

KAUAI PLANNING COMMISSION
REGULAR MEETING

RECEIVED

Tuesday, February 12, 2019

'19 FEB -6 P1:03

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

OFFICE OF
THE COUNTY CLERK
COUNTY OF HAWAII

AGENDA

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. MINUTES of the meeting(s) of the Planning Commission
 1. Meeting of January 8, 2019.
- 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
 - a. Class IV Zoning Permit Z-IV-2019-4, Use Permit U-2019-2, and Special Permit SP-2019-3 to demolish and replace the existing water tank with a new 0.5 MG tank on a parcel situated on the makai side of Kuhio Highway in Moloaa, approx. 1,500 ft. north of the Koolau Road/Kuhio Highway intersection, further identified as Tax Map Key (4) 4-9-009:009, and affecting a portion of a larger parcel containing an area approx. 1.882 acres in size = *Moloaa Irrigation Cooperative (MIC)*. [Director's Report received 10/9/18, Deferred to 1/8/19 on 10/23/18, deferred 1/8/19.]
 1. Moloaa Farms LLC and Jeffrey S. Lindner's Petition to Intervene; Memorandum in Support of Petition to Intervene; Exhibits "1" through "7"; Certificate of Service (10/15/18). [Deferred to 1/8/19 on 10/23/18, deferred 1/8/19.]

F. HEARINGS AND PUBLIC COMMENT (Cont'd)

1. Continued Agency Hearing (Cont'd)

- a. Class IV Zoning Permit Z-IV-2019-4, Use Permit U-2019-2, and Special Permit SP-2019-3 = *Moloaa Irrigation Cooperative (MIC)* (Cont'd)
 2. Letter (12/20/18) from Timothy H. Irons, Esq., requesting deferral for 30 days as parties are still in discussion to resolve the Petition to Intervene in this matter. [Deferred 1/8/19.]
 3. Letter (12/19/18) from Galen T. Nakamura, Esq., requesting deferral for 30 days as parties are still in discussion to resolve the potential Intervenor's Petition to Intervene in this matter. [Deferred 1/8/19.]
 4. Letter (1/29/19) from Timothy H. Irons, Counsel, requesting agenda item be continued for 30 days.
 5. E-Mail Letter (2/5/19) from Louisa Wooton to Dale Cua, agreeing to a deferral on hearing of application to Planning Commission's March 12, 2019 meeting.

2. New Agency Hearing

- a. Class IV Zoning Permit Z-IV-2019-10 and Special Management Area Use Permit SMA(U)-2019-4 to allow renovations to the existing hotel facility that includes a new courtyard, pool and recreation area, and associated site improvements on a parcel located along the makai side of Aleka Loop in Waipouli, situated approx. 400 ft. south of its intersection with Kuhio Highway, further identified as 650 Aleka Loop, Tax Map Key: 4-3-007:028, and affecting a total area of 10.377 acres = *KHS, LLC*. [Director's Report received 1/22/19].
 1. Supplemental No. 1 Director's Report pertaining to this matter.
- b. Class IV Zoning Permit Z-IV-2019-11, Use Permit U-2019-8 to facilitate improvements to the existing emergency power facility and Variance Permit V-2019-3 to deviate from the maximum height and building setback requirements within the Residential zoning district on a parcel located along the eastern side of Kuhio Highway in Lihue, situated approx. 450 ft. east of the Kuhio Highway/Kuene Road intersection, further identified as 3-3420 Kuhio Highway, Tax Map Key: 3-7-001:030, and affecting a portion of a larger parcel approx. 43.927 acres in size = *Wilcox Medical Center*. [Director's Report received 1/22/19].
 1. Supplemental No. 1 Director's Report pertaining to this matter.

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, 2/26/19. NONE

H. EXECUTIVE SESSION

I. GENERAL BUSINESS MATTERS

1. Consideration of Time Extension for the construction of a third residence on a parcel and Amendment to add swimming pool on Tax Map Key 2-8-027:023, located at the terminus of Nalo Road, approx. 600 ft. mauka of its intersection with Hoone Road for Special Management Area Use Permit SMA(U)-2016-2 for **POP Acquisition, LLC**.
 - a. Director's Report pertaining to this matter.
2. Notice of Appeal and Demand for Contested Case Hearing from Denial of submission of Administrative Fee for 2017 late renewal for: 5032 Weke Road, Hanalei, Hawaii 9614 (Certificate No. 5090) **Kauains, LLC**, from Gregory Kugle, Esq., and Joanna C. Zeigler, Esq., to Clerk of Planning Commission, Mr. Kaaina S. Hull (1/24/19) [Contested Case No. CC-2018-17].
 - a. Clerk of the Commission's Recommendation to Refer 1/24/19 Appeal of the Planning Department's Decision Related to the Denial of Submission of Administrative Fee for 2017 untimely renewal application.
3. Notice of Appeal and Demand for Contested Case Hearing from Denial of submission of Administrative Fee for 2017 late renewal for: 5042 Weke Road, Hanalei, Hawaii 96714 (Certificate No. 5091) **Kauains, LLC**, from Gregory Kugle, Esq. and Joanna C. Zeigler, Esq., to Clerk of Planning Commission, Mr. Kaaina S. Hull (1/24/19) [Contested Case No. CC-2018-18].
 - a. Clerk of the Commission's Recommendation to Refer 1/24/19 Appeal of the Planning Department's Decision Related to the Denial of Submission of Administrative Fee for 2017 untimely renewal application.
4. Notice of Appeal and Demand for Contested Case Hearing from Denial of submission of Administrative Fee for 2017 late renewal for: 5020 Weke Road, Hanalei, Hawaii 96714 (Certificate No. 5089) **JJGRAT, LLC**, from Gregory Kugle, Esq., and Joanna C. Zeigler, Esq., to Clerk of Planning Commission, Mr. Kaaina S. Hull (1/24/19) [Contested Case No. CC-2018-19].
 - a. Clerk of the Commission's Recommendation to Refer 1/24/19 Appeal of the Planning Department's Decision Related to the Denial of Submission of Administrative Fee for 2017 untimely renewal application.
5. Planning Director update on the implementation of Ordinance No. 1026, also referred to as the Additional Rental Unit Ordinance.
 - a. Ordinance No. 1026, Bill No. 2686, Draft 2, A Bill for an Ordinance to Amend the Kauai County Code 1987, as amended, Chapter 8, Relating to the Comprehensive Zoning Ordinance.
 - b. County of Kauai, Department of Planning, Additional Rental Unit (ARU) Permitting Information and Instructions.

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. Special Management Area Use Permit SMA(U)-2019-2 for a development involving the construction of two (2) single-family residences on a parcel located on the makai side of Kuhio Highway in Wainiha, at its intersection with Mikala Place, further identified as 5-7196 Kuhio Highway, Tax Map Key: 5-8-008:009, and containing a total area of 15,588 sq. ft. = ***Lon Malapit***. [Director's Report received, hearing closed, and deferred 1/8/19 to 2/12/19.]
2. 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. [Deferred 11/26/18.]
 - 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. [Deferred 11/26/18.]
 - 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. [Deferred 11/26/18.]
 - c. Status Report re Appeal of Forfeiture of TVRNCU #5081, Tax Map Key 53007006, Anini, Kauai, ***Anini Beach Hale LLC***.

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, March 12, 2019.**

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 Anela Segreti at (808)241-4917 or asegreti@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, February 12, 2019, 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 January 8, 2019

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 (None)

H. UNFINISHED BUSINESS (None)

I. NEW BUSINESS (For Action)

1. Tentative Subdivision Map Approval

- a. Subdivision Application No. S-2019-9
(Kukui'ula Development Co., LLC & Lodge Hale Development, LLC)
Proposed 10-lot Subdivision
TMK: (4) 2-6-019:017 & 026
Koloa, Kaua'i

1. Subdivision Report pertaining to this matter.

I. NEW BUSINESS (For Action) (Cont'd)

1. Tentative Subdivision Map Approval

- b. Subdivision Application No. S-2019-10
(Ahe Group, LLC & Kauai Habitat for Humanity)
Proposed 38-lot Subdivision
TMK: (4) 1-6-008:006
Waimea, Kaua'i

- 1. Subdivision Report pertaining to this matter.

2. Final Subdivision Map Approval

- a. Subdivision Application No. S-2015-13
(A&B Properties, Inc, McBryde Sugar Co., LLC, & Kukui'ula Development Co, LLC)
Proposed 4-lot Subdivision
TMK: (4) 2-6-004:010, 018, 063 & 2-6-015:008
Koloa, Kaua'i

- 1. Subdivision Report pertaining to this matter.

- b. Subdivision Application No. S-2017-10
(Medeiros Farm, Inc)
Proposed 3-lot Boundary Adjustment
TMK: (4) 2-3-014:007, 009, & 031
Kalaheo, Kaua'i

- 1. Subdivision Report pertaining to this matter.

- c. Subdivision Application No. S-2018-2
(Kukui'ula Development Co., LLC)
Proposed 13-lot Subdivision
TMK: (4) 2-6-022:021
Koloa, Kaua'i

- 1. Subdivision Report pertaining to this matter.

- d. Subdivision Application No. S-2018-6
(James & Brenda C., Denny & Marshal Nakamatsu)
Proposed 2-lot Boundary Adjustment
TMK: (4) 1-3-001:043, & 119
Kekaha, Kaua'i

- 1. Subdivision Report pertaining to this matter.

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.

February 12, 2019

SHORELINE SETBACK DETERMINATIONS

Application No.	Name of Applicant(s)	Property I.D. (Tax Map Key)	Location	Reasons
SSD-2019-32	Ronald F. Burke	5-4-012:011	Princeville	Interior Renovations Unit #211
SSD-2019-33	Polly Porter	2-6-005:014	Koloa	Interior Renovations Unit #111