Pursuant to Hawai'i Revised Statutes Section 92-3.7, which codified Act 220, SLH 2021, the meetings of the County of Kaua'i Public Access, Open Space, and Natural Resources Preservation Fund Commission will be conducted as follows:

- The meeting location that will be open to the public with audiovisual connection is:
  - Lihu'e Civic Center, Moikeha Building
  - Meeting Room 2A-2B
  - 4444 Rice Street, Lihu'e, Kaua'i, Hawai'i

- The public may also attend the meeting through Zoom using link provided on the agenda.
  - If the Zoom connection or audiovisual connection is lost and cannot be restored within 30 minutes during the meetings, the Commission will postpone all matters and reconvene at the next scheduled Commission Meeting.

- Written testimony indicating your 1) name or pseudonym, and if applicable, your position/title and organization you are representing, and 2) the agenda item that you are providing comment on, may be submitted on any agenda item and submitted to planningdepartment@kauai.gov or mailed to the Kauai County Planning Department 4444 Rice Street, Ste A473, Lihue, Hawaii 96766. Written testimony received by the Planning Department at least 24 hours prior to the meeting will be distributed to all Commissioners prior to the meeting. Any testimony received after this time and up to the start of the meeting will be summarized by the Clerk of the Commission during the meeting and added to the record thereafter.

- Oral testimony will be taken in-person at the public meeting location and via Zoom link listed on the agenda.
  - All testifier audio and video will be disabled until it is your turn to testify.
  - Per the Commission's and Chairs practice, there is three-minute time limit per testifier, per agenda item.
  - If there are temporary technical glitches during your turn to testify, we may have to move on to the next person due to time constraints; we appreciate your understanding.

- IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR ASEGRETI@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST. UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.
PUBLIC ACCESS, OPEN SPACE, AND NATURAL RESOURCES
PRESERVATION FUND COMMISSION TELECONFERENCE
MEETING NOTICE AND AGENDA
Thursday, July 14, 2022
1:00 p.m. or shortly thereafter

ZOOM MEETING LINK:
https://us06web.zoom.us/j/83191668200

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF AGENDA

D. MINUTES of the meeting(s) of the Commission
   1. June 9, 2022

E. RECEIPT OF ITEMS FOR THE RECORD

F. GENERAL BUSINESS
   1. Update on a 0.2764 acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (4)1-8-008: 065.
   2. Update on a 0.2867 acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (4)1-8-008: 071.

G. COMMUNICATIONS

H. UNFINISHED BUSINESS (For Action)
   1. Review and Discussion regarding a 1.39 acre parcel located in ‘Aliomanu, Ko‘olau Moku, further identified as Tax Map Key (4)4-9-004:013 (‘Aliomanu Beach Living Trust, et al.).
   2. Review and Discussion regarding a proposal to acquire access to State of Hawai‘i property through 4901 Waiakalua Street, Kilauea, Hawai‘i 96754, Ko‘olau Moku, further identified as Tax Map Key 5-1-005:036 (Richard S. Stallman and Lisa Flores).
I. **NEW BUSINESS (For Action)**

1. Review and Discussion regarding a request to acquire a 0.4006 acre parcel located in Wainiha, Hā’ena, Halele’a Moku, identified as Lot 10 of Wainiha Subdivision II (File Plan 1840), 7322 Alea.lea Road, Kaua’i, Hawai’i 96714 and further identified as Tax Map Key (4) 5-8-09: 049 (Dirk P. & Kathleen Lange).


J. **EXECUTIVE SESSION**

EXECUTIVE SESSION: Pursuant to Hawai’i Revised Statutes 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with County’s legal counsel on questions, issues, status, and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to the following matters:

1. The possible acquisition of the 0.2764 acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (TMK) (4)1-8-008: 065 and the 0.2867 acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (TMK) (4)1-8-008: 071.

2. The possible acquisition of a 1.39 acre parcel located in ‘Aliomanu, Ko’olau Moku, further identified as Tax Map Key (4)4-9-004:013 (‘Aliomanu Beach Living Trust, et al.).

3. A proposal to acquire access to State of Hawai’i property through 4901 Waiakalua Street, Kilauea, Hawai’i 96754, Ko’olau Moku, further identified as Tax Map Key 5-1-005:036 (Richard S. Stallman and Lisa Flores).

4. A request to acquire a 0.4006 acre parcel located in Wainiha, Hā’ena, Halele’a Moku, identified as Lot 10 of Wainiha Subdivision II (File Plan 1840), 7322 Alea.lea Road, Kaua’i, Hawai’i 96714 and further identified as Tax Map Key (4) 5-8-09: 049 (Dirk P. & Kathleen Lange).

K. **ANNOUNCEMENTS**

1. Topics for Future Meetings.

2. The following regularly scheduled Open Space Commission meeting will be held at 1:00 p.m., or shortly thereafter, on or about October 13, 2022. If a meeting may be held sooner, the Commission will post notice in compliance with Hawai’i Revised Statutes Chapter 92. The Open Space Commission anticipates this meeting to be held in-person at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Hawaii 96766. The Commission also anticipates providing a virtual platform capability for members of the public to testify remotely. The Commission will announce its intended meeting method via an agenda electronically posted at least six days prior to the meeting date.
L. ADJOURNMENT
**COUNTY OF KAUA‘I**

**Minutes of Meeting**

**OPEN SESSION**

<table>
<thead>
<tr>
<th>BOARD/COMMISSION:</th>
<th>PUBLIC ACCESS, OPEN SPACE AND NATURAL RESOURCES PRESERVATION FUND COMMISSION</th>
<th>MEETING DATE</th>
<th>JUNE 9, 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LOCATION</strong></td>
<td>Mo‘ikeha Meeting Room 2A/2B and Zoom Teleconference</td>
<td><strong>START OF MEETING:</strong></td>
<td><strong>1:03 p.m.</strong></td>
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<td><strong>END OF MEETING:</strong></td>
<td><strong>2:59 p.m.</strong></td>
<td><strong>PRESENT</strong></td>
<td>Chair Shaylyn Kimura, Vice Chair Nancy Kanna, Commissioners: Jonathan Lucas (Zoom), Mark Ono, and Robin Pratt. Deputy County Attorney Hugo Cabrera. Deputy County Attorney Andrew Michaels. Planning Department Staff: Deputy Director Jodi Higuchi-Sayegusa, Commission Support Clerk Duke Nakamatsu and Planner Myles Hironaka. Office of Boards and Commissions: Administrator Ellen Ching and Commission Support Clerk Sandra Muragin. <strong>EXCUSED</strong></td>
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<tr>
<td><strong>ABSENT</strong></td>
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**SUBJECT**

<table>
<thead>
<tr>
<th>DISCUSSION</th>
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<tbody>
<tr>
<td><strong>A. Swearing In of New Commissioners</strong></td>
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<tr>
<td>Administrative Assistant to the County Clerk Eddie Topenio officiated the oath of office to Commissioner Mark Ono and Commissioner Robin Pratt on Friday, June 3, 2022.</td>
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<td><strong>B. Call To Order</strong></td>
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<tr>
<td>Chair Kimura called the meeting to order at 1:03 p.m.</td>
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<tr>
<td><strong>C. Roll Call</strong></td>
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<tr>
<td>Deputy Director Jodi Higuchi Sayegusa verified attendance by roll call; Commissioner Dizon was excused. Commissioner Lucas replied present. Commissioner Ono replied present. Commissioner Pratt replied present. Vice Chair Kanna replied present. Chair Kimura replied present.</td>
</tr>
<tr>
<td><strong>D. Approval of Agenda</strong></td>
</tr>
<tr>
<td>Ms. Higuchi Sayegusa asked the commission to amend the agenda and move L. Executive Session to follow G. Hearings and Public Comments. She said the County Attorney’s Office received guidance from the Office of Information Practices (OIP) that agenda items that could possibly be discussed in executive session should be listed under executive session. For this meeting all possible items were listed but L.2. and L.3. would be discussed in executive session. Vice Chair Kanna moved to approve the amended agenda, moving L. Executive Session to follow G. Hearings and Public Comments. Mr. Ono seconded the motion. Motion carried 5:0.</td>
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**ACTION**

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<tr>
<td>Quorum was established with five commissioners present.</td>
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<tr>
<td>SUBJECT</td>
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<tr>
<td><strong>E. Minutes of the Meeting(s) of the Commission</strong></td>
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<tr>
<td><strong>E.2.</strong> February 10, 2022.</td>
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<tr>
<td><strong>F. Receipt of Items For The Record</strong></td>
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<tr>
<td><strong>G. Hearings and Public Comment</strong></td>
</tr>
<tr>
<td><strong>L. Executive Session</strong></td>
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<tr>
<td>SUBJECT</td>
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<td>anticipated in advance. HRS Section 92-7(a). The executive session may only be held, however, upon affirmative vote of two-thirds of the members present, which must also be the majority of the members to which the board is entitled. HRS section 92-4. The reason for holding the executive session shall be publicly announced.</td>
</tr>
<tr>
<td>Pursuant to Hawai‘i Revised Statutes §92-4 and §92-5(a)(4), the purpose of this executive session is to consult with County’s legal counsel on questions, issues, status, and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to the access to the following matters:</td>
</tr>
<tr>
<td>1. The possible acquisition of the 0.2764-acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (TMK) (4)1-8-008:071.</td>
</tr>
<tr>
<td>2. The possible acquisition of the access to Kauapea Beach Access – Hanalei District, Kaua‘i, Tax Map Key (TMK)5-2-004:071.</td>
</tr>
<tr>
<td>3. The possible acquisition of access to Kukui‘ula Bay through Kaikapu LLC Property at 4432 Lāwa‘i Road, Koloa, HI 96756, (formally Leight Property) – Koloa District Tax Map Key 2-6-003:017, Koloa, Kaua‘i.</td>
</tr>
<tr>
<td>4. The possible acquisition of a 1.39-acre parcel or an access easement upon a portion of the parcel located in ‘Aliomanu, Ko‘olau Moku, further identified as Tax Map Key (4)4-9-004:013 (‘Aliomanu Beach Living Trust, et al.).</td>
</tr>
<tr>
<td>5. The proposal to acquire access to State of Hawai‘i property through 4901 Waiakalua Street, Kilauea, Hawai‘i 96754, Ko‘olau Moku, further identified as Tax Map Key 5-1-005:036 (Richard S. Stallman and Lisa Flores).</td>
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<tr>
<td>SUBJECT</td>
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<tr>
<td>H. Communication</td>
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<tr>
<td>I. General Business</td>
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<td><strong>L.1.</strong></td>
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<td><strong>L.2.</strong></td>
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Ms. Higuchi Sayegusa requested to discuss both parcels at the same time and shared the following:
- In 2018 both parcels were proposed for acquisition due to the significant history that the Hanapēpē massacre occurred in the area.
- The parcels met the criteria for use of open space funds.
- The landowner at the time was willing to sell until a change in ownership. The new owners ceased all communication.
- The Planning Department issued a letter to the new owner Kaua`i Petroleum a month ago and received no response.
- The department recommended the commission allow time for the department to follow up and check if they are interested in selling the parcels.

Chair Kimura and Vice Chair Kanna both recalled that they were in active negotiations with the owners in 2018 or 2019 to purchase one or both parcels. Ms. Higuchi Sayegusa responded that it was included in the biannual report to County Council and there were no recommendations by the commission to seek resolution to purchase using open space funds or condemnation.

Mr. Ono asked if the county used a land swap as a strategy. Ms. Higuchi Sayegusa replied that proposals use open space funds for the county to own and acquire property rights. The only
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<tr>
<td>Alternate strategy used was to partner with the State of Hawai‘i.</td>
<td>Chair Kimura asked if the recent communication with the new landowner included that back on June 7, 2019 the county received appraisals and offered $430,000 for parcel (4)1-8-008:065 and $440,000 on parcel (4)1-8-008:071. Ms. Higuchi Sayegusa replied the amount was not mentioned and stated the follow-up communication could include that information. Chair Kimura said the communication should include that they want to memorialize the site and if they are interested or not. Vice Chair Kama added that they should involve the Chamber of Commerce and notify the new owners that the Hanapēpē community valued the history and supported the purchase and memorialization of the massacre site.</td>
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<td><strong>I.3.</strong> Update on the access to Kauapea Beach Access – Hanalei District, Kaua‘i, Tax Map Key (4)5-2-004:071.</td>
<td>Deputy County Attorney Hugo Cabrera advised that discussions were conducted in executive session due to potential litigation and that they respect the attorney client privilege. He said it would be fine if the commission wanted to give an appropriate update.</td>
<td>The commission did not have any updates to share.</td>
</tr>
<tr>
<td><strong>I.4.</strong> Update on the access to Kukui‘ula Bay through Kaikapu LLC Property at 4432 Lāwa‘i Road, Kōloa, HI 96756, (formally Leight Property) – Kōloa District Tax Map Key 2-6-003:017, Kōloa, Kaua‘i.</td>
<td>County Attorney Hugo Cabrera advised that discussions were conducted in executive session due to potential litigation and that they respect the attorney client privilege. He said it would be fine if the commission wanted to give an appropriate update.</td>
<td>The commission did not have any updates to share.</td>
</tr>
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</table>
Ms. Higuchi Sayegusa shared the following:
- The commission reviewed and discussed this previously.
- The community relied on the eastern edge of the stream to access the beach and coastline.
- The community valued the coastline for cultural practices; fishing, education, recreation and gathering.
- June 8, 2017 the property was listed on the open market and the commission voted to explore if the parcel met the criteria for open space funds.
- The lot contained a 646 square foot structure with one bedroom and one bathroom.
- Feb 15, 2018 the structure was reviewed and determined to be of no historical significance.
- A letter was issued to the owners if they were interested to sell the property or a portion of the property for access.
- Asked if the commission was still interested in the entire lot or a portion for access.

Chair Kimura said the coastline was visited daily by caretakers and the community and they take care of the area. Currently students walk through the stream to get to the coastline. She asked if this could be deferred until she could touch basis with the caretakers and community on how the lack of access impacted them and their input on the possible purchase of the property. Chair Kimura said charter, public schools and community groups access the beach on a regular basis and they cultivate limu. Cooking shows have been filmed there and the National Tropical Botanical Gardens have collaborated with them to study the cultivation of limu. She said very few places in the State of Hawai‘i actively cultivate limu and extending an invitation to them to testify and educate the commission on what they do would bring a better understanding of why this coastline is so important.

Ms. Kanna moved to defer review and discussion regarding a 1.39-acre parcel located in ‘Aliomanu, Ko‘olau Moku, further identified as Tax Map Key (4)4-9-004:013 (‘Aliomanu Beach Living Trust, et al.).
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<tr>
<td>Mr. Lucas stated that if the goal was to gain access an alternative to buying the parcel was to CPR the parcel and the county could own the access portion. Ms. Higuchi Sayegusa said that could be an alternative and would discuss with the landowner, it may simplify the process.</td>
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<td>Mr. Ono asked if there were adjacent properties available to purchase or that might serve as access to the shoreline. Ms. Higuchi Sayegusa recalled there was property to the west of the stream but could not recall the outcome. She said there was another legal access on Kukuna road, but the issue was parking.</td>
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<td>Chair Kimura called for the vote.</td>
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<td>K. New Business (For Action)</td>
<td>J.1. Review and discussion regarding proposal to acquire access to State of Hawai‘i property through 4901 Waiakalua Street, Kīlauea, Hawai‘i 96754, Ko‘olau Moku, further identified as Tax Map Key 5-1-005:036 (Richard S. Stallman and Lisa Flores). a. Preliminary Report dated June 1, 2022.</td>
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<td>Ms. Higuchi Sayegusa shared the following:</td>
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<td>- Councilmember Bill DeCosta submitted this proposal</td>
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<td>- Prime hunting grounds not accessible to the public and there were no other accesses</td>
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<td>- The area was 10 acres</td>
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<td>- No correspondence or communication to the owners if they are interested to sell or not</td>
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<tr>
<td>1. Chair Kimura asked if there was an easement to the property. Ms. Higuchi Sayegusa responded no.</td>
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<td>2. Ms. Kanna commented that wild boars cause problems and hunters should have safe access to mitigate them. She said it was a win-win proposition.</td>
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<td>3. Mr. Ono asked where it was located. Ms. Higuchi Sayegusa said its before Kīlauea and displayed a Google map to show its location.</td>
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</table>
### M. Announcements

#### M.1. Topics for future meetings.

Chair Kimura asked about the next meeting. Ms. Higuchi Sayegusa said they have not filled the Commission Specialist position, and she would be taking off a couple of months. The next meeting was scheduled on October 13 but there could be a July 14 meeting if there was any progress on the agenda items.

1. Update on a 0.2764-acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (4)1-8-008:065.
2. Update on a 0.2867-acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (4)1-8-008:071.
3. Update on a 1.39-acre parcel located in Aliomanu, Koʻolau Moku, further identified as Tax Map Key (4)4-9-004:013 (‘Aliomanu Beach Living Trust, et al.).
4. Update to acquire access to State of Hawai‘i property through 4901 Waiakalua Street.
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<td>5.</td>
<td>Response from County Council on biannual report.</td>
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<td>6.</td>
<td>Update from Administrator Ellen Ching on the vacancies. Ms. Ching responded that all mayoral appointments are filled the remaining are county council appointments.</td>
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<td>7.</td>
<td>Revisit requesting an increase to the percentage allotment for Open Space funds.</td>
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<td></td>
<td>The Planning Department is planning a Hawaiʻi Congress of Planning Officials conference September 14-16, 2022.</td>
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</tr>
<tr>
<td>M.2.</td>
<td>The following regularly scheduled Open Space Commission meeting will be held at 1:00 p.m. or shortly thereafter, on or about October 13, 2022. If a meeting may be held sooner, the Commission will post notice in compliance with Hawaiʻi Revised Statutes Chapter 92. The Open Space Commission anticipates meeting to be held in-person at the Līhuʻe Civic Center, Moʻikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhuʻe, Hawaiʻi, 96766. The Commission also anticipates providing a visual platform capability for members of the public to testify remotely. The Commission will announce its intended meeting method via an agenda electronically posted at least six days prior to the meeting date.</td>
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</table>

**Adjournment**

Vice Chair Karna moved to adjourn the meeting. Ms. Pratt seconded the motion. Motion carried 5:0.

Chair Kimura adjourned the meeting at 2:59pm.
Submitted by: ________________________________
Sandra M. Muragin, Commission Support Clerk

Reviewed and Approved by: _________________
Shaylyn Kimura, Chair

( ) Approved as circulated.
( ) Approved with amendments. See minutes of _____ meeting.
Public Access, Open Space, and Natural Resources Preservation Fund Commission ("Open Space Commission")

PRELIMINARY REPORT

I. SUMMARY

Consideration of the possible acquisition of a undeveloped lot located at Naue, Hā'ena, Kaua'i.

Open Space Commission action may include any of the following actions:

1. Recommendation that the County Council consider acquiring the property using Open Space Funds; or

2. A recommendation that the County Council NOT consider acquiring the property; or

3. A recommendation to defer consideration.

II. BACKGROUND OF PROPERTY

<table>
<thead>
<tr>
<th>PROJECT INFORMATION</th>
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<tbody>
<tr>
<td>Parcel Location:</td>
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<tr>
<td>Tax Map Key(s):</td>
</tr>
<tr>
<td>Area:</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>LAND USE DESIGNATIONS &amp; VALUES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning: Residential</td>
</tr>
<tr>
<td>State Land Use District: Urban</td>
</tr>
<tr>
<td>General Plan Designation: Residential Community</td>
</tr>
</tbody>
</table>

| Real Property Assessed Value: | $1,898,000.00 |
| Market Value:                 | Will need an appraisal |

| Owner(s):                     | Dirk P. Lange & Kathleen Living Trust |
| Owner Response:               | No response to date. Letter was returned undelivered. |
| Date Public Recommendation Received: | June 9, 2022 |
III. PROJECT DESCRIPTION AND USE

The subject lot of record is approximately 0.4006 acres in size and is located in Naue, Hä'ena, Halele'a Moku, Kaua'i Island, Hawai'i. The property is located within the County of Kaua'i's Residential Zoning District, State Land Use Urban District and its General Plan Designation is Residential Community.

The lot of record is bordered to the north by the Wainiha shoreline. The property is bordered to the west and east by residential properties that are currently in residential use. The property is bordered to the south by Alealea Road.

The community member who requested consideration of this acquisition emphasized that this was a “good opportunity for this Commission to buy back the beach.” The property was for sale on the open market but was removed from the listings. The lot is one of several rare remaining vacant lots located on this portion of the shoreline. In addition, the lot would “make a great Open Space, Natural Resources Preservation addition and because the owner desires to sell the land, it is a great time to acquire.”

There are at least three (3) designated beach accesses that are near the subject lot of record. These accesses are well used by the public. See Exhibit B for aerial depictions of the property and nearby accesses.

IV. FINDINGS AND BACKGROUND

Included with the Planning Department’s Preliminary Report are correspondence and information submitted by the community member regarding the lot of record. All submittals are all attached as Exhibit A.

V. PRELIMINARY EVALUATION

The following should be considered regarding the possible acquisition of the property:

Under Rules of Practice and Procedure of the County of Kaua'i Public Access, Open Space, and Natural Resources Preservation Fund Commission, as amended on April 14, 2016, (Open Space Rules) §1-5-4, the possible acquisition of the property complies with the criteria for acquisition:

1. The proposal fulfills at least one of the Commission’s purposes, specifically the following:
a. Public outdoor recreation and education, including access to beaches and mountains
b. Preservation of historic or culturally important land areas and sites
c. Protection of significant habitats or ecosystems, including buffer zones
d. Preserving forests, beaches, coastal areas and agricultural lands
e. Conserving land in order to reduce erosion, floods, landslides, and runoff
f. Improving disabled and public access to, and enjoyment of, public land and open space
g. Acquiring disabled and public access to public land, and open space
h. Conserving land open space and scenic values

The County’s acquisition of the property would provide greater access to the beach, coastline, and its treasured resources. Outdoor recreation would be further served with greater access and community space in the area. There are at least three (3) existing coastal accesses near to the property. However, acquiring access at this property would provide greater access to this coastline that will enhance the community’s ability to engage in outdoor recreational activities. In addition, acquisition could ensure that the property remains undeveloped, thereby conserving land open space, scenic values, and preventing further erosion, floods, and landslides in the area.

2. The cost for the acquisition may be commensurate to the public interest served by the property’s acquisition.

The subject lot of record is no longer for sale on the open market. To date, the Planning Department has not made contact with the landowner regarding their continued willingness to sell the property. A letter from the Department dated June 24, 2022 was returned “undelivered” on July 1, 2022. As other acquisitions, the willingness of the landowner to sell the property would have a significant impact on the overall analysis on whether the cost of the acquisition is commensurate with the public interest served. Namely, the litigation costs would be tacked on to cost of appraisals and the payment required for the value of the property itself. The Planning Department will continue to research a means to contact the owners to ascertain their willingness to sell the Property.

3. The process for acquiring the property may be commensurate to the public interest served. Factors may include, but are not limited to:

   a. The type of property interest that is proposed for acquisition (for example, an easement versus fee simple ownership)
   b. Whether or not the acquisition will be an adversarial process.
Again, the subject lot of record is no longer for sale on the open market and the Planning Department has not determined the owner’s continued willingness to sell the property. An appraisal will likely be needed, and the County will have to undergo a negotiation even when there is an owner who is willing to sell the property. However, the process will be much easier than condemnation. The process for acquiring the property would be commensurate to the public interest served especially in the willing landowner scenario.

Condemning the entire property would be complicated, costly, and time consuming. The condemnation litigation process that could take at least one (1) to two (2) years including the appraisals and court proceedings that would be required.

The public interest served may still be commensurate with the complicated condemnation process for acquiring the property. Legal access is already provided at three (3) different designated accesses near to the property. However, access at the subject property would provide greater access to the beach and its unique resources at this site. Thus, the public interest served may still be commensurate with the complicated process for acquiring the easement.

4. **The property would require maintenance; however, the cost implications for the maintenance requirements could be reasonable and commensurate to the public interest served.**

Depending on the intended use for the property, maintenance costs involved with acquiring the entire property could be substantial. Acquiring the property to maintain it as open space would require grass cutting, weed whacking, and tree trimming to make sure the property does not become overgrown and inaccessible for the community’s use. If the intended use for the property is for public beach parking, maintenance would be required to keep the property open for such a use, which could include periodically maintaining gravel for the property (in addition to navigating any permits that may be required to create a parking area at this location), as well as management and oversight would be required to ensure the property is properly used for parking. Management would also be required to prevent the property from becoming an unintended hang out or residence for campers or homeless.

Ideally, a stewardship agreement with an interested community group could ease the burden on the County. The possibility of such an interested party should be
explored in a more detailed manner prior to a final evaluation by the Planning Department.

5. In addition, pursuant to Section 1-5-5 of the Open Space Rules, any proposed acquisition that contains extremely dangerous attributes in the land or that poses a risk of serious injury or death shall not be recommended.

There do not appear to be any prohibitive factors for acquisition of the subject property.

VI. PRELIMINARY CONCLUSION

Based on the information contained in the Report’s Findings and Evaluation, the Planning Department concludes the following:

1. Acquisition of the property may fulfill at least one of the Commission's purposes for public access, open space, and natural resources preservation.

2. The cost for the acquisition may be commensurate to the public interest served.

3. The process for acquiring the property may be commensurate to the public interest served.

4. The property would require maintenance, depending on the intended use for the property; however, the cost implications for the maintenance requirements could be reasonable and commensurate to the public interest served.

5. In addition, pursuant to Section 1-5-5 of the Open Space Rules, any proposed acquisition that contains extremely dangerous attributes in the land or that poses a risk of serious injury or death shall not be recommended.

VII. PRELIMINARY RECOMMENDATION

Based on the foregoing evaluation and conclusion it is hereby preliminarily recommended that the proposal to acquire the subject property be further evaluated and memorialized in the Planning Department’s final evaluation and recommendation.

This report may not represent the Planning Department’s final recommendation in view of the forthcoming public hearings before the Open Space Commission where the entire record should be considered prior to decision making. The entire record includes but is not be limited to:
1. Government agency comments, if any;

2. Testimony from the general public and interested others; and

3. The landowner’s response to an inquiry for acquisition.

Approved & Recommended to Commission:

By

JODI A. HIGUCHI SAYAGUSA
Deputy Director of Planning
EXHIBIT A

Community Request and Background Information
Re: Lot 10 Wainiha Subdivision II (File Plan 1840) being a portion of R.P. 7194,
L.C. Aw. 11,216:5 to M. Kekauonohi situate at Wainiha, Kaua‘i
7322 Alealea Rd., Kaua‘i, 96714
(4) 5-8-09:49
Dirk P. & Kathleen Lange
6/9/2022

Acquisition Recommendation: Public Access, Open Space, & Natural Resources Preservation Commission / fee simple lot For Sale at (4) 5-8-09:49

Aloha Shaylyn Kimura, Chair, Nancy Kanna, Vice Chair and Public Access, Open Space and Natural Resources Preservation Fund Commissioners,

Inquiring about the possibility of acquisition of this last beachfront lot at Naue, Hā‘ena. This is one of the last undeveloped beachfront lots along this iconic stretch of beach. Lot 10 in the Wainiha Subdivision II is for sale. Recent prospective sales have fallen out of escrow several times likely due to the location of the shoreline, and required shoreline setback leaving little or no buildable area. The property was just removed from the MLS listings without being sold and may present a good opportunity for this Commission to buy back the beach.
It certainly would make a great Open Space, Natural Resources Preservation addition and because the owner desires to sell the land, it is a great time to acquire. It is recommended to expedite the process by working with the Hawaii Land Trust to help. Can we explore how the Commission, possibly OHA and the Hawaii Land Trust could facilitate this acquisition in a timely manner? As the property was for sale, the owner should be contacted to see if there is interest in selling the property to the county.

Attached please see
1. Wainiha Map before subdivision, it is part of the same original lot as the Brescia Iwi desecration at Naue.
2. Last rejected proposed shoreline map and photo, shoreline revision letter and map from the State Surveyor and subsequent rejection notice of the proposed shoreline.
3. Wainiha Subdivision II Real Property map showing the subdivision and lot 10 highlighted
4. Same map showing 2021 sales in the subdivision
5. Redfin MLS listing information
   www.redfin.com/HI/Hanalei/7322-Alealea-Rd-96714/home/79181779

There were four Supreme Court Lawsuits fought and won over the development of this beach front subdivision. Mahuiki V. Planning Commission of the County of Kauai, Diamond v State of Hawaii, (lot 2) Diamond v. Dobbin (Diamond II), (lot 12) Brescia v. N. Shore Ohana (lot 6).
Protection rather than development is highly desired by the community. It is a revered place of significant cultural, historic and recreational value. More and more local people are shut out of their place. Acquiring this lot would enable public use and enjoyment of Hā‘ena’s coastal resources into the future and protect Iwi Kupuna. Naue has been on the Commissions list in the past and Lot 10 was traditionally part of Naue before the lot was subdivided.

Mahalo,

Caren Diamond
Executive Director
Mālama Kua‘aina
Post Office Box 536
Hanalei, Hawai‘i 96714
(808) 652-0780
www.malamakuaaina.org
Mālama Kua‘aina is a 501(c)(3) non-profit organization formed in 2012 to provide information, education, advocacy, and legal resources relating to public issues associated with the preservation and protection of public trust resources and the natural environmental of Kaua‘i.
Federal Tax ID No. 38-3882471.
August 24, 2020

Mr. Brian Hennessy
Honua Engineering, Inc.
P.O. Box 851
Hanalei, Hawai‘i 96714-0851

Dear Mr. Hennessy:

Subject: Shoreline Certification Application
       TMK 5-8-09: 49
       Owner: Dirk P. & Kathleen Lange
       Wainiha, Halelea, Kaua‘i, Hawai‘i

This application was reviewed together with historical evidence. As a result, the shoreline was determined to be the same shoreline as determined in 2009 along the debris line as shown in photographs taken on January 13, 2008. Before we can proceed, DLNR’s Hawai‘i Administrative Rules require the following:

1. 13-222-8(b): Revise the shoreline on the map and photos to the debris line as shown in photographs taken on January 13, 2008 and delineated in red on the attached map from shoreline certification application KA-322.

2. 13-222-19: Remove the vegetation (excluding trees) on the seaward side of the shoreline described above. Please contact the Office of Conservation and Coastal Lands (OCCL) of the Department of Land and Natural Resources at 587-0377 should you have any questions on the vegetation removal.

Should you have any questions on this application, please call me at 586-0390.

Very truly yours,

REID K. SIAROT
State Land Surveyor

Enclosure

cc: Cal Miyahara
    Ian Hirokawa
The Environmental Notice

February 8, 2021

David Y. Ige, Governor

The Environmental Notice provides public notice for projects undergoing environmental review in Hawai‘i as mandated under Section 343-3, Hawai‘i Revised Statutes, the Environmental Impact Statement Law. Along with publishing Environmental Assessments and Environmental Impact Statements for projects in Hawai‘i, The Environmental Notice also includes other items related to the shoreline, coastal zone, and federal activities.
**PRIOR AGENCY DETERMINATION** (pursuant to HAR Section 11-200.1-11)

The **Natural Energy Laboratory of Hawai‘i Authority (NELHA), State of Hawai‘i** has determined that additional environmental review is not required for an economic development project with the majority of monies allocated to continued funding of an existing aquaculture business accelerator. The project also proposes construction to improve existing aquaculture accelerator facilities. A prior accepted Environmental Impact Statement, published in 1985, describes anticipated impacts of development of the Hawaii Ocean Science and Technology (HOST) Park - including on lands applicable to NELHA Research Campus and the location of the mobile lab staging area. These evaluations were included in the assessment of several build-out scenarios intended to include future improvements, allowing for flexibility to adapt to current market and technology conditions. The above referenced EIS specifically addresses the development of areas to perform R&D to commercialize innovative aquaculture technologies.

NELHA has determined that the proposed expansion is consistent with the location, types and scale of scenarios evaluated in the prior EIS document, and that the potential direct, indirect, and cumulative impacts of the project have been adequately disclosed and evaluated therein, and therefore that the findings in those reports satisfy the requirements of HRS Chapter 343.

**SHORELINE NOTICES**

**APPLICATIONS FOR SHORELINE CERTIFICATION**

The shoreline certification applications below are available for review at the Department of Land and Natural Resources offices on Kaua‘i, Hawai‘i, Maui, and Honolulu, 1151 Punchbowl Street, Room 220 (HRS § 205A-42 and HAR § 13-222-12). All comments shall be submitted in writing to the State Land Surveyor, 1151 Punchbowl Street, Room 210, Honolulu, HI 96813 and postmarked no later than 15 calendar days from the date of this public notice of the application. For more information, call Ian Hirokawa at (808) 587-0420.

<table>
<thead>
<tr>
<th>File No.</th>
<th>Location</th>
<th>TMK</th>
<th>Applicant</th>
<th>Owner</th>
</tr>
</thead>
<tbody>
<tr>
<td>OA-1930</td>
<td>4767-D Kahala Avenue, O‘ahu 96816</td>
<td>(1) 3-5-006:009</td>
<td>Austin Tsutsuji &amp; Associates</td>
<td>A‘YIA, LLC</td>
</tr>
<tr>
<td>OA-1931</td>
<td>56-1089 Kamehameha Highway, O‘ahu 96731</td>
<td>(1) 5-6-003:053</td>
<td>Jaime F. Alimboyoguen</td>
<td>Makai Ranch LLC</td>
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<tr>
<td>MA-750</td>
<td>Lahaina Small Boat Harbor, Maui</td>
<td>(2) 4-6-001:02</td>
<td>Austin Tsutsuji &amp; Associates</td>
<td>State of Hawai‘i</td>
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<tr>
<td>MA-751</td>
<td>347 Front Street, Maui</td>
<td>(2) 4-6-003:016</td>
<td>Action Survey LLC</td>
<td>Nanae Mori Lassen</td>
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<tr>
<td>MO-185</td>
<td>248 Seaside Place, Moloka‘i 96748</td>
<td>(2) 5-3-006:001</td>
<td>Ken Ono &amp; Tricia Kezeli</td>
<td>Ken Ono &amp; Tricia Kezeli</td>
</tr>
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**PROPOSED SHORELINE CERTIFICATIONS AND REJECTIONS**

The shoreline notices below have been proposed for certification or rejection by the Department of Land and Natural Resources (HRS § 205A-42 and HAR § 13-222-26). Any person or agency who wants to appeal shall file a notice of appeal in writing with DLNR no later than 20 calendar days from the date of this public notice. Send the appeal to the Board of Land and Natural Resources, 1151 Punchbowl Street, Room 220, Honolulu, Hawai‘i 96813.

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<tr>
<th>File No.</th>
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<tr>
<td>OA-1917</td>
<td>Proposed</td>
<td>91-135 ‘Ewa Beach Road, O‘ahu 96706</td>
<td>(1) 9-1-032:002</td>
<td>Wesley T. Tengan</td>
<td>Steven W.V. Ng</td>
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<tr>
<td>OA-1918</td>
<td>Proposed</td>
<td>430 D North Kahaluu Avenue, O‘ahu 96734</td>
<td>(1) 4-3-017:019</td>
<td>Walter P. Thompson, Inc.</td>
<td>DTT Kahaluu LLC and MRT Kahaluu LLC</td>
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<tr>
<td>OA-1927</td>
<td>Proposed</td>
<td>84-245 Makai Street, O‘ahu 96792</td>
<td>(1) 8-4-009:020</td>
<td>Wesley T. Tengan</td>
<td>Wayne Giancaterino</td>
</tr>
<tr>
<td>MA-744</td>
<td>Proposed</td>
<td>0 Keawa Place, Maui</td>
<td>(2) 1-4-004:011</td>
<td>Akamai Land Surveying, Inc.</td>
<td>Hana Canoe Club</td>
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<tr>
<td>KA-451</td>
<td>Rejection</td>
<td>5-7550 Kūhiō Highway, Kaua‘i 96714</td>
<td>(4) 5-9-002:033</td>
<td>Honua Engineering, Inc.</td>
<td>Oak Terrace Properties, LLC</td>
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<tr>
<td>KA-452</td>
<td>Rejection</td>
<td>7322 Alealea Road, Kaua‘i 96714</td>
<td>(4) 5-8-009:049</td>
<td>Honua Engineering, Inc.</td>
<td>Dirk P &amp; Kathleen Lange</td>
</tr>
</tbody>
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**FEDERAL NOTICES**

As a courtesy, listed below are some relevant entries from the Federal Register published since the last issue of The Environmental Notice. For more information, click on the title link, also available at [www.federalregister.gov](http://www.federalregister.gov).

**Notice: Pacific Island Fisheries; Experimental Fishing Permit (published by NOAA on 02/05/2021)**

NMFS is issuing an experimental fishing permit (authorized from January 27, 2021, through January 26, 2022) to the Hawaii Longline Association to test the conservation and management usefulness of tori lines (bird scaring streamers) in the Hawai‘i deep-set longline fishery. For further information, click on the title link.
LAST SOLD ON JAN 10, 2014 FOR $1,495,000

7322 Alealea Rd, Hanalei, HI 96714

---

Redfin Estimate 0.40 Acre (Lot)

About This Home

PRICE REDUCED and OWNER FINANCING offered for QUICK SALE. This premium beachfront lot is privately located behind a gated entry on quiet Alealea Road fronting an uncrowded stretch of beach on Kauai's gorgeous north shore. Incredible snorkeling and amazing water sports are just steps away from this hidden beauty. Enjoy 75' of ocean frontage with the constant sounds of surf and views of warm, azul waters. Amidst newer, quality homes, here's the best choice for beachfront seclusion and a private oceanfront experience.

Show Less

Listed by Michael Schmidt • Bali Hai Realty, Inc.
Redfin last checked 2 minutes ago | Last updated Jan 10, 2014

Buy with Chris Sadler • Resort Properties of the Pacific LLC

Redfin Estimate for 7322 Alealea Rd

Unfortunately, we don't have enough data to generate an accurate Estimate at this time.

Homeowner Tools

Edit home facts
Review property details and add renovations.

Manage photos
Update home photos or make them private.

View Owner Dashboard
Track your estimate and nearby sale activity.

Home Facts

Property Type: Vacant Land
Lot Size: 0.40 Acres

Price Insights

Buyer's Agent Commission: 3%
Property Details for 7322 Alealea Rd

Exterior Features, School / Neighborhood

Exterior Features
- Pool: N
- Roads: County, Graded

School Information
- District: Hanalei

Utilities
- Internet Availability: Cable, DSL
- TV Availability: Cable
- Telephone Availability: Cable, Cell, Land Line

- Power: Underground
- Solid Waste Disposal (Trash): County (Charge)
- Wastewater: Septic
- Water: Municipal

Taxes / Assessments

Assessment Information
- Assessed Value: $1186,300
- Assessment Year: 2013
- Tax Information
- Taxes (Annual): $5,821
- Tax Year: 2013

Property / Lot Details

Land Information
- Level
- Land Tenure: Fee Simple
- Land Area: 17451
- Flood Zone: VE

Lot Information
- Frontage: Sandy Beach
- Easement: Driveway
- Lot Description: Land: Grassy

Sale & Tax History for 7322 Alealea Rd

Sale History  Tax History

Today
Apr 8, 2022
Date
Relisted (Active)

HI Information Service #648708

Price

Apr 8, 2022
Date
Price Changed

HI Information Service #648708

Price

Mar 30, 2022
Date
Contingent

HI Information Service #648708

Price

Jan 31, 2022
Date
Price Changed

HI Information Service #648708

Price

Dec 23, 2021
Date
Relisted (Active)

HI Information Service #648708

Price

Nov 11, 2021
Date
Contingent

HI Information Service #648708

Price

Aug 17, 2021
Date
Price Changed

HI Information Service #648708

Price

Jun 24, 2021
Date
Relisted (Active)

HI Information Service #648708

Price

Jun 14, 2021
Date
Contingent

HI Information Service #648708

Price

Apr 30, 2021
Date
Listed (Active)

HI Information Service #648708

Price

Jan 2014, Sold for $1,495,000

Jan 10, 2014
Date
Sold (Public Records)
Public Records

$1,495,000 (-3.6%/yr)

See all property history

Public Facts for 7322 Alealea Rd

Beds

Style

Vacant Land

Baths

Year Built

-

Sq. Ft.

Year Renovated

-

Stories

County

Kauai County

Lot Size

0.40 Acres

APN

4 580090490000

EXHIBIT B

Property Tax Map Key and Aerial Depiction of Nearby Accesses