

LAND USE COMMISSION
MEETING MINUTES
September 5, 2024 – 8:00 a.m.

Pursuant to Hawai'i Revised Statutes, HRS §92 as amended, the Commission conducted its meeting in hybrid format. Interested persons submitting written testimony were recommended to submit their written Statements 24 hours in advance of the meeting to allow for distribution to the Commission prior to the meeting.

LOCATION: Leiopapa A Kamehameha, State Office Tower, Room 405
235 S Beretania Street, Room 405, Honolulu, HI 96813

VIRTUAL: <https://us02web.zoom.us/j/84284063165?pwd=jap1Od8J8eaLAhgMuFcegDa4DewgxN.1>

YOUTUBE RECORDING: (https://www.youtube.com/watch?v=RRiskFFvt_Y)

COMMISSIONERS PRESENT:

Dan Giovanni
Michael Yamane
Kū'ike Kamakea-Ōhelo
Mel Kahele
Brian Lee
Nancy Carr Smith
Bruce U'u (late arrival)
Myles Miyasato
Ken Hayashida (partial participation)

STAFF PRESENT:

Daniel Orodener, Executive Officer
Scott Derrickson, Chief Planner
Arnold Wong, Land Use Development Coordinator
Miranda Steed, Esq. Deputy Attorney General

COURT REPORTER:

Naegeli Deposition and Trial
(Via Zoom Recording)

CALL TO ORDER (YouTube: 00:00:08-00:10:10)

Chair Giovanni, called the meeting to order at 9:02 a.m. Following introduction, Chair Giovanni reorganized the agenda to move item number IV to the start of the hearing, to avoid possible conflicts to internet connectivity that may arise due to construction at the physical location of the meeting. There were no objections of the reorganization of the agenda.

SP73-147 GRACE PACIFIC LLC, FORMERLY PACIFIC CONCRETE & ROCK CO., LTD.

(MAKAKILO QUARRY) (O'AHU) (YouTube: 00:10:11)

Adoption of Findings of Facts, Conclusions of Law, and Decision and Order for Application to Modify SP73-147 (SUP No. 2007/SUP-6)

Appearances

**City and County of Honolulu
Department of Planning ("DPP")**

Franz Kraintz
Patricia Sendao, Esq. Deputy Corporation Counsel

**Office of Planning and Sustainable
Development ("OPSD")**

Katia Balassiano, Land Use Development
Program Administrator
Alison Kato, Deputy Attorney General

Petitioner

Grace Pacific
Calvert Chipchase, Esq.
Jarrett Dempsey, Esq.
Scott Komatsu

Public

None



Disclosures and Conflicts of Interest (YouTube: 00:10:45)

Commissioner Hayashida preliminarily recused himself from the matter and left the room. Once the agenda item concluded, he returned and participated in the other agenda items. There were no further disclosures or conflicts of interest.

Public Testimony Round One (YouTube: 00:14:34 - 00:15:58)

The Land Use Commission received one written testimony on matter. The Office of Planning and Sustainable Development submitted testimony on the morning of the hearing, and it was posted to the Land Use Commission website prior to the start of the hearing. There was no other written, or oral testimony on the matter.

Presentations (YouTube: 00:15:58 -00:23:00)

Petitioner (YouTube: 00:16:00 - 00:19:49) requested to comment on OPSD's comments following their presentation if necessary. Petitioner did not request any changes to the proposed decision and order but provided comment for clarification on the record pertaining to finding of fact 8, on page 11, the regarding the recommendation of development of a burial treatment plan. There were no questions from the parties or Commissioners.

City and County Department of Planning and Permitting (YouTube: 00:19:55 - 00:20:50) had no objections to the two additions OPSD provided in their comment letter with respect to clarifying their position, and no further changes were suggested. There were no questions from the parties or Commissioners.

OPSD (YouTube: 00:20:52 - 00:23:00) presented their comment letter that suggested changed for revisions to clarify their position, specifically findings of fact 14, page 7 and findings of fact 21, and no further changes were suggested. There were no questions or objections from the parties or Commissioners.

Public Testimony Round Two (YouTube: 00:23:09 - 00:23:36)

Chair Giovanni invited public testimony on this matter, there were no individuals that wished to provide public testimony on the matter at this time.

Deliberations (YouTube: 00:23:30 - 00:27:59)

Commissioner Lee asked Petitioners legal counsel if they reviewed and have any comments on OPSD's testimony and comment letter, Petitioner reviewed and did not have objections.

Commissioner Lee moved to adopt and authorize the Chair to sign the Draft Findings of Facts, Conclusions of Law, and Decision and Order for Application to Modify SP73-147, with the amendments noted by OPSD. Commissioner Carr Smith seconded the motion. The motion was approved with 7 ayes, 0 nays, 1 absent, and 1 recused.

*Commissioner Hayashida rejoined the meeting upon completion of agenda item IV (YouTube: 00:29:17)

APPROVAL OF MINUTES FOR AUGUST 21-22, 2024 (YouTube: 00:29:21-00:35:50)

The next agenda item was the approval of the August 21-22, 2024, Minutes. There was no written testimony, or members of the public who wished to testify on the approval of the Minutes.

The vote for approval was broken up into two separate motions:

Commissioner Miyasato moved to adopt the August 21, 2024, and Commissioner Carr Smith seconded the motion. The August 21, 2024, Minutes were approved with 6 ayes, 0 nays, 1 excused, and 2 recused.

Commissioner Miyasato moved to adopt the August 22, 2024, and Commissioner Carr Smith seconded the motion. The August 22, 2024, Minutes were approved with 5 ayes, 0 nays, 1 excused, and 3 recused.

TENTATIVE MEETING SCHEDULE (YouTube: 00:35:55-00:47:45)

Chair Giovanni called for LUC Staff to provide the Tentative Meeting Schedule. Executive Officer, Daniel Orodener provided the following tentative meeting dates:

September 11-13, 2024: HCPO (Hawai'i)

October 10, 2024: DR24-77, RK II Partners and SP21-412 Mahi Solar (O'ahu)

October 23, 2024: OPSD Presentation (O'ahu)

October 24, 2024: DR24-77, RK II Partners (O'ahu)

November 6, 2024: A07-772 A&B (Maui)

November 7, 2024: SP21-412 Mahi Solar (O'ahu)

November 20-21, 2024: SP97-390 COM DEM and A07-773(a) Emmanuel Lutheran (Maui)

*Commissioner U'u arrived at 8:38 a.m. (YouTube: 00:38:04)

STATUS REPORT BY THE LAND USE DEVELOPMENT COORDINATOR

(YouTube: 00:47:52-01:33:33)

Being The Land Use Development Coordinator and the Executive Officer provided the Commission with an update on the findings, analysis, coordination, and identification process of housing developments that previously came before the commission for land use designation change. Since the LUC is a quasi-judicial body no project specific names or locations were provided to avoid impropriety and ex-parte communication.

Commissioners asked questions regarding clarification of housing unit data, amount of docket review that has occurred, annual report review, strategy plan, changes in ownership, county collaboration, and future updates and status reports.

Following the presentation from the Land Use Development Coordinator, Commissioner Carr Smith recommended the addition of an agenda item to discuss administrative matters updates.

PRESENTATION AND ACTION ON MEMORANDUM OF UNDERSTANDING WITH THE STATE OF HAWAII COMMISSION ON WATER RESOURCE MANAGEMENT

(YouTube: 01:33:34-02:47:23)

Authorize the Chairperson to Enter into a Memorandum of Understanding ("MOU") with the State of Hawai'i Commission on Water Resource Management ("CWRM") to Encourage Information Sharing and Collaboration Between the Agencies and Delegate to the Chairperson to Finalize an MOU and Make Non-Substantial Edits as Appropriate.

Public Testimony Round One (YouTube: 01:46:43 - 01:59:13)

The Land Use Commission received two written testimonies on matter prior to the agenda item, they were posted on the LUC website on the "agenda and minutes" page. During the time of the hearing, there was one member of the public who provided testimony on the matter. Commissioners asked the testifier questions regarding the clarity of the agenda item.

Presentations (YouTube: 01:59:20-02:37:39)

Commission of Water Resource Management staff, Katie Roth and Land Use Commission staff presented additional information, background, perspective, and context for the proposal of the MOU. During the presentation, OPSD provided input on the process and routing of comment requests.

Commissioners asked questions and made comments regarding the method of interaction and communication, necessity of the MOU, involvement of the OPSD, time frame and response during comment period, internal review process, circulation of information, and intent.

Deliberations (YouTube: 02:37:39 - 02:47:52)

Following the presentation, Commissioner Carr Smith moved to deny the Memorandum of Understanding with the Commission of Water Resource Management, not authorize the Chairperson to enter into the agreement, or any other similar written agreement between the two agencies, and to not delegate the chairperson to finalize the MOU. Commissioner Lee seconded the motion. The motion was approved with 9 ayes and 0 nays.

ADJORNMENT (YouTube: 02:29:14)

As the Land Use Commission next meeting will be held on October 10th at the Honolulu Airport, with limited access to restaurants, and the Commission intends to work through lunch, Chair requested that Staff arrange for lunch to be provided to the Commission.

With no further business, Chair Giovanni adjourned the meeting at 11:01 a.m.