

LAND USE COMMISSION
MEETING MINUTES

**Maui Arts and Cultural Center- Alexa Higashi Meeting Room
One Cameron Way
Kahului, Maui, Hawai'i
January 18, 2017 10:00 a.m.**

COMMISSIONERS PRESENT: Kent Hiranaga
Arnold Wong
Nancy Cabral
Linda Estes
Aaron Mahi
Jonathan Scheuer
Dawn Chang

COMMISSIONERS EXCUSED: Edmund Aczon
Gary Okuda

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

COURT REPORTER: Cynthia Murphy

CALL TO ORDER

Vice Chair Scheuer called the meeting to order at 10:10 a.m. and stated that the LUC Vice Chairs had agreed that he would preside over the January 18, 2017 proceedings and Vice Chair Wong would preside over the January 19, 2017 proceedings.

APPROVAL OF MINUTES

- Vice Chair Scheuer asked if there were any corrections or additions to the December 22, 2016 minutes. There were none. Commissioner Chang moved to approve the minutes. Commissioner Estes seconded the

motion. By a voice vote the minutes were unanimously approved (7-0-2 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 for the following dates and docket numbers.
 - The February meeting dates have been vacated due to scheduled Petitioner's request to delay their hearing date.
 - MAR 8-9 – Hearing on A94-706 Ka`ono`ulu Ranch on Maui
 - MAR 22-23 –Hearing on A16-800 Island School and A16-801 University of Hawaii Community Colleges- Kaua`i DBAs on Kaua`i.
 - APR 12-13- A89-649 Lāna`i Remand –LUC consideration of Hearings Officer's recommended D&O and arguments on exceptions thereto on Lāna`i.
 - APR 26-27- A94-706 Ka`ono`ulu Ranch – Motion to Amend on Maui.
 - MAY- SP09-403 Waimanalo Gulch-
 - JUN- Big Island Motions
- Any questions or conflicts, please contact LUC staff.

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

A15-798 Waikapū Properties LLC, et al, (Maui) ("WP")

Vice Chair Scheuer stated that this was an action meeting on Docket No. A15-798 to consider the acceptance of Petitioner's Final Environmental Impact Statement in the Petition To Amend the Agricultural Land Use District Boundaries into the Rural Land Use District for certain lands situated at Waikapu, District of Wailuku, Island and County of Maui, State of Hawai`i, consisting of 92.394 acres and 57.454 acres, and to Amend the Agricultural Land Use District Boundaries into the Urban Land Use District for certain lands situated at Waikapu, District of Wailuku, Island and County of Maui, State of Hawai`i, consisting of 236.326 acres, 53.775 acres, and 45.054 acres

APPEARANCES

Paul Mancini, Esq., WP's Representative

Michael Atherton, WP

Michael Summers, Planning Consultant, WP

Kurt Wollenhaupt, Planner, Maui County Planning Department (County)
Michael Hopper, Esq., Deputy Corporation Counsel (County)
Dawn Takeuchi-Apuna, Esq., Deputy Attorney General, State Office of Planning (OP)
Rodney Funakoshi, Land Use Administrator (OP)

Vice Chair Scheuer updated the record, described the procedures for the hearing and asked if Petitioner had been made aware of and was agreeable to the LUC's hearing expenses reimbursement policy. Mr. Mancini acknowledged that Petitioner was aware of the expenses and would comply with the reimbursement policy. There were no questions or comments on the procedures

Commissioner Mahi stated that he wished to disclose that the Mahi "kuleana lands" mentioned in the EIS were not, to the best of his knowledge, related to him. The Chair asked the Parties if there were any objections to Commissioner Mahi's continued participation in the proceedings. There were no objections.

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

PUBLIC WITNESSES

1. Mercer "Chubby" Vicens
Mr. Vicens described why he was supportive of the proposed project.
There were no questions for Mr. Vicens.
2. Kimokea Kapahulehua,
Mr. Kapahulehua shared his reasons for supporting the proposed project.
There were no questions for Mr. Kapahulehua.
3. Russell Gushi
Mr. Gushi provided his reasons for supporting the proposed project.
There were no questions for Mr. Gushi.
4. Bobby Pahia
Mr. Pahia stated that he was a farmer and described why he supported the proposed project.
There were no questions for Mr. Pahia.
5. Mike Takehara
Mr. Takehara shared his reasons for supporting the proposed project.
There were no questions for Mr. Takehara.
6. Dick Mayer
Mr. Mayer submitted written testimony and summarized his reasons for

supporting the proposed project. He also stated the concerns and actions that he would like the Commission to consider.

There were no questions for Mr. Mayer.

7. Lucienne De Naie – (Maui Tomorrow Foundation)

Ms. De Naie expressed her support and appreciation of the community outreach performed by the representatives of the proposed project.

There were no questions for Ms. De Naie.

8. Luke McLean

Mr. McLean shared his experiences of working with the Petitioner and expressed his support for the proposed project.

There were no questions for Mr. McLean.

There were no further witnesses. The Commission went into recess at 10:57 a.m. and reconvened at 11:06 a.m.

PRESENTATION

Petitioner

Mr. Mancini made his presentation to the Commission and argued why the LUC should accept the Final Environmental Impact Statement (FEIS) for A15-798; and described the reasons why the FEIS should be accepted by the Commission. Mr. Mancini offered Mr. Atherton to provide further details of the proposed project to the Commission.

Mr. Atherton, after being sworn in as a witness, described his personal background and professional experience to the Commission and used a PowerPoint presentation to identify the various features and characteristics of the proposed project and its surrounding area, and the various environmental considerations that had been made.

Questions for Petitioner

Maui County and OP had no questions for Mr. Atherton

Commissioner Questions

Vice Chair Wong requested further clarification on Important Agricultural Land (IAL) issues. Mr. Atherton deferred to his consultant, Mike Summers, to respond to the question. Mr. Summers, after being sworn in as a witness, described why the lands were not IAL categorized and what soil rating system was used in making that determination.

Commissioner Estes asked how the “fair share” portion for traffic mitigation would be determined. Mr. Atherton replied that he had been working with the County of Maui and described how the “fair share” portion would be determined during the construction process.

Commissioner Chang requested clarification on the cumulative impacts issues raised by Mr. Mayer in his public testimony (regarding additional projects in the area). Mr. Atherton shared that he was aware of what was happening in the area and deferred to Mr. Summers to provide additional details as they related to the preparation of the EIS.

Commissioner Hiranaga noted that there was a difference in the location of the “Waiale Project” and “Waiale Bypass Roadway” references that were being made during this exchange of information.

Commissioner Wong requested additional clarification on the photo-voltaic features and public safety considerations that had been described for the proposed project. Mr. Atherton provided further details on the scope and size of the proposed project and described what energy conservation features had been included and how fire/police/medical aid measures had been considered and included in the planning.

Commissioner Mahi requested clarification on various historical, cultural and archaeological aspects of the EIS. Mr. Atherton described the investigative activities that had occurred to address those concerns and shared how monitoring and mitigation measures would be implemented when the proposed project started.

Vice Chair Scheuer asked if an archaeological consultant was available to question. Mr. Atherton and Mr. Summers offered Ms. Lisa Rotunno-Hazaka, their archaeological resource person. After being sworn in as a witness, Ms. Hazaka responded to various questions in her field from the Commission.

Commissioner Chang requested clarification on the proposed timetable for development that Mr. Atherton would be following. Mr. Atherton described pending events and deadlines that he was confronted with and Mr. Mancini shared how Petitioner had been dealing with the district boundary amendment process.

Commissioner Cabral requested additional information regarding housing plans and affordable housing considerations that were part of the proposed project. Mr. Summers described the housing components and proposed housing product mix that would be offered.

Vice Chair Scheuer requested clarification on water aquifer issues and how lo`i kalo farmers might be impacted by activities related to the proposed development of the Petition Area. Mr. Atherton shared his understanding of how water resources and diversified agriculture fit into the proposed project.

Vice Chair Scheuer also requested clarification on how Mr. Mayers' concerns about controlling the number of housing units would be addressed. Mr. Summers described how he envisioned County ordinances would limit the total number of units to 146.

Commissioner Hiranaga provided his perception of how he thought the County planning department would limit the unit density count for the proposed project.

Vice Chair Scheuer requested clarification on Petitioner's commitment to implementing the mitigation measures prescribed in the EIS. Mr. Atherton affirmed that Petitioner was committed to implementing the mitigation measures as represented to the Commission.

There were no further questions for Petitioner.

AGENCY COMMENTS

County

Mr. Hopper stated that the County recommended acceptance of the EIS and described how the County arrived at its position.

There were no questions for County.

OP

Ms. Apuna stated that OP also recommended acceptance of the EIS and described how the EIS had addressed the concerns that OP had raised.

Commissioner Wong commented that the LUC relies heavily on OP's recommendations and requested a more timely position statement response to review prior to hearings in the future. Ms. Apuna noted Commissioner Wong's suggestion.

There were no further questions or comments for Ms. Apuna.

FINAL COMMENTS

Petitioner

Mr. Mancini thanked the Commission for its efforts and restated why the Petition should be granted.

The County and OP had no final comments.

Commissioners

Commissioner Hiranaga requested clarification on an EIS Chapter 3, page 62-fourth line reference about whether the elementary school should be noted as "upwind" instead of how it was described. Mr. Summers acknowledged that there was a typographical error, and stated that the correct reference should be "upwind" for the record.

DECISION MAKING

Vice Chair Scheuer entertained a motion.

Commissioner Hiranaga moved to find that the Petitioner's Final Environmental Impact Statement complies with the content requirements for an FEIS and is accepted pursuant to chapter 343, Hawai'i Revised Statutes, and chapter 11-200, Hawai'i Administrative Rules, specifically:

- (a) the applicant has signed indicating the Final EIS was prepared under their direction;
- (b) the Final EIS was formatted to easily distinguish changes made;
- (c) the Final EIS contains a list of persons, organizations, and public agencies commenting on the Draft EIS;
- (d) the Final EIS has reproduced all letters received containing substantive comments and summary of any scoping meetings;
- (e) the applicant has revised its Draft EIS to incorporate substantive comments received during the consultation and review process; and,
- (f) the applicant has responded to each substantive comment with: point-by-point discussion of the validity, significance, and relevance of comments; discussion as to how each comment was evaluated and considered in planning the proposed action; verbatim changes that have been made to the DEIS; and reasons why specific comments were not accepted, and factors overriding importance warranting an override.

Further, that the Commission authorizes the Executive Officer to notify and submit a record of this acceptance to the applicant and the Office of Environmental Quality Control by the January 24, 2017 deadline for Commission action.

Commissioner Cabral seconded the motion and expressed her appreciation for the members of the community who had appeared in support of the Petitioner.

There was no further discussion.

The Commission voted unanimously (7-0 with 2 excused) in favor of accepting the FEIS.

EXECUTIVE SESSION

Commissioner Wong moved for the Commission to enter into Executive Session to consult with the Commission's attorney regarding the Commission's duties, rights, responsibilities and obligations with respect to Civil No. 16-1-0 160 (1) - Ho`omoana Foundation-Findings of Fact, Conclusions of Law, and Decision and Order.

Commissioner Cabral seconded the motion. By a unanimous voice vote, the Commission voted to enter into Executive Session at 12:07 p.m. and reconvened into regular session at 12:26 p.m.

Vice Chair Scheuer stated the Commission had reconvened and entertained a motion. Commissioner Chang moved that the LUC authorize its Executive Officer to inform the State Attorney General of the Commission's support of an appeal the adverse decision in Civil No. 16-1-0 160 (1) - Ho`omoana Foundation. Commissioner Estes seconded the motion. By a unanimous voice vote (7-0- with 2 excused), the Commission voted to inform the Attorney General that the LUC supports an appeal of the adverse Ho`omoana Foundation decision.

With no further action or other business, Vice Chair Scheuer declared that the meeting was in recess and that the Commission would reconvene on Kaua`i at the County of Kaua`i Pi`ikoi Conference Room, 4444 Rice Street, Lihu`e, Kaua`i on January 19, 2017. The Commission went into recess at 12:28 p.m.
