An aerial perspective of a residential development. The foreground shows a cluster of houses with grey roofs and green landscaping. The background shows a vast, flat, open landscape under a clear sky. A semi-transparent white banner is overlaid across the middle of the image, containing the text 'DISTRICT BOUNDARY AMENDMENTS' in bold black letters.

DISTRICT BOUNDARY AMENDMENTS



What is a DBA?

Petitions by a landowner/developer to change the land use classification of property (usually from Conservation or Agricultural to Urban or Rural)

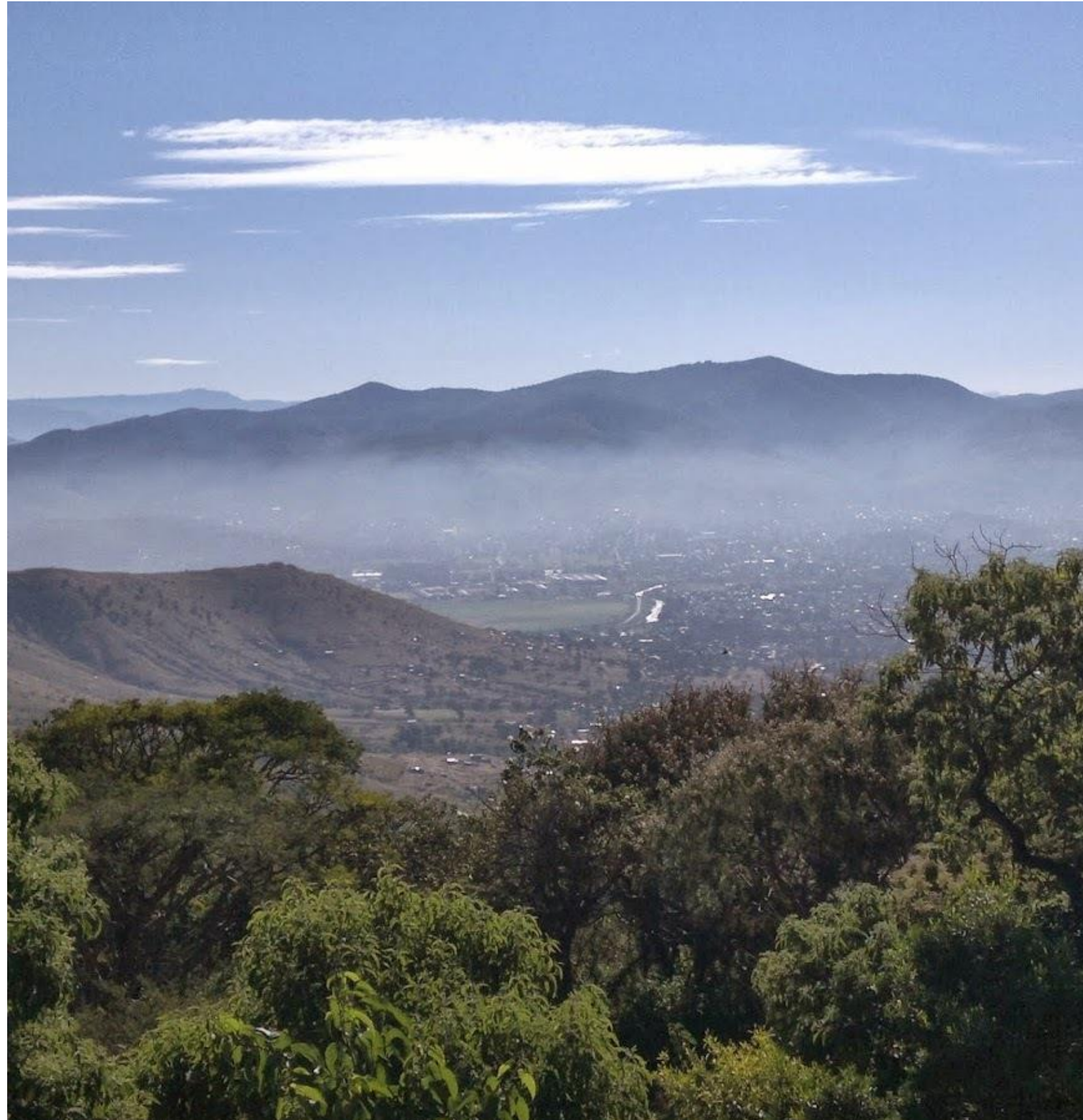
Quasi-judicial in nature

Contested-case proceedings

Automatic parties:

- the Applicant
- State Office of Planning and Sustainable Development (OPSD)
- County Planning Department

District Boundary Amendment (DBA)



Can also be initiated State or County departments or agencies

After acceptance of a petition the LUC must hold a hearing within not less than 60 days and not more than 180 days

Usually, Agriculture to Urban or Rural
(Conservation re-designation is very rare)

Re-designation to Urban allows anything from housing to commercial to industrial use

County must also re-zone after re-designation

Environmental impact statement is usually required

Quasi-judicial proceeding that must result in a decision 365 days from date petition is deemed complete

Requires approval of at least 6 Commissioners

Why a Contested Case

Procedural Due Process Requirements:

Notice and an opportunity to be heard are fundamental

Balancing Factors to Determine Specific Procedures:

Private Interest:

The personal interest that will be impacted

Risk of Erroneous Deprivation:

The potential for incorrect deprivation of the interest with current procedures, and the possible benefits of additional or alternative safeguards

Governmental Interest:

The government's interest, including the burden of implementing additional procedural safeguards





Chapter 205 & Rules

Successful appeals occur when our decisions lack supporting evidence for the Public Trust Doctrine, fail to show "good cause," or do not adhere to Chapter 205 procedures or our rules

The Supreme Court has established interpretive laws for contested case hearings. Due process requires the presentation of evidence

Commissioners act as judges. Parties must present a case showing "good cause" to grant the petition. The burden is on the petitioner

OPSD and the Counties should present necessary conditions to address State and County concerns

Any decision by the commission must be supported by the evidence



HAWAII STATE CONSTITUTION Art. XI, sec. 1

For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with conservation and in furtherance of self-sufficiency of the State

All public natural resources are held in trust by the State for the benefit of the people

District Boundary Amendment

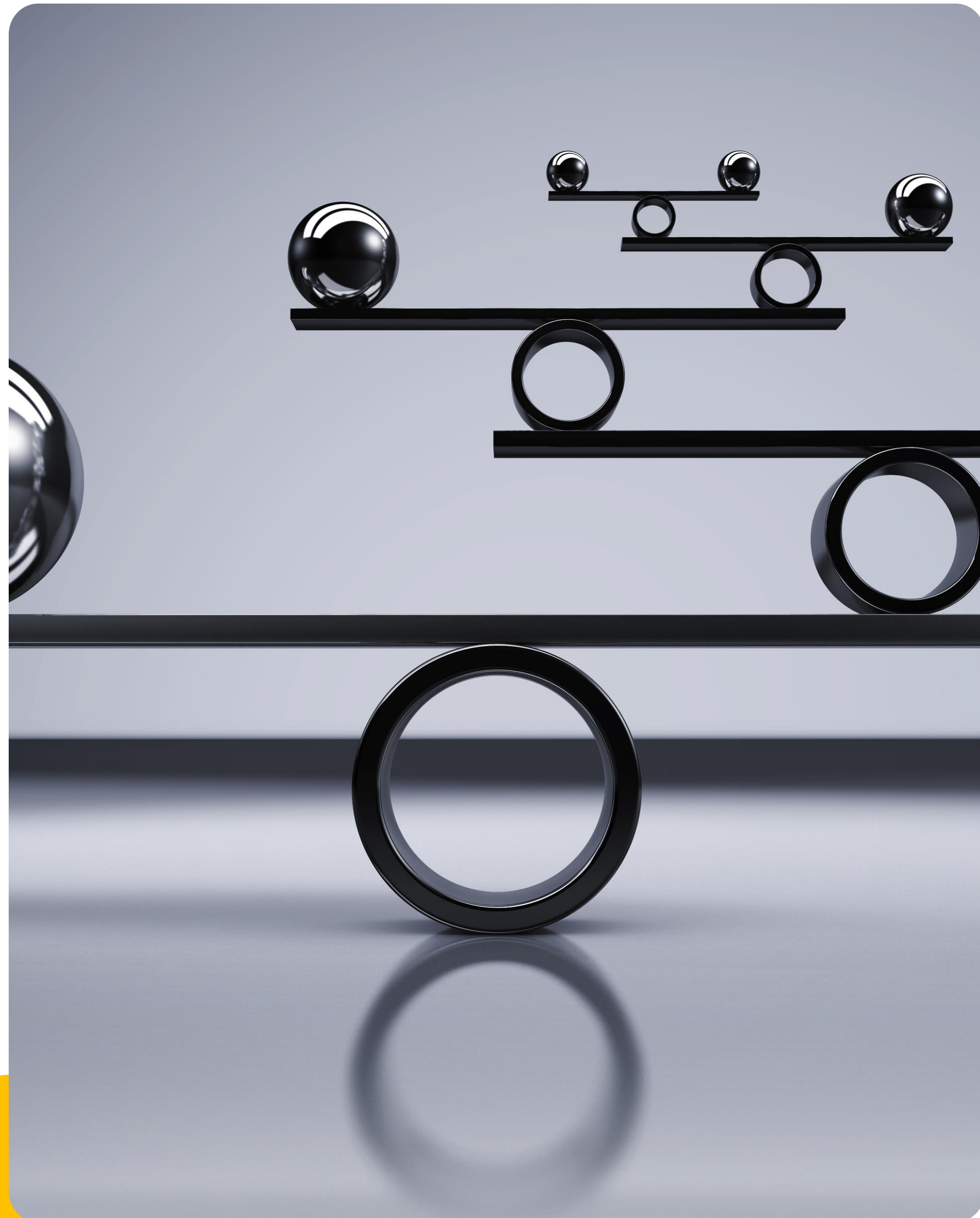
365 days to render a decision

- 90-day extension possible
- No decision results in automatic approval with generic conditions

Contents of Petition Are As Set Forth in Subchapter 6 of our Rules

Staff Review and Report





Staff Support

Staff prepares a report before the start of each docket

Staff report contains a summary of the history of the matter and points out legal and substantive issues that are unresolved or which staff has concerns

Staff does not make decisions. If there are significant issues staff may make a recommendation

Final decision is with the commission

Staff report is just a tool

Commissioners still need to review the entire docket prior to hearing



DBA Process

Initial Filing

Pre-Hearing

Contested-case
Hearing(s)

Post-Hearing

Decision

Approve Form
of the Order



Initial Filing

District Boundary Amendment

30-day staff review period

- If deemed complete, then move on
- If not, must fix defects

Checklist for DBA Filing completeness in § 15-15-50
Form and contents of petition.

One example: Applicant must give public notice of filing

30-day period for Interveners to file Notice of Intent to Intervene

Pre-Hearing

District Boundary Amendment

Pre-hearing conference

Parties' Position Statements due

Exhibit & Witness Lists

Expert Testimony & Exhibits

Notice of Hearing Published

Intervention

- Petition to Intervene
- Hearing on Petition to Intervene



Post-Hearing

District Boundary Amendment

Chair gives parties timeframe for submittal of post-hearing pleadings

Parties submit proposed Decision & Orders, Comments & Objections

Staff Report with recommendations and comparing similarities and differences for review

Decision hearing to approve; approve with conditions or deny

Approve Form of the Order hearing





Decision-Making

District Boundary Amendment

At close of evidence, Commissioners will be asked if they have read the record, reviewed the transcripts, and are ready to deliberate

The decision and conditions must be based on the record!

Motion is made

Discussion by Commissioners

- Possible amendments proposed
- Possible withdrawal of Motion

Call for the Question

Commissioner statements on position and/or specific conditions

Approval with Conditions

District Boundary Amendment

LUC Standard Conditions

Case-specific conditions

- Typical (examples)
- Atypical (examples)



Typical

Nexus between conditions and project

Examples: Transportation

- Drainage
- Traffic Impact Assessment Report (TIAR)
- Compliance with Representations
"...substantial compliance with the representations made to the Commission as reflected in the Findings of Fact, Conclusions of Law, and Decision and Order."





Post-Decision Proceedings

Parties or successors in interest to parties may bring motions

Submitted for review to OPSD and County; and any other parties

Intervention by new parties possible

Contested-case hearing

Generally, follow DBA process

Requires good cause to approve

We operate under an extremely open process that requires us to consider a set of defined public policy concerns in making and well supported decisions to support economic growth and protection of the state's most important assets.

We are, in this limited venue, tasked with effectuating policy surrounding:

- infrastructure
- protecting open space and agricultural lands
- protecting cultural assets and rights
- protecting the environment
- supporting economic growth by encouraging sustainable development
- promoting job growth
- protecting watershed
- encouraging deliberate and sustainable growth

LUC Website

<https://luc.hawaii.gov>



- [State LUC Maps](#)
- [Meeting Calendar](#)
- [Agenda & Minutes](#)
- [Receive Agenda Notices](#)
- [Contact Us](#)

ALOHA FROM LUC!

The State Land Use Law ([Chapter 205](#), Hawai'i Revised Statutes) was adopted in 1961. Establishing a framework of land use management and regulation in which all lands in the State of Hawai'i are classified into one of four land use districts. To administer the Land Use Law the State Legislature established the Land Use Commission (Komikina Ho'ohana 'Āina).

The Commission is composed of nine members, who are appointed by the Governor and confirmed by the State Senate. One member is appointed from each of the four counties; five members are appointed at-large. The Commissioners are non-paid volunteers who represent a cross-section of the community.



Documents submitted to the LUC must adhere to the following guidelines:

1. Electronically, in PDF format, via email (dbedt.luc.web@hawaii.gov), ensuring ADA compliance.
2. Additionally, a hard copy must be mailed to our office (State Land Use Commission, P.O. Box 2359, Honolulu, HI, 96814-2359)
3. Filings received after 4:00 P.M. may not be processed until the following workday.

QUICK LINKS OF INFORMATION:

- [Official Record Requests](#)
- [How to Give Public Testimony](#)
- [ADA Accessibility](#)
- [Request a Boundary Interpretation](#)

NEXT MEETING

June 19-20, 2024
[Agenda](#)
[Draft Minutes](#)
[SP97-390 Docket Page](#)
[A11-792 Docket Page](#)
[Submit Testimony](#)

LAND USE COMMISSION



Questions?

