

LAND USE COMMISSION
MEETING MINUTES
October 5th, 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 meeting.

IN PERSON: Maui Arts & Cultural Center, Haynes Meeting Room
1 Cameron Way, Kahului, HI 96732

YOUTUBE RECORDING:

<https://www.youtube.com/watch?v=htbwZBdlGng>

COMMISSIONERS PRESENT:

(Attending via Zoom, unless
indicated otherwise)

Nancy Cabral
Lee Ohigashi
Dawn N. S. Chang
Gary Okuda
George Atta
Melvin Kahele
Kū‘ike Kamakea-‘Ōhelo
Michael Yamane

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

STAFF PRESENT:

(Attending via Zoom,
unless indicated otherwise)

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

COURT REPORTER:

(via Zoom video recording)

Naegeli Deposition and Trial

CALL TO ORDER (YouTube: 00:00:03)

First Vice Chair Nancy Cabral presided over the meeting, hereinafter referred to as “Chair” and called the meeting to order at 9:00 a.m.

APPROVAL OF THE MINUTES (YouTube: 00:02:38)

The first agenda item was the approval of the September 21st, 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 September 21st, 2022 Minutes, and Commissioner Atta seconded the motion.

The September 21st, 2022, Minutes were approved with 8 ayes, 0 nays, and 1 excused.

TENTATIVE MEETING SCHEDULE (YouTube: 00:04:11)

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

Staff Planner, Scott Derrickson provided the following dates:

- October 6th: Waiehu Residential Community 201H Project Site Visit
- October 19th: A15-798 Waikapū Properties (Maui) *Canceled as of 10/10/22*
- November 2nd: A02-737 U of N Bencorp (Hawai‘i)
- November 16th: A19-809 Pūlama Lāna‘i Miki Basin (Maui)
- December 7th: A89-651 Haseko (O‘ahu)

A15-798 WAIKAPŪ PROPERTIES (MAUI) (YouTube: 00:12:44)

To consider Petitioner’s motion to amend conditions 1, 4 and 8(b) of decision and order filed on February 26, 2018.

Appearances:

Office of Planning and Sustainable Development (“OPSD”)
 Lorene Maki (Planner)
 Bryan Yee, Esq. (Deputy Attorney General)

County
 Michele McLean (Director)
 Danny Dias (Planner)
 Michael Hopper (Corporation Counsel)

Petitioner
 Jeff Ueoka (Counsel for Petitioner)
 Mike Atherton
 Duane Ting (Project Manager for Petitioner)

Public
 Johanna Kamauna
 Carol Lee Kamekona

Public Testimony (*YouTube: 00:14:20*)

The Land Use Commission received no written testimonies from the public on this matter. Chair Cabral opened the meeting up for testimony on the Motion to Amend for A15-798 Waikapū Properties (Maui).

Johanna Kamauna provided public testimony regarding her concerns about the lack of a water plan, the school expansion, and traffic.

Carol Lee Kamekona provided public testimony in support of the project and expressed her concern regarding traffic.

Presentations (*YouTube: 00:29:13*)

Mr. Ueoka gave a brief presentation on behalf of the petitioner and welcomed questions from the Commissioners. In response to the Petitioners presentation, the Commissioners asked questions relating to the Public Private Partnership (“PPP”), community benefit, Maui County Council Bill 107 (2022), current state, proposed additions, and mitigation efforts (*YouTube: 00:34:08*).

The Petitioner questions were followed by comments from the County of Maui. Chair Cabral allowed Commissioners to ask the County questions and comment on their presentation (*YouTube: 01:14:35*).

The County of Maui was followed by OPSD, which supports the Petitioners Motion and believes the Count of Maui has the ability to carry out the conditions in the PPP. OPSD also spoke to the deference given to the PPP, and stated that the PPP should be included in the Decision and Order as an attachment or reference to a Finding of Fact. Chair Cabral allowed Commissioners to ask OPSD questions regarding the Status Report (*YouTube: 02:11:57*).

Public Testimony (*YouTube: 02:28:16*)

Before the Commission went into deliberation, and after all the parties concluded their presentations, Chair Cabral opened the meeting up for testimony on A15-798 Waikapū Properties, there were no members of the public that wished to testify.

Deliberations (*YouTube: 02:28:43*)

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

Motion (*YouTube: 02:29:06*)

Commissioner Ohigashi moved to accept the amendments that were provided by the Petitioner to amend the 2018 Decision and Order accordingly. Commissioner Ohigashi included the following statements in his motion:

- Add the following statement to the Decision and Order: The State Special Permit contemplated in proposed Condition 4 shall be limited to the development of the private wastewater source, storage, and transmission facilities by the Petitioner.
- The Public Private Partnership Agreement will be attached to the Decision and Order as “Exhibit 1”.

Commissioner Okuda seconded the motion with the following friendly amendment, to include a statement that:

- Clarifies that the reference to the State Special Permit with respect to the wastewater treatment plant in no way is the Land Use Commission adjudicating/ making a decision that on whether in fact special permits are appropriate to be issued to place facilities such as a wastewater treatment plant on agriculture land.

Commissioner Ohigashi accepted Commissioner Okuda’s friendly amendment.

The Motion passed with 8 ayes, 0 nays, and 1 excused.

ADJOURNMENT (*YouTube: 02:49:05*)

There being no further business to attended to, Chair Cabral recessed the meeting at 12:03 p.m. to resume at 9:00 a.m. on October 6th, 2022.

LAND USE COMMISSION
MEETING MINUTES
October 6th, 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 meeting.

IN PERSON: Maui County, Department of Transportation, Highways Building
650 Palapala Drive Kahului HI 96732

NOTE: YouTube recording or transcripts are NOT available for this meeting.

COMMISSIONERS PRESENT: Nancy Cabral
(Attending via Zoom, unless Kū‘ike Kamakea-‘Ōhelo
indicated otherwise) Michael Yamane
George Atta
Melvin Kahele

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

STAFF PRESENT: Daniel Orodener, Executive Officer
(Attending via Zoom, Scott Derrickson, Chief Planner
unless indicated otherwise) Riley Hakoda, Staff Planner
Martina Segura, Staff Planner
Ariana Kwan, Chief Clerk

CALL TO ORDER

First Vice Chair Nancy Cabral presided over the meeting, hereinafter referred to as “Chair” and called the meeting to order at 8:59 a.m.

Chair Cabral requested for Land Use Commission staff to arrange for lunch to be provided for the next meeting, which is being in a remote location. To allow the Commission to work through lunch during the November 2, 2022, meeting at University of Hawai‘i at Hilo.

Chair Cabral referred to Executive Officer Daniel Orodener to make introduce the status of the docket involved and make statements regarding proceedings of the site visit.

Mr. Orodener informed meeting participants that no public testimony will be heard during the site visit, no deliberations will be made regarding this pending docket, no questions from the public will directed to the Commissioners, and Commissioners are only allowed to ask the developer and project manager questions regarding the geographic of the location.

Appearances:

*Office of Planning and Sustainable
Development (OPSD)*
Aaron Setogawa

Petitioner
Brad Cook
Joshua Hunter
Chris Brown
Brett Davis

Members of the Public
Terry Miller
Lala Johnson
Annadele Yahiro
Diana Ka‘aihue
Elle Cochran
Jordyn Pa‘a
Bill Syfers
Alika Atay
Henry Maio
Steven Lee

SITE VISIT

The caravan made a stop at Ka Home Maha Mau Cemetery located at Kahekili Hwy., Wailuku, HI 96793, to rearrange means of transportation. Once transportation was sorted, the caravan continued to the Proposed Waiehu Residential Community parcel.

Upon gathering Mr. Orodener once again informed meeting participants that no public testimony will be heard during the site visit, no deliberations will be made regarding this pending docket, no questions from the public will directed to the Commissioners, and Commissioners are only allowed to ask the developer and project manager questions regarding the geographic of the location.

Commissioners asked the Petitioner questions regarding the soil composition, nearby water recourses, and other topographic features.

ADJOURNMENT

There being no further questions from the Commissioners, Chair Cabral adjourned the meeting at 9:48 a.m.