

NOTICE OF PUBLIC MEETING AND HEARINGS
BOARD OF APPEALS AGENDA
COUNTY OF HAWAII

NOTICE IS HEREBY GIVEN of hearings to be held by the Board of Appeals of the County of Hawai`i in accordance with the provisions of Section 6-10.2 of the Charter of the County of Hawai`i and the Board's Rules of Practice and Procedure.

PLACE: County of Hawaii, Aupuni Center Conference Room
101 Pauahi Street, Hilo, Hawai`i

DATE: Friday, May 8, 2009

STATEMENTS FROM THE PUBLIC ON ITEMS ON THE AGENDA

UNFINISHED BUSINESS - 10:00 a.m.

1. **PETITIONER: DAVID OWENS (BOA 08-000072)** - Continued hearing on the Petition for Variance from the Building Code requirements relating to doors, fire wall, and projection and clearance. The subject property is bordered by Keawe Street, Mamo Street and Kilauea Street, adjacent to the Garden Exchange commercial building, Downtown Hilo, South Hilo, Hawai`i, TMK: (3) 2-3-11:16.

NEW BUSINESS - 10:00 a.m.

2. **PETITIONER: KENNETH FUJIYAMA (BOA 09-000075)** - Appeal of Decision by the Planning Director dated February 12, 2009, Notice of Violation and Order (ZCV 2009-017E), operating an unpermitted Charter School in an agricultural zone without an approved Special Permit. The subject property consists of 22.35 acres and is the site of the existing Nani Mau Gardens, Panaewa Farm Lots, South Hilo, Hawai`i, TMK: (3) 2-2-48:13.
3. **PETITIONER: MARYE LYNN GILMORE (BOA 09-000076)** - Appeal of Decision by the Planning Director dated March 4, 2009, relating to Determination of Pre-Existing Lots. The subject properties consist of approximately 43,595 square feet and is located at the corner of Lotus Blossom and Sea Breeze Parkway, Hawaiian Ocean View Estates, Ka`ū, Hawai`i, TMK: (3) 9-2-12:11 and 73.

MINUTES

January 16, 2009
March 13, 2009

ADMINISTRATIVE MATTERS

EXECUTIVE SESSION - The Board anticipates convening an executive meeting regarding the following matters, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes (HRS) and

Rule 1(e), Hawaii County Board of Appeals, Rules of Practice and Procedure, for the purpose of consulting with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities. A 2/3 vote pursuant to HRS Section 92-4 and Rule 1-5(e) is necessary to hold an executive meeting.

- 1) Circuit Court Appeal on Kamakani `O Kohala `Ohana vs Hawai`i County Board of Appeals, Daryn Arai in his official capacity as Hawai`i County Planning Director and Kohala Preserve Conservation Trust LLC – Civil No. 09-1-038 K.
- 2) Supreme Court Appeal on Christopher J. Yuen, Planning Director, County of Hawai`i v. Board of Appeals of the County of Hawai`i, and Marlene E. Calvert – Civil No. 06-1-0184.

ANNOUNCEMENTS

ADJOURNMENT

Additional information related to the above matters are on file and open to inspection during office hours in the Planning Department, Aupuni Center, 101 Pauahi Street Suite 3, Hilo, Hawai`i 96720 and/or in the Planning Department's West Hawai`i Office, 75-5706 Kuakini Highway, Suite 109, Kailua-Kona, Hawai`i 96740.

Under New Business, intervention to the proceeding may be filed by the following agencies or individuals:

1. Any department or agency of the State or the County shall be admitted as a party upon timely application for intervention.
2. Any person who has some property interest in the land, who lawfully resides on the land, or who can demonstrate that person will be so directly and immediately affected by the Board's decision that that person's interest in the proceeding is clearly distinguishable from that of the general public shall be admitted as a party upon timely application for intervention.
3. Any other person may be admitted as a party upon a timely application, when the Board finds there is just cause for intervention.

The petition to intervene with proof of service on all parties shall be filed with the Board at least ten days prior to the date of the scheduled hearing. Petitions to intervene shall be in conformity with Part 2, Section 2-7 of the Rules of Practice and Procedure. The Board's Rules may be viewed at the County of Hawai`i website (<http://www.co.hawaii.hi.us>).

If you are a lobbyist, you must register with the Hawai`i County Clerk within five days of becoming a lobbyist. {Article 15, Section 2-91.3(b), Hawai`i County Code} A lobbyist means "any individual engaged for pay or other consideration who spends more than five hours in any month or \$275 in any six-month period for the purpose of attempting to influence legislative or

administrative action by communicating or urging others to communicate with public officials.”
{Article 15, Section 2-91.3(a)(6), Hawai`i County Code} Registration forms and expenditure
report documents are available at the Office of the County Clerk-Council, 333 Kilauea Avenue
(Ben Franklin Building), 2nd Floor, Hilo, Hawai`i 96720.

Any disabled person requiring special assistance or person requiring auxiliary aid and/or
services to participate in the hearing should contact the Planning Department at 961-8288 five
(5) working days prior to the hearing so that appropriate arrangements can be made.

JOEL GIMPEL, CHAIRPERSON
BOARD OF APPEALS

Hawai`i County is an Equal Opportunity Provider and Employer

(Hawaii Tribune Herald: April 17, 2009)
(West Hawaii Today: April 17, 2009)