VI. CALL TO ORDER

VII. ADOPTION OF ORDER

VIII. CONTINUED ACTION (IF NECESSARY)
A19-809 LANAI RESORTS, LLC dba PULAMA LANAI To Consider the Acceptance of Petitioner's Final Environmental Assessment and Motion to Issue a Finding of No Significant Impact relating to Petition to Amend the Land Use District Boundaries of certain land situated at Lanai City, Island of Lanai, consisting of approximately 200 acres from the Agricultural District to the Urban District. Tax Map Key No. (2)4-9-02:01 (por.).

IX. ADJOURNMENT

BEFORE:
APPEARANCES BY VIDEOCONFERENCE

COMMISSIONERS PRESENT:
Jonathan Scheuer, Chair
Dawn N.S. Chang
Dan Giovanni
Edmund Aczon
Arnold Wong
Lee Ohigashi

COMMISSIONERS RECUSED:
Nancy Cabral
Gary Okuda

STAFF PRESENT:
Daniel Orodenker, Executive Officer
Scott Derrickson, Chief Planner
Riley Hakoda, Staff Planner
Natasha Quinones, Chief Clerk
Julie China, Esq. Deputy Attorney General
APPEARANCES BY VIDEOCONFERENCE

PETITIONER:
Kevin Richardson, Esq., for Connections
Romeo Garcia, Principal, for Connections
Ted H.S. Hong, Esq, for CBESS
John Thatcher, Member, CBESS

COUNTY OF HAWAII:
Malia A. Kekai, Esq. Deputy Corporation Counsel
   Hawaii Planning Commission
Diana mellon-Lacey, Esq., Deputy Corporation Counsel,
   Hawaii County Planning Department
Jeff Darrow, Deputy Planning Director

OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT:
Alison Kato, Esq., Deputy Attorney General
Lorene Maki, Planner

INTERVENOR:
Jeffrey Gomes, Intervenor
Michael J. Masukawa, Esq.
CHAIR SCHEUER: Aloha mai kakou. Good morning. This is the February 17th, 2022, Land Use Committee meeting, which is being held using interactive conference technology linking videoconference participants and other interested individuals of the public via the Zoom Internet conferencing program to comply with state and county official operational directives during the COVID-19 pandemic. Members of the public are able to view the meeting via the Zoom webinar platform.

Well, members of the public and all attendees, I'd like to urge you to speak slowly, clearly, and directly into your microphone. We are taking transcripts from the recording of this meeting, so it has a couple of implications. First, it is helpful if you state your name and address, your name before you start speaking.

And secondly, please know that this meeting is being recorded, and your participation is your implied consent to be part of the public record at this meeting. If you do not wish to be part of the public record, you should exit the meeting now.

This technology allows the parties and each participating commissioner individual remote access to the meeting via our Internet connections.
on our own personal digital devices. Because of
that, and often due to matters often entirely
outside of our control, occasional disruptions to
connectivity may occur for one or more members in
the meeting at any give time. If this happens,
please be patient, and please let us know as we try
to restore audiovisual signals to be able to conduct
business during the pandemic.

There is one agenda item on today's
agenda. It is adoption of the order related to the
charter school. I will allow for public testimony
related to the adoption of the order. The decision
has already been made by the commission at our
previous meeting to deny the permit, so testimony
should be focused on our adoption of the order to
implement our decision.

If there's anybody who's trying to testify
via phone, use the key sequence *9 to virtually
raise your hand and *6 to ask to be unmuted.
Otherwise, use the Raise Your Hand function in the
Zoom software.

My name is Jonathan Likeke Scheuer, and I
have the honor and pleasure of serving as the Land
Use Commission chair. Along with me, Commissioner
Dawn Chang, Commissioner Arnold Wong, Commissioner
Ed Aczon, and our Executive Officer Daniel Orodenker
-- as this is all our staff, really -- our Chief
Planner Scott Derrickson, our Staff Planner Riley
Hakoda, and our Chief Clerk Natasha Quinones are all
on the island of O'ahu along with our Deputy
Attorney General Julie China.

Commissioner Lee Ohigashi is on Maui, and
Commissioner Dan Giovanni is on the island of Kauai.
We have eight seated commissioners of a possible
nine. Commissioners Gary Okuda and Nancy Cabral have
recused themselves from this item.

So our only remaining agenda item for the
day is the adoption of the order for Docket No.
SP21-413 Connections New Century Public Charter
School/Community-Based Education Support Services,
or CBESS, to consider a form of the order, findings
of fact, conclusions of law, and decision and order
to deny the special permit application for the

The commission last heard this matter on
January 19th and 20th, 2022, via Zoom. During that
hearing, we took public testimony on the substance
of the matter. Since that time, we have also
received written public testimony from Gene Zarro,
the CEO of the South Maui Learning Ohana, and Taffi
Wise, the executive director of KALO.

Ms. Quinones, has there been any additional written testimony submitted to the commission?

**MS. QUINONES:** Good morning, Chair. I want to recognize that Steve Hirakami had also submitted written testimony initially on January 31st and again yesterday -- or today. So that's the only one.

**CHAIR SCHEUER:** Okay. I will go over what our proceedings will be for today. So I've recognized written testimony.

I'm going to allow for oral testimony focused on the narrow issue of our adoption of the order. I will bring people in if there's anybody who wishes to provide oral testimony after they've raised their hands. I will give you three minutes to testify. You will then be available for questions from the parties and the commissioners.

Following the conclusion of oral testimony, I'll provide the opportunity for any of the parties who may wish to address the commission before we enter into deliberations, I'll provide any of the parties who wish to avail themselves of this 10 minutes. And following that, the commission will enter into final deliberations on this matter.
Let's do appearances and any clarifications if you do not understand our order today, starting with the petitioner.

MR. RICHARDSON: Good morning. Deputy Attorney General Kevin Richardson on behalf of the applicant, Connections New Century Public Charter School. Also with me is, well, on the Big Island is the principal of Connections, Romeo Garcia.

CHAIR SCHEUER: Good morning. And do you understand our procedures for today?

MR. RICHARDSON: I do.

CHAIR SCHEUER: Okay.

MR. HONG: Good morning, Mr. Chairman, members of the commission. My name is Ted Hong. I represent Community-Based Education Support Services, also known as CBESS. I don't see that my client, Heather McDaniel or John Thatcher, the representatives from CBESS are on. And certainly, we would waive their presence, with the permission of the chair. Thank you.

And I do understand the procedures you explained. Thank you.

CHAIR SCHEUER: Thank you, Mr. Hong. Mr. Hong, I know John Thatcher is in as an attendee. Would you like me to promote him to be a panelist?
MR. HONG: Yes, please.

CHAIR SCHEUER: Okay. And I apologize. You mentioned one other name, Mr. Hong.

MR. HONG: Heather McDaniel, but I don't know that she's --

CHAIR SCHEUER: I don't believe that she is here.

MR. HONG: Okay.

CHAIR SCHEUER: Thank you.

MR. HONG: Thank you.

CHAIR SCHEUER: Thank you very much. Okay.

Hawaii County?

MS. KEKAI: Good morning. Malia Kekai for the Windward Planning Commission. And I do understand your explanation of the procedures today.

CHAIR SCHEUER: Thank you.

MS. MELLON-LACEY: Good morning. Diana Mellon-Lacey, deputy corporation counsel appearing with Jeff Darrow, deputy planning director. And we can understand the procedures for today.

CHAIR SCHEUER: Thank you.

Ms. Kato?

MS. KATO: Good morning. Alison Kato, deputy attorney general for the Office of Planning and Sustainable Development. Lorene Maki from OPSD
is also here, and I understand the procedures. Thank you.

CHAIR SCHEUER: Commissioner Wong?

COMMISSIONER WONG: Here. You know, the Hawaii County Planning just made their statement, but it was very hard for me to hear because I'm a little older, so if you don't mind taking off her mask when she talks. It'll be better for me. Thank you.

MS. MELLON-LACEY: Okay. Do I need to repeat?

CHAIR SCHEUER: If you would, if that's okay, please.

MS. MELLON-LACEY: Okay. Diana Mellon-Lacey, deputy corporation counsel, County of Hawaii, appearing with Jeff Darrow, deputy planning director. And we do understand the procedures.

CHAIR SCHEUER: Thank you, Ms. Mellon-Lacey. I appreciate it.

Are there any members of the public who wish to testify to us today? If so, use the Raise Your Hand function.

Oh, sorry, excuse me. Kala mai. Mr. Matsukawa?

MR. MATSUWA: Michael Matsukawa for the
intervenor, Jeffrey Gomes. And I understood the
procedure.

CHAIR SCHEUER: Okay. And I believe your
client is here with us as well.

MR. MATSUWA: Yes.

CHAIR SCHEUER: Okay. Thank you, Mr.
Matsukawa. I apologize for my oversight.

Are there any members of the public who
wish to testify today on the adoption of the order?
If so, please raise your hand using the Raise Your
Hand function.

There was an inquiry before in the chat.
Okay. I'm going to admit Mr. Hirakami to be a
panelist.

When you're admitted to be a panelist, you
will be able to enable your audio and video, so
please do. I will then swear you in. Good morning.

MR. HIRAKAMI: Good morning.

CHAIR SCHEUER: Do you swear or affirm the
testimony you're about to give is the truth?

MR. HIRAKAMI: I do.

CHAIR SCHEUER: Okay. So if you'd state
your name and address for the record and then begin.

MR. HIRAKAMI: My name is Steve Hirakami.

My address is 12-4265 Pahoa Kalapana Road in Pahoa,
Hawaii. I'm here. I'm the principal of Hawaii Academy of Arts and Sciences, a charter school located in Pahoa, dedicated to taking care of the environment.

And I wanted to supply to have you not adopt the order to deny the permit and send it back for further review. I really see a win-win situation with this piece of land.

I know the land in question is the one bordering the subdivision, but that is a native forest, and the students of Connection could be forest stewards, and they could remove endangered species. They could protect the environment for all the native birds. They could be docents for the Kaumana Cave and demonstrate the restoration and the preservation of an important part of Hawaii.

We're losing a lot of our forests in urban areas. So I know the bottom half is where they want to build a school. I think the complaints is there's a natural border between the subdivision and Kaumana Drive and the backyard. And a lot of times when people buy properties next to state land, they think, oh, wow, you know, I got an extension on my property, and I got to build.

So I can understand why they don't want
that developed, but I certainly could think that the
school could turn this into a real win-win for the
community, for the subdivision owners, and generally
for Hawaii.

    We need to teach our kids about
environmental stewardship and taking care of the
aina and everything, and I see a perfect learning
opportunity to learn. This is about education. It
all starts with our children, and I think it's very
important that these kind of opportunities don't go
to waste because a subdivision thinks that
somebody's going to come and eradicate the forest
behind their lot.

    So I really implore you to not adopt this
order. Send it back so that there can be more
discussion about dividing the upper part. It's 70-
something acres. I know there's 30-something acres
on the upper part that goes all the way up to
Kaumana Cave. That could be a beautiful place for
kids to be docents and be guides in the forest and
to explain how they preserve the forest.

    You know, when this 2018 lava flow
decimated our community, our kids became docents at
the Lava Museum, and they're important part of
telling the tourists and visitors alike how the
volcano affected their lives. They lost their homes and, you know, the Jaggar Museum donated a lot of artifacts to the museum, so they can be docents. So I thank you for this opportunity.

CHAIR SCHEUER: Thank you very much, Mr. Hirakami. If you'd please just remain online to see if there's any questions for you from any of the parties, starting with Mr. Richardson.

MR. RICHARDSON: No questions. Thank you.

CHAIR SCHEUER: Mr. Hong?

MR. HONG: No questions. Thank you.

CHAIR SCHEUER: Ms. Kekai?

MS. KEKAI: No questions. Thank you.

CHAIR SCHEUER: County Planning? County Planning, any questions for the witness? Hawaii County Planning, can you hear me? Are there any questions for the witness?

MS. MELLON-LACEY: No questions.

CHAIR SCHEUER: Okay. Thank you.

Mr. Matsukawa?

MR. MATSUWKA: No questions, Mr. Chair.

CHAIR SCHEUER: Commissioners, any questions for the witness?

Thank you very much for taking the time to testify before us today. And thank you for your
work. We appreciate it. I'm going to move you to be
an attendee.

Are there any other members of the public
who wish to testify on adoption of the order? If so,
please raise your hand using the Raise Your Hand
function. I don't see anybody calling in by phone.
Seeing none.

Before the commission enters into formal
deliberations on adoption of the order, I will
provide the opportunity to any of the parties to
address the commission, and I will give the parties
up to 10 minutes to do so. We'll go in the same
order, and you don't have to avail yourselves of it,
but you can, if you wish, beginning with Mr.
Richardson.

MR. RICHARDSON: Thank you. I just have
one matter of clarification. Was the draft order
provided? I didn't receive one, but was one sent out
or provided prior to this meeting?

CHAIR SCHEUER: A draft order was sent to
two of the entities who requested the order. It was
only completed. It was in draft form for quite a
while with our counsel. It was only completed last
night.

MR. RICHARDSON: Thank you. No other
questions, Chair, or comments.

CHAIR SCHEUER: Okay.

Mr. Hong?

MR. HONG: I would note for the record that we received the proposed draft order at approximately 4:39 p.m. yesterday, and I did have the opportunity to review it.

And at this stage of the proceedings, I think we would submit that our objections and opposition with respect to some of the errors contained in the draft order are very clear on the record. Thank you.

CHAIR SCHEUER: Thank you, Mr. Hong.

Ms. Kekai?

MS. KEKAI: Good morning, commission. I think the only thing of concern is basically that the commission is finding that a school is not a usual use -- or a reasonable use, I'm sorry -- which would be concerning for Hawaii Island, as we have a lot of ag land and, you know, we're probably trending towards building more agricultural schools here.

So it's a little worrisome if a school that is truly ag, a fully ag school could then not apply for a special permit when surrounded by ag as
well. So I feel it's a little limiting. But that's all we have. Thank you.

**CHAIR SCHEUER:** Thank you very much.

County Planning?

**MS. MELLON-LACEY:** I'm Diana Mellon-Lacey.

We have no comments at this time.

**CHAIR SCHEUER:** Thank you.

Ms. Kato, OPSD?

**MS. KATO:** Thank you. No further comments from OPSD.

**CHAIR SCHEUER:** Thank you.

Mr. Matsukawa?

**MR. MATSUKAWA:** Yes. Just a comment on the County's statement. The County general plan notes that there are large tracts of public land in the County of Hawaii.

But there is no master plan of the part of the BLNR, the owner of those properties, as to the proposed long-term uses. So if that's a factor of concern, then BLNR should be approached to develop that master plan. Thank you.

**CHAIR SCHEUER:** Thank you, Mr. Matsukawa.

Having received statements, I'm now going to move into formal deliberations. Before we take up any motion, the chair would like to confirm for the
record that all the commissioners and myself are prepared to participate in these proceedings.

Commissioner Chang, are you prepared to participate?

COMMISSIONER CHANG: Mr. Chair, yes, I am.

CHAIR SCHEUER: Commissioner Wong?

COMMISSIONER WONG: Yes, Mr. Chair. I am ready.

CHAIR SCHEUER: Commissioner Ohigashi?

COMMISSIONER OHIGASHI: Yes.

CHAIR SCHEUER: Commissioner Giovanni?

COMMISSIONER GIOVANNI: Yes.

CHAIR SCHEUER: Commissioner Aczon?

COMMISSIONER ACZON: Yes, Mr. Chair.

CHAIR SCHEUER: The chair is also prepared to participate.

The commission will now consider the adoption of the order. Commissioners, before you for your consideration, deliberation, and adoption are the proposed findings of fact, conclusions of law, and decision and order prepared by staff as instructed at the last meeting on this docket. Is there any discussion, or does somebody wish to enter a motion?

Commissioner Aczon?
COMMISSIONER ACZON: Thank you, Mr. Chair, and good morning. I'd like to make a motion for the Land Use Commission to adopt the proposed decision and order denying special permit on SP21-4013 Connections New Century Public Charter School and Community-Based Education Support Services brought by the County of Hawaii Windward Planning Commission.

CHAIR SCHEUER: Is there a second?

Commissioner Ohigashi?

COMMISSIONER OHIGASHI: I would second that.

CHAIR SCHEUER: Okay. Does the movant and the secondary wish to speak to the motion?

COMMISSIONER ACZON: Mr. Chair, I believe that the commission heard, and the commission's decision was based on records provided by the County. And I believe the draft of the decision and order covered all the public record.

CHAIR SCHEUER: Thank you.

Commissioner Ohigashi?

COMMISSIONER OHIGASHI: No comment, Mr. Chair.

CHAIR SCHEUER: Okay. Commissioners, we have a motion before us made by Commissioner Aczon
1 and seconded by Commissioner Ohigashi. Is there
discussion?

            Commissioner Chang?

COMMISSIONER CHANG: Thank you, Mr. Chair.

I just have a few comments.

            I greatly appreciated Mr. Hirakami's
testimony this morning. I do want to be clear that,
as far as I'm concerned, the Land Use Commission's
decision and action today does not preclude the
charter school from, one, meeting with the community
to address some of the concerns, as well as looking
at the Land Use Commission's order and addressing
those concerns as well, and resubmitting, preparing
a new proposal that addresses all these concerns to
move forward.

Because I think the commission did make --
at least, I felt this was a -- I made the motion
last meeting with a heavy heart, knowing that
education, and in particular agriculture, is
important in Hawaii Island. So I do encourage the
school, if they're still interested, to pursue it
after review -- in consideration of our order.

            Thank you, Mr. Chair.

CHAIR SCHEUER: Thank you, Commissioner

Chang.
Commissioners, is there further discussion?

I'll just second or join in Commissioner Chang's remarks about having a heavy heart. I'm nearing the end of eight years on this commission, and I have not had a -- I found this to be one of the most frustrating dockets that we've dealt with.

Mr. Orodenker, would you please poll the commission?

MR. ORODENKER: Mr. Chair, the motion is to adopt the proposed D&O, the decision and order denying the special permit in this matter.

Commissioner Aczon?

COMMISSIONER ACZON: Aye.

MR. ORODENKER: Commissioner Ohigashi?

COMMISSIONER OHIGASHI: Yes.

MR. ORODENKER: Commissioner Giovanni?

COMMISSIONER GIOVANNI: Aye.

MR. ORODENKER: Commissioner Chang?

COMMISSIONER CHANG: Aye.

MR. ORODENKER: Commissioner Wong?

COMMISSIONER WONG: Aye.

MR. ORODENKER: Chair Scheuer?

CHAIR SCHEUER: Aye.

MR. ORODENKER: Mr. Chair, the motion
passes unanimously with six votes.

CHAIR SCHEUER: I thank all the parties for your participation in this matter.

There being no further business for the commission, I declare this meeting adjourned.

(Meeting adjourned at 9:24 a.m.)
CERTIFICATE

I, Davilyn Payne, do hereby certify that the proceeding named herein was professionally transcribed on the date set forth in the certificate herein; that I transcribed all testimony adduced and other oral proceedings had in the foregoing matter; and that the foregoing transcript pages constitute a full, true, and correct record of such testimony adduced and oral proceeding had and of the whole thereof.

IN WITNESS HEREOF, I have hereunto set my hand this 31st day of March, 2022.

Davilyn Payne