

LAND USE COMMISSION
MEETING MINUTES
September 21th, 2022 – 9:00 a.m.

Pursuant to Hawai‘i Revised Statutes, HRS § 92 as amended, the Commission conducted its meeting in person and remotely by interactive conference technology, with Commission members, Staff, and Applicants participating simultaneously online. 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 hybrid meeting using instructions circulated on the meeting agenda.

IN PERSON: University of Hawai‘i at Hilo, Campus Center Facility - Room 306
200 W. Kawili Street, Hilo, HI 96720

VIRTUAL: Zoom Webinar Virtual Meeting. Meeting Link for September 21st, 2022 below:
(<https://us02web.zoom.us/j/83329577728?pwd=bFBaZWNKYU1idHJ6OXB3NVk5aDlCdz09>)

YOUTUBE RECORDING:
(https://www.youtube.com/watch?v=Iu3NNEdus_U)

COMMISSIONERS PRESENT: Dan Giovanni
(Attending via Zoom, unless Nancy Cabral (in person)
indicated otherwise) Dawn N. S. Chang
Lee Ohigashi
Gary Okuda
George Atta
Melvin Kahele
Kū‘ike Kamakea-‘Ōhelo
Michael Yamane

(9 seated Commissioners as of 05/01/22)

STAFF PRESENT: Daniel Orodener, Executive Officer
(Attending via Zoom, Scott Derrickson, Chief Planner (in person)
unless indicated otherwise) Riley Hakoda, Staff Planner
Martina Segura, Staff Planner
Ariana Kwan, Chief Clerk
Daniel Morris, Esq. Deputy Attorney General

COURT REPORTER: Naegeli Deposition and Trial
(via Zoom video recording)

CALL TO ORDER (YouTube: 00:00:01)

Chair Giovanni called the meeting to order at 9:00 a.m.

APPROVAL OF THE MINUTES *(YouTube: 00:05:05)*

The first agenda item was the approval of the September 7th, 2022, Minutes. There was no written testimony, or members of the public who wished to testify on the approval of the Minutes.

LUC Staff presented a suggested correction to the Minutes. The suggestion was to correct Malia Kekai's position from "Corporation Counsel - Planning Department" to "Corporation Counsel - Windward Planning Commission".

Commissioner Atta moved to adopt the Minutes with the suggested correction, and Lee Ohigashi seconded the motion to adopt the September 7th, 2022, Minutes.

The September 7th, 2022, Minutes were approved with 7 ayes, 0 nays, and 2 abstained.

TENTATIVE MEETING SCHEDULE *(YouTube: 00:09:15)*

Chair Giovanni called for Land Use Commission Staff to provide the Tentative Meeting Schedule.

Staff Planner, Riley Hakoda provided the following dates:

- October 5th: A15-798 Waikapū Properties (Maui)
- October 6th: Waiehu Residential Community 201H Project Site Visit
- October 19th: A15-798 Waikapū Properties (Maui)
- November 2nd: A02-737 U of N Bencorp (Hawai'i)
- November 16th: A19-809 Pūlama Lāna'i (Maui)
- December 7th: A89-651 Haseko (Hawai'i)

Due to the next meeting being in a remote location, Chair Giovanni requested for Land Use Commission Staff to arrange for lunch to be provided. To allow the Commission to work through lunch during the October 5th, 2022, meeting at Maui Arts and Cultural Center in Kahului.

ADOPTION OF THE ORDER *(YouTube: 00:12:44)*

To consider Special Permit application to allow the establishment of a quarry operation and related improvements and activities

Appearances:

- Daryn Arai (Planner for Petitioner)
- Shellbylynn Yamada (President- Yamada & Sons, Inc.)
- Bryan Yee, Esq. (Deputy Attorney General for Office of Planning and Sustainable Development "OPSD")
- Suzanna Tiapula (Corporation Counsel- Planning Department)
- Christian Kay (Planner – Planning Department)
- Jeff Darrow (Director- Planning Department)

Public Testimony (*YouTube: 00:13:44*)

The Land Use Commission received no written testimonies from the public on this matter.

Chair Giovanni opened the meeting up for testimony on the Adoption of Order for SP22-414 Yamada and Sons, Inc. (Hawai'i).

Suzanna Tiapula, Attorney for the Planning Department, suggested a correction to the Procedural portion of the Decision and Order. The suggestion was to correct Malia Kekai's position from "Corporation Counsel - Planning Department" to "Corporation Counsel - Windward Planning Commission".

Deliberations (*YouTube: 00:15:15*)

Chair Giovanni asked each Commissioner for verbal confirmation if they, were prepared to participate in the proceedings. Eight Commissioners (including the Chair) confirmed they were prepared, and one Commissioner was unable to participate in these proceedings.

Chair Giovanni opened the floor to discussion. There being none, the Chair entertained a motion.

Commissioner Chang moved to approve the proposed Decision and Order that was prepared by the Staff, subject to changes:

- 1) On page three, paragraph 9, specifically clarifying that Malia Kekai is representing the Windward Planning Commission.
- 2) Proposed amendments to paragraph 15, on page 15 in relation to 'ōhi'a trees: it reads "To protect ohia 'ōhi'a trees from Rapid 'Ōhi'a Death (ROD) on the subject property...", insert "adjacent to", and add provision number five "any 'ōhi'a trees that are not infested and need to be removed, the wood may be made available for cultural use."

The proposed condition properly reads:

To protect ohia 'ōhi'a trees from Rapid 'Ōhi'a Death (ROD) adjacent to and on the subject property, the Applicant shall comply with the following protocols : 1) Prior to clearing the edges of the quarry, any isolated 'ōhi'a trees on the boundary will be identified. Any such trees that are not planned for removal on the edges of the quarry will be protected from disturbance entirely or cut and chipped or buried to ensure that they do not present a ready target for ROD infection that could spread to other trees; 2) treat any unavoidable scars on 'ōhi'a trees that result from clearing to prevent infestation of the fungus; 3) stack all removed 'ōhi'a trees and dispose of by burying or chipping; do not remove from project site; 4) decontaminate boots and work tools before and after working in an area with 'ōhi'a trees and 5) any 'ōhi'a trees that are not infested and need to be removed, the wood may be made available for cultural use.

Commissioner Ohigashi proposed adding authorization for the Chair to sign the Decision and Order to the motion.

Commissioner Chang accepted and added the suggested language to the Motion, recommended by Commissioner Ohigashi. Commissioner Ohigashi then seconded the motion

The Motion to adopt the Decision and Order subject to the following amendments:

- Paragraph nine to clarify representation of the Windward Planning Commission
- Paragraph 15, page 15, to add the words “adjacent to” and add a provision to make wood from 'ōhi'a trees that are not infested available for cultural use
- Add a provision that authorizes the Chair to sign the Decision and Order

Passed with 7 ayes, 0 nays, and 2 abstained.

Adjournment (*YouTube: 00:25:02*)

Shellbylynn Yamada shared her thanks with the Commission for their favorable decision.

There being no further business to attended to, Chair Giovanni adjourned the meeting at 9:25 a.m.