

LAND USE COMMISSION  
MEETING MINUTES

November 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 Tuesday, Nov. 23, 2021

[https://us02web.zoom.us/webinar/register/WN\\_Fif5TV4VRPiyf6DflvtA](https://us02web.zoom.us/webinar/register/WN_Fif5TV4VRPiyf6DflvtA)

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  
Dawn N. S. Chang  
Lee Ohigashi  
Edmund Aczon

COMMISSIONERS EXCUSED: Dan Giovanni

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

STAFF PRESENT: Daniel Orodener, Executive Officer  
(Attending via ZOOM conference media) Daniel Morris, Deputy Attorney General (DAG)  
Scott Derrickson, Staff Planner  
Riley Hakoda, Staff Planner

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

## **CALL TO ORDER**

Chair Scheuer called the meeting to order at 9:02 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 November 10, 2021 minutes, but that the minutes were not ready yet and deferred this matter to the next hearing date.

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

## **TENTATIVE MEETING SCHEDULE**

Executive Officer Mr. Orodenker provided the tentative meeting schedule from Nov. 2021 to March 2022 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.

Commissioner Wong requested clarification on how the changing pandemic restrictions might impact LUC's regular meeting schedule from the beginning of the year.

Mr. Orodenker described the anticipated changes in how LUC meetings might be conducted.

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

## **ADOPTION OF ORDER A21-810 PŪLAMA LĀNA'I - Hōkūao 201H Project (Maui)**

To Amend the Agriculture Land Use District Boundaries into the Urban Land Use District for approximately 56.436 acres of land, consisting of a portion of Tax Map Key No. (2) 4-9-002:061 (por.); (2) 4-9-014:001 (por.) at Lāna'i City, Island of Lāna'i, County of Maui, State of Hawai'i.

## **APPEARANCES:**

Cal Chipchase, Esq. Petitioner's Counsel

Chris Goodin, Esq. Petitioner's Counsel

Keola Whittaker Esq. substituted for Michael Hopper Esq., Deputy Corporation Counsel, County of Maui (County)

Kurt Wollenhaupt, Planner, Planning Dept, County  
Alison Kato, Esq., Deputy Attorney General, Office of Planning and Sustainable  
Development (OPSD)  
Rodney Funakoshi, Land Use Administrator, OPSD  
Aaron Setogawa, 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 sought confirmation that DAG Morris was in attendance. Mr. Morris acknowledged that he was connected to the ZOOM meeting webinar.

Chair Scheuer asked if there was any written public testimony. LUC staff responded that no public testimony had been received on this matter.

Commissioner Aczon disclosed that he had been able to review the recording of the November 10, 2021 meeting on this matter and was prepared to deliberate. All other attending Commissioners and Chair Scheuer also confirmed that they were ready to deliberate.

### **FORMAL DELIBERATIONS**

Commissioner Ohigashi moved to adopt the proposed Finding of Facts, Conclusions of Law and Decision and Order as prepared by LUC staff. Commissioner Cabral seconded the motion.

Commissioner Ohigashi spoke to the motion and shared why he felt the petition should be approved.

Chair Scheuer asked Mr. Orodener to poll the Commission.

By a roll call, the motion passed unanimously (7-0-1 excused).

Chair Scheuer moved on to the next agenda item.

### **OPSD'S PRESENTATION ON THE STATE LAND USE REVIEW OF DISTRICTS**

Chair Scheuer asked if there was any written public testimony. LUC staff responded that no public testimony had been received on this matter.

OPSD Director Mary Alice Evans, Land Use Administrator Rodney Funakoshi and Planner Aaron Setogawa used a PowerPoint presentation to explain the efforts made in the

State Land Use Review of Districts and shared how past boundary review efforts in 1969, 1974 and 1992 were conducted and how the current day efforts had used GIS technology in its analyses.

OPSD concluded its Presentation, and the Commission took a recess at 9:56 a.m. and reconvened at 10:07 a.m.

### **Discussion on the Presentation**

The OPSD staff provided additional details of their current study and fielded questions from the Commissioners on different aspects of the review and how it had been conducted, and what considerations were made before, during and after various phases of the review.

Chair Scheuer declared recess at 10:43 a.m. and reconvened at 10:48 a.m.

Commissioners concluded questioning OPSD on how community outreach for the study had been conducted, what timelines were observed, and what legal and constitutional requirements were involved. (Commissioner Okuda was excused by the Chair from the meeting at 11:43 a.m. and 6 Commissioners remained in attendance.)

Chair Scheuer sought the pleasure of the Commission.

Commissioner Wong shared his concerns about the lack of community involvement with the review effort and how he would like to hear Commissioner Giovanni's opinions on the matter.

Commissioner Cabral stated her support for obtaining additional information on areas that OPSD had vague responses on.

Commissioner Ohigashi inferred that he had perceived Commissioner Wong's comments as a motion with Commissioner Cabral making a second. Discussion ensued and Chair Scheuer established that a Motion as described by Commissioner Ohigashi was on the table.

Commissioner Ohigashi offered a friendly amendment to the Motion which authorized LUC staff and the LUC Chair to correspond with OPSD via letter to specifically request additional information on the Land Use Review of Districts and to put the Land Use Review on a future agenda for further discussion and consideration.

Commissioners Wong and Cabral accepted the friendly amendment.

There was no further discussion.

Chair Scheuer had Mr. Orodener poll the Commission. The Motion unanimously passed 6-0-2 excused. Commissioner Ohigashi sought confirmation that 6 votes was sufficient

to carry the proposed action of the Motion. Mr. Orodener confirmed that the Administrative Rules supported the number of votes cast.

There was no further business, Chair Scheuer declared meeting adjourned at 11:53 a.m.

