

LAND USE COMMISSION
MEETING MINUTES

July 19, 2012 – 10:00 a.m.

Marriott Courtyard Hotel,
Haleakala Room, 532 Keolani Place,
Kahului, Maui, Hawai`i, 96732

COMMISSIONERS PRESENT: Chad McDonald
Kyle Chock
Lance Inouye
Sheldon Biga
Ronald Heller
Nicholas Teves, Jr.
Ernest Matsumura
Thomas Contrades

COMMISSIONERS EXCUSED: Napua Makua

STAFF PRESENT: Daniel Orodener, Executive Officer
Scott Derrickson Staff Planner
Sarah Hirakami, Deputy Attorney General
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Holly Hackett

AUDIO TECHNICIAN: Walter Mensching

CALL TO ORDER

Chair Chock called the meeting to order at 10:05 a.m.

APPROVAL OF MINUTES

Chair Chock asked if there were any corrections or additions to the July 5, 2012 minutes. There were none. Commissioner McDonald moved to approve the minutes. Commissioner Matsumura seconded the motion. The minutes were unanimously approved by a voice vote (8-0).

TENTATIVE MEETING SCHEDULE

Executive Officer Orodener provided the following:

- The regular tentative meeting schedule for the calendar year 2012 was distributed in the handout material for the Commissioners.
- The August 2-3, 2012 meeting is tentatively set to be held on Maui for Docket No. A94-721 ATC Makena Entities with site visits for Docket Nos. A94-706 and A12-795. The Commission also is tentatively planning to return to Maui on August 23-24, and September 6-7.
- Any questions or concerns- please contact LUC staff.

Chair Chock introduced new Commissioner Sheldon Biga to the audience.

ACTION

A12-795 WEST MAUI LAND COMPANY, INC- KAHOMA RESIDENTIAL LLC (Maui)

Chair Chock announced that this was an action meeting to consider:

- Intervenor Bolomet's Motion for an extension to enter exhibits
- Petitioner's Motion to Exclude Intervenor Bolomet's Witnesses on International Law and Title
- Petitioner's Motion to Exclude Intervenor Bolomet's Exhibits "1"-"13" and "15"-"17"
- Petitioner's Motion to Exclude Expert Testimony from Witness for Which No Written Direct Testimony Was Provided and...
- The reclassification of approximately 16.7 acres of land from the Agricultural District to the Urban District at Lahaina, Maui, Hawai'i for a residential subdivision to provide 68 single-family affordable housing units to families earning less than 160% of the median family income of families in Maui County, Hawaii , TMK Nos. (2) 4-5-10:005

APPEARANCES

James Geiger, Esq., represented West Maui Land Inc.

Heidi Bigelow, West Maui Land Inc.

James Giroux, Esq., Deputy Corporate Counsel, represented County of Maui Planning Department (County)

William Spence, Director, County

Bryan Yee, Esq., represented State Office of Planning (OP)

(Please refer to LUC Transcript for more details on these matters)

July 19, 2012 Meeting Minutes

Rodney Funakoshi, OP
Michele Lincoln, Intervenor
Routh Bolomet, Intervenor
Michael Lee, assisting Routh Bolomet.

Chair Chock updated the record and explained the procedures to be followed for the proceedings. Ms. Lincoln and Ms. Bolomet requested clarification on how and when public testimony would be taken during the proceedings. Discussion ensued to explain Commission proceeding procedures to the Intervenor; and what the expectations were of them for future hearings. There were no further comments, questions or objections to the procedures.

Commissioner Heller disclosed that he had noticed that Hawaiian Telcom and Maui Electric were noted on the certificate of service on the Petition documents; and that his law firm did work for those companies; but did not feel that this relationship would impair his ability to remain impartial during the proceedings; and that this relationship was being revealed to allow the Parties to voice any opposition to his continued participation in this matter. There were no questions, comments or objections to Commissioner Heller's continued participation.

Intervenor Bolomet stated that she had received an email from Mr. Yee that prompted her to file a Motion to Present Evidence of Lineal Descendency to Awardee and requested clarification on the authority of the LUC Executive Officer to determine the ownership of land involved in a Petition filing and argued how she had documents to contest the ownership claims of the Petitioner.

Chair Chock entertained a motion for an Executive Session Commissioner Heller moved and Commissioner McDonald seconded the motion. By unanimous voice vote (8-0) the Commission elected to enter into Executive Session and had the room vacated at 10:25 a.m. The Commission reconvened at 10:37 a.m.

Chair Chock stated that based on the prima fascia evidence presented by Petitioner regarding title and adequacy of title to the Commission, that he was denying the motion and advised Ms. Bolomet that the LUC was not the proper jurisdictional body to make determinations as to the adequacy of title and that the more appropriate venue to address those types of concerns was in the court system; and that the Commission would now move on to addressing the other motions before it. Ms. Bolomet requested clarification on whether a court ruling on ownership of the disputed title to the property might affect how the Commission perceived her situation. Chair

Chock restated how the Petitioner had submitted sufficient evidence of title for the Commission to consider its Petition complete. Ms. Bolomet stated that she wanted to get on the record that the Commission was denying her due process that was offered to Petitioner. Chair Chock noted Ms. Bolomet's comment and moved on to Intervenor Bolomet's Motion to extend time to enter exhibits.

ACTION

TO CONSIDER INTERVENOR ROUTH BOLOMET'S MOTION TO EXTEND TIME

Ms. Bolomet stated that she did not need the extension and described why she felt she no longer needed the extension; and how everything that she felt needed to be submitted, had been submitted. Discussion ensued to confirm that Ms. Bolomet was withdrawing her motion and exhibits. Ms. Bolomet stated that she was unclear about the status of her exhibits. Mr. Geiger clarified that he was addressing the withdrawal of her motion and not her exhibits. Ms. Bolomet replied that if the matter at hand was just the withdrawal of her motion and not her exhibits, she agreed that she was withdrawing her motion to extend time only.

There were no further questions, comments or objections to Ms. Bolomet's withdrawal of her motion to extend; and Chair Chock stated that the Commission would now consider Petitioner's Motion to Exclude Intervenor Bolomet's Witnesses on International Law and Title.

Mr. Geiger requested clarification on whether Ms. Bolomet's withdrawal of her motion to extend time had been formally accepted by the Commission. Chair Chock asked Ms. Bolomet whether she was aware that she had submitted exhibits past the established deadline. Further discussion ensued regarding the witnesses and exhibits that Ms. Bolomet had submitted to clarify the content of Ms. Bolomet's withdrawal of her motion. Ms. Bolomet stated that her understanding was that she would be arguing to keep all of her witnesses and described how she felt that she had meet all the Commission submittal requirements by the prescribed time. Mr. Yee provided OP's understanding of the status of Ms. Bolomet's filings. After hearing OP's understanding of the status of her filings, Ms. Bolomet stated that she did not wish to withdraw her motion.

Chair Chock requested that Mr. Geiger restate his request for clarification to the

Commission. Mr. Geiger argued why the Motion to Extend should not be granted and described his understanding of how the late filings would impact Petitioner.

Mr. Giroux stated that County had no position on the matter.

Mr. Yee stated that OP did not disagree with Petitioner's comments and that the State had no objection to the late submission of the exhibits that had already been submitted with the understanding that no further exhibits would be submitted, as there were several exhibits that had not yet been filed with the Commission; and that Ms. Bolomet would be withdrawing those exhibits. Mr. Yee restated that with this understanding, OP had no objections to the extension.

Ms. Lincoln stated that she had no objection.

Chair Chock reminded Ms. Bolomet of the Commission's procedures and performance requirements of the Parties for submitting exhibits and witnesses; or other evidence; and described his expectations of how she would need to conform to them; and stated that he would grant an extension till August 1 to submit all documents to the Commission.

Mr. Geiger, Mr. Giroux and Mr. Yee requested and were granted a period for rebuttal based on the extended deadline until August 10, 2012. Mr. Geiger stated that due to the granting of the motion to extend time, there was a possibility that the witnesses that would be appearing before the Commission would need to be recalled to rebut the late materials. Chair Chock acknowledged Mr. Geiger's comments.

Ms. Bolomet requested clarification on what was expected of her during the rebuttal process. Chair Chock referred Ms. Bolomet to LUC staff to obtain clarification on procedures and moved on to Petitioner's motions.

ACTION

TO CONSIDER PETITIONER'S MOTION TO EXCLUDE INTERVENOR BOLOMET'S WITNESSES ON INTERNATIONAL LAW AND TITLE

Petitioner

(Please refer to LUC Transcript for more details on these matters)
July 19, 2012 Meeting Minutes

Mr. Geiger described the background and reasoning for filing the Motion and argued why the Motion should be granted and the witnesses excluded.

County

Mr. Giroux stated that the County joined Petitioner's Motion and argued how the County perceived the Petition as a "use" issue and not an "ownership" issue.

OP

Mr. Yee stated that OP strongly supported the Motion and argued how the issue of completeness had been determined and why the witnesses should be excluded.

INTERVENOR LINCOLN

Ms. Lincoln stated that she had no comment.

INTERVENOR BOLOMET

Ms. Bolomet argued how all her witnesses laid the foundation for the agricultural use of her land and bolstered her intervention efforts; and were within the scope of her intervention.

REBUTTAL

Mr. Geiger stated that Petitioner had not objected to Robin Knox and Michael Lee and identified the witnesses that had been objected to and argued why Petitioner had decided to object to the identified witnesses; and why they should be excluded.

Chair Chock stated that the witnesses that were related to the issues of farming, water, native Hawaiian culture, traditions and practices would be allowed and that witnesses that had been attempted to be brought forth on international law and title would be denied (David Keanu Sai, Dexter Kaiyama, Aaron Ardaiz, Wilmont Kahaialii, Leon Siu, James Geiger, and David Louie). Ms. Bolomet argued why Wilmont Kahaialii should be allowed. Discussion ensued to determine the limits of Mr. Kahaialii's participation and Chair Chock confirmed that Mr. Kahaialii's testimony would be limited to matters relating to farming, water, and culture, and traditional practices. Ms. Bolomet affirmed Mr. Kahaialii's testimony limits.

Discussion ensued regarding the content of Mr. Kahaialii's written testimony and how it did not address the issues that Chair Chock had described. Mr. Geiger described his concerns of whether Mr. Kahaialii's testimony would be relevant or not. Chair Chock noted Mr. Geiger's comments.

ACTION

TO CONSIDER PETITIONER'S MOTION TO EXCLUDE INTERVENOR BOLOMET'S EXHIBITS "1"- "13" AND "15"- "17"

ARGUMENTS ON MOTION

Petitioner

Mr. Geiger described the background and reasoning for filing the Motion and argued why the Motion should be granted and the stated exhibits excluded. Mr. Geiger identified the exhibits that he wanted to exclude (1, 2, 3, 4, 5, 5a, 5b, 6, 7, 8, 8a, 9, 11 and 13). Mr. Geiger then further identified the exhibits that were not provided (10, 12, 16 and 17); and the exhibits that were incomplete (1, 2, 8, and 13) that he wanted to exclude.

County

Mr. Giroux stated that the County rested on its concurrence with Petitioner's argument.

OP

Mr. Yee stated that OP generally supported the Motion in particular, the exhibits that dealt with title (1-9 and 11-13); and noted that OP reserved the right to dispute the late exhibits (10, 12, 16, and 17) that the Commission had granted to Intervenor Bolomet and that there was no clear link of Exhibit 15 to the Petition Area. Mr. Yee reserved comment on Exhibit 15 till its relevancy could be established.

INTERVENOR LINCOLN

Ms. Lincoln had no comment.

INTERVENOR BOLOMET

Ms. Bolomet argued why her exhibits should be allowed if they pertained to her right to farm and how she could use her lands; and how Hawaiian Kingdom laws were relevant to her position and "konohiki" responsibilities; and stated that she would be withdrawing Exhibit 10.

REBUTTAL

Mr. Geiger argued how it was easy to say that the exhibits were related to culture and shared his reasons why the Commission should deny the motion and disallow the exhibits

Ms. Bolomet argued how Petitioner failed to understand the connections of exhibits to the cultural significance of the Petition area and its uses.

The Commission went into recess at 11:25 a.m. and reconvened at 11:35 a.m. (Commissioners Contrades and Teves returned at 11:27 a.m.).

Chair Chock reminded Ms. Bolomet of the imposed deadline for submitting the remaining exhibits and the criteria that was applied in assessing whether or not to allow the exhibits; and stated that Exhibits 1-9, 11, and 13 would be excluded (Exhibit 10 was withdrawn, and Exhibits 12, 14, 15, 16 and 17 were allowed). Mr. Geiger requested clarification on whether or not the relevance of the exhibits to be submitted would need to be established. Chair Chock acknowledged that was the case.

ACTION

TO CONSIDER PETITIONER'S MOTION PETITIONER'S MOTION TO EXCLUDE EXPERT TESTIMONY FROM WITNESS FOR WHICH NO WRITTEN DIRECT TESTIMONY WAS PROVIDED

ARGUMENTS ON MOTION

Petitioner

Mr. Geiger described the background and reasoning for filing the Motion and argued why the Motion should be granted.

County

Mr. Giroux stated that the County concurred with Petitioner.

OP

Mr. Yee stated that OP had No Objection to the motion.

INTERVENOR LINCOLN

Miss Lincoln had no comment.

INTERVENOR BOLOMET

Ms. Bolomet described the reasoning that she used to select her witnesses and argued why she would like to retain Mele Carroll and Clare Apana. Chair Chock asked why written testimony had not been provided for her witnesses. Ms. Bolomet replied that her witnesses were out of town and described her attempts to obtain their testimony.

REBUTTAL

Mr. Geiger argued why he did not have an issue with the witnesses appearing as lay witnesses instead of expert witnesses and restated why Petitioner objected to certain witnesses. Discussion ensued to clarify Petitioner's reason for objecting to certain

(Please refer to LUC Transcript for more details on these matters)

July 19, 2012 Meeting Minutes

witnesses. Chair Chock decided to allow Ms. Bolomet until August 1, 2012 to submit supporting documents for her witnesses and allowed witnesses Mele Carroll, Robin Knox, Keeaumoku Kapu, Victoria Kaluna, Jonah Keahi, William Spence, and Clare Apana. Ms. Bolomet requested clarification on what qualifications an expert witness needed to have. Chair Chock referred Ms. Bolomet to LUC staff to obtain information on expert witnesses.

Mr. Geiger requested clarification on which Intervenor witnesses would be identified as experts. Ms. Bolomet identified Mele Carroll and Clare Apana; and described the qualifications of her other witnesses and how they would probably be “lay” witnesses. Discussion ensued to further identify other expert witnesses and Chair Chock stated that Robin Knox, Keeaumoku Kapu, Victoria Kaluna, Jonah Keahi, William Spence, and Clare Apana appeared to be potential expert witnesses; and that August 1, 2012 would be the submittal deadline for supporting documents for them.

Mr. Giroux stated that Mr. Spence was on County’s witness list and Ms. Bolomet would have an opportunity to question him during his testimony as an expert on planning.

Mr. Geiger requested clarification on whether or not August 10, 2012 would be the response date for anything submitted and if there would be opportunity to determine relevancy and provide rebuttal; and whether written testimony would be required for lay and expert witnesses. Chair Chock acknowledged that his expectation was that the submittals would be considered for relevancy and that only expert witnesses required written testimonies.

Chair Chock reminded the Parties of the Commission’s expectations during the proceedings and announced that Public Testimony would now be taken.

PUBLIC WITNESSES

1. Mike Gerry- Construction Supervisor- Habitat for Humanity-Maui (Habitat)

Mr. Gerry described his role within his organization and described how projects were considered and selected for renovation work; and stated that he had been asked to respond to Intervenor’s question on why Habitat for Humanity did not build new homes and do more with bank repossessed homes. Mr. Gerry described the economic obstacles in the Maui real estate market that made Intervenor’s suggestion unfeasible due to the high land costs involved.

Petitioner, County and OP had no questions.

Intervenor Lincoln requested clarification on why Habitat could not find properties in a price range in the Lahaina area that might allow for an affordable restoration project. Mr. Gerry described how cost estimates for the Habitat projects described by Ms. Lincoln were calculated that made it too financially challenging to undertake; and how he could not provide estimates for structures described by Ms. Lincoln without seeing any drawings.

Mr. Gerry referred questions regarding the proposed project to Ms. Bigelow and described projects on the mainland that Habitat had been successful with.

Ms. Bolomet requested clarification on whether Habitat had any arrangements to build homes on her land. Chair Chock reminded Ms. Bolomet what the scope of her intervention was and requested that she not include matters regarding title in her questioning.

Ms. Bolomet requested clarification on how Habitat operated and whether farmer residences might be included in considering construction projects. Mr. Gerry provided his understanding of how Habitat provided affordable housing packages to families and replied that he was not on the homeowner selection committee; and described how, when opportunities for successful projects appeared in the Maui marketplace, how Habitat would react. Discussion ensued to determine what types of projects Mr. Gerry would undertake and what Mr. Gerry's role would be. Mr. Gerry restated that his primary role was to describe why Habitat did not do "repos" at the current time.

There were no Commissioner questions

2. Bobby Pahia

Mr. Pahia stated that he was a full-time taro farmer and was appearing in support of Habitat since he was a beneficiary family of the organizations work and described his experience as a recipient of those services.

Petitioner, County and OP had no questions.

Ms. Lincoln requested clarification of how Mr. Pahia would perceive Habitat providing its benefits in different locations in the region. Mr. Pahia

shared why he felt more land was needed for farming and what he thought about Habitat services being provided for different locales.

Ms. Bolomet requested clarification on how Mr. Pahia perceived his cultural values as a farmer by working the land. Discussion ensued to determine what type of cultural lifestyle Mr. Pahia preferred. Mr. Pahia acknowledged that if given the opportunity to live and farm on the land for free, he would be interested.

There were no further questions for Mr. Pahia.

3. Johanna Kaumanu

Ms. Kaumanu shared her perception of the LUC's purpose, and her assessment of the cultural and agricultural aspects of the Petition Area that needed to be included in evaluating its change of land use.

Petitioner, County, OP and Ms. Lincoln had no questions.

Ms. Bolomet requested clarification on how Ms. Kaumanu perceived agriculture; and how Hawaii culture was nature based. Ms. Kaumanu described the efforts and experiences that she and her husband had undertaken to use agriculture to teach students and help rehabilitate native Hawaiians who had been incarcerated; and shared her perception of how Hawaiians interacted with nature. Ms. Bolomet also asked what Ms. Kaumanu's perception of the clearing of land and its regeneration was. Ms. Kaumanu shared her personal experiences and observations of land clearing recovery.

There were no other questions for Ms. Kaumanu.

4. Elena Walker- real estate agent

Ms. Walker shared her opinion on affordable housing and the real estate market; and the efforts of Habitat in the community.

Petitioner, County, OP and Ms. Lincoln had no questions.

Ms. Bolomet asked what Ms. Walker's opinion was regarding the allocation of affordable housing for the proposed project. Ms. Walker described how she thought affordable homes would benefit the community and how the Habitat efforts benefited the Lahaina area.

There were no further public witnesses.

The Commission went into recess at 12:30 p.m. and reconvened at 1:40 p.m.

MAP ORIENTATION

LUC Staff Planner Scott Derrickson provided a map orientation of A12-795 for the Commission. There were no questions for Mr. Derrickson.

PRESENTATION OF EXHIBITS

Petitioner

Mr. Geiger offered Petitioner Exhibits 1-14, 15a-34 and 36 for the record.

There were no objections by the Parties or the Commissioners to County's exhibits and they were admitted to the record.

County

Mr. Giroux offered County Exhibits 1-13 for the record.

There were no objections by the Parties or the Commissioners to Petitioner's exhibits and they were admitted to the record.

OP

Mr. Yee offered OP's Exhibits 1-5 for the record.

There were no objections by the Parties or the Commissioners to OP's exhibits and they were admitted to the record.

Intervenor Lincoln

Ms. Lincoln offered her Exhibits and stated that she wished to have the Exhibits admitted that she had already identified to the Commission.

Mr. Geiger stated that he had objections to various portions of Intervenor Lincoln's Exhibit 1 and described what sections he would like to have disallowed.

Mr. Giroux stated that County concurred with Mr. Geiger's objections.

Mr. Yee and Ms. Bolomet had no objections.

Chair Chock requested more information on the portions of Exhibit 1 that had been objected and how they were relevant to the Petition. Mr. Geiger clarified that he also had objections to other Exhibits but was taking them in order.

Discussion ensued to clarify what Mr. Geiger was objecting to in Exhibit 1. Ms. Lincoln stated that she was withdrawing page 11 of Exhibit 1. Chair Chock determined that all of Exhibit 1, with the exception of page 11 would be allowed and commented that Mr. Geiger could address the portions of Exhibit 1 that he objected to as they appeared in the proceedings. Further discussion ensued to determine what exhibits would be objected to on the basis that they were cumulative. Chair Chock determined that all remaining Intervenor Lincoln Exhibits except for 14 would be allowed.

Intervenor Bolomet

Chair Chock determined that Ms. Bolomet's Exhibits would be reviewed after August 1, 2012. Mr. Geiger stated that Exhibits 12, 14, 15, 16 and 17 were going to be addressed. Discussion ensued to determine what exhibits should be addressed. Chair Chock noted that he did not have Exhibit 16. Mr. Yee stated that Exhibit 16 had not been submitted and his understanding was that it was due by August 1. Chair Chock concurred.

There were no further questions, comments or objections regarding the exhibits.

PRESENTATIONS FOR THE RECLASSIFICATION OF APPROXIMATELY 16.7 ACRES OF LAND FROM THE AGRICULTURAL DISTRICT TO THE URBAN DISTRICT AT LAHAINA, MAUI, HAWAII FOR A RESIDENTIAL SUBDIVISION TO PROVIDE 68 SINGLE-FAMILY AFFORDABLE HOUSING UNITS TO FAMILIES EARNING LESS THAN 160% OF THE MEDIAN FAMILY INCOME OF FAMILIES IN MAUI COUNTY, HAWAII , TMK NOS. (2) 4-5-10:005

Petitioner

Mr. Geiger introduced Heidi Bigelow to the Commission; provided a historical background of the proposed project and described how he would present his case, what expert witnesses would be appearing; and what types of County hurdles had been overcome to move the Petition forward.

Petitioner's Witnesses

1. Rory Frampton- Project Planner

Mr. Frampton was qualified and admitted as an expert in planning and made a correction to page 23 of his written testimony regarding the views from the proposed project. Mr. Frampton used a PowerPoint presentation to describe the genesis of the Petition and summarized his testimony for the Commission.

Ms. Lincoln requested clarification on which exhibit was being shown and whether Intervenors had been given an opportunity to view it. Mr. Geiger identified the presentation as Petitioner's Exhibit 23 and stated that he had provided copies to all the Parties. Chair Chock described the procedures that he expected the Parties to follow and restated his expectation of how the Parties should perform during the course of the Commission's proceedings.

Mr. Frampton also described past problems with area flooding; developments that had occurred or would be occurring in the region; how they would be affecting the Petition Area; and the methodology and considerations that were applied in the design and planning of the infrastructure and layout of the proposed project for traffic, parking, recreational and residential use; and

vertical construction design. Mr. Frampton provided further details of how he perceived how the project conformed to various island, County and State plan requirements and how external changes in the surrounding community had rendered the Petition Area more suitable for an urban use designation. Mr. Frampton stated that he had nothing further to add to his testimony and concluded his presentation.

Questions for Mr. Frampton

County

Mr. Giroux requested that Mr. Frampton provide his understanding of the 201H process. Mr. Frampton described how applications for 201H projects were processed by the County agencies and how the resolutions and amendments to the plan were handled. Mr. Frampton stated that 8 conditions had been applied in the County's resolution regarding the proposed project and described them to the Commission; and that Petitioner had no objections to the conditions imposed by the County being incorporated into the Land Use Commission's Decision and Order.

There were no further questions by County.

OP

Mr. Yee requested clarification on how educational contribution impact fees would be calculated and administered for housing units; how setbacks in the community would be accounted for or required; how traffic improvements would be implemented and on what timetable; why improvements needed to be done before occupancy; how FEA lighting standards would be complied with; how houses and vacant lots in the proposed project and their pricing and purchase conditions had been determined; what environmental assessment triggers were involved ; what sustainability considerations had been incorporated and implemented in the construction of the housing units; how potable and non-potable water sources had been determined, how housing need considerations and economies of scales factored into design plans; how vacant lots contributed to the affordability of the proposed project; what environmental assessment triggers and sustainability considerations were involved ; and how issues relating to pricing, homeowner commitments; and water sources had been analyzed and considered.

Mr. Frampton shared his understanding of how the various questions raised by Mr. Yee had been dealt with during the planning process.

The Commission went into recess at 3:00 p.m. and reconvened at 3:13 p.m.

Intervenor Lincoln

Ms. Lincoln requested clarification on various aspects of Mr. Frampton's November 16, 2011 testimony before the Maui Council and his PowerPoint presentation to the LUC. Mr. Frampton provided his recollection of the events that transpired at the Maui Council presentation and reviewed various slides that were shown to the Commission and answered Ms. Lincoln's questions about them.

Mr. Frampton described the crowded neighborhood conditions in the Lahaina area and provided his perception of contributing factors to those conditions; and how view planes, recreational areas, roadways and access considerations figured into the proposed project design. Mr. Giroux noted that Ms. Lincoln was providing unsubstantiated testimony as she questioned the witness and requested that the Commission be aware of her questioning technique. Chair Chock acknowledged Mr. Giroux's request. Discussion ensued to clarify and attempt to remedy the situation.

Ms. Lincoln requested clarification on various features in the Petition Area- a cul-de-sac, a manhole on the property, storm diversion channels, and ground fill. Mr. Frampton provided his awareness of what the background was regarding these items.

Ms. Lincoln also requested clarification on the price range of homes that the proposed project was designed for and on the performance deadlines and penalties for failing to meeting them were. Mr. Frampton described how the pricing structure for the proposed project had been calculated and stated that there was a 7 year allowance to complete the infrastructure for the Petition Area and that each vacant lot had to have a completed house on it within 36 months of closing and was not aware of what the penalties were.

Ms. Lincoln stated that her next series of questions would address Mr. Frampton's written testimony. Chair Chock advised her of the impending time constraints confronting the Commission and that he might call a recess to the proceedings during her questioning. Ms. Lincoln acknowledged Chair Chock's comment.

Ms. Lincoln requested clarification on references to agriculture in Mr. Frampton's written testimony. Mr. Frampton provided additional details on the agricultural references that were included in his testimony. Discussion ensued

(Please refer to LUC Transcript for more details on these matters)

several times to clarify what other information Ms. Lincoln was trying to obtain and who would provide it for Petitioner. Mr. Frampton stated that he believed Ms. Lincoln was referencing State land use criteria rules that needed to be considered when re-designating agricultural land.

Chair Chock commented that he would like to recess proceedings and assessed how many questions Ms. Lincoln had remaining. Ms. Lincoln reported how many questions she still had and Chair Chock asked the Parties if there were any questions, comments or objections before going into recess. There were none and Chair Chock reminded the audience that proceedings would resume on July 20, 2012 beginning with Docket No. SP70-85 Ernest DeLuz Trucking on July 20, 2012 at 9:30 a.m.

The Commission recessed at 3:56 p.m.