

LAND USE COMMISSION  
MEETING MINUTES

July 14, 2021 – 9:00 a.m.

**Pursuant to Exhibit C of the Governor’s Emergency Proclamation Related to the COVID-19 Response, the Commission conducted its meeting using interactive conference technology.**

PLACE: Zoom Webinar Virtual Meeting  
Meeting Link for Wednesday, July 14, 2021

[https://us02web.zoom.us/webinar/register/WN\\_-qjRBJdtRmWkLItz4iihHA](https://us02web.zoom.us/webinar/register/WN_-qjRBJdtRmWkLItz4iihHA)

Due to the COVID-19 pandemic, the meeting was held remotely with Commission members, Staff and Applicants participating via an online meeting venue. The public could participate in the meeting via the “ZOOM” platform. Interested persons were also advised to submit written testimony no later than 24 hours in advance of the meeting to allow for distribution to Commission members prior to the meeting and to register to testify during the ZOOM meeting using instructions circulated on the meeting agenda.

COMMISSIONERS PRESENT: Jonathan Scheuer  
(Attending via ZOOM conference media) Nancy Cabral  
Gary Okuda  
Arnold Wong  
Dan Giovanni  
Edmund Aczon

COMMISSIONERS EXCUSED: Dawn N. S. Chang  
Lee Ohigashi

(8 seated Commissioners as of 10/1/19)

STAFF PRESENT: Daniel Orodener, Executive Officer  
(Attending via ZOOM conference media) Dan Morris, Deputy Attorney General (DAG)  
Scott Derrickson, Staff Planner  
Riley Hakoda, Staff Planner/Chief Clerk  
Natasha Quinones, Program Specialist

COURT REPORTER: via Naegeli Deposition and Trial  
(from recorded ZOOM conference media)

## **CALL TO ORDER**

Chair Scheuer called the meeting to order at 9:00 a.m.

Chair Scheuer and the attending Commissioners acknowledged that they were present and able to communicate via the ZOOM program.

## **APPROVAL OF MINUTES**

Chair Scheuer stated that the first agenda item was the approval of the June 9-10 and June 22, 2021 minutes and asked if any public testimony had been submitted and if any corrections needed to be made. There was no public testimony and no corrections to be made. Commissioner Cabral moved to adopt both sets of minutes. Commissioner Wong seconded the motion. There was no discussion.

By a show of hands, the June 9-10 and June 22, 2021 minutes were approved unanimously (6-0).

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

## **TENTATIVE MEETING SCHEDULE**

Executive Officer Orodener provided the tentative meeting schedule from July 2021 to December 2021 for the Commissioners and cautioned that it was subject to change based on the pandemic impacts. Commissioners were advised to contact LUC staff if there were any questions or conflicts.

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

## **A11-790 KULA RIDGE, LLC (MAUI)- ORDER TO SHOW CAUSE**

To consider Order to Show Cause for Docket No. A11-790 in which the Commission granted the redesignation of approximately 34.516 acres of land from the Agricultural District to the Urban District and approximately 16.509 acres of land from the Agricultural District to the Rural District at Kula, Maui, Hawai'i for a mix of residential, park and open space uses.

### **APPEARANCES:**

Jeffry Ueoka, Esq. representing Petitioner VonTempsky Marital Trust  
Michael Hopper Esq., Deputy Corporation Counsel, County of Maui (County)  
Michele McLean, Director, Planning Dept, County  
Jordan E. Hart, Deputy Director, Planning Dept, County

Tara Furukawa, Planner, Planning Dept, County  
Alison Kato, Esq., Deputy Attorney General, Office of Planning and Sustainable  
Development (OPSD)  
Rodney Funakoshi, Land Use Administrator, OPSD  
Lorene Maki, Planner, OPSD

Chair Scheuer updated the record, described the procedures for the hearing and asked if there were any questions on the procedures. There were none.

Chair Scheuer asked if there was any written testimony. There was none.

### **PETITIONER'S PRESENTATION**

Mr. Ueoka stated that he stood on the presentation previously done by Mr. Welch on April 14<sup>th</sup>, 2021 regarding to the Order to Show Cause and would be available for questions.

Commissioner Okuda shared his concerns about affordable housing requirements that would not be met and asked if any of the landowners took equity out of the property as a result of the boundary designation change. Mr. Ueoka responded that to his knowledge, no one had.

There were no further questions.

Chair Scheuer called on Maui County.

### **COUNTY**

Mr. Hopper stated that Maui County had entered into a Stipulation with the current landowner and OPSD, and that the County was not opposing the reversion of the property to agriculture; and that the county believed the current landowner did not have the capability to complete the project as represented.

### **Questions for County**

Commissioner Aczon was concerned with landowners not complying with conditions and asked the County about the type of enforcement actions that could be taken to make the petitioner comply with the conditions.

Mr. Hopper provided the options available for enforcement and pointed that since there had not being substantial commencement of development, reversion was a reasonable option.

Chair Scheuer sworn in Ms. McLean and questioned her about the County's tracking system for affordable units, for compliance related to progress and for conditions and what actions the LUC could take to facilitate the County's tracking and enforcement.

Commissioner Giovanni commented on the shortage of affordable housing and urged the County to identify measures that could be put into programs to assure the delivery of the units.

There were no further questions or comments for the County.

Chair Scheuer called OPSD to provide its presentation.

### **OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT**

Ms. Kato stated that OPSD had no objections to the reversion of the petition area and had entered into a Stipulation with the County and Petitioner; and submitted an Amended Position Statement to the Commission.

#### **Questions for OPSD**

Commissioner Aczon shared his concerns about the impact of denying the reversion.

There were no other questions for OPSD.

Commissioner Giovanni sought clarification on possible alternative County enforcement actions.

Ms. McLean provided the County's perspective on the matter.

Commissioner Aczon moved to enter into Executive Session to consult on the Commission's duties and responsibilities related to the ramification of denying reversion. Commissioner Cabral seconded the motion. There was no discussion on the motion.

By a roll call, the Commission voted unanimously (6-0) to enter Executive Session at 9:57 a.m. and returned to the public meeting at 10:32 a.m.

There were no further questions.

### **PETITIONER'S FINAL COMMENTS**

Mr. Ueoka commented on the obstacles previously encountered when attempting to develop the property and the current landowner's situation and intention for the property.

### **FORMAL DELIBERATIONS**

Chair Scheuer confirmed with all the Commissioners by a roll call that they were prepared to deliberate on this matter.

Commissioner Wong moved to revert the land use designation and remove all the conditions of the original LUC's Decision and Order. Commissioner Cabral seconded the motion.

Commissioner Wong and Cabral spoke to the motion.

Chair Scheuer asked Mr. Orodener to poll the Commission.

By a roll call, the motion passed unanimously (6-0).

**EXECUTIVE SESSION- Personnel Matters**

Chair Scheuer moved on to the last agenda item, Executive Session.

No public testimony was received in this matter.

Commissioner Cabral moved to enter into Executive Session to consider personnel matters. Commissioner Wong seconded the motion.

By a show of hands, the Commission voted to enter into Executive Session at 10:49 a.m.

The Commission returned to the regular public meeting at 11:25 a.m.

There being no further business or items to discuss, Chair Scheuer adjourned the meeting at 11:25 a.m.

