

LAND USE COMMISSION  
MEETING MINUTES

**March 24, 2016 – 8:30 a.m.**

West Hawaii Civic Center

74-5044 Ane Keohokalole Highway, Kailua-Kona, HI 96740

COMMISSIONERS PRESENT: Chad McDonald  
Edmund Aczon  
Kent Hiranaga  
Arnold Wong  
Nancy Cabral  
Linda Estes  
Jonathan Scheuer

COMMISSIONERS EXCUSED: Aaron Mahi  
(There are currently 8 seated Commissioners out of 9 positions)

LUC STAFF PRESENT: Daniel Orodener, Executive Officer  
Diane Erickson, Deputy Attorney General  
Scott Derrickson, Staff Planner  
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Jean McManus

**CALL TO ORDER**

Chair Aczon called the meeting to order at 08:30 a.m. and summarized the progress that had been made during the March 23<sup>rd</sup>, 2016 portion of the meeting. Chair Aczon then asked for Petitioner to resume its presentation.

**PETITIONER**

Mr. Kudo stated that he had Petitioner's Exhibit 15 – Resume and Qualifications of Timothy Cornwell to offer for the record. There were no objections and Petitioner's Exhibit 15 was admitted.

Mr. Kudo also stated that QLT was agreeable with OP's response to the March 22, 2016 DOT letter and that he had a copy of the Decision and Order for Docket No. A73-470 for the Commission to review if necessary. Mr. Yee acknowledged Mr. Kudo's agreement to OP's response. LUC staff circulated the copy of the A73-470 Decision and Order for Commissioners to review.

Chair Aczon acknowledged the action updates of Petitioner and the Parties and called for Petitioner's witness.

Petitioner's Witness- Timothy Cornwell

Mr. Cornwell was sworn in and described his career background and credentials and used the PowerPoint presentation that his co-worker, Richard Gollis, had prepared for the Commission, to describe how the economic forecasts in the original Petition's presentation had failed to include the harsh economic setbacks and market failures that occurred after the original Petition had been granted.

Questions for Mr. Cornwell

COUNTY

Ms. Self stated the County had no questions.

OP

Mr. Yee requested clarification on the role that Concorde Group had in its current business dealings with QLT. Mr. Cornwell described how Concorde Group was involved in doing a project analysis for MPD and making future projections for it; and what various considerations had been made in the preparation of the analyses that he was aware of. Mr. Cornwell qualified his response stating that his knowledge of more details was limited since he was only substituting for Mr. Gollis.

Mr. Yee asked if Concorde Group had other experience in the Big Island marketplace and what could be concluded from its review of the work that NLW had performed. Mr. Cornwell described the work that he was aware of that Concorde Group had performed in Hawai'i, and how Concorde Group's review had discovered that NLW's analysis had been too optimistic in its growth rate projections and expected market conditions.

Commissioners

Commissioner Hiranaga requested clarification on the methodology used for the market conditions analyses and on what types of considerations were involved in the analyses. Mr. Cornwell provided his understanding of what methodology had been employed and stated that cyclical real estate markets conditions were not included.

Commissioner Estes requested additional details of how NLW had been overly optimistic. Mr. Cornwell provided additional details of what parts of the NLW report he felt had been too optimistic.

Commissioner Scheuer recapped Ms. Crabbe's testimony and asked if the renewed QLT proposal for the Petition Area was more suitable for and in line with West Hawaii growth characteristics. Mr. Cornwell responded that it was.

Commissioner Cabral requested clarification on what mixed uses were included in the proposed project. Mr. Cornwell responded that research studies were still being conducted and that it was too early to determine the mix

Commissioner Hiranaga requested clarification on the recommendations that NLW's report had made regarding the leasehold/fee simple land holdings arrangements with prospective tenants that QLT could make. Mr. Cornwell responded that leasehold analyses had been done.

#### FINAL COMMENTS

Chair Aczon asked if the Parties had any final comments to make.

Ms. Self stated that County was in favor of the Motion and described the "to do" list that Petitioner would need to complete if the Motion was granted.

Commissioner Scheuer requested clarification on whether the acreage amount involved was 14.37 or 14.96. Mr. Kudo confirmed that the 14.96 acreage amount was correct.

Mr. Yee stated that OP supported the Motion and described the reasons why OP had taken that position and what expectations OP had for Petitioner to comply with if the Motion was granted.

Chair Aczon declared a recess at 9:19 a.m. and reconvened the meeting at 9:32 a.m.

#### REBUTTAL

Mr. Kudo thanked the Commission for its time and reviewed the facts that he had presented and argued why granting the Motion was justified; and how the testimonies of his witnesses contributed to his case.

Mr. Kudo also congratulated Mr. Yee on his recent promotion and wished him well in his new job

#### DISCUSSION & DECISION

Chair Aczon asked if the Commissioners had any final questions. There were no questions.

Commissioner Cabral moved to modify the Commission's 1991 Decision and Order to remove Petitioner's Phase III lands (approximately 212.33 acres) currently in the State Agricultural District that was subject to incremental districting ; and noted a request that the Petitioner and County ensure that OP is timely served with any boundary amendment petitions (whether before the county or the Commission) pursuant to section 205-3.1(d), Hawaii Revised Statutes, that Petitioner comply with DOT recommendations submitted as OP Exhibit 1; and that Petitioner and County consult with appropriate State agencies prior to submittal of a county district boundary amendment. Commissioner Estes seconded the motion.

Mr. Yee requested clarification on which OP Exhibit 1- DOT letter Commissioner Cabral was referring to. Commissioner Cabral responded that she was referring to both the original and amended DOT letters.

Chair Aczon had Mr. Orodener poll the Commission. The Commission unanimously voted 7-0 to grant the motion.

Chair Aczon adjourned the meeting at 9:45 a.m. and commented that the next meeting on April 14, 2016 would require that the Commission provide meals for a "working lunch" as an integral part of the meeting due to the remote locale of the meeting facility. Mr. Orodener acknowledged Chair Aczon's comments and replied that the necessary arrangements would be made to accommodate the "working lunch".