

LAND USE COMMISSION
MEETING MINUTES

September 23, 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, September 23, 2021

https://us02web.zoom.us/webinar/register/WN_HJd14I8HRay5VIa0qfxhCw

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
Edmund Aczon
Dawn N. S. Chang
Lee Ohigashi
Dan Giovanni
Arnold Wong

COMMISSIONERS EXCUSED:

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

STAFF PRESENT: Daniel Orodener, Executive Officer
(Attending via ZOOM conference media) Julie China, Deputy Attorney General (DAG)
Scott Derrickson, Chief 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.

Agenda item V for an Executive Session was cancelled.

APPROVAL OF MINUTES

Chair Scheuer stated that the first agenda item was the approval of the September 8-9 and September 17, 2021. The Minutes for Sept 8-9 were not ready and were deferred. The Minutes for September 17, 2021 were ready. Chair Scheuer asked if any public testimony had been submitted and if any corrections needed to be made.

Mr. Ken Church was recognized to testify on adoption of the Minutes. Mr. Church had no testimony but, asked for information on when the Minutes of September 8-9 would be completed and was advised that testimony on the minutes was being sought.

There was no public testimony on adoption of the Minutes.

Commissioner Wong moved to adopt the Minutes. Commissioner Ohigashi seconded the motion. There was no discussion.

By a roll call, the September 17, 2021 Minutes were approved unanimously (8-0).

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

TENTATIVE MEETING SCHEDULE

Executive Officer Orodener provided the tentative meeting schedule from October 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.

Chair Scheuer moved to the next agenda item.

A15-798 Waikapu Properties (Maui)

To Consider Motion for Modification of Condition 8(b) of Decision and Order filed on February 26, 2018 to be consistent with the condition in the County ordinance that changed the zoning of the subject property.

APPEARANCES:

Jeff Ueoka, Esq. and Paul Mancini, Esq.; Petitioner’s Counsel
Mike Atherton, Petitioner’s Authorized Representative
Michael Hopper, Deputy Corporation Counsel, County of Maui Dept. of Planning (County)
Kurt Wollenhaupt, Planner, 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.

Chair Scheuer asked if there were any members in the audience who wished to testify.

PETITIONER’S PRESENTATION

Mr. Ueoka provided a brief update on the Waikapu Country Town project and explained how the proposed Amendment to the Decision and Order would resolve the current conflict between County’s and State’s conditions for Petitioner’s subdivision application submittal. Petitioner’s Condition 8b amendment would align it with Condition 1a of the county’s conditional zoning requirement that a memorandum agreement be executed prior to approval of the first subdivision application.

Questions from the Commissioners

Commissioner Okuda asked Mr. Ueoka to confirm that all parties had signed the stipulation and whether he was aware of any community opposition to the stipulation . Mr. Ueoka confirmed that all parties had signed the stipulation and that there was no known opposition that he was aware of.

COUNTY'S PRESENTATION

Mr. Hopper stated that County was in support of the amendment and confirmed that the stipulation had been signed by the County and that it didn't change any of Petitioner's obligations.

Questions from the Commissioners

Commissioner Ohigashi requested County's opinion on how to better align LUC's standard conditions to with the County's zoning and permitting requirements for the future. Mr. Hopper provided his perspective on how County could assist in crafting more suitable LUC conditions in the future.

OPSD'S PRESENTATION

Ms. Kato stated OPSD had no objection to the petitioner's request and recommended approval of the amendment. Ms. Kato confirmed that OPSD also signed the Stipulation agreement based on Department of Transportation support of the proposed revision.

Questions from Commissioners

There were no questions from the Commissioners.

FINAL COMMENTS

Chair Scheuer asked Mr. Ueoka if there was any rebuttal. There was none.

Chair Scheuer recognized the success of the project and asked Petitioner to provide a general recap of the progress of the project.

Mr. Atherton, project representative, provided an update on the current status of the project.

Commissioner Aczon noted that Mr. Atherton had not been sworn in as a witness.

Chair Scheuer swore in Mr. Atherton.

There were no more questions or comments.

FORMAL DELIBERATIONS

Chair Scheuer asked the Commission if they were prepared to deliberate. All Commissioners responded that they were.

Commissioner Ohigashi moved to grant the petition. The motion was seconded by Commissioner Okuda.

Commissioner Okuda spoke to the motion and listed the standards of law that the motion satisfied.

Commissioner Cabral thanked Mr. Atherton for his continued effort to provide more housing in Maui.

Chair Scheuer provided comments in favor of the motion and had Mr. Orodener poll the Commission.

By a roll call vote, the Motion to Grant the petition was unanimously approved (8-0).

Chair Scheuer adjourned the meeting at 9:32 a.m.

