

LAND USE COMMISSION
MINUTES OF MEETING

December 13, 2007

Leiopapa A Kamehameha
2nd Floor
Conference Room 204
235 So. Beretania Street
Honolulu, Hawaii

COMMISSIONERS PRESENT: Kyle Chock
Thomas Contrades
Vladimir Devens
Duane Kanuha
Normand Lezy
Ransom Piltz
Nicholas Teves, Jr.

COMMISSIONERS ABSENT: Lisa Judge
Reuben Wong

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

Presiding Officer Kanuha called the meeting to order at 9:15 a.m.

ADOPTION OF MINUTES

Commissioner Teves moved to adopt the minutes of November 1 and 2, and November 15 and 16, 2007. Commissioner Lezy seconded the motion. The minutes were approved by voice votes.

TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported the following schedule:

- January 10 & 11 the LUC will meet on Oahu to consider an application for intervention in the Shopoff docket and to coordinate our response with the County of Hawaii regarding the need for an SEIS in the Mauna Lani docket;
- January 24 & 25 the LUC will open hearings on the Shopoff docket;
- February 7 & 8 the LUC will return to Maui to take action on the Emmanuel Lutheran docket and to issue our ruling on the Lanai Resort Partners remand docket;
- March 6 & 7 the LUC will meet on Oahu to consider the Department of Environmental Services Waimanalo Gulch amendment to its special permit;
- May 8 & 9 the LUC will again hear the Kahili Adventist School's status report.

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

EXECUTIVE SESSION

Commissioner Chock moved to go into executive session pursuant to § 92-5(a)(4), Hawaii Revised Statutes, to consult with the board's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities regarding personnel matters. The motion was seconded by Commissioner Piltz. The motion was approved by a show of hands.

The Commission entered into executive session at 9:20 a.m.

The open meeting reconvened at 9:40 a.m.

A07-777 HAWAIIAN MEMORIAL LIFE PLAN, LTD. (Oahu)

Presiding Officer Kanuha stated that this was an action meeting to 1) determine whether the Land Use Commission is the appropriate accepting authority pursuant to Chapter 343, Hawaii Revised Statutes, for the reclassification of approximately 56.6 acres of land currently in the Conservation District to the Urban District at Kaneohe, Koolau Poko, Oahu, Hawaii; and 2) to determine whether the proposed action may

have a "significant effect" to warrant the preparation of an Environmental Impact Statement pursuant to Chapter 343, Hawaii Revised Statutes.

APPEARANCES

William Yuen, Esq., represented Petitioner

Rachael Edinger, Helbert Hastert & Fee

Mike Watkins, City & County of Honolulu, Department of Planning and Permitting

Randy Hara, represented City & County of Honolulu, Department of Planning and Permitting

Bryan Yee, Esq., represented State Office of Planning

Scott Derrickson, State Office of Planning

Public Witnesses

1. Laura Morgenstein

Ms. Morgenstein distributed copies of her written testimony and stated that she was a member of the Kokokahi Community Association. Ms. Morgenstein noted her concerns against the proposed project.

Ms. Morgenstein also distributed and read the written testimony of Jack Gullmore that was opposed to the project.

There were no questions for Ms. Morgenstein posed by the parties or the Commission.

2. Bettye Jo Harris

Ms. Harris stated that she has lived in the area as the original owners of the property since 1965. Ms. Harris spoke of her concerns about the proposed project and the potential loss of greenery.

There were no questions for Ms. Harris posed by the parties or the Commission.

3. Daisy Payton

Ms. Payton stated that she was the President of the Kokokahi Community Association and stated that although they are a small non-profit group, they have worked hard to keep their green belt community.

There were no questions for Ms. Payton posed by the parties or the Commission.

Petitioner's Presentation

Mr. Yuen began his presentation and noted that petitioner believed that the proposed action would have a significant effect on the environment and added that the petitioner would be preparing an EIS. Mr. Yuen also requested that the LUC serve as the accepting authority for the EIS.

Mr. Hara stated that the City had no comments on the proposed action today.

Mr. Yee noted that the OP supports the petitioner's request to perform an EIS.

Commissioner Contrades then moved that the LUC be the appropriate accepting authority and that an EIS be prepared. The motion was seconded by Commissioner Teves.

The Commission was polled as follows:

Ayes: Contrades, Teves, Piltz, Lezy, Devens, Chock, and Kanuha.

The motion passed with 7 ayes and 2 absent.

A recess break was taken at 10:00 a.m. The meeting reconvened at 10:10 a.m.

SP07-401 HAWAIIAN CEMENT (Maui)

Presiding Officer Kanuha stated that this was an action meeting on SP07-401 Hawaiian Cement (Maui) to consider Hawaiian Cement's application for a special use permit to conduct sand mining operations on approximately 56 acres of land within the Agricultural District at Waikapu, Maui, Hawaii.

APPEARANCES

Chris Hart, Chris Hart & Partners

Raymond Cabebe, Chris Hart & Partners

David Gomes, Hawaiian Cement

Robyn Laudermilk, the County of Maui Department of Planning

Madelyn D'Enbeau, Esq., represented the County of Maui Department of Planning

Bryan Yee, Esq., represented State Office of Planning

Scott Derrickson, State Office of Planning

Presiding Officer Kanuha noted that there were no public witnesses.

Mr. Yee commented that the OP had no objections to the special permit.

Ms. Laudermilk provided a chronology of the special permit application summary.

Staff's Report

1. Anthony Ching

Mr. Ching discussed the staff's report, procedural matters and recommendations noting that staff had confirmed receipt of the full record on November 8, 2007.

Mr. Hart began his presentation with a PowerPoint slideshow and noted that this presentation would clarify the issues that staff had just discussed. Mr. Hart noted that the purpose of the application was to allow for the continued use of a portion of the property for the extraction of sand.

Ms. Laudermilk commented that the County had no additional comments and objections.

Mr. Hart discussed condition number 13 and noted a hardship to establish a grass covering in this area as there is no water available. Mr. Hart then proposed a gravel surface that would basically allow for seeding of plants to cover the area over time. Mr. Hart added that the gravel proposal had been accepted by the county and specified in the grading permit.

Mr. Gomes stated that they were actively working with the archaeologists and the Maui Land Burial Council to protect any burials in the event they are discovered. Mr. Gomes added that they have worked diligently with the county and have determined that a grass covering was not appropriate for this area. The gravel covering will stabilize the area and also control dust.

After a discussion, Commissioner Piltz moved to approve the special permit application and to amend condition number 13 to read "Upon cessation of the sand mining operations on the Property, the Applicant shall grade, gravel in accordance with the County of Maui grading permit on the Property as level open land."

The motion was seconded by Commissioner Teves.

The Commission was polled as follows:

Ayes: Piltz, Teves, Lezy, Devens, Contrades, Chock, and Kanuha.

The motion passed with 7 ayes and 2 absent.

A recess break was taken at 11:05 a.m. The meeting reconvened at 11:10 a.m.

SP77-271 AMERON HC&D (Maui)

Presiding Officer Kanuha stated that this was an action meeting on SP77-271 Ameron HC&D (Maui) to consider a time extension to the Special Use Permit that established quarry operations on approximately 199.4 acres of land within the Agricultural District at Puunene, Maui, Hawaii

APPEARANCES

Mike Munekiyo, Munekiyo & Hiraga

Eric Yoshizawa, Ameron Vice Principal of Operations

Robyn Laudermilk, the County of Maui Department of Planning

Madelyn D'Enbeau, Esq., represented the County of Maui Department of Planning

Bryan Yee, Esq., represented State Office of Planning

Presiding Officer Kanuha noted that there were no public witnesses.

Mr. Yee commented that the OP had no objections on this matter.

Ms. Laudermilk provided a summary of the special permit's 10 year time extension for its quarry operations

Staff's Report

1. Anthony Ching

Mr. Ching discussed the staff's report and noted that staff had confirmed receipt of the full record on November 26, 2007.

Mr. Munekiyo began his presentation and referenced the map on exhibit A noting the location of the subject property and commented on the time extension request for another 10 years.

Mr. Yoshizawa stated that they would file annual reports with the LUC and the county. Mr. Yoshizawa provided a brief history of the special permit and its operations.

After a discussion, Commissioner Piltz moved to approve the time extension. The motion was seconded by Commissioner Contrades.

The Commission was polled as follows:

Ayes: Piltz, Contrades, Chock, Devens, Lezy, Teves, and Kanuha.

The motion passed with 7 ayes and 2 absent.

The meeting adjourned at 11:25 a.m.

(Please refer to LUC Transcript of December 13, 2007 for more details on this matter.)