

## MINUTES

### PLANNING COMMITTEE

November 3, 2021

A meeting of the Planning Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Mason K. Chock, Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, November 3, 2021, at 9:52 a.m., after which the following Members answered the call of the roll:

Honorable Bernard P. Carvalho, Jr.  
Honorable Bill DeCosta  
Honorable Luke A. Evslin  
Honorable KipuKai Kualii  
Honorable Mason K. Chock  
Honorable Felicia Cowden, Ex-Officio Member  
Honorable Arryl Kaneshiro, Ex-Officio Member

There being no objections, the meeting recessed at 9:53 a.m., to convene the Housing and Intergovernmental Relations Committee Meeting.

The meeting reconvened at 11:20 a.m., and proceeded on its agenda items as follows:

Bill No. 2831      A BILL FOR AN ORDINANCE AMENDING ZONING CONDITIONS IN ORDINANCE NO. PM-2006-383, AS AMENDED BY ORDINANCE NO. PM-2009-394, RELATING TO ZONING DESIGNATION IN NĀWILIWILI, KAUAI (*Tower Kaua'i Lagoons Sub 1, LLC; 2014 Kaua'i Lagoons Golf, LLC; Tower Kaua'i Lagoons Land, LLC; Tower Kaua'i Lagoons Sub 7, LLC, Applicant*) (ZA-2021-3) **(This item was Deferred.)**

Councilmember Kualii moved to approve Bill No. 2831, seconded by Councilmember Carvalho.

Committee Chair Chock:      We were notified of a possible deferral on this item. There is more work that needs to be done and is being done regarding an update of the maps and the Memorandum of Understanding (MOU). I would like to ask for a deferral. We have the applicants present, so if I could entertain whatever it is they have to share, as well as from the Planning Department, then we can move to a deferral if there are no further questions. Good morning and thank you for being here, do you have anything you would like to add before we move to a deferral?

MICHAEL BELLES (*via remote technology*): Good morning, Chair and Planning Committee Chair Chock. Can you hear me okay?

Committee Chair Chock: Yes.

Mr. Belles: Great. Good morning, Members of the Planning Committee and the entire County Council. For the record, my name is Michael Belles, representing the applicant. Sitting behind me, you have the usual cast of characters here, the Director of Construction Gary Siracusa, sitting across from him is Rebecca Candilasa who is the senior planner from Wilson Okamoto & Associates Incorporated, and sitting across from me is my partner at the law firm, Belles Graham. Thank you very much for giving us this opportunity and simply stated, following the last meeting it was clear to us that with the litany of ordinances that have been adopted since 1986 through very recent years, coupled together with the number of entitlements that have been approved for this property, including Special Management Area (SMA) permits, use permits, variance permits, Class IV zoning permits, any number of entitlements and permits that it is clear that over time, almost thirty (30) years, there are inconsistencies and issues that need to be reconciled. Thanks to Councilmember Evslin, we began a discussion and debate at the very first meeting dealing with roadways and access, which we responded to with a memorandum prepared by Mr. Graham. The intent following our last meeting was to similarly follow-up and be responsive and taking the initiative by coming up with a MOU as expressed by both the Chair of the Council and the Planning Committee Chair, which is that having a MOU, which has the chronology of all the ordinances and entitlements, reconciling the various issues, also where there are voids and gaps. One that was pointed out in the last meeting is "what is a passive park?" Let us come up with a definition that we can work with, and we were hoping or optimistic that we would have a draft by late last week or at the very latest this Monday, but we realized as we are speaking, we are still having exhibits that are going to be attached to the MOU revised. We want to revise some additional language based on information that has been newly discovered based on records and files. We believe that it would be in everyone's best interest for us to defer this until the next meeting on November 17<sup>th</sup> and we believe that would give us sufficient time to come up with a draft that we feel comfortable with and that is right, as opposed to one that may prove to be problematic, which we believe is the case right now—that is no fault of anyone—it is just that with the latest information that we have available, we believe we can improve on the draft that we have right now. We appreciate the help and support that we have from the Planning Department and working closely with the Deputy Planning Director, as well as the Coastal Zone Management (CZM) and SMA inspector, Mr. Milnes. Based on their feedback, we believe that we have a good running start to come up with a MOU that will help correct inconsistencies, fill voids, and give everyone a better understanding of what not only has happened historically, but what is happening now as we look towards the future to avoid future problems, future interpretations, and future pauses on any other activities involving this

project. Thank you for your consideration and we would humbly request that this item be deferred until the next meeting on November 17<sup>th</sup>. Thank you very much.

Committee Chair Chock: Thank you. Jodi, if you have any other comments prior to opening up for final comment or questions from the Members, then we will defer.

JODI A. HIGUCHI SAYEGUSA, Deputy Planning Director (*via remote technology*): Nothing much to add, other than we have been trying to work towards coming to some sort of understanding with the applicants related to certain items that we have been following-up on with the lateral access, signage, et cetera. We are also in agreement for additional time, so that we have an opportunity to formalize an agreement and wrap up any other investigations that we have been doing.

Committee Chair Chock: Thank you. Are there any questions from the Members before we call for a deferral? Councilmember DeCosta.

Councilmember DeCosta: I have a question for Michael. I have your name correct this time, I did not have to go with your color of your *aloha* shirt. Where are you Michael?

Mr. Belles: Yes, sir.

Councilmember DeCosta: Thank you. I would like to ask you a question. I also found out the meaning of passive park. I got to tour the property for the first time. I went there and took it upon myself to look at the place—the easement and access. I walked to the beach that I have never seen before—Running Waters—and I saw the pavilions and showers. My question to you is, at the second pavilion by Running Waters, there is a nicely maintained grassy area where I saw two (2) people having a picnic, are you planning to keep that area nice like that on the second area of the pavilion?

Mr. Belles: Yes, sir, Councilmember DeCosta. The intent is that around both pavilions, wherever we have room to maintain the property better to allow for more people to enjoy the pavilions in the areas immediately around it—that is our intention.

Councilmember DeCosta: I want to tell you that I was impressed. I might have been hard on you at the last meeting, but this time when I looked for myself, I am very impressed, Michael. Thank you.

Mr. Belles: On behalf of my client, I thank you very much for your comments.

Committee Chair Chock: Thank you. Councilmember Cowden.

Councilmember Cowden: I want to briefly express my appreciation to the applicant also. I feel like the quality of the documents that you give us...acknowledging Gary for the time he took and seemed to be very available on an ongoing basis. I walked close to ten (10) miles at the loop, there is quite a lot available for people. I appreciate that you are going to make a MOU so it is clear. It has been a pleasure to work on this particular one—it has been easier than most, so I just want to acknowledge that. Thank you.

Committee Chair Chock: Thank you. Are there any further questions?  
Councilmember Evslin.

Councilmember Evslin: I will do the same and not ask a question here, but I want to say thank you for working so well with us here. We are all working towards the same outcome, which is clarity and that this amendment does rest on something like thirty (30) years of other amendments and looking through the history, this property has gone through a number of iterations. I think it is important to get some clarity on these terms. It is great to hear that what you told to Councilmember DeCosta about the grass around the passive park being available for the public to use, so more clarity on what public access is open, I appreciate that. I am looking forward to our next meeting in two (2) weeks. Thank you Chair for letting me not ask a question.

Committee Chair Chock: Thank you. I think we have taken care of questions and discussion.

Councilmember Kualī'i moved to defer Bill No. 2831, seconded by Councilmember Carvalho, and carried by the following vote:

FOR DEFERRAL:	Carvalho, DeCosta, Evslin	
	Kualī'i, Chock	TOTAL – 5,
AGAINST DEFERRAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Committee Chair Chock: The motion passes.

The Committee proceeded on its agenda item, as shown in the following Committee Report, which is incorporated herein by reference:

**CR-PL 2021-03:** on Bill No. 2836

A BILL FOR AN ORDINANCE TO AMEND CHAPTER 10, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE LIHU'E TOWN CORE URBAN DESIGN DISTRICT (*County of Kaua'i Planning Department, Applicant*) (ZA-2021-4) **(Approved.)**

There being no further business, the meeting was adjourned at 11:50 a.m.

Respectfully submitted,



Jessica Young  
Council Services Assistant I

APPROVED at the Committee Meeting held on November 17, 2021:



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MASON K. CHOCK  
Chair, PL Committee