

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

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January 15, 1976 - 10:00 a.m.

Approved
March 22, 1976

COMMISSIONERS PRESENT: Eddie Tangen, Chairman
Stanley Sakahashi, Vice Chairman
Charles Duke
Colette Machado
Mitsuo Oura
Carol Whitesell
Tanji Yamamura
Edward Yanai

COMMISSIONER ABSENT: James Carras

STAFF PRESENT: Ah Sung Leong, Acting Executive Officer
Michael Marsh, Deputy Attorney General
Benjamin Matsubara, Consultant
Dora Horikawa, Clerk Reporter

Ray Russell, Court Reporter

Chairman Tangen called to order the meeting of the Land Use Commission and announced that he will entertain a motion to add two items to the agenda, the first being a request for an extension of time on Special Permit 73-142, Robert Goueytes, and the other to announce that a hearing officer will be designated for the hearing on Molokai. Commissioner Duke so moved, which was seconded by Commissioner Whitesell and the Commissioners were polled as followed:

Ayes: Commissioners Duke, Whitesell, Oura, Machado, Yamamura, Sakahashi, Yanai, Chairman Tangen.

Absent: Commissioner Carras

The motion was carried.

DESIGNATION OF A HEARING OFFICER

It was announced by the Chair that he was designating Mr. Benjamin Matsubara to be the hearing officer to conduct the hearing on Petition

A75-400, Henry Meyer, et al, on Molokai on January 23, 1976.

EXTENSION OF TIME REQUEST BY ROBERT GOUEYTES ON CONDITION IMPOSED
ON SP73-142

Mr. Ah Sung Leong, Acting Executive Officer, presented the staff memo relative to the extension request (see copy on file).

Upon motion by Commissioner Yamamura, seconded by Vice Chairman Sakahashi, a 5-year extension of the Special Permit was unanimously approved, subject to the conditions imposed by the Maui Planning Commission.

HEARINGS

A75-399 - RICHARD K. G. STURSBURG

Pursuant to a notice published in The Maui News and the Honolulu Star Bulletin on December 16, 1975, and notices sent to all parties, a hearing was called by the Land Use Commission in the matter of the application by Richard K. G. Stursberg to amend the land use district boundaries for approximately 27.8 acres from the Agricultural District into the Urban District at Mahinahina, Lahaina, Maui, for residential use, Docket No. A75-399.

APPEARANCES

William F. Crockett, attorney for Mr. Stursberg and the Mahinahina Group Partnership

Gilbert Lee, Deputy Attorney General, representing the Department of Planning & Economic Development

Melvyn Yoshii, Deputy County Attorney, representing the Maui Planning Department

The Chairman declared that all of the above were admitted as parties to the proceedings.

The Chairman administered the swearing-in oath to all those planning to testify today.

Exhibits

The following documents were marked for identification and introduced into evidence as Petitioner's (Richard K. G. Stursberg) Exhibits:

- Exhibit 1 - Data submitted previously by petitioner, including document entitled "A Summary Report of Mahinahina Site Study" dated April 20, 1975
Various maps, plans, etc. marked A through J
- Exhibit 2 - Letter dated May 21, 1975 from Mr. Stursberg to the Land Use Commission and attachments
- Exhibit 3 - Letter from C. Cameron, President, Maui Land and Pineapple Co., Inc., dated May 27, 1975, supporting petitioner's urban request
- Exhibit 4 - Letter dated May 12, 1975 from John W. Siemer, Vice President, Amfac, Inc., representing position of Amfac re petitioner's request for urban
- Exhibit 5 - Letter from Richard Stursberg to Harris Suyama, District Engineer, State Highway Department, Maui, re Honoapiilani Highway realignment plan for Mahinahina area
- Exhibit 6 - Notes and comments providing supplemental information in the Mahinahina PUD Summary Report and site plan.
- Exhibit 7 - Financial statement, Mahinahina Group, dated December 31, 1975
- Exhibit 8 - List of partners in Mahinahina Hui
- Exhibit 9 - Letter from T. Harano, Chief, Highways Division, Dept. of Transportation, dated June 27, 1975, re Honoapiilani Highway, Honokowai to Alaeloa project

Richard K. G. Stursberg - Witness

Mr. Richard K. G. Stursberg, petitioner, having been duly sworn in, was called as a witness, examined, and testified as set forth in the transcript on - - - - - Pages

Cross examination by Mr. Lee - - - - -	8 to 12
Cross examination by Mr. Yoshii - - - - -	19 to 25
Direct examination by Mr. Crockett - - - - -	25
Recross examination by Mr. Lee - - - - -	25 to 26
Recross examination by Mr. Yoshii - - - - -	26 to 27

Larry Johnson - Witness

Mr. Larry Johnson, consultant, having been duly sworn in, was called as a witness, examined, and testified as set forth in the transcript on - - - - - Pages

Direct examination by Mr. Crockett - - - - - 29

Cross examination by Mr. Lee - - - - - 29 to 30

Cross examination by Mr. Yoshii - - - - - 31 to 39

Recross examination by Mr. Lee - - - - - 39 to 41

Redirect examination by Mr. Crockett - - - - - 42

MAUI COUNTY PLANNING DEPARTMENT

In the interest of time, Mr. Yoshii offered the written testimony of Mr. Tosh Ishikawa, Planning Director, Maui County Planning Department, into evidence. A short recess was called to afford all parties an opportunity to examine the written testimony (see copy on file).

Tosh Ishikawa - Witness

Mr. Ishikawa, having been duly sworn in, was called as a witness, examined, and testified as set forth in the transcript on- - Pages

Cross examination by Mr. Crockett - - - - - 45 to 48

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Mr. Lee requested permission to waive the reading of DPED's testimony and submitted that DPED basically recommended approval of the request.

Tatsuo Fujimoto - Witness

Mr. Tatsuo Fujimoto, State Department of Planning and Economic Development, having been duly sworn in, was called as a witness, examined, and testified as set forth in the transcript on- - Pages

Cross examination by Mr. Crockett - - - - - 49 to 50

Questioned by Commissioner Whitesell and Vice
Chairman Sakahashi - - - - - 50 to 54

Cross examination by Mr. Crockett - - - - - 54

Questioned by Commissioner Machado - - - - - 55 to 56

CLOSING REMARKS

Mr. William Crockett submitted the following closing statement in support of the petitioner's request:

1. The property is located in an area which is virtually surrounded by urban land.
2. The construction of the new highway will block in and isolate the subject parcel.
3. The Land Use Law was designed to place the jurisdiction of supervising developments within the County. Therefore, the County will have the opportunity to evaluate the development plans at the proper time.

The hearing on A75-399 was closed thereafter.

The Commission recessed for lunch at 12:20 p.m. and reconvened at 2:00 p.m.

A75-401 - AMFAC COMMUNITIES, INC. - HAWAII

Pursuant to a notice published in The Maui News and the Honolulu Star Bulletin on December 16, 1975, and notices sent to all parties, a hearing was called by the Land Use Commission in the matter of the application by Amfac Communities, Inc. - Hawaii to amend the land use district boundaries for approximately 65.4 acres from the Agricultural District into the Urban District at Lahaina, Maui, for residential use, Docket No. A75-401.

APPEARANCES:

Francis Izumi, law firm of Izumi and Tanaka, representing the petitioner

Melvyn Yoshii, Deputy County Attorney, County of Maui, representing the Maui Planning Department

Gilbert Lee, Deputy Attorney General, representing the Department of Planning and Economic Development

The above were admitted as parties to the proceedings. The Chairman swore in all those planning to testify today.

Pursuant to Section 2-3 (7) of the Commission's Rules, Mr. Izumi moved for leave to amend the petition in 2 respects:

1. Delineation of the northerly boundary of the property as indicated in Exhibit 2 (TMK 4-5-15) introduced into evidence.
2. To incorporate a portion of parcel 10 as shown in Exhibit 2 (TMK 4-5-15).

The motion was granted by the Chairman.

Another motion was made by Mr. Izumi for leave to amend the petition with respect to the number of housing units in the total development which will be indicated in the testimony to be presented by Mr. Wollenberg.

Since there were no objections by the parties, Chairman Tangen granted Mr. Izumi's motion to amend the petition to conform to Mr. Wollenberg's testimony.

David A. Wollenberg - Witness

Mr. David A. Wollenberg, Administrative Assistant of Amfac Communities, Inc., Hawaii, having been duly sworn in, was called as a witness, examined, and testified as set forth in the transcript on - - - - - Pages

Direct examination by Mr. Izumi - - - - -	65 to 71
	73 to 92
Cross examination by Mr. Yoshii - - - - -	92 to 94
Cross examination by Mr. Lee - - - - -	94 to 96
Redirect examination by Mr. Izumi - - - - -	96 to 97
Recross examination by Mr. Lee - - - - -	98

Robert K. Rogers - Witness

Mr. Robert K. Rogers, Civil Engineer, having been duly sworn in, was called as a witness, examined, and testified as set forth in the transcript on - - - - - Pages

Direct examination by Mr. Izumi - - - - -	99 to 104
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Don Rickard - Witness

Mr. Don Rickard, full-time Division Representative for the ILWU, Island of Maui, having been duly sworn in, was called as a witness, examined, and testified as set forth in the transcript on - - Pages

Direct examination by Mr. Izumi - - - - -	104 to 110
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Cross examination by Mr. Yoshii - - - - - 110 to 111

Cross examination by Mr. Lee - - - - - 111 to 113

Shigeto Murayama - Witness

Mr. Shigeto Murayama, Director of the Department of Water Supply, Maui, having been duly sworn in, was called as a witness, examined, and testified as set forth in the transcript on - - - - - Pages

Direct examination by Mr. Izumi - - - - - 113 to 115

Claro Capili - Witness

Mr. Claro Capili, Deputy Director of the Department of Public Works, Maui, having been duly sworn in, was called as a witness, examined, and testified as set forth in the transcript on - - Pages

Direct examination by Mr. Izumi - - - - - 116 to 121

Cross examination by Mr. Lee - - - - - 121 to 122

Exhibits

The following documents were marked for identification and introduced into evidence as Petitioner's (Amfac Communities, Inc. - Hawaii) exhibits:

Exhibit 1 - Statement of income and earnings re-invested, December 31, 1974 and 1973

Exhibit 1A-Amfac Annual Report

Exhibit 2 - Tax Map Key 4-5-15

Exhibit 3 - Aerial photograph of the subject property

Exhibit 4 - General Plan Map for the Lahaina District

Exhibit 4-A-The General Plan for the Lahaina District, County of Maui

Exhibit 5 - "Proposed Lahaina, Maui Subdivision" Plat

Exhibit 6 - List of prospective buyers who inquired

Exhibit 7 - Flow chart of development timetable for the project

Exhibit 8 - Publication of the State Dept. of Labor and Industrial Relations entitled "Labor Area Summary"

Exhibit 9 - Preliminary Plan of the Lahaina Sewer System and
Waste Water Reclamation Plant

With the Chairman's permission, petitioner was allowed to withdraw Exhibit 9 with the stipulation that a copy will be submitted at a later date for the records.

MAUI COUNTY PLANNING DEPARTMENT

Mr. Melvyn Yoshii, Deputy County Attorney, County of Maui, moved for the admission into evidence the statement from Mr. Tosh Ishikawa, Planning Director of the Maui Planning Department, and to make Mr. Ishikawa available for examination.

Tosh Ishikawa - Witness

Mr. Tosh Ishikawa, Planning Director of the Maui Planning Department, having been duly sworn in, was called as a witness, examined, and testified as set forth in the transcript on - - Pages

Cross examination by Mr. Izumi - - - - - 123 to 125

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Mr. Gilbert Lee, Deputy Attorney General, requested that reading of the statement in behalf of DPED be waived. He added that Mr. Fujimoto will be available for examination.

There was no direct or cross examination of Mr. Fujimoto. Commissioner Whitesell and Chairman Tangen raised several questions regarding the adequacy of the sewer system. Responses to these questions were elicited from Mr. Fujimoto and Mr. Izumi.

CLOSING REMARKS

In his closing arguments, Mr. Izumi expressed concern over the provisions in the Rules and Regulations, under Section 6-2 (1) Incremental Districting, and Section 6-3, Performance Time. He argued that under these provisions, the petitioner would have to come before the Commission and go through the same exercise for the remaining 2-year development period, since petitioner was thinking in terms of a 7-year development period.

Under the circumstances as described by Mr. Izumi concerning the development schedule, it was Chairman Tangen's feeling that the petitioner would not be required to re-petition the Commission at the end of 5 years. However, a short recess was called to consult with the Commission's attorneys.

Upon consultation with the Commission's attorneys, the Commission's position was clarified as follows:

1. Section 6-3 "Performance Time" is taken out of the statute and will basically prevail.
2. The Commission agrees that the subject petition A75-401 will not be subject to 6-2 (1) Incremental Districting; and that if substantial progress in the development takes place within a 5-year period, there will be no basis to act to reclassify the land.

Mr. Izumi concluded that by oral testimony and by evidence submitted, petitioner has demonstrated by a clear preponderance of the evidence that the boundary change is reasonable, that it does not violate Section 205-2 of the Hawaii Revised Statutes, and that it complies and conforms to the State Land Use Interim Guidance Policies.

The hearing on A75-401 was closed thereafter.

A75-405 - KULA ALII, LTD.

In the matter of the hearing on the petition by Kula Alii, Ltd., A75-405, Chairman Tangen requested that the parties identify themselves for the records.

APPEARANCES

Earl Stoner, limited partner of Kula Alii, Ltd., representing
Ross B. Furman, general partner of the firm

Melvyn Yoshii, Deputy County Attorney, County of Maui, representing
the Maui Planning Department

Gilbert Lee, Deputy Attorney General, representing the Department
of Planning and Economic Development

All of the above were admitted as parties to the proceedings.

Due to the time constraints, it was announced by the Chairman that the Commission will be unable to hear the petition today. In order to expedite the proceedings later, the Chair requested the parties to state their positions and to exchange documents, if any.

Mr. Stoner stated he maintained the position set forth in his petition.

Both the State and County reported that they opposed the petition. It was reported that copies of the State's and County's statements had been provided the petitioner.

Chairman Tangen announced that the hearing on A75-405 will be continued at a later date and that all parties will be notified of the details.

Since there was no further business, the meeting was adjourned at 4:43 p.m.