

LAND USE COMMISSION
MINUTES OF MEETING

February 16, 2006

Kapalua Bay Hotel
1 Bay Drive
Kapalua, Maui, Hawaii

COMMISSIONERS PRESENT: Thomas Contrades
Michael Formby
Lisa Judge
Duane Kanuha
Steven Montgomery
Ransom Piltz
Randall Sakumoto

COMMISSIONERS ABSENT: Kyong-su Im

STAFF PRESENT: Diane Erickson, Deputy Attorney General
Anthony Ching, Executive Officer
Bert Saruwatari, Staff Planner
Sandra Matsushima, Chief Clerk
Holly Hackett, Court Reporter
Wade Kersey, Audio Technician

Chair Sakumoto called the meeting to order at 10:20 a.m.

ADOPTION OF MINUTES

Chair Sakumoto noted a correction on page 7, second paragraph , 3rd sentence should read “Also, the record relevant to the affordable housing condition deserves further examination and analysis.”

Commissioner Piltz then moved to adopt the Land Use Commission meeting minutes of February 3, 2006 as amended. Commissioner Kanuha seconded the motion. The amended minutes of February 3, 2006 was approved by voice votes.

TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported the following schedule:

- March 2 & 3 will be held on Oahu. The March 2 meeting will be held in Kapolei; the March 3 meeting in Honolulu.
- April 20 & 21 may be cancelled or staff may seek to calendar a one-day meeting on Oahu for a report regarding the Waimanalo Gulch special permit.
- May 18 & 19 and June 7, 8, & 9 is scheduled for Lanai.
- June 22 & 23 is being held as a contingency if the Lanai matter is not concluded.

There were no questions posed by the Commission.

LEGISLATIVE UPDATE

Mr. Ching reported that he had circulated a copy of testimony that was drafted and being presented on this date in Honolulu regarding HB 1368 House Draft 1. Mr. Ching noted that it is a significant issue being discussed and asked that the Commission review the document.

There were no questions posed by the Commission.

DOCKET NO. A04-751 MAUI LAND & PINEAPPLE COMPANY, INC. (Maui) PULELEHUA

Chair Sakumoto stated that this was a continued hearing on Docket No. A04-751 Maui Land & Pineapple Company, Inc. – Pulelehua for the reclassification of approximately 310.437 acres of land currently in the Agricultural District to the Urban District at Mahinahina, West Maui, Hawaii for multi- and single-family residential homes and retail commercial spaces.

APPEARANCES

William Yuen, Esq., representing Petitioner

Robert McNatt, Executive Vice President, Maui Land & Pineapple Company

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

Michael Foley, Director, County of Maui Department of Planning

Ann Kua, County of Maui Department of Planning

Gregg Kinkley, Esq., represented State Office of Planning

Laura Thielen, Director, State Office of Planning

Abe Mitsuda, State Office of Planning

Chair Sakumoto commented that there were quite a bit of public witnesses signed up to testify, and that the County of Maui has also scheduled a number of witnesses. Chair Sakumoto asked that the public witnesses who had previously submitted written testimony to briefly summarize their remarks and limit their testimony to 3 minutes so that everyone will have a chance to speak at today's hearing.

Commissioner Piltz noted a disclosure that his company, Piltz Electric, has recently signed a sub-contract with the general contractor of Kapalua Land Company. Commissioner Piltz added that he would still remain fair and impartial in this docket.

Chair Sakumoto polled the parties whether they would have any objections to Commissioner Piltz continuing to participate in the proceeding in light of his disclosure. The parties had no objections.

Mr. Yuen clarified whether or not a person who has publicly testified before the LUC on the same matter will be allowed to testify again.

Chair Sakumoto noted that the LUC has allowed witnesses in the past to testify on more than one occasion on a DBA.

Mr. Yuen stated that for the record, he objects to Mr. Meyer and to anyone else with duplicated testimony.

Chair Sakumoto stated that Mr. Yuen's objection will be noted.

Public Witnesses

1. Dick Meyer

Mr. Meyer stated that he had testified before the LUC three months ago and noted his opposition to the project regarding infrastructure concerns and urged the LUC to carefully look at the representations made by the petitioner regarding project impacts.

Vice Chair Montgomery posed questions regarding the elementary school costs and the donation of land.

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

2. Hans Michel

Mr. Michel stated that he has been a resident in Lahaina for the past 43 years. Mr. Michel expressed his opposition to the project because of the increase in traffic congestion, adding that he has nothing against the development, but that there is a need to have lands available for future mass transit.

Vice Chair Montgomery commented that the need to reserve for future mass transit should be discussed with the county officials on a long-range plan.

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

3. Cosco Corbun

Mr. Corbun stated that he is a full time resident in Maui since 1977 and strongly supports the Pulelehua project. Mr. Corbun added that although work is in abundance on this side, he has never lived on the West side because of the lack of affordable housing.

There were no questions posed by the parties or the Commission.

4. Darice Garcia

Ms. Garcia stated that she is an employee of Kapalua Land Company for 9 years and that they live with parents in Lahaina. Ms. Garcia noted her support for the Pulelehua project because she would like to raise a family in her own home. Ms. Garcia

added that the school would also alleviate the enrollment capacity and traffic congestion.

There were no questions posed by the parties or the Commission.

5. Amy Kahula

Ms. Kahula stated that she grew up in Lahaina and currently rents in Kula. Ms. Kahula added that both her and her husband work two jobs and stay with her grandparents during the week because of the long commute. Ms. Kahula expressed her support for the project noting that Pulelehua will allow many families the opportunity to own their own homes.

Vice Chair Judge asked where Ms. Kahula was employed at. Ms. Kahula commented that she works at Kapalua Land Company and that her husband works at a carpet cleaning business on the West side.

Chair Sakumoto asked what the range in rents were on the West side. Ms. Kahula replied that Lahaina is around \$1200 for a 1-bedroom unit with no utilities and a shared bathroom.

Vice Chair Judge asked what the rents were in Kula. Ms. Kahula replied that they pay \$800 a month for a fairly large place, just that it is not in Lahaina.

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

6. Nell Woods

Mr. Woods stated that he lives in Kahana and has testified before on this matter. Mr. Woods noted his concerns on regional infrastructure needs and commented that it is the right project in the wrong time and in the wrong place.

After a brief discussion, there were no questions posed by the Commission.

7. Marika Zimmerman

Ms. Zimmerman stated that she was born and raised in West Maui and currently lives with her parents. Ms. Zimmerman noted her support for the project adding that

she believed the project would help with easing the traffic since the residents will be employed on the West side.

There were no questions posed by the parties or the Commission.

8. Daniel San Miguel

Mr. San Miguel stated that he lives in Wailuku and is an employee of Maui Land and Pineapple in the Information Technology department. Mr. San Miguel commented on the need for affordable housing, especially in this area. Mr. San Miguel noted his support for the project adding that Maui Land and Pineapple has a history of providing housing opportunities to its employees.

There were no questions posed by the parties or the Commission.

There were no other public witnesses.

A recess break was taken at 11:20 a.m. The meeting reconvened at 11:30 a.m.

County's Witnesses

1. Michael Foley

Mr. Foley stated that he is Maui County's Planning Director and provided a summary of his education and work experience. Mr. Foley commented on the County's support on this project. Mr. Foley provided a brief summary and referenced the County's exhibit 3, map of Maui County. Mr. Foley added that the County is in support of the project's mitigation measures, school, and affordable housing proposal.

Mr. Foley was qualified as an expert in planning for purposes of this docket. There were no objections by the parties.

Ms. Lovell commented that Mr. Foley will return for the County's conclusion after their witnesses have testified.

2. Charles Hirata

Captain Hirata stated that his police substation is on the West side and noted that of the approximate 45 officers, only 5 live in the Lahaina district. Captain Hirata added that this could present problems in emergency situations, overtime, call back,

officer retention issues, and personnel retention issues. Captain Hirata discussed issues of traffic impacts and recommended that the elementary school be built concurrently with the residential project. Captain Hirata also recommended that the proposed 5 access points are good for emergencies and could move people quicker with less speeding, and recommends a pedestrian bridge for a free flow of people crossing the highway to help cut down on the congestion.

Mr. Kinkley raised questions on traffic patterns, smarter timing signals, widening of the roadways, affordable housing and teacher's housing on campus, reduction of trip generation, emergency and evacuation access points, and the success of traffic calming circles.

Commissioner Piltz posed questions relative to the required number of officers to a beat, the increase in manpower, and the possibility of an out-post base station on the project site.

Commissioner Formby asked if Captain Hirata was comfortable that his district could support the community, even with the increase in units from new developments such as Pulelehua and Kaanapali 2020.

Captain Hirata replied that he may be a few officers and vehicles short, but that he understood the streets will remain private and that the police department will not be enforcing parking violations, just criminal activity within the subdivision.

Vice Chair Judge inquired about the status of the Lahaina bypass.

Captain Hirata replied that the first phase is on track adding that the Lahainaluna Road and Keawe Street extension would alleviate traffic, although the project will take a few years for completion.

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

3. Carl Kapalolo

Chief Kapalolo stated that he has been with the fire department for 31 years and has been the Fire Chief for 2½ years. Chief Kapalolo noted that they have reviewed the interim long-term impacts, street layout and design, and accessibility to the equipment addressed with the uniform fire code providing adequate fire emergency access. Chief Kapalolo added that the design of the roadways including the turnaround and widths

met their requirements. Chief Kapalolo stated that their Napili station should be adequate to provide services to this project. Chief Kapalolo noted his support for the project adding that their employees could live and work there and have additional resources.

Mr. Yuen asked if there were any cooperative agreements with the Kapalua West Maui Airport for assistance with the fire department. Chief Kapalolo replied that he was not aware of any MOU's or agreements with the fire department.

Mr. Kinkley raised questions regarding the lessons learned from other developments, such as the development of Kihei, fire service response time and volume of calls from the growth impacts, staffing, manpower and equipment, and EMS (emergency medical service) personnel.

Vice Chair Judge asked if Chief Kapalolo believed that it was better to have more access points in a subdivision versus one singular access point.

Chief Kapalolo replied that it is always favorable to have more than one access leaving a facility because having more access points allows them more options and that they require 2 options to leave a facility. Chief Kapalolo also noted that it would be important to have several roadway access points for the project's 1,150 housing units.

Commissioner Piltz commented that in many instances the personal income of police and fire personnel when combined with their spouses, would not qualify for affordable housing targeted for families in the 140% of the median income range. Therefore, the project's affordable homes would not be available for these service personnel.

Commissioner Formby asked how the fire department responds to medical emergencies if the ambulances are tied up.

Chief Kapalolo replied that they function as a response unit in that scenario and added that EMS calls currently represents the bulk of their work. Chief Kapalolo also noted that they have studied the Pulelehua project and are confident that the West Maui Fire Department can support the call volume and provide adequate levels of service for this project.

Chair Sakumoto asked if the fire department had any concerns regarding emergency response, hazardous materials, rescues, and other emergency situation with the number of projects coming on line in West Maui. Chair Sakumoto also asked about

the Department's capacity to deal with emergency type situations and disasters where support from Central Maui was cut off.

Chief Kapalolo replied that they share those concerns because they understand they have only one road in and one out and added that they would definitely be impacted by road closures, a rockslide and/or tunnel closures. Chief Kapalolo added that they would have no way to bring in additional resources and noted that they are working with the County departments in order to plan for regional fire protection issues instead of performing only spot planning.

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

4. Patrick Matsui

Mr. Matsui stated that he is the Chief of the Parks Planning and Development Department. Mr. Matsui provided a brief summary of his education and background in the parks and recreation department. Mr. Matsui commented that he has met with Maui Land and Pineapple to discuss the two 5-acre proposed active parks (soccer and little league fields), plus restroom, parking, jogging paths, and landscaping. Mr. Matsui added that Pulelehua proposes to develop and grade, landscape and maintain the parks but will ultimately dedicate it for public uses. Mr. Matsui stated that the parks being proposed by the development will satisfy the County's Parks Department.

Commissioner Formby asked if the fields will have lights at night and who will be responsible for maintaining the parks once it is dedicated for public use.

Mr. Matsui replied that there will be no lights, as normally fields for youth type groups do not have lights for night play. Mr. Matsui added that normally the County would be responsible for the maintenance, but in this case, the Petitioner will maintain it.

Vice Chair Judge posed a few questions relative to the MOU or agreement to maintain the parks.

Mr. Matsui replied that it would run with the land in the subdivision ordinance and they will have some type of legal document to secure that.

Vice Chair Judge commented that she would like to know what would happen if the petitioner did not want to maintain the park years later and how the developers

commitment is memorialized and maintained in perpetuity rather than becoming a burden to the County in the future.

Chair Sakumoto asked if Mr. Matsui had anything in writing regarding the maintenance agreement and commitment.

Mr. Matsui stated that they have nothing legal but just letters in the subdivision ordinance and have done maintenance agreements with other developers and that they condition their approval on not only the dedication of land but for the maintenance.

A lunch break was taken at 12:45 p.m. The meeting reconvened at 1:55 p.m.

5. Alice Lee

Ms. Lee stated that she is the Director of the County's Department of Housing and Human Concerns. Ms. Lee provided a brief summary of her background and experience in County government.

Ms. Lee reference the County's exhibit 5 and discussed the County's affordable housing requirements adding that the Kapalua Land Company will exceed the requirements by providing 51% of affordable units. Ms. Lee noted that the current draft ordinance requires a minimum of 30% affordable. Ms. Lee discussed the need for affordable housing units, how to keep these units affordable, and their recommendation that affordable housing to the lower end incomes should be maintained in perpetuity.

Mr. Yuen asked if is there a current ordinance or official county policy mandating a certain percentage of affordable units in a project development.

Ms. Lee replied in the affirmative and noted that the current percentage is 15% and is an official county policy.

Mr. Kinkley raised a few questions related to the sharing of affordable housing percentage to satisfy both the Kapalua Mauka project and the 15% to cover the current requirement for Pulelehua required by the County. Mr. Kinkley asked if there was some type of restriction.

Ms. Lee replied that they generally prefer that the developer satisfy his affordable housing requirement or that it at least be in the community plan region. In this case, it could be anywhere in West Maui.

Commissioner Formby raised questions relative to keeping the affordable units in perpetuity and income categories.

Ms. Lee stated that they are trying very hard to lengthen affordable periods if not in perpetuity but as long as possible. Ms. Lee commented that they are not applying the long-term restrictions to affordable home sales because they believe that owning a home is a means for the homeowners to advance themselves and by keeping the homes in perpetuity, they protect the homeowner from having to pay for future costs. Ms. Lee also discussed the 10-year buyback and shared appreciation process.

Commissioner Formby also posed questions regarding the maintenance fees on the affordable units associated with the grounds, care taking, etc.

Ms. Lee noted that the maintenance fees would be taken into consideration when they qualify the applicants and would only allow certain income groups to access these homes.

Vice Chair Judge commented that one of the very attractive features of this application was that the Petitioner represented that these homes would be held affordable in perpetuity, yet this is not the County's desire. Vice Chair Judge added that her concern is that the 10 years is not a very long time and didn't want to see these homes sold in 10 years at market rates. Vice Chair Judge asked what would the County's position be if the Petitioner does not want to set up a trust in order to maintain these homes in perpetuity.

Ms. Lee replied that they would find that acceptable because they prefer the higher end units, those at 120-140 percent of the median income and added that she believed that the units should not be restricted to perpetuity. Ms. Lee suggested that if the LUC believed that 10 years was too short a period, then maybe change to 15 years since these units are close to being market priced units with less subsidy and it is the subsidized units that you would want to restrict. Ms. Lee noted that the Petitioner has not yet determined whether they would be responsible or the non profit agency for the oversight and management since the affordable housing agreement has not been finalized yet, although the Petitioner would be setting up a trust and it is the Petitioner's intent to be the entity who will oversee the affordable housing regulations.

Commissioner Piltz commented that the service people need to live on this side and raised questions related to the gap groups and if it was possible for the County to address them.

Ms. Lee replied that there is a great need for gap group housing, but to try and make every developer responsible to take care of the very low end and up to the gap groups becomes difficult for the applicant.

Commissioner Formby asked how a Petitioner could keep a house affordable in perpetuity, for instance when someone buys a home in the zero to 80% range and sells in the 120% would still be considered affordable in perpetuity.

Ms. Lee replied that they will not be monitoring this but a person who buys in a specific category, (i.e. 0-80% or 80-120%), would need to stay in that category and in keeping units in perpetuity affordable the council is proposing that the for sale units remain affordable for 25 years. This means that a homeowner will not renovate or improve if they know they wont get it back if they sell. The for sale units in perpetuity would be for 25 years and rentals would be for the life of the unit.

Vice Chair Judge commented that the LUC has heard a lot of testimony regarding the need for adequate housing for the public sector, (i.e. for police, fire fighters, emergency personnel), and noted that maybe upon his rebuttal, the Petitioner could conduct a lottery for those who desires to live and work here.

Chair Sakumoto posed a few questions related to the ordinance that would address the for sale and rental units and its requirements.

Ms. Lee commented that the requirements would allow the applicant a choice in how to provide affordable housing. The way the current ordinance is, you would pick the categories, as an example, a developer building a 100 unit project overall requirement is 30% or 30 units. The breakdown would be 40 40 30 and you could chose all for sale or all rentals or pay in lieu cash provision which is very high. This ordinance is still in draft form and the next meeting is on March 2 then they will refer to the Planning Commission for review and comment, then a 6 to 7 month restriction and enacted in early 2007.

Vice Chair Judge asked why, under this scenario, a developer would want to build rentals.

Ms. Lee explained that they have two provisions where under the in lieu fees, the developer pays 30% of the average market sales price or \$60,000 per unit if they partner with a non profit who is providing units at the very low end. There is also an opportunity to donate land, and the County is trying hard to discourage anything but provide housing units.

Chair Sakumoto asked for clarification on the required number of affordable housing units for the Kapalua Mauka project.

Ms. Lee explained that the Kapalua Mauka project had 690 units and of the 51% total units at Pulelehua to be developed as affordable, 125 units will satisfy an affordable housing condition for the Kapalua Mauka project. The requirement for Kapalua Mauka was set at 25% from the county council and the 125 units satisfies a portion but not all since the other portion is located somewhere else and there is no double counting.

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

A recess break was taken at 2:45 p.m. The meeting reconvened at 2:55 p.m.

6. George Tengan

Mr. Tengan stated that he is the Director of the Department of Water Supply, County of Maui. Mr. Tengan provided a brief summary of his educational background and work history.

Mr. Tengan stated that he is familiar with the Pulelehua project and discussed the process of a meter reservation system. Mr. Tengan added that they had discussions with the Petitioner and they have two possibilities for source water and that they are participating with the County in expanding the treatment facility. The Petitioner could also construct its own treatment plant and operate or dedicate to the County. Mr. Tengan referenced Petitioner's exhibit 26. Mr. Tengan added that if the Petitioner wants to construct a private treatment plant and operate a private water system then the Petitioner would have to construct their own water treatment plant and have their distribution tanks to service the area. Mr. Tengan also discussed the Lahaina treatment facility and that his department would encourage wherever reclaimed water could be used. Mr. Tengan noted that the department prefers that the Petitioner construct a water treatment plant sufficient to provide their needs and additional capacity where the county could meet its future demands. Their water demand is 900,000 gallons per day, and whether the ditch flow could accommodate that demand is unknown. Based on the current agreement with Petitioner, that amount is not available for treatment at the Mahinahina plant and has been negotiating with MLP to increase that amount. The department always recommends best management practices and how the project can use water conservatively. Regarding selecting a well site, one needs to be cautious of the placement of the well to avoid chemicals that were in prior use by the plantation.

Based on available technology treatment mechanisms that exist to ensure clean and safe water, the department feels confident that it would pass standards.

Mr. Yuen had a few questions on drilling wells above the levels of pineapple planting to avoid contamination, and referenced Mr. Tengan's letter dated November 15, 2005 to Ann Kua indicating that the department has plans to increase the capacity of the Lahaina treatment facility.

Mr. Kinkley raised questions on potable and non-potable water uses, ground water wells, upgrading the Mahinahina plant agreement, and the Honolua ditch or Honokohau ditch and drought conditions in the area.

Commissioner Piltz raised questions on the average daily flow of the Honolua ditch, various materials used to filter the water, removal of contaminants, filter manufacturers, and the drilling of wells.

Vice Chair Judge posed questions related to the Lahaina treatment facility and the Mahinahina plant, surface water from the Honolua ditch to be made available for treatment, and an agreement between the department and Petitioner for adequate water sources for Pulelehua.

Mr. Tengan commented that there was enough ditch water to supply that need and believes that the only reason the Petitioner would need a well source would be if they could not reach an agreement with the County or if drilling wells are more financially feasible for them. Mr. Tengan added that it is not the County to make the decision for the Petitioner, as they need to weigh in their own costs.

Mr. Tengan also noted that in drafting the agreement with the Petitioner, they will ask for flow records of the ditch. Mr. Tengan added that they need to ensure that there exists enough water in the ditch without further diversion from the streams and which water can be delivered to their treatment facility.

Chair Sakumoto asked if the department was responsible for supplying water for the fire hydrant system and if Mr. Tengan was familiar with the various development plans for West Maui.

Mr. Tengan stated that they are responsible for the fire hydrant system and was aware of the new developments coming on line. Mr. Tengan also commented on how the pressure is determined, location of the tank and the property being served, and the system is designed to provide adequate pressures at the hydrants. Mr. Tengan also

noted for the design, they require 2 hours of water flow in the localized system, which is tied in to the distribution tank storage requirement through the fire protection system.

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

7. Dave Taylor

Mr. Taylor stated that he is the Division Chief of the Wastewater Division, County of Maui Public Works and Environmental Management. Mr. Taylor summarized his background in education and experience in wastewater and explained some of the factors in determining the wastewater capacity for Pulelehua. Mr. Taylor commented that they would like MLP to build their own plants, but otherwise has the capacity to deal with their wastewater.

Mr. Kinkley raised questions regarding the treatment process, the demands of other developments that may come on line at the same time, and blueprints for the pumping station and funding approvals.

Vice Chair Judge commented on the non-existence of the reservation of water permits and asked if that works the same for wastewater.

Mr. Taylor explained that they also operate in the same fashion and will issue when the building permit is issued. Mr. Taylor added that currently they have the capacity of an additional 1,000 homes and have an idea of the upcoming demands. Mr. Taylor noted that some of these operational improvements may not take much money to increase capacity and they work closely with the planning department for safety and to ensure that they do not overload the treatment plant. Mr. Taylor commented that their current footprint, along with new technology could treat 12 million gallons a day at the current site, which is more than twice the needed capacity in the foreseeable future.

Commissioner Piltz commented that Pulelehua would not tie in to the lower Honoapiilani Highway line and posed questions on the line that extended to Kapalua, and MLP's own wastewater treatment plant and pumping station's capacity.

Commissioner Formby clarified that currently the wastewater treatment plant could accommodate 1,000 additional homes. Mr. Taylor replied in the affirmative.

Chair Sakumoto commented that earlier testimony indicated whether the status of the infrastructure in West Maui was adequate enough to support all the new developments and asked if Mr. Taylor had any comments on upgrades and improvements to the sewer system in this portion of the island.

Mr. Taylor stated that most of the infrastructure was built in the 1970s and are all coming to the end of their lives. Mr. Taylor commented that they monitor and constantly maintain or replace these systems within a 25-year cycle and upon replacement, they are usually upsized at that time.

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

A recess break was taken at 4:05 p.m. The meeting reconvened at 4:25 p.m.

Chair Sakumoto noted that tomorrow's meeting will begin at 8:30 a.m. and will start with the Kuleana Ku`ikahi docket regardless of where they were on this matter.

8. Michael Foley

Mr. Foley continued with his testimony and discussed issues and timeline of the general plan, community plan, and Maui Island plan and a 25 member committee appointed by the Mayor.

Mr. Foley referenced the County's exhibit 1, the written testimony of the Planning Department, and discussed issues of wastewater system, drainage, numerous access points, infrastructure needs, affordable housing mix of land uses and schools, multi model transportation system, and the timing of the elementary school, regional traffic mitigation, regional parks, and the need for a hospital or emergency care center in the area. Mr. Foley referenced Exhibit 1, pages 39 to 40 noting that there will be another chance for the County to work with the developer on conditions to mitigate project impacts and requested that the LUC approve the project but with certain conditions as proposed by the County.

Mr. Yuen referenced exhibits 3 and 4 and asked Mr. Foley to review the list of various proposed development projects in the area and to indicate if either the LUC or the County has approved these projects.

Mr. Foley provided a brief status summary of the major proposed projects as listed in the area.

Mr. Kinkley raised questions on the West Maui Community Plan, urban growth boundaries, identifying IAL, the agricultural classification of the Petition area, and the projected population increases.

Commissioner Kanuha commented on Mr. Foley's testimony regarding updating the County's general plan. Commissioner Kanuha asked how the County would justify supporting this project since 80% of the petition area is classified as IAL prime or class A or B designation.

Mr. Foley stated that they will be submitting their recommended draft plan including identifying IAL to the GPAC (General Plan Advisory Committee) within the next 4 to 5 months before this project goes to the County Council. Mr. Foley explained that in the General Plan, they look at the condition of the infrastructure and adequacy of the public services in order to project any new development or potential growth in West Maui. Pulelehua is proposing a school, located between the two fire stations, located on a major highway, adjacent to the region's only airport and serviceable by sewage treatment plant and water system. This area is appropriate for additional development and the County's goal is to provide housing to those who already work in the area. This should also take cars off the roads traveling from South and Central Maui. Mr. Foley added that this property is not in current agricultural use and has had no agricultural activity for a while. Also, this is an extremely small percentage of agricultural lands owned by Petitioner and is not the best fields for pineapple, being directly adjacent to resident subdivisions and to the airport.

Vice Chair Judge posed questions relative to the transportation impact fees imposed on developers, regional transportation issues, and the West Maui transportation plan.

Mr. Foley stated that the County has an impact fee ordinance that allows them to charge impact fees on West and South Maui and the council may soon convert the ordinance to the entire island. Mr. Foley added that by the time Pulelehua reaches the County Council, the impact fees could be in place.

Vice Chair Montgomery commented that transportation is a key factor and that a public witness testified that this is the right project but at the wrong time. Vice Chair Montgomery asked if this type of testimony should be directed to the State DOT.

Mr. Foley stated that the school and the affordable housing are extremely important and if there is enough affordable housing to mitigate traffic then the balance

is in favor of the project. The affordable housing and the school are significant improvements to West Maui.

Chair Sakumoto posed questions on the construction and completion dates of the elementary school and DOE agreement, if any. Chair Sakumoto also asked if the County had a recommended condition that the LUC could possibly include that relates to the need of the school being built before the homes are occupied.

Mr. Foley stated that the agreement is still being discussed cooperatively between the County and the DOE staff, and also between Petitioner and the DOE. Mr. Foley added that the legislature has allocated the funds and hope that a written agreement would identify how much land and when the school would be built and occupied concurrently with the completed homes.

Chair Sakumoto referenced exhibit 4, the category called growth class, and asked for an explanation of the different classifications.

Mr. Foley stated that the existing category was already completed and proposed are the conceptually designed; and the planned and committed are approved but not yet under construction.

Chair Sakumoto asked what process the County needs to go through, relative to the other county entitlements, to formulate their position on a project for a typical DBA proceeding.

Mr. Foley commented that they have had numerous meetings with the applicant and have been provided with the framework and design. Mr. Foley added that for Pulelehua, they have been prevented from going to the next step, the Planning Commission, because of no response from the DOT.

Chair Sakumoto noted his concern regarding the IAL classification matter as raised by Commissioner Kanuha. Chair Sakumoto asked if this would affect the County's position.

Mr. Foley stated that they have started to identify IAL before the legislation was passed and plans to have that identified on their maps before this project goes to the council. Mr. Foley added that the final position will be with the council.

Mr. Foley also noted that for the elementary school, the best scenario would be the possibility of the Petitioner constructing the school and being reimbursed by the

DOE. The Petitioner has had discussions with the DOE that the developer building the school simultaneously with the homes versus the DOE would be more expeditious.

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

The meeting adjourned at 5:45 p.m.

(Please refer to LUC Transcript of February 16, 2006 for more details on this matter.)