

LAND USE COMMISSION
MEETING MINUTES

July 11, 2018

9:00 a.m.

Maui Arts and Cultural Center, Morgado Conference Room
One Cameron Way, Kahului, Hawai`i, 96766

COMMISSIONERS PRESENT: Edmund Aczon
Gary Okuda
Nancy Cabral
Dawn Chang
Lee Ohigashi
Aaron Mahi
Arnold Wong

COMMISSIONERS EXCUSED: Jonathan Scheuer
(There are currently 8 seated Commissioners)

LUC STAFF PRESENT: Daniel Orodenker, Executive Officer
Randall Nishiyama, Deputy Attorney General
Bert Saruwatari, Staff Planner
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Jean McManus

CALL TO ORDER

Vice Chair Cabral called the meeting to order at 9:00 a.m.

APPROVAL OF MINUTES

Vice Chair Cabral asked if there were any corrections or additions to the June 28, 2018 minutes. There were no corrections or comments. Commissioner Chang moved to approve the June 28, 2018 minutes. Commissioner Aczon seconded the motion. The minutes were unanimously approved by voice vote (7-0-1 excused. There are currently 8 seated Commissioners).

TENTATIVE MEETING SCHEDULE

Executive Officer Orodenker provided the following:

- The regular tentative meeting schedule has been distributed in the handout material for the Commissioners for the following dates and docket numbers.

- JUL 25- A05-755 Hale Mua-Order to Show Cause (Maui)
- AUG 8- DR18-62 Kualoa Ranch IAL (on Oahu)
- AUG 22- A06-767 Waikoloa Mauka, LLC- Order to Show Cause (Kona- Hawai`i)
- SEP 12- A94-706 Ka`ono`ulu Ranch (Maui)
- SEP 13- A11-794 Kīhei High School (Maui)
- SEP 26- A06-763 Kapolei Development (Oahu)
- Administrative Rules public hearings will be conducted at various island sites throughout August.
- Any questions or conflicts, please contact LUC staff.

There were no questions or comments.

ACTION

A94-706 Ka`ono`ulu Ranch (Maui)

Vice Chair Cabral announced that this was a status report meeting on Docket No. A94-706 Ka`ono`ulu Ranch (Maui):

APPEARANCES

Randall Sakumoto, Esq. and Catherine Taschner, Esq., represented Pi`ilani Promenade North LLC, and Pi`ilani Promenade South LLC, ("PP")

Curtis Tabata, Esq. represented Honua`ula Partners, LLC ("HP")

Michael Hopper, Esq., Deputy Corporation Counsel, represented County of Maui Planning Department ("County")

Ann Cua, Planner, County

Dawn Takeuchi Apuna, Esq., Deputy Attorney General, for State Office of Planning ("OP")

Rodney Funakoshi, OP

Tom Pierce, Esq., represented Intervenor Maui Tomorrow Foundation, Inc., South Maui Citizens for Responsible Growth and Daniel Kanahele,

Vice Chair Cabral updated the record and explained the procedures to be followed for the proceedings.

There were no questions, comments or objections to the procedures.

Petitioner's Presentations

Pi'ilani Promenade

Vice Chair Cabral called for Mr. Sakumoto to make his status report presentation. Mr. Sakumoto provided background information and history on how the original decision and order had been granted, how the ensuing changes of ownership and a different 2013 proposed development had resulted in an order to show cause hearing with a series of events that eventually resulted in the failed acceptance of the A94-706 EIS by the LUC in 2017.

Mr. Sakumoto offered Harry Lake, CEO of Koa Partners (the current group doing outreach work within the community in advance of development of the Petition Area), to respond to Commissioner questions regarding the outreach being done currently for the proposed project and provide a summary of his accomplishments since January of 2018.

Commissioners Wong, Aczon, and Chang requested clarification on portions of Mr. Sakumoto's presentation regarding the need for an EIS if the original 1995 development plan was reinstated, how much of the \$22 million bond had been expended, how the 1995 conditions would be observed if the original plan was reinstated, what permits had been obtained or sought for the proposed development, and what the extent of community outreach and timetable for meeting development objectives was.

Commissioners Chang, and Okuda requested clarification on what Mr. Lake's depth and scope of community outreach was, and what educational and professional credentials he possessed.

Additional questioning ensued involving Commissioners Okuda, Ohigashi, and Chang seeking Mr. Sakumoto's perspective on whether substantial commencement on the project had occurred.

Vice Chair Cabral requested that Mr. Lake summarize his report. Mr. Lake provided additional details on how he was attempting to create a dialog among interested community members/groups and what he anticipated his proposed project's cost structuring would be.

There were no further questions for Mr. Sakumoto and Mr. Lake.

Commissioner Wong requested a recess. Vice Chair Cabral declared a recess at 10:00 a.m. and stated that Mr. Tabata would make his presentation after the Commission reconvened.

The Commission reconvened at 10:10 a.m. Vice Chair Cabral called on Mr. Tabata to make his presentation.

Honua`ula Partners

Mr. Tabata stated that HP joined PP's status report and had nothing to add.

Commissioners Ohigashi, and Chang requested clarification on whether HP approved of the proposed actions by PP in this matter, what HP's role would be in the new arrangement and how much money HP had expended.

Mr. Tabata acknowledged that HP did approve of the proposed actions by PP and described the activities that HP had engaged in since agreeing to cooperate with PP. Mr. Tabata stated that he did not know how much money had been expended or what costs had been attributed to HP's participation.

There were no further questions for Mr. Tabata.

Intervenor Comments

Vice Chair Cabral inquired whether Mr. Pierce had any comments. Mr. Pierce shared the background of how and why the Intervenors had become involved in the proceedings and described the concerns that Intervenors would continue to seek resolution to. Mr. Pierce commented that he was aware of a Maui Electric Company (MECO) substation that was being constructed near the general Petition Area that was not related to the proceedings.

Commissioner Aczon requested clarification on whether Intervenor had testifiers to present. Mr. Pierce responded that the Intervenor testifiers would testify as Public Witnesses.

There were no further questions for Mr. Pierce.

County Comments

Vice Chair Cabral inquired whether County had any comments. Mr. Hopper stated that County was awaiting more specifics on the new plans for proposed development in the Petition Area.

Commissioner Chang requested clarification on County's position on the proposed thoroughfare road, whether County had received any of the \$23 million bond money, and how County handles proposed roadways. Mr. Hopper stated that he was uncertain how County would assess and determine what actions might be involved with the proposed roadways or whether County would require various approvals and permits; and shared that he had limited knowledge of how much of the bond money had been spent.

There were no further questions for County.

OP

Vice Chair Cabral asked if OP had any comments. Ms. Apuna stated that PP had spent approximately \$2.6 million and described where she got the information and how the PP expenditures were made.

Mr. Sakumoto referred to Petitioner's booklet submittal describing the newly proposed project and stated for the record how Petitioner would withdraw amending the original Decision and Order to allow for the proposed development.

Ms. Apuna stated that OP was willing to work with the Parties going forward on the new proposal by Petitioner.

Commissioner Chang requested clarification on how the \$2.6 million was spent and expressed her concerns whether those initial expenditures constituted "substantial commencement".

Discussion ensued and Ms. Apuna and Commissioner Okuda provided their perspectives on OP's comments.

There were no further questions or comments.

Vice Chair Cabral stated that Public Testimony would be taken after recess and declared a recess at 10:35 a.m.

The meeting reconvened at 10:43 a.m.

Mr. Pierce requested and was granted an opportunity to provide a comment on the proceedings.

Mr. Pierce stated that he objected to the issue of substantial commencement being introduced into the proceedings since this was a status report hearing and that it was only a preliminary discussion and not an action item.

Ms. Apuna stated that she retracted OP's comments on substantial commencement. Commissioner Okuda clarified his questions on the matter and stated that he was not seeking evidence of substantial commencement, but rather to gain a better understanding of the status report.

There were no further comments.

Public Testimony

Vice Chair Cabral called for public witnesses.

1. Mike Moran- Kihei Community Association (KCA)

Mr. Moran stated that KCA appreciated Mr. Lake's efforts to engage the public in the Petitioner's proposed development plans and recommended that affordable housing options also be considered.

There were no questions for Mr. Moran.

2. Mark Hyde

Mr. Hyde described how the 1995 decision and order for Docket No. A94-706 called for an amendment of the community plan and how the Maui Council had acted on the matter.

Commissioner Chang asked if Mr. Hyde had participated in Mr. Lake's community meetings. Mr. Hyde replied that he had.

There were no further questions for Mr. Hyde.

3. Charlene Schulenburg

Ms. Schulenburg shared her concerns regarding the proposed project.

Commissioner Aczon asked if Ms. Schulenburg had attended Mr. Lake's community meetings. Ms. Schulenburg replied that she was a KCA member and would in the future.

4. Lucienne de Naie- Maui Tomorrow President

Ms. de Naie stated that she appreciated Petitioner's community outreach attempts and shared her concerns about the proposed project and the need to minimize its negative impact on cultural site preservation efforts.

Commissioner Chang requested clarification on who the cultural practitioner participants of the outreach program were. Ms. de Naie replied that the Hewahewa family was involved.

There were no further questions for Ms. de Naie.

5. Alohalani Smith

Ms. Smith described her community affiliations and support for affordable housing; and shared her concerns of the negative environmental impact of any proposed development.

Commissioner Chang requested clarification on Ms. Smith's participation in the outreach efforts.

There were no further questions for Ms. Smith.

6. Vernon Kalanimoku

Mr. Kalanimoku shared his concerns about any proposed development within the Petition Area.

There were no questions for Mr. Kalanimoku.

7. Syl Cabral

Ms. Cabral provided her perspective on the housing needs in the area.

There were no questions for Ms. Cabral.

Vice Chair Cabral stated that she was not related to Ms. Cabral for the record.

8. Albert Perez

Mr. Perez stated his appreciation for Petitioner's outreach efforts and shared his concerns about affordable housing needs in the area.

There were no questions for Mr. Perez.

Vice Chair asked if there were any more public witnesses.

There were no more public witnesses.

Vice Chair asked if the Parties had any final comments.
There were no final comments.

Commissioner Final Questions

Vice Chair Cabral declared that the Public Testimony portion of the proceeding had concluded and asked if the Commissioners had any final questions.

Commissioner Chang requested clarification on how Petitioner's recently presented plans which reverted to the original plans for the 1995 D &O differed from the initial plans; and requested an outline describing how the new proposed development matched with the old development. Mr. Sakumoto stated that he would comply and provide an outline.

Commissioner Okuda commented that he felt that the original D&O spoke for itself.

There were no further comments or questions. Vice Chair Cabral stated that she would be declaring a recess before moving on to the next agenda item.

Mr. Hopper requested clarification on whether there were any further remaining agenda action items. Vice Chair Cabral stated that the Commission had no further action items except for its Executive Session.

Vice Chair Cabral declared a recess at 11:23 a.m. and reconvened the meeting at 11:29 a.m.

Executive Session

Commissioner Wong moved for an Executive Session to consult with the Commissioner's Attorney regarding the Commission's duties, rights, responsibilities and obligations with respect to pending litigation and Pursuant to HRS section 92-5(a)(2) to consider personnel matters where considerations of matters affecting privacy will be involved. Commissioner Ohigashi seconded the motion. By unanimous voice vote (7-0-1 excused), the Commission voted to enter into Executive Session at 11:29 a.m.

The Commission entered Executive Session at 11:30 a.m. and reconvened into regular session at 12:05. Vice Chair Cabral adjourned the meeting at 12:06 p.m.