

LAND USE COMMISSION
MEETING MINUTES
November 15, 2023 – 10:00 a.m.

Pursuant to Hawai‘i Revised Statutes, HRS § 92 as amended, the Commission conducted its meeting hybrid format. Interested persons submitting written testimony were recommended to submit their written Statements 24 hours in advance of the meeting to allow for distribution to the Commission prior to the meeting

IN PERSON: Leiopapa A Kamehameha, State Office Tower, Room 405
 235 S Beretania Street, Room 405, Honolulu, HI 96813

HYBRID: <https://us02web.zoom.us/j/81092338377>

YOUTUBE RECORDING: (<https://www.youtube.com/watch?v=h8Pu8AzyiIQ>)

COMMISSIONERS PRESENT:

Dan Giovanni (Via Zoom)
Lee Ohigashi (Via Zoom)
Gary Okuda
George Atta
Kū‘ike Kamakea-‘Ōhelo (Via Zoom)
Michael Yamane (Via Zoom)
Brian Lee (Via Zoom)
Nancy Carr Smith (Via Zoom)

STAFF PRESENT:

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

COURT REPORTER:

Naegeli Deposition and Trial
(Via Zoom Recording)

CALL TO ORDER (YouTube: 00:00:14)

Chair Giovanni, called the meeting to order at 10:00 a.m.

APPROVAL OF THE MINUTES (YouTube: 00:03:05)

The first agenda item was the approval of the October 18-19th, 2023, Minutes. There was no testimony on the approval of the Minutes. Commissioner Okuda abstained from voting on the minutes.

Commissioner Ohigashi moved to adopt the October 18-19th, 2023, Minutes, and Commissioner Carr-Smith seconded the motion.

October 18-19th, 2023, Minutes were approved with 7 ayes, 0 nays, 1 excused, and 1 abstain.

TENTATIVE MEETING SCHEDULE (YouTube: 00:06:17)

Chair Giovanni 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:

November 16, 2023: A81-524 Y-O LTD. (Kona, Hawai'i Island)
December 6, 2023: OPSD Soil Study Presentation (O'ahu)
January 24, 2024: A92-683 Halekua Development (O'ahu)
February 7, 2024: A83-549 Kona Vistas LLC (Kona, Hawai'i Island)
February 21, 2024: A92-686 AMFAC/HHFDC (Maui)
March 20, 2024: SP09-403 Waimanalo Gulch (O'ahu)

**DISCUSSION OF PROPOSED RULE AMENDMENTS TO THE LAND USE COMMISSION
ADMINISTRATIVE RULES CHAPTER 15-15** *(YouTube: 00:08:25)*

The proposed rule amendments were available online at: <https://luc.hawaii.gov/2023-admin-rules> or in person, by appointment only, at the Land Use Commission (LUC) office.

Timeline Overview *(YouTube: 00:9:25)*

Chief Planner Scott Derrickson and Executive Officer Daniel Orodenker provided a brief overview of the rule amendment process and the Commissions role.

Appearances

Public In Person

Cal Chipchase

Public Via Zoom

David Arakawa

Mary Alice Evans (OPSD Interim Director)

Zendo Kern (Hawai'i County Planning Director)

Public Testimony *(YouTube: 00:23:14)*

The Land Use Commission received testimony from Ken Church, Office of Planning and Sustainable Development, Commission on Water Resource Management, Department of Agriculture, and the County of Hawai'i.

During the hearing Cal Chipchase provided testimony in person, and David Arakawa, Mary Alice Evans, and Zendo Kern provided testimony virtually.

Commissioners had the opportunity to question the testifiers questions included background information, written submission of testimony provided, explanation of disagreement, and an estimated timeline for which is needed to provide more in-depth testimony regarding the proposed rule amendments.

Staff Presentation *(YouTube: 01:43:26)*

Dan Orodenker stated that most of the suggested amendments are non-substantial, or in response to Supreme Court cases. Mr. Orodenker also identified areas in the current draft of the rules that need editing in response to some of the public testimony received. Commissioners asked staff questions regarding separating the non-substantial edits and the substantial edits, frequency of rule changes and previous timeline, County comments and other public entity interaction, and how the edits regarding special permits were received from the Deputy Attorney General.

Public Testimony (*YouTube: 02:08:43*)

During the Second opportunity for public testimony, there were no members of the public who opted to participate.

Deliberations (*YouTube: 02:09:42-02:37:55*)

Commissioner Okuda moved for a three-month deferral¹ of the matter. Commissioner Lee seconded the motion.

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

REQUEST FOR APPROVAL TO SUBMIT THE PROPOSED RULE AMENDMENTS TO HAWAII ADMINISTRATIVE RULES PROCESSING SITE (HARPS) AND FOR REVIEW/AUTHORIZATION TO PROCEED TO PUBLIC HEARINGS

Agenda item canceled, due to motion on previous agenda item.

ADJORNMENT (*YouTube: 02:38:41*)

Chair Giovanni requested that Staff arrange for lunch to be provided to the Commission to facilitate the meeting on November 16th, 2023 because the meeting is being held at a remote location.

There being no further business to attend to, Chair Giovanni adjourned the meeting at 2:05 p.m.

¹ During the Office of Planning and Sustainable Development's public testimony, Interim Director Mary Alice Evans indicated the Office needed three more additional months to provide better testimony regarding the proposed rule changes.