

LAND USE COMMISSION  
MEETING MINUTES  
July 15, 2011 – 9:00 a.m.

**HALEAKALA ROOM**  
**Mākena Beach and Golf Resort**  
**5400 Mākena Alanui**  
**Mākena, Maui, Hawai`i, 96753**

COMMISSIONERS PRESENT: Normand Lezy  
Ronald Heller  
Ernest Matsumura  
Nicholas Teves, Jr.  
Napua Makua  
Chad McDonald

COMMISSIONERS EXCUSED: Kyle Chock  
Thomas Contrades  
Lisa Judge

STAFF PRESENT: Orlando Davidson, Executive Officer  
Diane Erickson, Deputy Attorney General  
Bert Saruwatari, Staff Planner  
Riley Hakoda, Staff Planner/Acting Chief Clerk

COURT REPORTER: Holly Hackett

AUDIO TECHNICIAN: Walter Mensching

CALL TO ORDER

Chair Lezy called the meeting to order at 9:00 a.m. and asked if there were any Public Witnesses who wished to give testimony. There were none.

PETITIONER'S WITNESSES (continued)

5. Harold Nagato- Wastewater Systems

Mr. Nagato described the criteria and methodology used to select the proposed wastewater system for the Petition Area and its operating characteristics; and also noted how a clarification of the number of

dwelling units in the proposed project was made with the Department of Health.

Mr. Hopper requested clarification on the projected installation, operating and maintenance costs of the proposed wastewater system; and who would be responsible for paying the estimated fees for the system. Mr. Nagato described the considerations that were made to determine what the estimated system costs would be and what the payment structure might be.

Mr. Yee requested clarification on the status and results of discussions with the Department of Health ("DOH") regarding the wastewater system plans and stated that a letter confirming those discussions would be forthcoming. Mr. Yee also requested clarification on what entity would be responsible for the contract for the installed system. Mr. Nagato stated that Best Industries Inc. would be responsible for the contract and that it was stipulated with the Department of Health that there would be a single contract between the community association and Best Industries Inc. and not with individual owners.

Mr. Yee requested clarification on how the system would operate and how the contract for the wastewater system would be handled. Mr. Nagato responded that the CC&R's for the proposed project would reflect the wastewater feature for each unit and described the proposed wastewater system.

Mr. Luna asked if there were existing systems already in use on Maui and elsewhere within the State. Mr. Nagato confirmed that wastewater systems similar to those proposed for the proposed project were in operation both on Maui and in the State and described how they had been performing.

Commissioner McDonald inquired what the space and size requirements were for the proposed wastewater system and whether the topography of the Petition Area would have any impact upon it. Mr. Nagato responded that the topography would not affect the wastewater system and described the space and size requirements for it.

Commissioner Heller requested clarification on how the wastewater leach systems would affect the landscape and design characteristics of the

homes in the proposed project. Mr. Nagato described how the leach systems could be installed and what considerations needed to be made for landscaping the leach fields.

There were no further questions for Mr. Nagato.

6. Bruce Plasch- Economic Agriculture

Dr. Plasch described the Petition Area soil characteristics and provided his perspective of its economic agricultural viability.

There were no questions for Dr. Plasch.

7. Stacy Otomo, Hydrology and Water Resource Engineer

Mr. Otomo described the proposed water, wastewater and drainage systems for the Petition Area and the various options available to use in installing and maintaining them.

Mr. Hopper requested clarification on whether the proposed public or private water systems had adequate capacities to handle the need for the Petition Area and the nearby areas and whether the existing infrastructure could support it; and what system options would be most feasible. Mr. Otomo described the features of the proposed private and public water systems and expressed why he favored the public water system.

Mr. Yee requested clarification of estimated well-drilling and operating/maintenance costs and how the Kula Ridge Mauka proposed development would impact water availability in the area; and what the most likely option for providing water would be. Mr. Otomo described the extent of his participation in estimating costs and what the anticipated costs would be, how future development in the area would be affected, and how the private well option for the Kula Ridge Mauka project would be the most likely option depending on the timing of the variables involved in its development. Mr. Otomo provided his perception of how costs could vary with the different systems that he had considered and what associated problems he might encounter and have to solve for different scenarios.

Commissioner Teves excused himself at 9:52 a.m. and returned at 9:55 a.m.

Mr. Yee requested clarification of the status of discussions between Petitioner and Department of Water Supply (“DWS”). Mr. Otomo replied that it was his understanding that the discussions were ongoing and deferred to Mr. Nishikawa to provide the latest information on those discussions.

Mr. Yee inquired if Mr. Otomo was aware of the area drainage concerns mentioned by the public witnesses. Mr. Otomo responded that the issue had been brought up during the county’s public hearings and described the various precautions/procedures that would be taken during construction and what mitigation measures were planned for the proposed project to prevent overflow.

Mr. Luna requested clarification on the local area aquifer capacity, and considerations relating to sidewalks for the proposed project. Mr. Otomo described the water source for the area and the measures that would need to be taken to address the community safety concerns that had been brought to Petitioner’s attention.

Commissioner McDonald requested clarification on features of the water and wastewater systems proposed for the Petition Area and the timetable for developing a water well source. Mr. Otomo described the costs and capabilities involved with the selected water and wastewater systems; and deferred questions regarding timetables for developing water sources to Mr. Nishikawa.

Commissioner Lezy requested clarification on what water system might be selected and at what cost. Mr. Otomo described the factors that needed to be considered when selecting a system and the associated challenges each system would present.

Commissioner McDonald requested clarification on how dedication of water systems to the County might occur. Mr. Otomo provided his understanding of how the different system design proposals might achieve County dedication.

Mr. Yee requested further clarification on the cost estimates for the proposed well and whether provisions for a back-up well were in place. Mr. Otomo replied that no provisions for a back-up well had been considered and described the cost estimates for the proposed well.

8. Michael Munekiyo (recalled from July 14, 2011)

Mr. Munekiyo described the Petition Area and the considerations that his firm used in determining how it could meet affordable housing requirements and gain the necessary approvals to meet existing affordable and senior housing standards.

Mr. Hopper requested clarification on the income ranges and sales prices that were estimated for the proposed project. Mr. Munekiyo described the HUD guidelines that were used to calculate the income ranges and the expected sale prices for the different types of units in the proposed project.

Mr. Yee requested clarification on whether or not Petitioner had resolved the concerns that OP had raised during discussions on the Petition Area. Mr. Munekiyo provided his understanding of how the Petitioner had made revisions to its development plans and how the proposed project would meet county, state and other agency requirements.

Mr. Luna had no redirect.

Commissioner Heller requested clarification on Petitioner's Exhibit 14. Mr. Munekiyo described how his firm had arrived at its estimates for the contents of the exhibit tables and acknowledged that the calculation of the economic impact could be done differently.

There were no further questions for Mr. Munekiyo.

9. Clayton Nishikawa, Managing Member, Kula Ridge LLC

Mr. Nishikawa described the marketing and design considerations of the proposed project, the ongoing efforts to secure a water source and the available financing for it.

Mr. Yee questioned whether Mr. Nishikawa would return to testify at the LUC's next meeting on this docket. Mr. Nishikawa confirmed that he would return. Mr. Hopper and Mr. Yee stated that they would withhold their questions till Mr. Nishikawa had completed the rest of his testimony.

Commissioner Teves requested clarification on the estimated development construction costs. Mr. Nishikawa provided the requested

estimates and discussion ensued to confirm that Mr. Pascua, Petitioner's expert on traffic would be appearing at the next hearing on this docket and would address the traffic concerns that had been brought to the attention of the Commission.

The Commission went into recess at 11:30 a.m. and reconvened at 11:34 a.m.

#### COUNTY OF MAUI PLANNING DEPARTMENT WITNESSES

Mr. Hopper stated that the Parties had stipulated to the expertise of the County's witnesses and that there had been no objections or questions about the stipulations. There were no questions or comments.

1. William Spence, Director, Maui Planning Dept.

Mr. Spence described how the proposed project had complied with the county approval process and how various fees, permits and processing issues had been handled. Mr. Spence also expressed the reasons why the County of Maui supported the Petition. Mr. Hopper reserved the right to recall Mr. Spence after the testimony of Petitioner's expert on traffic.

Mr. Luna requested clarification on how the proposed project conformed to county plans for growth. Mr. Spence described how the proposed project met the various requirements of the county to achieve its approval.

Mr. Yee requested clarification on safety and traffic matters for the Petition Area. Mr. Spence described the considerations that had been made for the proposed project.

Commissioner McDonald requested clarification on 201H exemptions and the right-of-way in the Petition Area. Mr. Spence provided his understanding of these issues.

Commissioner Matsumura inquired about the county controls that would be implemented in the event the Petition was approved. Mr. Spence described what he perceived would occur.

There were no further questions for Mr. Spence.

2. Jo-Ann Ridao, Director, Dept. of Housing and Human Concerns  
Ms. Ridao provided her perspective of how the proposed project had obtained county approval and attempted to meet affordable housing needs for the Kula area.

Commissioner Makua excused herself at 12:30 p.m. and returned at 12:34 p.m.

Mr. Luna requested clarification on Ms. Ridao's experience with affordable housing projects. Ms. Ridao described her experience level and described how the proposed project would provide a housing mix for the area.

Mr. Yee requested clarification on the details of the county affordable housing agreement and why the county was in support of the Petition. Ms. Ridao provided her understanding of how the requirements of the affordable housing agreement might be addressed by Maui County and why it supported the Petition.

Chair Lezy requested clarification on what the accepting agency roles were for the environmental assessment that had been accepted by the Department of Housing and Human Concerns. Ms. Ridao described how the Housing Division and her staff had received and reviewed the environmental assessment to determine if they were satisfied with it and its cultural assessment section.

There were no further questions for Ms. Ridao.

The Commission went into recess at 12:45 p.m. and reconvened at 12:52 p.m.

3. David Taylor, Director of Water Supply

Mr. Taylor described his department's assessment of the proposed project's water needs and potential water sources that could satisfy them. Mr. Taylor also described his understanding of what options the Petitioner had and what the role of his department was and would be during the county approval process to abide by county code requirements for long-term water supply.

Mr. Luna requested clarification on whether or not having the LUC approve the district boundary amendment without complying with

Chapter 14.12 or any other ordinance adopted before Maui Council was possible and what results the selection of various options for water supply might produce. Mr. Taylor responded that he did not believe compliance with Chapter 14.12 would be an obstacle for county approval and described the issues about water supply that confronted his department.

Mr. Yee requested clarification on how water could be provided to the Petition Area. Mr. Taylor described the various alternatives that were available to obtain water and the possible timetables involved for developing the various water sources.

Mr. Hopper requested clarification on other alternatives to provide water for the proposed project. Mr. Taylor provided his understanding of what other alternatives were available.

Mr. Luna requested clarification about the potential operational costs involved with obtaining water for the Petition Area and water meter list requirements. Mr. Taylor provided his perspective of how water might be provided, how costs for obtaining water could be mitigated and how water meters were awarded.

There were no further questions for Mr. Taylor.

There were no further witnesses at this time.

There being no further business to discuss, Chair Lezy adjourned the meeting at 1:33 p.m.