

LAND USE COMMISSION
MEETING MINUTES

November 7, 2019 – 9:00 a.m.

Department of Transportation - Highways;
650 Palapala Drive, Kahului, Hawai`i

COMMISSIONERS PRESENT: Edmund Aczon
Nancy Cabral
Gary Okuda
Jonathan
Scheuer
Dawn N. S. Chang
Arnold
Wong Lee
Ohigashi

COMMISSIONERS EXCUSED: Dan Giovanni
(8 seated Commissioners as of 10/1/19)

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

COURT REPORTER: Jean McManus

CALL TO ORDER

Chair Scheuer called the meeting to order at 9:00 a.m. and announced that the Commission would be addressing Agenda Item VIII Status Reports for three Maui dockets that had matured to their final stages of completion without submitting current annual reports or taking other action to update the Commission.

STATUS REPORTS

A04-746 Waikapu 48 Investment LLC

A04-748 Consolidated Baseyards LLC

A04-750 Spencer Homes Inc.

APPEARANCES

Michael Hopper, Esq., represented County of Maui, (“County”)

Dawn Takeuchi-Apuna, Esq. represented State of Hawai`i Office of Planning (“OP”)

Chair Scheuer summarized the state of the proceedings and noted that all three dockets had only submitted written correspondence or email and would have no representatives appearing in person at the proceedings.

Discussion ensued to determine how to handle the dockets without a representative present. Ms. Ohara shared how the Commission might consolidate the dockets for consideration. County and OP had no objection to the action to consolidate the dockets. Chair Scheuer decided to address the dockets individually to keep things better organized for the record.

A04-746 Waikapu 48 Investment LLC

Chair Scheuer updated the record and noted there was no representative present for the Petitioner and no public witnesses

Chair Scheuer called for comments regarding the written correspondence/email received from Scott Nunokawa, Managing Member, Waikapu 48 Investment LLC for Docket No. A04-746 Waikapu 48 Investment LLC.

Mr. Hopper commented how the Commission might consider acting on its own Motion to close the file on this matter.

Ms. Apuna had no comment for OP.

Chair Scheuer requested that Mr. Orodenker suggest possible action for the Commission to consider when dockets appear to have completed their initial objectives and no longer have utility. Mr. Orodenker described how dated LUC petitions were maturing and how the administrative rules were not specific on how to provide for a “closeout” process to handle matters.

Discussion ensued on how to handle dockets whose conditions needed removal or termination when the respective petitions had matured. Commissioner Chang expressed that it would be prudent to have formal documentation. Mr. Orodenker commented that LUC staff could generate formal correspondence to address the “closeout” of each file after reviewing matters with the representatives of each petition and receiving acknowledgement to confirm that the docket was terminated. Commissioner Cabral recommended that the LUC develop a formal, standardized “letter of completion”. Commissioner Ohigashi noted how Mr. Nunokawa’s email enabled the Commission to address A04-746 as a future action agenda item. County commented on how it routinely used “release of condition” documents to close their files containing conditions requiring compliance. Chair Scheuer commented on how some conditions “run with the land” and may require a “case by case” evaluation. Commissioner Chang expressed how action on a Motion would be preferable to her.

OP had no comment.

Chair Scheuer sought additional comments. Commissioner Ohigashi questioned whether the Commission would act on Petitioner’s emailed offer of action and stated that his preference was to have LUC staff review and process the offer of action into a format that the Commission formally address. Commissioner Okuda agreed with Commissioner Ohigashi and noted his preference for a “case by case” treatment which would allow for the LUC to have discretion with set procedures in place to assess, evaluate and react to dockets requiring their files to be closed by a formal Motion.

There was no further discussion.

A04-748 Consolidated Baseyards LLC

Chair Scheuer updated the record and noted there was no representative present for the Petitioner and no public witnesses, and that Dave Ward, representative for Consolidated Baseyards LLC had hand-delivered correspondence to the LUC at its meeting on November 6, 2019.

Chair Scheuer called for comments regarding the written correspondence/email received from Dave Ward, representative for Docket No. A04-748 Consolidated Baseyards LLC.

Mr. Hopper again commented how the Commission might consider acting on its own Motion to close the file on this matter.

Ms. Apuna had no comment for OP.

Commissioner Ohigashi suggested that LUC staff notify Mr. Ward that the D&O conditions still apply till Petitioner requests to have them removed.

Chair Scheuer stated that no further Commission action was necessary and directed that LUC staff contact Petitioner's representative to advise them of their responsibilities.

There was no further discussion.

A04-750 Spencer Homes Inc.

Chair Scheuer updated the record and noted there was no representative present for the Petitioner and no public witnesses, and that Doug Spencer, representative for Spencer Homes Inc. had submitted email correspondence to the LUC for its consideration.

Chair Scheuer called for comments regarding the written correspondence/email received from Doug Spencer, representative for Docket No. A04- 750 Spencer Homes Inc.

Commissioner Chang recognized Commissioner Ohigashi's comments on the previous dockets and suggested that the Commission leave it to LUC staff to advise the Petitioners to file their final motion to close their files.

Chair Scheuer deemed that he also considered the email/correspondence sufficient to direct LUC staff to contact Petitioner and work to close their files.

Commissioner Ohigashi noted that LUC staff should remind each Petitioner that it was their burden to remove the conditions.

Mr. Hopper again commented how the Commission might consider acting on its own Motion to close the file on this matter.

Ms. Apuna had no comment for OP.

Chair Scheuer sought additional comments from the Commission.

Commissioner Chang inquired whether LUC staff would be reviewing the dockets. Mr. Orodener responded that they would.

Commissioner Ohigashi inquired how future dockets would be handled. Mr. Orodener responded that LUC staff would be developing a system to handle petitions that had run their course.

Commissioner Okuda noted that the landowner was responsible for their respective petitions and assured LUC staff that the Commission was not creating a duty for the LUC but providing guidance to handle the dockets.

Chair Scheuer acknowledged the comments and LUC staff to complete the closure of these dockets.

Chair Scheuer stated that due to the remote locales for the November 20- 21 meeting, the LUC staff should arrange a “working lunch” as an integral part of those meetings due to the limited time available to transact business.

There was no further business to address and Chair Scheuer declared the meeting adjourned at 9:29 a.m.