

**MINUTES**

**PLANNING AND LAND USE COMMITTEE**

**November 18, 2003**

**Council Chamber**

CONVENE: 1:36 p.m.

PRESENT: Councilmember Wayne K. Nishiki, Chair  
Councilmember G. Riki Hokama, Vice Chair  
Councilmember Robert Carroll, Member  
Councilmember Jo Anne Johnson, Member  
Councilmember Dain P. Kane, Member (ar 1:45)  
Councilmember Danny A. Mateo, Member  
Councilmember Joseph Pontanilla, Member  
Councilmember Charmaine Tavares, Member

EXCUSED: Councilmember Michael P. Molina, Member

ABSENT: None

STAFF: David Raatz, Legislative Attorney  
Yvette Bantilan, Committee Secretary

ADMIN.: John Summer, Administrative Planning Officer, Dept. of Planning  
Gilbert Coloma-Agaran  
Brian Moto, Corporation Counsel

OTHERS: Randall Endo, Development Manager, Maui Land and Pineapple  
Company, Inc.  
Additional attendees (10)

PRESS: Ilima Loomis, The Maui News

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**PUBLIC REVIEW OF AG SUBDIVISIONS (C.C. 02-95)**

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CHAIR NISHIKI: Planning and Land Use Committee come to order. We'll turn to Item No. 5 public review of ag subdivisions. Is anyone here from the general public that would wish to testify? Okay, thank you. We have one member here. Let the record show Councilmembers Carroll, Hokama,

Johnson, Mateo, Pontanilla, Tavares, and Nishiki present. Excused are Molina and Kane. We have Randy Endo. Go ahead Randy. Thank you.

MR. ENDO: Good afternoon, Chair Nishiki, members of the Council. You folks all look very tired. So I'm just gonna paraphrase my written testimony that's being passed out right now.

My name is Randy Endo. I'm here on behalf of Maui Land and Pineapple Company, speaking on Bill No. 76. We've reviewed both the original bill and the bill proposed by the Public Works. We have a couple of comments. We think that it's important that we have a thorough analysis of the pros and cons of the two versions of the bill so that we can analyze and discuss and you folks can discuss all of the merits of both versions.

One point that's important to us is that we feel that subdivisions that have preliminary subdivision approval should be exempted or in the alternative we do support the proposed amendment by Councilmember Tavares to exempt subdivisions that have preliminary subdivision approval and that have also have received adequate public review already, and I believe there's a memo describing that in more detail. However, as to that proposed amendment, uh, we don't, we feel that the publication requirement portion of that amendment is, is burdensome for us.

There's some other . . . let's see . . . we do, we don't object to the addition of a public informational meeting prior to the granting of preliminary subdivision approval. However, since the decision-making body is the Public Works and the purpose of the bill appears to be primarily to obtain public input it seems in our opinion more appropriate that Public Works conduct the meeting rather than the Council. The Council already has a lot of work to do and should hesitate to take on additional responsibilities when there are satisfactory alternatives. This is especially true in this case where all of you folks would be doing under this bill is sending recommendations to Public Works.

Finally Maui Land and Pine is opposed to requiring additional studies or reports in addition to what is already required under Title 18 of the Maui County Code.

That sums up our primary concerns and the exemption provisions is probably the one most critical to us at this time. Thank you for considering our concerns.

CHAIR NISHIKI: Thank you very much. Any questions for Mr. Endo? Charmaine.

COUNCILMEMBER TAVARES: Yes, thank you, Mr. Endo. Thank you for your comments. I wanted a question, uh, ask you a question about in the proposed amendment that, uh, is in that memo dated to Mr. Nishiki on November 14<sup>th</sup>, that you don't support the public, the publication requirement. And my question to you is if you don't have a publication how is it that you get word out to the community that a project or that a subdivision is coming up?

MR. ENDO: Well, that is, that is a good question, Councilmember Tavares. I guess our feelings is more practical standpoint as far as what's already been done for certain subdivisions, uh, you know, notice would be handed out in flyers or community association however they publicize it through e-mail or whatever have you and they have these meetings, they are not formal public hearings or public meetings. So they don't have any public, publish notices like--

COUNCILMEMBER TAVARES: Right.

MR. ENDO: --these formal meetings here today for example. So I guess we were just thinking that as long as there is, you know, that as long as there was substantial public input, there was a meeting and it was attended by community groups that, you know, hopefully that would be sufficient to be exempt. I guess it's a practical perspective that, you know, to put in this exemption would be difficult because . . . I mean as far as it stands today I don't know how many, you know, preliminary subdivisions there are. Sorry, subdivisions with preliminary approval already out there, but my guess would be none of 'em have actually held a formal meeting pursuant to a publish notice so that's just sort of our comment on that.

COUNCILMEMBER TAVARES: Yeah, and just to let you know that I didn't include that it would be, uh, a formalized public notice. It could be in the form of a press release to say that there's this meeting coming up or if a community association was gonna publish their agenda in the paper or something, something that would be published because what I have experienced in the past in some of the communities that the community associations may have it on their agenda but it's only their members who get their e-mail notices and that the general public isn't a member of their community association and therefore is not aware that a certain topic is going to be discussed or certain subdivision and that's why I had included that. And I think that to publish it let's say in The Maui News it's not a very big expense considering the, uh, the opportunity, you know, weighing that against the opportunity of people to come to a meeting even if it is held by "x" community association, but at least the general public is aware of that particular meeting. Just as a way of explanation I hope you would understand that 'cause the whole idea behind this part is to get public input and from a diverse and as wide an audience as possible especially

in that community plan or in that community region where it's gonna occur. So thank you for your comments.

MR. ENDO: Okay, thank you.

CHAIR NISHIKI: Any other questions for Mr. Endo? Seeing none, thank you. It is now 1:40--

VICE CHAIR HOKAMA: Chairman.

CHAIR NISHIKI: Mr. Hokama.

VICE CHAIR HOKAMA: Thank you, Chairman. If, uh, Ms. Tavares would agree, may I ask a few question on her proposal, please.

COUNCILMEMBER TAVARES: Sure.

CHAIR NISHIKI: Charmaine. Go ahead.

VICE CHAIR HOKAMA: Yeah, thank you. Thank you very much. I like your intent Charmaine on your memorandum to, uh, Chair Nishiki and the rest of the members of this committee. And upon listening to Mr. Endo's testimony, are you aware of any preliminary or application that received preliminary approval that would qualify under your standards?

COUNCILMEMBER TAVARES: Uh . . .

VICE CHAIR HOKAMA: 'Cause my, the way I read was, the way I understood it was that maybe there are some request that went through a preliminary approval that, uh, I guess has met your standards and that would be able to move forward and that's why I'm kind of asking questions as I thinking out aloud--

COUNCILMEMBER TAVARES: Uh-huh.

VICE CHAIR HOKAMA: --if you are aware that, yeah, certain people, you know, or applicants did go through a very open process and did try and get a lot of comments and therefore pretty much have satisfied the standards you have set forth.

COUNCILMEMBER TAVARES: I think the one that comes to mind especially is the Kaanapali 2020, uh, project where they have had numerous community meetings and actually have used the newspaper to alert people to get public input, um . . .

VICE CHAIR HOKAMA: Have that received preliminary approval?

COUNCILMEMBER TAVARES: I think it has preliminary subdivision approval--

VICE CHAIR HOKAMA: Subdivision approval.

COUNCILMEMBER TAVARES: But I guess the, what we're looking at and from Mr. Nishiki's proposal originally was to get more public input so things are not surprises in a community, you know, when it come up.

VICE CHAIR HOKAMA: Right, right.

COUNCILMEMBER TAVARES: And it was a way to say, you know, let's not penalize those landowners or developers that have gone through a real public process, truly a public process, don't penalize them and they would be if we didn't include this in there, and it would still be the, you know, the Department of Public Works or the Director of Public Works that would determine whether or not there has been sufficient publication and it would be on the onus of the developer or the landowner to prove that they did in fact have these public meetings and they were noticed in the public so that the general public did have an opportunity to, to comment but other than, uh, I can't think offhand of any, any other ones but that one was a big one that stuck in my mind 'cause there were so many meetings and I kept, you know, I kept seeing the notices in the, in the papers that they were having these meetings and had this big conference thing and, uh, to let the public know what was happening and, and, uh, you know, I think that the process they went through or going through is really a good example of how we want things to be done in our communities so that's all.

VICE CHAIR HOKAMA: Chairman, if I may, please.

CHAIR NISHIKI: Continue.

VICE CHAIR HOKAMA: Thank you. And while I will agree with you wholeheartedly that like us, uh, an entity such as Kaanapali 2020 has been very open, has solicited a lot of comment from inside and outside of the community plan region, uh, I was, I know they have more than just an ag component and of course I'm kind of impressed with the new standard that people like Jim Wriston has put forth, but is there a ag subdivision situation that you're aware of that pretty much has met this that would qualify?

COUNCILMEMBER TAVARES: Uh . . . no, I can't recall offhand and I--

VICE CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER TAVARES: The other thing that's different in this is that, uh, you know, under "B" the ample notice it's the readership in the community plan area. So that if somebody was doing a project in Kihei they could use the, their Maui Times or--

VICE CHAIR HOKAMA: Okay.

COUNCILMEMBER TAVARES: --you know that, they don't have to use The Maui News and The Maui Times and the Lahaina News Letter or the Haleakala Times or anything like that.

VICE CHAIR HOKAMA: Okay. So just that, so I can be clear in, if others it would help them . . . those that have received preliminary approval under the existing rules of the department and the County Code will still be required then to go through the process?

COUNCILMEMBER TAVARES: Yes.

VICE CHAIR HOKAMA: Okay, I think that's very clear on Ms. Tavares's part. Thank you.

CHAIR NISHIKI: Okay. I would like to make an announcement. In lieu that many of our members have had a long meeting, in lieu that this subject matter will entail scrutiny and understanding because now we've got communication from Mr. Foley and Agaran and also staff has prepared, uh, a graph for you outlining the concerns that you want to done, also I think Mr. Hokama had requested some response from the Planning and Public Works Department, uh, we have a meeting at 5:30 and I would not want to enter into any kind of review of this until another day when we have the whole day to probably have a good understanding, finalize it and perhaps pass on it. So with that in mind, uh, and some consideration and concern for those of you that stayed up late last night for a very intense meeting, the Chair is going to ask for a deferral of this subject matter. Are there any problems with that? Mr. Hokama.

VICE CHAIR HOKAMA: Uh, Chairman, thank you very much for your consideration that you've proposed. I would just also like to add that upon receipt from Planning as well as Public Works I will be forwarding copies to you Mr. Chairman of the department's responses to my request for information that I have dated August 12<sup>th</sup>. We're now in November 18<sup>th</sup> and so I, uh, will again make my responses from the departments available to all members of this committee thank you, Chairman.

CHAIR NISHIKI: Thank Mr. Hokama. Johnson.

COUNCILMEMBER JOHNSON: My only concern would be that if we could have a presentation or is Mr. Agaran now prepared to make a presentation today with regard to the issues that he has raised from the Public Works standpoint because my major concern is that as we speak, as we sit here in this meeting, the core issue of why I brought this forward in the first place is that there is no dialogue going on with ag subdivisions. Okay, agricultural subdivisions continue to come up in West Maui, and what I have proposed originally was a temporary time out while we were considering this issue. I have now been told that there is a subdivision near Olowalu that will, that intends to convert through the use of covenants and restrictions and CC&Rs condominiumization of agricultural land that will result in over thousand homes in West Maui. How long is this going to be delayed? I'm really concerned because if we don't do something, Chair Nishiki, my fear is that it won't matter what public hearing we have, it won't matter about this bill because the need is now. So I would ask for some kind of direction or relief or at least take up before the end of this year the ag moratorium so that we can discuss this and figure out why the ag bill is not working and why this proposals are coming forward and our ag lands are being converted at an alarming rate for residential subdivisions that's my concern, Mr. Nishiki. I, sorry if I sound upset but it is very disturbing and the public keeps coming out and expecting action and then we as Council members get in a position where they don't understand why we aren't acting on the urgency of this kind of request. So that's my concern, Mr. Nishiki, about delaying. I really would like to hear some preliminary information if that's available and I'd also like to know if you have any intention at all of hearing at least at another meeting about the moratorium, thank you, Mr. Chair.

CHAIR NISHIKI: Okay. Mr. Kane.

COUNCILMEMBER KANE: And thank you, Mr. Chair and my apologizes for being tardy to the meeting. Our office too did intend to provide some, not major but some small amendments for consideration but because of the request for deferral, which I will be supporting, we will go ahead and submit once we have our t's crossed and our i's dotted to the committee binders so that the members will have in advance my, the initiatives that I have for consideration. So I just wanted to let you know, Chairman.

CHAIR NISHIKI: Yeah, thank you. Any other communication? Jo Anne, I can discuss the scheduling of the meeting with you outside this unless you want me to speak on the record? Okay. Any other comments? Charmaine.

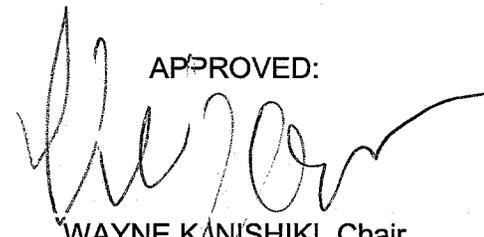
COUNCILMEMBER TAVARES: Yeah, Mr. Chair, the testifier today brought up a sort of a request which was a comparison between the two bills and I think that's probably valid, and I was wondering if your staff can break that apart

to show the differences and in a matrix form or something that would be easy for us to comprehend and to include in the different amendments or the proposal like what's coming from Mr. Kane in another column or something like that. I think it would be easier for the public to understand and probably easier for us to go through the bill when we do have the next meeting if that's possible.

CHAIR NISHIKI: Okay, thank you. Staff? Thank you. Any other comments? Seeing none, meeting adjourned. (gavel)

ADJOURNED: 1:58 p.m.

APPROVED:



WAYNE KANISHIKI, Chair  
Planning and Land Use Committee

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Transcribed by: Yvette Bantilan