

LAND USE COMMISSION  
MINUTES OF MEETING

July 23, 2004

Makena Salon Ballroom  
Maui Prince Hotel Makena Resort  
5400 Makena Alanui  
Makena, Maui, Hawaii

COMMISSIONERS PRESENT: P. Roy Catalani  
Kyong-Su Im  
Lisa Judge  
Steven Montgomery  
Randall Sakumoto  
Peter Yukimura

COMMISSIONERS ABSENT: Bruce Coppa  
Pravin Desai  
Isaac Fiesta, Jr.

STAFF PRESENT: Diane Erickson, Deputy Attorney General  
Anthony Ching, Executive Officer  
Maxwell Rogers, Staff Planner  
Caroline Lorenzo, Acting Chief Clerk  
Holly Hackett, Court Reporter

Chair Catalani called the meeting to order at 8:37 a.m.

A04-746 WAIKAPU 28 INVESTMENT LLC

Chair Catalani announced that this was a hearing on Docket No. A04-746 Waikapu 28 Investment, LLC (Maui) to reclassify approximately 28.7 acres of land currently in the Agricultural District into the Urban District.

## APPEARANCES

Blaine Kobayashi, Esq., represented Petitioner – Waikapu 28 Investment, LLC

Scott Nunokawa, Waikapu 28 Investment, LLC

Jane Lovell, Esq., represented County of Maui Department of Planning

Michael Foley, County of Maui Department of Planning

John Chang, Esq., represented State Office of Planning

Abe Mitsuda, State Office of Planning

Mary Alice Evans, State Office of Planning

Chair Catalani asked Mr. Kobayashi if staff had provided notice and if he had any comments with respect to the Commission's reimbursement policy relative to the publication of hearing notices and the court reporter's fees. Mr. Kobayashi answered in the affirmative and had no comments or objections to the Commission's policy.

There were no public witnesses.

## Staff Report

Staff Planner Maxwell Rogers provided the Commission with a staff report and a map orientation of the subject docket using LUC maps and a PowerPoint Presentation.

## Admission of Exhibits by the Parties

Mr. Kobayashi introduced and described Petitioner's Exhibits 1-18 and Final List of Exhibits. There were no objections by the State and County. Said exhibits were admitted into the record.

Ms. Lovell indicated that the County had not submitted any written testimony, but had a number of exhibits. She introduced and described Exhibits 1-7. She also indicated that there was an error to Exhibits 2 and 3 and would have replacement copies shortly. There were no objections by the State and Petitioner. Said exhibits were admitted into the record.

Mr. Chang introduced and described Office of Planning's Exhibits 1-6, First Amended List of Witnesses, and First Amended List of Exhibits. There were no objections by the County or Petitioner. Said exhibits were admitted into the record.

Mr. Kobayashi indicated that after the June 25<sup>th</sup> Prehearing meeting with staff and the parties, a Draft Stipulated Decision & Order had been drafted and distributed to the County and State. He further indicated that the parties had met and discussed the stipulated Decision & Order and that a copy of the proposed stipulation had been provided to the LUC staff.

Mr. Kobayashi made a presentation of its case. He indicated that he will present four live witnesses for which he had previously submitted written testimonies. He indicated his intention to have each witness highlight their testimony subject to cross-examination by the State, County and Commissioners.

#### PETITIONER'S WITNESSES

##### 1. Scott Nunokawa

Mr. Nunokawa stated that he was the managing member of Waikapu 28 Investment, LLC. He briefly described his educational background, as well as his work experience in construction and development where he has held various executive positions. He provided a summary of his testimony, which was submitted Petitioner's Exhibit 15. In his testimony, he also referenced Petitioner's Exhibit 10 – the conceptual subdivision map for the proposed subdivision.

#### Cross Examination

Ms. Lovell's questions and concerns was related to water conservation measures during construction and after buildout, the use of nonpotable water system, and cooling systems.

Mr. Chang's questions and concerns covered issues related to: the protection of the public from injury or accident relative to the Waihee Ditch; any archaeological finds; fulfillment of affordable housing requirements; the need for traffic mitigation policies; fair share or impact fees; and other recommendations for conditions appropriate for this docket.

Commissioner Im excused himself from the proceedings at 9:36 a.m., and returned to the proceedings at 9:41 a.m.

Commissioner Montgomery provided some questions and concerns relative to water and housing rights.

Commissioner Im had questions and concerns related to the amount the property was purchased for, any seller's rights, and the size of the property. His stated reason for the questions was to put into perspective the requirements on affordable housing. Petitioner indicated that they will comply with the affordable housing requirements.

A recess break was taken at 9:51 a.m. The meeting reconvened at 10:07 a.m.

Commissioner Judge's questions was related to the guidelines to designate ohana parking stalls. Mr. Nunokawa indicated the project CC&Rs and associated county guidelines would speak to include rules on designating stalls.

## 2. Michael Munekiyo

Mr. Munekiyo briefly summarized his written testimony that was submitted as Petitioner's Exhibit 17, and noted that his credentials and educational background had been previously submitted as Petitioner's Exhibit 3. Mr. Munekiyo was qualified as an expert in land use and planning. There were no objections by the parties. He also referred to the environmental report, which was submitted as Petitioner's Exhibit 2.

Mr. Munekiyo expounded on solid waste management and the capacity in existing landfill and plans for future expansion. Mr. Munekiyo believed that it would not be an issue with this type of development.

The County had no questions.

Mr. Chang had questions relating to the Punawai Spring located adjacent to the Waihee Stream. Mr. Munekiyo responded that there was no evidence of a spring on the property, but indicated that there is an existing reservoir.

## 3. Warren Unemori

Mr. Unemori summarized his written testimony, which was submitted as Petitioner's Exhibit 16. He was also qualified as an expert in the field of engineering and drainage. There were no objections by the parties. He referred to Exhibit 11 in his testimony. He described the water improvements that will occur in this project and what the applicant is proposing.

Ms. Lovell had questions relating to flood control in the area of Waiko Road and the reservoir.

Mr. Chang asked where was the source of water for the reservoir located in the petition area. Mr. Unemori responded that the water comes from the Waihee Ditch and indicated that the petitioner would block off the entrance to the reservoir.

Commissioner Im asked questions relating to the location of the existing reservoir on the property and its consideration for wetlands by the Army Corp of Engineers. Mr. Unemori indicated that there was a small reservoir and referred to Exhibit 10. He further indicated that the Petitioner has a right to expand the reservoir, that the reservoir will be used to irrigate the cane fields. He also indicated that the two-

acre park to be dedicated was the responsibility of the County and could try to use the nonpotable water to irrigate the park.

Vice Chair Sakumoto asked that the agreement between the Petitioner and Spencer Homes regarding storage capacity and drainage conditions be submitted into the record as an exhibit by the Petitioner.

A break was taken at 11:40 a.m. The meeting reconvened at 1:07 p.m.

#### 4. Phillip Rowell

Mr. Rowell provided a brief summary of his written testimony, which was submitted as Petitioner's Exhibit 18, and his resume was attached as Petitioner's Exhibit 4. He also referred to Exhibits 11 and 12 in his testimony. He was previously qualified by the LUC as an expert in traffic engineer and performed a traffic impact analysis on the project. There were no objections by the parties to his qualifications.

Mr. Rowell provided a summary of the TIAR report. He indicated that the traffic forecast generated was based on single family and ohana units. He also indicated that he used the Los Angeles (LA) criteria when performing his traffic impact analysis report. He recommended that a traffic signal be installed to mitigate traffic impacts and that regional traffic would be enhanced if Waiale Road were extended to Waiko Road.

Ms. Lovell asked Mr. Rowell to elaborate on the traffic signal at Waiko Road and Honoapiilani as a result of the Spencer Homes project. Mr. Rowell responded that DOT had received requests over the years for a traffic signal at Waiko Road and indicated that Spencer Homes would participate in the traffic signal improvements. Ms. Lovell then expressed her concern over the use of the LA criteria for the island of Maui.

Mr. Chang asked questions relating to the Spencer Homes project and its participation in the traffic improvements and expressed concerns relating to access to Honoapiilani Highway.

In response to Vice Chair Sakumoto's question regarding the status of the Waiale Road extension, Mr. Rowell responded that it was part of the Spencer Homes project and has gone to the County Council committee for review.

## COUNTY OF MAUI'S WITNESSES

### 1. Eva Bloominsein

Ms. Bloominsein stated that she was the water resource planner for the County of Maui Department of Water Supply. She provided the Commission with her educational background. She also provided a background relating to water resource to the Commission submitted as County's Exhibits 2 and 3.

Ms. Lovell asked questions relating to the water needed for this project. Mr. Bloominsein indicated that the standard computation was per housing unit or per acre and based on the number of service need for the specific area. She provided a figure of 86,000 gpd and indicated that the County cannot guarantee water from existing sources for this project. She further indicated that there will be new sources in the near future, and that once the project is ready for development, that new sources could potentially be tapped.

The Petitioner and the State had no questions.

Commissioner Im asked for Ms. Bloominsein's opinion if there would be enough water to serve all the projects in the area. Ms. Bloominsein responded that it would depend on the timeframe and on a first come, first serve basis.

Mr. Chang asked the Commission if he could call out of order their water expert to testify on the water issues.

Vice Chair Sakumoto excused himself from the proceedings at this time.

A recess break was taken at 2:24 p.m. The meeting reconvened at 2:34 p.m.

Vice Chair Sakumoto returned to the proceedings at this time.

## STATE'S WITNESS

### 1. Roy Hardy

Mr. Hardy provided testimony regarding water sources and state policies for the island of Maui.

The County had no questions.

Commissioner Im expressed concern that there was not enough capacity to pump water for the project. Mr. Hardy indicated that the Iao Aquifer was undergoing study and analysis as to its sustainable yield.

The State had referred to a February 9, 2004 memorandum. Vice Chair Sakumoto asked the State that the memorandum be submitted to the Commission as an exhibit.

Mr. Hardy referred to the 1990 Water Use Development Plan, which indicated a 20-year projection to the year 2010. He further indicated that the plan varies between each County.

#### COUNTY OF MAUI'S WITNESSES – continued

##### 2. Alice Lee

Ms. Lee stated that she has served as the Maui County Housing Director for 5 ½ years. She also provided her work experience and background with the City Council and numerous committees for affordable housing. Ms. Lovell then offered Ms. Lee as an expert in the field of housing. There were no objections by the parties.

Ms. Lee indicated that she had one preliminary meeting with the Petitioner. She indicated that the department supports the project and believed that there is a need for various types of housing. She further indicated that the price range is anticipated for the high-moderate category, and confirmed that affordable housing was a component of this project. She also confirmed that the cost of the affordable homes would be 120% or less than the median income. She explained to the Commission what the County guidelines consisted of and how it works.

She added that there are a substantial number of affordable units planned for the County of Maui, and that the administration and the department had been heavily invested in assisting the Spencer Homes project for over 14 months, and that the project meets a very important need in the community. She further added that prices are set starting at \$225,000 and 400 units are projected.

Mr. Chang asked questions relating to the anticipated cost of the houselots and how the County had derived to that amount.

There were no questions by the Petitioner.

Commissioner Yukimura asked a hypothetical question as to the developer selling all the lots at less than market price and considering that an overall contribution

for affordable housing. Ms. Lee indicated that the County is mandated to help those less fortunate and who need the most help and public subsidy.

Vice Chair Sakumoto asked Ms. Lee what would be her best guess of the level of demand for affordable housing on Maui. She responded that the study indicated a need for over 3000 units over the next four years. She also indicated that the applicant follow the affordable housing guidelines for the County of Maui.

Chair Catalani asked questions regarding high-moderate income. Ms. Lee indicated that affordable housing is a range of prices, which was established by HUD who reviews and sets the median, low, low-moderate, moderate, and high-moderate income guidelines.

Chair Catalani asked that with the demand for 3000 affordable units in the County, how many units were projected to be developed on Maui. Ms. Lee indicated that approximately 40% is released to be available as affordable units, and hoped that approximately 2000 units would come on line in the next four years. She noted that because of economic conditions, projects do not go forward.

### 3. Michael Foley

Mr. Foley was offered as an expert in urban planning. There were no objections by the parties. Mr. Foley indicated that the department supports approval of this project, and the petition area was designated on the Wailuku-Kahului Community Plan for single-family residential development. He further indicated that the department had concerns regarding the issues of traffic, impacts on the project, school, and water resources. He explained that the Community Plan showed that this property was an extension of the Waikapu community, that the project would provide buildable lots at a price where housing is likely to be sold at moderate costs; and would address the need for gap housing between the market and affordable guidelines. He further indicated that he will be reviewing the project when it comes before the Maui Planning Commission and the Maui County Council. There were no questions by the parties.

Commissioner Im asked how will the 2-acre park be irrigated and who would be responsible. Mr. Foley responded that the park will be dedicated to the County and maintained by the County Parks Department. Water comes from surface water through the Waihee ditch and onto the property.

Commissioner Judge asked what the County's intentions were regarding Waiko Road. Mr. Foley responded that they hope to accumulate contributions from landowners for the reconstruction and improvements to Waiko Road and obtain a

formalized agreement. He further indicated that the extension of Waiko Road is rated high on the County's priority list.

In closing, Mr. Foley expressed concerns regarding traffic circulation and oriented the Commission to the various road improvement projects planned for the area, and that the County will be review a lot of different affordable housing project throughout the County.

Chair Catalani announced that this hearing would be continued to September 3, 2004.

The meeting was adjourned at 3:58 p.m.

*(Please refer to LUC Transcript of July 23, 2004 for more details on this matter.)*