

LAND USE COMMISSION
MINUTES OF MEETING

September 7, 2006

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

COMMISSIONERS PRESENT: Thomas Contrades
Michael Formby
Kyong-su Im
Lisa Judge
Duane Kanuha
Steven Montgomery
Ransom Piltz
Reuben Wong

COMMISSIONERS ABSENT: Nicholas Teves, Jr.

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 Judge called the meeting to order at 10:10 a.m.

ADOPTION OF MINUTES

Vice Chair Formby noted an amendment on the minutes of August 25, 2006, page 3, paragraph 4, second sentence should read "Mr. Kim noted that one of the requirements was that the final plans and specs would be approved and if there is a substantial deviation he would need to return to council for additional approval." Vice

Chair Formby also noted a correction on page 3, last paragraph indicating that the word “uncertainty” should actually be “certainty.”

Commissioner Piltz then moved to adopt the minutes of August 24, 2006 and the amended minutes of August 25, 2006. Commissioner Formby seconded the motion. The minutes of August 24, 2006 and the amended minutes of August 25, 2006 were approved by voice votes.

TENTATIVE MEETING SCHEDULE

Mr. Ching reported that the September 21-22 meeting dates would feature continued hearing on this matter at the same location. The LUC will be attending the HCPO conference in lieu of the first October meeting dates. On October 20, the LUC will hold a one-day meeting in Kauai for the Lihue Plantation docket. Mr. Ching also noted that due to the conference room logistics, the status report for the West Beach Estates Ko`Olina Boat Ramp matter will be heard on December 7-8.

There were no questions posed by the Commission.

Chair Judge noted that the executive session item on the agenda will be deferred until the next meeting since some of the Commissioners were not in attendance.

A05-755 HALE MUA PROPERTIES, LLC (Maui)

Chair Judge stated that this was a continued hearing on Docket No. A05-755 Hale Mua Properties, LLC for the reclassification of approximately 232.135 acres of land currently in the Agricultural District into the Urban District, and 5.918 acres from the Rural District to the Urban District, at Waiehu, Maui, Hawaii for an approximately 466-lot single family residential subdivision.

APPEARANCES

Blaine Kobayashi, Esq., representing Petitioner

Sterling Kim, Hale Mua Properties

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

Michael Foley, Director, County of Maui Department of Planning

Colleen Suyama, County of Maui Department of Planning

Bryan Yee, Esq., represented State Office of Planning

Laura Thielen, State Office of Planning
Abe Mitsuda, State Office of Planning

Mr. Yee commented that in addition to the state's two witnesses to be taken out of order today, they also have a witness who has a scheduling conflict and requested to have Dan Davidson called today. Mr. Davidson is the newly appointed Executive Director of the Hawaii Housing Finance and Development Corporation (HHFDC). There were no objections by the parties.

Public Witness

1. Degray Vanderbilt

Mr. Vanderbilt stated that he is a resident of Molokai, a member of the Molokai Planning Commission, and Chair of the County of Maui's Workforce Housing Task Force. Mr. Vanderbilt stated that he was testifying before the LUC to share his concerns regarding the reclassification of the large lots and his concern for prime agricultural lands being subdivided into smaller lots. Mr. Vanderbilt also strongly recommends doubling the size of the affordable housing lots from 5,000 square feet to 10,000 square feet to give these families a better quality of life.

Mr. Kobayashi asked if Mr. Vanderbilt testified before the county council when the project was going through the 201G process.

Mr. Vanderbilt replied that he did not testify before the council and added that he only recently became aware of this project.

Both the county and the state had no questions for Mr. Vanderbilt.

Vice Chair Montgomery raised questions related to the infrastructure costs associated with any such increase in lot sizes of the affordable lots.

Vice Chair Formby posed a few questions related to the financial viability of the project should the size of the affordable lots be increased.

After a brief discussion, there were no further questions for Mr. Vanderbilt.

Staff Report

1. Anthony Ching

Mr. Ching reported that as directed by the LUC, he sought clarification from Ms. Ranae Ganske-Cerizo, District Conservationist, United States Department of Agriculture Natural Resources Conservation Service as to her objections to the project. Mr. Ching noted that Ms. Ganske-Cerizo was not able to testify before the LUC due to a scheduling conflict, but indicated that she would seek others to provide some clarifying testimony. Mr. Ching added that the Central Maui Soil Water Conservation District Chairperson Douglas McClure has indicated that he would be available to provide testimony at the next LUC meeting and that the LUC has recently received written testimony from Mr. McClure.

A recess break was taken at 11:00 a.m. The meeting reconvened at 11:15 a.m.

Admission of Additional Exhibits

Mr. Yee introduced and offered OP's Exhibit 3, the Draft Waiehu Kou-Paukukalo Regional Community Development Plan. As there were no objections by the parties or the Commissioners, OP's exhibit 3 was admitted into the record.

State's Witnesses

1. Micah Kane

Mr. Kane stated that he is the Chairman of the Hawaiian Homes Commission and the Department of Hawaiian Home Lands (DHHL). Mr. Kane briefly summarized exhibit 3, and the process of drafting the regional plan. Mr. Kane noted that the DHHL intends to have two more community meetings and continuous dialogue and that as their priority, the DHHL plans to better the quality of life in that region. Mr. Kane also discussed the possible construction of a school on lands donated by Hale Mua. Mr. Kane stated that they are in support of the Hale Mua project.

Mr. Kobayashi posed a few questions regarding the regional community plan, partnering with Hale Mua to upgrade the pump station, and the occupancy timeline of Waieku Kou.

Mr. Kane noted that Mr. Abrigo could better answer some of these questions.

2. Scott Abrigo

Mr. Abrigo was sworn in and stated that he is employed at PBR Hawaii and assisted with the development of the regional plan. Mr. Abrigo discussed the wastewater upgrades, pump stations, and the expansion of Waiehu Kou Phase IV.

Ms. Lovell posed questions to Mr. Kane related to the occupancy dates of Waiehu Kou Phase IV, the timing of the infrastructure upgrades, and the benefits of partnering with Hale Mua.

Vice Chair Formby posed a few questions regarding partnering with Hale Mua for the wastewater pump station, technical changes, and the occupancy of Waiehu Kou Phase IV.

Commissioner Piltz referenced page 22 of the regional plan and posed a few questions related to the Kehalani School, St. Anthony's and Emanuel Lutheran Church and Schools. Commissioner Piltz then referenced page 24, and raised questions on Phase II of the Imi Kala extension. Commissioner Piltz also asked about the average lot sizes of Waiehu Kou and the average square footage of these homes.

Mr. Kane stated that they have referenced the schools on pages 11 and 12 and will identify these locations on their maps. Mr. Kane added that the Phase III and IV lot sizes average approximately 7,500 square feet and believed that the average home size ranged up to approximately 1,400 square feet, but that Mr. Sumida could answer these questions more accurately.

3. Larry Sumida

Mr. Sumida was sworn in and stated that he is employed at DHHL. Mr. Sumida stated that the average lot sizes for Waiehu Kou III and IV were 7,500 square feet and that there were four various model homes. The 2-bedroom models were approximately 753 square feet and the 4-bedroom models started from approximately 1,300 square feet with options to enlarge the home sizes. Mr. Sumida was not aware of the sizes of the Paukukalo lots but believed that they were at approximately 10,000 square feet.

Commissioner Kanuha had a few questions and concerns related to the discussions between the DHHL and Hale Mua and asked if Mr. Kane had any additional information on the discussions with the DOE. Commissioner Kanuha also questioned how the DHHL determined lot sizes.

Mr. Kane commented that they were hoping to come before the LUC with much more details and community input and noted that their discussions with the petitioner and DOE are ongoing. Mr. Kane added that many factors are considered when determining lot sizes, but the need for affordable housing was the critical factor when determining lot sizes and that the DHHL is willing to give up the size of the lots to provide shelter to more families.

Chair Judge asked if the 7,500 square feet is the average lot size or does the DHHL offer smaller lots.

Mr. Sumida noted that he will need to check on these numbers and will respond in writing to the LUC with the exact lot sizes.

Chair Judge posed a few questions regarding the total acreage for Waiehu Kou, wastewater improvements, and the approval process for these improvements.

Mr. Kobayashi raised a few questions about any supportive information that suggests that larger lot sizes provides a better quality of life. Mr. Kobayashi also posed a few questions regarding the DHHL's policy on providing affordable homes.

Ms. Lovell posed questions regarding the Waiehu Kou home prices.

After a brief discussion, there were no further questions for Mr. Kane.

A recess break was taken at 12:20 p.m. The meeting reconvened at 12:25 p.m.

4. Brennon Morioka

Mr. Morioka stated that he is the Deputy Director of the Department of Transportation (DOT) Highways Division. Mr. Morioka discussed issues arising from the TIAR prepared by Julian Ng, existing traffic patterns, regional traffic impacts including all known and proposed developments, and intersection improvements. Mr. Morioka added that should the petitioner include a school, the LUC could place a condition for petitioner to conduct another TIAR.

Mr. Kobayashi questioned when such a traffic study should be conducted, whether prior to or subsequent to action by the LUC?

Mr. Morioka stated that the timing of the study did not matter to the DOT.

Ms. Lovell had a few questions related to the construction or design for necessary road improvements shown by a new TIAR.

Commissioner Wong posed a few questions regarding the request for an amended TIAR.

Vice Chair Formby questioned the DOT's preferred timeframe for a TIAR and if the decision to include a school had already been agreed upon, and what would be the preferred timeframe for the submittal of such an amended TIAR.

Mr. Morioka stated that the DOT did not have any preferences but would like to have an amendment prior to any construction work being done. Mr. Morioka added that if a decision to construct a school and access is made at that time, then one TIAR is acceptable. However, if the school and access road are not proposed until a later date, then a second TIAR would be preferred.

Commissioner Kanuha asked Mr. Morioka what impacts the Hale Mua project would have on the region.

Mr. Morioka stated that regardless, whether the Hale Mua project comes on line or not, an updated and amended TIAR will assist the DOT in better understanding what impacts would be on a regional long-term basis. Mr. Morioka added that the department does not support any project, but supports the technical information that they provide.

After a brief discussion, there were no further questions for Mr. Morioka.

A lunch recess was taken at 1:00 p.m. The meeting reconvened at 2:10 p.m.

5. Orlando "Dan" Davidson

Mr. Davidson stated that he is the Executive Director of the HHFDC. Mr. Davidson noted that they are in support of the Hale Mua affordable housing project and discussed the HHFDC's current responsibilities.

Commissioner Kanuha commented that both the county and state are recommending different classifications for this project and questioned if the HHFDC would still support the project under different classifications.

Mr. Davidson replied in the affirmative and added that he would leave the project's configuration up to the various planners and the LUC to resolve that issue.

Commissioner Im posed a few questions regarding the HHFDC's support for all affordable housing projects and the 201G process.

Mr. Davidson commented that they carefully review anyone who comes in with a 201G application to assure that it is a good project. Mr. Davidson noted that Hale Mua is deserving with its 51% affordable component and within the desired income levels. Mr. Davidson added that the difference between the county's 201G process is that the state would require a pro forma or required financial information, but noted that none had been submitted for Hale Mua.

Chair Judge asked if the HHFDC had reviewed any type of financial viability for this project.

Mr. Davidson stated that the HHFDC did not make an independent assessment on the financial viability for Hale Mua.

After a brief discussion, there were no further questions for Mr. Davidson.

EXECUTIVE SESSION

Commissioner Formby moved to go into executive session under §92-5(a)(4), Hawaii Revised Statutes, to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities. Commissioner Piltz seconded the motion. The motion was unanimously approved by a show of hand votes.

The Commission entered into executive session at 2:25 p.m.

The open meeting reconvened at 3:25 p.m.

Petitioner's Witnesses

1. Duane Reddington

Mr. Reddington stated that he is employed by petitioner as the project engineer. Mr. Reddington briefly summarized his education and background in civil, environmental, structural, and landscape engineering. Mr. Reddington was offered as an expert in the fields of engineering and drainage. There were no objections by the parties.

Chair Judge questioned why Mr. Reddington would be offered as an expert witness if he is employed by the petitioner, as experts usually come from an outside party.

Mr. Kobayashi noted that petitioner had another witness, Wayne Arakaki, but unfortunately he could not be here today so they will be offering Mr. Reddington as an expert in the same field.

After a brief discussion, Mr. Reddington was recognized as an expert in drainage and engineering for purposes of this hearing.

Mr. Reddington summarized the written testimony submitted by Mr. Arakaki and the drainage and engineering reports prepared for this project. Mr. Reddington referenced exhibit 4, the preliminary subdivision plan, and exhibit 38, to discuss the drainage systems.

Ms. Lovell raised a few questions regarding issues of the large park along Kahekili Highway and its potential use as a detention basin, solid waste calculations, wastewater capacity, and the ohana units.

A recess break was taken at 4:10 p.m. The meeting reconvened at 4:25 p.m.

Ms. Lovell continued the county's cross-examination of Mr. Reddington and posed questions relative to the park site and the retention basin, park maintenance, wastewater collection, potable and non-potable water sources.

Mr. Yee posed questions in reference to the 50-year storm runoff standard, drainage basins, and wastewater capacity.

Vice Chair Montgomery posed a few questions on the possibility of increasing the size of the lots, the costs involved, and its feasibility.

Commissioner Piltz had a few questions in reference to the statements made by Mr. Arakaki in the FEA regarding drainage, sheet flow, and wastewater.

Commissioner Wong raised questions related to the current flow of water per second, storage, retention basins, surface runoff across the highway, and the possibility of water being channeled over a narrow land area.

Vice Chair Formby had a few questions and concerns in reference to the FEA, Mr. Arakaki's drainage report and map referencing the 4 drainage basins, and the difference between detention versus retention.

Chair Judge posed questions regarding issues of wastewater, partnering with DHHL pump stations for cost efficiency, county transmission lines, water storage tank, catch basins, and improvements needed to satisfy the Department of Public Works.

Vice Chair Formby commented that in the FEA, there is a letter from the DWS to the county dated December 2, 2004 that indicates a one million dollar commitment in funds. Vice Chair Formby asked if Mr. Reddington could provide an update on that commitment by petitioner.

Mr. Reddington stated that he could not comment on that issue.

There were no further questions posed for Mr. Reddington.

The meeting was recessed at 5:30 p.m.

(Please refer to LUC Transcript of September 7, 2006 for more details on this matter.)