

LAND USE COMMISSION  
MEETING MINUTES  
April 12<sup>th</sup> , 2023 – 9:30 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 meeting.**

IN PERSON: West Hawai‘i Civic Center, 74-5044 Ane Keohokālole Hwy, Kailua-Kona, HI 96740

YOUTUBE RECORDING:

<https://www.youtube.com/watch?v=2K0JWaLBmr0>

COMMISSIONERS PRESENT:

Nancy Cabral  
Lee Ohigashi  
Gary Okuda  
George Atta  
Michael Yamane  
Kū‘ike Kamakea-‘Ōhelo  
Melvin Kahele

(8 seated Commissioners as of 12/12/22)

STAFF PRESENT:

Daniel Orodener, Executive Officer  
Scott Derrickson, Chief Planner  
Riley Hakoda, Staff Planner  
Martina Segura, Staff Planner  
Ariana Kwan, Chief Clerk  
Dan Morris, Esq. Deputy Attorney General (Via Zoom)

COURT REPORTER:

(via Zoom video recording)

Naegeli Deposition and Trial

**CALL TO ORDER** (*YouTube: 00:00:05*)

Vice Chair Cabral, hereby referred to as “Chair”, called the meeting to order at 9:31 a.m.

**APPROVAL OF THE MINUTES** (*YouTube: 00:02:53*)

The first agenda item was the approval of the February 8<sup>th</sup> and 9<sup>th</sup>, 2023, 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 February 8<sup>th</sup> and 9<sup>th</sup>, 2023, Minutes, and Commissioner Kamakea-‘Ōhelo seconded the motion.

The February 8<sup>th</sup> and 9<sup>th</sup>, 2023, Minutes were approved with 7 ayes, 0 nays, 1 excused.

**TENTATIVE MEETING SCHEDULE** (*YouTube: 00:04:10*)

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

Executive Officer, Dan Orodener provided the following tentative meeting dates, and cautioned the Commissioners not to plan to release the remaining days due to upcoming items:

- April 26<sup>th</sup>, 2023: SP23-415 Waiawa Correctional Facility (O'ahu)
- May 10<sup>th</sup> or May 11<sup>th</sup>, 2023: SP23-415 Waiawa Correctional Facility (O'ahu)
- June 21<sup>st</sup>, 2023: A19-807 Kamehameha Schools Bishop Estate (Hawai'i)
- June 22<sup>nd</sup>, 2023: A02-737 U of N Bencorp (Hawai'i)
- July 26<sup>th</sup>, 2023: SP9-403 Waimānalo Gulch (O'ahu)

**A81-525 Y-O LTD. 2022 MOTION** (*YouTube: 00:05:33*)

To Consider Petitioner's Motion for Extension of Time to Apply for Redistricting of Phase II That Consists of Approximately 195.246 Acres of Land Situation in the Agricultural District at Kaloko and Kohanaiki, North Kona, Hawai'i. Tax Map Key No. (3) 7-3-09:19, 20 and 57 to 62.

**Appearances**

*Office of Planning and Sustainable Development ("OPSD")*

Katia Balassiano (Program Administrator)  
Alison Kato, Esq. (Deputy Attorney General)

*County of Hawai'i*

Zendo Kern (Director)  
Jeff Darrow (Deputy Director)  
Jean Campbell, Esq. (Deputy Corporation Counsel)

*Petitioner and Petitioner Witnesses*

Bill Yuen, Esq. (Counsel for Petitioner)  
William Moore (Projects Planning Consultant)  
Keith Kato (President of Hawai'i Island Community Development)  
Mark Mayer (Project Manager for Petition Area)

*Public*

Kimberly Crawford  
Ruth Aloua  
Thomas Yeh

**Disclosures** (*YouTube: 00:08:23*)

Commissioner Okuda disclosed that Mr. Yuens Law Firm (Dentons Law Firm) represents the Hawai'i Medical Association in an arbitration, that Commissioner Okuda is the Claimant in. Commissioner Okuda stated that his representation in the case would not impact his impartiality in the matter at hand. Commissioner Okuda also disclosed that Mr. Yuens Partner, is married to a close friend. There were no objections to his continued participation.

**Public Testimony** (*YouTube: 00:16:39*)

The Land Use Commission received six written testimonies from the public on this matter.

- 04/05/2023: (1) Deborah Chang

04/10/2023: (3) Kaloko-Honokōhau NHP, Isaac “Paka” Harp, Tanya Souza  
04/11/2023: (1) Antu Harvey  
04/13/2023: (1) Janice Palma-Glennie

Chair Cabral opened the meeting up for testimony on the matter, and there were two members of the public who wished to testify on this matter.

Kimberly Crawford testified to defer the matter and requested updated studies  
Ruth Aloua testified to defer the matter and requested updated studies

**Presentations** (*YouTube: 00:36:54*)

Mr. Yuen facilitated a presentation from William Moore (Projects Planning Consultant) and received questions from the Commissioners. In response to the Petitioners presentation, the Commissioners asked questions relating to the archeological study, Chapter 343 compliance, drainage, flooding, sewage lines and use, development plans, affordable housing, community benefit, and the duration of the project (*YouTube: 01:03:38- 01:25:09*).

After William Moore’s presentation, Keith Kato the President of Hawai’i Island Community Development presented on the status of the affordable housing development. Kato welcomed questions from and Commissioners. In response to the presentation, the Commissioners asked questions relating to the affordable housing, community benefit, Chapter 343 compliance, archeological studies, planning, and new discoveries, and Project schedule and development plans (*YouTube: 01:25:32-01:47:53*).

After Keith Kato’s presentation, Mark Meyer the Project Manager presented on the status of the project development. Meyers welcomed questions from the Commissioners. In response to the presentation, the Commissioners asked questions relating to the housing credits, affordable housing, community benefit, Chapter 343 compliance, Ka Pa'akai analysis, archeological studies, Project delay, and current development plans and schedule (*YouTube: 01:48:00-02:59:15*).

The Petitioner presentation/questioning was followed by the position statement from the County of Hawai’i. The County of Hawai’i’s is in support of the Motion. Chair Cabral allowed Commissioners to ask the County questions and comment on the presentation. Commissioners asked questions regarding affordable housing, Chapter 343 compliance, Ka Pa'akai analysis, age of past studies, and what would happen if the Motion was not granted (*YouTube: 03:02:59-03:20:30*).

The Office of Planning and Sustainable Development (“OPSD”) presented that they are supportive of the Petitioners Motion. Chair Cabral allowed Commissioners to ask OPSD questions regarding the position statement. Commissioners asked questions regarding affordable housing, the signed stipulation, Chapter 343 triggers about the sewer line in the Petition and compliance, Ka Pa'akai analysis, compliance with LUC Rules and Statutes, age of

past studies, the change in OPSD's original position, substantial completion, and what would happen if the Motion was not granted (*YouTube: 03:20:32-03:55:00*).

### **Closing Arguments** (*YouTube: 03:57:07*)

Mr. Yuen gave a brief summary statement to the Commission that included an argument of substantial commencement, Chapter 343 compliance, and archeological study and Ka Pa'akai analysis compliance.

The County of Hawai'i stated their support for the Motion.

The Office of Planning and Sustainable Development stated their support for the Motion.

### **Public Testimony** (*YouTube: 04:05:05*)

Once again, Chair Cabral opened the meeting up for public testimony on this matter, and there were three members of the public who wished to testify.

Kimberly Crawford testified to defer the matter and requested updated studies.

Ruth Aloua testified to defer the matter and requested updated studies.

Thomas Yeh testified in support of the motion and Project.

### **Deliberations** (*YouTube: 04:31:28*)

Commissioner Okuda moved for the matter be deferred until a date that Mr. Yuen selects. Commissioner Ohigashi seconded. The Motion failed with 2 ayes, 3 nays, and 2 excused.

Commissioner Okuda moved to deny the Petitioners motion. Commissioner Kamakea-Ōhelo seconded the Motion.

The Motion passed with 6 ayes, 0 nays, and 2 excused.

### **ADJOURNMENT** (*YouTube: 04:46:44*)

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 at the April 26, 2023, hearing.

There being no further business to attended to, Chair Cabral adjourned the meeting at 3:35 p.m.