



## PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISSION

FRANCIS DEGRACIA, CHAIR  
GERALD AKO, VICE CHAIR  
JERRY ORNELLAS, MEMBER

RECEIVED

- The Planning Commission Meeting will be at:

Līhu'e Civic Center, Moikeha Building  
Meeting Room 2A-2B  
4444 Rice Street, Līhu'e, Kaua'i, Hawai'i

24 MAR -6 10:28

OFFICE OF  
THE COUNTY CLERK  
COUNTY OF KAUAI

- Oral testimony will be taken on specific agenda items, at the public meeting location indicated on the meeting agenda.
- 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 in writing to [planningdepartment@kauai.gov](mailto:planningdepartment@kauai.gov) or mailed to the County of Kaua'i Planning Department, 4444 Rice Street, Suite 473, Līhu'e, Hawai'i 96766. Written testimony received by the Planning Department at least **24 hours prior** to the meeting will be posted as testimony to the Planning Commission's website prior to the meeting (<https://www.kauai.gov/Government/Boards-and-Commissions/Planning-Commission>). Any testimony received after this time will be retained as part of the record, but we cannot assure the Commission will receive it with sufficient time for review prior to the meeting.

**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 [ADAVIS@KAUAI.GOV](mailto:ADAVIS@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.**

**SUBDIVISION COMMITTEE MEETING NOTICE AND AGENDA**

**Tuesday, March 12, 2024  
8:30 a.m. or shortly thereafter  
Līhu'e Civic Center, Moikeha Building  
Meeting Room 2A-2B  
4444 Rice Street, Līhu'e, Kaua'i, Hawai'i**

RECEIVED

24 MAR -6 AM 10:29

CLERK OF  
THE COUNTY CLERK  
COUNTY OF KAUAI

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. APPROVAL OF AGENDA**

**D. MINUTES of the meeting(s) of the Subdivision Committee**

1. November 14, 2023.
2. January 9, 2024.

**E. RECEIPT OF ITEMS FOR THE RECORD**

**F. UNFINISHED BUSINESS**

**G. NEW BUSINESS (For Action)**

1. Preliminary Subdivision Map Approval

- a. Subdivision Application No. S-2024-5  
**Thomas N. and Lisa D. Thompson**  
Proposed 2-lot Subdivision  
TMK: (4) 1-3-004: 023  
Kekaha, Waimea, Kaua'i

- 1) Subdivision Report pertaining to this matter.

2. Preliminary Subdivision Extension Request

- a. Subdivision Application No. S-2019-8  
**Stephanie Fernandes**  
Proposed 5-lot Subdivision  
TMK: (4) 4-2-005: 044  
Wailua, Kawaihau, Kaua'i

- 1) Subdivision Report pertaining to this matter.

### 3. Request to Terminate a Subdivision Application

#### a. Subdivision Application No. S-2024-3

##### **Visionary, LLC.**

Proposed 12-lot Subdivision

TMK: (4) 3-6-002: 001 (por.)

Kalapākī, Līhu'e, Kaua'i

- 1) A letter from the Applicant dated December 26, 2023, requesting termination of the subdivision application.

### H. EXECUTIVE SESSION

Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with the 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:

#### a. Subdivision Application No. S-2024-5

##### **Thomas N. and Lisa D. Thompson**

Proposed 2-lot Subdivision

TMK: (4) 1-3-004: 023

Kekaha, Waimea, Kaua'i

#### b. Subdivision Application No. S-2019-8

##### **Stephanie Fernandes**

Proposed 5-lot Subdivision

TMK: (4) 4-2-005: 044

Wailua, Kawaihau, Kaua'i

#### c. Subdivision Application No. S-2024-3

##### **Visionary, LLC.**

Proposed 12-lot Subdivision

TMK: (4) 3-6-002: 001 (por.)

Kalapākī, Līhu'e, Kaua'i

### I. ADJOURNMENT

KAUA'I PLANNING COMMISSION  
SUBDIVISION COMMITTEE MEETING  
November 14, 2023  
**DRAFT**

The regular meeting of the Planning Subdivision Committee of the County of Kaua'i was called to order by Subdivision Committee Chair Gerald Ako at 8:30 a.m. - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

Mr. Gerald Ako  
Ms. Donna Apisa  
Mr. Jerry Ornellas

Excused or Absent

The following staff members were present: Planning Department - Director Ka'aina Hull, Planning Department – Deputy Director Jodi Sayegusa, Staff Planners Dale Cua, Planning Staff Brent Sokei, and Planning Commission Secretary Shanlee Jimenez; Office of the County Attorney – County Deputy Attorney Laura Barzilai, Office of Boards and Commissions – Support Clerk Lisa Oyama.

Discussion of the meeting, in effect, ensued:

**CALL TO ORDER**

Committee Chair Gerald Ako: Good morning. Today is Tuesday, November 14th, 2023, and it's 8:30 a.m. and I'd like to call to order the Subdivision Committee Meeting of the Planning Commission. First, I'd like to welcome Brent, thanks for joining us and thanks for being here, man. And with that, Mr. Clerk, if we can have a roll call, please.

**ROLL CALL**

Planning Director Ka'aina Hull: Roll call, Mr. Chair. Commissioner Apisa?

Commissioner Donna Apisa: Here.

Mr. Hull: Commissioner Ornellas?

Commissioner Jerry Ornellas: Here.

Mr. Hull: Chair Ako?

Chair Ako: Here.

Mr. Hull: You have a quorum, Mr. Chair.

Chair Ako: We have the agenda before us. Is there a motion to approve the agenda or any amendments?

Ms. Apisa: Motion to approve agenda.

Mr. Ornellas: Second.

Chair Ako: If there's no questions, we can take a voice vote on this. All those in favor say aye. Aye (unanimous voice vote). All those oppose. Thank you. We have a unanimous vote on that.

### **MINUTES of the meeting(s) of the Subdivision Committee**

Chair Ako: And then we have the minutes from the July 11<sup>th</sup>, 2023, Subdivision Committee Meeting. Can we have a motion to approve if you've already read it?

Mr. Ornellas: Motion to approve minutes.

Ms. Apisa: Second.

Chair Ako: Okay. All those in all those in favor say aye. Aye (unanimous voice vote). All those opposed. With that one, I wonder if we need some time to review the documents that we got or...

Mr. Hull: Yeah, it's up to you. There was a small transmittal of agency comments provided after the agenda. If you'd like to take a recess.

Chair Ako: Commissioner Ornellas, you need a...or Commissioner Apisa, you need that recess for...

Mr. Ornellas: Move to recess.

Chair Ako: Okay, we'll recess 10 minutes.

Mr. Hull: 10 minutes.

Chair Ako: 10 minutes. Okay.

Mr. Hull: We'll be back at...

Chair Ako: 8:40.

Mr. Hull: 8:40.

Chair Ako: Thank you.

Subdivision Committee went into recess at 8:32 a.m.  
Subdivision Committee reconvened from recess at 8:40 a.m.

Chair Ako: Back to order. Hey, what is my apologies that the documents that we were reviewing here is for the Commission meeting, not for this meeting here. So, sorry for extending, like another 10 minutes.

**RECEIPT OF ITEMS FOR THE RECORD**

Chair Ako: But with that, if you can return to the agenda to Item E, Receipt of Items for the Record, Mr. Clerk.

Mr. Hull: No receipt at this time. No Unfinished Business, on to Item G.

**NEW BUSINESS (For Action)**

Preliminary Subdivision Map Approval

Subdivision Application No. S-2024-2  
**Moloa'a Farms LLC. Et. Al.**  
Proposed 11-lot Subdivision  
TMK: (4) 4-9-009: 001  
Moloa'a and Papa'a, Kawaihau, Kaua'i

- 1) Subdivision Report pertaining to this matter.

Mr. Hull: I'll turn it over to Dale for the Subdivision Report pertaining to this matter.

Staff Planner Dale Cua: Good morning, Chair, and members of the Subdivision Committee.

Mr. Cua read the Subdivision Report for the record (on file with the Planning Department).

Mr. Hull: If there are any questions for the Planner at this time? If not, we'll call for public testimony. We don't have anybody signed up to testify on this agenda item, but if anybody would like to testify on this item, you may have approach the microphone, and state your name. Seeing none, I'll turn it back to you, Chair.

Chair Ako: Thank you, Mr. Clerk. At this point, would the applicant like to make a presentation on this or share?

Ms. Maren Arismendez: Yeah. Good morning. Maren Arismendez from Esaki Surveying, here on behalf of the owner. The owner understands that due to the location of the parcel, there's additional conditions as this SMA. The requirement for the SMA permit also. The conservation. There's a conservation district also in the parcel, but we've reviewed the requirements and are looking forward to working with the various departments to satisfy the requirements. And if the Commission has any questions regarding the subdivision.

Chair Ako: I think I just have one procedural question is that, after the court date, it was 90 days in terms of which you needed to file the application and I assume that that was part, it was filed within the 90 days.

Ms. Arismendez: Yes.

Chair Ako: Thank you.

Ms. Apisa: It seems like it's been vetted pretty thoroughly. I've no further questions.

Chair Ako: Any questions regarding the settlement itself? Nope, we're good? Okay. Thank you.

Ms. Arismendez: Thank you.

Chair Ako: So, with that, can we have a recommendation from staff.

Mr. Cua: As far as the recommendations, as noted in Section 5 of the report, the various reviewing agency requirements have been identified. We are recommending preliminary subdivision approval of this application.

Chair Ako: Okay. Thank you. Hearing that we'll be willing to entertain a motion for approval.

Mr. Ornellas: I move for Preliminary Subdivision Map approval on Subdivision Application S-2024-2 with conditions.

Ms. Apisa: Second.

Chair Ako: Okay, there's a motion that's been seconded. Is there any other questions or concerns we'd like to share? If not, Mr. Clerk, if we can have a roll call vote, please.

Mr. Hull: Roll call. Mr. Chair. Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 3:0. Next on the agenda, we have G.2.

Preliminary Subdivision Extension Request

Subdivision Application No. S-2023-1  
**BBCP Kukui'ula Development, LLC.**  
Kukui'ula Parcel A2F2F3 Subdivision  
Proposed 31-lot Subdivision  
TMK: (4) 2-6-022: 020  
Lawa'i, Koloa, Kona, Kaua'i

- 1) Subdivision Report pertaining to this matter.

Mr. Hull: I'll turn it over to Dale again for the report pertaining to this matter.

Mr. Cua: Good morning, Commissioners.

Mr. Cua read the Subdivision Report for the record (on file with the Planning Department).

Mr. Hull: Any questions for staff and (inaudible)?

Ms. Apisa: No questions.

Mr. Hull: No questions. Nobody signed up to testify on this agenda item, but if anybody would like to testify, you can approach the microphone at this time. Seeing none, I'll turn it back to you, Chair.

Chair Ako: Okay, is there any comments from the applicant, and would like to present? No. Okay. If not Commissioners, other questions or...if not I'd be willing to entertain a motion.

Ms. Apisa: Yes, I move to approve the Extension for Preliminary Subdivision Request Application NO. S-2023-1 for BCP Kukui'ula Development LLC.

Chair Ako: And can we make that to...

Ms. Apisa: As stated to November 15, 2024, with the conditions as specified for a project update if needed.

Chair Ako: With that we've got a motion, we got a second (inaudible).

Mr. Hull: I should've added this a little bit earlier. The Department of course has no objections to this extension request or this somewhat and relates to action and a request or inquiry by the Planning Commission a few months of back concerning the extension requests and the timelines in which they submit them, and looking into the issue and working with the County Attorney's Office, will was determined, indeed, after the project or subdivision's tenant approval lapses, a respective deadline timeline that's set that requesting extensions beyond that would no longer be allowed or facilitated. So, in fact, Kenny has spent the past two or three months going through all of the subdivision tentative approvals and issuing dozens of denial letters to those that have breached. And in fact, in most cases, the vast majority of cases is people with applicants just kind of walked away from the subdivision, they were just left in a bit of a limbo. We are of course looking at, I believe two pieces of litigation that are part of those denial notifications that Kenny sent out and then those will be litigated and we'll see where the court goes. But in essence this one is being requested very much within the time frame and timelines allowed and so that's why we're not objecting, but we anticipate seeing a lot more of these timely requests made, given the recent inquiry by the Planning Commission and actions by the Department. But I just wanted to say that as a for your information purposes. Thank you.

Ms. Apisa: Okay. Just to reassure I got that. So, there's one extension or there's more beyond that, they just have to be filed timely.

Mr. Hull: They just have to be filed timely.

Ms. Apisa: Thank you.

Chair Ako: And, Mr. Clerk, if they're not filed timely, is there mitigating circumstances at times to allow the extension or...

Mr. Hull: Not within the code.

Chair Ako: So, one day late...late is late.

Mr. Hull: Late is late, but that doesn't mean to say that the applicant that has been now denied because of their lateness can turn around and just submit a new application for a new tentative subdivision request.

Chair Ako: Got it. Okay, with that, if there's no other questions, Mr. Clerk, if we can have a roll call vote, please.

Mr. Hull: Roll call. Mr. Chair. Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 3:0. And with that nothing else on the agenda.

Chair Ako: There's no other business. If not I'd like to thank Commissioner Apisa as well as Commissioner Ornellas. I'll entertain a motion to adjourn.

Ms. Apisa: Motion to adjourn.

Mr. Ornellas: Second.

Chair Ako: We have a motion and a second. All those in favor say aye. Aye (unanimous voice vote). All those opposed. 3:0. The meeting is adjourned. Thank you.

Chair Ako adjourned the meeting at 8:51 a.m.

Respectfully submitted by:

*Lisa Oyama*  
Lisa Oyama,  
Commission Support Clerk

( ) Approved as circulated (add date of meeting approved).

( ) Approved as amended. See minutes of \_\_\_\_\_ meeting.

KAUAI PLANNING COMMISSION  
SUBDIVISION COMMITTEE MEETING  
January 09, 2024  
**DRAFT**

The regular meeting of the Planning Subdivision Committee of the County of Kauai was called to order by Subdivision Committee Chair Gerald Ako at 8:33 a.m. - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

Mr. Gerald Ako  
Ms. Donna Apisa  
Mr. Jerry Ornellas

Excused or Absent

The following staff members were present: Planning Department - Director Ka'aina Hull, Planning Department – Deputy Director Jodi Sayegusa, Staff Planner Kenny Estes, Planning Staff Duke Nakamatsu; Office of the County Attorney – County Deputy Attorney Laura Barzilai, Office of Boards and Commissions – Support Clerk Lisa Oyama.

Discussion of the meeting, in effect, ensued:

**CALL TO ORDER**

Subdivision Committee Chair Gerald Ako: Today is Tuesday, January 9, 2024, and I'd like to call to order the Subdivision Committee Meeting of the Planning Commission. Right now, and it is 8:33 a.m., and with that, I'd like to wish everybody a Happy New Year and I hope it's a better year than last year, and Mr. Clerk, if we can have a roll call, please?

**ROLL CALL**

Planning Director Ka'aina Hull: Roll call, Mr. Chair. Commissioner Apisa?

Commissioner Donna Apisa: Here.

Mr. Hull: Commissioner Ornellas?

Commissioner Jerry Ornellas: Here.

Mr. Hull: Chair Ako?

Chair Ako: Here.

Mr. Hull: You have a quorum, Mr. Chair.

**APPROVAL OF AGENDA**

Chair Ako: Before us, we have the agenda for the Subdivision Committee Meeting this morning. Are there any amendments that you'd like to make to the agenda?

Mr. Hull: The Department has no proposed amendments, Mr. Chair.

Chair Ako: Ok. If not, I would entertain a motion to approve the agenda for Tuesday, January 9<sup>th</sup> of the Subdivision Committee Meeting.

Mr. Ornellas: Move to approve the agenda.

Ms. Apisa: Second.

Chair Ako: Second. Any concerns? We can take a voice vote. All those in favor, say aye. Aye (unanimous voice vote). All those oppose. We have approved the agenda. Motion passes. 3:0.

**MINUTES of the meeting(s) of the Subdivision Committee**

Chair Ako: You also have in front of you the minutes from the September 12, Subdivision Committee Meeting. Any concerns/questions? If not, we can entertain a motion to approve.

Mr. Ornellas: Move to approve the minutes.

Ms. Apisa: Second.

Chair Ako: There's a motion, it's been moved and seconded. If we can have a voice vote on this. All those in favor, say aye. Aye (unanimous voice vote). All those oppose. We have approved the minutes. 3:0.

Mr. Hull: Hold on one second, Mr. Chair. Sorry. Next, up we have:

**RECEIPT OF ITEMS FOR THE RECORD (None)**

**UNFINISHED BUSINESS**

Mr. Hull: F.1.

Final Subdivision Map Approval

Subdivision Application No. S-2005-41  
Ahukini Makai Subdivision  
**Visionary, LLC. DBA Lihu'e Land Company**  
Proposed 49-lot Subdivision  
TMK: (4) 3-7-002: 001 (por.)  
Hanama'ulu, Lihu'e, Kaua'i

1) Subdivision Report pertaining to this matter.

Mr. Hull: Before I turn it over to the Planner, Kenny, can you check outside for the sign-up sheet to see who signed up for these agenda items? I have one person signed up. The first name is Mikko.

Mr. Mikko Kinkki: It's Mikko Kinkki.

Mr. Hull: Mikko Kinkki, okay. Please approach. State your name for the record and you have three minutes for testimony, sir.

Mr. Kinkki: My name is Mikko Kinkki. Anything else?

Mr. Hull: No. You have three minutes for testimony. Thank you.

Mr. Kinkki: Okay. Hi, my name is Mikko Kinkki. I'm a lifelong resident from Kekaha, and so this area I can say I have a very close connection to because I fish the whole area and my father was part of when they actually did the building of the Kaua'i Beach Resort which is Nukoli'i and that turned into a riot and they decided to do it anyway, and now we have some area where people can come, we can enjoy, and it's kind of in the end, pretty well done, can you agree with that, Ka'aina? Like when I go...

Mr. Hull: We're not asking, you have three minutes of testimony, sir.

Mr. Kinkki: So, But I'm a man-to-man guy, so I said that if we can have to where there's balance with progress, I agree with subdividing and I know this area, friends of mine live in these areas and they're happy with homes. You know, it's density and we need homes for people, so I can say this subdivision. A friend of mine lived and he lived a very good life there, and as long as we can have these subdivisions in a way that is...we're moving forward with progress, but is the wastewater taken care of? Do we have the proper infrastructure to withstand this type of building? And the community around it, what do they feel? Hanamā'ulu...so, that's all I got to say. As long as we make sure everybody's talked to.

Mr. Hull: Thank you for your testimony. We don't have anyone else signed for this particular application, but if there's any member of the public that would like to testify on this agenda item, please approach the microphone. Sir, please approach the microphone. Sir, in the back, you can come and approach the microphone. If you could state your name for the record.

Mr. Lester Matsushima: My name is Lester Matsushima. I'm from the Hanamā'ulu area, the ahupua'a. I lived there all my life and the drawing that I saw, Grove Farm put up has no iwi on the flat, but on the slope, there's one, I mentioned to them, they know about it, but it doesn't affect the iwi anyway. There's only iwi in that area, cause I lived there in the coconut grove when I was a young boy and I left there about 8 or 9 years old, so I know the whole area. The only graveyard that you got down in that area would be on Hehi Road that is Kapa'a side of the bridge. I have no objection of the subdivision, anyway, and my main thing is that I wanted (inaudible) leased out to the (inaudible) drive people, move them out of the airport, and so that the people on Kaua'i get parking spaces when they go to Honolulu or mainland, but as of now I got friends from Kekaha and Waimea, call me up, they want to park their car in my yard because

there's no space at the airport. You have to look all that kind infrastructure in that area, so I have no objection to the development there. Thank you.

Mr. Hull: Thank you for your testimony. Is there anyone else who didn't previously sign up for this agenda item, but would like to speak on this agenda item? Seeing none, I'll turn it over to Mr. Estes for the Subdivision Report pertaining to this matter.

Staff Planner Kenny Estes: Good morning, Chair, and members of the Subdivision Committee. To give you some background of the subdivision.

Mr. Estes read the Subdivision Report for the record (on file with the Planning Department).

Ms. Apisa: Excuse me, Kenny, can you make it a little louder?

Mr. Estes: Okay.

Ms. Apisa: Thank you.

Chair Ako: Thank you, Mr. Estes. Is there any questions for staff at this time?

Ms. Apisa: No questions.

Chair Ako: We can also come back again. So, at this time, do we have a representative of the applicant that would like to make a presentation? Good morning.

Mr. Dave Hinazumi: Good morning. Dave Hinazumi on behalf of Visionary, we also Bill Eddy from Kodani and Associates, and David Shideler from Cultural Surveys Hawai'i. Subdivision Chair, and members of your committee, thank you for your meeting this morning, and for entertaining our subdivision application. We respectfully request approval for final subdivision. We have gone through the process, we've addressed all of the state and county conditions for subdivision that addresses impacts, such as drainage, and sewage to make sure those are adequately addressed during the development. Also, it is not an end process once subdivision occurs, during construction, you know contractors who put in their best management practices, BMPs throughout, we have construction management that oversees it, also state and county have inspectors that also oversee it. Some of our obligations have been to do extreme and (inaudible) that will occur and continue to occur during construction, those are all requirements, and items that were mentioned in the Ka Pa'akai, so that was a very important step to go through, we all learned a lot about it, you heard Mr. Matsushima testify, it was good that we got his location for iwi kūpuna located, so it is now documented. Ahukini Makai, it's an industrial subdivision, there is a big need for it, we have a lot of local individuals and businesses that are eager to be able to build their business in the subdivision. We have local contractors that we will award the work to, provided we're able to move forward, and it is a project that (inaudible) opportunity for our local individuals and businesses to run their business, support their families, support their employees, support the customers that rely on their services, and support the economy. We respectfully request the approval of our subdivision application.

Chair Ako: Questions?

Ms. Apisa: No.

Chair Ako: Okay, I believe that this is one of the applications that have already come through. The Subdivision Committee, it's gone through the Planning Commission, but what was referred back because of the lack of the Ka Pa'akai Analysis, which has now been completed as of now. I wonder if now's the time we can address the condition or shall we wait for Kenny?

Mr. Hull: When Kenny reads the conditions. His final recommendations, he's made an adjustment to some of the conditions as I understand.

Chair Ako: Okay. So, if there's no other questions for the applicant at this time. Can we have the recommendation from Mr. Estes?

Mr. Estes: The Department recommends Final Subdivision Map approval. We would like to amend Condition No. 6 of the Subdivision Report, which pertains to State Historic Preservation, to read...

Chair Ako: I think this is on page 8 I believe, for those following. Item number 6., a. 6.

Mr. Estes: Condition No. 6 of the Subdivision Report should read, should any archaeological or historic resources be discovered during ground disturbing or construction work, all work in the area of the archaeological or historical findings shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources Historic Preservation Division to determine litigation measures.

Chair Ako: So, is this acceptable by the applicant?

Mr. Hinazumi: Yes, that's a standard condition that we always follow in our projects, so yes.

Chair Ako: Thank you. Any other questions for the applicant or staff at this time?

Ms. Apisa: no questions.

Mr. Ornellas: No.

Chair Ako: If not, I'd like to entertain a motion to approve as amended.

Ms. Apisa: I move to approve Final Subdivision Map Approval of Subdivision Application S-2005-41, Ahukini Makai Subdivision, Visionary, LLC. DBA Lihu'e Land Company with conditions as amended.

Mr. Ornellas: Second.

Chair Ako: Any other concerns or discussions? If not, Mr. Clerk, can we have a roll call vote?

Mr. Hull: Roll call, Mr. Chair. Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 3:0. Next we have for New Business:

**NEW BUSINESS (For Action)**

Preliminary Subdivision Map Approval

Subdivision Application No. S-2023-3  
Wailani Subdivision  
Visionary, LLC.  
Proposed 5-lot Subdivision  
TMK: (4) 3-6-002: 001, 017  
Kalapaki, Hanama'ulu, Lihu'e, Kaua'i

- 1) Subdivision Report pertaining to this matter.

Mr. Hull: Do we have anybody signed up? First, we have signed up is Dough Haigh.

Chair Ako: Morning.

Mr. Doug Haigh: Good morning, Honorable Planning Commissioners and Planning Director. I am Douglas Haigh, President of the Board for Kaua'i Habitat for Humanity, and I'm here to testify in support of this subdivision. Kaua'i Habitat for Humanity is working with the property owner and we're hoping to acquire Lot 1, where we could build up to 99 affordable homes for the people of Kaua'i.

Mr. Hull: Thanks, Doug. Next, we have signed up is Elizabeth Okinaka.

Ms. Elizabeth Okinaka: Aloha, commission. I just wanted to state for the record that I'm happy to hear that Habitat is considering. I really, really hope that if you guys are actually gonna go forward with this that you guys start providing local housing for the affordable community. I do not want to see this become another multi-million-dollar subdivision. Traffic is an issue here and I'd also like to also raise the issue again with this Ka Pa'akai Analysis, I'm disheartened to see that similar to the issues that I've had with Ka Pa'akai Analysis we've got one analysis being done for multiple different projects, I would like to request that the Planning Department really start holding this condition to these developers and stop letting them create these blanket analysis for different areas and different projects. They should have to do an analysis for each of these projects. I was also sad to see that there was only three people, so I really hope that people who are doing these analysis can really start reaching out to community members, and k̄anaka maoli, and people who have deep generational ties to this land. I'd also like to raise the issue with water, I think we know that Hanamā'ulu subdivision that was built pretty recently, there's a huge water issue there. Families are having black water come out of their pipes, so I think it's insane

to think that we're going to build feet from that project or not that far from it and that this is not going to be an issue here, so if this is going to be local homes, I hope that they're not met with the same water issue as that existing subdivision. Mahalo.

Chair Ako: Thank you.

Mr. Hull: we don't have anyone else signed up for this agenda item, but if anybody in the audience who has not previously signed up and would like to testify on this agenda item, you may do so now.

Mr. Kinkki: I'll testify, it's kind of the same area. I'm Mikko Kinkki for the record. I'm Mikko Kinkki, this is kind of the same connecting. I would like to echo what our last speaker said, word for word, and add to it. Now there's an old place right next to that place, Hanamā'ulu Town and then when you build new stuff next to it, it changes this for everybody. Now you look at the County of Kaua'i when they appraise your property every year there's a market value on it now, that's going to really change that market value, notation on their assessment, and all of a sudden you have a little bit more infiltration of real estate sector coming into their communities, where we never saw it before. Now in Kekaha we are suffering that, where I saw my market value go up to a million, where my house is still at 630, cause it's a 1937 house, so how can we address that issues for the local people that are so close to this new development? How do we protect them from this real estate monster? That's all I would like to say. I'm from Kekaha, but I do care about the whole island, and there is one thing I'm getting tired of hearing, what do you consider your backyard? Kaua'i's my home, I care about every community on Kaua'i, every community in Hawai'i, and I care about the earth. That's what I gotta say.

Mr. Hull: Thank you for your testimony. Is there anyone else who has not signed up, but would still like to testify on this agenda item? Seeing none, I'll turn back it over to the Subdivision Planner for the report pertaining to the Preliminary Subdivision Map Approval.

Mr. Estes: I'll read the evaluation for the record.

Mr. Estes read the Subdivision Report for the record (on file with the Planning Department).

Chair Ako: Thank you, Mr. Estes. Any questions for Kenny?

Ms. Apisa: No questions.

Chair Ako: No questions, okay. If not, do we have a representative from the applicant here this morning?

Mr. Hinazumi: Good morning. Dave Hinazumi on behalf of Hailimoi and along with Bill Eddy from Kodani & Associates, and David Shideler from Cultural Surveys Hawai'i. Again, Chair and members, thank you for hearing our application. We are requesting to obtain tentative approval so we can start the process to address the conditions as these additional conditions come in we will work on those conditions as well. Wailani, the focus of this project is workforce housing. We all know that is a serious issue we need to tackle. So, the goal is for the workforce. We're gonna be looking at probably smaller lots, a little smaller houses to get it into some type of

attainable range. It is located right in Līhu'e, our employment center. We want to get as many people living in town to match up with the people that work here and hopefully, that will have an impact on reducing traffic in the overall. So, there's a lot of important reasons to this project forward and we're requesting, a tentative approval on this.

Chair Ako: Okay. Commissioners, questions?

Ms. Apisa: No, just a comment that I hundred percent agree there is a desperate need for housing affordable and workforce.

Chair Ako: So, if we kind of look into the future, when are we gonna have housing on this project, I should say? When we can pass over the keys and, I guess that would be a start on the end when the last project would be anticipated to be done.

Mr. Hinazumi: That is always hard to predict. Obviously as soon as possible is our response. Between whether we undertake a project or we work with other developers who can come in and build their projects, we're talking maybe a couple of years out, possibly longer it depends on, it depends on the process. You know, we do our best to address all the conditions as quickly as we can. You know, same on the government side, there's a lot to be done and everybody's working together collectively and hopefully as long as we're all working collectively, everybody working directly on the project, anybody that's providing input to the project to push it forward, we can make it happen that much faster.

Chair Ako: Thank you. So many uncertainties as we move forward. Any other questions? If not, can we have a recommendation from staff?

Mr. Estes: The Department is recommending for Preliminary Subdivision Map Approval with an amendment to Condition No. 6 of the Subdivision Report relating to the State Historic Preservation Division, and Condition No. 6 should read, should any archaeological or historical resources be discovered during ground disturbing construction work, all work in the area (inaudible) shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources (inaudible) can be made (inaudible).

Chair Ako: Thank you. Any further questions? If not, I'd like to entertain a motion to approve with amendments.

Mr. Ornellas: I moved to approve Preliminary Subdivision Map; Subdivision Application S-2023-3 as amended.

Ms. Apisa: Second.

Chair Ako: Okay, we have a motion, we have a second on the floor. Any other discussion/concerns? If not, Mr. Clerk, can we have a roll call vote, please?

Mr. Hull: Chair, was there a motion?

Chair Ako: Okay, sorry.

Mr. Hull: Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 3:0.

Mr. Hinazumi: Thank you.

Mr. Hull: Next, we have Preliminary Subdivision Map Approval for;

Subdivision Application No. 5-2024-4

**George and Patricia Souza Trust/**

**Kevin and Monique Souza Living Trust**

Proposed 2-lot Consolidation and Re-subdivision into 4-lots TMK: (4) 4-2-010:

012, 059

Wailua, Kawaihau, Kaua'i

- 1) Subdivision Report pertaining to this matter.

Mr. Hull: Kenny, do we have anybody signed up to testify? We have no members of the public signed up to testify on this agenda item. If there's anyone who would like to testify on this agenda item but did not previously sign, you may approach the microphone now. Seeing none, I'll turn it over to Mr. Estes for the report pertaining to this matter.

Mr. Estes read the Subdivision Report for the record (on file with the Planning Department).

Chair Ako: Thank you. Any questions for Mr. Estes?

Ms. Apisa: No questions, other than I guess we don't have all the department's comments yet.

Mr. Estes: Yes, not at this time.

Chair Ako: If not do we have representatives for the applicant on this?

Ms. Maren Arismendez: Good morning, Commission. Maren Arismendez from Esaki Surveying, here on behalf of the owners. We would like to respectfully request tentative approval just to give you a short background. It is a consolidation of 2-lots that have been in the family and it's going to be split into 4 equally size lots to be split among the siblings. Pretty straightforward.

Ms. Apisa: And there are 4 siblings?

Ms. Arismendez: Yes. So, 4 siblings, 4 lots, same size.

Chair Ako: Okay.

Ms. Apisa: No further questions.

Chair Ako: If no further questions, Mr. Estes, do we have a recommendation?

Mr. Estes: The Department is recommending Preliminary Subdivision Map Approval with an amendment to Condition No. 7 of the Subdivision Report relating to SHPD comments, and it should read, and it should reach any archaeological or historical resources be discovered during ground disturbing construction work, all work in the area of the archaeological historical findings shall immediately cease and the applicant shall contact the State Department of Natural Resources Historic Preservations Division to determine mitigation measures.

Chair Ako: Questions? If not, I'd like to entertain a motion to approve with amendments.

Mr. Ornellas: I move for Preliminary Subdivision Map Approval on Subdivision application S-2024-4 as amended.

Ms. Apisa: Second.

Chair Ako: We've got a motion and seconded. Any other concerns from anybody? If not, Mr. Clerk, can we have a roll call vote please?

Mr. Hull: Roll call, Mr. Chair. Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 3:0.

Ms. Arismendez: Thank you.

Chair Ako: Thank you.

Mr. Hull: Next, we have:

Subdivision Application No. 5-2024-6  
Kukui'ula Parcel HH Subdivision  
**BBCP Kukui'ula Infrastructure, LLC. /**  
**MP Kua'i HH Development Fund, LLC.**

Proposed 3-lot Consolidation and Re-subdivision into 51-lots  
TMK: (4) 2-6-019: 026, 029, and 031  
Koloa, Kaua'i

- 1) Subdivision Report pertaining to this matter.

Mr. Hull: We have 12 individuals signed up to testify. Before we take public testimony, I want to state for the record, we received a number of written testimonies on this application and absolutely are here to hear individuals concerns and members of the public's concerns. A number of the written testimony that we received is under the impression that this proposed application is going to prohibit beach or fishermen access to Kukui'ula Harbor, or the beach next to the harbor. This is a patently false narrative. There is nothing in this application that is going to prohibit public access to that harbor and to that beach. I can completely understand the frustration that community members have if they're under the impression that it would prohibit access, but again, that is a patently false narrative and to raise those frustrations is highly inappropriate and does not speak to what needs to be said and what can actually voice real concern that may be associated with this application. For the record, the harbor itself is a state asset and is open to the public. Lawa'i Beach, which touches that, oh I'm sorry, Lawa'i Road, which touches that beach is a county road. The parking area and the green lawn area where many local families do in fact hang out, subsist, pā'ina. This area is required by law for Kukui'ula to maintain in perpetuity for public use. So, there is nothing again in this application that prohibits public access to this beach. Furthermore, while there might be some concerns about therefore the subdivision immediately accessing the site, there's a prohibition on vehicular access from this proposed subdivision to Lawa'i Road. So, I just want to set that record straight. Sorry, I'm a little frustrated, but our staff has been feeling a number of calls and rightfully so, frustrated and concerned citizens over these accusations. But again, that is not what is being proposed nor could it ever be proposed. So, I just want to set the record straight before we take public testimony. With that, I'll start calling the individuals who signed up for testimony. Micah Bukoski.

Unknown Male speaking from the audience: Sorry, can you explain it just a little bit further so that we're all on the same page as (inaudible) is? If it's not, taking away from anything, what is it (inaudible)?

Mr. Hull: The proposal is for, to be specific, the proposal is for reconsolidation of 3 lots into 51 residential lots. That's what's being proposed, and this is mauka of Lawa'i Road. So, there is a proposal for a subdivision happening, but I want to be clear, nothing part of this proposal is entertaining prohibiting beach access, nor could it ever. Sir, we're not going to go into questions. We can take testimony, and if there are questions that are brought up by the testifiers that a commissioner would like to go over indeed that can happen. So, Micah Bukoski. And as the testifiers approach the microphone, please state your name and you have three minutes for testimony. Thank you.

Mr. Micah Bukoski: Aloha mai. My name is Micah Bukoski. I'm from Lawa'i, we have multi-generational roots to that area. I've grown up over there, in my short life I've watched this area completely change. Where we used to have farming lots, we'd have local families farming fruits and vegetables, cattle and such knowledge, now there's large fences that say no trespassing and I personally have been, I personally experienced, well they may say, it's not going to directly cut

off legal access to the area. I have been harassed by security going down county roads. I have been harassed by security, Blue Shield, Blue Knight Security in my own neighborhood, following me home, following me around the neighborhood because the area behind that is now a private lot. The overdevelopment is just kind of insane. How much more we need? You know, we even in the previous agendas here went over how we are in a housing crisis. We are in a workforce housing crisis and this to me seems completely antithetical to that. As was brought up earlier, if you were to create these more multi, you know, multi-million-dollar subdivisions and stuff like that, it's gonna raise property tax, it's something else I personally have been experiencing where property taxes are going up because of larger developments going around. If we're already struggling to house local families and stuff like that, how is this going to help that whatsoever? It's more difficult for families to get in, more difficult for people to sustain themselves in these areas. That's something that we're seeing across the island. With that, also being said as someone who's grown up around that area, I've seen how it's changed almost environmentally. Just yesterday I was down over there, with the storms you can see there's been an extreme amount of runoff and I feel throughout the years all this is all kind of my personal experience. It seems as though the runoff has gotten worse throughout the years in just the little development that there has been now, and whether or not this is just coincidence there is a dead turtle lying on that beach right now, whether that's because of pollution or anything like that, I can't say, but it's something that's there right now. I think that's all that I have for this exact moment. But thank you for allowing us to be here.

Mr. Hull: Thank you for your testimony. Next, we have Daniel Sangenito.

Unknown male from audience: (Inaudible) for now.

Mr. Hull: Mikko Kinkki.

Mr. Kinkki: Hi. I'm Mikko Kinkki, resident of Kekaha. Mikko Kinkki, Kekaha, Kaua'i, 8689 Elepaio Road. I had a personal experience with this area to the highest extent. When I was a young child along with my father, we built one of the first houses in the Ku...what is that one, there's so many K names now in there, I lose track. The Kiahuna Golf Village, we built the Betty Bell house with Joel (inaudible) and crew. When there was nothing there. That used to be a sugar cane area what they call Kukui'ula now. The name of the ocean is Kukui'ula not the land. When it comes to commerce in these islands it has been clearly stated to name it correctly. And what are the intentions? Now here, you guys have 3 lots that were intended for luxury homes and we talking high-end luxury. We talking 20 to 30-million-dollar houses. The real estate in Po'ipū has turned into the most expensive real estate on the island, breaking records. Making a 2% profit gain on a real estate agent profitable to the point where you're talking 20g's, easy. 200g's. This changes the game. Those lots being turned into many more causes grave problems for the promises that were put in place when you made that development. Only that style of housing. Not increasing your guy's density. We need density where there's people who need homes. These are second/third homes, trading chips. That has so much equity in it. Do we know how equitable gains work everybody? How real estate comes up and down. I, 100% against changing that land designation and keeping it those 3 lots and keeping the promises that you were not gonna overdevelop this land and destroy it. It's a catchment area for water. It was agricultural land. I used to drive through the cane fields of McBryde all the way there. That development stands in the way of our road. That's a pass-through road. The Alertons Garden shut it down and blocked

that road. We used to go through that as a saddle, the cane trucks did. Cause if one cane company goes down they gotta bring the sugar to Līhu'e if they got to. You guys gotta make that Kukui'ula know if we gotta build a road, they standing in our way. So, I got a lot of issues with Kukui'ula, starting with their name, and I going let somebody else talk, but that's where it stands to me. Thank you very much.

Chair Ako: Thank you.

Mr. Hull: Thank you for your testimony. Next, we have up is Jeri DiPietro.

Ms. Jeri DiPietro: Aloha. Good morning, commissioners. My name is Jeri DiPietro. I'm the President of the Kōloa Community Association. And today I'd like to talk about how when we negotiated with the Kukui'ula Subdivision there that we were able, with Mr. Louie Abrams, we were able to lower the density to a more suitable number from 3,400 down to 1,700. Two more of the conditions that I'd like to respectfully remind the commission of since we have just like in a volunteer group, many members changing, that there were conditions to put those 3 to 5 acres at Kukui'ula Harbor into county deed and also the 20-acre park on Po'ipū Road between the Texaco Station and Kōloa Elementary School. Those conditions would be so helpful to the community. We need to encourage; we don't want to wait until all units are built out for that park to be able to made available, it was supposed to be a world-class sports park, and the harbor as you've stated, kind of that how much that's used by local families and it's one of our safer beaches and great for pā'ina. So, when I see amendments to these conditions regarding the lots, I really would like to urge, and our association would like to urge the commission to think about moving forward on exchanging those deeds, getting title into county hands and have those properties as you've stated taken care of in perpetuity. We need buildouts on that park and we need good maintenance and cleanliness of the harbor. So, thank you very much.

Mr. Hull: Thank you for your testimony. Next, we have signed up Elizabeth Okinaka.

Ms. Elizabeth Okinaka: Aloha commission, for the record, on the record. I'd like to state that I am strongly opposed to this development. I would like you to know, I would like to know Ka'aina, how you can guarantee that this is not going to further block our access because I think it's insane. We are proposing another subdivision feet from the harbor. There's going to be more people, there's going to be more cars and there's going to be more of a strain on our natural resources and that is completely undeniable. These people will be walking from these cottages and not only this, not only the harbor, but there's also the baby pond beach which is nearby here. Another little, small spot that some of our last local families can go to. We've been chased out of Po'ipū Beach because of the over-development. The harbor is one of our last places that we can take our children to, and to say that this will not cause a further strain is a complete lie. And I think you cannot guarantee that Ka'aina. It's true you're having hundreds of more people here and this consolidation also accounts for the existing clubhouse. Will all of the existing homes and developments already in Kukui'ula also have direct walking access across the street now? These houses are going for 4 to 6 million dollars. Why do we keep allowing this? For everyone who wonders why we have a housing crisis, this is it right here. We need homes that we can pass down through our generations. Half the kids I grew up with are either dead or in jail or had to leave the island because of the cost of living, and housing crisis. We need to start making pono choices for the future generations. This project does nothing for the local community. And yet

again, we have 2 ex-county attorneys with deep inside knowledge of the county who are here representing these developers today. The County of Kaua'i may give them a path on ethics, but this is wrong. It's morally wrong and it's ethically wrong and we know that. There is no valid Ka Pa'akai Analysis like this I stated earlier. If you look at the packet agenda for this project, they actually put my input. I stated that I wanted to not have anything to do with this project. I gave input for the Kiahuna project, and I said if they are going to do a Ka Pa'akai Analysis for this project, then a separate one shall be conducted, and they could contact me. They never did that, just like the prior development. 3 different projects in 3 different areas were jammed into one Ka Pa'akai Analysis in 2 different ahupua'as, it's a completely invalid report. There is no valid Ka Pa'akai Analysis for this project. There's no valid traffic study and I would like you guys to know that MPH Development Fund LLC., is not in good standing with the state. Is that an easy fix? Yes, but it shows that at the bare minimum, our Planning Department and our county cannot even do our job to research who we are conducting business with. This project will further worsen the water quality for the harbor. My own children who frequently swim here, along with many other children, are frequently getting ear infections because of the runoff that is directly going into this harbor. More development will create more runoff here. We had a brown water advisory for Po'ipū yesterday.

Mr. Hull: Three minutes, Mr. Chair.

Ms. Okinaka: I ask you guys to please oppose this, defer. These people are not in good standing. This is another ethically and morally wrong developer, and I'd like to raise the issue. I'm sorry, Donna, but you are a registered real estate agent. Why the hell did we have a real estate agent as a Vice Chair on our Planning Commission?

Mr. Hull: Your time is up.

Ms. Okinaka: And this is not a personal attack. My time is up. I'm sorry, but...

Mr. Hull: Gavel it.

Ms. Okinaka: This is a public position you applied for.

Mr. Hull: Gavel it. Gavel it.

Chair Ako: At this time, we'll take a recess. We'll be back no sooner than 20 minutes.

Committee went into recess at 9:22 a.m.  
Committee reconvened at 9:44 a.m.

Chair Ako: Good morning, again. It's 9:44, as we reconvene our meeting. Mr. Clerk?

Mr. Hull: Returning back to the list of individuals signed up to testify. Next, we have signed up Bridget Hammerquist.

Mr. Kinkki: One more time. One more time, who's...

Mr. Hull: Bridget Hammerquist.

Ms. Bridget Hammerquist: Good morning, Chair, members, and staff. My name is Bridget Hammerquist and I live in Kōloa. My family has lived on Kaua'i since 1964. I was born and raised on the Big Island. I'm here today because I used to swim in Kealakekua in Kona, and I saw the change in Kona, and I know there's people that truly regretted that over-development after it happened. If nothing else, I'm asking you to defer your decision today. Until the matter can be further studied. You have a copy of my testimony. I do understand on behalf of Friends of Māhā'ulepū and Save Kōloa, we submitted formal testimony. We were not of the opinion that access was gonna be denied, in fact. But access will be denied in effect, and that's the difference. And in this case, there was a density agreement, and I spoke with a member of BBCP, who said this violates the density agreement that Kukui'ula agreed to as a condition of their development. And I think it warrants taking the time to look into that because if indeed that's what's happening just because there isn't the institutional memory because jobs have changed, positions have changed, people appointed to boards and commissions have changed. That memory shouldn't be lost. It's in writing. There is a Kukui'ula Development approval, there are conditions that were agreed to without approval, and with all due respect to the Director, you cannot say that there is a parcel that cannot be closed off in perpetuity unless you're holding the deed to it. CCR's Conditions Covenants and Restrictions can be amended. They can be changed. If the county has a deed that is written into the deed, then you know that parcel will be maintained in perpetuity, but until you have that, you have nothing. And it's wrong for the Director to be under this apprehension that he somehow can guarantee the lawn area and most of the public doesn't even know that the lawn area is owned by Kukui'ula. There are 3 parcels there that Kukui'ula owns, and so to say what's guaranteed and what's not, you need a deed. And in this case, the density that was agreed to and as part of the condition is being violated. I submit to you that the SMA permit is no longer valid because this is an entirely different contemplated development then when the permit was obtained, and I ask you please to defer it. Give it some thought. Give it some time, and whatever is permitted ultimately, please make sure the conditions are specific so the developer is actually held to the laws, they're not now incorporated in his development packet, and we detailed the laws...

Mr. Hull: Three minutes, Mr. Chair.

Ms. Hammerquist: ...in our testimony. And I appreciate your time. I know it's a hard job. But it's time to take care of the public and not the developer on this one. Because it's gonna ruin that area. Thank you.

Chair Ako: Thank you, Ms. Hammerquist.

Mr. Hull: Next, we have signed up Courtney Apo.

Unknown woman from audience: (Inaudible).

Mr. Hull: Next, can't quite read the first name. Kiauna Haroldsen.

Ms. Kiauna Haroldsen: Good morning, everybody.

Chair Ako: Morning.

Ms. Haroldsen: It is pronounced Kiana, my mom spelled it wrong.

Mr. Hull: Sorry, I couldn't quite (inaudible).

Ms. Haroldsen: No, you're good. I am from Kapahi. I grew up swimming in Kōloa, on Ōma'o Road, and I grew up swimming in that harbor with my family. The last time I spent time with my family was in that harbor before they had to leave because they were priced out of paradise, just like majority of the locals out here. It is, I think I'm one of the youngest people in this room right now, and I'm speaking on behalf of all young people that agree with me. This is wrong. This is desecration and is not, it's unspeakable, what has already happened to these lands, and it is unspeakable, well, this will be the nail in the coffin for the (inaudible) for Kaua'i. There's already so much tourism out here. It's the last thing that we need. We need housing. We need to clean water. We need lands for the people, for the 'aina, and for the agriculture. The tourism is beyond the limit, the tourism is up here on the scale and the people are down here. That needs to be leveled out, there needs to be balance, and there needs to be respect for the lands, and for the people. I'm disgusted with how far this has gone already. I can't even begin to describe the anger that I hold. It's disrespectful. That's all. Thank you.

Mr. Hull: Next, we have signed up Rupert Rowe.

Mr. Rupert Rowe: Aloha, my name is Rupert Rowe. I'm the po'o of Kāne'iouma. I wanna get back to Condition 26, so that we all understand why that condition was placed. Under the State Constitution, the native Hawaiian has the right to practice its religion, and by doing so, Kāne'iouma cannot become a detention basin. And I heard and listened to the county engineer. The county also has a problem. The problem the county has is the parking lot in Po'ipū where it pumps the water and dumps it on top of the graves on the top. It's violating the State Constitution of the kānaka maoli. Nobody talks about the civil rights of these people. We must protect our resource. When the Land Use Commission denied the landowner the right to rezone his property unless there was a drainage plan. You cannot use the heiau as a detention basin. It was the stipulation of the state and all these things that is happening on the county property. We have hurricane debris down there. The county cut the road through the heiau, that was illegal. You folks all know that. How do you correct the problem that you created? Everything mauka of the road, there must be a drainage plan. There's no drainage plan, I know. So, we are preparing ourselves to take our case to the State Supreme Court, on our culture, and our traditional rights, which you folks have violated by passing the drainage. You can't use the heiau. How dare you guys look down upon the native person as a piece of rubbish. These developers. What's happening? Who's protecting our civil rights? Our constitutional rights is being violated? I'm ready for the battle! As Makahiki comes to an end, Kū has stepped up. We are ready. We will take our case to the courts. And I want an answer. Show me the drainage plan. I testified in front the Land Use Commission and I understand. They deny the applicant. The zoning change and you folks passed it. Telling you guys was studying this from August.

Mr. Hull: Three minutes, Mr. Chair.

Mr. Rowe: Okay, but let's get ready for our case. This whole thing may cost the county getting sued by the developer if you guys don't have the drainage plan. Aloha.

Chair Ako: Thank you, Mr. Rowe.

Mr. Hull: Thank you for your testimony. Next, we have signed up is Terrie Hayes.

Ms. Terrie Hayes: Aloha and Happy New Year. Terrie Hayes for the record. Okay, Happy New Year, so I was, I live in Po'ipū, a block from the beach adjacent to Kāne'iouma, which I want to clarify is not open space, that Esaki Engineering said, it's open space special treatment cultural, that is the designation. It is not purely open space. So, let's be straight on that. The other thing is the water from Kipuka does not run uphill to Kāne'iouma. So, Engineer Moule is incorrect. It's a fact, come and stand at the corner as I did with another hydrologist that understands water flow. Now, yesterday with one inch of rain Honolulu got the brunt of the storm. Did everybody see the news this morning? There's a new river in Makaha. There will be in Po'ipū too. There is no controlling water flow. Water goes where it wants to go. When are we going to get that straight? Where do the storms come in at? Well, they come in at the harbor. They come in heavy. We were down at the harbor watching the brown water mix coming out of the culvert that's under the 3-culvert bridge, are you all familiar, there's a 3-culvert bridge down at the harbor already and there's a culvert that comes from Kukui'ula that dumps right into it. So, brown water mixing, it was so windy you couldn't even believe it. The weather that comes in, comes in there. That is where, well, back to New Year's. So, we went to Po'ipū, there were over 500 people on the beach, probably close to 700, on little Po'ipū Beach. Where are they parked? All along the no parking areas, which the police unfortunately informed a friend of mine, well, we give them a ticket, but they just pay the \$35. So, let me implore upon any of you to raise the parking where it's illegal it should be illegal. I intend to call the Department about getting somebody to just monitor the parking there. There wouldn't be so many people if there was not this illegal parking. The other illegal parking is in the parking lot that was also flooded yesterday with one inch of water. Had we received that 10 inches they got in Honolulu, and we will, trust me, we will. The whole place is flooded. That is where the water is going. They need to unpave paradise and take out the parking lot. That's one of the first things. Any, any person in hydrology would tell you, when you understand that it's now acting as a bowl. Kind of like the harbor is. That's another bowl, and when storms come in, they are affected by the way it's laid out. I lived and went to college in Northern California where a tsunami wiped out Crescent City that came from Alaska.

Mr. Hull: Three minutes, Mr. Chair.

Ms. Hayes: You need to think more about this. All of those people were denied, even told where the, where the fireworks were gonna be. They didn't have them down there this year. Where did they have them, at Kukui'ula. They moved them but they didn't want to tell anybody because they didn't want the 700 people that were there to go down to the harbor and watch them. So, it's...and these are tourists mind you we saw one person we knew. What happened that night? As a friendly reminder...

Mr. Hull: Three minutes, 30 seconds, Mr. Chair.

Ms. Hayes: ...there was a tsunami in Japan and an earthquake. I said what would happen to 500 people...

Mr. Hull: If you could wrap up your testimony, ma'am.

Ms. Hayes: ...if you had to...we need to have an evacuation route before you establish anything else, we need to have an evacuation route and there is none. Thank you.

Mr. Hull: Next up we have Billy Kaohelaui'i.

Mr. Billy Kaohelaui'i: Aloha. My name is Llewellyn Kaohelaui'i, the moku for Weliweli Ahupua'a. I sit next to Manokalanipō. Kukui'ula, the harbor, I don't think you wanna change that harbor because the hurricane, the waves went over everything, bust up all the boats inside that harbor. Then me and my dad had to go drive that boat Honolulu for fix. So, I know you guys trying to change their harbor and keep them for the people up there. I said, no develop. Period. That's the last kānaka land we have left. You guys are selling it out. Where we going live? Like she said, yesterday we went to look the drainage. Everything went in the harbor, the boat harbor. And when they call chocolate water, what is that? It's not water, it's sewer. Plus, as where all the (inaudible) come from. Emma, Queen Emma, it's the bluff over there. You guys could develop all that. Lawa'i Kai, the trail that is registered, that fishing trail is registered. In the old days never have road, had trails. I said, when I had go down there and look at that, I couldn't believe all that houses. What a rip-off. As kānaka land that. I don't know what the kānakas now days, you know, it's their land, it's not you guys land. You guys never pay my grandfather for some land over there. Nobody paid anybody. How the hell they get the land? County, state, federal, they not from here! Everybody not from here! The kānaka from here! Stole all our land! America stole our land! You guys taking the land now! (Profanity).

Mr. Hull: Three minutes, Mr. Chair.

Mr. Kaohelaui'i: I stand strong for my kānaka, you know, all you guys, you guys don't know what is kānaka yet. You guys lucky you guys live Hawai'i. It's not Hawai'i anymore, it's changing! Everybody wanted to come Hawai'i, but look you guys going build all these developments and all this stuffs. Going charge them so much money.

Mr. Hull: If you wrap up your testimony, sir.

Mr. Kaohelaui'i: Okay. Thank you. Aloha.

Mr. Hull: Next we have signed up is Alberto Genovia. Alberto Genovia?

Mr. Alberto Genovia: Aloha. I would like to see an audio of what's going on in our community. All the prices of whatever is being sold till today from in the kingdom day till today. Okay. How was it that it was divided from plantation leasing from the royal kingdom. Do we know our history. Do we know the history? Okay. Manipulation of our keiki, 'ōpio, getting rid of them, putting them up in some place they don't really know how to live, but they do good. Okay, I'm glad that we taught them that. Okay, I hope your guys' kids do the same thing, going to someplace that they don't even know, and do whatever they gotta do to survive. Okay, this is our land. My generation came and was a part of this for years and years and years. Okay, all my mom's siblings was all born right in Kōloa. Okay, where is all that information, gone. I you're your guys' information is gone too. Okay, because is not present of what you guys doing to manipulate us as the people of the land. Now we taking the responsibility and don't use the Hawaiian words if you don't know what you're talking about. Okay, cause you know what, I

went to so many classes trying to figure that out. Why they always say that, why my aunty always said that, if you don't know you gotta learn. Okay, so you guys gotta learn. I'm a practitioner. Okay, I sing Hawaiian music for teach my keiki, my 'ōpio. You know, and try to keep them as proud as they can be to be in this identity. And who are we now? We you guys stepping stone. Is that right? What is the price for greed? What is that conflict? Can we charge you folks for conflict of this greed? Corruption. Right? Can we do that? Do we do that? You know, from the back in the days, Grove Farm, plantation companies, okay. How did they get this idea of ownership? Where was it that it turned from lease for the sugar in tons that the people never really get anything from except for just the job. Community. Comradery. Helping each other out to live in this place we call Kaua'i. Yeah, keeping what we have as resources, the knowledge of this to pass on to our next generation. I'm one of them. I used to work for Grove Farm, I got iced out from Grove Farm because they want to turn you guys into this business. Is that right?

Mr. Hull: Three minutes, Mr. Chair.

Mr. Genovia: Is that right? I should have another price of this on top of your guys' head, but you know what I would rather see the audit. Bust out the audit I like see it. Where is it that it came up, when it turned from the royal deed or the title to this lease land or ownership land that Grove Farm so-called owns or Knudsen was sold by...

Mr. Hull: If you could wrap up your testimony, sir.

Mr. Genovia: ...(inaudible). That was (inaudible)...

Mr. Hull: Sir, if you could wrap up your testimony, please.

Mr. Genovia: Okay. So, let's show the community all this idea of corruption. We no do corruption in Hawai'i. I don't know what you guys' parents did, but I guess that's something else, yeah.

Mr. Hull: Next, we have up is Dawson Okinaka.

Unknown woman from audience: Can you repeat that?

Mr. Hull: Dawson Okinaka.

Unknown male from audience: He's outside.

Mr. Dawson Okinaka: Howzit. Good morning.

Chair Ako: Morning.

Mr. Okinaka: My name is Dawson Okinaka. I reside in Kōloa for 30 years. Since I was as a kid I can remember the area where you guys like develop, down in Kukui'ula, the pitch fence, when was all buffalo grass and that's when Kaua'i was Kaua'i before that all this Waikiki development down there, you know. As I got older and things are still kind of staying the same, you know, was all right but the whole time was like awkward because we knew something was coming.

You know, right around the horizon, and as I came older and now that I'm on the other spectrum. I've been in there, building those houses. I've been on the roofs, you know, sacrificing myself for one paycheck and the whole time I'm up there I'm thinking, brah, if I fall down, if I break my neck, then what? You know, all this for my kids have something. To feed the developers, to feed the people that get the money, is pilau already. You know, if you guys keep building those lots, which is one swamp land over there because I built the house right next to it, Alan Dunco. I know everything, in and out, that whole place, brah. I know Kukui'ula, everything from that day one you guys started doing things back then, it's all pilau. If you guys make those houses, our kids not going be able for go to harbor and if you guys take the land where we already get the canoes and stuff, you know, what we get left, our kids going have nothing. My goal in life is just to keep something for our kids and one paycheck is nothing, you know. We no can even go to Po'ipū Beach, we no can go to Brenneke's, we go to the stores no more nothing. Why? Because all for this people that buying up things. All I get for say is that, I tired seeing things get stripped away. I like see Kōloa stay Kōloa, Po'ipū as is, and you know times is coming. Right now you guys all get like one notice of eviction, you developers, you dreamers, get out of here already, beat it. We no like see you guys. You know, when I was one kid, you guys used to strong arm us. So, when we go down to Alerton's, whoever pay off the Hawaiians for kick us out, shame on you guys, brah. You guys no can strong arm us anymore. If we gotta go there and miss work and stand in front of the machines, trust me, we will, we going keep things how it is, as all I get for say. Mahalo.

Mr. Hull: We don't have anyone else signed up for this agenda item. If there's somebody that hasn't signed up or previously spoken, if you'd like to testify, you may approach the microphone.

Mr. Dylan Hooser: Hi everyone. My name is Dylan Hooser and I'm against the proposed rezoning to allow more luxury homes. Po'ipū is already overbuilt and overcrowded with visitors. Where are local people going to live? We don't need more service jobs that require taking care and cleaning up after wealthy people for a paycheck that isn't enough to afford rent anyways and can you find a place to rent if you have money. How are we supposed to enjoy our lives? Kaua'i County keeps allowing the building of more mansions and our friends and family are moving off the island. We have people houseless sleeping in cars, but we are building more luxury homes. Beaches and parking lots are already maxing out. Aunty talked about it earlier. Po'ipū Beach the other day there was cars from the beach all the way to the road, left, right, center. There's nowhere for people from here to enjoy these resources. I try to park in a little spot, cop told me I had to leave, took me over a half hour with my hazards on waiting for a car to leave so I could watch my kids while they played in the ocean. Our lifestyle is being sold to the highest bidder. The places I grew up frequently as a child are rapidly becoming paid tours or beachside bars for the rich and famous. What kind of life will our children have here? We need to put a pause on building for the rich and famous and focus on creating spaces our children can afford. Sad to see generations being priced out of their homes. Thank you guys.

Mr. Hull: Is there anyone else who hasn't previously testified and would like to testify on this agenda item?

Mr. Kinkki: One second, one second, one second. Okay, what I wanna see...

Mr. Hull: Whoa! Hold on, sir! This is not your venue. Please take a seat. You've testified previously.

Mr. Kinkki: I was just going to say (inaudible) hands.

Mr. Hull: Nope, nope. This is not your venue.

Chair Ako: Thank you, please.

Mr. Hull: If there's anybody else who would like to testify. Who hasn't previously testified. Thank you.

Ms. Clara South Carpatian: Hi, my name is Clara South Carpatian and I just wanted to say a few things. First of all, I see the faces on all of you guys while we're talking about the beach and you guys claim that this is nothing to do with the public beach. Yes, we understand what you're saying, but it all has a connection. In the end of the day, you have to think about everyone who's from here and who lives here and their physical and mental health when you strip away all that they have, which is very little at this point. The small portion of people who are still from this land are just going to continue to go downhill if you guys don't continue to provide things that help them stay alive and stay happy and then what, you have no one to provide help for these people that you're trying to profit off of and at the end of the day profit should not be the goal, it should be the health of the people that are from this place. I am not from here personally, so I cannot speak from someone who is actually from the land, but I am from somewhere that is going through the same process of getting stripped of everything that means something to them, all of their culture. I'm from Costa Rica where every year that I go back, which is not a lot because it is so expensive, I see a new development and new people who are not from there and learning the culture and trying to profit off of everything that is not theirs and I just see more and more people that are actually from where I am from losing faith and actually trying to stay and keep together what they have left. So, at the end of the day, even if this is not about Kōloa Boat Harbor, I think you should think about the people and the kids that are growing up with a very, very small portion of their culture left and think about what the use of actually building these homes are for because, like everyone else has said, I think there is enough homes, luxury homes, built for the wealthy people and there's not enough people to work and that want to work for these people for nothing. That they are profiting off of for providing for these people that do not care about them at all. So, please just think about the people at the end of the day and instead of just hearing these words, look at these people in the eyes and think about what they are saying because I'm only 17 years old, I don't know a lot about what I'm saying here, but I see people that I love hurting that I grew up around because there is not a lot left for that to have faith in. So, please just keep your morals intact and have love in your heart and think about the people in the end of the day if it's not about all the laws and everything behind it. That's all I have to say.

Mr. Hull: Thank you.

Chair Ako: Thank you.

Mr. Hull: Is there anyone else who hasn't previously testified on this agenda item? Please approach the microphone.

Mr. Guy Miller: Hi, good morning. My name is Guy Miller. Thank you for hearing all the testimonies today. I think I just wanted to say that I am in opposition of this rezoning measure and I think all the speakers before me did a really good job of listening the myriad of issues of over development that the south side has. I mean, everything from the water runoff to no access to the beaches to all of the infrastructure that's just widely ignored while giant condo complexes and multi-million-dollar houses are built left and right. But I mean, just from my own experience in the last few months going down to the harbor and seeing my friends and their children in the water and it's covered in, its reeking of raw sewage. These are just things that we see all the time on the south side even after just a bit of rain, flooding, raw sewage, and just not even be able to use our beach and really that corner that we're talking about between Lawa'i Beach Resort and the harbor there, including the grass in front of the harbor, it really is one of the last areas on the south side that has not been completely overdeveloped yet. It is the last corner that we go to every week to hang out because there is nowhere else for us to go. Everywhere else is completely packed. We don't even go there anymore to Po'ipū Beach. I mean, you can't in the middle of the day. So, I just wanted to say that's my composition and thank you for your time.

Mr. Tim McFarland: Hello, my name is Tim McFarland, a resident of Kapahi. I need to get my septic remediated before I can do any work, but I cannot find a subcontractor to do these because they're all working on the big projects. The gentrification of the South side with these new lots adding that much more work for the subs is going to eliminate the ability for those subs to do any work for anybody else, the little guy gets pushed out every day and I got to wait to get the work done on my house because no can get a single permit and tell the septic is dealt with, so, I'm in opposition and I appreciate everybody's time. It's a tough one. So, thank you. Oh, I still got a minute. So, the line for the tourist destination zone was drawn around the Kukui'ula when it was built. Is that going to be drawn around this new sub so all of those can just be vacation rentals? That just, that's insanity.

Mr. Hull: If there's anybody else who'd like to testify, that didn't previously testify, please approach the microphone.

Ms. Courtney Apo: Aloha, my name is Courtney Apo. I just wanted a little more clarification on the Special Management Area Permit. Just like this young woman in the back of me, I don't know much of the SMA Permit, I just recently started learning about it this past March. So, the Special Management Permit that kind of controls the development in the area, and I was looking at tax maps and their keys, I seen that Kukui'ula Lot 29 is within the SMA boundary. So, I just need a little more clarification on that and if the applicant already applied for it. Are they applying for the major and going through the process as of now? That's my question. They are? Okay.

Mr. Hull: So, there's no interaction per say, but if a commissioner wants to bring up a question, that dialogue can happen after.

Ms. Apo: Okay, gotcha. Alright. Like I said, information is really hard to find as I'm trying to look everybody in their eye because I'm trying to be respectful. That's just a problem that has been a problem. Not only for Kukui'ula, Kōloa, but also at Hanalei Bay. I'm kind of well-known in the county. I've been a problem. I've been writing letters, calls, working with a Catherine Leonard trying to figure out permits for us as a local company and I'm not going to specify

which one, but I'm sure you're already aware of that. But it's a Special Management Area Permit that, is my concern because that's what controls the developments in these specific areas. So, it would be awesome if we could get clarification on that and mahalo for your time.

Mr. Hull: Is there anyone else who hasn't previously testified and would like to testify on this agenda item?

Mr. Kitchu (Inaudible): Hello Council. Hello Community. I'm Kitchu (inaudible) from Ecuador and my people are displaced, so I strongly oppose this, and I stand with my community here. Thank you.

Mr. Hull: Is there anyone else who hasn't previously testified?

Mr. Nick Lucas: Good morning, name is Nick Lucas, I'm one of those strongly oppose this rezoning from 3 to 40, seems like a big stretch 3 to 40, it's not 3 to 6, or 3 to 10, or 3 to 20, it's 3 to 40. Has anybody driven through Kukui'ula lately and just looked around at what it is, just next time you're on the South side, just drive through, just take a peek at what's being built, and what's...how many lots are still empty in there. There's hundreds and hundreds more million dollar homes. If you look at any of these homes, no one lives there. They're not members of the community. These are just investment homes. Build it for 5 million, sell for 10 million in a few years, build another one. No, they don't care about this place. You know? Just take a peek in there and you're gonna turn another 3 lots into 40 lots for who, who's this for, what for, so people can make more money, people you don't even know. Not that, you know, these people don't live here, they've probably been here a handful of times. You know, for they just, there's just an investment. They don't care about the area or anybody that lives here. It's just a way to make more money. Thank you for your time.

Mr. Hull: Is there anyone else who has not previously testified that would like to testify on this agenda item?

Mr. Craig Hawkinson: Good morning, my name is Craig Hawkinson. I appreciate you guys taking the time to sit and listen to all of us. I own a snorkeling tour company. I have permits with the DLNR to do permit, I mean to do snorkeling tours at Kōloa Landing and at Kukui'ula Harbor, we do our tours down past where the boats are closer to the houses down towards Spouting Horn. And as you may or may not know when it rains like it has in the last couple weeks, Kōloa Landing turns into a mud bath because Waikomo Stream empties into Kōloa Landing and all of the run off from mauka comes down into Kōloa Landing and it turns it just...we can't snorkel, we can't dive. It shuts me down. So that's why I went to the DLNR and asked them for another location Kukui'ula because there's much less runoff there, but I went there 2 days ago and as one of the other people already stated, the water pouring out of that culvert under the 3-culvert bridge was just mud and so I couldn't do my tour there either. So I'm basically shut down, and I just wanted to say that before you make this decision to start building a lot more homes in that area, you need to consider that it's going to dramatically increase the amount of runoff that goes into Kukui'ula Harbor. Not from septic systems, or whatever, but just from run off from the roads and the properties and the buildings because all that water is gotta to go somewhere as the hydrologist said and it's going to go into Kukui'ula Harbor and it's going to change that harbor dramatically, and it's probably going to put me out of business. So, think hard. I take a lot of

people out snorkeling, lot of locals, lot of kids. I don't want my business to be shut down because you guys can't figure out how to not build these houses. Thank you.

Mr. Hull: Is there anyone else who has not previously testified on this agenda item that would like to?

Ms. Cecelia (no last name given): My name is Cecelia, and I'm also not from here, but I was raised to fight for what is right and listening to all the testimonies. How can you deny what the development in the South won't affect the local people in the future. And adding more luxury homes would just add problems that exist. It is wrong to not let people to even enjoy what's left. Coming from the heart, I tell you to listen to the people that matter here in Hawai'i because without the people in Hawai'i, Hawai'i would not exist and be the way it is. Thank you.

Mr. Hull: Is there anyone else who has not previously testified that would like to do so on this agenda item?

Mr. Corey (no last name given): Aloha, my name is Corey. Would it be okay if I allow some of the other speakers who have already spoken to use the rest of my time?

Mr. Hull: It's at your discretion, Chair.

Chair Ako: I mean, how many more are we talking about?

Mr. Hull: It would just be for three minutes.

Mr. Corey: For the rest of my...I have 3 minutes.

Chair Ako: It'll just be for your three minutes?

Mr. Corey: That's right. Okay. I'm a fifth generation born and raised in Kaua'i. My great grandma was born and raised in Kukui'ula when it was still cane field, sugar plantation. I am highly opposed to subdividing this area in Kukui'ula for more luxury housing. Based solely off, it has no community development or cultural agenda beyond housing more off island folks that have no cultural and community ties. Again, please do not consider this a pit against progression in the islands because I know we need it and I know we need a lot of things in the south side area, but this is not the way to do it. With that said, I would like to have my sister come up here if you'd like to share some more for the rest of my minute. Thank you.

Ms. Okinaka: Aloha. Again, for the record, I am opposed to this development. I just wanna say that personally, it is heartbreaking to go to the harbor looking up and already seeing the homes that are coming up. This place is drastic, drastically changing and by allowing another subdivision here, it will change the harbor forever. We're looking up at the harbor now as our kids are swimming and there's mansions being built by foreigners. None of this will benefit the local community. Kukui'ula as always had their eyes on that boat harbor. What is the one thing that Kukui'ula can not offer the people who are staying there, it's direct beach access. I would like to know if this is approved, are all of the existing homes gonna have access? Because to me, this is exactly what it means. The harbor will now be overtaken by Kukui'ula. This entire area has become gentrified and it's at the expense of local families. There was a historical registered

sites on that property, but when I looked up, I looked them up, where did they go? They've disappeared, they've been bulldozed. So, what do we do? Just bulldoze the property again. You guys are erasing what little culture in history we have left. It sounds familiar. How many projects have we seen this, where there's registered sites that are on the property and then oh now they're gone they're bulldozed we don't know what happened so let's just build just like when Kukui'ula got approved right, we were promised homes, a community park and that never happened but what do we do we take the measly payouts we get more (profanity) apartments across the street, slave quarters so we can clean these people's houses. It's (profanity). We need houses that our families can buy and pass down through generations. This is why we have a housing crisis.

Mr. Hull: Three minutes, Mr. Chair.

Ms. Okinaka: This road is a death trap and if you guys continue to approve this in the event of a natural disaster everybody inside of Kukui'ula will be stuck.

Mr. Hull: Is there anyone else who has not testified on this agenda item and would like to testify? Seeing none, before Kenny goes into his report, is there any questions the commissioners had off of anything that was raised by the members of the public?

Mr. Ornellas: If you can address Ms. DiPietro's comment regarding the park dedication, and if can also address the young lady, sorry I've forgotten your name, her question about the SMA portion of that particular lot.

Mr. Hull: Yeah, for Ms. DiPietro's statements about the, she had two statements, one concerning the green lawn area fronting the Kukui'ula Harbor area. That is required by law, that at some point can be transferred to the county. It is also required by law for them to maintain it, regardless of whether or not they have it or the transfer happens. Right now there have been no objections with the way they've been maintaining it. There is also the aspect of if they do transfer it would there be still some (inaudible) for the Parks Department now to take care of it? And given the lack of resources in the Parks Department and you can literally see the difference between our Parks Department, which is limited resources right next door to the Kukui'ula maintained site. So, the manner in which it's being maintained, which is much more pristine than right now our understaffed Parks Department can handle. Right now, it's been set in that way, but, to the point, it can be taken, but whether or not that would essentially become a less maintained site because it's not fully within the Parks Department, that's a concern that the Parks Department has brought up in their discussions with Kukui'ula. So, having Kukui'ula continue to maintain it, in the manner it does, has seemed to work out better for the public. For the actual 20 acre parcel for the park, that was never set when it was established back in 2004 with a specific deadline because of the proposed subdivisions that happened in the past, Kenny has been working to get specific deadlines from Kukui'ula as far when that park will be constructed, (inaudible) begin to see movements on it, and once we get those deadlines to begin, you know, if they are not adequate to begin putting more pressure on them to adjust those deadlines so that they are ultimately served to meet the communities needs. I think there's another one in there with housing as far as when Kukui'ula gave these proposals, Kaua'i was developed as part of the Kukui'ula zoning amendment, so these 134 units that were constructed in 2019 we're part of the affordable housing package that Kukui'ula proposed as part of the zoning amendment, and you

know, speaking to that, to a certain degree, and I can appreciate much of all the public's frustration. I personally don't care what's being built up on that hillside, quite honestly. It is high-end spec homes that are occupied, as many (inaudible) 2, 3 weeks out of the year. There's no affordable housing in the Kukui'ula mix itself. They did provide affordable units as part of the package back in the early 2000s, but I can appreciate the public frustration. But this was set between the mid 90's to the mid-2000s, whether it was at the Land Use Commission and it ultimately through the county, and the County Council, rezoning these properties, what is occurring today is not a rezone, it is not a rezone, I want to be clear here. It is a proposal to subdivide an existing area that's been dedicated and established through land use rates, whether we like them or not, through land use rights to develop 1,500 units. That is what they can build there, 1,500 units, whether they go through the subdivision process or whether they go through a CPR process. They're allowed to build 1,500 units, and much of those units, half of those units as set by law, in 2004 can be turned into vacation rental units. There's nothing that this body can do to prevent those 1,500 units or from half of them for being used for vacation rental units.

Unknown woman from audience: Why not? Why is it?

Mr. Hull: Ma'am, ma'am, we're going to hold decorum or we're going to have people removed.

Unknown woman from audience: This is ridiculous.

Mr. Hull: So, I can appreciate the frustration, but those laws are set and once the land use entitlement is set, the residential zoning is set, the land use ordinance is in place, this body as much as I sense, there's a lot of the members, if not all of the members to a certain degree, wanna unbake those legal entitlements, wanna unbake the cake to say, you know what Kaua'i, Hawai'i has had enough.

Ms. Hammerquist: How many units are in there now, Ka'aina?

Mr. Hull: Bridget, we're not going into...

Ms. Hammerquist: Well, we should. We should study it because (inaudible).

Mr. Hull: Gavel it, gavel it.

Chair Ako: Please, help us get through this process here.

Ms. Hammerquist: (Inaudible).

Chair Ako: No, yeah. I'm not saying that we understand or anything, but I think our purpose right now get through this process here.

Ms. Hammerquist: But if he's gonna make (inaudible).

Chair Ako: We'll be in recess for 20 minutes.

Committee went into recess at 10:35 a.m.

Committee reconvened at 10:47 a.m.

Chair Ako: Yeah, let's see if we can reconvene again.

Mr. Hull: Yeah, I'll just clarify because I think there was a bit an outburst towards the end, where it may have been interpreted that I said that I don't care as a Director about Kukui'ula, I was making that statement as far as the region. Statement I was making was, I don't care for the particular development occurring in Kukui'ula, it's not really something that I'm personally supportive of. 10,000 square foot mansions (inaudible) two weeks out of the year indeed that is not something I personally agree with, but going back to my original statement, says this this area was zoned for development of up to 1500 units back in 2004 and any ability to try and unbake that zoning, that density, this body doesn't have that power, I don't have that power. I could no sooner unbake the density that this area has that I could, the Habitat for Humanity lock that was up here earlier, or the industrial lock that was up here earlier, or the local family that has the ability to have four dwelling units that was up here earlier. We don't have the ability to unbake those legal land use rights, whether we would want to or not. And so, what the Planning Commission has the authority to do, and I want to be clear, the Planning Commissioners are volunteers, the Chair worked for 40 plus years within the labor movement and is retired. He is not a developer. He has no personal skin or stake in whether or not these proposals get approved or not. What the Planning Commission is, is it's a series of volunteers and what they have authority to do today is to look at a subdivision application, again it's not a rezoning application, to look at a subdivision application as to whether or not that application meets the lot width, depth, and dimensions as required by code. (Inaudible) does have the ability to look the Ka Pa'akai Analysis to ensure that cultural practices that may have occurred in the area previously occurred or are occurring today will be protected and preserved. That is pretty much the only ability that this body has on reviewing this application. As much as there's frustrations about over-development and over too robust transient accommodations and we definitely are in agreement much with the assessment, much to that frustration that was voiced today. But (inaudible) this body just has the authority to review the lot dimensions and size of the subdivision, and whether or not traditional customary practices are being impacted, and if so, what protection measures can there be done. I know that's not an easy pill to swallow, particularly for members of the public that have been testifying, but that's all this body has the authority to do. If there's any other questions, I'm definitely available, but I can also turn it over to our Subdivision Planner to go over the Preliminary Report for this. We're not taking anymore testimony at this time.

Unknown male from audience: Ka'aina, could you please say what you said? Our oldest audience member didn't hear what you said about, maybe we didn't understand what you meant when you didn't care. Could you please say that for (inaudible)?

Mr. Hull: I was stating earlier was there might have been a miss, maybe I didn't state it clearly or it wasn't heard, there was a statement made right after we gaveled the meeting that I had made a statement that I didn't care about Kukui'ula and I wanted to clarify I was not talking about the area, I was talking about the developer. I don't care for the homes being developed there, I don't care for the developer and the nature, the product they're proposing. I personally don't, but that doesn't give me the legal authority to go in and say, I hereby, because I don't like your product denying your application.

Chair Ako: With that.

Unknown male from the audience: Can I ask one more question?

Chair Ako: I think at this time we'd like to move on...

Mr. Hull: We're turning to the report for now.

Chair Ako: ...to our staff report. Mr. Estes.

Mr. Estes: I'll read the report for the record.

Mr. Estes read the Subdivision Report for the record (on file with the Planning Department).

Chair Ako: Thank you, Mr. Estes. Questions for our staff at this time? I think we can always revisit again if we need to, but if you'd like to address anything now, we could do it now. Okay, if not, do we have a representative from the applicant to present?

Ms. Arismendez: Good morning, Commission. Maren Arismendez from Esaki Surveying.

Ms. Laurel Loo: We've got to stop meeting like this. Laurel Loo for MP Kauai.

Mr. Mauna Kea Trask: Aloha o kou, Commissioners. Mauna Kea Trask ko'u inoa on behalf of co-applicant BBCP Kukui'ula Infrastructure.

Ms. Loo: So, Kukui'ula is the current title owner to the properties, and I'm going to let Mr. Trask begin with his presentation and if you have any questions, we as the co-applicants are happy to answer any questions that you may have for and MP Kauai.

Mr. Trask: Aloha, again. The actual development before you is being made on behalf of MP? What is it?

Ms. Loo: Both.

Mr. Trask: Oh, both, but my client, BBCP Kukui'ula is not the MP entity. Different entities, different lawyers. The reason why I'm testifying today is because I thought it was wise that the Secretary of the Commission started off with telling, making certain points clear. And one of the things he said was, this was a long process started, the entitlement studies start in the late eighties. The LUC dock was filed in 93', it was granted in 2003, the County Zoning Ordinance was 2004. So, I wanted to go over for the benefit of everybody in the audience, some of whom I've known my whole life about what has happened there and so you can know too. So, relatively briefly, Kukui'ula has contrary to popular assertion on social media been a great neighbor and community contributor for decades. Since its entitlement, Kukui'ula has done the following: regarding housing, created either directly or through land donation, approximately 301 affordable housing units from Kōloa to Ele'ele. Regarding coastal water quality, initiated and continued a 33 year near shore water quality monitoring program and prepared and implemented golf course BMPs to protect surface water quality from contamination, and I'd just like to add, you know, I was, I'm from Kaua'i myself. I remember sugar. I'm 44 years old. That harbor is much clear now that it never was when McBryde was running cane over there, just a matter of

fact. Regarding runoff and erosion, Kukui'ula has complied and all the development entities within it including the single-family homes. With all county and state soil erosion and dust control permitting requirements, including (inaudible). Regarding solid waste, submitted an integrated Solid Waste Management Plan to the Public Works in 2006 for review and approval. Which includes provisions for construction debris, green waste disposal and recycling, and implemented a supplemental on-site construction degree management plan in order to reduce the flow of waste material into county facilities. Regarding wastewater, constructed a wastewater treatment plant for the processing capacity of 1.2 million gallons a day to serve the entire Kukui'ula area, Pa'anau, and Kōloa Estate Subdivision. I reiterate it, it's sewer, there are no septic tanks or cesspools in this area. They designed and received approval of a replacement wastewater treatment plant to produce (inaudible) water for golf course use in order to minimize use of potable water. And finally entered into a will serve agreement with HOH Utilities and completed construction of an off-site 24-inch gravity sewer main to the recently expanded existing Po'ipū sewer treatment plant, which now serves all of Kukui'ula project and completed the decommissioning of the onsite wastewater treatment facility with the intent of diverting sewer flows from Pa'anau, and Kōloa Estates to the existing Po'ipū plant. Regarding air quality, prepared an air quality report and received a determination from the Department of Health, that Kukui'ula would not be a major source of air pollution, and therefore would not require an air quality monitoring program. Regarding public hazards and safety, funded and constructed civil defense measures as determined by the state and county. Regarding school impacts, entered into an educational contribution agreement with the DOE. Regarding roadways and traffic, participated in the pro-rata funding and construction of local and regional roadway improvements in consultation with DOT and the county. Developed supplemental TIAR, actively supported the funding of the Kōloa area circulation plan, prepared by Charlee & Associates on behalf of the Kōloa Community Association, and funded the preparation of environmental assessment for the planned northern leg of the western bypass road between Kōloa and Maluhia Road, which will complete the bypass loop, and I will just specifically add, they built, constructed, and dedicated Ala Kalanikaumaka western bypass road to the county. For those of you who remember growing up in Kōloa before that bypass road, everything went down to the Texaco and down that main road. Regarding parks open space and public access, developed and maintained in perpetuity, the Harbor Park parcels. The secretary is correct that those lots are covered by the zoning ordinance amendment, they're not going away, they're not judged, they're not covered by CCNRs. They're covered by county law. The issue of whether parks has the ability to maintain it according to their resources is another one, but those parks are for public use and will always be for public use, irrespective of who hold titles. They donated hundreds of thousands of dollars to mitigate impacts of shoreline recreational resources. Progressed with dedication and construction of the 28-acre regional park, which according to the most recent LUC, annual report, and that was also shared with the Planning Department. The idea is to proceed with that summer about 2025 but those discussions are continuing. Provide kama'āina public (inaudible) golf course. Developed a comprehensive pedestrian and biking trail system through Kukui'ula and to date have installed several miles of public walkways and executed a trail system declaration assuring the county that upon completion of construction the path and trail system, an easement or easements will be prepared for acceptance of the same by the county. Evidence of that today is one of the conditions, I believe it's 2.1. from the Public Works Department requesting that Kukui'ula actually maintain the sidewalk and green strip on the mauka side of Lawa'i Road because they don't have the equipment to do it. I'll defer to Ms.

Loo on her client's position on that. Regarding potable water requirements, constructed and conveyed all required off-site potable water source and storage facilities to the Department of Water, including 2 wells, 4 water tanks, and several miles of transmission lines. Regarding archaeological, cultural, and historic resources, engaged in a comprehensive archaeological data recovery, preservation, and conservation program, including a burial treatment plan and preservation area and they donated and supported the 16-acre Kamalo'ula Cultural Preserve to the royal order of Kamehameha, adjacent to the Prince Kuhio Park. Regarding endangered species in their habitat, entered into cooperative agreement with USFWS to restore and protect sub-terraining habitats of the Kaua'i cave wolf spider, and the Kaua'i cave anthropod, and is proceeding with drafting of conservation easements over these 3 separate designated habitat areas as requested by USFWS. Regarding density and unit capacity, complied with the 1,500 unit limitation as imposed by the LUC. Earlier you had testimony it was 1,700, it's not, it's 1,500, as the secretary correctly stated. Regarding setbacks, establish and comply with building setbacks along Lawa'i Kai and Lawa'i Valley. Regarding local employment, and workers, implemented a comprehensive program to assist displaced sugar workers with the closure of sugar operations in 96 and continue using local Kaua'i contractors for development of Kukui'ula projects. Regarding public information and outreach, provide the state and county with annual publicly available status reports that are available online. And, regarding recordation and public notice of all aforementioned development requirements, recorded requisite land use conditions in the Bureau of Conveyances to bind all lots to the required permit conditions. That's what they've done. This development was front loaded. The benefits conferred, were given and they continue to be given and they will continue to be given. I can also go in detail into the Hawai'i land (inaudible), I can go into detail about the Ka Pa'akai Analysis and archaeological, and cultural assessments. However, I'm gonna defer right now. I'm available for questioning. But I appreciate the opportunity to correct the record today to show you that although the requirements and concerns today have been addressed and will be continued to be addressed, you may not like, personally like this, but you can feel good granting tentative approval today because a litany of conditions, both in the state and county level have been imposed and followed, and I'd just like to state that. The development process in Kaua'i does work, it's highly regulated, right, and you can see the evidence is there, the evidence is there right now, what you see and what you can use. Thank you.

Ms. Loo: We are here to answer any questions. We are not yet the owner of the parcels, and that's until this project is improved or the subdivision, tentative subdivision is approved. So, we are respectfully requesting approval of tentative subdivision and we agree to abide by the suggested conditions.

Chair Ako: Okay. Commissioners. Questions?

Ms. Apisa: Well, I thank both Ka'aina and Mauna Kea for giving their explanations. I think that kinda cleared up a lot of questions that were existing and hopefully they were heard.

Chair Ako: I understand today that we're here to entertain the idea of a subdivision application that's in front of us, but I think and everybody in this room heard the testimony that has come forward, and I think for me, just making it as simple as I can because I don't understand everything that goes on and I probably don't understand more things than I do understand, but I think the vibe that I'm hearing is we want to keep Kōloa, Kōloa, we want to keep Po'ipū, Po'ipū,

and as much as developers have rights and all of this issues and I appreciate the fact that Kukui'ula has followed so many of the laws that are out there regarding drainage, regarding the runoff and everything that comes with this EPAs and all of this, yeah. But what is the plan of the developer right now, to keep Po'ipū, Po'ipū, and to keep Kōloa, Kōloa. And maybe there is no answer, I don't know if there is, but I think that is one thing that I'm hearing pretty much from everybody out here, and maybe it's just inevitable, change will just happen maybe and it's going and maybe the issue is how we go about it. I don't know if it would make a difference whether it was high-end housing or if it was low-income housing over there because it still changes the footprint of Po'ipū, but I was wondering whether you have any thoughts in terms of, how do we address, I guess what everybody in this room today, well those that have testified, are coming forward and saying, how do we address that?

Ms. Loo: Thank you, Mr. Chair. I think you heard at the last Planning Commission hearing where we were discussing the principle of Meridian Pacific and his community outreach plan, you heard from community leaders like Stephanie Iona who did submit testimony today in support of this application, and people like Randall Francisco, etc., testify about the community work that the principle of Meridian Pacific has done both on Kaua'i and on O'ahu, and the Big Island, and so, he has a pretty fabulous community outreach plan. He's donated quite a bit to sports teams, schools in the area, and food drives in on the west side of Kaua'i and he has an ambitious plan to continue that as he has done. You may remember that he's supported Waipahu High School seniors going to college and funded their college educations. He has similar plans to do that on Kaua'i.

Unknown woman from audience: That's not the question.

Mr. Trask: You know, and in response to your question, Chair. I'll offer a few things. One, you're right, changes is part of it. You know, that happens, but I'm not, I don't think it's appropriate, nor is it, am I trying to see any way shape or form that change is somehow inevitable in a bad way. It's just change. If you look at talking about history, you know prior to 1824, Kaua'i was run by Kaumuali'i's (inaudible), and then the Kamehameha's came and massacred everybody. So, if you look at the mahele, you look at the land tenure over here, it's all big island chiefs. You know, I'm not descended from anyone of consequence. My dad always used to just tell me, you're a limu picker from Moloa'a, and so, when I hear people come up and testify, I'm descended from the Kings of Kamehameha, I don't mind, fine. So, you're the ones that cut our head off. You know, you're the ones that kidnap Kaumuali'i and Kāneali'i and expelled George Humehume from his status and had him buried in an unmarked grave in Nu'uaniu somewhere, alright, but please, what we have to look at is how do we change and maintain the culture. In a big plan in Kukui'ula's was obligated to and maintains integration. You have public access to trailways. You have bike paths. You can, anyone can go in there. There are cultural reserves that are there. The culture preserves have not been destroyed. The archaeological sites are there.

Chair Ako: Hang on. Please. Let's keep the decorum in this room here. I'm not sure how far we are willing to go, but we have provided the time for testimony for everybody and the attention that was given to you out here. Please let us give it to everybody who comes up and sits in front of this table here. I please ask you for that. With that, Mr. Trask.

Mr. Trask: Mahalo, Chair. Preservation plans have been approved by SHPD and are enacted and people who practice your traditional customary practices or religious practices can access them. The harbor parks, the maintenance of public access ways offsite. That's how you do it, that's how you keep culture going. I live south side. I go to the beach as much as I can because the idea that anyone can push me off of my site is ridiculous. Hawaiians never owned land, we always had the right to use it and this idea about certain members of the public can access public trust resources and certain members of public can't, that's not how it works. Again, myself I love, I grew up on Kaua'i in the 80's, when there was no guinea grass there, when it was actually in cane, and when the Garden Island was actually a tended garden and not an overgrown weedy garden, alright, but changes. People take responsibilities, you know, supporting these local organizations that are willing to work with developers like Royal Order, like numerous other culture practitioners. That's how you do it. You come together because if people, people know who remember. When the hurricane comes, we all have to work together. So, what concerns me is not what the developers are doing because the developers they have to comply with these things. What concerns me are reckless, inaccurate statements that are made on social media that create misinformation and dispassionate problems. I see my friends here today, as soon as, as soon as the secretary said they're not taking away the harbor a lot of people didn't testify them because that's what they're concerned about. So, I'm concerned about both things, not only developers, but also a certain portion of the population and for some reason, find it beneficial to create misinformation. And I know I work with the people who can ensure public access. I work with the people who ensure preservation of cultural sites. I don't work with the people who post these things on Instagram and I don't know what to do with that. But it's a community, right, and we all have to do our part to maintain our community. And even as, sometimes much as I resent that you gotta work with the county too, you gotta work with the state too, gotta work all together because we're all people. Enough of the whatever, but that's my answer.

Chair Ako: I appreciate that Mr. Trask, and I think you know when I look back when you know I look at America and see where we were and you know where we are today and I think we've come a long ways, you know I look at that Native Americans, you know the plight that they had to go through and I look at the African-Americans and where they have come. I mean we lived in the days when they was talking about segregation. You get the black schools and you get the white schools, and I think when I grew up, not from here, but we had these things that we called housing, from where I came from it was Halawa Housing and that's where, I don't know, "all the bad guys lived or all the poor guys lived", and I think today as much as this project has started a ways back, you know, back in the 80's, or whatever, I think we've come, you know society through that time has moved forward too. So, I think today when you look at what's going on, I know on O'ahu when you're looking at these high rises that are coming up, up in Kaka'ako, you've got the luxury units in there, you've got the low income units in there, you've got the middle in there and when we talk about integration, how is integration or is integration part of this Kukui'ula development?

Mr. Trask: Like you said, the entitlement process began when that was, that the older model was the model, but we are going towards a future and we're seeing that the County of Kaua'i, the Planning Department, the Housing Agency is very good about that kind of stuff. That's a new, a newer idea. Like Ka'aina said, these rights and obligations have vested. Nonetheless, 300 units, people in this room live in housing, from Kukui'ula, but what I'm saying is, it's a very complex thing because not only is it this one development, it's the whole island, we have to look at

redistricting ag land, making more rural lots. A huge issue here is the Department of Hawaiian Home Lands, they have total ability to build without zoning, land use zoning permits, building permits, they have a third of all land and they have thousands of acres. The fact that DHHL can't house these Hawaiians right here, so they feel victimized by this development, is terrible and there's no excuse for that. And I'll tell you if some of my clients had their ability, and didn't have to come to Ka'aina and to you for approval, we'd build like that. And they got 600 million from the leg. So, it's not, you cannot pound everything on one developer. It's the whole system that needs to be looked at and changed and I encourage everybody, take your energy, talk with people who you grew up with that know these things, so they can help direct your passion to the right venue because they coming to you at this point not going to change these larger issues, especially the Hawaiian community, we have to look at the state specifically, Hawaiian Homes.

Chair Ako: I know I understand change is really hard and it takes a long time and it's a painful process as we go through. And yet I think, you know, everybody loves, will appreciate the fact that there's 300 more affordable housing or workforce housing, whatever we call it in the Kōloa area. I think my question about integration becomes the possibility about integrating those houses within the entire development that is being proposed now. Is that something that would work or something that you could be thinking about? Because I think that's when we're talking about real integration in today's society. Because the plans probably were from the 1980's and that's how we lived, right, George Wallace was the one that was in the way in blacks coming to my university, you know, over here, but today I think we're talking about 2024, it's people who cannot afford housing, looking for housing, we want to keep Po'ipū the same Po'ipū that we always knew, that probably will not happen, but how do we create it when we talk about community? I think community is everybody, yeah, not so much, we have the rich on this side of the street and the poor over here. Health care, same thing, we talk about health care by zip codes, or education by zip codes. I mean, although we still in Po'ipū, we still have the luxury homes here and then we've got the workforce housing here.

Mr. Trask: Yeah, and I don't want to, we can have this discussion for a long time, but at the same time, if you look at like when I was renting in Kōloa, I used to rent mauka of the missionary church. I thought it was pretty funny that I was paying 2,500 a month rent, when the people in Pa'anau live closer to the beach than me. You know, Kōloa Estates is right there on Pa'anau, it is all in one community, it's all in the same zip code, but what I'm saying is that that's the...

Mr. Hull: Sorry, Mr. Trask. We're going to entertain zero disruptions at this point. We were like, Chair said earlier, you were afforded the respect and we waited until the room was quiet, we afforded that time when people spoke into this microphone. If, decorum cannot be maintained, we'll take another hour recess and come back and see if we can. Thank you. Sorry, Mr. Trask.

Mr. Trask: No, I'll just wrap it up. I'm just saying that going forward I believe that is the new plan and we are effectuating a plan that is decades ago.

Mr. Ornellas: So, thank you, Mr. Trask. You know, the very essence of good planning and the purpose of good planning is to avoid the situation we're in right now and I'm not saying that the item on the agenda today that they're dealing with is a mistake, but everybody in this room knows that mistakes were made, injustices, and you used the word, the system, so I'm wondering is the problem, systemic. When the plantations closed down people found housing. It's amazing,

when they closed the camps down, hundreds of homes were lost, and yet all of those people found housing. That would be impossible today, so as a community, we really got to look at this situation. I don't know that we can correct the injustices of the past, I don't know if that's possible. But I do know we cannot make the same mistakes going forward and I'm not blaming those who came before me, but mistakes were made and as a community, we're going to have to correct them.

Chair Ako: Anything else from anyone? Commissioners? No? Mr. Estes, do you have a recommendation for us?

Mr. Estes: The Department is recommending Preliminary Subdivision Map Approval, with the amendment to Condition 5 of the subdivision report, that should read, should any archeological or historical resources be discovered during ground disturbing construction work, all work in the area of archaeological, historical finding shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources Historic Preservation Division and the Planning Department to determine mitigation measures.

Chair Ako: Okay. We have a recommendation. Are we ready for a motion?

Mr. Ornellas: I move for approval of Preliminary Subdivision Map on Subdivision Application S-2024-6 as amended.

Ms. Apisa: In light of all the discussions and testimony and explanations that have been given, I second it.

Chair Ako: We have a motion. We have a second. Any concerns we'd like to share?

Mr. Ornellas: Oh, I do have one final statement for the people that are here. I thank you all for coming up here today. I know it's hard. It's hard on you. It's hard on us. So, I thank you for taking time out of your day and coming here and let us know how you feel about it.

Ms. Apisa: And I second that, I agree with that. I do appreciate everyone's testimony. I just hope you understand that it was pointed out that this has been a land use issue from many, many years ago and thank you all for coming.

Chair Ako: Yeah, for me, I think there's just, you know, life is real different sitting up here as opposed to sitting on that side of the fence out there. And I think it was mentioned earlier, you know, I worked for a labor movement for some 40 years and at that time, I think my basic role was to be an advocate, was to be an advocate for those that needed a voice, that had the voice out there. But I think when you sit on this table here, you're no longer an advocate, yeah, I can no longer advocate for this side or that side. You up here and pretty much playing judge, making a decision about in terms of what the parameters are and how you can move within the parameters, you know, like off this subdivision committee, subdivision application that in front of us here. And for me, the frustration part becomes, you know, we dealing about something that has happened in 1980 and time has changed. You've got laws that were placed in that are still in place today, but you have attitudes that have changed. You have financial stability that has changed, everything has changed and yet that's part of the parameters that we deal in. I don't know how we deal with it very honestly. Maybe it's a matter of changing laws that's in front of

us here. But I think today, as Mr. Clerk has mentioned, yeah, these are the parameters that we have to work in and this is what we have before us. So, I think as the vote comes up I will be voting for the approval and with the motion that's before us here today.

Ms. Apisa: I guess I would just like to add also since it came up that my position as a realtor, it has been disclosed from the very beginning. I've been on this commission for a number of years. I am on the commission representing business. I am merely one of 3 members on this committee and one of 7 members of the Planning Commission and there are many different divisions of our society that are represented. I am here representing the business community.

Chair Ako: If there's nothing else, Mr. Clerk, can we have a roll call vote, please?

Mr. Hull: Roll call, Mr. Chair. Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 3:0. We have no further agenda items for this subdivision meeting. We're ready for adjournment. We'll return at probably 12 o'clock.

Chair Ako: Yeah, with that, this would be my last meeting, you know, as the Chair of this committee and I just wanted to thank all the support from everybody from the entire staff that have been just so gracious to me, especially to Kenny, you know, for being able to tolerate me and as I was going to through some of the documents here I noticed that there's...I'm sorry, you guys, excuse me. But thanks to Jodi who, I noticed had signed some of the documents on December 26, yeah, which was actually her holiday. That's out there, but you know, and I know for the commission members, committee members here, there's another 50 to another 100 pages that you have to read at ever commission meeting that we had and I appreciate your commitment to doing that and especially the integrity that you had in placing your votes that you had. With that, I'd like to entertain a motion to adjourn.

## **ADJOURNMENT**

Mr. Ornellas: Move to adjourn.

Ms. Apisa: Second.

Chair Ako: All those in favor say aye. Aye (unanimous voice vote). All those oppose. This meeting is adjourned. 3:0.

Committee Chair Ako adjourned the meeting at 11:27 a.m.

Respectfully submitted by:

*Lisa Oyama*

Lisa Oyama,  
Commission Support Clerk

( ) Approved as circulated (date of meeting approved).

( ) Approved as amended. See minutes of \_\_\_\_\_ meeting.

# DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR  
 JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR  
 REIKO MATSUYAMA, MANAGING DIRECTOR

## SUBDIVISION REPORT

### I. SUMMARY

**Action Required by Planning Commission:** Consideration of Subdivision Application No. S-2024-5 involving a two (2) lot subdivision.

**Subdivision Permit No.** Application No. S-2024-5

**Name of Applicant(s)** THOMAS N. & LISA D. THOMPSON

### II. PROJECT INFORMATION

<b>Map Title</b>	Subdivision of Lot 132 Kekaha House Lots Grant 11,457 into Lot 132-A and 132-B at Kekaha, Waimea, Kaua'i, Hawai'i.				
<b>Tax Map Key(s):</b>	1-3-004: 023	<b>Area:</b>	33,500 sq. ft.		
<b>Zoning:</b>	Form Based Code Transect (T3VE) / Residential District (R-10)				
<b>State Land Use District(s):</b>	Urban	<b>General Plan Designation:</b>	Neighborhood General		
<b>AGENCY COMMENTS</b>					
<input checked="" type="checkbox"/> <b>COK Public Works</b>	02.06.2024	<input type="checkbox"/> <b>State DOT-Highways:</b>			
<input checked="" type="checkbox"/> <b>COK Water:</b>	pending	<input checked="" type="checkbox"/> <b>State Health:</b>	12.13.2023		
<input type="checkbox"/> <b>Other:</b>		<input checked="" type="checkbox"/> <b>DLNR – SHPD:</b>	pending		
<b>EXISTING ROAD RIGHT-OF-WAY(S)</b>					
<b>Road Name</b>	<b>Existing Width</b>	<b>Required Width</b>	<b>Pavement YES</b>	<b>NO</b>	<b>Reserve</b>
'Elepaio Road	40 feet	44 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2 ft.
Nene Road	40 feet	44 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2 ft.
			<input type="checkbox"/>	<input type="checkbox"/>	
<b>APPLICABLE FEES</b>					
<b>Environmental Impact Assessment (EIA)</b>	\$250.00				
<b>Park Dedication</b>	\$150.00				
<b>Appraisal Report Required</b>	N/A				

### III. EVALUATION

The proposal involves a two (2) lot subdivision within the County Residential (R-10) zoning district and located within the State Land Use Urban District. The neighboring parcels to the south, east, and west are also within the County Residential (R-10) zoning district, while the surrounding parcels to the north are within the County Residential (R-6) zoning district/Project Development District (P-D). Furthermore, the subject property as well as the surrounding

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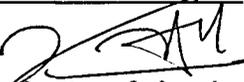
parcels are within the County Form Based Code Transect Zone (T3VE) and are developed with single-family residences.

The subject property is approximately 33,500 sq. ft. in size and is situated on the eastern side of Kekaha Town at the corner of 'Elepaio Road/Nene Road intersection, approximately 300 feet from Kaunualii Highway. It should be noted that there is one (1) existing dwelling on the northern side of the property that currently obtains vehicular access from 'Elepaio Road. In reviewing the proposal, Lot 132-A will establish vehicular access from Nene Road and Lot 132-B (existing residence) will continue to utilize vehicular access from 'Elepaio Road.

'Elepaio Road and Nene Road have present right-of-way widths of forty (40) feet which are not up to the current County standards of forty-four (44) feet for a Minor Street classification. As such, a two (2) feet wide future road widening reserve shall be established along the frontages of the proposed lots.

In further reviewing the proposal, the preliminary subdivision map identifies an existing shed encroaching on the proposed lot line. The Applicant should be made aware that prior to final subdivision approval, the existing shed should be removed and/or relocated so that it does not encroach upon the boundary of the proposed lot line.

**IV. RECOMMENDATION**

TENTATIVE APPROVAL	FINAL APPROVAL
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denied	<input type="checkbox"/> Approval <input type="checkbox"/> Denied
Tentative Approval subject to all requirements as noted on the follow pages:	All conditions have been complied with
 Director of Planning	2/28/2024 Date Director of Planning

**V. MODIFICATION OF REQUIREMENT**

As represented, the Applicant is requesting deviations from requirements in the Kaua'i County Code (1987), as amended, that would exempt roadway requirements specified by the Subdivision Ordinance as it relates to the construction of curbs, gutters, and sidewalks along the roadway frontages, pursuant to Section 9-2.3(e), and to allow the use of drainage swales in lieu of raised curbs and gutters along the subdivision frontage (refer to Exhibit 'A').

Section 9-2.3(e)(3) states:

*“(3) Curbs, gutters and sidewalks shall be provided on both sides of all proposed or existing streets within or abutting the subdivision in Commercial, Industrial and Resort Districts; in Residential Districts where the density permitted is four (4) units or more per acre; and in any other Zoning Districts within the State Land Use-Urban District that are located within one-half (1/2) mile from any elementary, intermediate, high school, or college. For existing streets abutting subdivisions, sidewalks shall be required on the side of the street fronting the subdivision for the length of the subdivision frontage.*

*(A) In Residential Districts, swales may be constructed in lieu of curbs and/or gutters in accordance with the drainage standards and design guidelines established by the Department of Public Works.*

*(B) In Residential Districts, the requirement of sidewalks may be waived if the Planning Commission determines that sidewalks are infeasible or unnecessary, taking into account local context and sensitivity to community character, and an alternate method of pedestrian circulation exists or will be provided by the applicant.*

*(C) If the requirement of sidewalks is waived, the subdivider shall be required to pay a fee in lieu of required sidewalk construction. The fee in lieu of sidewalk construction shall not be required for subdivision approvals for less than six (6) lots. The fee in lieu of required sidewalk construction shall be equal to or greater than one hundred percent (100%) of the cost of constructing the sidewalk as determined by the County Engineer. There is hereby established and created a “sidewalk/shared use path fund” for the deposit of fees collected in lieu of required sidewalk construction. The fees collected pursuant to this Subsection (C) are hereby deemed appropriated upon receipt and shall be expended by the County Engineer for sidewalk or shared use path planning, design, land acquisition, construction and/or repair and maintenance. The County Engineer shall submit an annual written report to the Council of each fiscal year’s expenditures and balance of the sidewalk/shared use path fund on or before the 15th day of March of each year. If the 15th day of March falls on a Saturday, Sunday, or legal holiday, the report shall be submitted on the prior working day. The fees collected shall not lapse at the close of the fiscal year.*

*(D) Payment of said fees shall be made in a lump sum at the time of final subdivision map approval or payment shall be made according to the following schedule: fifty percent (50%) at the time of preliminary subdivision map approval and the balance paid at the time of final subdivision map approval. When funds are needed for sidewalk or shared use path planning, design, land acquisition, construction and/or repair, the County Engineer shall submit a written request to the Planning Director and Mayor for approval. Upon approval, the Finance Director shall be authorized to release monies from the fund.”*

In evaluating the Applicant's request, no problems are foreseen in granting the Modification of Requirement to allow a deviation from the requirement to construct curbs, gutters, and sidewalks along a roadway and to allow the use of drainage swales in lieu of raised curbs and gutters based on the following reasons:

- a. The County of Kaua'i, Department of Public Works – Engineering Division approves the continued use of drainage swales along the subdivision frontage, in lieu of curbs and gutters, as indicated in their correspondence dated February 6, 2024 (refer to Exhibit 'B').
- b. Constructing curbs, gutters, and sidewalks at this juncture would not significantly improve the neighborhood, given the absence of such improvements in the immediate and surrounding area. Consequently, incorporating sidewalks along the subdivision frontage would be impractical due to the lack of sidewalks nearby, and providing gutters would be ineffective for drainage as there is no drainage infrastructure in place for proper functionality. Furthermore, the Department of Public Works – Engineering Division has indicated that the proposed subdivision will not alter existing drainage patterns.

## **VI. AGENCY REQUIREMENTS**

1. Approve the Applicant's request for a Modification of Requirement, subject to the following requirements as noted below.
2. Requirements of the Planning Department:
  - a. An updated preliminary title report for the existing lot shall be submitted to the Planning Department for review.
  - b. All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - c. Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kaua'i County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.
  - d. An Environmental Impact Assessment Fee of Two Hundred Fifty Dollars (\$250.00) shall be paid to the County of Kaua'i.
  - e. An Park Dedication Fee of One Hundred Fifty Dollars (\$150.00) shall be paid to the County of Kaua'i.

- f. A two (2) feet wide future road widening reserve shall be established along the frontages of 'Elepaio Road and Nene Road. There shall be no new structures permitted within the reserves, and any new structures should be setback from the reserves. The reserves, along with the restrictions, shall be incorporated into the deed descriptions of the affected lots, of which draft copies shall be submitted to the Planning Department for review and approval.
  - g. Prior to Final Subdivision Approval, the Applicant shall remove and/or relocate the existing shed so that it does not encroach upon the boundary of the proposed lot line. Furthermore, if the shed is relocated on the subject property, it shall meet the setback requirements specified in Section 8-4.3 of the Comprehensive Zoning Ordinance (CZO), Kaua'i County Code (K.C.C.), 1987, as amended.
3. Requirements of the Department of Public Works (DPW):
- a. Regarding Sec. 9-2.3 Streets, Subsection (e)(3)(A), the two adjacent streets ('Elepaio Road and Nene Road) have existing swales and limited drainage infrastructure. This subdivision will not change the drainage patterns; therefore, we approve the continued use of drainage swales along the road frontage of the parcel being subdivided.
  - b. We feel that it is reasonable for the Planning Commission to choose to waive the sidewalk requirement per Subsection (e)(3)(B) for the following reasons:
    - 1) S-2024-5 proposes a 2-lot subdivision of an existing parcel within a residential area that is fully developed in an older portion of Kekaha Town where there are few existing sidewalks.
    - 2) Nene Road is a minor, low-volume street where the County is not likely to ever construct sidewalks.
    - 3) 'Elepaio Road is a collector street with higher traffic volumes and a Kaua'i Bus route. There is an existing sidewalk on the south side of 'Elepaio Road between 'Alae Road and 'Iwa Road, and the County would ultimately like to extend this sidewalk. However, the property being subdivided is approximately 1160 feet from the end of the existing sidewalk, and it is impractical to construct approximately 150 feet of sidewalk without sidewalks nearby, especially given the limited drainage infrastructure in the area.
  - c. The Subdivision shall include a roadway parcel with a radius of 20 feet, at the intersection of 'Elepaio Road and Nene Road. The Applicant shall prepare a dedication deed ready for execution prior to final subdivision approval. The Applicant shall dedicate the roadway parcel to the County of Kaua'i.

4. Requirements of the Department of Water (DOW):

- a. The subdivider shall comply with the requirements of the Department of Water, if any, prior to final subdivision approval.

5. Requirements of the Department of Health (DOH):

General summary comments have been included for your convenience. However, these comments are not all-inclusive and do not substitute for review of and compliance with all applicable standard comments for the various DOH individual programs.

**Clean Air Branch**

1. All project activities shall comply with the Hawaii Administrative Rules (HAR), Chapters 11-59 and 11-60.1.
2. Control of Fugitive Dust: You must reasonably control the generation of all airborne, visible fugitive dust and comply with the fugitive dust provisions of HAR §11-60.1-33. Note that activities that occur near existing residences, businesses, public areas, and major thoroughfares exacerbate potential dust concerns. It is recommended that a dust control management plan be developed which identifies and mitigates all activities that may generate airborne and visible fugitive dust and that buffer zones be established wherever possible.
3. Standard comments for the Clean Air Branch are at:  
<https://health.hawaii.gov/epo/landuse/>.

**Clean Water Branch**

1. All project activities shall comply with the HAR, Chapters 11-53, 11-54, and 11-55. The following Clean Water Branch website contains information for agencies and/or project owners who are seeking comments regarding environmental compliance for their projects with HAR, Chapters 11-53, 11-54, and 11-55:  
<https://health.hawaii.gov/cwb/clean-water-branch-home-page/cwb-standard-comments/>.

**Hazard Evaluation & Emergency Response Office**

1. A Phase I Environmental Site Assessment (ESA) and Phase II Site Investigation should be conducted for projects wherever current or former activities on site may have resulted in releases of hazardous substances, including oil or chemicals. Areas of concern include current and former industrial areas, harbors, airports, and formerly and currently zoned agricultural lands used for growing sugar, pineapple or other agricultural products.

2. Standard comments for the Hazard Evaluation & Emergency Response Office are at: <https://health.hawaii.gov/epo/landuse/>.

#### **Indoor and Radiological Health Branch**

1. Project activities shall comply with HAR Chapters 11-39, 11-45, 11-46, 11-501, 11-502, 11-503, 11-504.
2. Construction/Demolition Involving Asbestos: If the proposed project includes renovation/demolition activities that may involve asbestos, the applicant should contact the Asbestos and Lead Section of the Branch at <https://health.hawaii.gov/irhb/asbestos/>.

#### **Safe Drinking Water Branch**

1. Agencies and/or project owners are responsible for ensuring environmental compliance for their projects in the areas of: 1) Public Water Systems; 2) Underground Injection Control; and 3) Groundwater and Source Water Protection in accordance with HAR Chapters 11-19, 11-20, 11-21, 11-23, 11-23A, and 11-25. They may be responsible for fulfilling additional requirements related the Safe Drinking Water program: <https://health.hawaii.gov/sdwb/>.
2. Standard comments for the Safe Drinking Water Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

#### **Solid & Hazardous Waste Branch**

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters 339D, 342G, 342H and 342I, and HAR Chapters 11-58.1, and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse and recycling are preferred options over disposal. The Office of Solid Waste Management also oversees the electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.
3. Underground Storage Tank Program - The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction.

4. Standard comments for the Solid & Hazardous Waste Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

### **Wastewater Branch**

By Revised Statute 11-62-31.1, if the parcel is less than 10,000 square feet, an individual onsite waste-water unit may be possible for future construction. Please contact Sina Pruder at DOH Waste-Water Branch at 808-586-4288 for further information. For comments, please email the Wastewater Branch at [doh.wwb@doh.hawaii.gov](mailto:doh.wwb@doh.hawaii.gov).

### **Sanitation/ Local DOH Comments:**

1. Noise may be generated during demolition and/or construction. The applicable maximum permissible sound levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," shall not be exceeded unless a noise permit is obtained from the Department of Health.
2. According to HAR §11-26-35, No person, firm, or corporation shall demolish or clear any structure, place, or vacant lot without first ascertaining the presence or absence of rodents that may endanger public health by dispersal from such premises. Should any such inspection reveal the presence of rodents, the rodents shall be eradicated before demolishing or clearing the structure, site, or vacant lot. A demolition or land clearing permit is required prior to demolition or clearing.

### **Other**

1. CDC–Healthy Places–Healthy Community Design Checklist Toolkit recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
  2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Kauai District Health Office at 808-241-3492.
6. Requirements of the State Historic Preservation Division (SHPD):
- a. The subdivider shall comply with the requirements of the State Historic Preservation Division, if any, prior to final subdivision approval.

7. Should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division to determine mitigation measures.
8. The Applicant is advised that prior to and/or during construction and use additional conditions may be imposed by government agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).

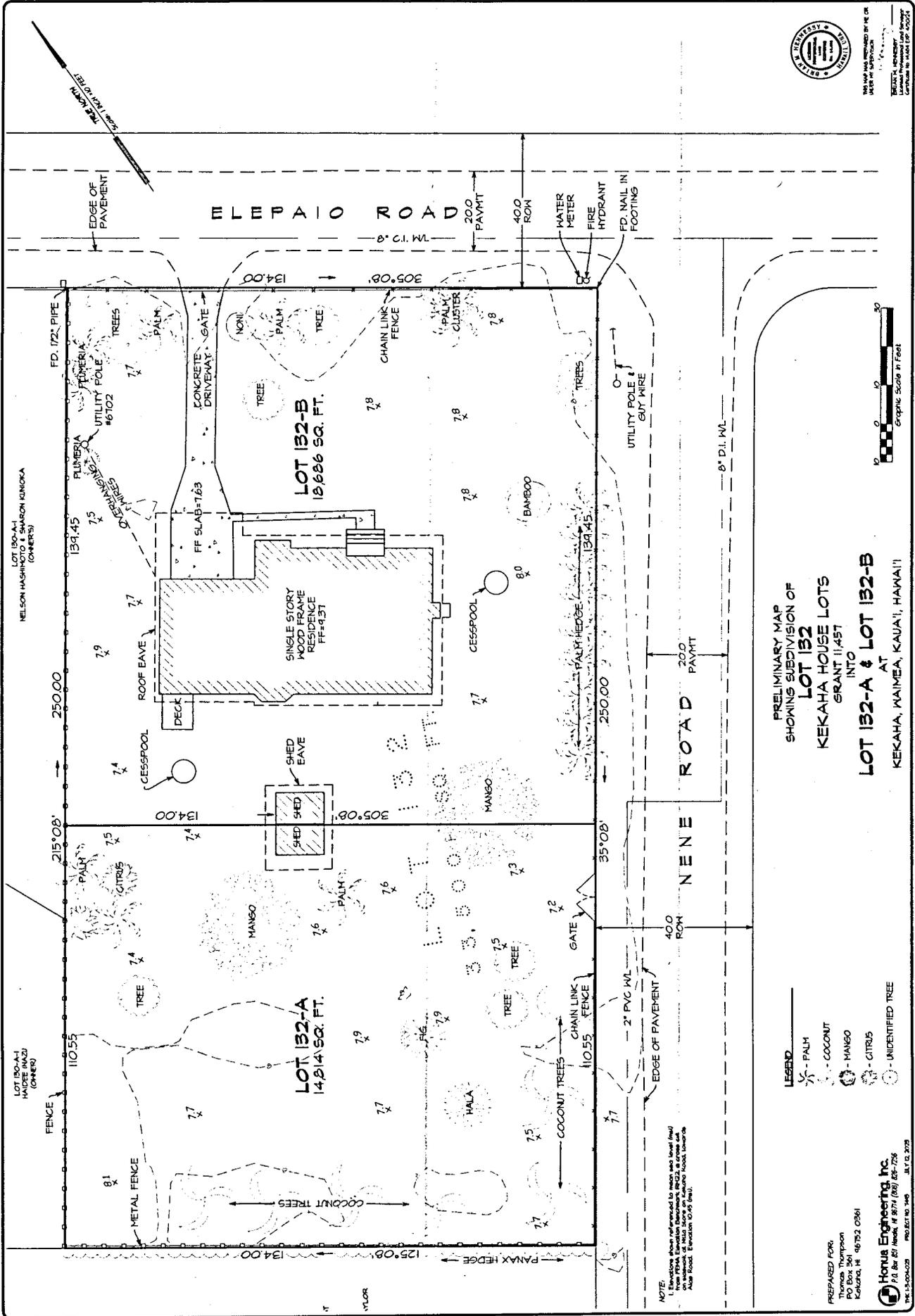
The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for MARCH 12, 2024, whereby the entire record should be considered prior to decision-making. The entire record should include but not be limited to:

- a. Pending government agency comments;
- b. Testimony from the general public and interested others; and
- c. The Applicant's response to staff's report and recommendation as provided herein.

By  \_\_\_\_\_  
KENNETH A. ESTES  
Planner



THIS MAP WAS PREPARED BY ME OR  
 MY EMPLOYER IN ACCORDANCE WITH  
 HAWAIIAN STATUTES, CHAPTER 460,  
 LICENSED PROFESSIONAL LAND SURVEYOR  
 LICENSE NO. 10022



PRELIMINARY MAP  
 SHOWING SUBDIVISION OF  
**LOT 132**  
 KEKAHA HOUSE LOTS  
 GRANT 11,457  
 INTO  
**LOT 132-A & LOT 132-B**  
 AT  
 KEKAHA, MAIMEA, KAUAI, HAWAII

- LEGEND**
- PALM
  - COCONUT
  - MANGO
  - CITRUS
  - UNIDENTIFIED TREE

**NOTE:**  
 1. Dimensions shown are referenced to mean sea level (msl).  
 2. From PMSA Elevation Benchmark, 2022, at cross-street  
 at the intersection of Nene Road, Elevation 10.95 (msl).

PREPARED FOR:  
 P.O. Box 200  
 Kekaha, HI 96752-0200

**Horus Engineering Inc.**  
 P.O. Box 871, (807) 425-7755  
 HONOLULU, HI 96813  
 PROJECT NO. 1905 JUL 12, 2023





07/06/2023

# Exhibit 'A'

(Applicant's Request to Deviate from Section 9-2.3(e) of the Subdivision Ordinance)

DEC 21 '23 PM 1:13  
PLANNING DEPT

December 20th, 2023

Planning Department  
County of Kauai  
4280 Rice Street  
Lihue, Kauai, Hawaii, 96766

Attn: Kenneth Estes

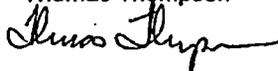
Subject: Request modification from Curb, Gutter, and Sidewalk,  
Chapter 9 subdivision ordinance.  
Subdivision No. S-2024-5  
TMK: 4-1-3-004:023  
Kekaha, Kauai, Hawaii

I would like to request a modification from the requirements that curb, gutter, and sidewalk be provided in association with the referenced subdivision, Since the subject property falls within a Residential (R10) zoning district, by virtue of Section 9-2.3 (e) (3) of Chapter 9 Subdivision Ordinance, curbs, gutters, and sidewalks are required. I respectfully request that in consideration of this request, the following factors be considered.

1. There are no curbs, gutters, and sidewalks throughout this entire Residential (R10) zoning district of Kekaha, and surrounding neighborhood.
2. Topography of the subject property is essentially flat, therefore drainage modifications to the property would be difficult and costly.
3. Providing curbs, gutters, and sidewalks would not be keeping with the rural residential and plantation character of this community.
4. Ample grassed shoulder area is present along both Elepaio and Nene Roads to accommodate pedestrian traffic. Kekaha is one of the driest climates on the island, and all weather pedestrian sidewalk along these roads is not needed.

Your favorable consideration of this request would be greatly appreciated.

Sincerely,  
Thomas Thompson



# Exhibit 'B'

(Correspondence from DPW-Engineering dated February 6, 2024)

**ENGINEERING DIVISION**  
**DEPARTMENT OF PUBLIC WORKS**  
TROY TANIGAWA, P.E., COUNTY ENGINEER  
BOYD GAYAGAS, DEPUTY COUNTY ENGINEER



DEREK S.K. KAWAKAMI, MAYOR  
REIKO MATSUYAMA, MANAGING DIRECTOR

## MEMORANDUM

TO: Kenneth A. Estes, Planner

FROM: Michael Moule, P.E., Chief of Engineering

Digitally signed by Michael  
Moule  
Date: 2024.02.06 08:20:53 -10'00'

DATE: February 6, 2024

RE: Request to deviate from Section 9-2.3(e) relating to curbs, gutters, and sidewalks  
Subdivision No. S-2024-5  
Applicant: Thomas N. & Lisa D. Thompson

This is in response to your memorandum dated January 2, 2024 regarding a request from Thomas & Lisa Thompson to deviate from Subsection 9-2.3(e) of the Subdivision Ordinance relating to curbs, gutters, and sidewalks. We offer the following comments:

1. Regarding Sec. 9-2.3 Streets, Subsection (e)(3)(A), the two adjacent streets ('Elepaio Road and Nene Road) have existing swales and limited drainage infrastructure. This subdivision will not change the drainage patterns; therefore, we approve the continued use of drainage swales along the road frontage of the parcel being subdivided.
2. We feel that it is reasonable for the Planning Commission to choose to waive the sidewalk requirement per Subsection (e)(3)(B) for the following reasons:
  - a. S-2024-5 proposes a 2-lot subdivision of an existing parcel within a residential area that is fully developed in an older portion of Kekaha Town where there are few existing sidewalks.
  - b. Nene Road is a minor, low-volume street where the County is not likely to ever construct sidewalks.
  - c. 'Elepaio Road is a collector street with higher traffic volumes and a Kaua'i Bus route. There is an existing sidewalk on the south side of 'Elepaio Road between 'Alae Road and 'Iwa Road, and the County would ultimately like to extend this sidewalk. However, the property being subdivided is approximately 1160 feet from the end of the existing sidewalk, and it is impractical to construct approximately 150 feet of sidewalk without sidewalks nearby, especially given the limited drainage infrastructure in this area.
3. The subdivision shall include a roadway parcel with a radius of 20 feet, at the intersection of 'Elepaio Road and Nene Road. The Applicant shall prepare a dedication deed ready for execution prior to final subdivision approval. The Applicant shall dedicate the roadway parcel to the County of Kaua'i.

Should you have any questions, please contact me at 808-241-4891.

# Exhibit 'C'

(Agency Comments)



County of Kauai  
Planning Department  
4444 Rice St., Suite A473 Lihue, HI 96766  
(808) 241-4050

FROM: Kaaina S. Hull, Director

Planner: Kenneth Estes

11/6/2023

SUBJECT: Subdivision S-2024-5

Tax Map Key: 130040230000

Applicant: Thomas N. & Lisa D. Thompson

PRELIM SUBD OF 132 KEKAHA LOT INTO LOT 132-A AND 132-B

TO:

- |  |  |
|--|--|
| <input type="checkbox"/> State Department of Transportation - STP        | <input checked="" type="checkbox"/> County DPW - Engineering     |
| <input type="checkbox"/> State DOT - Highways, Kauai (info only)         | <input checked="" type="checkbox"/> County DPW - Wastewater      |
| <input type="checkbox"/> State DOT - Airports, Kauai (info only)         | <input type="checkbox"/> County DPW - Building                   |
| <input type="checkbox"/> State DOT - Harbors, Kauai (info only)          | <input type="checkbox"/> County DPW - Solid Waste                |
| <input checked="" type="checkbox"/> State Department of Health           | <input type="checkbox"/> County Department of Parks & Recreation |
| <input type="checkbox"/> State Department of Agriculture                 | <input checked="" type="checkbox"/> County Fire Department       |
| <input type="checkbox"/> State Office of Planning                        | <input checked="" type="checkbox"/> County Housing Agency        |
| <input type="checkbox"/> State Dept. of Bus. & Econ. Dev. Tourism        | <input type="checkbox"/> County Economic Development             |
| <input type="checkbox"/> State Land Use Commission                       | <input checked="" type="checkbox"/> County Water Department      |
| <input checked="" type="checkbox"/> State Historic Preservation Division | <input type="checkbox"/> County Civil Defense                    |
| <input type="checkbox"/> State DLNR - Land Management                    | <input checked="" type="checkbox"/> County Transportation Agency |
| <input type="checkbox"/> State DLNR - Forestry & Wildlife                | <input type="checkbox"/> KHPRC                                   |
| <input type="checkbox"/> State DLNR - Aquatic Resources                  | <input checked="" type="checkbox"/> U.S. Postal Department       |
| <input type="checkbox"/> State DLNR - Conservation & Coastal Lands       | <input type="checkbox"/> UH Sea Grant                            |
| <input checked="" type="checkbox"/> Office of Hawaiian Affairs           | <input type="checkbox"/> Other:                                  |

FOR YOUR COMMENTS (pertaining to your department) (Due Date 12/03/2023)



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
3040 Umi St. Lihue  
Hawaii 96766

DEC 15 '23 PM12:47  
PLANNING DEPT

DATE: Dec 13, 2023  
TO: To whom it may concern  
FROM: Ellis Jones  
District Environmental Health Program Chief  
SUBJECT: RESPONSE\_Thomas N. & Lisa D. Thompson\_S-2024-5

In most cases, the District Health Office will no longer provide individual comments to agencies or project owners to expedite the land use review and process.

Agencies, project owners, and their agents should apply Department of Health "Standard Comments" regarding land use to their standard project comments in their submittal. Standard comments can be found on the Land Use Planning Review section of the Department of Health website: <https://health.hawaii.gov/epo/landuse/>. Contact information for each Branch/Office is available on that website.

**Note: Agencies and project owners are responsible for adhering to all applicable standard comments and obtaining proper and necessary permits before the commencement of any work.**

General summary comments have been included for your convenience. However, these comments are not all-inclusive and do not substitute for review of and compliance with all applicable standard comments for the various DOH individual programs.

#### Clean Air Branch

1. All project activities shall comply with the Hawaii Administrative Rules (HAR), Chapters 11-59 and 11-60.1.
2. Control of Fugitive Dust: You must reasonably control the generation of all airborne, visible fugitive dust and comply with the fugitive dust provisions of HAR §11-60.1-33. Note that activities that occur near existing residences, businesses, public areas, and major thoroughfares exacerbate potential dust concerns. It is recommended that a dust control management plan be developed which identifies and mitigates all activities that may generate airborne and visible fugitive dust and that buffer zones be established wherever possible.

3. Standard comments for the Clean Air Branch are at:  
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#### **Clean Water Branch**

1. All project activities shall comply with the HAR, Chapters 11-53, 11-54, and 11-55. The following Clean Water Branch website contains information for agencies and/or project owners who are seeking comments regarding environmental compliance for their projects with HAR, Chapters 11-53, 11-54, and 11-55:  
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1. A Phase I Environmental Site Assessment (ESA) and Phase II Site Investigation should be conducted for projects wherever current or former activities on site may have resulted in releases of hazardous substances, including oil or chemicals. Areas of concern include current and former industrial areas, harbors, airports, and formerly and currently zoned agricultural lands used for growing sugar, pineapple or other agricultural products.
2. Standard comments for the Hazard Evaluation & Emergency Response Office are at:  
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#### **Safe Drinking Water Branch**

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2. Standard comments for the Safe Drinking Water Branch can be found at:  
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1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters 339D, 342G, 342H and 342I, and HAR Chapters 11-58.1, and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse and recycling are preferred options over disposal. The Office of Solid Waste Management also oversees the

electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.

3. Underground Storage Tank Program – The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction.
4. Standard comments for the Solid & Hazardous Waste Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

### **Wastewater Branch**

Wastewater Branch has no objections to the proposed project. The subject project is located within or near proximity to the Poipu Water Reclamation Facility private sewer system. All wastewater generated shall be disposed into the Poipu Water Reclamation Facility sewer system. All lots in the proposed project shall connect to the Poipu Water Reclamation Facility sewer system.

By Revised Statute 11-62-31.1 If the parcel is less than 10,000sq feet, an individual onsite waste-water unit may not be possible for future construction. Please contact Sina Pruder at the DOH waste-water branch at 808-586-4288 for further information. For comments, please email the Wastewater Branch at [doh.wwb@doh.hawaii.gov](mailto:doh.wwb@doh.hawaii.gov).

### **Sanitation / Local DOH Comments:**

1. Noise may be generated during demolition and/or construction. The applicable maximum permissible sound levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," shall not be exceeded unless a noise permit is obtained from the Department of Health.
2. According to HAR §11-26-35, No person, firm, or corporation shall demolish or clear any structure, place, or vacant lot without first ascertaining the presence or absence of rodents that may endanger public health by dispersal from such premises. Should any such inspection reveal the presence of rodents, the rodents shall be eradicated before demolishing or clearing the structure, site, or vacant lot. A demolition or land clearing permit is required prior to demolition or clearing.

### **Other**

1. [CDC - Healthy Places - Healthy Community Design Checklist Toolkit](#) recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Kauai District Health Office at 808-241-3492.

*Ellis Jones*

*Ellis Jones*

District Environmental Health Program Chief  
Office Phone: (808) 241-3326

Fire



County of Kauai  
Planning Department  
4444 Rice St., Suite A473 Lihue, HI 96766  
(808) 241-4050

COUNTY OF KAUAI

FROM: Kaaina S. Hull, Director

Planner: Kenneth Estes

'23 NOV -7 P1:03 11/6/2023

SUBJECT: Subdivision S-2024-5

Tax Map Key: 130040230000

Applicant: Thomas N. & Lisa D. Thompson

PRELIM SUBD OF 132 KEKAHA LOT INTO LOT 132-A AND 132-B

PLANNING DEPT.

TO:

- |  |  |
|--|--|
| <input type="checkbox"/> State Department of Transportation - STP        | <input checked="" type="checkbox"/> County DPW - Engineering     |
| <input type="checkbox"/> State DOT - Highways, Kauai (info only)         | <input checked="" type="checkbox"/> County DPW - Wastewater      |
| <input type="checkbox"/> State DOT - Airports, Kauai (info only)         | <input type="checkbox"/> County DPW - Building                   |
| <input type="checkbox"/> State DOT - Harbors, Kauai (info only)          | <input type="checkbox"/> County DPW - Solid Waste                |
| <input checked="" type="checkbox"/> State Department of Health           | <input type="checkbox"/> County Department of Parks & Recreation |
| <input type="checkbox"/> State Department of Agriculture                 | <input checked="" type="checkbox"/> County Fire Department       |
| <input type="checkbox"/> State Office of Planning                        | <input checked="" type="checkbox"/> County Housing Agency        |
| <input type="checkbox"/> State Dept. of Bus. & Econ. Dev. Tourism        | <input type="checkbox"/> County Economic Development             |
| <input type="checkbox"/> State Land Use Commission                       | <input checked="" type="checkbox"/> County Water Department      |
| <input checked="" type="checkbox"/> State Historic Preservation Division | <input type="checkbox"/> County Civil Defense                    |
| <input type="checkbox"/> State DLNR - Land Management                    | <input checked="" type="checkbox"/> County Transportation Agency |
| <input type="checkbox"/> State DLNR - Forestry & Wildlife                | <input type="checkbox"/> KHPRC                                   |
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| <input type="checkbox"/> State DLNR - Conservation & Coastal Lands       | <input type="checkbox"/> UH Sea Grant                            |
| <input checked="" type="checkbox"/> Office of Hawaiian Affairs           | <input type="checkbox"/> Other:                                  |

FOR YOUR COMMENTS (pertaining to your department) (Due Date 12/03/2023)

NO comments for Fire

Transportation



County of Kauai  
Planning Department  
4444 Rice St., Suite A473 Lihue, HI 96766  
(808) 241-4050

RECEIVED 11/6/2023

FROM: Kaaina S. Hull, Director

Planner: Kenneth Estes

SUBJECT: Subdivision S-2024-5

Tax Map Key: 130040230000

Applicant: Thomas N. & Lisa D. Thompson

PRELIM SUBD OF 132 KEKAHA LOT INTO LOT 132-A AND 132-B

NOV - 7 2023

County of Kauai  
Transportation Agency

TO:

- |  |  |
|--|--|
| <input type="checkbox"/> State Department of Transportation - STP        | <input checked="" type="checkbox"/> County DPW - Engineering     |
| <input type="checkbox"/> State DOT - Highways, Kauai (info only)         | <input checked="" type="checkbox"/> County DPW - Wastewater      |
| <input type="checkbox"/> State DOT - Airports, Kauai (info only)         | <input type="checkbox"/> County DPW - Building                   |
| <input type="checkbox"/> State DOT - Harbors, Kauai (info only)          | <input type="checkbox"/> County DPW - Solid Waste                |
| <input checked="" type="checkbox"/> State Department of Health           | <input type="checkbox"/> County Department of Parks & Recreation |
| <input type="checkbox"/> State Department of Agriculture                 | <input checked="" type="checkbox"/> County Fire Department       |
| <input type="checkbox"/> State Office of Planning                        | <input checked="" type="checkbox"/> County Housing Agency        |
| <input type="checkbox"/> State Dept. of Bus. & Econ. Dev. Tourism        | <input type="checkbox"/> County Economic Development             |
| <input type="checkbox"/> State Land Use Commission                       | <input checked="" type="checkbox"/> County Water Department      |
| <input checked="" type="checkbox"/> State Historic Preservation Division | <input type="checkbox"/> County Civil Defense                    |
| <input type="checkbox"/> State DLNR - Land Management                    | <input checked="" type="checkbox"/> County Transportation Agency |
| <input type="checkbox"/> State DLNR - Forestry & Wildlife                | <input type="checkbox"/> KHPRC                                   |
| <input type="checkbox"/> State DLNR - Aquatic Resources                  | <input checked="" type="checkbox"/> U.S. Postal Department       |
| <input type="checkbox"/> State DLNR - Conservation & Coastal Lands       | <input type="checkbox"/> UH Sea Grant                            |
| <input checked="" type="checkbox"/> Office of Hawaiian Affairs           | <input type="checkbox"/> Other:                                  |

NOV 24 '23 PM 12:42  
PLANNING DEPT

FOR YOUR COMMENTS (pertaining to your department) (Due Date 12/03/2023)

11/21/2023

CTA HAS NO FURTHER COMMENT ON THIS PROJECT.

MAHALO!

COUNTY OF KAUAI  
PLANNING DEPARTMENT

TO: Subdivision Committee, Planning Commission

SUBJECT: Extension Request

PURPOSE:  File Final Subdivision Maps  
 Complete Subdivision Improvements  
 Other: \_\_\_\_\_

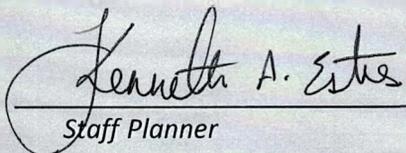
<b>Subdivision Application No.</b> S-2019-8		<b>Applicant(s)</b> Stephanie Fernandes	
<b>Location:</b>	Wailua Homesteads	<b>Tax Map Key:</b>	(4) 4-2-005: 044
<b>Extension Request No. (1<sup>st</sup>, 2<sup>nd</sup>, etc.)</b> 5 <sup>TH</sup>		<b>Tentative Approval Granted On:</b> January 22, 2019	<b>Previous Ext. Expired On:</b> January 22, 2024
<b>Subdivision Bonded:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<b>Deadline to Complete Improvements:</b> Not Applicable	

**APPLICANT'S REASONS:** Additional time is being requested to comply with the conditions/requirements of tentative approval. The Applicant is currently with the various reviewing agencies in resolving the required infrastructure improvements for the subdivision.

**PLANNING DEPARTMENT  
EVALUATION & RECOMMENDATION**

**EVALUATION:** Please refer to next page...

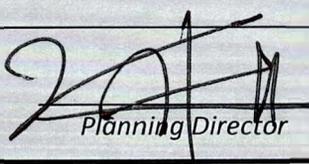
**RECOMMENDATION:** Please refer to next page...

  
 Staff Planner

01.26.2024  
 Date

Approved and Recommended to Planning Commission       Denied

**Comments:**

  
 Planning Director

1/26/2024  
 Date

G.2.a.1.

March 12, 2024

## COUNTY OF KAUA'I PLANNING DEPARTMENT

Extension requests are primarily processed for the purpose of continuing a tentative approval for a subdivision application. An extension approval allows an applicant additional time to comply with the requirements in order to obtain final subdivision approval.

In determining whether additional time should be granted, an evaluation is made of the project's progress as well as compliance with the requirements of tentative approval. The evaluation is primarily based on determining whether the applicant is **progressively working** towards obtaining final subdivision approval with the various reviewing agencies. The **tentative approval conditions** are then re-evaluated to determine whether the conditions/requirements are adequate to address the impacts of the proposed development in consideration of the time that has lapsed.

Pending evaluation of an extension request, one of the following can occur:

1. The extension is approved without changes to the tentative approval requirements;
2. The extension is approved with modified time frames but no modifications or additions to the tentative approval requirements;
3. The extension is approved with modifications and/or additions to the requirements; and
4. The extension is denied.

### EXTENSION REQUEST:

The Applicant is requesting an extension of time to file the final subdivision map with the Planning Department pursuant to Section 9-3.8(c)(1) of the Subdivision Ordinance, Kaua'i County Code (1987), as amended. This application was granted tentative approval by the Planning Commission on January 22, 2019, and the Applicant's extension request is the *fifth* extension of the preliminary subdivision map approval. Please refer to the Applicant's request letter dated December 5, 2023, enclosed as Exhibit 'A'.

### FINDINGS/BACKGROUND:

The proposed development involves a subdivision of a parcel into five (5) lots in the Wailua Homesteads area. The subject property is situated in close proximity to the Kuamo'o Road/Kamalu Road intersection in Wailua Homesteads and the total area involved is approximately 10.818 acres. The subject property is County zoned Residential District (R-2) and Open (O) District, and is within the State Land Use Rural District. The surrounding parcels to the North and West are also within the County Residential District (R-2) and Open (O) District, and are within the State Land Use Rural District. The parcels to the South and East are County zoned Residential District (R-4) and are within the State Land Use Urban District. The surrounding parcels are developed with single-family residences.

**PROGRESS OF THE SUBDIVISION:**

In considering the extension request, it should be noted that the Applicant has made some progress in addressing the requirements of the subdivision. As represented, they are currently resolving the requirements of the COK Department of Public Works, Engineering Division relating to a flood study to address drainage from the natural drainage swale on Lot 2. Further, they are currently working with the COK Department of Water in resolving a Water Agreement and the infrastructure improvements associated with the development. Since it is uncertain as to when the Applicant will be in compliance with the requirements of Tentative Approval, another time extension is being requested.

Based on the foregoing circumstances, the Applicant's reasons are justifiable and no problems are foreseen in granting the extension request. The Departments of Public Works and Water have no objections to the request.

Additionally, the Applicant should demonstrate further progress with the subdivision within one (1) year from the approval of this extension request. As such, the Applicant shall be made aware that in further considering extension requests involving the proposed development, the Applicant shall continue to submit to the Planning Department an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date in order to allow sufficient time to evaluate whether progress have been made and conditions satisfied.

**RECOMMENDATION:**

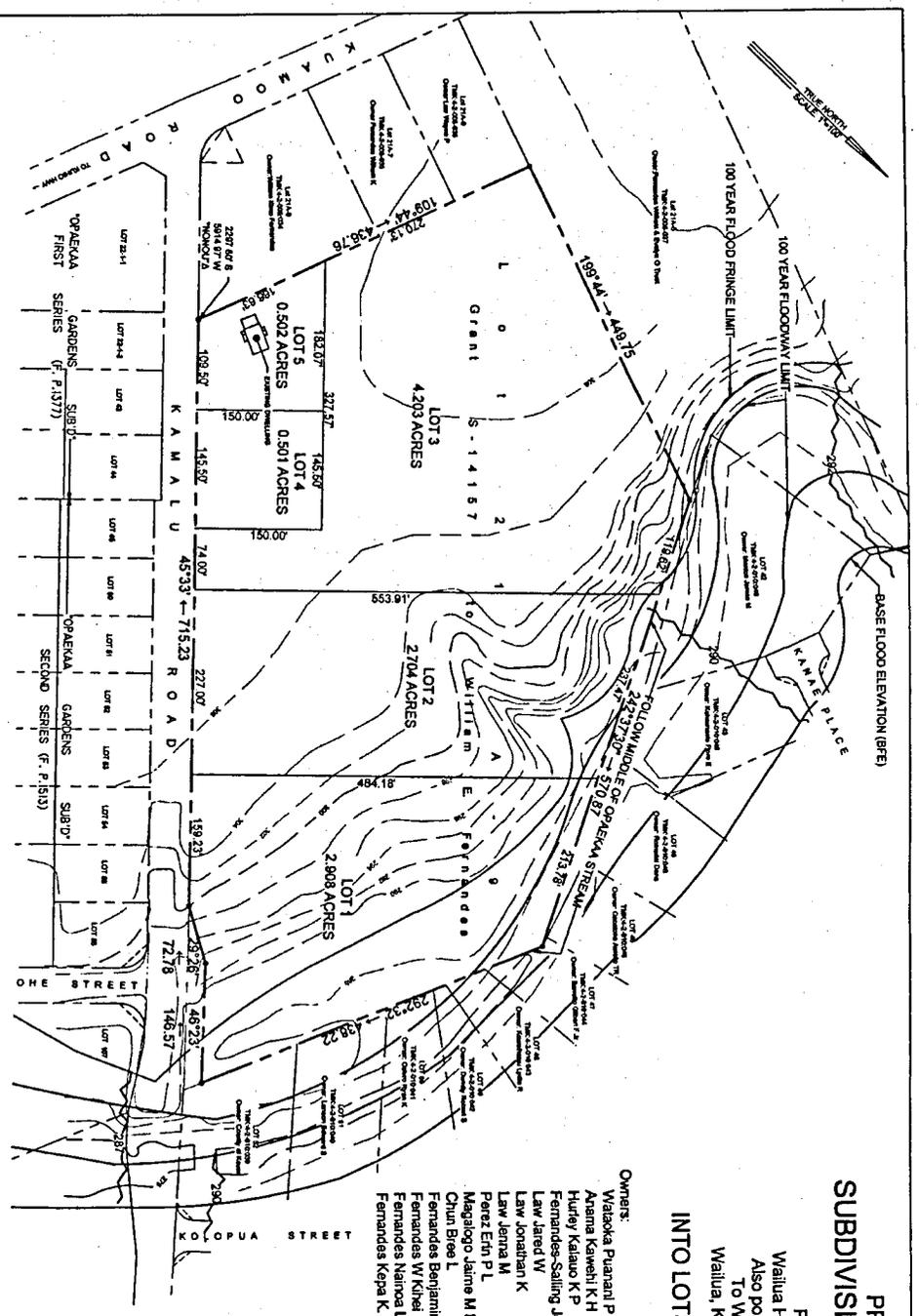
It is recommended that an extension until **JANUARY 22, 2025** be granted to obtain final subdivision approval. However, the Applicant is made aware that an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements shall be submitted to the Planning Department for review for further extensions requests. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date.

**PRELIMINARY  
SUBDIVISION OF LOT 21 A-9**

Portion of Lot 21  
Waialua Homestead, First Series  
Also portion of Grant S-14157  
To William E. Fernandes  
Waialua, Kawaihau, Kauai, Hawaii

**INTO LOTS 1 TO 5 INCLUSIVE**

- Owners:**
- Waialoa Puanani P.H. 6231 Hauiki Road Kapaa, HI. 96746
  - Apana Kawehi K.H.
  - Hurley Kaliau K.P.
  - Fernandes-Salling John M.K.
  - Law Jared W.
  - Law Jonathan K.
  - Law Jenna M.
  - Perez Erhn P.L.
  - Magalogo Jaime M.L.
  - Chun Bree L.
  - Fernandes Benjamin B. 219 Kamalu Road Kapaa HI. 96746
  - Fernandes W/Kikei
  - Fernandes Nainoa L.
  - Fernandes Kepa K.

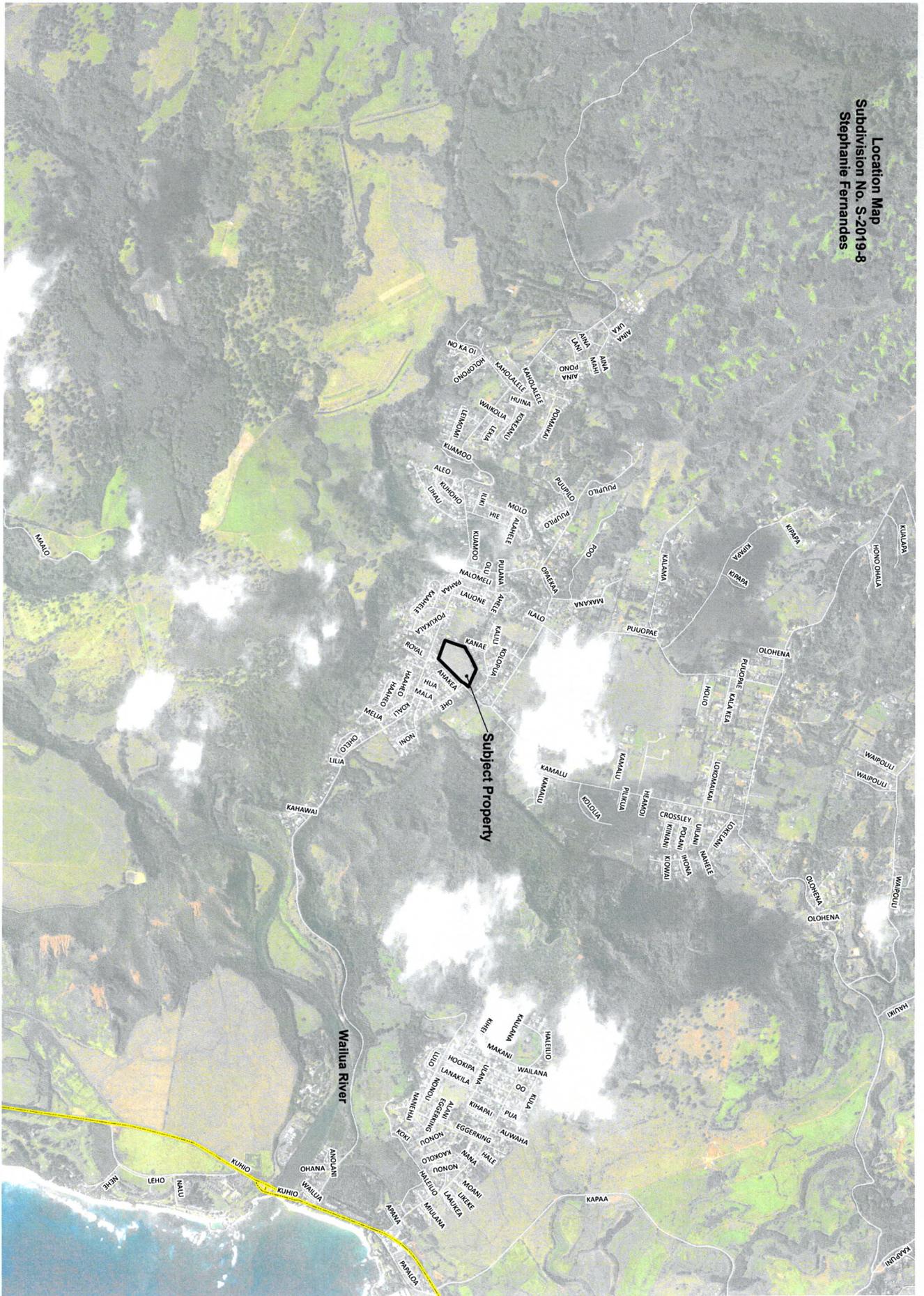


- NOTES:**
1. Origin of contours and computations are obtained by...
  2. Computations of elevations are based on mean sea level...
  3. Floodway and flood fringe lines are recognized from flood...
  4. Elevation and other features are based on aerial...

KODAN & ASSOCIATES ENGINEERS, LLC  
2100 KAWAII AVENUE, SUITE 200, KAWAII, HAWAII 96741

ENGINEER, APRIL 30, 2020  
THIS WORK WAS PREPARED BY ME  
OR UNDER MY SUPERVISION  
Signature

Location Map  
Subdivision No. S-2019-8  
Stephanie Fernandes





© All EagleView Technology Corporation

# Exhibit 'A'

(Applicant's Request Letter dated December 5, 2023)

# BELLES GRAHAM LLP

ATTORNEYS AT LAW

MAX W.J. GRAHAM, JR.  
JONATHAN J. CHUN  
IAN K. JUNG

Federal I.D. No. 99-0317663

DYNASTY PROFESSIONAL BUILDING  
3135 AKAHI STREET SUITE A  
LIHUE, KAUAI, HAWAII 96766-1191

TELEPHONE NO: (808) 245-4705  
FACSIMILE NO: (808) 245-3277  
E-MAIL: mail@kauai-law.com

OF COUNSEL

MICHAEL J. BELLES  
DAVID W. PROUDFOOT  
DONALD H. WILSON

December 5, 2023

Mr. Gerald Ako, Chairperson  
Subdivision Committee  
Planning Commission  
c/o County of Kauai Planning Department  
4444 Rice Street, Suite A473  
Lihue, Kauai, Hawaii 96766

Re: **Subdivision of Lot 21 A-9 Portion of Lot 21 Wailua Homestead,  
First Series also Portion of Grant S-14157 to William E. Fernandes  
Wailua, into lots 1 to 5, inclusive,  
Kawaihau, Kauai, Hawaii  
Kauai Tax Map Key No. (4) 4-2-005-044  
S-2019-8, Stephanie Fernandes**

Dear Chairperson Ako and Subdivision Committee Members:

I am writing to you as the court appointed commissioner in Fernandes v. Fernandes-Salling, et al., Civil No. 15-1-0010, Fifth Circuit Court, State of Hawaii, that has been tasked to pursue the above-entitled subdivision. The Planning Commission Subdivision Committee granted Tentative Approval to the above subdivision at its meeting held on January 22, 2019. On April 11, 2022, the Planning Commission granted an extension of the tentative subdivision approval to January 22, 2024.

The January 22, 2024 extension provided that "if further subdivision extension requests are sought, an updated status report on the subdivision that includes a detailed time chronology on the progress of the tentative approval requirements shall be submitted to the Planning Department no later than sixty days (60) from the expiration date of the extension." We apologize for not submitting this updated report earlier. We had hoped that all of the conditions might have been fulfilled by December of this year, but unfortunately, we might not be able to meet the January 22, 2024 date so we are submitting this updated report and request for an extension for the Committee's consideration.

The following are the conditions that were contained in the Commission's Tentative Subdivision Approval and their status:

- a. Payment of a park dedication fee in the amount of \$600.00.

Status: Fee will be paid prior to Final Approval.

- b. Payment of an environmental impact assessment fee of \$750.00.

Status: Fee will be paid prior to Final Approval.

- c. Dedication of an 8' wide strip of line fronting Kamalu Road.

Status: A reserve will be created and shown on the Final Subdivision Map and conveyed to the County of Kauai upon request.

- d. Locate and indicate on the subdivision map the location of the Open and Residential Districts.

Status: Esaki Surveying and Mapping, Inc. has been retained to fulfill the conditions contained in the Tentative Subdivision Approval. Esaki Surveying and Mapping, Inc. ("Esaki") will include the Open and Residential District boundaries on the final subdivision map. Esaki is still working on finalizing the map and we anticipate it to be finished in 2024.

- e. Payment of a Facilities Reserve Charge to the Department of Water in the amount of \$56,460.00.

Status: Fee will be paid prior to Final Approval.

- f. Prepare construction drawings for the domestic water service connections for approval by the Department of Water. Show on final subdivision map location of the existing water meter and location of proposed 4 new meters.

Status: Esaki has been retained to fulfill the conditions contained in the Tentative Subdivision Approval. Esaki is preparing the required construction drawings for the Department of Water. We anticipate Esaki will finalize their drawings in 2024.

g. Enter into an agreement with the Department of Water restricting the subdivision to one single family dwelling per lot or one 5/8-inch water meter per lot.

Status: A tentative agreement has been reached with the Department of Water. The Department of Water plans on submitting the agreement for approval by the Board of Water on December 21, 2023. If the Board approves the agreement, the Department of Water will be authorized to execute the agreement.

h. Preparation of a flood study to address drainage from the natural drainage swale that is located on proposed Lot 2.

Status: Esaki has been retained to fulfill the conditions contained in the Tentative Subdivision Approval. We anticipate Esaki will be able to finish its flood study in 2024.

i. Address the Department of Public Works' suggestion to consolidate entry points along Kamalu Road and provisions for common driveways.

Status: Esaki has been retained to fulfill the conditions contained in the Tentative Subdivision Approval. Esaki is working with the Department of Public Works regarding any required entry points for the common driveways.

j. Enter into a workforce housing agreement with the Housing Agency to comply with County of Kauai's workforce housing requirements.

Status: The Applicant has discussed this matter with the County of Kauai Housing Agency and on May 7, 2021, a fully executed Workforce Housing Agreement was recorded in the Bureau of Conveyances of the State of Hawaii as Document No. A-77970593.

k. Prepare metes and bounds descriptions for final lots.

Status: Esaki has been retained to fulfill the conditions contained in the Tentative Subdivision Approval. Esaki will prepare metes and bounds descriptions for the final lots. We anticipate this work will be completed by Esaki in 2024.

Mr. Gerald Ako, Chairperson  
Page 4  
December 5, 2023

- l. Install property pins for final lots.

Status: Esaki has been retained to fulfill the conditions contained in the Tentative Subdivision Approval. Esaki will install property pins for the final lots.

- m. Prepare final subdivision map for approval incorporating the above conditions.

Status: Esaki has been retained to fulfill the conditions contained in the Tentative Subdivision Approval. Esaki will be preparing the final subdivision map for the County's review and approval. We anticipate this work will be completed in 2024.

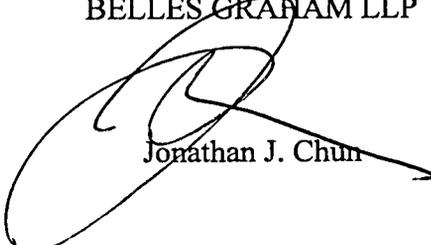
We estimate Esaki would need another extension of six to twelve months to complete the work required of it under the tentative subdivision approval. We anticipate that the Department of Water agreement could be approved and recorded by the end of this year or January 2024.

Based on the above, the Applicants respectfully request another extension of 12 months to obtain final subdivision approval.

Thank you very much for your consideration of this request.

Sincerely,

BELLES GRAMAM LLP



Jonathan J. Chun

JJC:so

cc: Esaki Surveying and Mapping, Inc.  
Allison Mizuo Lee, Esq.  
David J. Minkin, Esq.  
Mr. Benjamin B. Fernandes  
Mr. W. Kihei Fernandes



Through shelter, we empower.

December 26, 2023

DEC 28 '23 AM 8:08  
PLANNING DEPT

County of Kauai Planning Commission  
Ka'aina Hull, Planning Director  
4444 Rice Street, Suite A743  
Lihu'e, HI 96766

RE: Request to Terminate Kauai Habitat for Humanity Subdivision Application No. S-2024-3 (Subdivision of Lot 1 of Wailani Subdivision)

Dear Commissioners and Planning Director Hull,

I am writing to formally request termination of Kauai Habitat for Humanity's Subdivision Application No. S-2024-3 (subdivision of Lot 1 of Wailani Subdivision) as we are working to further determine and revise our course of action with the above proposed project.

Please contact us if you require further information – [milani@kauaihabitat.org](mailto:milani@kauaihabitat.org) or 808-634-1027.

Sincerely,

A handwritten signature in blue ink, appearing to read "Milani Pimental", is written over a light blue horizontal line.

Milani Pimental  
Executive Director  
Kauai Habitat for Humanity

*This institution is an equal opportunity provider and employer. We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin.*



P.O. Box 28, 'Ele'ele, HI 96705 | [www.kauaihabitat.org](http://www.kauaihabitat.org) | T: 808.335.0296

**G.N.A.I.**

MAR 12 2024