

KAUAI PLANNING COMMISSION
REGULAR MEETING

Tuesday, November 13, 2018

9:00 a.m. or Soon Thereafter
Lihue Civic Center, Moikeha Building
Meeting Room 2A-2B
4444 Rice Street, Lihue, Kauai, Hawai'i

RECEIVED

'18 NOV -7 P1:12

AGENDA

OFFICE 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 Planning Commission
 - 1. Meeting of October 9, 2018.
 - 2. Meeting of October 23, 2018.
- E. RECEIPT OF ITEMS FOR THE RECORD
- F. HEARINGS AND PUBLIC COMMENT (Noticed hearings will not commence until 9:00 a.m. or soon thereafter.) Individuals may orally testify on items on this agenda during the Public Comment Period. Please call the Planning Department prior to the meeting or notify Commission Staff at the meeting site. Testimony shall also be accepted when the agenda item is taken up by the Commission. However if an individual has already testified during this period, additional testimony at the agenda item testimony may be allowed at the discretion of the Chair. Testifiers shall limit their testimony to three (3) minutes, but may be extended longer at the discretion of the Chair. Written testimony is also accepted. An original and twelve (12) copies of written testimony can be hand delivered to the Planning Department or submitted to Commission Staff at the meeting site.
 - 1. Continued Agency Hearing
 - 2. New Agency Hearing
 - a. Class IV Zoning Permit Z-IV-2019-5 and Project Development Use Permit PDU-2019-3, to allow a residential development containing 67 affordable units and a 32-lot subdivision on property situated in Waimea Town, along the mauka side of Kaumualii Highway, immediately adjacent to the Waimea Technology Center, further identified as Tax Map Key: 1-6-008:006, and containing a total area of 6.5625 acres = *Ahe Group & Kauai Habitat for Humanity*. [Director's Report received 10/23/18.] **POSTPONED** due to failure to comply with Sec. 8-3.1(f) of the CZO relating to notification requirements.

F. HEARINGS AND PUBLIC COMMENT (Cont'd)

3. Continued Public Hearing

- a. ZA-2018-1: Change from Open District (O) to Agriculture District (A). Parcel Location: Located approx. 500 ft. west of the Kainahola Road/Kawaihau Road intersection in Kapaa Homesteads, further identified as 6765 Kawaihau Road, Tax Map Key: (4) 4-4-013:002, and containing a total area of 3.377 acres = ***Baird Family Limited Partnership***. [Director's Report & Sup. 1 DR received, hearing deferred 10/10/17, Sup. 2 DR received, hearing deferred 11/14/17, Sup. 3 received, hearing deferred 6/26/18.]

1. Supplemental No. 4 to Director's Report pertaining to this matter.

4. New Public Hearing

5. All remaining public testimony pursuant to HRS 92 (Sunshine Law)

G. CONSENT CALENDAR

1. Status Reports

2. Director's Report for Project Scheduled for Agency Hearing on Monday, 11/26/18.

- a. Class IV Zoning Permit Z-IV-2019-6 and Use Permit U-2019-4, to allow establishment of a public charter school facility within the Kukui Grove Executive Center in Lihue, situated on the makai side of the Nawiliwili Road/Kaunualii Highway intersection, further identified as 4370 Kukui Grove Street, Tax Map Key: (4) 3-3-006:026, and containing a total area of 0.9447 acres = ***Hawaii Technology Academy***.

1. Director's Report pertaining to this matter.

- b. Class IV Zoning Permit Z-IV-2019-7 and Use Permit U-2019-5, to allow operation of a hotel containing 6 units within the Hotel Kuboyama site in Nawiliwili, situated on the makai side of the Nawiliwili Road/Paena Loop intersection, further identified as 3490 Paena Loop, Tax Map Key: (4) 3-5-002:013, and containing a total area of 5,557 sq. ft. = ***Guerber Family Trust***.

1. Director's Report pertaining to this matter.

H. EXECUTIVE SESSION

1. Pursuant to Hawaii Revised Statutes 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with 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 CC-2015-20, Class IV Zoning Permit Z-IV-2007-1, Use Permit U-2007-1, Special Permit SP-2007-01, Tax Map Key: (4) 2-8-002: por. 005 = ***Kauai Springs, Inc.***
2. Pursuant to Hawaii Revised Statutes Sections 92-5(a)(2 and 4), the purpose of this executive session is to discuss matters relating to the selection, evaluation, and dismissal of the Planning Director as prescribed under Article XIV, Section 14.04, Kauai County Charter and Chapter 15, Rules of Practice and Procedure of the Kauai County Planning Commission. This session pertains to the Planning Director where consideration of matters affecting his privacy will be involved. Further, to consult with legal counsel regarding powers, duties, privileges, and/or liabilities of the Planning Commission as it relates to the selection, evaluation, and dismissal of the Planning Director as prescribed under the Commission's Rules and the Charter of the County.

I. GENERAL BUSINESS MATTERS

1. Request for Time Extension of Two Years to operate a helicopter landing site near Manawaiopuna Falls for Class IV Zoning Permit Z-IV-2008-5, Use Permit U-2008-3 and Special Permit SP-2008-2, Tax Map Key: (4) 1-8-001:001, Koula Valley, Kauai = ***Keith P. Robinson***.
 - a. Director's Report pertaining to this matter.
2. Request (10/16/18) from Max W.J. Graham, Esq., Authorized Agent, to amend the proposed building design for an office and gift shop addition involving Use Permit U-2005-22, Variance Permit V-2005-6, Class IV Zoning Permit Z-IV-2005-28, Tax Map Key: (4) 3-6-005:005, Lihue, Kauai = ***Kauai Museum***.
 - a. Director's Report pertaining to this matter.
3. In the Matter of Class IV Zoning Permit Z-IV-2015-8, Project Development Use Permit PDU-2015-7, Variance Permit V-2015-1, and Special Management Area Use Permit SMA(U)-2015-6, Tax Map Keys: (4) 4-1-003:004 (por.), 005, 007, 011, and 017 and (4) 4-1-005: 014 and 017 = ***Coco Palms Hui, LLC***. [Deferred 9/25/18.]
 - a. Planning Director Michael A. Dahilig's Second Petition to Modify or Revoke Applicant Coco Palms Hui, LLC's Permits and Issue an Order to Show Cause and Set Hearing (9/12/18). [Deferred 9/25/18.]
 - b. Stipulation for Extension of Hearing for Planning Director Michael A. Dahilig's Second Petition to Modify or Revoke Applicant Coco Palms Hui, LLC's Permits and Issue an Order to Show Cause and Set Hearing, Filed September 21, 2018. [Deferred 9/25/18.]
 - c. Letter (9/21/18) from Jon M. H. Pang, Esq., to Planning Commission, related to the Second Petition to Modify or Revoke Applicant Coco Palms Hui, LLC's Permits and Issue an Order to Show Cause and Set Hearing filed with the Planning Commission of the County of Kauai on September 12, 2018. [Deferred 9/25/18.]
4. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #1202 (Hiolani at Haena, now known as "Hiolani" TVR) for Failure to Timely Renew for Property Situated in Haena, Kauai, Hawaii, identified by TMK No. (4) 5-5-008:040, and containing 25,500 square feet = ***Anininina LLC (CC-2017-6)***. [Deferred 9/11/18.]
 - a. Hearing Officer's Report and Recommendation of Contested Case.
 - b. Petitioner Anininina LLC's Exceptions to Hearing Officer's Report and Recommendation of Contested Case Entered on July 19, 2018; Request for Oral Argument; Certificate of Service.
 - c. Respondent Planning Department of the County of Kauai's Support of the Hearing Officer's Reports and Recommendations; Certificate of Service. [a. – c. deferred 9/11/18.]
 - d. Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order. Certificate of Service. (10/26/18).
 - e. Planning Department of the County of Kauai's Conclusions of Law; Exhibit "A"; Certificate of Service (10/29/18).
5. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #5035 (Mango Cottage) for Failure to Timely Renew for Property Situated in Koloa, Kauai, Hawaii, identified by Kauai TMK No. (4) 2-6-007:034, and containing 7,993 square feet = ***Boomerang, Ltd. (CC-2017-10)***. [Deferred 9/11/18.]

I. GENERAL BUSINESS MATTERS (Cont'd)

5. In the matter of TVNCU #5035 (Mango Cottage) = **Boomerang, Ltd. (CC-2017-10). (Cont'd)**
 - a. Hearing Officer's Report and Recommendation of Contested Case.
 - b. Petitioner Boomerang Ltd.'s Exceptions to Hearing Officer's Report and Recommendation of Contested Case Entered on July 19, 2018; Request for Oral Argument; Certificate of Service.
 - c. Respondent Planning Department of the County of Kauai's Support of the Hearing Officer's Reports and Recommendations; Certificate of Service.
[a. – c. deferred 9/11/18.]
 - d. Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order. Certificate of Service. (10/26/18).
 - e. Planning Department of the County of Kauai's Conclusions of Law; Exhibit "A"; Certificate of Service (10/29/18).

6. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of Non-Conforming Use Certificate TVNCU #4308 (Ginger Beach House) for Failure to Timely Renew and Denial of 2017 Transient Vacation Rental Renewal Application Form at 4176 Anahola Road (aka 4176 Pilikai Road) for Property Situated in Anahola, Kauai, Hawaii, identified by Kauai TMK No. (4) 4-8-007:0002, and containing 10,590 square feet = **Elizabeth Kendrick and Joe Chaulklin (CC-2018-1)**. [Deferred 9/11/18.]
 - a. Hearing Officer's Report and Recommendation of Contested Case.
 - b. Petitioners Elizabeth Kendrick's and Joe Chaulklin's Exceptions to Hearing Officer's Report and Recommendation of Contested Case Entered on July 19, 2018; Request for Oral Argument; Certificate of Service.
 - c. Respondent Planning Department of the County of Kauai's Support of the Hearing Officer's Reports and Recommendations; Certificate of Service.
[a. – c. deferred 9/11/18.]
 - d. Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order. Certificate of Service. (10/26/18).
 - e. Planning Department of the County of Kauai's Conclusions of Law; Exhibit "A"; Certificate of Service (10/29/18).

7. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #1166 (Weke Road Estate, now known as Hanalei House) for Failure to Timely Renew for Property Situated in Hanalei, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-5-002:012, and containing 2.0087 acres = **PMD Hanalei, LLC (CC-2017-5)**. [Deferred 9/11/18.]
 - a. Hearing Officer's Report and Recommendation of Contested Case.
 - b. Petitioner PMD Hanalei LLC's Exceptions to Hearing Officer's Report and Recommendation of Contested Case Entered on July 19, 2018; Request for Oral Argument; Certificate of Service.
 - c. Respondent Planning Department of the County of Kauai's Support of the Hearing Officer's Reports and Recommendations; Certificate of Service.
[a. – c. deferred 9/11/18.]
 - d. Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order. Certificate of Service. (10/26/18).
 - e. Planning Department of the County of Kauai's Conclusions of Law; Exhibit "A"; Certificate of Service (10/29/18).

I. GENERAL BUSINESS MATTERS (Cont'd)

8. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #5089 (Hanalei Ilikea, now known as Kahakai Beach Cottage) for Failure to Timely Renew for Property Situated in Hanalei, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-5-001:022, and containing 24,195 square feet = ***Kauains LLC nka JJGrat LLC (CC-2017-7)***. [Deferred 9/11/18.]
 - a. Hearing Officer's Report and Recommendation of Contested Case.
 - b. Petitioner JJGrat LLC's Exceptions to Hearing Officer's Report and Recommendation of Contested Case Entered on July 19, 2018; Request for Oral Argument; Certificate of Service.
 - c. Respondent Planning Department of the County of Kauai's Support of the Hearing Officer's Reports and Recommendations; Certificate of Service.
[a. – c. deferred 9/11/18.]
 - d. Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order. Certificate of Service. (10/26/18).
 - e. Planning Department of the County of Kauai's Conclusions of Law; Exhibit "A"; Certificate of Service (10/29/18).

9. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #5090 (Hanalei Nalu, now known as "Nalu Cottage" TVR) for Failure to Timely Renew for Property Situated in Hanalei, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-5-001:023, and containing 25,005 square feet = ***Kauains LLC (Hanalei Nalu) (CC-2017-8)***. [Deferred 9/11/18.]
 - a. Hearing Officer's Report and Recommendation of Contested Case.
 - b. Petitioner Kauains LLC's Exceptions to Hearing Officer's Report and Recommendation of Contested Case Entered on July 19, 2018; Request for Oral Argument; Certificate of Service.
 - c. Respondent Planning Department of the County of Kauai's Support of the Hearing Officer's Reports and Recommendations; Certificate of Service.
[a. – c. deferred 9/11/18.]
 - d. Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order. Certificate of Service. (10/26/18).
 - e. Planning Department of the County of Kauai's Conclusions of Law; Exhibit "A"; Certificate of Service (10/29/18).

10. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #5091 (Hanalei Bay Hale, now known as "Paniolo Cottage" TVR) for Failure to Timely Renew for Property Situated in Hanalei, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-5-001:024, and containing 25,816 square feet = ***Kauains LLC (Paniolo Cottage) (CC-2017-9)***. [Deferred 9/11/18.]
 - a. Hearing Officer's Report and Recommendation of Contested Case.
 - b. Petitioner Kauains LLC's Exceptions to Hearing Officer's Report and Recommendation of Contested Case Entered on July 19, 2018; Request for Oral Argument; Certificate of Service.
 - c. Respondent Planning Department of the County of Kauai's Support of the Hearing Officer's Reports and Recommendations; Certificate of Service.
[a. – c. deferred 9/11/18.]
 - d. Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order. Certificate of Service. (10/26/18).
 - e. Planning Department of the County of Kauai's Conclusions of Law; Exhibit "A"; Certificate of Service (10/29/18).

J. COMMUNICATION (For Action)

K. COMMITTEE REPORTS

1. **Subdivision** Subdivision Action matters listed in the Subdivision Committee Agenda (attached).

L. UNFINISHED BUSINESS (For Action)

M. NEW BUSINESS

1. **For Action – See Agenda F for Project Descriptions**

N. ANNOUNCEMENTS

1. Topics for Future Meetings
2. The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Hawaii 96766 on **Monday, November 26, 2018.**

O. ADJOURNMENT

EXECUTIVE SESSION: The Commission may go into an executive session on an agenda item for one of the permitted purposes listed in Section 92-5(a) Hawaii Revised Statutes (“H.R.S.”), without noticing the executive session on the agenda where the executive session was not anticipated in advance. HRS Section 92-7(a). The executive session may only be held, however, upon an affirmative vote of two-thirds of the members present, which must also be the majority of the members to which the board is entitled. HRS Section 92-4. The reason for holding the executive session shall be publicly announced.

NOTE: If you need an ASL Interpreter, materials in an alternate format, or other auxiliary aide support, or an interpreter for a language other than English, please contact Lani Agoot at (808)241-4917 or lagoot@kauai.gov at least seven calendar days prior to the meeting.

KAUA'I PLANNING COMMISSION
SUBDIVISION COMMITTEE MEETING
Līhu'e Civic Center, Mo'ikeha Building
Meeting Room 2A-2B
4444 Rice Street, Līhu'e, Hawaii 96766

Tuesday, November 13, 2018, 8:30 A.M.

AGENDA

- A. CALL TO ORDER**
- B. ROLL CALL**
- C. APPROVAL OF AGENDA**
- D. MINUTES of the meeting(s) of the Subdivision Committee**
 - 1. Meeting of October 9, 2018
 - 2. Meeting of October 23, 2018
- E. RECEIPT OF ITEMS FOR THE RECORD (None)**
- F. HEARINGS AND PUBLIC COMMENT**

Individuals may orally testify on items on this agenda during the Public Comment Period. Please call the Planning Department prior to the meeting or notify Commission Staff at the meeting site. Testimony may also be accepted when the agenda item is taken up by the Commission at the discretion of the Chair. Testifiers shall limit their testimony to three (3) minutes, but may be extended longer at the discretion of the Chair. Written testimony is also accepted. An original and twelve (12) copies of written testimony can be hand delivered to the Planning Department or submitted to Commission Staff at the meeting site.
- G. GENERAL BUSINESS MATTERS (For Action)**
 - 1. Stipulation Order to Void Final Subdivision Map Approval
 - a. Subdivision Application No. S-2006-04
(Brydeswood Subdivision Phase III)
Proposed 12-lot Subdivision
TMK: (4) 2-4-016:001 & 020 - 031
Kalaheo, Kaua'i

H. UNFINISHED BUSINESS (For Action)

1. Tentative Subdivision Map Approval

- a. Subdivision Application No. S-2019-2
(Sunset Strip properties, LLC & McBryde Sugar Company, LLC)
Proposed 12-lot Consolidation
TMK: (4) 2-4-016:001 & 020 - 031
Kalaheo, Kaua'i
 1. Subdivision Report pertaining to this matter.
- b. Subdivision Application No. S-2019-3
(Sunset Strip properties, LLC & McBryde Sugar Company, LLC)
Proposed 18-lot Consolidation
TMK: (4) 2-4-016:001, 013, 015 & 016
Kalaheo, Kaua'i
 1. Subdivision Report pertaining to this matter.

I. NEW BUSINESS (For Action)

1. Subdivision Extension Request

- a. Subdivision Application No. S-2016-2
(Kukui'ula Development Co, LLC)
Proposed 29-lot Subdivision
TMK: (4) 2-6-015:014
Koloa, Kaua'i
 1. Subdivision Report pertaining to this matter.
- b. Subdivision Application No. S-2018-2
(Kukui'ula Development Co, LLC)
Proposed 13-lot Consolidation
TMK: (4) 2-6-022: Por 021
Koloa, Kaua'i
 1. Subdivision Report pertaining to this matter.

J. ADJOURNMENT

NOTE: If you need an ASL Interpreter, materials in an alternate format, or other auxiliary aide support, or an interpreter for a language other than English, please contact Lani Agoot at (808)241-4917 or lagoot@kauai.gov at least seven calendar days prior to the meeting

Pursuant to Section 8-27.8 (6) of the Kaua'i County Code (1987), as amended, the following shoreline setback determinations by the Director are disclosed for purposes of public notification.

November 13, 2018

SHORELINE SETBACK DETERMINATIONS

Application No.	Name of Applicant(s)	Property I.D. (Tax Map Key)	Location	Reasons
SSD-2019-20	Terry Donnelly	1-8-009:009	Hanapepe	Construct Two New Single Family Residences
SSD-2019-21	S. Kenneth Kannappan	4-7-007:023	Kealia	New Farm Dwelling & Accessory Structures
SSD-2019-22	Robert Ferguson	5-5-004:040	Hanalei	Rebuild Art Studio
SSD-2019-23	Samuel Kugel	5-4-013:029	Princeville	Deck Renovation and New Swimming Pool
SSD-2019-24	Kauai Marriott	3-5-002:002	Nawiliwili	Upgrade Existing Telecommunication Facility
SSD-2019-25	Nathan Hamar	5-5-001:012	Hanalei	Revised ADU Repairs