

LAND USE COMMISSION
MEETING MINUTES
February 9, 2016 – 9:30 a.m.
Ballroom # 1 & 2, King Kamehameha's Kona Beach Hotel
75-5660 Palani Road, Kailua-Kona, Hawai'i 96738

COMMISSIONERS PRESENT: Edmund Aczon
Arnold Wong
Kent Hiranaga
Aaron Mahi
Jonathan Scheuer
Linda Estes
Nancy Cabral

COMMISSIONERS EXCUSED: Chad McDonald
(There are currently 8 seated Commissioners out of 9 positions)

LUC STAFF PRESENT: Daniel Orodener, Executive Officer
Diane Erickson, Deputy Attorney General
Scott Derrickson, Staff Planner
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Jean McManus

CALL TO ORDER

Chair Aczon called the meeting to order at 9:32 a.m.

APPROVAL OF MINUTES

Chair Aczon asked if there were any corrections or additions to the January 27, 2016 minutes. There were no corrections or comments. Commissioner Wong moved to approve the minutes. Commissioner Scheuer seconded the motion. The minutes were unanimously approved by voice vote (7-0-1 excused).

TENTATIVE MEETING SCHEDULE

Executive Officer Orodener provided the following:

- The regular tentative meeting schedule has been distributed in the handout material for the Commissioners.
- The February 10th, 2016 meeting is planned for a hearing on Docket No. DR08-36 in Honolulu at the Leiopapa A Kamehameha Bldg., Rm. 405.
- The February 24 2016 meetings are planned for Docket No. DR15-54 Pu`unoa Home Owners Association and Devonne Lane and a probable site visit for the Mā`alaea Plantation docket.
- The March 8, 2016 meeting for a follow-up status report for SP09-403 Waimānalo Gulch Sanitary Landfill has been rescheduled to April 14, 2016.
- Pending docket A89-676 Queen Lili`uokalani Trust is tentatively scheduled for March 23-24, 2016 in Kona at the West Hawai`i Civic Center.
- Any questions or conflicts, please contact LUC staff.

Commissioner Scheuer inquired if the Parties involved in SP09-403 had been made aware of what specifics they should be reporting on to the Commission. Mr. Orodener responded that he would advise them to ensure a complete report.

There were no further comments or questions on the tentative schedule.

ACTION—SP92-381 Waikoloa Development Company, (Hawai`i)

Chair Aczon stated that this was a meeting on Docket No. SP92-381 Waikoloa Development Company (Hawai`i) 's Request for Amendment to Special Permit No. 833 (SP92-381), to Allow a Time Extension to Condition No. 12 (Life of Permit), Allow Greenwaste Composting, and Allow the Processing and Recycling of Portland Cement Concrete and Asphalt Concrete Pavement Tax Map Key: 6-8-001:portion of 066 (formerly 6-8-001:portion of 005)

APPEARANCES

- Jennifer Lim, Esq., for Petitioner Waikoloa ("WHC")
- Jason Macey, Representative, WHC
- Danny Patel, Esq., for Hawai`i County Planning Department ("County")
- Daryn Arai, Planner, County
- Bryan Yee, Esq. for State Office of Planning ("OP")

PUBLIC TESTIMONY- DOCKET NO. SP92-381

Chair Aczon asked if there were any Public Witnesses who wished to testify.

PUBLIC WITNESSES

None

Chair Aczon updated the record, and described the procedures for the hearing. There were no questions or comments on the procedures.

Chair Aczon asked if Petitioner agreed to the LUC's reimbursement policy. Ms. Lim responded that Petitioner was aware of the reimbursement policy and would comply with its requirements.

Chair Aczon called for Petitioner to make its presentation.

PRESENTATIONS

Petitioner

Ms. Lim provided a background history and summary of the special permit application and offered Mr. Macey to respond to more detailed questions about the operations involved with the activities described by the special permit.

After being sworn in, Mr. Macey described the type of work that was performed in the Petition Area and how the various conditions specified in the proposed permit application would be complied with if it were granted. Mr. Macey also described how various operational issues such as traffic or disturbances to the surrounding areas would be monitored, reviewed and mitigated during the term of the special permit.

Ms. Lim referred to a variety of Exhibits containing studies which supported her position and argued how the County was supportive of extending the life of the special permit, how the Conditions of the Order would be complied with, what various future mitigations would be initiated and why the Applicant's request should be positively considered.

Commissioner Cabral expressed her concerns about how access to the Petition Area would be impacted by future roadway plans and how changes in factors like traffic or roadway requirements during the life of the Special Permit would be addressed. Mr. Macey described how the Applicant would review and react to any changes to the roadway infrastructure or the demands placed upon it with the County Department of Public Works.

Commissioner Wong requested clarification on how methane gas byproducts were being handled. Mr. Macey responded that there was no on-site methane gas capture occurring at present, and that the Petition Area was just servicing the compost activity of a local private landscape company.

Commissioner Mahi inquired what the Hawaiian name of the fern found in the Petition Area was and what artifacts or burial sites might be affected by the Special Permit operations. Ms. Lim could not recall the Hawaiian name of the fern. Mr. Macey stated that there were no known burial sites or artifacts in the quarry operational area. Ms. Lim referred to Petitioner's

Exhibit 5 (Petition Area Map) and described the location of the buffer area around the Petition Area that complied with the Reichman Study's suggested boundaries to demarcate such matters.

Ms. Lim also noted in response to Commissioner Cabral's question that the Applicant would pay its pro-rata share for any needed mitigations or improvements to the roadway infrastructure required in the future.

Chair Aczon asked if the Commissioners had any further questions. There were none.

COUNTY

Chair Aczon asked if County had any comments. Mr. Patel affirmed that the proposed Special Permit application was factually accurate and commented that he believed the Hawaiian name of the fern that Commissioner Mahi was interested in was "Pulole".

Commissioner Scheuer asked if there was evidence that the County Department of Public Works ("DPW") was agreeable with the proposed Conditions. Mr. Patel replied that the December 17, 2015 Planning Commission minutes reflected that the DPW had no objections to them.

OP

Chair Aczon asked if OP had any comments. Mr. Yee presented OP's position on the Petition and described how OP generally supported the Application and what concerns OP had.

DECISION MAKING

Commissioner Cabral inquired if the Petition Area land owners were in agreement with the Special Permit Application. Ms. Lim referred to Petitioner's Exhibit 3 and described who the landowners were, and how they had concurred with the activities described by the Special Permit.

Commissioner Scheuer thanked the County and Applicant for doing a thorough job on preparing the Special Permit Application and commended the Applicant for the quality of the final product.

Chair Aczon sought the pleasure of the Commission. Commissioner Cabral moved to

grant the special permit with modifications suggested by Hawai'i County and LUC staff. Commissioner Mahi seconded the motion.

Discussion

Commissioner Scheuer noted that his understanding of the motion was that the final order would reflect the corrections to errors that were brought to the attention of the Commission during the proceedings. Chair Aczon acknowledged that it would.

There were no further questions or discussion.

The Commission unanimously voted to grant the Petition (7-0- 1 excused). There are currently 8 seated Commissioners.

Chair Aczon thanked the Applicant and County for providing a complete and detailed record to the Commission; and to OP for providing its comments.

Chair Aczon declared a recess at 10:29 a.m. and reconvened the meeting at 10:37 a.m.

APPOINTMENT OF LUC LEGISLATIVE COMMITTEE

Chair Aczon stated that the next agenda item was to appoint an LUC Legislative Committee to address any issues relevant to the LUC that were under consideration by the 2016 Hawai'i Legislature and asked if there were any Public Witnesses.

Public Witnesses

None.

Chair Aczon asked Mr. Orodener to provide further information on the Committee's role to the Commission. There was a brief discussion to determine the responsibilities of the committee and the availability of Commissioners to participate on the Committee.

Commissioner Estes moved to appoint a Legislative Committee. Commissioners Cabral offered a friendly amendment to appoint an LUC Legislative Committee comprised of the LUC Chair and the two Vice Chairs. Commissioner Estes accepted the friendly amendment and Commissioner Cabral seconded the amended motion.

Commissioner Hiranaga requested confirmation that the Chair and the two Vice Chairs would accept serving on the Legislative Committee. Chair Aczon and Vice-Chairs Scheuer and Wong acknowledged that they would serve on the committee.

There was no further discussion .

By a unanimous voice vote (7-0-1 excused), the Commission voted that Chair Aczon and Vice-Chairs Scheuer and Wong would serve on the Legislative Committee.

Chair Aczon moved on to the next agenda item.

2016 Legislation Status Report

Chair Aczon requested that Mr. Orodener review the LUC legislative items of concern with the Commission. Mr. Orodener summarized the various pending bills that involved the Commission and described the status and anticipated action that LUC was prepared to take if the bills proceeded forward in the legislative process; and responded to various questions the Commission had.

Commissioner Wong moved to ratify the actions taken by LUC staff and that delegated LUC staff could provide testimony to the Legislature on all bills set for hearing relating to the LUC as directed by the LUC Legislative Committee. Commissioner Mahi seconded the motion. There was no discussion.

By a unanimous voice vote (7-0-1 excused), the Commission granted Commissioner Wong's motion.

There being no further business, the meeting was recessed by Chair Aczon at 11:05 a.m.; and would reconvene at 0830 a.m. in Honolulu at February 10, 2016 at the State Office Tower, Room 405.



