

LAND USE COMMISSION
MINUTES OF MEETING

March 20, 2008

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

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

COMMISSIONERS ABSENT: Lisa Judge
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

Presiding Officer Kanuha called the meeting to order at 8:40 a.m.

Presiding Officer Kanuha noted that as agreed upon by the parties yesterday, this matter would be deferred until the arrival of the OP's witnesses. Presiding Officer Kanuha stated that the LUC would continue with the next item on the agenda and entertained a motion to go into executive session.

EXECUTIVE SESSION

Commissioner Contrades 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 relating to personnel issues. The motion was seconded by Commissioner Teves. The motion was approved by a show of hands.

The Commission entered into executive session at 8:41 a.m.

The open meeting reconvened at 8:55 a.m.

A recess break was taken at 8:55 a.m. The meeting reconvened at 9:00 a.m.

A06-770 THE SHOPOFF GROUP, L.P. (Hawaii)

Presiding Officer Kanuha stated that the LUC would continue with the OP's witnesses on this matter.

APPEARANCES

Naomi Kuwaye, Esq., represented Petitioner

Jesse Souki, Esq., represented Petitioner

Gerald Takase, Esq., represented County of Hawaii Planning Department

Norman Hayashi, County of Hawaii Planning Department

Bryan Yee, Esq., represented State Office of Planning

Abbey Mayer, State Office of Planning

Lorene Maki, State Office of Planning

Presiding Officer Kanuha noted that there were no public witnesses.

Ms. Kuwaye noted that the petitioner anticipates to call upon two rebuttal witnesses in response to issues raised by the OP and to also address the LEED matter.

State's Witnesses

1. Brennan Morioka

Mr. Morioka stated that he is the Director of the DOT. Mr. Morioka was previously qualified as an expert in traffic engineering. Mr. Morioka stated that he had reviewed the project's TIAR and discussed the three fair share scenarios for access to the state highway. Mr. Morioka further discussed the parallel connector roads, the percentage of additional traffic at each of the intersections, and the potential impacts. Mr. Morioka added that he believed that the discussions with the petitioner regarding the intersection improvements would come to an agreeable conclusion soon. The DOT is requesting that the LUC impose a condition requiring the petitioner to comply with the DOT's recommendations as discussed today.

Ms. Kuwaye stated that the petitioner had no questions for Mr. Morioka.

Mr. Takase posed a few questions related to the type of improvements at the intersections that the DOT was requesting.

There were no further questions for Mr. Morioka.

2. Gail Suzuki-Jones

Ms. Suzuki-Jones stated that she was an Energy Analyst with the DBEDT. Ms. Suzuki-Jones described and compared various energy standards and programs. Ms. Suzuki-Jones further discussed the LEED versus Hawaii Built Green programs, Act 196, and the number of LEED certified buildings in the state and private entities. Ms. Suzuki-Jones commented on the benefits of the LEED program compared to benefits from other energy efficient programs.

Ms. Kuwaye raised questions regarding OP's exhibit 6, the requirements of a LEED accredited professional consultant and certifying buildings.

Mr. Takase had a few questions related to the LEED exam, prerequisites in certifying a LEED building, estimated costs, and LEED certified buildings in Hawaii.

Commissioner Chock commended Ms. Suzuki-Jones for becoming a LEED professional, as he believed it was a highly rigorous exam. Commissioner Chock raised

questions on the number of LEED accredited individuals in the State of Hawaii, the number of cities with LEED requirements, and pending legislation.

Presiding Officer Kanuha had a few questions regarding the technical assistance that the state agencies provide, and the LEED guidelines that would evolve over time. Presiding Officer Kanuha wondered if a LEED silver standard of today would not be the same standard in 2015.

Ms. Suzuki-Jones noted that the standards would evolve over time, however, the program would be tied to the version at the time it was registered.

There were no further questions for Ms. Suzuki-Jones.

A recess break was taken at 10:15 a.m. The meeting reconvened at 10:40 a.m.

3. Abbey Mayer

Mr. Mayer stated that he was the Interim Director of the OP. Mr. Mayer referenced OP's exhibit 2B and discussed OP's concerns of impacts to ground water, non-source point pollution, and the NPS's recommended conditions. Mr. Mayer further discussed the preservation plan as approved by the SHPD. Mr. Mayer noted a slight amendment to exhibit 1, condition number 17, on the fifth line to change the word "will" to "shall." This condition directs the LUC to file an Order to Show Cause should the completion of construction of the infrastructure of the project area be delayed over a 10-year period. Mr. Mayer commented on a Memorandum of Understanding related to Act 196, which require state facilities to achieve LEED silver standards and energy efficiency goals.

Presiding Officer Kanuha wondered if the MOU that Mr. Mayer was referring to had been submitted by the OP.

Mr. Mayer noted that the MOU was not previously submitted to the LUC, but that the OP would provide a copy sometime next week.

Ms. Kuwaye referenced condition number 11 and asked for clarification on exactly what the OP was proposing regarding the energy design.

Mr. Mayer stated that the OP was recommending that LEED silver certification be included in the CC&Rs.

Presiding Officer Kanuha commented that the focus of OP's previous testimony was related to the concerns of long-term impacts, ground and surface water, the NPS concerns, and mitigation of traffic impacts, but energy efficiency was not among those concerns.

Mr. Mayer continued to discuss the county's zoning process, the potential of lengthy delays in subdivision approvals, and the balancing act with the state's concerns and home rule.

After a brief discussion, there were no further questions for Mr. Mayer.

Petitioner's Rebuttal Witness

1. Brian Rupp

Mr. Rupp stated that he had the opportunity to review OP's recommended conditions and discussed issues of the NPS agreement, ground water impacts, the entitlement process, and timeline for completion of the backbone infrastructure.

Mr. Yee raised questions regarding the ground water conditions as agreed upon between the petitioner and the NPS, backbone infrastructure, construction of the primary roadways, the affordable housing improvements, the wastewater treatment plant, construction of the park, and the preservation of the lava tubes.

After a brief discussion, there were no further questions for Mr. Rupp.

Presiding Officer Kanuha noted that the petitioner had one more rebuttal witness and that witness would be called upon at the next LUC meeting.

The meeting adjourned at 11:30 a.m.

(Please refer to LUC Transcript of March 20, 2008 for more details on this matter.)