

LAND USE COMMISSION
MEETING MINUTES

April 3, 2019

9:30 a.m.

**Maui Arts and Cultural Center, Alexa Higashi Conference Room
One Cameron Way, Kahului, Hawai'i, 96766**

COMMISSIONERS PRESENT: Edmund Aczon
Nancy Cabral
Lee Ohigashi
Aaron Mahi
Arnold Wong
Jonathan Scheuer

COMMISSIONERS EXCUSED: Gary Okuda
Dawn Chang

(There are currently 8 seated Commissioners)

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

COURT REPORTER: Jean McManus

CALL TO ORDER

Chair Scheuer called the meeting to order at 9:35 a.m.

APPROVAL OF MINUTES

Chair Scheuer asked if there were any corrections or additions to the March 27-28, 2019 minutes. There were no corrections or comments. Commissioner Wong moved to approve the March 27-28, 2019 minutes. Commissioner Cabral seconded the motion. The minutes were unanimously approved by voice vote (6-0-2 excused. There are currently 8 seated Commissioners).

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.

APR 23-24 (note TUES-WED skdl) HNL-(Kaneohe Bayview GC) DBA A17-804 Hawaii Memorial Park

MAY 7- A06-767 Waikoloa Mauka Adoption of Order
MAY 8- A94-706 Ka`ono`ulu Ranch Evidentiary Hearing

MAY 22-23- OSC action for A06-770 Shopoff and A02-737 U of N Bencorp

JUN 5-A18-803 Kealia Properties LLC- EIS acceptance
JUN 6- IAL site visit/mtg for unidentified North Shore property- DR19-??

JUL 10-11 A87-610 Waiawa

HCPO- will be on Maui SEP 11-13- details to follow later this year
Any questions or conflicts, please contact LUC staff.

There were no questions or comments. Chair Scheuer provided a brief summary of the Commission's mission to audience.

DR19-65 County of Maui- RE; A11-794 State of Hawaii-Dept. of Education- Kīhei High School (Maui)

Chair Scheuer announced that this was a meeting on a Petition for Declaratory Ruling No. DR19-65 County of Maui re: Docket No. A11-794 State of Hawaii, Dept. of Education- Kīhei High School (Maui).

APPEARANCES

State of Hawai`i Department of Education ("DOE") was not present
Michael Hopper, Esq., Deputy Corporation Counsel, represented County of Maui Planning Department ("County")
Tom Kolbe, Esq., Deputy Corporation Counsel, County
Michele McClean, Director, County
Dawn Takeuchi-Apuna, Deputy Attorney General, represented State Office of Planning ("OP")

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

Chair Scheuer asked if any representative for the DOE was present and noted that there was no response for the record and that the agenda items regarding State of Hawai`i, Department of Education's Petition To Intervene and Motion to Continue Hearing and Deferral of Ruling on Petitioner Department of Planning, County of Maui's Petition to Issue a Declaratory Order filed February 22, 2019 were withdrawn. Chair Scheuer moved on to address County of Maui's Petition to Issue a Declaratory Order and called for public witnesses.

PUBLIC WITNESSES

1. Andrew Beerer – Chair, Kihei High School Action Team

Mr. Beerer thanked the members of the Commission for their efforts and stated that he endorsed using the “safe routes” Dan Burden plan for the proposed school and shared his safety concerns if the “safe routes” plan were not used.

There were no questions for Mr. Beerer.

2. Patricia Stillwell

Ms. Stillwell shared her safety concerns if the Commission’s condition in this matter were not applied and commented that enforcement of conditions was important.

There were no questions for Ms. Stillwell. Commissioner Cabral expressed her appreciation to the community members for their participation and concerns about the welfare of their neighborhoods and traffic problems.

3. John Laney

Mr. Laney stated that he echoed the concerns of his fellow community members and that he supported the Commission’s condition.

There were no questions for Mr. Laney.

4. Diane Laney

Ms. Laney stated that she supported the Commission’s condition and described her traffic hazard concerns.

There were no questions for Ms. Laney.

5. Judy Williams

Ms. Williams thanked the Commission for responding to community concerns and described how traffic had steadily worsened during her 6-year residency in the area.

There were no questions for Ms. Williams.

6. Mike Moran, President, Kihei Community Association (KCA)

Mr. Moran summarized KCA’s safety concerns about traffic in the area and about the negative impacts that not having safe access to the future developed high school would have on his community.

There were no questions for Mr. Moran.

7. James Williams

Mr. Williams described his work experience as a public safety employee and shared how effective he had found overpasses to be in preventing loss of life.

There were no questions for Mr. Williams.

8. Brenda Brown

Ms. Brown stated that she supported the “safe routes” plan and shared her perspective on the traffic safety issue.

There were no questions for Ms. Brown.

9. Cindy Dellafave

Ms. Dellafave shared her support for the Commission’s condition and described her safety concerns.

There were no questions for Ms. Dellafave.

Chair Scheuer asked if there were any other citizens wishing to provide public testimony. Two individuals responded.

10. Calden Norman

Mr. Norman provided his perspective on why safety features needed to be adopted for the future high school.

There were no questions for Mr. Norman.

11. William Sams

Mr. Sams stated that he was a former law enforcement officer and shared his reasons for advocating for pedestrian safety near the new high school.

There were no questions for Mr. Sams.

There were no more public witnesses.

Chair Scheuer closed the Public Testimony portion of the proceedings and assessed the time that County needed for its presentation.

Chair Scheuer made a final call for any DOE representative to identify themselves. There was no response.

Chair Scheuer called for County of Maui to make its presentation.

Petitioner Presentation- County of Maui Planning Department

Mr. Kolbe described how County had determined that a Declaratory Ruling on the Commission's Condition in this matter was needed to convince the DOE and the Department of Transportation (DOT) of the intent that the Commission had when it crafted its condition.

Mr. Kolbe provided additional details on how County interpreted the Commission's Decision and Order Condition on Highway and Road Improvements; and why it resorted to filing a Declaratory Ruling to clarify matters among agencies.

Chair Scheuer asked if the Commission had any final questions and re-stated that DOE had not appeared during the proceedings for the record; and asked if Ms. Apuna had any comments.

Ms. Apuna responded that OP had no comments.

Chair Scheuer sought the pleasure of the Commission.

Commissioner Ohigashi moved to find that Condition 1(b) of the Decision and Order of July 29, 2013, Docket No. A11-794 DOE Kihei High School requires that a pedestrian overpass or underpass be constructed before the opening of the first phase of the new high school in Kihei and that construction of the overpass or underpass was a mandatory requirement and was not optional. In addition, the DOE is required to get approval from DOT of its Pedestrian and Traffic plans. Commissioner Mahi seconded the motion.

Commissioner Ohigashi described how the role of the Commission during the proceedings was not to enforce conditions, but to affirm the intent of the Commission's D&O condition; and urged the community members in attendance to continue to advocate for safe access and to obtain legislative funding for such an infrastructure feature during the initial construction phase of the project.

Chair Scheuer acknowledged that DOE was still not present to object.

Commissioner Ohigashi commented on how the Commission could have been more specific on the use of terms "above or below ground" or "above or below grade" in wording the condition.

Chair Scheuer had Mr. Orodener poll the Commission. The Commission voted unanimously in favor of the motion (6-0-2 excused). There are currently 8 seated Commissioners).

There being no further business, Chair Scheuer adjourned the meeting at 10:32 a.m.