

LAND USE COMMISSION
MINUTES OF MEETING

September 3, 2004

Elleair Ballroom
Maui Beach Hotel
170 Kaahumanu Avenue
Kahului, Maui, Hawaii

COMMISSIONERS PRESENT: P. Roy Catalani
Isaac Fiesta
Lisa M. Judge
Kyong-Su Im
Randall Sakumoto
Peter Yukimura

COMMISSIONERS ABSENT: Pravin Desai
Michael D. Formby
Steven Montgomery

STAFF PRESENT: Diane Erickson, Deputy Attorney General
Anthony Ching, Executive Officer
Maxwell Rogers, Staff Planner
Sandra Matsushima, Chief Clerk
Holly Hackett, Court Reporter
Walter Mensching, Audio Technician

Chair Catalani called the meeting to order at 8:40 a.m.

DOCKET NO. A04-746 WAIKAPU 28 INVESTMENT (Maui)

Chair Catalani stated that this was a continued hearing to consider the reclassification of approximately 28.7 acres of land currently in the agricultural district in to the urban district at Waikapu, Maui, Hawaii.

APPEARANCES

Blaine Kobayashi, Esq. representing Waikapu 28 Investment
Scott Nunokawa, Waikapu 28 Investment

Jane Lovell, Esq., represented County of Maui
Joe Aleueta, 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

Admission of Supplemental Exhibits by the Parties

Mr. Kobayashi stated that they have submitted a supplemental list of exhibits as requested by the Commission at the last hearing, relative to the water tank agreements. Also, submitted as exhibits were correspondence between Waikapu 28 Investment and the Department of Transportation (DOT) pertaining to traffic conditions. The County and the State had no objections. Said exhibits were admitted into the record.

Commissioner Im had questions and concerns relating to the water tank expansion and the County water codes.

Mr. Chang reported that they have submitted exhibit 7, which is correspondence from the Commission on Water Resources that was requested by the Commission at the last hearing. Also, submitted exhibit 8, which is correspondence from DOT. There were no objections by the Petitioner and the County. Said exhibits were admitted into the record.

STATE'S WITNESSES

1. Abe Mitsuda

Mr. Mitsuda stated that he is the Administrator of the State's Office of Planning, Land Use Division. Mr. Mitsuda reported that they are working with the Petitioner trying to stipulate the conditions. He added that the single-family use conforms to the Wailuku Community Plan and that the State is in support of the proposed project.

After a brief discussion, there were no further questions by the parties or the Commission.

2. Charlene Shibuya

Ms. Shibuya stated that she is the design engineer with DOT's Maui District Office. Ms. Shibuya reported that they have reached an agreement having worked with

the developer regarding the local and regional improvements that will satisfy DOT's future fair share requirement.

Commissioner Judge had questions and concerns in reference to correspondence from the Department of Agriculture regarding the drainage retention basin and if there were any follow up correspondence.

Vice Chair Sakumoto noted a concern regarding the draft letter dated August 9, 2004 from Carlsmith Ball, B. Martin Luna, exhibit 21, indicating that the exhibit letter is unsigned.

After a discussion, there were no further questions by the parties or the Commission.

Chair Catalani stated that the Commission will leave the record open for the parties to submit Mr. Luna's letter and to follow up on the drainage issue.

Chair Catalani noted that there was no public testimony.

A recess break was taken at 9:30 a.m. The meeting reconvened at 10:50 a.m.

DOCKET NO. A04-748 CONSOLIDATED BASEYARDS LLC (Maui)

Chair Catalani stated that this was an action meeting to consider acceptance of Consolidated Baseyards LLC's Final Environmental Assessment for the reclassification of approximately 23.164 acres of land in the Agricultural District to the Urban District at Waikapu, Maui, Hawaii.

APPEARANCES

Blaine Kobayashi, Esq. representing Waikapu 28 Investment
Karlyn Kawahara, Munekiyo & Hiraga
Dave Ward, Consolidated Baseyards
Jane Lovell, Esq., represented County of Maui
Michel Foley, Director, County of Maui, Department of Planning
Joe Aleueta, 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

There were no public witnesses.

Mr. Kobayashi commented on the proposed project and stated that petitioner has addressed all of the requirements and have submitted comprehensive and sufficient evidence to show that there will be no finding of significant impact in this area. Mr. Kobayashi indicated that the petitioner requests the Commission's approval of the Final EA.

Staff Report

1. Anthony Ching

Mr. Ching provided a GIS map orientation of the proposed area and briefly summarized the staff report before the Commission. There were no questions by the parties and the Commission.

Commissioner Im had questions and concerns relative to the anticipated users and/or potential lessees, light industrial uses, solid waste issues, recycling, heavy truck traffic, and road maintenance.

Ms. Lovell commented that the County did not receive a complementary copy of the FEA. The County's concerns are similar to that of the LUC staff. In addition, the Phase I figures and drawings should be attached in the final EA and include comments from DOT on the heavy truck traffic.

Mr. Chang reported that the State's concern was that they also have not received the FEA, so it is difficult for them to comment. However, the State's concerns were relative to flooding issues. After reviewing staff's presentation, the State believed that no fatal flaws exist and should not prevent this petition from moving forward.

Vice Chair Sakumoto moved to accept Consolidated Baseyard LLC's Final Environmental Assessment, subject to the amendments offered by the petitioner and the representations made by staff and the County, and confirmation by the Executive Officer. The motion was seconded by Commissioner Fiesta.

AYES: Commissioners Sakumoto, Fiesta, Im, Judge, Yukimura, Catalani

NAYS: None

The motion passed with a vote of 6 and 3 absent.

A recess break was taken at 11:04 a.m. The meeting reconvened at 1:10 p.m.

DOCKET NO. A04-750 SPENCER HOMES, INC. and the COUNTY OF MAUI
DEPARTMENT OF HOUSING AND HUMAN CONCERNS (Maui)

Chair Catalani stated that this was an action meeting to consider the application for intervention by Majesty Akahi Nui, trustee of the Kingdom of Hawaii Nation Ministry Trust.

APPEARANCES

Blaine Kobayashi, Esq. representing Spencer Homes, Inc.
Wahine Akahi, Kingdom of Hawaii Nation Ministry Trust
Jane Lovell, Esq., represented County of Maui
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning
Mary Alice Evans, State Office of Planning

There were no public witnesses.

Staff Report

1. Maxwell Rogers, Staff Planner, provided a GIS map orientation of the area and briefly summarized the staff report before the Commissioners. There were no questions by the parties and the Commission.

Ms. Akahi commented about title/ownership issues in the petition area and indicated that they are still waiting for research documents to be completed by state archives.

Mr. Kobayashi stated that the Petitioner's documents have been submitted and reviewed and that adequate time and notice had been given to the applicant to submit their documents.

Ms. Lovell stated that the County has submitted written opposition to the application and believe that the applicant has not met the relevant requirement.

Mr. Chang reported that the State also had filed a written memorandum in opposition to the motion to intervene.

Vice Chair Sakamoto moved that the Commission deny the motion to intervene on the grounds that the applicant has not established any credible evidence supporting their contention that their interest in the land or in their proceedings were

distinguishable from that of the general public. The motion was seconded by Commissioner Yukimura.

Vice Chair Sakumoto noted that the focus of the motion be the title report already submitted by the Petitioner. Although the Commission sympathizes with the applicant, the decision by the Commission should be based on the documentation submitted.

AYES: Commissioners Sakumoto, Yukimura, Fiesta, Im, Judge, Catalani
NAYS: None

The motion passed with a vote of 6 and 3 absent.

Chair Catalani adjourned the meeting at 1:30 p.m.

(Please refer to the Land Use Commission transcript of September 3, 2004 for additional details on all of the above matters.)