

LAND USE COMMISSION
MINUTES OF MEETING

February 7, 2008

Maui Prince Hotel Makena Resort
5400 Makena Alanui
Makena, Maui, Hawaii

COMMISSIONERS PRESENT: Kyle Chock
Thomas Contrades
Vladimir Devens
Lisa Judge
Normand Lezy
Ransom Piltz

COMMISSIONERS ABSENT: Duane Kanuha
Nicholas Teves, Jr.
Reuben Wong

STAFF PRESENT: Diane Erickson, Deputy Attorney General
Rodney A. Maile, Interim Executive Officer
Sandra Matsushima, Chief Clerk
Holly Hackett, Court Reporter
Walter Mensching, Audio Technician

Chair Judge called the meeting to order at 10:25 a.m.

ADOPTION OF MINUTES

Chair Judge noted a correction to the minutes of January 25, 2008, page 5, fifth paragraph. The time the open meeting reconvened should be 12:05 p.m. instead of 11:05 a.m.

Commissioner Piltz moved to adopt the minutes of January 24 and 25, 2008, as amended. Commissioner Devens seconded the motion. The minutes were approved by voice votes.

TENTATIVE MEETING SCHEDULE

Chair Judge noted that the next meetings will be held on February 21-22 in Oahu. The March 5-6 meetings will be held in Waikoloa. The March 20th meeting may be cancelled. Chair Judge reminded the Commissioners to inform Sandy of any conflicts that they may have with the proposed schedule.

A07-773 EMMANUEL LUTHERAN CHURCH OF MAUI (Maui)

Chair Judge stated that this was an action meeting on Docket No. A07-773 Emmanuel Lutheran Church of Maui to consider:

- the reclassification of approximately 25.263 acres of land currently in the Agricultural District to the Urban District at Wailuku, Maui, Hawaii for a new school campus; and
- the Stipulated Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment filed by Petitioner on November 9, 2007, and the Office of Planning's (OP) Stipulation and Position on Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment filed by OP on November 9, 2007, and other appropriate action.

APPEARANCES

Blaine Kobayashi, Esq., representing Petitioner

Jane Lovell, Esq., represented the County of Maui Department of Planning

Mary Blaine Johnston, Esq., represented the County of Maui Department of Planning

Jeffrey Dack, County of Maui Department of Planning

Bryan Yee, Esq., represented State Office of Planning

Abe Mitsuda, State Office of Planning

Chair Judge noted that there were no public witnesses.

Chair Judge stated that the LUC would be entering into formal deliberations regarding the proposed order. Pursuant to §15-15-56(4) HAR, the Commission may approve the proposed decision and order by amending or adopting the order. Chair Judge noted that during the Commission's deliberations, the Chair would not entertain additional input from the parties or the public unless those individuals or entities were specifically requested to do so by the Chair. If called upon, any comments were limited to the question at hand.

Chair Judge then polled the Commissioners to confirm that each one had reviewed the record and/or reviewed copies of the transcripts of these proceedings and were prepared to deliberate on the subject.

Aye: Commissioner Chock
Commissioner Contrades
Commissioner Devens
Commissioner Lezy
Commissioner Piltz

Chair Judge stated that she was also prepared to deliberate. Chair Judge noted that Commissioners Kanuha, Teves, and Wong were absent.

Mr. Maile provided a brief summary of the proposed order and noted that the Office of Planning (OP) had agreed to the stipulation with the County, however the OP's only reservation was the energy efficiency (LEED) matter.

Mr. Maile noted that the stipulation highlighted all areas as required in the LUC's decision-making criteria. Mr. Maile then discussed the history of the petition,

the proposed project, the contents of the stipulation, and the summary of projected impacts.

A recess break was taken at 11:10 a.m. The meeting reconvened at 11:40 a.m.

Chair Judge referenced page 15, findings of fact number 68 noting that "former pineapple field" should read as "former sugar cane field." Chair Judge also discussed page 25, finding of fact 110 regarding energy conservation and the testimony of Mathew Slepik at the July 26, 2007 meeting.

Commissioner Lezy discussed the amendment to finding of fact numbers 110 and 111.

Commissioner Devens commented on condition number 18 related to energy conservation and suggested that the condition be modified to reflect the findings of fact.

Chair Judge stated that she believed that a condition regarding energy conservation measures was imposed in LUC Docket No. A06-764 Kapolei Property Development. Chair Judge asked Commissioner Devens whether the LUC should mirror the energy conservation condition of that previous docket.

Commissioner Devens replied in the affirmative.

Chair Judge then noted that this language be inserted in Condition No. 18.

Chair Judge commented on Condition Number 2 of the revision clause. She recommended that the language be changed from "the Commission will file an Order to Show Cause" to "the Commission may on its own motion or at the request of any party file an Order to Show Cause." Chair Judge also discussed Condition Number 8 related to the archaeological field report. The last sentence should read "a copy of the approval from the SHPD would be supplied to the LUC within 30 days of receipt by the petitioner."

After a brief discussion, there were no further amendments made by the Commissioners.

Commissioner Piltz then moved that the LUC accept the proposed order and the OP's stipulation on the proposed order. In addition, to accept all the amendments made and to include authorization to staff to make technical, non-substantive changes if needed. The motion was seconded by Commissioner Contrades.

Chair Judge encouraged the petitioner to take into consideration the different guidelines and standards related to energy conservation from a smaller scale to the larger design phase, if practicable.

The Commission was polled as follows:

Ayes: Piltz, Contrades, Chock, Devens, Lezy, and Judge.

The motion passed with 6 yes, 3 absent.

The meeting was recessed at 11:55 a.m.

(Please refer to LUC Transcript of February 7, 2008 for more details on this matter.)