

KAUAI PLANNING COMMISSION
REGULAR MEETING

Monday, November 26, 2018

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

RECEIVED

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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
- 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-2019-6 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/Kaumualii 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*. [Director's Report received 11/13/18.]
 - 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*. [Director's Report received 11/13/18.]

F. HEARINGS AND PUBLIC COMMENT (Cont'd)

3. **Continued Public Hearing**
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 Tuesday, 12/11/18.**
 - 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 Kaunualii 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, hearing postponed 11/13/18 due to failure to comply with Sec. 8-3.1(f) of the CZO relating to notification requirements to 12/11/18.]
 1. Supplemental No. 1 to 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 92-4 and 92-5(a)(2 and 4), the purpose of this executive session is to discuss the hiring of a new Planning Director or Interim Director and other related items, and to consult with legal counsel regarding powers, duties, privileges, and/or liabilities of the Planning Commission as it relates to this agenda item, and Section 14.04 of the Charter of the County of Kauai and Chapter 15 of the Rules of Practice and Procedure of the Kauai County Planning Commission.

I. GENERAL BUSINESS MATTERS

1. Request for Extension of Time of two (2) years to operate a helicopter landing facility and conduct botanical tours through Class IV Zoning Permit Z-IV-2006-31, Use Permit U-2006-28 and Special Permit SP-2006-2, Tax Map Key: 1-7-001:011, Makaweli, Kauai = *Keith P. Robinson*. [Director's Report received, deferred 11/13/18.]

I. GENERAL BUSINESS MATTERS (Cont'd)

2. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Notice of Violation and Order to Pay Fines Related to Use Permit U-2015-25, Special Permit SP-2015-6 and Class IV Zoning Permit Z-IV-2015-26 for Property Situated at Lawai, Kauai, Hawaii, identified by TMK No. (4) 2-5-002:037 containing a total area of 3.089 acres = *William I. Cowern and Catherine F. Cowern*,
and
In the Matter of Application for a Special Permit SP-2015-6, Use Permit U-2015-25, and Class IV Zoning Permit Z-IV-2015-26 to allow conversion of an existing residence into a homestay operation, on property situated in Lawai, Kauai, Hawaii, identified by Kauai TMK No. (4) 2-5-002:037, and containing a total area of 3.089 acres = *William I. Cowern and Catherine F. Cowern*.
[Deferred 9/25/18.]
 - a. Hearing Officer's Report of Proposed Findings of Fact and Conclusions of Law and Recommended Order. [Deferred 9/25/18.]
3. In the matter of Remand from the Hawai'i Supreme Court for Amended Decision and Order based upon Additional Evidence for 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.* [Hearing Officer's Report and Recommendation of Contested Case Hearing; Certificate of Service (10/20/17), deferred 11/14/17, deferred 1/23/18; deferred 3/27/18; deferred 4/10/18, denied 6/28/18]
 - a. Adoption of Findings of Fact, Conclusions of Law, Decision and Order
4. Request to amend Class IV Zoning Permit Z-IV-2006-32 and Variance Permit V-2006-10 to allow revisions to the project that would replace 4 retail kiosk units with 4 affordable housing units on a parcel located in the northern section of Kapaa Town, along the mauka side of Kuhio Highway, situated directly across the Otsuka Furniture Retail Store, further identified as Tax Map Key: 4-5-013:026, and affecting a total area of 20.025 sq. ft. = *Jasper Properties LLC (aka Kauai Product Fair)*.
 - a. Director's Report pertaining to this matter.
5. Nomination, Appointment, and Hiring of a new Planning Director or Interim Planning Director under Section 14.04 of the Charter of the County of Kauai and Chapter 15 of the Rules of Practice and Procedure of the Kauai County Planning Commission.

J. COMMUNICATION (For Action)

K. COMMITTEE REPORTS

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

L. UNFINISHED BUSINESS (For Action)

1. Petition to Appeal Decision of the Planning Director; Exhibits “A” through “K”, Certificate of Service, from Dennis M. Lombardi and David G. Brittin, Attorneys for Appellant re *Anini Beach Hale LLC* for a Transient Vacation Rental Nonconforming Use Certificate #5081 for property located in Kilauea, Kauai, Hawaii, Tax Map Key No. (4) 5-3-007-006.
 - a. Clerk of the Commission’s Recommendation to Refer 8/20/18 Appeal of the Planning Department’s Decision Related to the Denial of Non-Conforming Use Certificate Packet submitted on 8/13/18, as required by Kauai County Code, Sec. 8-17.10 (h)(1) for TVNCU #5081, *Anini Beach Hale LLC*, Tax Map Key 53007006 (Contested Case Hearing No. CC-2018-8) to conduct the required analysis and contested case hearings related to the above referenced appeal.
 - b. Letter dated September 7, 2018 from Dennis M. Lombardi and David G. Brittin, Attorneys for Appellant re *Anini Beach Hale LLC* for a Transient Vacation Rental Nonconforming Use Certificate #5081 pursuant to Section 1-9-4 (c) of the Rules of Practice and Procedure of the Planning Commission of the County of Kauai requesting that the subject appeal be deferred and not placed on the Planning Commission Agenda for a period of ninety (90) days so that the Appellant may evaluate this matter.

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 **Tuesday, December 11, 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

Monday, November 26, 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 November 13, 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. Modification of Final Subdivision Map Approval and Restated Subdivision Agreement

- a. Subdivision Application No. S-99-49
(**Association of Apartment Owners of Kulana**)
23-lot Subdivision
TMK: (4) 4-3-003:005
Kapa'a, Kaua'i

- 2. Status of Subdivision Application

- a. Subdivision Application No. S-2002-25
(**Association of Apartment Owners of Kulana**)
3-lot Consolidation
TMK: (4) 4-3-003:005 (Portion)
Kapa'a, Kaua'i

H. **UNFINISHED BUSINESS** (None)

I. **NEW BUSINESS** (None)

J. **ADJOURNMENT**

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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 26, 2018

SHORELINE SETBACK DETERMINATIONS

Application No.	Name of Applicant(s)	Property I.D. (Tax Map Key)	Location	Reasons
SSD-2019-26	Anininina, LLC	5-8-008:040	Wainiha	Revised Renovations to Single Family Residence