

LAND USE COMMISSION
MEETING MINUTES
November 16, 2023 – 10:00 a.m.

Pursuant to Hawai‘i Revised Statutes, HRS § 92 as amended, the Commission conducted its meeting in person. 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: West Hawai‘i Civic Center, Community Meeting Hale, Building G 74-5044 Ane Keohokalole Highway, Kailua-Kona, HI 96740

YOUTUBE RECORDING: (<https://www.youtube.com/watch?v=HcGK29nWp90>)

COMMISSIONERS PRESENT:

Dan Giovanni
Lee Ohigashi
Gary Okuda
George Atta
Kū‘ike Kamakea-‘Ōhelo
Melvin Kahele
Michael Yamane
Brian Lee
Nancy Carr Smith

STAFF PRESENT:

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

COURT REPORTER:

Naegeli Deposition and Trial
(Via Zoom Recording)

CALL TO ORDER (YouTube: 00:00:06)

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

A81-525 Y-O LIMITED PARTNERSHIP (Hawai‘i)

To Consider Petitioner’s Motion for Reconsideration of Decision and Order Denying Motion for Extension of Time to Apply for Redistricting of Phase II. Approximately 408.719 Acres of Land at Kaloko and Kohanaiki, North Kona, Hawai‘i, TMK Nos.: (3) 7-3-09:19, 20 and 57 to 62. Appearances

Office of Planning and Sustainable Development (“OPSD”)

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

Petitioner and Petitioner Witnesses

Mark Meyer (Witness)
William Yuen, Esq. (Petitioners Council)

County of Hawai‘i

Zendo Kern (Planning Department Director)
Jeff Darrow (Planning Department Deputy Director)
Michelle Ahn, Esq. (Deputy Corporation Counsel)

Public

Clare Loprinzi
Kimberly Crawford
Lily Salinas
Loke Aloua
Chuck Flaherty

Public Continued

Kilihea Inaba
Keliyah Kimitete
Janice Palma Glennie
Maki Morinoue
Ashley Obrey
Cindy Freitas

Disclosures (*YouTube: 00:06:40*)

Commissioner Carr-Smith disclosed that she has worked with the County Planning Director and Deputy Director in the past, and she stated there would be no impact on her decision making. There were no objections to her continued participation.

Public Testimony (*YouTube: 00:08:22-01:20:13*)

The Land Use Commission received 8 submissions of written testimony from the public prior to the hearing, which were posted and available for review on the Land Use Commission website. The Commission received one submission of written testimony less than 24 hours before the hearing, it was recognized and later posted to the website.

Chair Giovanni opened the meeting up for testimony on the matter, and 11 members of the community provided public testimony in support of the Commissions previous decision. Testifies included Clare Loprinzi, Kimberly Crawford, Lily Salinas, Loke Aloua, Chuck Flaherty, Kilihea Inaba, Keliyah Kimitete, Janice Palma Glennie, Maki Morinoue, Ashley Obrey, and Cindy Freitas

Presentations (*YouTube: 01:20:13*)

Mr. Yuen provided a brief presentation on the Petitioners position justifying the Motion for Reconsideration.

Commissioners questioned the Petitioner on the standard of reconsideration and the contested Findings of Fact and Conclusions of Law in the 2023 Decision and Order (*YouTube: 01:30:46-02:19:17*).

The County of Hawai'i presented in support of the Petitioners Motion to Reconsider. Commissioners asked County of Hawai'i questions on their change in position statement, impacts on Phase I, conditions in the 1983 Original Decision and Order, Ka Pa'a Kai Analysis and other court cases in Conclusion of Law in the 2023 Decision in Order, and actions (*YouTube: 02:21:15-02:53:30*).

The Office of Planning and Sustainable Development presented their statement in support of the Petitioners Motion to Reconsider. The Commission asked OPSD questions regarding impacts to Phase I, conditions in the 1983 Original Decision and Order, Ka Pa'a Kai

Analysis, and other court cases in Conclusion of Law in the 2023 Decision in Order (*YouTube: 02:53:35-03:13:34*).

Commissioners asked Daniel Morris the Deputy Attorney General for the Land Use Commission questions on their change in position statement, impacts on Phase I, conditions in the 1983 Original Decision and Order, Ka Pa‘a Kai Analysis, and other court cases in Conclusion of Law in the 2023 Decision in Order, and applicability to actions (*YouTube: 03:07:44-03:13:00*).

The Petitioners final statements were regarding the overall merits of the project, and Commissioners asked questions about the merits of the project and not with respect to the Motion to Reconsider (*YouTube: 03:14:00- 03:34:30*).

Public Testimony (*YouTube: 03:34:32*)

Once again, Chair Giovanni opened the meeting up for the second round of testimony, Chuck Flaherty, Kimberly Crawford, and Loke Aloua provided public testimony.

Deliberations (*YouTube: 03:40:19-03:58:16*)

Commissioner Carr-Smith moved to approve the Petitioners Motion to Reconsider, and Commissioner Lee seconded. The motion failed with 2 ayes and 7 nays.

Commissioner Okuda moved to deny the Petitioners Motion to Reconsider, and Commissioner Kahele seconded the motion. The motion passed with 7 ayes and 2 nays.

ADJOURNEMENT (*YouTube: 03:58:42*)

There being no further business to attend to, Chair Giovanni adjourned the meeting at 2:47 p.m.