

**CULTURAL RESOURCES COMMISSION
COUNTY OF HAWAII**

**MINUTES
December 11, 2024**

MEETING LOCATION:

Hybrid in-person and interactive video conference through Zoom with live observation through YouTube. The in-person location was held at the Hilo Planning Department Conference Room, 101 Pauahi Street, Suite 3, Hilo, HI 96720.

The full YouTube video of this hearing can be found here:
<https://www.youtube.com/watch?v=ZJqFQ63krU0>

COMMISSIONERS PRESENT VIA ZOOM: Matthew Clark (Chair), Desmon Haumea (arrived at 10:12 a.m. and left at 12:59 p.m.), Roberta “Ku‘ulei” Keakealani, Kealohanuiopuna Kinney, and Aaron Spielman.

COMMISSIONERS PRESENT IN PERSON: Janet Six.

COMMISSIONERS EXCUSED: Natalie Kurashima (Vice Chair), Nicole Lui, and Scott Mahoney.

ALSO PRESENT: Jean Campbell, Deputy Corporation Counsel; Kevin Sullivan, Planner; Kim Tanaka, Planner; and Ashley DeVera, Board Secretary.

Commissioner Keakealani provided a pule to open.

Chair Clark called the Cultural Resources Commission (CRC) meeting to order at 10:09 a.m. A quorum was established with six members in attendance. It was announced that pursuant to Act 220, Session Laws of Hawaii 2021, which amended the Sunshine Law to allow meetings to be remotely conducted online, effective January 1, 2022, the Cultural Resources Commission meetings will be held online, with an in-person location for the public to provide testimony. The meeting can be viewed live online, and a link to YouTube can be located on the County website, as well as links to reports and surveys reviewed at this hearing. Commissioners were reminded that only one person may speak at a time and were asked to raise their hands to be recognized before speaking.

Commissioners were asked to introduce themselves and in accordance with the Sunshine Law, identify any member(s) present within the household. All members reported being alone in their location except Commissioner Spielman who identified one individual.

Staff introductions were made.

There were no addendums or supplemental agenda items.

STATEMENT(S) FROM THE PUBLIC

At 10:13 a.m., Chair Clark opened the floor to receive public testimony. Procedures for testimony were provided. There is a three-minute time limit on each agenda item; statements must relate to items on the agenda. There were four public testifiers on Zoom.

Cindy Freitas [*SEE YOUTUBE TIMESTAMP – 6:37*]

Clare Loprinzi [*SEE YOUTUBE TIMESTAMP – 13:19*]

Simmy McMichael [*SEE YOUTUBE TIMESTAMP – 20:05*]

Janet Matlock [*SEE YOUTUBE TIMESTAMP – 53:21*]

Public testimony closed at 11:03 a.m.

BUSINESS OF THE COMMISSION

1. Cultural Impact Assessment Report Review: Lā‘īpala Makai Planned Unit Development (PL-CRC-2024-000019)

Review of Cultural Impact Assessment (CIA) Report in support of development applications for the proposed Lā‘īpala Makai Planned Unit Development (65-lot single family residential subdivision). (PL-REZ-2022-000014, REZ 07-075 & PL-SMA-2022-000012, SMA 07-024)

Location: Kāpala‘alaea 2nd Ahupua‘a, North Kona District, Hawai‘i Island

TMK: (3) 7-7-008:121

[*SEE YOUTUBE TIMESTAMP – 25:40*] This agenda item was called to order at 10:33 a.m. There were four members of the public present on Zoom and no public testimony provided.

[*SEE YOUTUBE TIMESTAMP – 26:20*] Chair Clark disclosed that he worked on the cultural impact assessment report and should recuse himself. The commissioners had a brief discussion.

At 10:47 a.m. the commission took a short recess, and the meeting was called to order at 10:57 a.m.

[*SEE YOUTUBE TIMESTAMP – 50:38*] Chair Clark advised those in attendance that he would be recusing himself from this portion of the meeting. Commissioner Spielman was asked to preside as Chair Pro Tempore, which he accepted. Quorum was confirmed with five remaining participating commissioners.

[*SEE YOUTUBE TIMESTAMP – 53:21*] Janet Matlock provided testimony. Public testimony was closed at 11:03 a.m.

[*SEE YOUTUBE TIMESTAMP – 55:59*] Commissioner Spielman asked the representatives of the project to introduce themselves. Daryn Arai, land use planning consultant assisting Hawai‘i One1 Investors, introduced Matt Mansi, project manager with Hawai‘i One1 Investors, and Ken Van Bergen, consultant.

[*SEE YOUTUBE TIMESTAMP – 57:08*] Mr. Arai provided an overview of the history of the project. The rezoning and special management area (SMA) amendment request is to receive a five-year time extension, in order to secure final subdivision approval for the sixty-two (62) lot single family residential subdivision. The original permits were issued in 2009 and required the first phase of the project to be completed by 2019.

The applicant requested that condition K of the change of zone ordinance be amended to allow drainage improvements to be bonded instead of constructed. The applicant completed the subdivision and secured a planned unit development (PUD) permit in 2016, which would allow certain zoning exceptions for the design of the project. They prepared an environmental assessment (EA) and secured a finding of no significant impact for the proposed La‘aloa Park in 2018. They secured tentative subdivision approval for phase one of the project, which would include eighteen (18) lots. In 2017, they gained approvals for the burial treatment plan as well as a data recovery plan from the State Historic Preservation Division (SHPD).

In 2019, they lost funding to proceed with the project, then requested a time extension to find lenders. The request for the time extension went before the Leeward Planning Commission (LPC) in April 2022 and requested the assistance of the CRC to assist in determining the impacts to the cultural landscape and whether those impacts can be adequately mitigated or minimized. The request also included a cultural impact assessment (CIA) that was prepared in 2006. The study found there was no apparent ongoing cultural resources or practices other than remains of sites or features of typical traditional ahupua‘a lifestyle and use.

The study recommended for consultation to occur with two families that have ancestral ties to the lands and be afforded the opportunity to walk through the project site prior to any grading and be a part of an advisory group. The consulted parties expressed concerns over the density of the project, its affordability, and recommended any future street names reflect the history of the names of people who once lived in the area. They highlighted the importance of having a completed burial treatment plan prior to any ground disturbance. The applicant is willing to address all those concerns and accommodate them.

The LPC raised concerns whether the level of consultation with the descendants in the planning of the overall project was sufficient and whether lineal descendants access issues have been considered by SHPD. In June 2022, the CRC reviewed the 2006 CIA and archaeological reports and recommended that the applicant perform additional consultation with lineal and cultural descendants. The applicant then contracted ASM Affiliates, who conducted a second CIA and has been submitted to CRC for review and if it fulfills the CRC’s recommendation.

The project site is not within the Kahaluu historic district. The archaeological inventory survey was prepared by Haun and Associates in 2006 and was accepted by SHPD. It identified fourteen (14) sites as significant for their information content. Sites were recommended for mitigation through data recovery and preservation.

In the 2024 CIA update, they consulted with parties, with only one having genealogical ties to the ahupua‘a. All agreed that the implementation of the proposed project would intensify

feelings of loss and contribute to the destruction of Kona's cultural heritage. Some felt that the density of the development would not allow for an appropriate level of protection for the cultural sites and urged another design. The primary source of identified cultural impacts arise from the plan construction of a proposed road corridor on parcel one with potential impacts to burials and the Kuakini Wall. To avoid impacting the burial sites and Kuakini Wall, the study recommended the Naniloa Drive or another existing route be used to access the proposed project.

It was also recommended that the information obtained from the archaeological data recovery efforts be utilized to develop interpretive materials that can tell the history of the area. The development plan should be revised to reflect an area where descendants can park their vehicles to access the burial sites. The applicant is willing to accommodate both recommendations.

[*SEE YOUTUBE TIMESTAMP – 1:09:39*] Commissioner Spielman opened the floor for questions. He asked whether the CIA addressed the CRC's recommendations. Mr. Arai confirmed. He also asked if there were options for alternative access roads. Mr. Arai responded that the Change of Zone approval provided two options; one to use existing roadway systems to the North, or to construct a new access through the makai parcel one (1) and connect to Ali'i Drive. It was stated that the developers preferred to construct the new access to create multiple access points to distribute the traffic load and for providing alternative means of travel in the event of emergencies.

[*SEE YOUTUBE TIMESTAMP – 1:12:46*] Commissioner Six asked about the archaeological inventory survey (AIS), since it was originally done in 2016 and if it needs to be updated due to the changes in the project. Mr. Arai stated that SHPD approved the data recovery and preservation plans and have not requested an updated AIS. He also verified that the project has not changed.

[*SEE YOUTUBE TIMESTAMP – 1:16:02*] Mr. Van Bergen provided an update. He stated that they fully mitigated the burials, following the SHPD plan and the burial treatment plan. They are fully permitted, and site work already was completed on parcel one twenty-one (121), the upper parcel. The lower parcel did not have any construction or grubbing done, only for the easement for the roadway and the archaeological studies. Commissioner Six questioned him about the wastewater. Mr. Van Bergen responded that they had construction plans, that was approved by Department of Public Works (DPW) in 2018, and it called for a sewer connection.

[*SEE YOUTUBE TIMESTAMP – 1:18:31*] Commissioner Kinney asked about the community surveys. Mr. Arai responded that the applicant did not conduct a community survey. The consultation occurred through the development of both the 2006 and the 2024 CIA with genealogical ties. In the 2006, they interviewed six (6) or seven (7) individuals and in 2024, they interviewed one (1) individual. The applicant tried to reach out to more individuals but was unsuccessful.

Commissioner Kinney questioned about the mitigation strategies. Mr. Arai responded that the process went slightly backwards from Planning Commission to CRC. The applicant went back to CRC to determine if the 2024 CIA update addressed all the concerns expressed by the CRC in 2022. Commissioner Kinney requested clarification regarding affordable housing. Mr. Arai

responded that a decision has not been made because the County is undergoing efforts to amend the Hawai'i County Code (HCC) Chapter 11, Housing.

[*SEE YOUTUBE TIMESTAMP – 1:28:27*] Mr. Arai clarified that the EA was prepared for La'aloa Park, which is located to the north, in order for the applicant to satisfy its recreational obligations. An EA was not done for this parcel, however an environmental report did accompany the amendment request that was provided to the Planning Commission.

[*SEE YOUTUBE TIMESTAMP – 1:29:48*] Commissioner Keakealani asked if an advisory group was created or in existence. Mr. Arai confirmed there was no advisory group, and the applicant is willing to create one. Commissioner Keakealani questioned about the water for the development. Mr. Arai responded that Department of Water Supply (DWS) will make that determination. Mr. Van Bergen added that a significant amount of work was done with DWS, and the project will have a master meter to help reduce water usage.

[*SEE YOUTUBE TIMESTAMP – 1:39:11*] Commissioner Six questioned the management and maintenance of the cultural sites that were put into preservation. Mr. Van Bergen responded, ideally the applicant would like lineal descendants, local practitioners, or public that would like to participate. Mr. Mansi added that the sites would be managed by the homeowner's association (HOA).

[*SEE YOUTUBE TIMESTAMP – 1:42:16*] Commissioner Kinney asked about wildfire mitigation and the archaeological park and trail for potential fire impacts. Mr. Arai responded that by establishing a working group, they could hopefully help guide the applicant on how to best manage both the vegetation in the area or excessive vegetation.

[*SEE YOUTUBE TIMESTAMP – 1:42:16*] Commissioner Spielman asked about the buffer zone and the Kuakini Wall. Mr. Arai responded that there is an existing breach in the Kuakini Wall, prior to the applicant's acquiring the property. There is a ten (10) foot buffer from archaeological sites and an additional temporary buffer during construction. Mr. Van Bergen added when the SMA application was submitted, there were maps showing the burial buffer areas and where the road will be.

[*SEE YOUTUBE TIMESTAMP – 1:47:46*] Commissioner Kinney asked if a grubbing permit was acquired prior to the groundwork. Mr. Van Bergen responded the grubbing permit was acquired in 2017 or 2018 and approval from SHPD. An archaeological monitor was on site during the grubbing period, and they hired a landscape company to clear either twenty (20) or thirty (30) foot buffer around the burial sites with construction fencing. That was the only time there was site work on the property. Commissioner Six asked if there were other sites discovered during the grubbing. Mr. Van Bergen confirmed no additional findings.

[*SEE YOUTUBE TIMESTAMP – 1:50:03*] Commissioner Keakealani questioned about the financial status of the project and the request for the time extension. Mr. Arai responded that running out of money is a big issue, but the request for the time extension is due to running out of time to complete the project. Mr. Mansi clarified that the funding they were trying to obtain was construction lending, not capital funds.

[*SEE YOUTUBE TIMESTAMP – 1:51:54*] Commissioner Spielman requested a motion. Commissioner Kinney motioned to advise the applicant to create a cultural advisory group consisting of lineal descendants, cultural practitioners, essential interests, and improving the mitigation opportunities; seconded by Commissioner Six. A brief discussion occurred. A roll call vote was taken and passed unanimously with five aye votes (Kealoha, Six, Spielman, Keakealani, Haumea).

[*SEE YOUTUBE TIMESTAMP – 2:17:42*] Commissioner Keakealani motioned that all of the walls within and on the border be preserved in place, seconded by Commissioner Six. A brief discussion occurred. A roll call vote was taken and passed unanimously with five aye votes (Keakealani, Six, Spielman, Kinney, Haumea).

[*SEE YOUTUBE TIMESTAMP – 2:33:05*] Commissioner Six motioned to use one hundred percent native plants that would have been found in that landscape, drought tolerant species that would have been native to that landscape to enhance the habitat and the cultural landscape; seconded by Commissioner Keakealani. A brief discussion occurred. A roll call vote was taken and passed unanimously with five aye votes (Six, Keakealani, Spielman, Kinney, Haumea).

[*SEE YOUTUBE TIMESTAMP – 2:38:32*] Commissioner Keakealani motioned that the CRC finds the project presents significant cumulative impacts to the cultural landscape; seconded by Commissioner Haumea. A brief discussion occurred. A roll call vote was taken and passed unanimously with five aye votes (Keakealani, Haumea, Six, Spielman, Kinney).

[*SEE YOUTUBE TIMESTAMP – 2:49:07*] Commissioner Spielman motioned that the Cultural Advisory Board (CAB) takes into consideration certain specific elements of the project. For example, the access and specifically the relationship of the access to the Kuakini Wall, burial access and parking for lineal descendants; seconded by Commissioner Six. A roll call vote was taken and passed unanimously with five aye votes (Spielman, Haumea, Six, Kinney, Keakealani).

[*SEE YOUTUBE TIMESTAMP – 2:52:21*] Commissioner Haumea left the meeting at this time.

This matter concluded at 1:00 p.m.

ANNOUNCEMENTS

[*SEE YOUTUBE TIMESTAMP – 2:54:49*] Chair Clark returned to the meeting. Quorum was confirmed with five remaining participating commissioners.

[*SEE YOUTUBE TIMESTAMP – 2:55:42*] Micah Alameda, Executive Assistant to the Mayor, gave a brief introduction.

ADMINISTRATIVE MATTERS

1. Approval of minutes of the meeting held on June 12, 2024.

[*SEE YOUTUBE TIMESTAMP – 3:01:03*] Commissioner Spielman motioned to approve the minutes as circulated; seconded by Commissioner Six. No discussion occurred. The minutes were approved without opposition with a unanimous aye voice vote.

2. Next meeting tentatively scheduled for Wednesday, January 8, 2025.

[*SEE YOUTUBE TIMESTAMP – 3:01:54*] Commissioner Six left the meeting at this time.

ADJOURNMENT

The meeting was adjourned at 1:09 p.m. due to lack of quorum.

Respectfully Submitted,

Ashley DeVera, Board Secretary

A T T E S T :

Matthew Clark, Chairman
Cultural Resources Commission