

LAND USE COMMISSION
MEETING MINUTES

January 22, 2020 – 9:00 a.m.
Grand Ballroom- Koolau Ballrooms and Conference Center
45-550 Kionaole Rd, Kaneohe, HI 96744

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

COMMISSIONERS EXCUSED: Edmund Aczon
(8 seated Commissioners as of 10/1/19)

STAFF PRESENT: Daniel Orodener, Executive Officer
Lori Tanigawa, Deputy Attorney General (for
Executive Session)
Amanda Weston, Deputy Attorney General
Rasmi Agrahari, Staff Planner
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 9:03 a.m.

APPROVAL OF MINUTES

Chair Scheuer stated that the January 8-9, 2020 minutes were not ready and moved on to the next agenda item.

Chair Scheuer called for Mr. Orodener to provide the Tentative Meeting Schedule.

TENTATIVE MEETING SCHEDULE

Executive Officer Orodenker provided the following:

- The regular tentative meeting schedule has been distributed in the handout material for the Commissioners.

FEB 5- Videoconference for A03-739 A&B Properties/R, D. Olsen
Development- Windward Hotel (Maui)

APR 22-23- at Honolulu International Airport Conference Center for
continuation of-A17-804 Hawaiian Memorial Life Plan on O`ahu

Any questions or conflicts, please contact LUC staff.

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

Chair Scheuer shared background information on the Land Use Commission's mission with the audience and moved on to the next agenda item.

HEARING AND ACTION

A17-804 Hawaiian Memorial Life Plan, Ltd.

To consider Petition To Amend The Conservation Land Use District Boundary Into The Urban Land Use District for Approximately 53.449 acres of Land at Kāne`ohe, Island of O`ahu, State of Hawai`i TMK (1) 4-5-033: por . 001

APPEARANCES

Curtis Tabata, Esq. and Benjamin Matsubara, Esq., represented Hawaii Memorial Life Plan, Ltd., ("HMP")

Jay Morford, President, HMP

Scott Ezer, HHF Planners for HMP

Duane Pang, Esq., Corporation Counsel, Department of Planning and Permitting ("DPP")

Dina Wong, Acting Division Chief, DPP

Ray Young, Planner, DPP

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

Rodney Funakoshi, Planning Program Administrator, OP

Lorene Maki, Planner, OP

Grant Yoshimori- Spokesperson for Intervenor Hui O Pikoiloa ("HOP")
Richard McCreedy, HOP
Julie McCreedy, HOP

Chair Scheuer asked if Petitioner had reviewed and was agreeable to the Commission's reimbursement policy. Mr. Tabata acknowledged that Petitioner was aware of and would comply with the Commission's reimbursement policy.

There were no questions on the procedures.

Chair Scheuer asked if there were any disclosures that the Commission wished to make.

DISCLOSURES

Commissioner Giovanni disclosed that he had formerly worked at Hawaiian Electric Company where Intervenor Grant Yoshimori was employed but felt that it would not affect his decision-making and ability to remain fair and impartial during the proceedings.

There were no objections to Commissioner Giovanni's continued participation.

Commissioner Chang disclosed that she had done work for the Petitioner in the past but felt that it would not affect her decision-making and her ability to remain fair and impartial during the proceedings.

There were no objections to Commissioner Chang's continued participation.

Commissioner Okuda disclosed that his family had plots at Hawaiian Memorial Park but that he felt it would not impact his decision making and that he could remain impartial during the proceedings.

There were no objections to Commission Okuda's continued participation.

Commissioner Wong disclosed that his family had plots at Hawaiian Memorial Park but that he felt it would not impact his decision making and that he could remain impartial during the proceedings.

There were no objections to Commission Wong's continued participation.

Chair Scheuer disclosed that he had an association with the Hawaii Islands Land Trust organization that had prior business discussions with HMP but was not a party to the discussions with HMP regarding a conservation easement; and could remain fair and impartial during the proceedings.

There were no objections to Chair Scheuer's continued participation.

There were no other disclosures.

Chair Scheuer called for Public Witnesses.

Due to the large amount of public witnesses, the minutes will provide just a list of the witnesses in the order they testified. ("Accept" notation indicates that testimony was in favor of the Petition. "Reject" notation indicates that testimony was against the Petition".

Please refer to the transcripts for further details of public testimony. Only comments and/or questions asked of testifiers are noted. No notation indicates that no questions were posed to the testifier.

PUBLIC WITNESSES

1. Cathy Ignacio – Accept

2. Naomi Takai- Accept

3. Dean Hazama- Accept

Commissioners Okuda and Chang requested clarification of testimony.

4. Melvin Kalahiki – Accept

5. Jarrage Fautama – Accept

6. Christian West – ILWU – Accept

7. Merlie Narciso Wilmeth – Accept

8. Alicia Maluafiti – Accept

Commissioner Chang requested clarification of testimony.

9. Reverend Samuel Cox – Reject

10. Mahealani Cypher, Koolau Foundation -Accept

Commissioner Chang requested clarification of testimony.

The Commission went into recess at 9:55 a.m. and reconvened at 10:00 a.m.

11. Leimana Damate , DLNR- Aha Moku Advisory Council, Accept

Commissioners Wong, Okuda, Chang and Chair Scheuer requested clarification of testimony.

12. Millanie Akaka- Accept

13. Governor Neil Abercrombie – Accept

14. Dorothy Sakamoto, ILWU- Accept
15. Justin Soriana -Accept
16. Rocky Kaluhiwa – Accept
Commissioners Chang and Wong requested clarification of testimony.
17. Gretchen Gould – Reject
18. Chris Delaunay, Pacific Resource Partners- Accept
19. Mark Harris – Reject
Mr. Tabata requested clarification of testimony.
20. Ryan Kobayashi- no response to Chair
21. Nathaniel Kinney, Hawaii Construction Alliance- Accept
22. Lu`ukia Akamine- Reject
Commissioner Chang and Chair Scheuer thanked Ms. Akamine for her participation
23. Heiley Nakoba – Reject
Chair Scheuer recognized the presence of a large group of students in the gallery observing the proceedings and provided historical information about the LUC and about the district boundary amendment process that was occurring for their benefit.
24. Bronson Azama – Reject
Commissioner Chang and Chair Scheuer thanked Mr. Azama for his testimony.
25. Corey Ing – Reject
Commissioner Chang thanked Mr. Ing for his participation.
26. Laura Paul – Reject
27. Colleen Everett – Reject
28. Lauren Pokipala – Reject (Ms. Pokipala was an instructor with the student group)
Commissioners Wong, Cabral, Giovanni, Okuda, Chang, and Chair Scheuer expressed their thanks and appreciation for exposing the students to the LUC process and the workings of State government. Commissioner Cabral inquired about how pro/con viewpoints for students were fostered and developed. Ms. Pokipala described the Hawaii Department of Education guidelines for argumentative writing that were followed to allow students to think critically and arrive at their own decisions.

The Commission went into recess at 11:19 a.m. and reconvened at 11:32 a.m.

29. Rayne Pakele – Reject
Commissioner Chang thanked Ms. Pakele for her testimony.
30. Kiale Aiwohi -Reject
Commissioner Chang thanked Ms. Aiwohi for her testimony.
31. Kahokila LaBette – Reject
Commissioners Chang, Okuda and Chair Scheuer requested clarification of Mr. LaBette’s testimony.
32. Sandra Albers – Reject
33. Puanani Akaka – Reject
34. Linda Chang – Reject
35. Dudley Dias – Reject
36. Frances Kau – Reject
Mr. Tabata and Commissioner Chang requested clarification of Mr. Kau’s testimony.
37. John Puchalski – Accept
Chair Scheuer requested clarification of Mr. Puchalski’s testimony.
38. Alice Hewitt – Accept
Commissioner Chang thanked Ms. Hewitt for her testimony.
39. Merci Soriano – Accept
Commissioner Cabral thanked Ms. Soriano for her testimony.
40. Maila Holmes, Center for Biological Diversity – Reject
Commissioner Okuda and Chair Scheuer requested clarification on Ms. Holmes’ testimony.

Chair Scheuer made a final call for Public Witnesses and there was no response. Chair Scheuer declared that the Public Testimony portion of the meeting was closed and moved on to the acceptance of Exhibits for the record.

EXHIBITS OFFERED FOR THE RECORD

Chair Scheuer called for the Parties to offer their Exhibits for the record.

Petitioner offered its Exhibits 1-53 for the record. There were no objections to Petitioner’s Exhibits.

County offered its 2017 Ko`olau Poko Sustainable Communities Plan for the record. Chair Scheuer identified it as County Exhibit 1. There were no objections to County's Exhibit.

OP offered its Exhibits 1-9 for the record. There were no objections to OP's exhibits.

Intervenor offered its Exhibits 1-14 for the record. There were no objections to Intervenor's exhibits.

Chair Scheuer concluded the admission of exhibits portion of the meeting and described how the Commission would be handling agenda item **V. Executive Session** within the meeting schedule.

V- EXECUTIVE SESSION

(to be conducted during a "working lunch" as an integral part of this meeting)

Appeal from the Commission's Order Denying Petition for Declaratory Order in DR19-67- KU'ULEI HIGASHI KANAHELE

The Commission intends to convene an executive session pursuant to HRS Section 92-5(a)(4) to consult with its attorney regarding the Commission's powers, duties, privileges, immunities, and liabilities regarding the Petitioners' appeal from the Commission's Order Denying Petition for Declaratory Order, filed in the Hawaii Supreme Court in Docket No. SCOT-19-0000830

Mr. Pang (DPP) requested confirmation that the Public Testimony portion of the proceedings had been concluded. Chair Scheuer affirmed that the Public Testimony had been completed and that the Commission would now proceed with the rest of its business after the Executive Session was completed and the regular meeting resumed.

Commissioner Wong requested clarification on how the time limits for the Executive Session would be adjusted if more time than what was scheduled was needed. Chair Scheuer described how the Parties and Public could await the resumption of the regular meeting proceedings and entertained a motion for Executive Session.

Commissioner Cabral moved to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities related to Petitioner's Appeal on DR19-67 and Commissioner Wong seconded the Motion. There was no discussion and by unanimous voice vote the Commission voted to enter Executive Session at 12:24 p.m.

The Commission's Executive Session began at 12:24 p.m. and ended at 1:02 p.m. The regular meeting resumed at 1:30 p.m.

Chair Scheuer reconvened the regular meeting and called for Petitioner to make its presentation.

PRESENTATIONS

HMP

Mr. Tabata described his presentation for the Commission and provided a brief background history of the Petition and stated the order of his witnesses' appearances.

Petitioner's Witnesses

1. Scott Ezer

Mr. Ezer was qualified as an Expert Witness in Planning and Land Use and summarized his written testimony for the Commission.

Commissioner Cabral requested clarification on the features of the Petition Area that were described and featured during the LUC site visit on November 21, 2019. Mr. Ezer reviewed the features that had been identified during the site visit.

Mr. Pang requested clarification on how the boundaries of the "buffer" zones were determined. Mr. Ezer described how his team had decided to configure the Petition Area site.

Chair Scheuer excused himself from the meeting at 2:14 p.m. and returned at 2:16 p.m.

Ms. Apuna requested clarification on how the residential "buffer" zones were established and for more specifics on the conceptual plan for the proposed project and the associated Conservation Easement involved with the Petition Area. Mr. Ezer provided his understanding of the design elements involved and the considerations made to establish the "buffer" zones and Conservation Easement.

Mr. Yoshimori requested clarification on how the 8 standards for an Urban District applied to the Petition Area, what Petitioner's efforts to mitigate rockfall hazards were, how community outreach had been performed, and how Petitioner had engaged with the City and County Planning Commission when

discussing the proposed project. Mr. Ezer deferred answering rockfall mitigation questions to the engineer working on the project and shared how Petitioner had sought community input and presented their plans to the Planning Commission.

Commissioners Wong and Okuda requested clarification on how cultural concerns had been addressed, how various terms and conditions had been established in Petitioner's proposal, and how required landscape alterations would be accomplished. Mr. Ezer described the considerations and efforts that were made to develop the Conservation Easement plan and deferred questions about the planned landscape excavations to the project engineer.

Chair Scheuer declared a recess at 3:19 p.m. and reconvened the meeting at 3:21 p.m. Chair Scheuer stated that Petitioner had a witness that would not be available at other meetings on this matter and suggested halting Mr. Ezer's questioning to allow that witness to testify in the remaining time available for the meeting. Commissioner Okuda agreed to suspending his questioning to allow for the next witness to appear.

2. Robin Lim- Geotechnical Expert

Mr. Lim was qualified as a Geotechnical Expert and described the studies for rockfalls, slope stability and other engineering work that he had performed for Petitioner.

Mr. Pang requested clarification on remedial measures for stormwater runoff. Mr. Lim deferred this question to the project civil engineer.

Ms. Apuna asked where the catchment ditches planned for the proposed project would be located. Mr. Lim referred to FEIS Figure 2.2 to identify the area.

Mr. Yoshimori requested clarification on the recommended rockfall mitigation measures for the Preservation Area. Mr. Lim described how the remote nature of the Preservation Area differed from more heavily trafficked areas and would rely on warning signs.

Commissioner Okuda, Wong, Ohigashi, Giovanni, and Chair Scheuer requested clarification on considerations made for mitigation measures, ground surface channeling systems, soil stability considerations, management of surface debris, and risk analysis for natural hazards. Mr. Lim described the factors that were considered to address the Commissioner's concerns and stated that he was

unsure of whether a risk analysis for the Petition Area and its surroundings had been performed.

There were no further questions for Mr. Lim.

On redirect, Mr. Matsubara clarified how the rockfall analysis had been performed within the Petition Area.

Chair Scheuer noted that the Commission would need to continue Petitioner's presentation at the planned April 22-23, 2020 due to time limitations and adjourned the meeting at 3:48 p.m.