

PARKS AND AGRICULTURE COMMITTEE

Council of the County of Maui

MINUTES

August 17, 2004

Council Chamber

CONVENE: 9:04 a.m.

PRESENT: Councilmember Jo Anne Johnson, Chair
Councilmember Robert Carroll, Vice-Chair (In 9:18 a.m.)
Councilmember Michael J. Molina, Member
Councilmember Joseph Pontanilla, Member
Councilmember Charmaine Tavares, Member

STAFF: Shelly K. Espeleta, Legislative Analyst
David M. Raatz, Legislative Attorney
Clarita L. Balala, Committee Secretary

ADMIN.: Glenn Correa, Director, Department of Parks and Recreation
Patrick Matsui, Planning and Development Division Chief, Department of
Parks and Recreation
John D. Kim, Deputy Corporation Counsel, Department of the
Corporation Counsel
Edward S. Kushi, Jr., Deputy Corporation Counsel, Department of the
Corporation Counsel

OTHERS: Michele McLean, Land Use Planner, Smith Development
Barney Eiting, Board Member, Kihei Community Association
Additional attendees (1)

CHAIR JOHNSON: ...*(gavel)*... The Parks and Agriculture Committee meeting of August 17, 2004, will come to order. We have present with us this morning Committee member Michael Molina, Committee member Joseph Pontanilla, Committee member Charmaine Tavares. Good morning. And Vice-Chair Robert Carroll will be a little bit late this morning. From Administration we have with us Mr. Pat Matsui. In the audience we have Mr. Glenn Correa, Parks Director. Because Mr. Kushi from Corporation Counsel will be a little bit late, we have Attorney Kim substituting for a while this morning. With staff we have Mr. David Raatz, Ms. Shelly Espeleta, and Clarita Balala.

ITEM NO. 12: REQUEST FOR WAIVER OF PARK DEDICATION REQUIREMENTS FOR HALE KANANI CONDOMINIUM (KIHEI)

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CHAIR JOHNSON: This morning we have on our agenda only one item and that is PA-12, which is a request for a waiver of the park dedication requirements for Hale Kanani Condominium. At this point in time, we have Michele McLean who is signed up as a testifier, but Michele, without objection, if you would allow her just instead of being a testifier to just simply be a resource person so that she could explain. I would appreciate that. And also in the audience, we have Mr. Barney Eiting who I would also like to give some type of information and background as a resource person. So are there any objections to proceeding since we have no other testifiers signed up at this point?

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR JOHNSON: Okay, thank you very much. Michele, if you would just like to give an overview and if you'd like to come up here, that might be easier.

MS. MCLEAN: Good morning, Chairwoman Johnson and Committee members, my name is Michele McLean with the applicant, Smith Development and its development entity for this particular project, Hale Kanani Associates.

I don't think I've ever sat in this particular chair actually.

The Hale Kanani project is a 72-unit condominium located at the intersection of South Kihei Road and Kanani Roads in Kihei across from Cove, Cove Park, diagonally across the street from the Kalama Heights Senior Center. The project received its SMA permit from the Planning Commission back in September. Site work began in April of this year and construction is expected to finish in summer of next year . . . June or July of next year.

As part of the site design, and Mr. Eiting is here I see, we actually approached the Kihei Community Association very early on in the development process and got a lot of feedback on a number of issues, but site design being one of them. You can see from the rendering that the buildings are situated along the street frontage with the parking behind rather than the other way around. That was a specific recommendation, and we think was an excellent suggestion, and another suggestion was to develop this little park on the corner.

Presently, the site is comprised of three parcels that are being consolidated and the front two parcels are vacant. On that corner right now there's a fire hydrant that's on a little concrete pad and that's where kids typically hang out to wait for their rides or to meet up with each other. The suggestion from the community association to turn that into a really nice little public feature just would fit in perfectly with what actually goes on at that location in the present.

And so for the project as a whole, the park requirement would be a land area of 34,500 square feet and the park area . . . the park area that the credit is being

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requested for is 2,255 square feet. The area of the park is actually larger than that because it does go a little bit into the right-of-way where the sidewalks come around, but the portion that we're asking credit for is just with the land that we will maintain which is 2,255 square feet. So it's a small component of the overall parks requirement, but we will be spending, we're guessing at this point, about \$40,000 to develop the site with really nice landscaping, benches, shade trees, of course, irrigation, and so forth. The site will be maintained by the homeowners association which has common areas throughout the site to maintain and the park will be included in that.

CHAIR JOHNSON: Okay, thank you. Are there any questions of Michele at this point? Thank you, Michele, and just sit there and then I'll have Mr. Matsui give his explanation. And your recommendation, Mr. Matsui, if you don't mind.

MR. MATSUI: Okay. As Michele stated, the park dedication requirement is being met by the dedication of 2,200 square feet piece of property. That's the triangular piece at the corner of South Kihei and Kanani Road and that would be a privately owned and privately maintained park. The balance of that, which amounts to some \$600,000, will be a cash contribution. Now, because they are dedicating the privately owned park, there's a requirement in the ordinance that requires them to put a restroom and parking unless that is waived [sic] by the County Council. So that's what this resolution is about, to waive the restroom and parking. You know, it's something the Parks Department agrees with and doesn't make sense to put a restroom and parking lot on a tiny . . . it's basically kind of like a rest stop area, landscaped rest stop area. So that's pretty much the gist of the Council resolution.

CHAIR JOHNSON: Are there any questions by the Council members? Councilmember Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Question for Ms. Choteau. This will be privately owned and maintained, but it will still be open to the public, as well?

MS. MCLEAN: Yes, absolutely.

COUNCILMEMBER MOLINA: Okay. And as far as what kind of measures will be taken as far as keeping kids safe. I know it's a pretty small park, but any types of measures you looking at keeping kids or for safety purposes?

MS. MCLEAN: We're looking really carefully at lighting. It's a trade-off between safety and bright lights being a nuisance. I know that's something that the Council is dealing with as well, the outdoor lighting, but that's really the only thing. I mean there are no . . . and actually one of the conditions on the project prohibits fencing along the front because that was another design element that people

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walking across the street feel shut out from buildings and so forth. So it's very open. There aren't any fences allowed up to the buildings. You can do landscaping and so forth, but there won't be any fencing to distinguish the park area from the project itself. So other than lighting at nighttime, there really aren't any other safety features I can think of.

COUNCILMEMBER MOLINA: Is there a larger park nearby the condo complex?

MS. MCLEAN: It's right across from Cove Beach . . . from Cove Beach Park and then just diagonally from the Kamaole . . . not too far down, Kamaole Parks.

COUNCILMEMBER MOLINA: Okay, thank you.

MS. MCLEAN: Excuse me, Kalama Park. . . . (laughter) . . . That didn't sound right.

CHAIR JOHNSON: Councilmember Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you, Madam Chair. Question for the Parks Department in regards to cash contribution. How much was that?

MR. MATSUI: It's approximately \$616,000.

COUNCILMEMBER PONTANILLA: \$616,000?

MR. MATSUI: That's correct.

COUNCILMEMBER PONTANILLA: Thank you. The other question that I have is that once this complex is built, will there be any security for this complex? The reason why I ask is that the park being in the corner, you know, may be a hangout for some of the undesirables, yeah.

MS. MCLEAN: That was an issue that was raised by the Community Police Officer actually. There will be an on-site resident manager who lives in one of the units who will obviously be an overseer of the project. But in terms of a hired security company, no, we don't foresee that at this time. If it does become an issue, it would be up to the homeowners to decide to do something about that. But the sight is presently a gathering place anyway and it will just be up to the residents if there are security concerns to deal with it at that time, but we're hoping that the community presence will prevail over that.

COUNCILMEMBER PONTANILLA: Thank you.

CHAIR JOHNSON: Any further questions? Seeing none at this time. If we could have Mr. Eiting come down and also from the Kihei Community Association's

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perspective, give the reasoning as to why they are supporting having this park in this location. Any objections?

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR JOHNSON: Thank you. And Barney just state your name, too, for the record and Mr. Eiting is representing Kihei Community Association this morning.

MR. EITING: Good morning. My name is Barney Eiting. I am a member of the Board of Directors and the Planning and Development Committee for the Kihei Community Association. I'd like to . . . some brief comments this morning. A little of a background with respect to this particular project and overall it's impact on our community. Approximately five years ago, the Kihei Community Association began the program working towards the update of the Kihei-Makena Community Plan. At the beginning of that, the community established a vision statement, which essentially was to create a beautiful park and place a city inside of it. That's been our long-range objective is to begin to beautify our community.

One of the very first things that occurred was realizing that part of the project or the opportunity of stopping urban sprawl and beginning an in-fill for our community was the establishment of what we call four neighborhoods. Now, this we really find out was not a very novel concept because in the historical research, we discovered that the ancient Hawaiians had established four ahupuaas in Kihei . . . the Kihei area, each divided by major gulches. One of the concepts of establishing four specific neighborhood areas, which turned out to be the what was called the Suda Store area far on the north; the area that became our principal commercial area, which is the Azeka area; then the next one was what we have in question here and that's the Kamaole section; and then the last section was at the far end of Kihei, the boundaries of Kihei. The principal reason was that we are trying to create neighborhoods that are interconnected where people through walking, bicycling, or whatever, can move around from one area to the other. And also one of the objectives was to establish identity areas for each of the neighborhoods. One of the principal things was in this particular area which is the real beginning of that Kamaole section which picks up the three parks, Kamaole I, II, and III, and through that commercial area.

The intent of the open space at the intersection of the Kanani and South Kihei Road on the developer's property was to create some sense of place for the entry into the Kalama Park commercial neighborhood district and more importantly to construct significant crosswalks and a change in texture and color from the pavement. This area is a highly used pedestrian area at Cove Park and also involves many of the elderly from the Kalama Heights area just adjacent to this. The intention was to expect the developer to provide this amenity in addition to any park fee requirements. We also set the developer up with a traffic designer to develop the concept of traffic calming, et cetera. One of the real

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concerns is that Cove Park is an area that is frequented by many of the residents and also by the residents of the, when I say residents I mean in the community, and also of the Kalama Heights people. Several other areas also, for instance, we recognize that that configuration of South Kihei Road has a slight little angle to it, it isn't a straight way, and so whatever kind of traffic calming, whether it's signal lights, roundabouts, requires ultimately as traffic increases and the demand and so forth, probably a greater amount of area needed to ultimately provide some right-of-way for a significant interchange and the crosswalks.

One of the big eyesores in the whole of Kihei is that enormous pod of utility wires that sit in that corner of South Kihei Road and Kanani on the makai side, which directly in front of the Hale Kanani development. That was, of course, discussed and the developer had stated that they would remove the overhead electric wires on this makai side of South Kihei Road and they had a budget of \$600,000 to do so. We note that at this point in time there's been nothing of that nature done and one of the more disturbing factors is that significant amount of sidewalk work has been done for ADA compliance and so forth. All of that would have to be torn out if that in fact are going to be undergrounded. So we're yet wondering if that will be taking part, understanding that this little park area is really important in distinguishing this as a beginning of this Kalama Park neighborhood area.

We have also noted that in correspondence and agreements with Smith Development at that time at 700 . . . what they were estimating was a \$750,000 park assessment fee. Whatever that amount ultimately turns out to be and whatever may have been paid already, we're not certain of, but we're very hopeful that as we understand by law that those dollars should be retained in Kihei for park area and not spent elsewhere. And one of the real concerns was addressed earlier about parking and restrooms. There are no restroom facilities in Cove Park. There's very little of any parking that's there and it would be our hope that a major portion of the park assessment fee would be used in establishing restroom facilities and some additional parking for the Cove Park area. The . . . let me put it this way, our policy was finally the KCA's policy on park fees is that they should go toward the improvement of parks in the immediate vicinity of the development paying those fees. In other words, the park fee should be designated for the construction of the sorely needed bathrooms near Cove Park and parking. If the developer were willing to construct these park amenities, we certainly would be in support of the project for giving back to the community and in support of using the park fees to do so. It's been unfortunate that in the past many of the park assessment fees wind up being used in other areas of the County.

COUNCILMEMBER TAVARES: That's illegal.

MR. EITING: I understand that it's illegal.

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COUNCILMEMBER TAVARES: No, it's not done.

MR. EITING: One of the principal ways brought to mind was when the development of the Central Maui Park when the total fees . . . park assessment fees surplus in Kihei were transferred to the Central Park.

COUNCILMEMBER TAVARES: No.

MR. EITING: In any event, we have a concern also on other developments such as the Mai Poina Park across from the new proposed . . . the makai, Kane Makai [sic] development where there is little over a million dollars in park assessment fees and there's some concern about how those fees are going to be used. But in any event, we think that overall because of the density of the project it will add to the density. But based on the many discussions that we have, and I think all of you have copies of the correspondence between ourselves and Hale Kanani, that based on those contributions and with those commitments that were made, if they are complete and total, we certainly could be supportive of the project.

CHAIR JOHNSON: Thank you very much, Barney. Councilmember Tavares.

COUNCILMEMBER TAVARES: Yeah. Thank you, Madam Chair. I'm sorry I was getting all nuts over here, but the park assessment is set up in such a way that the park fees generated in the community plan district must stay in that community plan district. It cannot be transferred even by Council action. We'd have to change the law in order to do that and the law has not been changed. So I'm not sure where you got that information, but all of the park assessment appropriations come through the Mayor's budget and to the Council and we always are looking at where did that come from, what generated it, and you know, to assure you that as a Council we look at where those monies are going and they must stay in the community plan district. So, hopefully, that, that we can get that part straightened out. The Queen Keopuolani Park development was out of General Fund when the park assessment . . . I doubt that there was any park assessment funds in Queen Keopuolani Park. It was all General Funds. But, yeah, those fees that are collected in like the Kihei area will stay in the Kihei area. Now, as far as you folks wishing to do improvements at Kalama Park or Cove Park, that has to be presented to the Administration and then reflected in their budget as they bring it down to the Council or you come back down to the Council when we go through the budget next year to look at that possible expenditure of funds for that purpose.

CHAIR JOHNSON: Thank you, Councilmember Tavares, and I'm allowing a little bit of latitude because basically what we have on our agenda is really just this particular waiver in this particular park. But because Mr. Eiting wanted to give the background and basically as to how this all came about, I thought that perhaps giving you some insight into how this particular area is being supported,

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I think is really important. And I'd also like to recommend or recognize, I'm sorry, recommend . . . Councilmember Carroll, thank you very much. He has just arrived. Are there any other comments or things that you would like to address, Michele?

MS. MCLEAN: Thank you, yes. Mr. Eiting raises a couple of important issues and I'm happy to follow-up on those. We will be undergrounding the utility lines. For those who've worked with Maui Electric and Verizon and Oceanic Time Warner Cable, it's a very involved process getting the three utilities to work together on easements along our property. Some of it's County property. Some of it's across the street from our project along the Shores of Maui. The Shores of Maui all along has expressed interest in participating in the undergrounding to try to continue it along their entire frontage. There are a lot of pieces to that puzzle but it's something we're committed to. It's a condition of the SMA permit to underground as far as we are able to and that includes obtaining the necessary easements. So that's why you haven't seen that work commencing, yet, but absolutely we're doing it.

And if you can look on the . . . either of the aerial photos, something else that we're doing as well, which is . . . it was an issue that was raised by some of the residents at Kalama Heights. Across the street from our project, you can see there's a beautiful sidewalk that terminates behind the Shores of Maui at Kanoe Street. There's this segment here where it's just sort of gravel and dirt shoulder. We're going to be continuing that sidewalk all the way down to the intersection.

We're also working with the Public Works Department to see along where the sidewalk is completed where there is the striping. We're not quite sure what the purpose of that striping is. We're hoping that additional on-street parking can be provided there as well as on our side where we will be doing road widening and other improvements. So those aren't parking requirements of our project, but we feel that there's ample room on Kanani Road for on-street parking for beach users if the right-of-way is just used in a more efficient manner. So we're working with them on the best way to accomplish that and the improvements on our side at least would be done at our expense.

There's also, you'll notice on this area, a bus turnout. That was also another recommendation of the KCA to encourage mass transit in the area or for school buses, as well. So on that side of the street anyway we couldn't do as much parking as we might otherwise because of the bus turnout area you need some clearance on either side.

But we are, in our opinion, we are certainly going beyond what the requirements are to provide community amenities at our expense and we agree wholeheartedly that the funds should stay in the region. And certainly, if we can

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be much more specific as to the immediate region rather than just the community plan region, we would support efforts in that direction. Thank you.

CHAIR JOHNSON: Thank you, Michele. Because public testimony is still open, is there anyone in the audience who wishes to testify in this matter before we close public testimony? With no one stepping forward, public testimony will be closed at this point and because there was no written testimony received, we will just simply have that . . . whatever we have received in terms of correspondence, when the recommendation comes forward, we will file that. Are there anymore questions of any of the Members? And thank you, Mr. Kushi, for coming. Councilmember Molina.

COUNCILMEMBER MOLINA: Yeah. Thank you, Madam Chair. Prior to your recommendation, if we could get some written comments from the Planning Director, as well as the Public Works Director on this matter? I would like to see what they have to say, as well.

CHAIR JOHNSON: Basically, at this point we had not specifically requested Public Works or Planning only because of the fact what we were really concerned with was the recommendation with regard to the waiver of the construction of the restrooms, which Planning doesn't really have any control over and also the waiver of the parking requirement. So I don't know how the other Members feel, but at this point in time, they have not expressed and I did make contact with them, but they expressed neither one way nor the other. But if you would like us to send something so that when this does come forward to the Council, I would be happy to do that--

COUNCILMEMBER MOLINA: Sure.

CHAIR JOHNSON: --asking for any comments.

COUNCILMEMBER MOLINA: If you would, that would be appreciated, yeah. I know maybe what they, you know, it doesn't seem like it's a real major thing for them at this point to comment, but just . . . just to find out what just what's on their mind. I don't foresee any major concerns here.

CHAIR JOHNSON: Ordinarily, what would happen is because this is the choice and the recommendation pretty much between Parks and Public Works in consultation, it's been my thought that the recommendation or policy with regard to who makes this recommendation and who ultimately has to live with whatever is there is the Parks Director's choice. So that's why we didn't . . .

COUNCILMEMBER MOLINA: Okay. On second thoughts since you did already have some I guess preliminary contact with both divisions and they didn't seem to indicate anything major, I will yield to your recommendation.

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CHAIR JOHNSON: We can ask Mr. Matsui also for his comment just, you know, to see if he has any need of further consultation with either department.

MR. MATSUI: Thank you, Madam Chair. If you would recall the park dedication ordinance was amended February '04, and one of the changes was that getting approval from the Public Works Director and the Planning Director for this waiver was eliminated. So now it's just the Parks Director.

CHAIR JOHNSON: Okay, thank you. Thank you very much. Council members, you have anymore questions? I just had a couple more questions, Michele, because I'm getting different figures thrown around. Originally, I guess there was anticipated to be a greater park assessment. What is the total amount that you will pay for your park assessment and the portion that we're waiving, can you break that out for us just so that it's a part of the record so that the public knows what we are expending and what we're giving up and what we're getting.

MS. MCLEAN: Well, we're still in discussions with the Parks Department because the parks assessment ordinance now reads that the fees are determined at the time of subdivision approval or building permit issuance and one of our building permits was issued prior to the new fiscal year and so the earlier fiscal year's fee applied to that building permit clearly. We have had some snags with the building permit issuance due to a couple of issues with the Public Works Department and so the issuance of the subsequent building permits has been on hold and so because of that snag that pushed us into the next fiscal year. And the difference between the fees if you took one fee applied to the entire project versus the newer fee applied to the entire project, it's a difference of about 18 percent, which means about \$94,000, if it were all done for the cash value for all of it. What that means for the park area itself is between 35 and \$40,000. So specifically no matter how this issue is resolved with the Parks Department, the cash value of the park will be between 35 and \$40,000.

CHAIR JOHNSON: Okay. So that's . . . that would be the cash contribution and then obviously, the recommendation of the Parks Department would be not to construct restrooms or not to construct any additional parking in that area. Is that correct?

MS. MCLEAN: Right.

CHAIR JOHNSON: So if the Council members understand that recommendation. At this point in time, are there any additional questions that any of the Members have before the recommendation is made. Seeing none. The Chair's recommendation would be to approve the request for the waiver of park dedication requirements for Hale Kanani Condominium and the adoption of the

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resolution that is attached therein, as well as the filing of any of the correspondence.

VICE-CHAIR CARROLL: So moved.

COUNCILMEMBER MOLINA: Second.

CHAIR JOHNSON: It's been moved by Vice-Chair of the Committee, Councilmember Carroll and seconded by Councilmember Molina to approve this. Is there any further discussion on the matter? Seeing none. All those in favor, please signify by saying aye. And the Chair votes aye.

VOTE: AYES: Councilmembers Molina, Pontanilla, Tavares, Vice-Chair Carroll, and Chair Johnson.

NOES: None.

ABSTAIN: None.

EXC.: None.

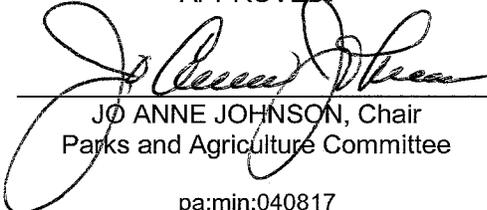
MOTION CARRIED.

ACTION: Recommending ADOPTION of the resolution and FILING of communication.

CHAIR JOHNSON: So at this point we have no further business. Is there anything else, Staff, that we need to conclude? Okay, thank you very much. Any announcements? Seeing none. This meeting is adjourned . . .(gavel). . .

ADJOURN: 9:37 a.m.

APPROVED:


JO ANNE JOHNSON, Chair
Parks and Agriculture Committee

pa:min:040817

Transcribed by: Clarita L. Balala