

KAUAI PLANNING COMMISSION
REGULAR MEETING

Tuesday, June 25, 2019

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

RECEIVED

AGENDA

'19 JUN 19 P3:12

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF AGENDA

D. MINUTES of the meeting(s) of the Planning Commission

1. Meeting of April 23, 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, deferred 2/12/19.]

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, deferred 2/12/19.]

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-2019-13 and Use Permit U-2019-10 to allow modifications to an existing helicopter tour facility that includes restroom facilities, office trailer, storage, and associated improvements on a parcel located along the mauka side of Kuiloko Road in Hanapepe, situated at its intersection with Lele Road, further identified as 3441 Kuiloko Road, Tax Map Key: 1-8-008:004 (Portion) and 1-8-008:005, and affecting a portion of a larger parcel that is approx. 54,461 s.f., a portion of a larger parcel that is 166.452 acres = ***Smoky Mountain Helicopters, Inc.*** [Director's Report sent to Planning Commission 6/13/19.]
 1. Request to postpone hearing and waive timelines by letters dated April 25, 2019 from Lorna Nishimitsu, Esq. ("Exhibit F" of the Director's Report).
 2. Supplemental No. 1 to Director's Report pertaining to this matter.
 3. Petition to Intervene (6/17/19) by Hui Hana Pa'akai O Hanapepe, Ku'uleialoha Santos, and Malia Nobrega-Olivera.
- b. Special Management Area Use Permit SMA(U)-2019-5 to construct a single-family residence on a parcel situated along the mauka side and at the terminus Moanakai Road in Kapaa, immediately adjacent to Baby Beach, further identified as 1139 Moanakai Road, Tax Map Key: 4-5-002:002, and containing a total land area of 19,095 s.f. = ***Joseph M. Horak.***
 1. Director's Report pertaining to this matter.

3. Continued Public Hearing

F. HEARINGS AND PUBLIC COMMENT (Cont'd)

4. New Public Hearing

- a. Zoning Amendment ZA-2019-9: A bill for an ordinance amending Chapter 10, Article 6, Kauai County Code 1987, as amended, relating to the South Kauai Community Plan. The proposal amends Section 10-6.6 of the Kauai County Code relating to text and mapping requirements within the Special Planning Areas "H" and "I", commonly referred to as the Koloa Town Walkable Mixed Use District (SPA-H) and Kalaheo Town Walkable Mixed Use District (SPA-I) = *County of Kauai Planning Department*.

1. Director's Report pertaining to this matter.

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, July 9, 2019. (NONE)

H. EXECUTIVE SESSION

1. Pursuant to Hawaii Revised Statutes Section 92-5(a) (2 and 4) for Evaluation of Planning Director for first 6 months of FY 2019. This session pertains to the evaluation of the Planning Director's work performance where consideration of matters affecting 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 evaluation of the Planning Director.

I. GENERAL BUSINESS MATTERS

1. Request from West Sunset 32 Phase 1, LLC; Charles Somers, as Trustee of the Charles Somers Living Trust; and Charles Somers, Individually for a Petition for the Revocation of Special Management Area Use Permit SMA(U)-2011-1; Class IV Zoning Permit Z-IV-2011-1, and Use Permit U-2011-1 for *Michael A. Kaplan (Formerly Hendrikus Group, Inc.)* regarding Consideration of Time Extension for the construction of a farm dwelling unit on a parcel and Amendment to modify the design of the single family residence on Tax Map Key: 5-2-012:019 and 5-2-021:041:001, in Kilauea, Hawaii.

- a. Director's Report pertaining to this matter.

2. Petition to Appeal Director's Rejection of Moloaa Farms LLC's Subdivision Application for TMK: (4) 4-9-009-001 (5/17/19) by Timothy H. Irons, Esq., Attorney for Petitioner, *Moloaa Farms LLC*.

- a. Memorandum (6/19/19) to the Planning Commission pertaining to this matter.

I. GENERAL BUSINESS MATTERS (Cont'd)

3. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #4235 (Hale Hoku) for Failure to Timely Renew related to Property Situated inn Hanalei, Kauai, Hawaii, Identified by Kauai TMK: (4) 5-8-008:045, containing 15,197 s.f. = ***Elizabeth and Stephen Rigotti***.
 - a. Hearing Officer's Report and Recommendation of Contested Case re CC-2018-3, TVNCU #4235, Tax Map Key: (4) 5-8-008:045, ***Elizabeth and Stephen Rigotti***.
 - b. Petitioner's Exceptions to Hearing Officer's Report and Recommendation of Contested Case; Request for Oral Argument; Certificate of Service.
 - c. Respondent Planning Department of the County of Kauai Support of Hearing Officer's Reports and Recommendations; Certificate of Service.
4. Planning Director Kaaina S. Hull's Petition to revoke Applicant ***Michael Testa's*** Special Permit SP-2011-15 for failure to comply with conditions of a transient vacation rental approval by the Planning Commission and Issue an Order to Show Cause and Set Hearing; Memorandum in Support of Petition; Declaration of Kaaina S. Hull; Notice of Meeting; Certificate of Service, TMK: (4) 5-1-005047 (3), Kilauea, Kauai.
 - a. Letter (6/10/19) from Mike Testa to Kaaina Hull re Special Permit SP-2011-15.
5. Planning Director Kaaina S. Hull's Petition to revoke Applicant ***Bret K. and Ellen M. Knopf***, Trustees for the Bret K. Knopf Revocable Trust's Use Permit U-2015-22 and Class IV Zoning Permit Z-IV-2015-23 for failure to comply with conditions of a homestay approval by the Planning Commission, and Issue an Order to Show Cause and Set Hearing; Memorandum in Support of Petition; Declaration of Kaaina S. Hull; Notice of Meeting; Certificate of Service, TMK: (4) 2-8-024:020, Weliweli, Kauai.
6. Request to Amend Class IV Zoning Permit Z-IV-2008-12, Project Development Use Permit PDU-2008-11, and Use Permit U-2008-10 to allow for fourteen (14) multi-family residential units situated in Koloa town, further identified as Tax Map Key: 2-8-008:001, and containing a total area of 5.381 acres = ***Koloa Village, LLC***.
 - a. Director's Report pertaining to this matter.

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 **Tuesday, July 23, 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 AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR ASEGRETI@KAUALGOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST. UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

KAUA'I PLANNING COMMISSION
SUBDIVISION COMMITTEE MEETING

Lihue Civic Center, Mo'ikeha Building
Meeting Room 2A-2B
4444 Rice Street, Lihue, Hawaii 96766

Tuesday, June 25, 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 April 23, 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. In addition, testimony may 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. **Final Subdivision Map Approval**

- a. Subdivision Application No. S-2018-8
(Grove Farm Company, Inc)
Proposed 6-lot Subdivision
TMK: (4) 3-8-018:001
Lihue, Kaua'i

1. Subdivision Report pertaining to this matter.

I. NEW BUSINESS (Cont'd)

2. Subdivision Extension Request

- a. Subdivision Application No. S-2018-12
(AOAO Kulana Condominium)
Proposed 2-lot Subdivision
TMK: (4) 4-4-003:089
Kapaa, Kaua'i
 - 1. Subdivision Report pertaining to this matter.

- b. Subdivision Application No. S-2018-13
(County of Kauai, Lima Ola Subdivision)
Proposed 56-lot Subdivision
TMK: (4) 2-1-001:027
Ele'ele, Kaua'i
 - 1) Subdivision Report pertaining to this matter.

- c. Subdivision Application No. S-2018-16
(State of Hawaii)
Proposed 2-lot Subdivision
TMK: (4) 2-4-009:003
Koloa, Kaua'i
 - 1) Subdivision Report pertaining to this matter.

- d. Subdivision Application No. S-2018-18
(Yama-Umi, LLC)
Proposed 2-lot Boundary Adjustment
TMK: (4) 4-3-009:042
Waipouli, 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.

June 25, 2019

SHORELINE SETBACK DETERMINATIONS

Application No.	Name of Applicant(s)	Property I.D. (Tax Map Key)	Location	Reasons
SSD-2019-46	Roof Top LLC	4-5-011:036	Kapaa	New Two-Story Bar and Restaurant
SSD-2019-47	COK Parks & Recreation	5-5-001:004	Hanalei	Repair Pavilions
SSD-2019-48	Kekaha Kingdom Hall of Jehovah's Witness	1-3-005:042	Kekaha	Interior Renovations
SSD-2019-49	Barbara Siverts	2-8-017:009	Poipu	Interior Renovations Unit #110
SSD-2019-50	Shearwater AOA	5-4-005:032	Princeville	Interior Renovations Units #101 & #102
SSD-2019-51	Nihi Kai AOA	2-8-019:022	Poipu	Window Replacement Unit #525
SSD-2019-52	SOF-XI Kauai PV Hotel, LP	5-4-011:004	Princeville	Renovation of three existing hotel rooms as models
SSD-2019-53	Scott Sloan	5-5-002:003	Hanalei	New Rock Wall