

LAND USE COMMISSION  
MEETING MINUTES

July 26, 2017

9:30 a.m.

County of Kaua`i Moikeha Building Conference Room 2A/2B  
4444 Rice Street, Lihu`e, Kaua`i, Hawai`i, 96766

COMMISSIONERS PRESENT: Edmund Aczon  
Gary Okuda  
Arnold Wong  
Linda Estes  
Nancy Cabral  
Dawn Chang

COMMISSIONERS EXCUSED: Aaron Mahi  
Jonathan Scheuer  
Lee Ohigashi

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

COURT REPORTER: Cynthia Murphy

**CALL TO ORDER**

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

**APPROVAL OF MINUTES**

Chair Aczon stated that the minutes for the July 19-20, 2017 were not ready and approval would be deferred.

**TENTATIVE MEETING SCHEDULE**

Executive Officer Orodener 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.

- AUG 9- Oahu Solar Permits- meeting on Oahu
- AUG 10- Adoption of Orders for A16-800 Island School and A16-801 UHCC-Kaua`i on Kaua`i
- AUG 23- A05-760 Pukalani Associates- Motion for Extension of Time on Maui/ A15-798 Site Visit
- SEP 6-7- A15-798 Waikapu Town and Adoption of Orders for SP15-405 and SP15-406 on Maui
- SEP 20-22- HCPO on Oahu
- NOV 21-22- Hono`uli`uli Special Permits
- Any questions or conflicts, please contact LUC staff.

Chair Action stated that the Commission had concluded matters for Docket No. A17-802 at the July 19, 2017 meeting and there was nothing left to addresses and moved on to Docket. No. A16-801 University of Hawai`i Community Colleges (Kaua`i).

**HEARING AND ACTION (Continued from March 22, 2017)**

**A16-801 UNIVERSITY OF HAWAI`I COMMUNITY COLLEGES (Kaua`i)**

To amend the Agriculture Land Use District Boundary into the Urban District for approximately 148.37 acres at Puhi, Lihu`e, Island of Kaua`i, State of Hawai`i, (TMK): (4) 3-4-07: 01, 02, 03 and 06

Chair Aczon announced that the Commission would address Docket No. A16-801 University of Hawai`i Community Colleges- Kaua`i.

**APPEARANCES**

Laurel Loo, Esq., Counsel for Petitioner University of Hawai`i Community Colleges- Kaua`i (UHCC)

Earl Matsukawa, Petitioner Representative, Wilson Okamoto & Company

Jodi Higuchi, Esq., Deputy Corporation Counsel, for County Planning Department (“County”)

Michael Dahilig, Director, County

Dawn Takeuchi Apuna, Esq., Deputy Attorney General, for State Office of Planning (“OP”)

Rodney Funakoshi, Land Use Administrator, OP

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

**PUBLIC WITNESSES:**

None

## PRESENTATIONS

Chair Aczon called for the Parties to make their closing arguments.

### Petitioner

Ms. Loo argued that Petitioner's Decision and Order should be granted after stipulating to OP's suggested changes and that the Petition Area complied with the County General Plan and had addressed issues raised about appropriate timing for requiring Traffic Impact Assessment Reports (TIARs), Environmental Assessments (EAs) and Environmental Impact Studies (EISs) when new development was being considered and adopting mitigation/preservation measures to protect existing and subsequently discovered cultural and archaeological sites.

There were no questions for Ms. Loo.

### County

Ms. Higuchi stated that County supported the Petition and that County had no objections to the proposed order.

Commissioner Cabral requested clarification on Ms. Higuchi's statements regarding County's application of zoning for the Petition Area.

### OP

Ms. Apuna summarized OP's position of no objections to the granting of the Petition and the proposed decision and order with Petitioner's acceptance of the changes OP had suggested and described how concerns regarding traffic, endangered species, Parcel 6, and archaeological findings been addressed.

Commissioner Chang requested clarification on the proposed archaeological preservation plan. Ms. Apuna clarified how OP and/or the County would be addressing that matter.

There were no further questions or comments. Chair Aczon asked the Commission if they were prepared to deliberate on this matter. The Commission unanimously responded that they were ready to deliberate (6-0).

Commissioner Estes moved and Commissioner Chang seconded the motion to grant the Petition.

Commissioner Wong requested clarification on whether Commissioner Estes' Motion included the Amended Findings of Fact that OP had suggested. Mr. Orodener clarified the contents of the Motion under consideration. The Parties acknowledged that the Motion contents as Mr. Orodener had stated was accurate.

Chair Aczon had Mr. Orodener poll the Commission. By a unanimous vote (6-0- 2 excused), the Commission voted to grant the Petition for A16-801 University of Hawai'i Community College.

Chair Aczon declared a recess at 9:48 a.m. and reconvened the meeting at 9:55 a.m., and announced that the Commission would next address Docket No. A16-800, Island School.

## HEARING AND ACTION

### A16-800 ISLAND SCHOOL (Kaua`i)

To amend the Agricultural Land Use District Boundary into the Urban District for approximately 38.448 acres at Puhi, Lihu`e, Kaua`i, Hawai`i, Tax Map Key: (4) 3-8-002: 016

Chair Aczon stated that this was a hearing and action meeting on Docket No. A16-800; and stated that the agenda contained a typographical error and should have read-"To Amend the Agricultural Land Use District Boundary into the Urban District Boundary for approximately 38.448 Acres at Puhi, Lihu`e, Kaua`i, Hawai`i, Tax Map Key: (4) 3-8-002: 016.

## APPEARANCES

Curtis Tabata, Esq. and Benjamin Matsubara, Esq., Counsel for Island School ("IS")

David Pratt, Petitioner Representative, IS

Jodi Higuchi, Esq., Deputy Corporation Counsel, for County Planning Department ("County")

Michael Dahilig, Director, County

Dawn Takeuchi Apuna, Esq., Deputy Attorney General, for State Office of Planning ("OP")

Rodney Funakoshi, Land Use Administrator, OP

Chair Aczon updated the record; described the procedures for the hearing; and called for public witnesses. There were no questions or comments on the procedures.

## PUBLIC WITNESSES:

None.

## PRESENTATIONS

Chair Aczon called for the Parties to make their closing arguments.

### Petitioner

Mr. Matsubara argued why the Petition should be granted and the proposed Decision and Order, with OP's suggested changes, should be adopted. He argued that the Petition Area complied with the County General Plan and Petitioner had addressed issues raised about appropriate timing for requiring Traffic Impact Assessment Reports (TIARs), Environmental Assessments (EAs) and Environmental Impact Studies (EISs) when new development were

being considered and adopting mitigation/preservation measures to protect existing and subsequently discovered cultural and archaeological sites.

There were no questions for Mr. Matsubara.

#### County

Ms. Higuchi stated that County supported the Petition and that County had no objections to the proposed order.

#### OP

Ms. Apuna summarized the Office of Planning's position of no objections to the granting of the Petition and the proposed order with the changes OP had suggested and described how concerns regarding stormwater management, drainage improvements, photovoltaic systems, endangered species, the Līhu`e Airport and archaeological findings been addressed.

There were no further questions or comments. Chair Aczon polled the Commission as to whether or not they were prepared to deliberate on this matter. The Commission unanimously responded that they were ready to deliberate (6-0).

Commissioner Estes moved and Commissioner Chang seconded the motion to grant the Petition.

Commissioner Wong offered a friendly amendment that the Commission grant the Petition with the changes that OP wanted to have included. Commissioners Estes and Chang accepted the friendly amendment to the motion.

Commissioner Chang commented that she appreciated that OP and Petitioner had worked together to craft the proposed final decision and order and stated that she would be voting in favor of the motion.

Commissioner Okuda stated that he believed the Petition had met the requirements of the Hawai`i Constitutional Public Trust Doctrine and that he would be voting in favor of the motion.

Commissioner Cabral commented how the increasing enrollment at Island School bodes well for increasing enrollment at the Kaua`i Community College.

Chair Aczon had Mr. Orodener poll the Commission. By a unanimous vote (6-0- 2 excused), the Commission voted to grant the Petition.

Chair Aczon stated that the next agenda item, A94-706 Ka`ono`ulu Ranch Motion to Designate the LUC as Approving Agency for EIS had been withdrawn. There being no further business, Chair Aczon stated that the Commission was adjourned at 10:07 a.m.