

KAUA'I PLANNING COMMISSION
SUBDIVISION COMMITTEE MEETING
April 24, 2018

The regular meeting of the Planning Commission Subdivision Committee of the County of Kaua'i was called to order at 8:30 a.m., at the Līhu'e Civic Center, Mo'ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Mr. Roy Ho
Mr. Kimo Keawe
Mr. Sean Mahoney

The following staff members were present: Planning Department – Deputy Director Ka'āina Hull, Chance Bukoski, Duke Nakamatsu; Office of the County Attorney – Deputy County Attorney Jodi Higuchi Sayegusa; Office of Boards and Commissions – Commission Support Clerk Darcie Agaran

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Subdivision Committee Chair Ho called the meeting to order at 8:30 a.m.

ROLL CALL

Mr. Ho: Mr. Bukoski, will you start us off with our roll call? I invited Mr. Keawe to sit in and help.

Staff Planner Chance Bukoski: Okay. Good morning, Commissioners. Chair Ho.

Mr. Ho: Here.

Mr. Bukoski: Commissioner Mahoney.

Mr. Mahoney: Here.

Mr. Bukoski: Commissioner Keawe.

Ms. Keawe: Here.

Mr. Bukoski: Three present.

APPROVAL OF AGENDA

Mr. Bukoski: Moving on to Item C, Approval of Agenda. For the record, Chair, looking at the agenda, I would like to move Item G to the last item of the agenda.

Mr. Keawe: Which item? G?

Mr. Bukoski: Yes.

Mr. Keawe: Okay.

Mr. Mahoney: Okay, do you need a motion? Chair, move to move Item G to the last item of the agenda.

Mr. Keawe: Second.

Mr. Ho: The motion is to approve Item G to the last to be heard. All in favor? (Unanimous voice vote) Motion carries 3:0.

Mr. Bukoski: Thank you, Chair.

MINUTES of the meeting(s) of the Subdivision Committee

Meeting of March 27, 2018

Mr. Bukoski: Moving on to Item D, Minutes of the Meeting – Meeting of March 27, 2018.

Mr. Keawe: Move to approve the minutes of March 27, 2018.

Mr. Mahoney: Second.

Mr. Ho: The motion is to approve the minutes of our meeting. All in favor? (Unanimous voice vote) Motion carries 3:0.

Mr. Bukoski: Thank you, Chair.

RECEIPT OF ITEMS FOR THE RECORD (None)

Mr. Bukoski: Moving on to Item E, Receipt of Items for the Record. Seeing none.

HEARINGS AND PUBLIC COMMENT

Mr. Bukoski: Moving on to Item F, Hearings and Public Comment. Are there any individuals in the public that would like to testify on any of the items on the agenda? Seeing none.

UNFINISHED BUSINESS (None)

Mr. Bukoski: Moving on to Item H, Unfinished Business. Seeing none.

NEW BUSINESS (For Action)

Tentative Subdivision Map Approval

Subdivision Application No. S-2018-11; *KENNETH C. MEDIEROS*; Proposed 2-lot Subdivision; TMK: (4) 2-7-005:154; Kōloa, Kauaʻi

Mr. Bukoski: Moving on to Item I, New Business. Tentative subdivision map approval; Subdivision Application No. S-2018-11; Kenneth C. Medieros; proposed 2-lot subdivision; TMK: (4) 2-7-005:154; Kōloa, Kauaʻi.

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

Mr. Bukoski: We have received all various government agency comments and we are requesting tentative approval; oh, recommending – sorry – tentative approval.

Mr. Ho: Is there anyone here for Mr. Caires or Mr. Medieros? Please come forward.

Mr. Bukoski: Mr. Caires did speak to me on the phone and he said he is retiring from Kamehameha Schools and he will not be attending, but he and his applicant fully agree upon the conditions.

Mr. Ho: One item in there that catches my eye is that future road widening agreement; that was a 13-foot easement that is given to the County. Does Ken Medieros know about that?

Mr. Bukoski: Correct.

Mr. Ho: He does?

Mr. Bukoski: Yes. Due to the fact that Ōmaʻo is, I believe, a collector street and the existing width for a collector street is 56 feet, so therefore, the existing width is 30, so it would be 13 on each side, I believe.

Mr. Ho: Okay. I need a motion from the Commissioners.

Mr. Keawe: Move to approve subdivision map – Application No. S-2018-11; Kenneth C. Medieros; proposed 2-lot subdivision; TMK: (4) 2-7-005:154; Kōloa, Kaua‘i.

Mr. Mahoney: Second.

Mr. Ho: The motion has been made for tentative subdivision map approval for Kenneth Medieros. All in favor? (Unanimous voice vote) Motion carries 3:0.

Mr. Bukoski: Thank you, Chair.

Subdivision Extension Request

Subdivision Application No. S-2015-9; GEORGE TSUKAMOTO, ET. AL; Proposed 2-lot Subdivision; TMK: (4) 4-6-010: Por 004, 005, 035 & 036; Kapa‘a, Kaua‘i

Mr. Bukoski: Moving on to the next item, Subdivision Extension Request. Subdivision Application No. S-2015-9; George Tsukamoto; proposed 2-lot subdivision; TMK: (4) 4-6-010 Portion of 004, 005, 035, and 036.

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

Mr. Bukoski: That concludes my staff report and I will hold off on my recommendation.

Mr. Ho: Is Mr. Tsukamoto or someone from Esaki here, please?

Ms. Maren Arismendez-Herrera: Good morning. Maren Arismendez-Herrera from Esaki Surveying, here on behalf of the owner.

Mr. Ho: Commissioners, any questions?

Ms. Arismendez-Herrera: Any questions?

Mr. Keawe: He is aware of all the conditions and (has) no issue with that?

Ms. Arismendez-Herrera: Sorry, I couldn't hear you.

Mr. Keawe: He is aware of all of the recommended conditions and there is no issue with that?

Ms. Arismendez-Herrera: Yes, and the additional time, the extension, is to allow time to the owner to comply with all the conditions, especially the infrastructure one, which is a requirement to provide sidewalks or grass swales fronting his property. There is an existing grass swale, so he is going to go with that option, but he needs to go through a variance procedure so that the County would accept that option.

Mr. Keawe: Okay.

Ms. Arismendez-Herrera: So more time is needed to go through the variance.

Mr. Keawe: Right, okay. And he's diligently keeping you informed in working towards that?

Mr. Bukoski: Correct.

Mr. Ho: What does this subdivision include? I understand it is a consolidation and then he is going to re-subdivide into two lots. Is that how...?

Ms. Arismendez-Herrera: Right. It is currently split by a pipeline right-of-way; that is being consolidated with the lot and then split into two. There are already two houses. It doesn't increase density; it is just going to provide one lot for each structure.

Mr. Ho: That pipeline – it wasn't a boundary thing, was it? The pipeline just happened to be there?

Ms. Arismendez-Herrera: Right. It cuts through several lots, actually – that old pipeline right-of-way.

Mr. Ho: Thank you. Commissioners?

Mr. Keawe: I have no questions.

Mr. Mahoney: (Inaudible) recommendation.

Mr. Ho: I'm sorry. Mr. Bukoski, your recommendation, please?

Mr. Bukoski: It is recommended that an extension until April 11, 2019, 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 requirement shall be submitted to the Planning Department for review for further extension requests. The status report shall be submitted to the Planning Department no later than 60 days prior to the expiration date.

Mr. Ho: Your recommendation is to extend it?

Mr. Bukoski: Correct, sir.

Mr. Ho: Discussion, Commissioners? A motion?

Mr. Keawe: I move to take the Planning Department's recommendation and extend this Subdivision Application No. S-2015-9; George Tsukamoto, et al; proposed 2-lot subdivision; TMK: (4) 4-6-010 portion of 004, 005, 035, and 036; Kapa'a, Kaua'i; and the extension will be granted to April 11, 2019.

Mr. Mahoney: Second.

Mr. Ho: The motion is for the extension request to be granted to April 11, 2019. All those in favor? (Unanimous voice vote) Motion passes 3:0.

Ms. Arismendez-Herrera: Thank you.

Subdivision Application No. S-2015-13; A & B PROPERTIES; Proposed 4-lot Subdivision; TMK: (4) 2-6-004: 010, 011, 018, 063; & 2-6-015:008; Kōloa, Kaua‘i

Mr. Bukoski: Moving on to the next item on the agenda, Subdivision Extension Request. Subdivision Application No. S-2015-13; A & B Properties; proposed 4-lot subdivision; TMK: (4) 2-6-004:010, 011, 018, 063 and 2-6-015:008; Kōloa, Kaua‘i.

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

Mr. Bukoski: I will hold off until my recommendation.

Mr. Ho: Is there anyone here from A & B Properties, please? Please come forward.

Mr. Tom Shigemoto: Good morning.

Mr. Ho: Good morning.

Mr. Shigemoto: For the record, Tom Shigemoto, representing A & B Properties and Kukui‘ula Development Company. First of all, I would like to thank Chance; he was kind enough to forward us his recommendation. After I calmed down, I called both Chance and the Planning Director to explain to them why I feel that...if I could have the opportunity to come before the Subdivision Committee to plead my case, so to speak.

A month after we got tentative approval – this was in November of 2015 – I sent a letter to the Planning Director outlining all of the conditions that we had already complied with and some of them which were not applicable. Apparently, that information did not get to Chance, so I reiterated all of the things that we had accomplished to date, and then I forwarded an email to Chance outlining, again, what we have done; we have paid all of the fees. Some of the infrastructure requirements that are mentioned in Chance’s report are deferred because, first of all, this is a consolidation re-subdivision of four lots into four, so we are not creating any new lots. The zoning is Residential R-1 for two of the lots.

Anyway, after explaining that to Chance, I asked if it would be okay if I came here to explain this to the Committee and ask for your consideration in, I guess, overturning his recommendation and granting us the extension; this is our first. We, basically, have complied (with) – I believe – about 85/90 percent of the conditions to date. We have to wait for the legal documentation – draft deeds and MOA – which is almost ready to be completed, and then file the final map for the final approval.

Now, explaining a little bit further, this subdivision has been complicated because the whole purpose of it was to settle a quiet title or title issue. What happened from 2015 to date is the claimant passed away, so his attorneys have been working, I believe, on settling the estate. So we haven't been able to get information from that party to be able to settle the subdivision conditions.

Again, we apologize. We know it has been long, but we still are unsure or unclear as to where that estate stands. But, nevertheless, we have to proceed because this is a court-ordered settlement. If we can get the extension, I am confident that we will be able to get the final approval; it is just a matter of working the final details out with that estate and our legal counsels. So that is my case. I, again, ask for your consideration in granting the extension. Thank you.

Mr. Keawe: How long of an extension are you looking for?

Mr. Shigemoto: A year would be fine.

Mr. Keawe: So the quiet title process has been ongoing for how long?

Mr. Shigemoto: It is still ongoing.

Mr. Keawe: No, I understand, but the initial quiet title process.

Mr. Shigemoto: The initial probably started in 2014.

Mr. Keawe: 2014?

Mr. Shigemoto: 2014 to date.

Mr. Keawe: And subsequent to the initial start, the claimant passed away?

Mr. Shigemoto: Yes.

Mr. Keawe: So now his heirs are still involved in the process?

Mr. Shigemoto: Yes.

Mr. Ho: Mr. Mahoney—

Mr. Mahoney: Well, from the testimony from Mr. Shigemoto that approximately 85 percent of the conditions have been met and some extenuating circumstances, but it seems like another communication glitch somewhere with someone. But if good faith efforts are being made – and not that extensions are given out just because someone asks, but on a case-by-case basis – based on the information, I would be willing to go along with the applicant's request on this one. I know the Department and Chance does his due diligence with the information that he has, and with all due respect to his hard work, too, but if this information that that much has been

accomplished already, I think it would be beneficial for all parties in a one year extension; that would be my way of thinking.

Mr. Keawe: Tom, I have a question. The anticipated proposed use of the lots moving forward – what is the plan for the development?

Mr. Shigemoto: I believe the claimant or the plaintiff is going to build a single-family home; that is what it is zoned for, first of all, so I believe that is all it is.

Mr. Keawe: And then from your standpoint, as far as Kukui‘ula Development, moving forward for that particular area, what are you folks looking at?

Mr. Shigemoto: Okay. That area has been designated either for future affordable housing or a school site.

Mr. Keawe: A school site?

Mr. Shigemoto: Yes.

Mr. Keawe: Oh.

Mr. Shigemoto: In our conditions of approval, the DOE still has a hook on us and they won't decide, until our 300th unit is built, whether or not there is a demand for another elementary school or not. If the decision is they don't need the land, then five acres of it in that particular area goes to the County for affordable housing.

Mr. Ho: Tom, if you are not the titleholder of the land, how are you able to proceed with some of the conditions that the County–

Mr. Shigemoto: No, we are the holders, we are the owners. So we are creating one lot out of the four to convey to the family or that estate – that Trust.

Mr. Ho: Oh, okay.

Mr. Keawe: Yes, so the quiet title action, obviously, will result in the claimant having his own parcel.

Mr. Shigemoto: Right. So at least we know that they have agreed to the lot, but they had a lot of questions on zoning, flood, you know, so the maps, in fact – and that is why Maren is here – they prepared the maps and the maps are ready to be filed. It is just the final legal documents that our general counsel has been working on and is nearly complete, so we will be ready to submit that shortly. And irrespective of what happens after that with the title claim, this lot still needs to be created because the judge has already ruled that they will get this piece of property.

Mr. Keawe: Yes, so you have to carry through with the judgement.

Mr. Shigemoto: Yes.

Mr. Keawe: How big of a parcel are we--?

Mr. Shigemoto: Ten thousand square feet.

Mr. Keawe: Ten thousand square feet?

Mr. Shigemoto: Yes.

Mr. Keawe: Okay.

Mr. Ho: Mr. Bukoski, your recommendation.

Mr. Bukoski: My recommendation is...to clarify with what Tom was saying as well is that when this was done, a lot of information and communication between the Director and I...just because of what is going on with Hanalei and that type of thing. So I would say to approve the extension for a year.

Mr. Ho: Commissioners?

Mr. Mahoney: Chair, I would make a motion to approve the extension for one year. Do we have to have a date on that?

Mr. Keawe: Yes.

Mr. Bukoski: October 27, 2019.

Mr. Mahoney: Okay. For Subdivision Application No. S-2015-13; A & B Properties; proposed 4-lot subdivision; TMK: (4) 2-6-004:010, 011, 018, 063 and 2-6-015:008; Kōloa, Kaua'i.

Mr. Keawe: Second. So what was the date that Chance--

Mr. Mahoney: The date was October?

Mr. Bukoski: The tentative approval was on October 27th; however -- I'm sorry -- just to clarify, today is April 24th.

Mr. Keawe: I want to make sure we got that right.

Mr. Bukoski: So April 24, 2019.

Mr. Mahoney: Okay, so we can amend the motion to April 24, 2019.

Mr. Keawe: All right, second.

Mr. Ho: The motion has been made and seconded. All in favor? (Unanimous voice vote)
Motion carries 3:0.

Mr. Shigemoto: Thank you very much. Thanks, Chance.

Mr. Bukoski: Thank you.

GENERAL BUSINESS MATTERS (For Action)

Final Subdivision Map Approval

Subdivision Application; *NONOU DEVELOPMENT SUBDIVISION*; Proposed 69-lot Subdivision; TMK: (4) 4-4-005:000; Wailua, Kaua‘i

Mr. Bukoski: All right. Moving on to the last item of the agenda, Item G, General Business Matters for Action – recertification of final subdivision map approval; Nonou Development Subdivision, formerly known as Crossley Subdivision; proposed 69-lot subdivision; TMK: (4) 4-4-005; Wailua, Kaua‘i.

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

Mr. Ho: I don’t see anyone (in) the audience that would testify on this matter, so Commissioners, I suggest that if you have any questions, you direct it to our (deputy) county attorney.

Wait a minute. Mr. Shiraishi, are you here to represent Nonou Estates [sic]? Please come up.

Mr. Sherman Shiraishi: Thank you. No, I am only an observer. I received an opinion that because I am on the Water Board, I cannot appear before any other board or commission, so I am only here to observe.

Mr. Ho: Thank you.

Mr. Shiraishi: But if you have any questions, you can direct it to the (Deputy) County Attorney and I will consult with her.

Deputy County Attorney Jodi Higuchi Sayegusa: Sure.

Mr. Ho: Okay. Gentlemen, the (Deputy) County Attorney will be at your pleasure.

Mr. Mahoney: So, basically, this is to approve an act that was done in 1956; everything is already in order – confirms the approval of the subdivision and the parcels as shown on the map and any subsequent subdivisions that are considered lots of record. So, basically, everything was done, but wasn’t approved with the Bureau of Conveyances?

Ms. Higuchi Sayegusa: Right. I think the issue is, at the time, the requirements of the subdivision at the time required the presentation of the subdivision map to the Board of Supervisors at the time, and then subsequent to that, it would be recorded with the Bureau of Conveyances. So just looking back at the records, there is no evidence that the subdivision map was recorded. So just to clear up any issue and just to confirm that everything that was approved formerly in 1956 is valid and also that any requirements required under the subdivision at the time were completed. I think the applicant was able to verify with the Department of Water, with the Department of Public Works that the requirements were met. In addition to that, I guess by way of a deed, there were metes and bounds descriptions of how the map should be laid out based on the metes and bounds that were recorded; that describes how it looks. And also that the infrastructure requirements were met, and that the TMK parcels were assigned, there is a county tax map based on the metes and bounds description, and that in the '50s, the property owners and the subdivision were assessed property taxes – so based on all those facts, I guess what the Department is asking is just for confirmation of the approval. There is no map that we are recertifying or verifying, but based on those facts, that there is an approval and that the subdivision is valid from the '50s.

Mr. Keawe: So the issue was there was no map.

Ms. Higuchi Sayegusa: Yes. As far as we can tell, there was no map that was–

Mr. Keawe: Because there was no map and no recording.

Ms. Higuchi Sayegusa: There could have been a map, but I mean, there was just nothing recorded, so I guess this is a means to clear up any issues.

Mr. Keawe: Okay. If we proceed with the confirmation of the approval, do we have to add into our motion “any subsequent subdivisions are considered lots of record”?

Ms. Higuchi Sayegusa: I think it is sufficient to verify the subdivision as approved in the '50s is valid.

Mr. Keawe: All right.

Ms. Higuchi Sayegusa: Based on that subdivision, there were subsequent subdivisions–

Mr. Keawe: Right.

Ms. Higuchi Sayegusa: –granted with other sets of requirements, so I hesitate to extend it, also, to confirm the approval of the other subdivisions with other requirements.

Mr. Keawe: We are confirming the approval of 1956, period.

Ms. Higuchi Sayegusa: Yes.

Mr. Keawe: Got it.

Ms. Higuchi Sayegusa: Thank you.

Mr. Ho: Jodi, does this...the other 60 titleholders – the cloud is removed from their title or deed?

Ms. Higuchi Sayegusa: I think that is the aim today, also, just so that there is not a repeated...the requirement of each subsequent property owner to come in and to verify that their...so that is part of the intent; to go back and verify, based on the metes and bounds that were recorded and all the other additional facts that were verified, that this subdivision approval is valid.

Mr. Bukoski: Correct. Just from the Department's standpoint, especially with this case with the owner of one property, especially with the associated four dead end roadways which were arrowheads, just to clear up title for Title Guaranty. So as the Department, we would not want to do any clarification for each individual lot, which would be a time-consuming matter, rather we do a blank approval of the whole subdivision.

Deputy Planning Director Ka'āina Hull: Sorry. Ka'āina Hull on behalf of the Planning Department. Just to add to what Jodi and Chance were saying, yes, it appears that it hasn't been carefully monitored, whether or not this last action of recording the subdivision map at the Bureau was happening. It is in every property owner and developer's best interest to do so because under the Ordinance, if you don't do that, technically it says that the subdivision is essentially null and void thereafter. So they have done everything up until that point and then this last little, albeit important, matter has been sometimes missed, it is now being caught on the title searches. They still have to do this.

I think given the problems that it could create in making the subdivision null and void, the Department is looking at amending that language, and of course we would submit that for you folks' review first so that it isn't such a penalty after all the infrastructure improvements have already been done that the subdivision is cancelled, but there has to be some type of control mechanism to ensure the recordation happens, but not to the severity that it is at right now. Like I said, policy-wise, we will be bringing something for this body to change that and look for your input on it. Chance has an agricultural amendment as well, so he is going to get used to spending some time up at Council.

Mr. Ho: Gentlemen, are you all–

Mr. Keawe: I think we are ready to make a decision at this point.

Mr. Ho: Are you ready Mr. Mahoney?

Mr. Mahoney: Yes.

Mr. Ho: Okay.

Mr. Keawe: I'm ready.

Mr. Ho: A motion, please.

Mr. Keawe: I move to confirm the approval of the Nonou Development Subdivision of 69 lots that were approved on or about August 15, 1956, identified as TMK: (4) 4-4-005.

Mr. Ho: The motion is to approve the subdivision map.

Mr. Mahoney: Second.

Mr. Ho: All in favor? (Unanimous voice vote) The motion carries 3:0.

Mr. Bukoski: Thank you, Chair, and that was the last item on the agenda.

ADJOURNMENT

Mr. Bukoski: Adjournment.

Mr. Ho: I need a motion to adjourn.

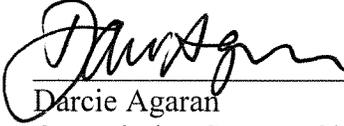
Mr. Keawe: Move to adjourn.

Mr. Mahoney: Second.

Mr. Ho: We are done.

Subdivision Committee Chair Ho adjourned the meeting at 9:04 a.m.

Respectfully submitted by:



Darcie Agaran
Commission Support Clerk

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

() Approved as amended. See minutes of _____ meeting.