

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.