

LAND USE COMMISSION

Minutes of Meeting

Leioaloha Room
Aston Wailea Resort
3700 Wailea Alanui
Kihei, Maui

November 13, 1997

*approved
12/2/97*

COMMISSIONERS PRESENT: Rupert K. Chun
M. Casey Jarman
Peter Yukimura
P. Roy Catalani (Portion of Proceeding)
Merle A.K. Kelai
Lawrence N.C. Ing
Isaac Fiesta, Jr.

COMMISSIONERS ABSENT: JoAnn Mattson
Herbert Kaopua, Sr.

STAFF PRESENT: Esther Ueda, Executive Officer
Jon Itomura, Deputy Attorney General
Leo Asuncion, Jr., Staff Planner
Bert Saruwatari, Staff Planner
Darlene Kinoshita, Chief Clerk

Darcy J. Brokaw, Court Reporter

Presiding Officer Ing called the meeting to order.

HEARING

A97-721 - MAKENA RESORT CORPORATION, a Hawaii Corporation (Maui)

Pursuant to a notice published in the Honolulu Star Bulletin and the Maui News and notices sent to all parties, a hearing was called by the Land Use Commission in the matter of the petition by Makena Resort Corporation to consider reclassifying approximately 145.943 acres of land currently in the Agricultural District into the Urban District at Makena, Maui for multi-family residential, hotel, and existing golf course uses.

Appearances

Eric T. Maehara, Esq., Attorney for Petitioner

Gary Zakian, Esq., Deputy Corporation Counsel, County of Maui

Ann Cua, Planning Department, County of Maui

Ann Ogata-Deal, Esq., Deputy Attorney General, Office of Planning

Lorene Maki, Land Use Division, Office of Planning

Bert Saruwatari, staff planner, oriented the Commission to the area proposed for reclassification on the Land Use District Boundaries and tax maps.

EXHIBITS

1. Petitioner's Petition with exhibits and amendments to Petition with attachments, Exhibit Nos. P-1 through P-14 were admitted into evidence by the Land Use Commission.

2. County of Maui's Exhibit Nos. 1 through 3 were admitted into evidence by the Land Use Commission.

3. OP's Exhibit Nos. 1, 1a, and 2 were admitted into evidence by the Land Use Commission.

PETITIONER'S WITNESSES

1. Yoichi Asari
2. Milton Arakawa
3. Bert Toba
4. Randall Okaneku
5. Aki Sinoto
6. Ann Bouslog

COUNTY'S WITNESS

Ann Cua, Planner, Planning Department, County of Maui, provided technical information with regard to the County's position on this petition.

1. David Blane

STATE'S WITNESS

1. Richard Egged, Jr.

Presiding Officer Ing instructed all parties of the post-hearing procedures. The proposed findings from the parties are due on December 15, 1997 and the parties have until December 31, 1997 in which to respond.

ACTION

A89-649 - LANAI RESORT PARTNERS (Manele)

Presiding Officer Ing announced that the Commission would take action to consider Renewal of Petitioner's Motion to Amend Condition No. 10 of the Findings of Fact, Conclusions of Law, and Decision and Order dated April 16, 1991; Petitioner's Motion to Amend Condition No. 10 of the Findings of Fact, Conclusions of Law, and Decision and Order dated April 16, 1991; and Intervenor Lanaians for Sensible Growth's Motion to Revert Property to its Former Classification and to Authorize Action to Seek Judicial Enforcement of the Commission's May 17, 1996 Order.

Appearances

James T. Funaki, Esq., Attorney for Petitioner

Bruce Lamon, Esq., Attorney for Petitioner

Tom Hoadley, for Lanai Company, Inc.

Vince Bagoyo, for Lanai Company, Inc.

Gary Zakian, Esq., Deputy Corporation Counsel, County of Maui

Clayton Yoshida, Planning Department, County of Maui

Ann Ogata-Deal, Esq., Deputy Attorney General, Office of Planning

Richard Egged, Jr., Director, Office of Planning

Alan Murakami, Esq., Attorney for Intervenor, Lanaians for Sensible Growth

Deputy Attorney General Jon Itomura gave an explanation of the effect of the Commission's 4-2 vote at the Commission's previous meeting on this docket held on September 25, 1997.

Commissioner Chun moved to amend the current agenda to include adoption of the Commission's Order of Non-Action. The motion was seconded by Commissioner Kelai and polled as follows:

Ayes: Commissioners Jarman, Kelai, Yukimura, Catalani, Chun, Fiesta, and Ing.

Commissioner Catalani was excused from this proceeding due to a previously declared conflict of interest.

Commissioner Chun moved to adopt the Commission's Order of Non-Action of Petitioner's Motion to Amend Condition No. 10 which was read into the record. The motion was seconded by Commissioner Kelai and polled as follows:

Ayes: Commissioners Chun, Jarman, Kelai, Yukimura, Fiesta, and Ing.

The Commissioners were asked if they either attended or read the transcripts of the proceedings of the meeting related to this Order, and if they have studied, examined and understand the record of the September 25, 1997 meeting and were polled as follows:

Ayes: Commissioners Jarman, Kelai, Yukimura, Chun, Fiesta, and Ing.

The Commission received a letter dated November 12, 1997 from David Wong, Esq., Legal Aid Society of Hawaii.

Arguments on Petitioner's Renewal of Petitioner's Motion to Amend Condition No. 10 were heard from Mr. Funaki, Mr. Zakian, Ms. Ogata-Deal, and Mr. Murakami.

After hearing comments, questions were asked by the Commissioners.

Commissioner Jarman moved to continue the motion and have the hearing on Lanai. There was no second to Commissioner Jarman's motion and the motion failed.

Alan Murakami, Esq., Attorney for Intervenor, requested a contested case hearing on Lanai to examine all the issues that have been raised and requested that the Commissioners be polled as to their review of the transcripts, exhibits, arguments, and pleadings filed in this docket before taking any action on modifying condition no. 10.

Commissioner Fiesta moved to go into executive session to consult with our Deputy Attorney General on legal matters. The motion was seconded by Commissioner Yukimura and polled as follows:

Ayes: Commissioners Fiesta, Yukimura, Kelai, Chun, and Ing

Nay: Commissioner Jarman

Commissioner Chun moved to grant Renewal of Petitioner's Motion to Amend Condition No. 10. The motion was seconded by Commissioner Yukimura and polled as follows:

Ayes: Commissioners Chun, Kelai, Yukimura, Fiesta, Jarman, and Ing.

Commissioner Jarman moved to hold a contested case hearing on Petitioner's Motion to Amend Condition No. 10 on Lanai. The motion was seconded by Commissioner Kelai and polled as follows:

Ayes: Commissioners Jarman, Chun, Fiesta, Kelai, Yukimura, and Ing.

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Kelai moved to approve the minutes for the following meeting date: October 30, 1997. The motion was seconded by Commissioner Jarman and unanimously approved by voice votes.

The meeting was adjourned at 4:00 p.m.