

LAND USE COMMISSION
MEETING MINUTES

August 10, 2016 – 9:30 a.m.
Airport Conference Center
400 Rodgers Blvd. Suite 700, Room #4
(In Hawaiian Airlines Terminal Building)
Honolulu, HI 96819

COMMISSIONERS PRESENT: Edmund Aczon
Nancy Cabral
Linda Estes
Kent Hiranaga
Dawn Chang
Jonathan Scheuer
Arnold Wong
Gary Okuda

COMMISSIONERS EXCUSED: Aaron Mahi

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

COURT REPORTER: Jean McManus

CALL TO ORDER

Chair Aczon called the meeting to order at 9:30 a.m.

APPROVAL OF MINUTES

Chair Aczon asked if there were any corrections or additions to the June 8-9, 2016 minutes. There were none. Commissioner Scheuer moved to approve the minutes. Commissioner Estes seconded the motion. The minutes were unanimously approved by a voice vote (8-0-1 excused).

TENTATIVE MEETING SCHEDULE

Executive Officer Orodenker provided the following:

- The regular tentative meeting schedule has been distributed in the handout material for the Commissioners.
- On August 25, 2016, the Commission will meet via videoconference to adopt the form of the order for Docket No. SP14-404 Jas. Glover.
- September 7, 2016 is planned for a hearing on Docket No. DR16-56 Robinson Family Partners on Kaua`i. (This meeting involves visiting remote locales during a site visit and will require a “working lunch” to complete LUC business within the allotted time frames. The Commission will provide meals for Commissioners and staff.)
- The September 23, 2016 meeting will be on Kaua`i in conjunction with the 2016 HCPO Conference and will consider adopting the form of the order for Docket No. DR 16-56, and to hear a presentation on sustainability from the Blue Zone Project.
- October 12-13, 2016, meeting is to be determined.
- On November 9-10, 2016, Hearings Officer Scheuer will hold a hearing on Lanai for Docket No. A89-649 Lanai Resort.
- The balance of the LUC calendar is still open.
- Any questions or conflicts, please contact LUC staff.

Chair Aczon reaffirmed that the September 7th meeting would be a site visit to a remote locale and would require “working lunch” to conclude LUC business in the time allotted.

There were no questions or comments regarding the tentative meeting schedule.

AGENDA AMENDMENT

Chair Aczon stated that he would entertain a motion to amend the agenda to take a portion of the Executive Session regarding the Bridge Aina Lea settlement out of order and ahead of the balance of the agenda to allow the Commission to consult with its attorney Bill Wynhoff.

Commissioner Wong moved and Commissioner Chang seconded the motion to amend the agenda to have a portion of the Executive Session regarding the Bridge Aina Lea settlement to be heard at this point of the meeting, out of sequence. There was no discussion.

By a voice vote, the Commission unanimously approved amending the agenda (8-0-1 excused)

EXECUTIVE SESSION

Commissioner Wong moved and Commissioner Chang seconded the motion to enter Executive Session to consult with its attorney, Bill Wynhoff regarding the Commission's duties, rights, responsibilities and obligations with respect to the Bridge Aina Lea settlement.

The Commission entered Executive Session at 9:35 a.m. and reconvened at 11:20 a.m.

Chair Aczon stated that the next agenda item was SP14- 404 Jas. W. Glover.

HEARING AND ACTION

Docket No. SP14-404 Jas. W. Glover (Hawai'i)

APPEARANCES

Randy Vitousek, Esq., represented Jas. W. Glover (JWG)

Dawn Takeuchi Apuna, Esq., represented State Office of Planning (OP)

Rodney Funakoshi, Land Use Administrator, OP

(County of Hawaii advised the LUC by correspondence on August 8, 2016, that it would not be present)

Chair Aczon updated the record, and described the procedures to be followed for the hearing. Chair Aczon noted for the record that all Commissioners present except for Commissioners Cabral, Chang and Okuda were at the November 20, 2014 meeting on this Docket and had Commissioners Cabral, Chang and Okuda individually confirm that they had reviewed all the transcripts, minutes of that meeting and all submitted docket materials in preparation for this hearing.

There were no objections, comments or questions regarding the procedures, or to the participation of Commissioners Cabral, Chang and Okuda in the proceedings. Chair Aczon called for Public Witnesses.

PUBLIC WITNESSES:

None

There were no public witnesses

PRESENTATIONS

Petitioner

Mr. Vitousek provided a historical background of the Application and described the activities that the Applicant had been involved in since it last appeared before the Commission. Mr. Vitousek provided additional details on the efforts to clarify the historic site findings and boundary discrepancies within the permit area that had been

brought to the attention of the Commission by the Hawaii National Guard; and also described additional efforts that had been made to deal with endangered species in the permit area, and to address concerns related to meeting the requirements of and complying with the Ka Pa`akai decision.

Commissioner Questions

Commissioner Chang requested confirmation that the Puna Trail lay outside of the permit area boundary and applauded the Applicant's efforts to add the Ka Pa`akai analysis to its submittal. Mr. Vitousek referred to a 1931 trail map that depicted the Puna Trail outside of the permit area to confirm that the Puna Trail was not within the permit area and deferred to Jas. W. Glover representative, Michael Pearring, who after being duly sworn in, described how care and management of the permit area was ongoing and that Applicant is mindful of historical/cultural concerns.

Commissioner Cabral stated that she was in favor of granting the Permit and described her personal knowledge and perspective of the physical conditions of the permit area. Mr. Vitousek affirmed that the current quarry operations restricted what types of activities could occur within the permit area in the future and described how additional effort would be needed to remediate the landscape.

There were no further Commissioner questions and Chair Aczon called for OP to provide any public comments.

OP

Ms. Takeuchi Apuna described how OP had reviewed the Application and stated that OP suggested prior to the expiration of the Special Permit, that a land use designation change to rural or urban use be considered.

Mr. Vitousek replied that Kamehameha Schools Bishop Estate was the land owner and should be the candidate to pursue a land use designation change and not the Applicant, who is a tenant.

Commissioner Hiranaga requested clarification on why OP felt a district boundary amendment was necessary. Mr. Funakoshi, after being duly sworn in, stated that OP had participated at the County proceedings on this docket, and described why OP felt that including a provision for a change in land use designation change to rural or urban when the Special Permit expired was appropriate.

Commissioner Wong expressed his concerns of how OP's suggestion for this tenant to request a land use designation change might negatively impact the fee owner and have unintended consequences.

Commissioner Okuda stated that he felt the land use designation change request was premature and questioned whether there was any harm in not including it as a

Condition. Mr. Funakoshi replied that it was not a priority to include the Conditions of the Special Permit

Commissioner Cabral moved to approve the Special Permit subject to the Hawaii County Planning Commission's recommendations and conditions. Commissioner Estes seconded the Motion.

Commissioner Scheuer spoke in favor of the Motion and described his reasons for supporting the approval of the Special Permit.

Commissioner Hiranaga requested clarification on whether the Motion included OP's recommendation for a land use designation change request prior to the expiration of the Special Permit. Commissioner Cabral replied that it did not.

There were no further Commissioner questions.

Chair Aczon asked if there were any further comments or questions. There were none.

There was no further discussion.

The Commission voted as follows:

Ayes: Commissioner Cabral, Estes, Scheuer Okuda, Wong, Hiranaga, Chang and Chair Aczon.

Nays: None

The Motion passed 8-0 with 1 excused.

ADMINISTRATIVE RULE AMENDMENTS

Chair Aczon had Mr. Orodener present and explain various proposed LUC administrative rule amendments for the Commission to consider implementing. Mr. Orodener and LUC staff fielded various questions from the Commissioners regarding the details on various proposed amendments

Chair Aczon stated that it was his understanding that LUC staff had requested authorization to proceed on developing proposed amendments to the rules and to present the proposed draft amendments at a future meeting.

Commissioner Wong moved and Commissioner Scheuer seconded the Motion to authorize LUC staff to proceed on developing proposed amendments to the rules for presentation to the Commission at a future meeting.

Commissioner Chang requested clarification on how to best submit comments on the proposed amendments or on other existing administrative rules. Mr. Orodener provided the necessary details.

By a unanimous voice vote (8-0- 1 excused), the Motion to authorize LUC to develop proposed amendments for future consideration by the Commission was passed.

EXECUTIVE SESSION

Commissioner Wong moved and Commissioner Scheuer seconded the Motion to enter into Executive Session to consult with the board's attorney on questions and issues pertaining to the board's duties, privileges, immunities and liabilities regarding LUC personnel matters.

By a unanimous voice vote (8-0-1 excused), the Commission elected to enter into Executive Session at 11:56 a.m.

The Commissioners exited Executive Session at 12:42 p.m. and reconvened the public meeting immediately thereafter

There being no further action for the day, Chair Aczon declared the meeting adjourned at 12:42 p.m.