

LAND USE COMMISSION
MINUTES OF MEETING

Conference Room 405
State Office Tower, Leiopapa A Kamehameha
235 South Beretania Street
Honolulu, Hawaii

August 8, 2003

COMMISSIONERS PRESENT: P. Roy Catalani
Bruce Coppa
Isaac Fiesta
Steven Montgomery
Randall Sakumoto
Peter Yukimura

COMMISSIONERS ABSENT: Pravin Desai
Lawrence Ing
Rae McCorkle Sultan

STAFF PRESENT: Diane Erickson, Deputy Attorney General
Anthony J. H. Ching, Executive Officer
Russell Kumabe, Staff Planner
Caroline Lorenzo, Acting Chief Clerk
Holly Hackett, Court Reporter

Presiding Officer Catalani called the meeting to order at 8:39 a.m.

A03-740 MAUI LAND AND PINEAPPLE COMPANY, INC. (Maui)

Presiding Officer Catalani announced that this was an action meeting on Docket No. A03-740 Maui Land and Pineapple Company, Inc. to determine whether an environmental impact statement is required pursuant to the Order for Summary Judgment issued by the Second Circuit court, State of Hawaii, on April 16, 2003, and the petition for reclassification of approximately 40.6 acres of land currently in the Agricultural District into the Urban district at Pukalani, Makawao, Maui, for the development of a town center including a commercial, office, civic, cottage industries, senior and multi-family residential and open space uses.

APPEARANCES

Randall Endo, Esq., represented Petitioner

John Chang, Esq., represented the State Office of Planning

Abe Mitsuda, State Office of Planning

Presiding Officer Catalani addressed Malama Maui's correspondence regarding its intention to intervene; a request to treat the LUC's action on Petitioner's EIS as a contested case hearing; and a request for continuance of the LUC's determination that an EIS will be required for the subject docket.

Presiding Officer Catalani stated that the subject Petition was not properly filed before the Commission pursuant to Section 15-15-50(f), Hawaii Administrative Rules, hence the LUC's action on determining that an EIS will be required pursuant to the order from the Second Circuit Court, State of Hawaii, was a preliminary procedure. In addition, Malama Maui has not been established as a party to the proceedings. Upon these circumstances, Presiding Officer Catalani ruled Malama Maui's request out of order. He acknowledged its intent to intervene and directed Staff to process the notice of intervention pursuant to the Commission's rules.

Mr. Kumabe, staff planner, provided a brief summary of the EIS action issue and the court order. He referenced location maps, which was provided by the Petitioner in its Draft EIS. He indicated that the EIS was filed pursuant to the court order, which was initially submitted to the County of Maui with the Planning Department as the accepting authority for an initial community plan amendment in 2002. The court order overturned the acceptance of the initial EIS by the Planning Department and designated the Land use Commission as the appropriate accepting authority.

Mr. Endo stated that he appeared on behalf of the Petitioner in a dual capacity – As development manager for the Petitioner and as counsel for the Petitioner. He also stated that Steven Lim, who is primary counsel, could not be present to the proceedings.

Mr. Endo briefly described the project for those who were not able to attend the site inspection. He also referenced a color printout of the general site plan. He indicated that he believed this is a good project and that there was strong comment in the community for this type of uses as it will clearly be a benefit to the island of Maui.

Mr. Chang indicated that the State's position was that there has been a decision made by the Second Circuit Court that the Land Use Commission is the proper place to file the EIS.

The Petitioner indicated that it has no objections to filing the EIS.

Commissioner Montgomery moved that the Petitioner be required to complete an EIS for this Commission's review and approval. Commission Fiesta seconded the motion. The Commission was polled as follows:

Ayes: Commissioners Montgomery, Fiesta, Coppa, Sakumoto, Yukimura, and Catalani.

The motion passed with 6 ayes and 3 absent.

The meeting was adjourned at 8:55 a.m.

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