

LAND USE COMMISSION

Minutes of Meeting

Nahele Room
Sandalwood Clubhouse
2500 Honoapiilani Hwy.
Waikapu, Maui

June 3, 1999

Approved
6/25/99

COMMISSIONERS PRESENT: P. Roy Catalani
Pravin Desai
Isaac Fiesta, Jr.
Lawrence N.C. Ing
Merle Kelai (portion of proceedings)
Peter Yukimura

COMMISSIONERS ABSENT: Rupert K. Chun
M. Casey Jarman
Herbert Kaopua, Sr.

STAFF PRESENT: Esther Ueda, Executive Officer
Jon Itomura, Deputy Attorney General
Bert Saruwatari, Staff Planner
Teri Hee, Chief Clerk

Gloria Tavares, Court Reporter (morning)
Lynann Nicely, Court Reporter
(afternoon)

Chairperson Kelai called the meeting to order at 9:30 a.m.

STATUS REPORT

A92-686 - AMFAC PROPERTY INVESTMENT CORP. AND THE HOUSING
FINANCE AND DEVELOPMENT CORPORATION (Maui)

Appearances

Scott Nunokawa, Amfac Property Investment Corp.

John Higham, Vice President, Amfac Property Development
Corporation

Neal Wu, Housing and Community Development Corporation of
Hawaii

Bill Medeiros, Planning Department, County of Maui

Gary Zakian, Deputy Corporation Counsel, County of Maui

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

Abe Mitsuda, Land Use Division, Office of Planning

Lorene Maki, Land Use Division, Office of Planning

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

PUBLIC WITNESS

1. JoAnne Johnson (on behalf of James Johnson)

A status report was given by Mr. Nunokawa. After hearing the status report, questions were asked by Ms. Ogata-Deal and the Commissioners. Mr. Wu briefed the Commission as to the Housing Finance and Development Corporation's role in this petition. Questions were asked by the Commissioners, comments were made by Mr. Zakian and Ms. Ogata-Deal.

Commissioner Ing moved that Petitioner report back to the Commission within one year or less on the status of all of Amfac's projects of West Maui. Commissioner Ing clarified that the status be limited to projects with respect to Docket No. A92-686. The motion was seconded by Commissioner Yukimura and unanimously approved by voice votes.

Commissioner Kelai excused himself from the hearing at this time.

ACTION AND CONTINUED HEARING

A92-684 - STATE OF HAWAII, DEPARTMENT OF TRANSPORTATION,
AIRPORTS DIVISION (Maui)

Presiding Officer Catalani announced that this matter before the Commission is a continuation of the hearing previously held on May 6 and 7, 1999 to reclassify approximately 210.471 acres of land currently in the Agricultural District into the Urban District at Kahului, Maui for expansion of Kahului Airport and facilities.

Appearances

Bruce T. Matsui, Esq., Deputy Attorney General for
Petitioner

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

Bill Medeiros, Planning Department, County of Maui

Clayton Yoshida, Deputy Director, Planning Department,
County of Maui

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

Lorene Maki, Land Use Division, Office of Planning

Isaac Hall, Esq., Attorney for Intervenor

Presiding Officer Catalani entered the following
correspondence into evidence:

1. Facsimile testimony of Gordon Czernick dated May 5,
1999.
2. Testimony of John B. Elder May 7, 1999.
3. Signed petition received on May 7, 1999.
4. Testimony of Gina Aranki dated May 5, 1999.
5. Facsimile testimony of Tom Sewell dated May 8, 1999.
6. Testimony of James Tanaka received on June 3, 1999.
7. Testimony of Elizabeth Chenowith dated June 3, 1999.

Deputy Attorney General Jon Itomura reported that
Commissioner Kaopua will be recusing himself from participating
in this proceeding; therefore, the Motion to Disqualify as to
Commissioner Kaopua would be moot.

PUBLIC WITNESS

1. Akahi Wahine

Arguments on the Motion to Quash were heard from Mr. Hall, Ms. Ogata-Deal, Mr. Zakian, and Mr. Matsui. If Mr. Hall finds the documents produced by Mr. Matsui to his satisfaction, Mr. Matsui will withdraw their Motion to Quash. The County is still working on getting together their documents with respect to their Motion to Quash; therefore, their motion is still pending. Mr. Hall stated that they would like the County's documents before the witness testifies.

Presiding Officer Catalani announced the receipt of Petitioner's Sixth Amended Witness List. Mr. Matsui noted that Petitioner has deleted two of their witnesses, John Thatcher and Paul Casey; and added a representative of Maui Pineapple Company, Douglas Schenk, as a witness pursuant to the request of the Commission. Mr. Hall wanted to note for record that the prehearing order was clear as to not being able to add exhibits or witnesses after a certain date except for good cause. Mr. Matsui also introduced several exhibits that he wanted to reference in his cross examination of Mr. Schlapak. Having no objections from the State and County and having no objections in this instance from the Intervenor on the condition that if Intervenor needs to amend to add exhibits or witnesses to his case that the same courtesy be extended, Presiding Officer Catalani allowed Petitioner's amended exhibit and witness lists into the record.

PETITIONER'S WITNESSES (cont'd.)

1. Ben Schlapak

(Petitioner referenced a July 13, 1992 aerial photo which was introduced and entered into evidence as Petitioner's Exhibit 122.)

(Petitioner referenced an October 1998 aerial photo with markings (Petitioner's Exhibit 72 without markings) which was introduced and entered into evidence as Petitioner's Exhibit 123.)

A lunch recess was taken at 11:50 a.m. to reconvene at 1:00 p.m.

MISCELLANEOUS

1. ADOPTION OF DECISION AND ORDER

Commissioner Fiesta moved to adopt the Order Denying Intervenors' Amended Motion To Disqualify for Docket No. A92-684 - State of Hawai'i, Department of Transportation, Airports Division. The motion was seconded by Commissioner Yukimura and unanimously approved by voice votes.

Commissioner Yukimura moved to adopt the Findings of Fact, Conclusions of Law, and Decision and Order Determining A Negative Declaration For A State Land Use District Boundary Amendment for Docket No. A99-727 - Joan Beverly S. Ashford and Clinton R. Ashford. The motion was seconded by Commissioner Desai and unanimously approved by voice votes.

Commissioner Fiesta moved to adopt the Order Granting Motion For Extension Of Time To Substantially Complete Increment I for Docket No. A89-643 - McClean Honokohau Properties, a Hawai'i Limited Partnership. The motion was seconded by Commissioner Ing and unanimously approved by voice votes.

2. ADOPTION OF MINUTES

Commissioner Fiesta moved to approve the minutes for the meeting dates of May 6, 7, 1999 and May 20, 21, 1999. The motion was seconded by Commissioner Ing and unanimously approved by voice votes.

3. The Executive Officer briefed the Commissioners on the recent budget cuts.

4. The Executive Officer also discussed possible additional changes to the proposed rule amendments (AR&R98-14) that may be needed if certain bills are signed into law by the Governor.

- 1:10 p.m. -

PETITIONER'S WITNESSES (cont'd.)

1. Ben Schlapak

(Petitioner referenced a May 27, 1999, Honolulu Advertiser news article entitled "Post office sows seeds of discontent" which was introduced and entered into evidence as Petitioner's Exhibit 120.)

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(Petitioner referenced a memo dated April 1, 1999 from Ben Schlapak which was introduced and entered into evidence as Petitioner's Exhibit 121.)

Presiding Officer Catalani announced that the Commission will be continuing the hearing tomorrow morning at 9:00 a.m.

The meeting was adjourned at 4:55 p.m.