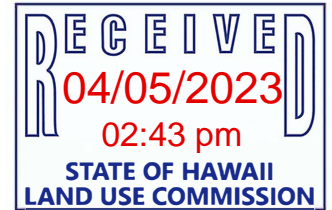

Subject: FW: Testimony for the Land Use Commission
Attachments: LUC A81_525_Y_O_2022Motion.pdf; 2023-04-12 Agenda for A81-525 YO Partnership.pdf



From: Deborah Chang <kulaiwi@outlook.com>
Sent: Wednesday, April 5, 2023 2:16 PM
To: Hakoda, Riley K <riley.k.hakoda@hawaii.gov>
Subject: [EXTERNAL] Testimony for the Land Use Commission

Aloha Mr. Hakoda:

Please confirm that you have received my attached testimony. It is for the LUC's hearing on April 12 and is regarding the Y-O Ltd. Motion for a time-extension.

Mahalo,
Deborah Chang



April 5, 2023

Aloha Chairman Dan Giovanni and Members of the State Land Use Commission:

SUBJECT: A81-525 Y-O Ltd. 2022 Motion

In my testimony, I will be referring to the successor of Y-O Ltd., as RCFC KALOKO. RCFC KALOKO is requesting an additional 10-year extension of time in which to substantially fulfill the conditions of Phase I and to apply for redistricting of Phase II. My concerns pertain to (1) the need to revise and update the archaeological inventory survey of 2005; (2) the unpermitted bulldozing of the historic trail at the future Holoholo St. extension; (3) the affordable housing credits that are not fully accounted for in the agreement between RCFC KALOKO and the County of Hawai'i Office of Housing and Community Development (OHCD); and (4) the need to require an Environmental Impact Statement for Phase II.

1. The archaeological inventory survey (AIS) dated 2005 should be updated.

While William W.L. Yuen, attorney for the petitioner has entered a number of exhibits regarding past archaeological studies and reviews/approvals of those studies by the State Historic Preservation Division, he has neglected to include the updated AIS of 2020-2021 that was done in the portion of Phase I that is being developed as an affordable housing project. The updated AIS is an important illustration of how the previous AIS dated 2005 needs to be revisited. On the 11-acre portion of Phase I where the affordable housing development is planned, the updated AIS found intact portions of Site 10714, the historic Hawaiian trail (referred to as "Road to the Sea" and "Trail to Sea Coast" in historic maps and surveyor's notes in 1882-1888) with kerbing, a causeway, and other architectural elements characteristic of a historic trail with historic integrity. It describes Site 10714 as "in relatively good condition, possessing integrity of location, design, and feeling." This is in direct contradiction to the statements by Scientific Consultant Services, Inc. in 2005 that "those portions of Site 10714 that appear to be intact were actually constructed by the U.S. Military during World War II" and "it lacks integrity of its original design." The updated AIS of 2020-2021 also found a burial vault (*waihona kupapa'u*) and sizeable ceremonial complex in close proximity to Site 10714, which were completely missed by the 2005 AIS. I ask that the LUC require an update of the 2005 AIS for Phase I.

2. Unpermitted bulldozing of the historic trail has already occurred.

The historic trail was partially bulldozed sometime after November 2006. There doesn't appear to have been any archaeological clearance or monitoring of this work, which resulted in destruction of a portion of Site 10714 and possibly other archaeological sites. The State of Hawai'i considers Site 10714 a.k.a. "Trail to Sea Coast" to be a public trail and government-owned by virtue of the Highways Act of 1892 [see §HRS 264-1(2)(b)]. Several other trails have also been identified in Phase II as potentially public trails. I'm aware that there is a lack of agreement as to ownership of these trails, but that does not give the landowner license to breach historic trails without prior archaeological review and approval. The portion of the trail

that was bulldozed appears to be in a perpetual, non-exclusive easement named "T-4" that was approved by DLNR in 2007 and intended to provide for a crossing of the trail by a future extension of Holoholo St. Furthermore, the T-4 easement "credit" was relocated to the affordable housing project by BLNR on September 9, 2022. With the relocation of T-4, where will the required Holoholo St. extension be? What should the consequences be for breaching Site 10714 at the former T-4 without prior archaeological review and monitoring? The map on p. 3 notes that the remaining easements over the trail that were approved in 2007 are "to be cancelled." RCFC KALOKO should be prohibited from doing any work within the remaining trail-crossing easements until the easement locations are clarified with DLNR and the public. Further breaching of the historic trail without prior review and approval needs to be prevented.

3. There appear to be 27 unsubstantiated affordable housing credits in the affordable housing agreement between RCFC KALOKO HEIGHTS, LLC. and the County of Hawai'i Office of Housing and Community Development (OHCD).

Since the affordable housing requirement of Phase I has been a key requirement of the LUC since the initial redistricting in 1983, this agreement should be carefully scrutinized to ensure that the correct credits are being awarded and the corresponding number of allowed market value units correctly calculated. Considering that RCFC KALOKO purchased 4 affordable housing credits at \$50,000 per credit, the 27 affordable housing credits are extremely valuable and should be clearly accounted for.

4. An Environmental Impact Statement (EIS) should be a condition of Phase II.

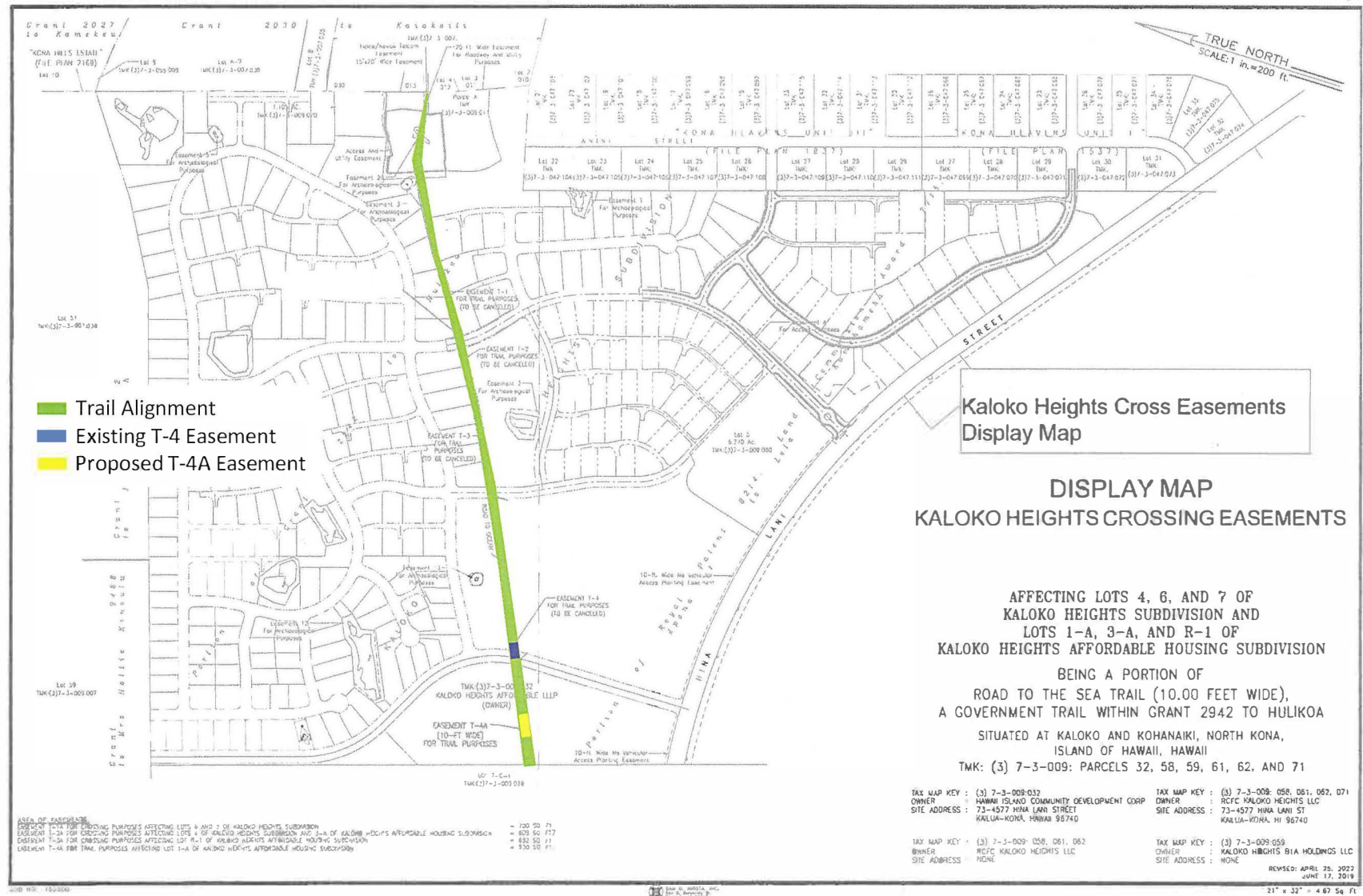
A lot has changed since the initial redistricting of Phase I in 1983. Today a development of that size would likely trigger an EIS requirement. The public deserves a chance to weigh in on both Phase I and Phase II, given the major changes that have occurred since Phase I was approved forty years ago. Please require an EIS as a condition of Phase II. The EIS should study the cumulative impacts of both Phases I and II.

Thank you for the opportunity to share my concerns about this proposed development in North Kona. Thank you also for your important service as State Land Use Commissioners.

Me ka pono,

Deborah Chang
kulaiwi@outlook.com

EXHIBIT A1



Relocation of the T-4 Easement was approved on September 9, 2022 by DLNR. Only four easements crossing the trail were approved by DLNR in 2007. However, the T-4 easement shown in blue appears to have already been bulldozed, and the remaining easements are marked on the map "to be cancelled." RCFC KALOKO should be prohibited from doing any work within the remaining trail-crossing easements until the easement locations are clarified with DLNR and the public.