

LAND USE COMMISSION

Minutes of Meeting

Nahele Room  
Sandalwood Clubhouse  
2500 Honoapiilani Hwy.  
Waikapu, Maui

June 25, 1999

Approved  
7/8/99

COMMISSIONERS PRESENT: Rupert K. Chun  
P. Roy Catalani  
Pravin Desai  
Lawrence N.C. Ing  
M. Casey Jarman  
Herbert Kaopua, Sr. (portion of  
proceedings)  
Peter Yukimura

COMMISSIONERS ABSENT: Isaac Fiesta, Jr.  
Merle Kelai

STAFF PRESENT: Esther Ueda, Executive Officer  
James Chang, Deputy Attorney General  
Jon Itomura, Esq.  
Bert Saruwatari, Staff Planner  
Russell Kumabe, Staff Planner  
Teri Hee, Chief Clerk  
  
Susan Soderberg, Court Reporter

Presiding Officer Jarman called the meeting to order at  
9:05 a.m.

ACTION

A98-725 - A & B PROPERTIES, INC. (Spreckelsville, Maui)

Presiding Officer Jarman announced that the Commission would take action to (1) consider Petitioner's Motion for Correction of Transcript of Proceedings held on March 18, 1999; (2) to consider Petitioner A & B Properties, Inc.'s Motion For Extension Of Time On Action Meeting On Petition; and (3) to consider reclassifying approximately 212 acres of land currently in the Agricultural District into the Urban District at Spreckelsville, Wailuku, Maui for residential units, 9-hole golf course, and park.

Commissioner Kelai and Commissioner Catalani were excused from this proceeding due to a conflict of interest.

Appearances

Benjamin Matsubara, Esq., Attorney for Petitioner

Stanley Kuriyama, Executive Vice President, A & B Properties, Inc.

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

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

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

Abe Mitsuda, Land Use Division, Office of Planning

Commissioner Ing moved to amend the agenda to include Petitioner A & B Properties, Inc.'s Motion For Extension Of Time On Action Meeting On Petition. The motion was seconded by Commissioner Kaopua and unanimously carried by voice votes.

Deputy Attorney General James Chang clarified that the public testimony was being accepted as part of the Chapter 92 open meeting requirements. Because the Chapter 91 proceeding is closed, testimony presented cannot become part of the official record for decision making. Any evidence or testimony presented cannot become part of the factual basis for a decision.

A member of the audience, Mark Sheehan, voiced his concerns regarding lack of public notice and not including the public testimony as part of the record in the proceedings.

Deputy Attorney General James Chang responded as to merits on the law regarding the acceptance of public testimony after the hearing is declared closed. Mr. Chang stated that the notification processes have been followed and the legal proceeding portion has been closed, therefore further public testimony cannot be included as part of the record.

PUBLIC WITNESSES

1. Mark Sheehan
2. Robert Parsons

3. Barbara Bose
4. James Tanaka
5. Dick Mayer
6. Jack Thompson
7. Virginia Karpovich
8. Barbie Timpone (on behalf of Lucienne de Naie)
9. Cecilia Vessel

Arguments on Petitioner's Motion for Correction of Transcript of Proceedings held on March 18, 1999 were heard from Mr. Matsubara, with no objections from Mr. Zakian and Ms. Ogata-Deal.

Commissioner Yukimura moved to accept Petitioner's Motion for Correction of Transcript of Proceedings held on March 18, 1999. The motion was seconded by Commissioner Kaopua and carried by voice votes.

Arguments on Petitioner A & B Properties, Inc.'s Motion For Extension Of Time On Action Meeting On Petition were heard from Mr. Matsubara, Mr. Zakian and Ms. Ogata-Deal.

Questions were asked by the Commissioners.

Commissioner Ing moved to approve Petitioner A & B Properties, Inc.'s Motion For Extension Of Time On Action Meeting On Petition. The motion was seconded by Commissioner Chun.

Commissioner Kaopua moved to go into executive session to discuss HRS section 205-4(g) with our deputy attorney general. The motion was seconded by Commissioner Ing and unanimously moved by voice votes.

Commissioner Ing amended his motion to grant the 90-day extension in accordance with section 205-4(g) of the Hawaii Revised Statutes. The 90-day extension would be until October 18, 1999. The amended motion was seconded by Commissioner Chun and polled as follows:

Ayes: Commissioners Ing, Chun, Desai, Kaopua and Yukimura

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Nayes: Commissioner Jarman

Not having the required votes, Petitioner's Motion For Extension Of Time failed.

A lunch recess was taken at 11:45 p.m. to reconvene at 12:45 p.m.

- 1:00 p.m. -

Commissioner Kaopua was not present to the proceedings at this time.

Presiding Officer Jarman announced that the action on Docket No. A98-725 - A & B Properties, Inc. would be deferred until the next meeting on July 8-9, 1999 due to lack of quorum.

Commissioner Ing moved to defer the action on Docket No. A98-725 - A & B Properties, Inc. until the July 8-9, 1999 meeting. The motion was seconded by Commissioner Chun and approved by voice votes.

#### ACTION

##### AR&R98-14

Executive Officer, Esther Ueda, summarized the proposed amendments to the proposed Rules and Regulations to Chapter 15 of Title 15, Hawaii Administrative Rules of the Land Use Commission. Commissioner Chun moved to approve the proposed amendments to the proposed Rules and Regulations for hearing purposes. The motion was seconded by Commissioner Ing and approved by voice votes.

#### MISCELLANEOUS

##### 1. ADOPTION OF MINUTES

Commissioner Catalani moved to approve the minutes for the meeting dates of June 3, 4, 1999. The motion was seconded by Commissioner Ing and unanimously approved by voice votes.



CONTINUED HEARING

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

Presiding Officer Jarman announced that this matter before the Commission is a continuation of the hearing which was adjourned yesterday at 6:35 p.m.

Appearances

Bruce T. Matsui, Esq., Attorney for Petitioner

Brian Ishii, Ed Noda & Associates

Gary Zakian, Esq., Deputy Corporation Counsel, 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 Jarman entered the following exhibits into evidence:

1. Intervenors' Exhibit Nos. 252a, 252b, 253, and 254.  
(Intervenor will be providing clean copies of Exhibit Nos. 252a, 253, and 254.)
2. Petitioner's Exhibit Nos. 128 and 129.  
(Petitioner will be providing clean copies of Exhibit No. 128.)
3. Petitioner's Exhibit No. 124.

PETITIONER'S WITNESSES (Cont'd.)

2. Rosalyn Baker

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Presiding Officer Jarman announced that the continued hearing on this petition will be on July 8, 1999. The meeting will begin at 9:30 a.m.

The meeting was adjourned at 2:55 p.m.