart. This Commission is charged with the macro. If
15 you look at the macro of this Project it serves its
16 purpose. It's a good Project conducted by a person
17 who has deep roots in the community. And I would ask
18 that you support this Project with your vote today.
19 Thank you.

20 CHAIRMAN LEZY: Thank you. Parties,
21 questions? Commissioners, any questions? Thank you
22 sir.

23 THE WITNESS: Thank you.

24 MR. DAVIDSON: Mr. Piltz followed Gene
25 Zarro.

8

1 RANDY PILTZ
2 being first duly sworn to tell the truth, was examined
3 and testified as follows:

4 THE WITNESS: I do.

5 CHAIRMAN LEZY: Please state your name, your
6 address and proceed.

7 THE WITNESS: My name is Randy Piltz. And
8 I'm executive assistant to the mayor. And I'm here to

9 reiterate my former testimony that our current
10 administration supports this Project. And we're
11 asking that you consider that this affordable housing
12 Project move forward.

13 We have the support of the mayor and the
14 council that water will be available. And this has
15 been a major problem throughout the county: Water.
16 But with the Administration and the council's support
17 we want to see that affordable housing in this
18 particular area move forward. So I thank you very
19 much for hearing me again. Good to see many familiar
20 faces. Thank you.

21 CHAIRMAN LEZY: Thank you. Parties,
22 questions? Commissioners, any questions? Thank you,
23 Mr. Piltz.

24 MR. DAVIDSON: Gene Zarro followed by Penny
25 Humphries.

9

1 GENE ZARRO,
2 being first duly sworn to tell the truth, was examined
3 and testified as follows:

4 THE WITNESS: Yes.

5 CHAIRMAN LEZY: Please state your name, your
6 address and proceed.

7 THE WITNESS: Gene Zarro, 22 Ululnui Place
8 Upcountry Pukalani. I testified before and I do,
9 would like to add a couple more comments real quick.
10 And I appreciate your time. As I've been thinking

11 about the space between the last hearing in this
12 hearing, Kula is going to grow. And this is the most
13 appropriate place for Kula to grow. It is in close
14 proximity to elementary schools and high schools. It
15 is in close proximity to post offices and small
16 businesses.

17 If there's ever a place for Kula to grow
18 this is the place where it should grow. As someone
19 with four adult children on the mainland I really do
20 look forward to them coming home someday and being
21 able to live Upcountry with us. Thank you for your
22 time.

23 CHAIRMAN LEZY: Parties, questions?
24 Commissioners, questions? Thank you for your
25 testimony.

10

1 MR. DAVIDSON: Penny Humphries followed by
2 Tanner Morrin.

3 PENNY HUMPHRIES
4 being first duly sworn to tell the truth, was examined
5 and testified as follows:

6 THE WITNESS: Yes.

7 CHAIRMAN LEZY: Please state your name, your
8 address and proceed.

9 THE WITNESS: Penny Humphries, 51 Kalihi
10 Place, Kula. Three petitions have been sent to you
11 with a total of 1,143 signatures. Picture, if you

12 will, all of those 1,143 people standing in this room,
13 as I represent them.

14 We ask that you strongly consider the wishes
15 of everyone who lives, works and has family Upcountry
16 because we believe that the proposed land use boundary
17 amendment for the Kula Ridge Project should be denied
18 because it will create many more problems than it will
19 solve.

20 We ask that you vote no. Also Dick Mayer
21 phoned me this morning. He's unable to come. And he
22 asked that I implore you to reread all of the Kula
23 Community Association reasons why this Project is not
24 appropriate and the amendment should not be made.
25 Thank you.

11

1 CHAIRMAN LEZY: Parties, questions?
2 Commissioners, questions? Thank you, ma'am.

3 MR. DAVIDSON: Last signed up testifier is
4 Tanner Morrin.

5 TANNER MORRIN
6 being first duly sworn to tell the truth, was examined
7 and testified as follows:

8 THE WITNESS: Yes.

9 CHAIRMAN LEZY: Please state your name, your
10 address and proceed.

11 THE WITNESS: Tanner Morrin, 2747 South
12 Kihei Road. Good morning, Commissioners. Thank you
13 for having me today. I've lived on Maui for the past

14 18 years. And during my time living here my family
15 has never been able to own a home. We have lived in
16 houses and apartments, but we've always had to rent --

17 CHAIRMAN LEZY: Mr. Morrin, I'm sorry, could
18 you slow down just a bit for our court reporter.

19 THE WITNESS: Oh, sorry. I've lived on Maui
20 for the 18 years. And during my time living here my
21 family has never been able to own a home. We've lived
22 in houses and apartments, but we've always had to rent
23 because of the high cost of living on Maui. Currently
24 we reside in the Kihei Shores Apartments and have for
25 13 years.

12

1 Today I am here to express why I support the
2 Kula Ridge Project. I grew up on Maui with my father
3 as the sole provider of my family income. Work was
4 difficult to come by for my mother, which resulted in
5 the need for my father to take on more than one job.
6 But even then my family lacked the income necessary to
7 buy a home of our own.

8 The lack of a suitable home for our family
9 was the source of constant conflict between my parents
10 and ultimately one of the primary reasons as to why
11 their marriage eventually ended.

12 I'm now currently enrolled in my third year
13 at the University of Hawai'i in the School of
14 Architecture and have learned about the many

15 challenges that are involved with land planning and
16 land uses. But my education has also helped me
17 realize that the addition of affordable housing
18 projects such as Kula Ridge will open up opportunities
19 for others like myself who want to have the option of
20 returning home to the island on which we grew up to
21 raise families of our own.

22 I know that the numerous other benefits to
23 the Kula Ridge Project have already been presented to
24 you, but I wish to express why this Project is
25 important to me personally.

13

1 I feel that a home is an important aspect
2 that can foster and encourage a strong family life,
3 and I believe that affordable housing will also foster
4 economic growth within our community and present more
5 home ownership opportunities to Maui families. Thank
6 you.

7 CHAIRMAN LEZY: Parties, questions?
8 Commissioners, any questions? Thank you for your
9 testimony. Is there anyone else who wishes to provide
10 public testimony in this matter? Step forward.

11 THE WITNESS: Good morning and aloha. My
12 name is --

13 IVAN LEI,
14 being first duly sworn to tell the truth, was examined
15 and testified as follows:

16 THE WITNESS: Yes.

17 CHAIRMAN LEZY: Please state your name, your
18 address and proceed.

19 THE WITNESS: My name is Ivan Lei and I live
20 at 2545 Hokomo Road Upcountry area. I have two older
21 boys that live in the house with me. My oldest son
22 has a daughter and a son so I'm a grandfather. And I
23 also have another son who lives with me with his
24 girlfriend. They want to live in the Upcountry area.
25 They can't afford it. There's no affordable housing

14

1 in this area for them.

2 Who are we to say where these people should
3 live or where our children should live because we put
4 affordable housing in a certain area? That's not
5 right. They were born and raised here on Maui. They
6 should have the opportunity to live where they wanna
7 live, make that choice for them.

8 Opportunities like jobs, a great, great
9 Project, one that renders a perfect rendition of what
10 Upcountry should look like, one that blends in with
11 the community around it. Yes, there's problems with
12 what's being developed there. But problems are meant
13 to be worked out. Problems are meant to be fixed.
14 Working together we can make this Project happen.
15 Like I said, we have children here on Maui that want
16 to live there.

17 MR. DAVIDSON: Thirty seconds.

18 THE WITNESS: My grandmother's full
19 Hawaiian, hundred percent Hawaiian. My mom's half. I
20 don't qualify for Hawaiian Homes in Upcountry area.
21 My children don't. And yet they have that blood line.
22 Give them the right and the possibility to live in the
23 Upcountry area. This is a great Project. Please pass
24 it. Thank you.

25 CHAIRMAN LEZY: Parties, questions?

15

1 Commissioners? Thank you for your testimony.

2 CHARLES JENCKS

3 being first duly sworn to tell the truth, was examined
4 and testified as follows:

5 THE WITNESS: Yes, sir.

6 CHAIRMAN LEZY: Please state your name, your
7 address.

8 THE WITNESS: Name is Charles Jencks. I
9 live at 75 Ka'a Drive, Kula. Morning, Commissioners.
10 I'm here today to support Kula Ridge. Part of my
11 research on the Project goes back to the original CAC
12 meeting minutes that were done in the early '90s
13 leading up to the formulation and adoption of the
14 Kula Community Plan.

15 If you go back to the original meeting
16 minutes, the CAC, including members like Elmer
17 Carvalho and Dick Mayer, talked about the need to
18 provide and provide for affordable housing and senior
19 housing in the Upcountry area. That theme is

20 consistent through all the meeting minutes leading up
21 to the formal adoption of the CAC plan for Kula.
22 Those meeting minutes are reflected in the final plan
23 that was adopted by the Maui Planning Commission and
24 the Maui County Council.

16

25 No project is perfect. This area is

1 designated rural and single-family in the community
2 plan. All of these documents reflect the fact that
3 that was the wish of that CAC. They didn't say where
4 it should go. They didn't say exactly how it should
5 be built or what form or kind of product it should be.

6 The fact is that the CAC that was the
7 foundation for this Community Plan, said: We need
8 affordable housing and senior housing Upcountry.

9 So I ask you to support the Project simply
10 because (a) this plan, the CAC and the Community Plan
11 says it should be built Upcountry. It's needed. And
12 No. 2 it's consistent with all your criteria.

13 So I suggest you vote to support this
14 Project, get it out of here. This gentleman has a lot
15 to do. His water issues aren't any different than
16 anybody else in Maui County. We have a
17 show-me-the-water bill that's been denigrated by every
18 economist in the state.

19 He's not any different than I am. I drilled
20 two wells makai of the Project. Both of them are good

21 producing wells, a million gallons a day. Water's
22 there. He can overcome the obstacles. He can make
23 this Project fly but he needs your support to do that.
24 And the Project is needed Upcountry for affordability
25 and senior housing. Thank you.

17

1 CHAIRMAN LEZY: Parties, questions?
2 Commissioners, questions? Thank you for your
3 testimony, Mr. Jencks. If there's anybody else who
4 wishes to provide public testimony, please step
5 forward and sit closer to the witness box so that we
6 can take you in turn.

7 And for the folks that weren't here when we
8 began, the Chair cautioned people that are wishing to
9 provide public testimony that we have a limited amount
10 of time here today. We have to conduct deliberations.

11 So your courtesy, if you're not going to
12 provide new testimony, something other than that you
13 simply support or do not support this Project, we
14 would ask you to carefully consider whether the time
15 is well spent providing the testimony or allowing for
16 deliberations.

17 MARIA RAWE
18 being first duly sworn to tell the truth, was examined
19 and testified as follows:

20 THE WITNESS: Yes.

21 CHAIRMAN LEZY: Please state your name and
22 address, your address and proceed.

23 THE WITNESS: My name is Maria Rawe. I live
24 at 32 Kalihi Place in Kula, right below the proposed
25 subdivision. I asked myself why am I here today. Why

18

1 am I here to testify in opposition to the Kula Ridge
2 subdivision on Waiakoa? The answer is quite simple.
3 It's because I care. I do care. It's because I care
4 a great deal about the Waiakoa community in which I
5 live.

6 My husband and I bought our home in Waiakoa,
7 Kula in 1989 after living elsewhere on Maui since we
8 first arrived in 1971. That was 40 years ago. And we
9 have seen many changes take place on this beautiful
10 island. We have seen a tremendous amount of growth,
11 some good and some not so good.

12 In my opinion, and in the opinion of over a
13 thousand other residents who have signed a petition
14 opposing the building of the Kula Ridge subdivision,
15 this is not good. This is not desirable growth in
16 Waiakoa. No, it is not.

17 Changing from Agricultural to Urban? No.
18 This is not good for our community. The
19 infrastructure is not in place. The water is not in
20 place. And the sidewalk for the children, it is most
21 likely not to be built in the safest way for our
22 keikis if it will be built at all for our children.

23 And the tranquility and the peace that we

24 cherish where I live in Waiakoa, it will be gone. It
25 will definitely be gone. So I'm here today to ask you

1 on a personal human level to look deep within your
2 conscience and to make the right decision in opposing
3 Kula Ridge.

4 I testify here before you and as an
5 immediate neighbor who will be directly affected by
6 the Kula Ridge Development. I'm asking you to vote no
7 for Kula Ridge. Thank you for listening to me.

8 CHAIRMAN LEZY: Parties, questions?
9 Commissioners, questions? Thank you for your
10 testimony, Ma'am. Is there anybody else who wishes to
11 provide public testimony? Step forward. I need to
12 swear you in, sir.

13 CHRISTIAN TACKET
14 being first duly sworn to tell the truth, was examined
15 and testified as follows:

16 THE WITNESS: I do.

17 CHAIRMAN LEZY: Please state your name, your
18 address and proceed.

19 THE WITNESS: My name is Christian Tacket. I
20 live at 787 Wailupi Drive. I attended Wailuku
21 Elementary, I'ao, Baldwin. Was raised in the public
22 school system, got out of the public school system.
23 Worked aggressively my whole life and watched prices
24 walk away from me the entire time I was getting
25 raises.

1 I worked some more. I get a raise, the
2 price go up. I work some more, I get a raise, the
3 price go up. I work some more, I get a raise the
4 price go up. Went all the way up to 575,000 when I
5 finally squeezed into a house.

6 Now I'm buried under that mortgage. I'm
7 buried under that mortgage because there were no
8 opportunities for me, you know. I took it. I thought
9 the bubble was gonna keep going on forever, you know.
10 I thought if I don't grab it now I'm not ever gonna
11 grab anything, you know. And then I'm going to spend
12 my whole life renting and what am I gonna have for my
13 kids?

14 So now I'm still stuck under that house. I
15 cannot, I cannot get into a lower, one of those
16 affordable mortgages. And I barely afford the one
17 that I got. I struggle every day to finish the one
18 that I got.

19 And then I'm grateful to have my home. And
20 there's plenty times when I would have probably thrown
21 in the towel if I didn't have the pride of ownership
22 of having what is my own. And when I hear people talk
23 about what affects their life and how bad it's going
24 to be when other people come and move by them, I -- my
25 parents lived in Waiehu Heights. I bought Waiehu

1 Heights.

2 MR. DAVIDSON: Excuse me. Thirty seconds.

3 THE WITNESS: Okay. And I've seen all the
4 development around my house. And I'm not grumpy that
5 the people around, that all the Hawaiian Homes went
6 in, that the Upcountry went in. I'm happy those
7 people got a place to live, you know. I'm not grumpy
8 that when I see sandpiles it's just me and my friends.
9 It's everybody under the sun. I'm happy that
10 everybody is getting the dream.

11 And what I want for people that work is just
12 an opportunity to get something they can afford and be
13 able to spend some time with their family instead of
14 chasing, chasing, chasing and being doomed to a
15 history that will repeat itself for them as it
16 happened to me.

17 So thank you for your time, and I appreciate
18 your listening to what happened to me. Thank you.

19 CHAIRMAN LEZY: Parties, questions?
20 Commissioners, any questions? Thank you for your
21 testimony, Sir. Please step forward.

22 DAN METRICKA
23 being first duly sworn to tell the truth, was examined
24 and testified as follows:

25 THE WITNESS: Yes.

22

1 CHAIRMAN LEZY: Please state your name, your

2 address and proceed.

3 THE WITNESS: My name is Dan Metricka. I
4 live in Paia. I used to live Upcountry. I knew all
5 the groups up there. They all opposed redoing that
6 road in front of that church up there. That road is a
7 safety hazard. If officials saw that they'd probably
8 shut it down with that dip in the road with the drain
9 going across the road on surface. That road needs to
10 be replaced.

11 And putting this community up there -- so I
12 lived up there for, like, two years. I rented off a
13 place. I watched all kinds of houses going up up
14 there, nice, big fancy homes, you know. So they put
15 in a low income housing and affordable housing for
16 people in this one section. People are greedy. They
17 don't want nobody else up there, but the people they
18 want.

19 And I watched. I've seen at least 20 homes
20 get built up there within that two years. I lived on
21 the lower end of Kula Road, not the part that should
22 be replaced too, another section of the original lower
23 road. Goes first that little bridge, then a raggedy
24 ass road. They should redo that bridge. There's a
25 lot of road repair up there. And everybody up there,

23

1 lives up there, don't want to fight it.

2 MR. DAVIDSON: Excuse me, 30 seconds.

3 THE WITNESS: Okay. They need to do this
4 stuff, get off the bucket, let other people a chance
5 to experience. Because it was beautiful up there. I
6 mean you could sleep at night. It's cool. Even
7 higher up it's even nicer. But, you know, all right.
8 That's all I have to say.

9 CHAIRMAN LEZY: Parties, questions?
10 Commissioners, questions? Thank you, Sir.

11 JASON MEDEIROS
12 being first duly sworn to tell the truth, was examined
13 and testified as follows:

14 THE WITNESS: Yes.

15 CHAIRMAN LEZY: Please state your name, your
16 address and proceed.

17 THE WITNESS: Jason Medeiros, 184 Namalu,
18 Kihei, Maui. My name is Jason Medeiros. I'm a
19 representative of the ILWU, the largest private union
20 on the island. Our membership is about 8500 on the
21 island of Maui. And we fully support the Kula Ridge
22 Project. We fully support any and all affordable
23 housing.

24 We represent -- I represent working
25 families. And I believe that we need a break. We

24

1 need houses that we can afford. We fully support
2 anybody who is willing to give us a break. Please
3 kokua. That's all I'm asking for. Thank you.

4 COMMISSIONER LEZY: Parties, questions?

5 Commissioners, questions? Thank you.

6 JAY KAHO'OHANO HANO

7 being first duly sworn to tell the truth, was examined
8 and testified as follows:

9 THE WITNESS: Yeah.

10 CHAIRMAN LEZY: Please state your name, your
11 address and proceed.

12 THE WITNESS: My name is Jay Kaho'ohanohano.
13 My family -- oh, 38 Iulani Street, Haiku -- my family
14 lived here, was born raised here. I have 21 first
15 cousins. And out of the 21 only one could afford to
16 buy their own house. Seven of them had to move the
17 mainland already. I'm one of the middle, I guess you
18 could say, grandchildren. And now married to a Kula
19 family who's been there, you know, since, like, the
20 1800's. The Botelhos, I married to a Botelho. The
21 new generation has nowhere to live or afford homes up
22 in Kula.

23 This Project going only open doors for my
24 family and my kids and nieces and nephews who are
25 forced to move to cheaper renting areas like Wailuku

25

1 and, you know, more town. None of us was raised that
2 way. Our kids don't play in streets. They will play
3 in yards and pastures. You're forcing us by not being
4 able to afford one home we gotta go and rent one condo
5 where, you know, our whole family style is changing

6 now because of the affordability.

7 MR. DAVIDSON: Thirty seconds.

8 THE WITNESS: Basically we cannot afford the
9 market homes now. And one low income housing would
10 be perfect for our family and our lifestyle. Thank
11 you.

12 CHAIRMAN LEZY: Parties, questions?
13 Commissioners, any questions? Thank you for your
14 testimony. That concludes public testimony in this
15 matter.

16 The Commission will now conduct formal
17 deliberations concerning whether to grant the Petition
18 whether in whole or in part, or to deny the Petition.

19 If the Commission decides to grant the
20 Petition in whole or in part, it needs to determine
21 what conditions of approval to impose. I would note
22 for the parties and the public that during the
23 Commission's deliberations I will not entertain
24 additional input from the parties or public unless
25 those individuals or entities are specifically

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1 requested to do so by the Chair.

2 If called upon I would ask that any comments
3 be limited to those concerning the question at hand.

4 The Commission held hearings on the merits
5 of this Petition in 2011 on July 14, 15; August 25, 26
6 and November 3. As noted previously oral argument was
7 held on November 3.

8 Commissioners, let me confirm that each of
9 you have reviewed the record and read the transcripts
10 for any meetings that you may have missed and are
11 prepared to deliberate on the subject docket.

12 After I call your name would you please
13 signify with either an aye or a nay that you're
14 prepared to deliberate on this matter.

15 Commissioner Chock?

16 COMMISSIONER CHOCK: Yes.

17 CHAIRMAN LEZY: Commissioner Makua?

18 COMMISSIONER MAKUA: Aye.

19 CHAIRMAN LEZY: Commissioner Judge?

20 COMMISSIONER JUDGE: Yes.

21 CHAIRMAN LEZY: Commissioner McDonald?

22 COMMISSIONER McDONALD: Yes.

23 CHAIRMAN LEZY: Commissioner Heller?

24 COMMISSIONER HELLER: Yes.

25 CHAIRMAN LEZY: Commissioner Teves?

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1 COMMISSIONER TEVES: Yes.

2 CHAIRMAN LEZY: Commissioner Matsumura?

3 COMMISSIONER MATSUMURA: Yes.

4 CHAIRMAN LEZY: The Chair is likewise
5 prepared to deliberate on this matter. The goal today
6 is to determine by way of motion the Commission's
7 decision on whether to grant in whole or in part
8 Petitioner's request to reclassify the subject

9 property, or to deny the Petition.

10 If a decision is reached today and based
11 upon the Commission's guidance, staff will be directed
12 to draft appropriate Findings of Fact, Conclusions of
13 Law, and a Decision and Order reflecting the
14 Commission's decision.

15 Commissioners, what's your pleasure on this
16 matter?

17 COMMISSIONER JUDGE: Chair Lezy?

18 CHAIRMAN LEZY: Commissioner Judge.

19 COMMISSIONER JUDGE: Thank you, Chair. As
20 the Maui Commissioner I'll just share with you just
21 some of the thoughts that I had or my thoughts on
22 this. We've been looking at this since July now,
23 listening to a lot of testimony and a lot of
24 documentation.

25 And I thought a lot about this. And my

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1 thoughts sort of go like this: In the LUC
2 decision-making criteria, the first criterion is to
3 look at the extent to which the proposed
4 reclassification conforms to the applicable district
5 standards. And looking at the Urban District
6 standards one of those standards is to direct the
7 urban growth to lands in appropriate locations for new
8 urban concentrations with consideration given to the
9 designated Urban Growth Boundary areas.

10 And I don't believe this Petition Area meets

11 that standard. The Draft Maui Island Plan that was
12 offered as a county exhibit, a document created after
13 years of work by the Planning Department, with years
14 of community input through the General Plan Advisory
15 Committee, it gives definition to the growth boundary
16 types.

17 The first type it recognizes is the urban
18 town. And the exhibit identifies urban town areas by
19 name: Kihei, West Maui, Wailuku, Pukalani and Kahului.
20 It's very important to me to note that Kula is not in
21 that urban town list.

22 The document goes on to define "country
23 town" and rural growth areas. Again it's important to
24 note that the Petition Area we're looking at today is
25 clearly designated, in fact mentioned by name as rural

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1 not urban.

2 Basically I believe that the Petition Area
3 is designated rural for a few reasons. The first is
4 that Kula has been historically and continues to be
5 today a predominantly rural and agricultural
6 community.

7 During the numerous GPAC meetings there was
8 a popular desire, and excuse the cliché, but to keep
9 the Upcountry country.

10 The second reason is that the level of
11 services and infrastructure necessary to support urban

12 communities did not exist in this Petition Area. This
13 leads to another urban standard which suggests that
14 there should be an availability of basic services.
15 Again, this is not the case for the subject Petition
16 Area.

17 There is no wastewater system, no public
18 transportation and no water. And I cannot overstate
19 the importance of water. Water is a large and
20 emotionally charged issue in our community. As came
21 out in the testimony, there is no water availability
22 in Kula. And there have been long periods of drought
23 with water rationing on and off for years.

24 The Kula agricultural community has
25 important water needs. Combined with those are the

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1 several hundred Upcountry families who are on a
2 waiting list for water meters.

3 On the County of Maui website as of June 30,
4 2011, there were over 1,450 on the Upcountry water
5 service list. And as you heard some of those families
6 have been on that list for a very, very long time
7 since the mid '90s the website suggests.

8 I'm really struggling with the idea that we
9 would be giving water to an urban use in Kula before
10 we could take care of our farmers and our Upcountry
11 families.

12 Another Urban standard is that there be
13 citylike concentrations of people, structures, streets

14 and urban level of services and other related land
15 uses. Such an environment simply does not exist in
16 the Petition Area or anywhere in Kula for that matter.

17 The closest supermarket, bank, pharmacy,
18 medical offices are miles away in Pukalani. There are
19 no jobs in the area. And everyone living there would
20 have to drive wherever they go.

21 There was testimony that the roadways
22 approaching the Petition Area are not up to urban
23 standards. And an exhibit from the county states that
24 that they will not require that both the roads be
25 brought up to urban standards. To me this simply

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1 invites danger. And it will be a public safety
2 hazard.

3 There was also testimony that no safe paved
4 walkway exists for children to get to the elementary
5 school, which is important, since there was also
6 testimony the Petition Area is too close to Kula
7 Elementary School to qualify for bus service.

8 So, again, in my opinion this area does not
9 have a citylike environment and fails to meet that
10 standard.

11 In closing, I understand and I empathize
12 with the need to provide affordable housing. But I
13 can't ignore established land use laws or elements of
14 good planning to make that happen. In my mind this

15 simply isn't the right location for this type of
16 development. And so for those reasons just stated I
17 will not support the reclassification of this Petition
18 Area.

19 CHAIRMAN LEZY: Thank you, Commissioner
20 Judge. Commissioners? Commissioner Makua.

21 COMMISSIONER MAKUA: Aloha. I too have had
22 such a difficult time myself. It's not something
23 that, a decision that I came to easily. I think when
24 I first was appointed here I thought that these
25 decisions would be easier. But it's kept me up at

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1 nights. I've been up since 2:00 this morning just
2 going over, you know, different things.

3 And ultimately I believe it's difficult
4 because I'm from this area. This is where I'm from.
5 Kama'aina. I'm of this land. I'm a descendant of
6 people whole have been here for hundreds of years.
7 And as much as there are parts of the Project that
8 aren't perfect, I believe that it's a Project that is
9 worthwhile for our area.

10 And I went over the standards also. And
11 there is also a section here that said that: It shall
12 include lands in appropriate locations for new urban
13 concentrations, and shall give consideration to areas
14 of urban growth as shown on the state and county
15 General Plans. It may include lands which do not
16 conform to the standards in Paragraphs 1 through 5

17 when (b) only when those lands represent a minor
18 portion of this district.

19 And to me I feel 34 acres is not a huge
20 portion. I feel 34 acres is a minor portion.

21 I also went over our countywide, the county
22 of Maui General Plan and read those things. And a big
23 part of our General Plan is to create a range of
24 housing opportunities and choices to foster
25 distinctive, attractive communities with a strong

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1 sense of place, to strengthen and direct developments
2 towards existing communities and take advantage of
3 compact building design.

4 And if not this area in Kula, then where?
5 I've heard a lot about it's not an appropriate place
6 in Kula. But the subdivision right across the street
7 has lots that are 8,000 square feet.

8 You know, if not for Hawaiian Homes I
9 wouldn't be able to buy a home in Kula. And it's true
10 not every Hawaiian can even access Hawaiian Homes.

11 Like I said, I've thought a long time about
12 it. My husband's family, the Makuas, have been in
13 this specific ahupua'a for over a hundred years. And
14 as I spent time in Makena, the makai side of our
15 ahupua'a, I sat there at Keawala'i Church, next to
16 Keawala'i Church and I thought how many of those
17 people -- how many of the descendants who are buried

18 at Keawala'i, how many of their descendants can attend
19 that church? Hardly any. Because they cannot live
20 there anymore.

21 And that to me is sad. I feel like those of
22 us who were born and raised, who our families come
23 from that area, need a place to be able to come back
24 home to. Like I said it's not perfect. There are
25 reservations I do have, but I feel that it's a Project

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1 that's worthwhile.

2 CHAIRMAN LEZY: Commissioners? Commissioner
3 Heller.

4 COMMISSIONER HELLER: Yes. Thank you. As
5 other Commissioners have already noted, these
6 decisions are difficult and of course there's no
7 decision we can make that will result in everybody
8 being happy. There will undoubtedly be some people
9 who like our decision and some people who don't. But
10 it's our job to make the decision regardless of that.

11 I think there are some areas of concern
12 here. In particular I do have a concern about the
13 sidewalk. I have a concern about the water. I have a
14 concern about the roads and traffic improvements. But
15 I think those are matters that can be and should be
16 addressed in an appropriate set of conditions.

17 And so, Mr. Chair, if it's appropriate what
18 I would like to do is make a motion to approve the
19 Petition subject to conditions and then have some

20 discussion about the conditions.

21 CHAIRMAN LEZY: Certainly.

22 COMMISSIONER MATSUMURA: Second.

23 COMMISSIONER TEVES: Second.

24 CHAIRMAN LEZY: Motion by Commissioner

25 Heller seconded by Commissioner Matsumura.

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1 Discussion, Commissioners?

2 COMMISSIONER HELLER: If I may continue?

3 CHAIRMAN LEZY: Sure.

4 COMMISSIONER HELLER: In particular I think
5 the three areas that ought to be clearly addressed in
6 the Decision and Order should be appropriate
7 conditions to make sure that before there's final
8 subdivision approval and building permits issued and
9 those sorts of things can happen, that there must be:
10 Approval as to roadway and traffic improvements signed
11 off on by the county, implementation of an acceptable
12 water supply plan, again, signed off on by the county.

13 And, finally, a clear, definite plan as to
14 where and how the sidewalk will be constructed with
15 the approval of the appropriate county authorities.
16 And we have sort of standard usual conditions. And I
17 think those should apply as well. But those are the
18 three particular areas of concern in my mind.

19 CHAIRMAN LEZY: Thank you. Further
20 discussion? Commissioner Judge.

21 COMMISSIONER JUDGE: One comment on that
22 walkway issue. A lot of discussion took place about
23 the walkway for the children going from Haleakala
24 School. And, again, in talking with all the people in
25 the community it just seems that it's imperative that

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1 that walkway go on the makai side. And I don't know
2 if you'd be willing to include that into your
3 considerations. But from everybody, and I think you
4 heard testimony, it's just very important that that go
5 on the makai side of the road.

6 CHAIRMAN LEZY: Commissioner Makua.

7 COMMISSIONER MAKUA: I'd like to include
8 here: We have the Kula Community Association proposed
9 about the burial sites, that: The Applicant shall
10 complete a comprehensive archaeological and burial
11 site survey, a compliance plan, and gain approval of
12 the survey results and recommendation from both SHPD
13 and the Maui Burial Council.

14 I think I feel I was disappointed with the
15 cultural study of this area. And I just feel that
16 needs to be more thorough. So if we could include.

17 COMMISSIONER LEZY: Commissioner Makua, then
18 you're offering an amendment to Commissioner Heller's
19 motion?

20 COMMISSIONER MAKUA: Yes.

21 CHAIRMAN LEZY: Commissioner Heller?

22 COMMISSIONER HELLER: I have no objection to

23 the amendment.

24 CHAIRMAN LEZY: Further discussion? It
25 seems we're prepared, then, for a vote. Before we do

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1 so let me say this. To the parties, thank you for
2 putting on cases that we thought were very helpful to
3 the Commission. You did so, I think, in a cooperative
4 way in a difficult case.

5 Thank you to the staff always for all your
6 hard work on these matters. Your work is invaluable
7 to the Commission. But maybe most importantly I think
8 in this process I want to thank the folks, all of the
9 folks who took a great deal of time out of their, I'm
10 sure, busy lives to come and provide public testimony
11 on this matter.

12 As Commissioner Heller said I think very
13 aptly, this is a difficult process for the Commission
14 in this docket matter and all the docket matters that
15 we typically have before us because there are always
16 competing opinions about whether a requested action is
17 appropriate or not.

18 And I think you've heard from the
19 Commissioners who have spoken, and I think I can
20 safely say for those who have not expressed their
21 feelings that this is a difficult process for us. I
22 can assure you that we all take this obligation very
23 seriously.

24 In this instance I can say for myself and I
25 can say safely for the other Commissioners who are
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1 before you, that we carefully weighed both sides of
2 this Petition matter. And regardless of what our
3 ultimate decision may be, I hope you can appreciate
4 the fact that there was hard work put into this and
5 careful consideration.

6 With that, Mr. Davidson, would you please
7 poll the Commission.

8 MR. DAVIDSON: This is a motion to approve
9 All-790 with the standard conditions plus the three
10 areas referenced by Commissioner Heller and the fourth
11 area added by Commissioner Makua.

12 COMMISSIONER JUDGE: I was just wondering.
13 The comment I made about the mauka-makai sidewalk, is
14 that going to be included or not?

15 CHAIRMAN LEZY: Do you want to offer an
16 amendment, Commissioner Judge?

17 COMMISSIONER HELLER: I don't know that I'm
18 prepared to say that as a condition it has to be on
19 one side or the other. I would just prefer to say
20 that it must be approved by the county authorities,
21 wherever the finally location ends up being.

22 CHAIRMAN LEZY: Is that acceptable,
23 Commissioner Judge?

24 COMMISSIONER JUDGE: No, but that's okay.
25 It's fine.

1 CHAIRMAN LEZY: Okay.

2 MR. DAVIDSON: Okay. Vote on the motion as
3 stated. Commissioner Heller?

4 COMMISSIONER HELLER: Yes.

5 MR. DAVIDSON: Commissioner Matsumura?

6 COMMISSIONER MATSUMURA: Yes.

7 MR. DAVIDSON: Commissioner Judge?

8 COMMISSIONER JUDGE: No.

9 MR. DAVIDSON: Commissioner Teves?

10 COMMISSIONER TEVES: Yes.

11 CHAIRMAN LEZY: Commissioner McDonald?

12 COMMISSIONER McDONALD: Yes.

13 MR. DAVIDSON: Commissioner Makua?

14 COMMISSIONER MAKUA: Aye.

15 MR. DAVIDSON: Commissioner Chock?

16 COMMISSIONER CHOCK: Yes.

17 MR. DAVIDSON: Chair Lezy?

18 CHAIRMAN LEZY: Yes.

19 MR. DAVIDSON: The motion passes seven to
20 one with one excused, Chair.

21 CHAIRMAN LEZY: Thank you very much. Unless
22 there's any further business --

23 AUDIENCE MEMBER: Could you repeat the
24 conditions please.

25 CHAIRMAN LEZY: The conditions are in the

1 record. The conditions will be included as part of
2 the Draft Decision and Order which will be made
3 available. Is there any additional business before we
4 adjourn?

5 MR. LIM: I'd like to thank the Commission
6 for its hard work on behalf of Clayton Nishikawa and
7 his support team, thank you very much.

8 CHAIRMAN LEZY: Commissioners, anything else
9 before we adjourn? There is one pending matter for
10 anybody who may be interested. While the hearing will
11 be adjourned, the meeting will continue with a site
12 visit in Docket matter A10-789 A&B Properties, Inc.
13 Wai'ale, Maui. And the site visit will convene here
14 at the Maui Arts and Cultural Center.

15 Commissioners, anything else before we
16 adjourn this part of the meeting? Thank you again.
17 We stand adjourned.

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19 (The proceedings were adjourned at 10:05 a.m.)

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C E R T I F I C A T E

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5 I, HOLLY HACKETT, CSR, RPR, in and for the State
6 of Hawai'i, do hereby certify;

7 That I was acting as court reporter in the
8 foregoing LUC matter on the 6th day of January
9 2012;

10 That the proceedings were taken down in
11 computerized machine shorthand by me and were
12 thereafter reduced to print by me;

13 That the foregoing represents, to the best
14 of my ability, a true and correct transcript of the
15 proceedings had in the foregoing matter.

16

17 DATED: This _____ day of _____ 2012

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22 _____
23 HOLLY M. HACKETT, HI CSR #130, RPR
24 Certified Shorthand Reporter
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