

LAND USE COMMISSION
MEETING MINUTES
September 7th, 2022 – 9:15 a.m.

Pursuant to Hawai‘i Revised Statutes, HRS § 92 as amended, the Commission conducted its meeting in person. 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 301 200 W.
Kawili Street, Hilo, HI 96720

YOUTUBE RECORDING:

https://www.youtube.com/watch?v=Iu3NNEdus_U

COMMISSIONERS PRESENT:

Dan Giovanni
Dawn N. S. Chang
Lee Ohigashi
George Atta
Melvin Kahele
Kū‘ike Kamakea-‘Ōhelo
Michael Yamane

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

STAFF PRESENT:

Daniel Orodener, Executive Officer
Riley Hakoda, Staff Planner
Martina Segura, Staff Planner
Ariana Kwan, Chief Clerk
Daniel Morris, Esq. Deputy Attorney General

COURT REPORTER:
(via video recording)

Naegeli Deposition and Trial

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

Chair Giovanni called the meeting to order at 9:15 a.m.

APPROVAL OF THE MINUTES (YouTube: 00:04:36)

The first agenda item was the approval of the August 24th, 2022, Minutes. There was no written testimony, or members of the public who wished to testify on the approval of the Minutes.

Commissioner Ohigashi moved to adopt the Minutes, and Commissioner Yamane seconded the motion to adopt the August 24th, 2022, Minutes.

The August 24th, 2022, Minutes were unanimously approved (7-0).

TENTATIVE MEETING SCHEDULE (*YouTube: 00:06:05*)

Chair Giovanni called for the Executive Officer to provide the Tentative Meeting Schedule.

The Executive Officer provided the following dates:

September 14th-16th: Hawai‘i Congress of Planning Officials (Kaua‘i)

September 21st: SP22-414 Yamada & Sons (Hawai‘i)

October 5th: SP92-380 Pu‘unēnē Quarry (Maui)

October 6th: A15-798 Waikapū Properties (Maui)

October 19th: SP92-380 Pu‘unēnē Quarry and A15-798 Waikapū Properties (Maui)

November 2nd: A02-737 U of N Bencorp (Hawai‘i)

November 16th: A19-809 Pūlama Lāna‘i (Maui)

ACTION – SP22-414 Yamada & Sons, Inc. (Hawai‘i) (*YouTube: 00:08:02*)

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”)

Malia Kekai (Corporation Counsel- Windward Planning Commission)

Suzanna Tiapula (Corporation Counsel- Planning Department)

Christian Kay (Planner – Planning Department)

Jeff Darrow (Director- Planning Department)

Gordon Heit (Land Agent- Department of Land and Natural Resources)

Presentations (*YouTube: 00:14:26*)

The presentations began with Daryn Arai (Planner for Petitioner) and welcomed questions from the Commissioners.

In response to the Petitioners presentation, the Commissioners asked questions relating to the current state, proposed additions, and mitigation efforts. (*YouTube: 00:18:10*).

The presentation by the Petitioner was followed by comments from the County of Hawai‘i. Chair Giovanni allowed Commissioners to ask the County questions and comment on their presentation (*YouTube: 00:44:50*).

The County of Hawai‘i comments were followed by OPSD, which had no remarks. Chair Giovanni allowed Commissioners to ask OPSD questions regarding the Status Report (*YouTube: 00:46:00*).

Executive Session (*YouTube: 00:58:28*) *See Executive Session Minutes*

Commissioner Ohigashi made a motion to go into Executive session to consult with the Commission’s attorney on questions and issues pertaining to the board’s powers, duties, privileges, immunities, and liabilities with regard to Section 15-15-95(a) HAR. Commissioner Kahele seconded the motion.

The Motion to go into executive session passed unanimously 7-0.

The Commission entered executive session at 10:26 a.m. and reconvened to the public at 10:52 a.m.

Public Testimony (*YouTube: 01:42:00*)

Before the Commission went into deliberation, and after all the parties concluded their presentations, Chair Giovanni opened the meeting up for testimony on SP22-414 Yamada & Sons, Inc., there were no members of the public that wished to testify.

Deliberations (*YouTube: 01:44:29*)

Based on what the Commission found during the hearing, Commissioner Chang made a motion and Commissioner Yamane seconded the Motion, the motion was split into multiple parts and voted on in segments. (*YouTube: 01:44:55*).

The Motion was split and voted on as follows:

1. the Commission acknowledge that HAR 15-15-95(a) requires written authorization from the landowner, BLNR, to the SUP and the conditions. The record provided by the county does not include a written authorization, however, DLNR’s representative Mr. Hite, land agent, orally approved the conditions, Petitioner has demonstrated good faith to obtain DLNR’s approval as included in the record, and the BLNR approved the license; pursuant to HAR 15-15-34(b) the commission may waive any rule for (1) good cause exists, 45 day requirement, and (2) strict enforcement would result in manifest injustice on Petition who has

- diligently sought DLNR's authorization, according I move that the commission waive 15-15-95(a) requirement (*6 ayes -1 nay- 2 excused*);
2. and the commission approve the special use permit as distributed to LUC by the county with the addition of the condition proposed by the OPSD (*7 ayes-0 nays-2 excused*).

The Motion to approve the Special Use Permit passed with seven affirmative votes (7-0).

Adjournment (*YouTube: 02:00:13*)

There being no further business to attended to, Chair Giovanni adjourned the meeting at 12:39 p.m.

LAND USE COMMISSION
EXECUTIVE SESSION MINUTES
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Ariana Kwan, Chief Clerk
Daniel Morris, Esq. Deputy Attorney General

EXECUTIVE SESSION: ACTION SP22-414 Yamada & Sons, Inc. (Hawai‘i)

CALL TO ORDER

Chair Giovanni called the Executive Session meeting to order at 10:26 a.m. (Pursuant to HRS § 92-5 the Commission may elect to consult with its legal counsel in executive session.)

The Commission consulted with the Attorney General on questions and issues pertaining to the board’s powers, duties, privileges, immunities, and liabilities regarding Special Permit application to allow the establishment of a quarry operation and related improvements and activities on a 37.882-acre portion of a larger 2,407-acre parcel of land in the State Land Use Agricultural District within the District of Waiākea, South Hilo, Hawai‘i, TMK : (3) 2-1-013: 002 (por.).

Commissioner Kahele moved, and Commissioner Kamakea-‘Ōhelo seconded the motion to exit from Executive Session. By voice vote, the Commission unanimously voted to exit from Executive Session at 10:52 a.m.