

LAND USE COMMISSION  
MINUTES OF MEETING

June 7, 2007

Alii Ballroom  
Waikoloa Beach Marriott  
69-275 Waikoloa Drive  
Waikoloa, Hawaii

COMMISSIONERS PRESENT: Thomas Contrades  
Michael Formby  
Howard Hamamoto  
Lisa Judge  
Duane Kanuha  
Nicholas Teves, Jr.

COMMISSIONERS ABSENT: Kyong-su Im  
Ransom Piltz  
Reuben Wong

STAFF PRESENT: Diane Erickson, Deputy Attorney General  
Anthony Ching, Executive Officer  
Sandra Matsushima, Chief Clerk  
Holly Hackett, Court Reporter  
Wade Kersey, Audio Technician

Chair Judge called the meeting to order at 3:00 p.m.

## ADOPTION OF MINUTES

Commissioner Contrades moved to adopt the minutes of April 26 and 27, 2007. Commissioner Kanuha seconded the motion. The minutes of April 26 and 27, 2007 were subsequently approved by voice votes.

Commissioner Contrades moved to adopt the minutes of May 4, 2007. Commissioner Teves seconded the motion. The minutes of May 4, 2007 were subsequently approved by voice votes.

Commissioner Hamamoto moved to adopt the minutes of May 17 and 18, 2007. Commissioner Teves seconded the motion. The minutes of May 17 and 18, 2007 were subsequently approved by voice votes.

## TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported that the next meeting will be held on Oahu for a status report from the Ko`olina docket and a presentation of the Kapolei Property Development's proposed order. The LUC would also discuss proposed revisions to the Commission's administrative rules.

Mr. Ching noted that the LUC is scheduled to be in Kauai on July 12. Mr. Ching added that the remaining dates appear to be the same, although there may be a slight variation on the locations depending on the timing of the filings.

Chair Judge questioned the status of the Bencorp docket item.

Mr. Ching noted that the LUC was to have taken up the Bencorp matter today, however, at the last moment they had asked for a continuance.

There were no further questions posed for Mr. Ching by the Commission.

## A06-767 WAIKOLOA MAUKA, LCC (Hawaii)

Chair Judge stated that this was an action meeting to consider the acceptance of Waikoloa Mauka, LLC's Final Environmental Impact Statement for

the reclassification of approximately 731.581 acres of land currently in the Agricultural District to the Rural District at South Kohala, Hawaii, for a residential subdivision.

#### APPEARANCES

Naomi Kuwaye, Esq., represented Petitioner

Brian Takeda, RM Towill

Stepan Martirosyan, Waikoloa Mauka, LLC

Patricia O'Toole, Esq., represented County of Hawaii Planning Department

Norman Hayashi, County of Hawaii Planning Department

Bryan Yee, Esq., represented State Office of Planning

Abe Mitsuda, State Office of Planning

Lorene Maki, State Office of Planning

Chair Judge noted that there were no public witnesses.

#### Petitioner's Presentation

Ms. Kuwaye began her presentation and stated that Waikoloa Mauka LLC is requesting that the LUC determine that the final EIS prepared for the reclassification of 731.581 acres of land entitled Waikoloa Highlands is acceptable and complies with the legal requirements of Chapter 343, Hawaii Revised Statutes (HRS) and Chapter 200, Title 11, Hawaii Administrative Rules (HAR). Ms. Kuwaye added that the trigger preparing and EIS was for the use of state or county lands related to connections of planned roadways and existing infrastructure to county or state roads. Ms. Kuwaye then briefly described the project and referenced petitioner's presentation, exhibit A, pages 1 to 4, and the OEQC Content Requirements Check List.

Ms. Kuwaye described how the proposed FEIS satisfied the statutory requirements of HAR § 11-200-23 (B)(1) related to the FEIS procedural requirements; § 11-200-14 general provisions; §11-200-20 proper filing with the LUC; § 11-200-21 proper distribution of the FEIS; §11-200-23 (B)(2) content requirement; § 11-200-17 and 18 the FEIS minimum content requirements; and § 11-200-23 (B)(3) to satisfy the public review requirement and adequately responded to the comments received. Ms. Kuwaye requested that the LUC accept the FEIS as it had satisfied all the requirements as presented under Chapter 343, HRS and Chapter 200, Title 11, HAR.

Ms. O'Toole stated that the county had no comments or objections to the LUC's acceptance of the FEIS.

Mr. Yee noted that the state also had no objections to the FEIS.

### Staff's Report

1. Anthony J. H. Ching

Mr. Ching stated that staff provided comprehensive comments to the preparer of the EIS dated October 31, 2006 that contained 24 points, which formed the body of their analysis. The petitioner had provided a point-by-point response to staff's comments and had summarized their responses in their table and checklist. Mr. Ching added that the preparer of the EIS had appropriately responded to staff's questions.

Mr. Ching noted staff's belief that the FEIS satisfied content, procedure, and the comment/response requirements. Mr. Ching added that petitioner's exhibit A and its checklist of the OEQC requirements, is accurate.

Commissioner Hamamoto posed questions regarding the 12.5 acres cut out of the original application.

Ms. Kuwaye stated that the 12-acre site was never a part of the petition area but was included in the overall project area identified as the drainage site and that the petitioner owns the land.

Commissioner Hamamoto questioned how the calculations were made on the number of people per household, as the number he calculated per household appeared larger than the general average at 3 to 3.5 per home.

Mr. Takeda noted that he was not certain how the calculations arrived at a number of persons per household, however, these are unique products at Waikoloa Village where the average lot for sale is much smaller at approximately 10,000 square feet.

Ms. Kuwaye noted that they would have an expert to testify to that matter during the petitioner's case in chief.

Commissioner Hamamoto commented on the low number of anticipated students at approximately 40 students generated from this project.

Ms. Kuwaye stated that the number was based on the DOE's formula and that it was based on DOE's data and calculations.

Commissioner Hamamoto asked about the affordable housing requirement and whether the petitioner would be providing the houses or dedicating land.

Ms. Kuwaye stated that they are currently in discussion with various non-profit housing groups for different options to best address the affordable housing requirement with the county.

Commissioner Hamamoto questioned whether some of the units would be under the private sewer treatment plant as he recalled hearing at the field trip that some units would not be connected to the private system.

Mr. Takeda stated that all of the units would connect to the private sewage system.

Chair Judge noted that she believed that Commissioner Hamamoto was probably referring to a statement made at the first field trip (Shopoff petition site) and not at the Waikoloa Mauka project site.

Commissioner Kanuha offered a motion that the LUC accept Waikoloa Mauka LLC's FEIS for the reclassification of approximately 731.581 acres of land in Docket No. A06-767. The motion was seconded by Commissioner Hamamoto.

The Commission was polled as follows:

Ayes: Kanuha, Hamamoto, Contrades, Formby, Teves, and Judge.

The motion passed with 6 yes, 3 absent.

The meeting adjourned at 3:35 p.m.

*(Please refer to LUC Transcript of June 7, 2007 for more details on this matter.)*