



OFFICE OF PLANNING STATE OF HAWAII

DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR
OFFICE OF PLANNING

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <http://planning.hawaii.gov/>

2019 NOV 19 A 9:25
DTS201911141315AA

November 21, 2019

Mr. Jonathan Scheuer, Chair
Land Use Commission
State of Hawaii
Department of Business, Economic Development & Tourism
P. O. Box 2359
Honolulu, Hawaii 96804-2359

Subject: Order Deferring Decision-Making on Maui Oceanview LP's Motion to Amend Decision and Order, filed October 28, 2019;
LUC Docket No. A04-751; Maui Land & Pineapple Company, Inc.
Tax Map Key 4-3-01:009 (Por. 31 and 79)

Dear Chair Scheuer:

This in response to the specific issues identified by the Land Use Commission, State of Hawaii ("LUC"), in the Order Deferring Decision-Making on Maui Oceanview LP's Motion to Amend Decision and Order, filed October 28, 2019 ("Order").

1. Stipulated Amended Decision and Order.

The Order deferred decision-making to allow the Parties to work towards a stipulated Amended Decision and Order ("D&O") which would address the following: a specific description of the breakdown of affordable housing units; whether the affordable housing agreement should be reopened/renegotiated following significant community engagement; and the steps that are being taken to secure a long-term reliable source of water for Movant's proposed development.

Following the September 25-26th, 2019 hearings on the Motion to Amend, OP requested Movant to forward a proposed Amended D&O for OP's review and comment. On October 18, 2019, via email, OP inquired with the Movant and the Department of Planning, County of Maui ("County"), the status of the proposed Amended D&O, community meetings, and whether Movant needed anything from OP for the proposed Amended D&O. OP indicated that its proposed conditions filed previously with the LUC remained the same for the draft proposed Amended D&O.

Upon Movant's delivery of the draft proposed Amended D&O to OP, OP intended to review and forward it to State agencies for review and comment. Movant provided a draft of the proposed Amended D&O to the Parties on October 27, 2019. OP sent its initial comments on Movant's October 27, 2019 proposed Amended D&O to the Parties on November 1st and 4th, 2019. However, subsequent revised drafts were received from Movant and on November 9th, 2019, Movant indicated that another revised draft of the proposed Amended D&O was forthcoming. OP understands and

appreciates that Movant has been holding community meetings that have, in part, added to each revision of the proposed Amended D&O.

With another revised draft of the proposed Amended D&O pending from Movant, OP decided it would be premature and inefficient to forward the current drafts to State agencies for their review and comment. OP anticipates at least four weeks, and preferably more given the holidays, are needed for State agencies to return comments to OP once a more finalized draft is received from Movant.

Without State agency review of a proposed Amended D&O, OP is unable to stipulate to an Amended D&O at this time.

2. Briefing on Whether an SEIS is Warranted and Whether Good Cause Exists for the LUC to Amend the D&O.
-

The Order deferred decision-making to allow Movant/Parties to prepare briefing to the LUC on whether a Supplemental Environmental Impact Statement (SEIS) is warranted for the proposed development under HRS Chapter 343, and whether good cause exists for the LUC to amend the D&O.

OP believes that Movant has the burden to determine whether a SEIS is warranted for the proposed development, and whether good cause exists for the LUC to amend the D&O. OP suggested to Movant on October 18, 2019 that Movant forward its determination on both the SEIS and good cause to OP for review. OP has yet to receive Movant's determination on the SEIS and good cause.

3. Additional State Agency Comments on Movant's Motion to Amend D&O.

As indicated under paragraph 1. above, OP was unable to provide the latest draft of the proposed Amended D&O to State agencies, and therefore has not been able to obtain additional State comments on the Motion to Amend.

4. Update as to Whether the Parties Will Be Prepared to Continue Proceedings on December 4, 2019.
-

Without the latest draft from Movant for OP, without State agency review and comment, and with less than three weeks until the December 4th, 2019 scheduled hearing, OP will not be prepared to continue proceedings on December 4, 2019.

Mahalo,



Mary Alice Evans
Director