

LAND USE COMMISSION  
MEETING MINUTES

November 15, 2012 – 10:00 a.m.  
Marriott Courtyard Hotel, Haleakalā Room  
Kahului, Maui, Hawai`i, 96732

COMMISSIONERS PRESENT: Chad McDonald  
Kyle Chock  
Lance Inouye  
Ernest Matsumura  
Sheldon Biga  
Nicholas Teves, Jr  
Napua Makua (arrived at 10:01 a.m.)

COMMISSIONERS EXCUSED: Ronald Heller  
Thomas Contrades

STAFF PRESENT: Daniel Orodener, Executive Officer  
Bert Saruwatari, Staff Planner  
Sarah Hirakami, Deputy Attorney General  
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Holly Hackett

AUDIO TECHNICIAN: Walter Mensching

**CALL TO ORDER**

Chair Chock called the meeting to order at 10:00 a.m.

**APPROVAL OF MINUTES**

Chair Chock asked if there were any corrections or additions to the November 1, 2012 minutes. There were none. Commissioner Teves moved to approve the minutes. Commissioner Matsumura seconded the motion. The minutes were unanimously approved by a voice vote (6-0). (Commissioner Napua arrived after the vote)

**TENTATIVE MEETING SCHEDULE**

Executive Officer Orodener provided the following:

- The regular tentative meeting schedule has been distributed in the handout material for the Commissioners.
- The A12-795 West Maui docket's oral arguments and decision making will be on December 6, 2012, continuation of A09-406 Ka`ono`ulu Ranch if necessary and a site visit for A12-796 Waiko Industrial Investment is planned.
- The A12-795 West Maui docket's Adoption of Order will be on January 10-11, 2013.
- Any questions or conflicts, please contact LUC staff.

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

## **ACTION**

### **A94-706 Ka`ono`ulu Ranch (Maui)**

#### APPEARANCES

Joel Kam, Esq., represented Honua`ula Partners ("HP")

Jonathan Steiner, Esq., represented Pi`ilani Promenade North LLC, and Pi`ilani Promenade South LLC, ("PP")

Jane Lovell, Esq., Deputy Corporation Counsel, represented County of Maui Planning Department ("County")

Michael Hopper, Esq., Deputy Corporation Counsel, County

William Spence, Director, County

Bryan Yee, State Office of Planning ("OP")

Rodney Funakoshi (OP)

Tom Pierce, Esq., represented Maui Tomorrow Foundation, South Maui Citizens for Responsible Growth and Daniel Kanahahele ("Intervenors")

Mark Hyde, South Maui Citizens for Responsible Growth

Irene Bowie, Maui Tomorrow Foundation

Daniel Kanahahele

Chair Chock stated that this was a hearing and action meeting regarding Docket No. A94-706's Order to Show Cause; updated the record; and explained the procedures to be followed for the proceedings. There were no questions, comments or objections to the procedures.

#### PUBLIC WITNESSES

None

## PRESENTATIONS

Chair Chock stated that the Commission would resume proceedings with Petitioner's witness Charles Jencks.

Mr. Pierce stated that for matters related to Intervenor's Motion *in limine* that was denied without prejudice, he would continue his standing objections that were in line with his motion. Chair Chock noted Mr. Pierce's remark.

### 1. Charles Jencks- Landowners Representative

Mr. Jencks continued his testimony and provided an overview of the proposed project's evolution and details of how it obtained various County entitlements. Discussion occurred several times regarding the relevancy of the testimony to the Order to Show Cause and Chair Chock requested that the questioning focus on the issue at hand. Discussion also occurred regarding the portrayal of the components of the proposed project and whether they had been recognized by the Commission as "light industrial".

Mr. Jencks described the traffic and pedestrian accesses and other various features conceptualized for the proposed project; and what state of readiness the developers were at if they were allowed to proceed forward; and what alternative measures they would seek if they could not.

Mr. Jencks stated that he had been unable to locate certain annual reports for the Petition Area that were unaccounted for and described why he felt that an amendment to the original Petition was not necessary and how a considerable amount of time and money had already been expended in pursuing its development and how the lengthy time to clear the amendment process might cause the proposed project to miss an economic cycle.

Mr. Jencks also provided estimated construction costs and scheduling for the infrastructure and vertical components of the proposed project and identified the sections of the Petition Area designated for retail use and affordable housing; and what type of uses and zoning/subdivision approvals were allowed in other "light industrial" projects that existed in the County; and why the proposed project should be allowed to change its components and their uses.

### Questions for Mr. Jencks

Mr. Kam and Ms. Lovell had no questions.

The Commission went into recess at 11:20 a.m. and reconvened at 11:35 a.m.

OP

Mr. Yee requested clarification on the proposed home improvement-type facility that was envisioned for the proposed project, what the use of the term "willingness to commit" to a home improvement center meant; and on the discussions, representations and considerations that were made relative to it during its history of development; and how Mr. Jencks perceived the definition of "light industrial" land use; and what his role was in relation to the landowners and their interests. Mr. Jencks shared the pertinent details of the envisioned home improvement center for the proposed project and what his level of commitment was to it; what type of development timetable and adjustments he would use; what his role in the development process for the Petition Area was; and what investigation had been done to ensure that the proposed project was consistent with the State Land Use Commission's decision and order. Discussion occurred regarding the withdrawal of the HP motion to bifurcate and Mr. Steiner stated that the withdrawal of the HP motion included withdrawing from amending the Petition.

Mr. Yee had no further questions.

The Commission went into recess at 11:55 a.m. and reconvened at 1:35 p.m. (Commissioner Matsumura returned at 1:37 p.m.)

#### Intervenors

Mr. Pierce requested clarification on what the initial proposed project consisted of and how it had evolved to its current form. Mr. Jencks described how attempts were made to develop the Petition Area to meet the demands of the marketplace and attract potential business opportunities; and how he had dealt with legal, developmental and business hurdles that confronted him during his efforts. Mr. Jencks also described his involvement with notifying the LUC of the proposed project's status; the different ownership entities involved with the Petition Area and what his experiences with them were during recent entitlement efforts; and what his awareness of other similar projects in the area was. Discussion occurred intermittently to have the questions be more specific or relevant. Mr. Pierce altered his questions accordingly.

Mr. Pierce also commented that a portion of his questioning recognized Mr. Jencks as an adverse witness. County, OP and Petitioners had no objections to Mr. Pierce's proposed line of questioning.

Mr. Pierce requested clarification of the contents of the Petitioner's 16<sup>th</sup> Annual Report (Intervenor's Exhibit I28). Discussion occurred on whether it had been submitted as an exhibit or not. Ms. Lovell stated that it had been admitted on November 1, 2012 according to her notes. The Parties concurred and the proceedings moved on.

Mr. Pierce also requested clarification on Mr. Jenck's understanding of conditions involved with the original decision and order and the efforts that he had expended to meet those conditions and notify the Commission. Discussion occurred over the admissibility of Intervenor Exhibit I27. Mr. Yee noted that I27 was also OP's Exhibit 4. Chair Chock determined that I27 would be admitted. Mr. Jencks described the work he had performed and his recollection of the events surrounding the proposed project's development effort and the conditions attached to its decision and order. Discussion also occurred over the form or content of Intervenor's questions to the issue at hand. Mr. Pierce altered his questions or moved on after each instance.

A dispute also arose regarding questioning related to Intervenor exhibits which had not been admitted. Chair Chock declared a recess to review the Intervenor exhibits that were being challenged by Petitioners and County.

The Commission went into recess at 2:34 p.m. and reconvened at 2:35 p.m. (Commissioner Makua exited the meeting with the Chair's approval and did not return. 6 Commissioners remained present)

Chair Chock determined that Mr. Pierce should move on from the questioning related to the exhibits.

Mr. Pierce requested clarification on what possible uses were planned for the Petition Area and what Eclipse Development's involvement in the matter was. Mr. Jencks shared his understanding of what possible uses Eclipse Development had for the Petition Area and how they might be implemented and how various findings of fact and conditions in the original decision and order had been involved. Discussion occurred over the clarity of the questions being asked, and the use of the 1998 Kihei-Makena Community Plan. Chair Chock requested that Mr. Pierce be more specific and adhere to the issue at hand. Ms. Lovell noted the County's objection regarding the 1998 Kihei-Makena Community Plan (Intervenor Exhibit I9). Chair Chock determined that the Community Plan would be admitted as an exhibit. Additional discussions occurred over the original Petition's LUC conditions, findings of fact, conclusions of law and decision and order; proposed amendments and consistency with the Community Plan, and the questioning protocol being used on the witness. Chair Chock encouraged the Parties to display decorum.

Discussion occurred regarding whether some of Mr. Pierce's questions required the witness to speculate. Mr. Pierce rephrased the remainder of his questions.

Mr. Pierce had no further questions.

The Commission went into recess at 3:03 p.m. and reconvened at 3:20 p.m.

#### Redirect

Mr. Steiner requested clarification on why the LUC had not been consulted as the current proposed project was being planned, and what the various agencies needed to provide their approvals. Mr. Jencks described his interpretation of the conditions of the original decision and order and the requirements of the Community Plan; his activities while working on the proposed project and what agency approvals he had to obtain; and why he did not think that he needed to inform or obtain approval from the LUC.

#### Commissioner Questions

Commissioner Teves requested clarification on the location of the proposed housing development, the planned rental/ownership breakdown of the units, and access/construction scheduling for the affordable housing component of the proposed project. Mr. Jencks indicated the location of the housing development area on Petitioner's Exhibit 31 and described the easements and access points/inner roads that were planned; and provided the breakdown of the 250 proposed units into 125 rental and 125 owner occupied units, and shared how financing restraints made it difficult to project when construction would actually begin.

Commissioner McDonald requested clarification on why an amendment to the original decision and order was not pursued by the landowners; and how the DOT "signed off" on the approval of construction plans. Mr. Jencks described how time and cost issues factored into his decision-making for not seeking an amendment to the decision and order and how Mr. Rowell had worked on resolving traffic issues to meet DOT expectations.

Commissioner McDonald also had a question regarding a notation that the DOT had made on the approval document. Mr. Jencks described his agreement with DOT to meet their expectations. Commissioner McDonald requested a copy of the details of the DOT approval document. Mr. Jencks stated that he could provide a copy to the Commission on November 16, 2012.

Commissioner Biga asked if it was Mr. Jencks' intent to use local contractors if the proposed project were to move forward. Mr. Jencks responded that Goodfellow Brothers had been engaged to provide services to develop the proposed project.

Commissioner Matsumura asked if discussion regarding Kama'aina rental rates within the proposed project had occurred. Mr. Jencks responded that he had committed to allowing preferential rental rates with the County administration.

Commissioner Inouye requested clarification on Mr. Jencks' participation in the preparation of the 16<sup>th</sup> annual reports for the PP and HP entities and on what the withdrawal of the Motion to Bifurcate meant to the Petitioners. Discussion occurred on

how the questioning was in the realm of legal issues under discussion by the Parties' attorneys and on the details of what the impact and consequences of the withdrawal of the Motion for Bifurcation could be. Mr. Steiner stated that the withdrawal of the Motion to Bifurcate did not indicate that there was an intention to amend the Petition and restated that the Petitioners had no intention to amend the Petition.

There were no further Commissioner questions.

Petitioner PP had no other witnesses.

Petitioner HP

Petitioner HP had no witnesses.

County

Ms. Lovell offered Will Spence as her witness. There were no objections to Mr. Spence's appearance as an expert witness in planning and land use.

Ms. Lovell requested clarification on Mr. Spence's prior statement regarding not being an expert in LUC matters. Mr. Spence shared his perspective of why he was reluctant to acknowledge that he was an expert in LUC matters.

Ms. Lovell stated that she wanted to address whether or not County Exhibit 1-County's Testimony would be admitted and made an "offer of proof". Chair Chock admitted Exhibit 1.

#### 1. William Spence

Mr. Spence summarized his written testimony and described why he felt there had not been a breach of the conditions included in the original decisions and what he perceived M1 zoning allowed and why it included "light industrial" and "commercial" uses.

Questions for Mr. Spence

Petitioner PP-

Mr. Steiner requested clarification on how Mr. Spence interpreted the term "light industrial" use and under what circumstances it would apply to various types of businesses.

Petitioner HP

Mr. Kam requested clarification on how County enforcement of Land Use Commission conditions occurred and how it was determined that a "breach of conditions" had been committed. Discussion occurred over the form of the question. Mr. Kam rephrased his questions. Mr. Spence described how a breach could not be perceived if it was not specified in the decision and order.

OP

Mr. Yee requested clarification on how the term “light industrial” was defined by County zoning and how it applied in different contexts. Mr. Spence shared his understanding of how conceptual plans changed over time to meet the demands of the marketplace.

The Commission adjourned for the day at 4:34 p.m.





LAND USE COMMISSION  
MEETING MINUTES

November 16, 2012 – 8:00 a.m.  
Marriott Courtyard Hotel, Haleakala Room  
Kahului, Maui, Hawai`i, 96732

COMMISSIONERS PRESENT: Chad McDonald  
Kyle Chock  
Lance Inouye  
Ernest Matsumura  
Sheldon Biga  
Nicholas Teves, Jr  
Napua Makua

COMMISSIONERS EXCUSED: Ronald Heller  
Thomas Contrades

STAFF PRESENT: Daniel Orodener, Executive Officer  
Bert Saruwatari, Staff Planner  
Sarah Hirakami, Deputy Attorney General  
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Holly Hackett

AUDIO TECHNICIAN: Walter Mensching

**CALL TO ORDER**

Chair Chock called the meeting to order at 8:00 a.m.

**HEARING**

**A94-706 Ka`ono`ulu Ranch (Maui)**

APPEARANCES

Joel Kam, Esq., represented Honua`ula Partners (“HP”)  
Jonathan Steiner, Esq., represented Pi`ilani Promenade North LLC, and Pi`ilani  
Promenade South LLC, (“PP”)

Jane Lovell, Esq., Deputy Corporation Counsel, represented County of Maui Planning Department ("County")

Michael Hopper, Esq., Deputy Corporation Counsel, County

William Spence, Director, County

Bryan Yee, State Office of Planning ("OP")

Jesse Souki, (OP)

Rodney Funakoshi (OP)

Tom Pierce, Esq., represented Maui Tomorrow Foundation, South Maui Citizens for Responsible Growth and Daniel Kanahele ("Intervenors")

Mark Hyde, South Maui Citizens for Responsible Growth

Irene Bowie, Maui Tomorrow Foundation

Daniel Kanahele

Chair Chock stated that this was a continued hearing for A94-706 beginning with continued testimony from County witness, William Spence.

#### Presentations

##### County

1. William Spence (continued)

#### Questions for Mr. Spence

##### Intervenor

Mr. Pierce requested clarification of Mr. Spence's previous testimony regarding not perceiving a breach of conditions. Mr. Spence described why he felt there had not been a breach of the conditions included in the original decision and order and how he had come to that conclusion; and provided further details of how he interpreted and understood Condition 15 of the decision and order and other administrative rules and related documents/exhibits/events for the proposed project. Discussion intermittently occurred during Mr. Spence's responses regarding how his testimony was being represented and to clarify the form or focus of the questioning. Mr. Pierce acknowledged Chair Chock's comments and refocused or withdrew his questions. Mr. Spence corrected the representations of his testimony that were not correct.

#### Presentations

##### OP

1. Rodney Funakoshi

Mr. Funakoshi was offered and admitted as an expert witness. There were no objections to Mr. Funakoshi's appearance as a witness.

Mr. Funakoshi stated that OP had determined that Petitioners had not substantially complied with Condition 15 of the original decision and order and provided the considerations and reasoning for that determination. Mr. Funakoshi described how the current proposed project had significantly changed and appeared to require an amendment to the original Petition and how the requirement for a frontage road (Condition 5) had changed over time.

Questions for Mr. Funakoshi  
Petitioner PP

Mr. Steiner requested clarification on why OP had not changed its position despite the Petitioners' introduction of new information regarding the inclusion of a home improvement center and affordable housing component; and past amendments to the original Petition. Mr. Funakoshi stated that the new information still did not alter OP's position and provided additional details about OP's stance in the matter.

Mr. Steiner requested clarification on various differences between the current and original proposed project and other aspects of Mr. Funakoshi's testimony; and what limits or specific requirements had been determined for the Petition Area and on various OP representations that had been made to the Commission. Mr. Funakoshi provided additional details for the questions that were asked and how OP had investigated and reviewed Petitioners' actions.

Discussion occurred regarding the number of annual reports filed with the LUC by the Petitioners (past and present). The ultimate number of annual reports filed was reviewed and Mr. Funakoshi acknowledged that the amount he had reported was incorrect.

Chair Chock stated that it was the Chair's intent to complete the evidentiary portion of the meeting today and described how he hoped the remainder of the proceedings would flow and declared a recess.

The Commission went into recess at 9:35 a.m. and reconvened at 9:45 a.m.

Mr. Steiner had no further questions for Mr. Funakoshi.

Petitioner HP

Mr. Kam requested clarification on Mr. Funakoshi's reference to housing (the residential component of the original Petition) and the 1994 LUC transcript and other aspects of his written testimony. (Mr. Kam provided copies of the transcript to the Commission and Parties to refer to during his questioning.) Mr. Funakoshi shared how he interpreted comments recorded in the transcripts of how accommodations for

housing had been accounted for in the original decision and order; and how DOE concerns were addressed.

Mr. Kam recalled the questioning and responses that he received from Ms. Meeker during her testimony before the Commission and requested further clarification of impact fees that could be collected from the developer of the proposed project. Mr. Funakoshi could not speculate on what would happen if the original proposed project was compared to the present proposed project.

Mr. Kam had no further questions.

#### County

Mr. Hopper requested clarification on the “permitted uses” and “projected absorption” suggested by the market feasibility study and how they were interpreted. Mr. Funakoshi provided his understanding of both terms and how “permitted use” figured into the parameters of the original petition; and how various past conditions applied to the current proposed project. Discussion occurred over the relevance of the line of questioning and Mr. Hopper restated his questions. Mr. Funakoshi described how the interpretation of the intent of the conditions could have been made simpler with additional details and specifics.

Mr. Hopper had no further questions.

#### Intervenors

Mr. Pierce had no questions.

#### Redirect

Mr. Yee requested clarification on how home improvement center style businesses could impact the Petition Area; and how the market studies for the area might have factored in developing conditions for the original decision and order. Mr. Funakoshi described how a “big box” store home improvement operation might affect the Petition Area and how market studies contributed to determining certain aspects of conditions for decision and orders.

#### Commissioner Questions

Chair Chock requested clarification on how Mr. Funakoshi assessed the proposed current project. Mr. Funakoshi responded that it was a “value judgment” and expressed his concerns over certain aspects of the close proximity of residential, commercial and light industrial components and the mitigation that might be necessary to reduce the impacts of the close proximity of the different uses.

There were no further Commissioner questions.

Mr. Yee stated that OP had no further witnesses.

#### Intervenors' Witnesses

Mr. Pierce stated that Ms. Huffman would not be appearing and that he would be withdrawing Ms. Huffman's written testimony (Intervenors' Exhibit I36); and noted that the remaining witnesses' written testimonies had not been admitted yet.

##### 1. Michael Foley- Expert in Planning

Mr. Foley was offered and admitted as an expert witness. There were no objections to Mr. Foley's admittance. Discussion occurred regarding Mr. Foley's written testimony. Ms. Lovell noted how County had objected to portions of the Mr. Foley's written testimony. Chair Chock noted her comments and admitted Mr. Foley's written testimony (Intervenor's I 35).

Mr. Foley shared his perception of "light industrial" uses and why the current proposed uses for the Petition Area were not similar and compliant with the expectations of the original decision and order and the 1998 Kihei-Makena Community Plan. Discussion occurred regarding how the 1998 Kihei-Makena Community Plan was not in existence at the time of the original Petition. Chair Chock noted that all Parties were aware of that fact and allowed further questions to gather any pertinent information relevant to the matter at hand for the Commission.

Mr. Foley also stated that he could not recall the specific meeting that Mr. Jencks had cited during his testimony.

#### Questions for Mr. Foley Intervenor PP-

Mr. Steiner requested clarification on what documents that Mr. Foley had reviewed to prepare for his appearance before the Commission. Mr. Foley described what he had reviewed and responded that he had not reviewed the transcript from the proceedings for the original Petition; and provided his recollection of the past representations of what was included in the Petition Area and how he interpreted the market feasibility study of the original proposal and what zoning would apply; and how the Community Plan was/would be impacted by the proposed project and other projects similar to it. Discussion occurred regarding whether or not Petitioners' Exhibits 40, 43 and 44 had been admitted. Chair Chock noted Mr. Pierce's objection and allowed the three exhibits.

Mr. Foley shared his interpretation of what was permissible for the Petition Area and the conflicts that it had with the current plan; and how other existing shopping

centers were zoned. Discussion occurred over the scope of the questioning being used. Mr. Steiner rephrased his questions.

The Commission went into recess at 11:07 a.m. and reconvened at 11:15 a.m.  
(Commissioner Biga and Executive Officer Orodener returned at 11:16 a.m.)

Questions for Mike Foley (continued)

Mr. Steiner requested clarification on the County authority responsible for building permits and how they were processed. Mr. Foley stated that as the former Director of the Planning Department, he did not handle building permits- they were processed by the Public Works Department; and provided additional details regarding how his former department could have been involved in the review process. Discussion occurred over the form of the questions. Mr. Steiner restated his questions and Mr. Foley responded accordingly. Mr. Foley also stated that he did not recall a meeting with Mr. Jencks and Mayor Arakawa regarding the Petition Area and its use for various retail and apartment operations.

Mr. Steiner had no further questions.

Intervenor HP

Mr. Kam requested clarification on the amount of employment that was anticipated to be generated by the proposed project and the reasons why the affordable housing component would violate the Community Plan objectives. Mr. Kam requested clarification on whether or not apartment use could be allowed "mauka" of Pi'ilani Highway. Mr. Foley responded that there were no restrictions in the Community Plan to prevent that.

Mr. Kam had no further questions.

County

Ms. Lovell requested clarification on Mr. Foley's role with Maui Tomorrow. Discussion occurred over how Mr. Foley's role was being portrayed. Chair Chock allowed latitude to complete this phase of questioning and Ms. Lovell moved on.

Ms. Lovell requested clarification on the affordable housing component for the Petition Area's relationship to another related proposed housing development (Wailea 670 Project). Mr. Foley expressed that his concerns were focused on having the current proposed project seek an amendment to its original plan to ensure that citizen concerns about the proposed changes within the Petition Area were properly addressed. Discussion occurred to clarify the line of questioning and its relevance to the matter at

hand. Chair Chock determined that the questioning was not relevant and asked that Ms. Lovell move on. Discussion also occurred related to admitting County Exhibit 7 (County ordinance 3975). Chair Chock determined that Exhibit 7 would be admitted.

Ms. Lovell had Mr. Foley review Exhibit 7. Mr. Foley stated that the wording was very confusing and agreed that "apartment use" was included in the ordinance.

OP

Mr. Yee had no questions.

Redirect

Mr. Pierce requested clarification on what was permissible under M1 zoning and how the proposed project was perceived. Mr. Foley stated that his opinion of the 1995 order had not changed despite the questioning, and described his understanding of how the LUC would be investigating whether or not there had been a breach of the 1995 order with respect to the current proposed project and what had originally been approved. Mr. Foley added that he thought the retail and apartment uses being proposed were significantly different from the original proposal and that obtaining an LUC amendment to allow for the significant change in land use was the appropriate course of action.

Mr. Pierce had no further questions.

Discussion occurred regarding completing the proceedings within the remaining time available. Chair Chock acknowledged the Parties efforts to complete the evidentiary portion of the hearing.

## 2. Richard Mayer- Expert in Economics and Community Planning

Mr. Mayer was offered and admitted as expert. The County withdrew its objection to Mr. Mayer's written testimony (Intervenor Exhibit I37) and it was admitted.

Mr. Mayer summarized his testimony and described the different economic impacts resulting from the different proposed projects for the Petition Area; and why he did not agree that home improvement centers were similar to light industrial businesses; and what his concerns were about the proposed project; why an amendment to the original Petition should be required; and how the representations made for the original Petition did not accurately represent the current Petition. Discussion occurred regarding the questioning. Mr. Pierce restated his questions.

Commissioner Matsumura exited the meeting with the Chair's approval at 11:59 a.m. (6 Commissioners remained present).

## Questions for Mr. Mayer

### Petitioners

Mr. Steiner stated that Mr. Kam would handle this portion of the proceedings.

Mr. Kam requested clarification on Mr. Mayer's experience with appraisals and real estate market analysis and in testifying before boards and commissions and in determining the economic benefits of developing the Petition Area. Discussion occurred over the direction of the questioning. Mr. Kam moved on and requested additional information about possible employment that might result from the proposed project and other topics that Mr. Mayer had reported on that indicated that the original Petition conditions were not being fulfilled.

Mr. Kam had no further questions.

### County

Ms. Lovell requested clarification on what the consequences would be if the Commission reverted the Petition Area to an Agricultural land use. Mr. Mayer described why he was arguing that the original Petition plan could be put into effect and was concerned that it had been significantly changed from a light industrial use to one containing more retail/commercial and housing elements than originally represented. Discussion occurred over the scope of questions being posed to Mr. Mayer. Ms. Lovell restated her questions regarding loss of employment due to reverting the Petition Area to an Agricultural land use.

Ms. Lovell had no further questions.

Commissioner Makua exited the meeting at 12:12 p.m. (5 Commissioners remained present).

### OP

Mr. Yee had no questions.

### Redirect

Mr. Pierce had no more questions.

### Commissioners

The Commissioners had no questions.

### Close of Evidence

Chair Chock announced that the evidentiary portion of the hearing was



concluded and directed that each party file its proposal with the Commission and serve copies on the other parties no later than the close of business on 12/21/12; and that all comments or objections to the parties' respective proposals shall be filed with the Commission and served upon the other parties no later than the close of business on 1/4/13; and any responses to the objections must be filed with the Commission and service on the other parties no later than the close of business on 1/11/13. Chair Chock prevailed upon the parties to consult with staff early in the process to ensure that technical and non-substantive formatting protocols observed by the Commission are adhered to and announced that oral arguments would be scheduled after receipt of the parties' respective filings.

Discussion occurred to clarify the scheduling and timing for the next meeting on this docket. Executive Officer Orodener announced that the Parties could expect the meetings to be scheduled on January 24 2013.

Ms. Lovell requested clarification on how the Commission would handle the electronic documentation files. Mr. Orodener clarified how the Commission still required printed copies for file processing for the official record and the Parties expressed their willingness to cooperate with each other in using digital files to expedite matters. Mr. Yee clarified that he thought the Parties were acknowledging that an Administrative Rule existed which required hard copy submittal with a filing date stamp from the LUC, but that the Parties were agreeing to ask the Chair to waive that rule and approve the electronic exchange of submittal materials.

Chair Chock stated that he would entertain a motion to reflect that the electronic mailing date and the hard copy filing date for materials be recognized as the same. Discussion ensued to attempt to clarify how to handle the submittal of documents. Chair Chock withdrew his offer to entertain a motion and determined that the Commission would continue to require the submittals as it had in the past.

Discussion also occurred regarding the scheduled submittal dates that were stated for documents. Chair Chock responded that LUC staff would provide the dates to the Parties if needed and the projected continued hearing date of December 6, 2012, was cancelled.

There were no further questions.

Chair Chock adjourned the meeting at 12:20 p.m.

