

KAUA'I PLANNING COMMISSION  
REGULAR MEETING  
**October 9, 2018**

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Vice Chair Nogami Streufert at 9:03 a.m., at the Lihu'e Civic Center, Mo'ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Vice Chair Glenda Nogami Streufert  
Mr. Elesther Calipjo  
Mr. Roy Ho  
Mr. Kimo Keawe  
Mr. Sean Mahoney

Absent and Excused:  
Chair Donna Apisa  
Ms. Kanoe Ahuna

The following staff members were present: Planning Department – Director Michael Dahilig, Chance Bukoski, Leslie Takasaki; Office of the County Attorney – Deputy County Attorney Jodi Higuchi Sayegusa; Office of Boards and Commissions – Commission Support Clerk Darcie Agaran

**CALL TO ORDER**

Vice Chair Nogami Streufert called the meeting to order at 9:03 a.m.

**ROLL CALL**

Planning Director Michael Dahilig: Commissioner Mahoney.

Mr. Mahoney: Here.

Mr. Dahilig: Commissioner Keawe.

Mr. Keawe: Here.

Mr. Dahilig: Commissioner Ahuna. Commissioner Ho.

Mr. Ho: Here.

Mr. Dahilig: Commissioner Calipjo.

Mr. Calipjo: Here.

Mr. Dahilig: Vice Chair Streufert.

Vice Chair Nogami Streufert: Here.

Mr. Dahilig: Chair Apisa. Madame Chair, we have five members present this morning.

### **APPROVAL OF AGENDA**

Mr. Dahilig: We move on to Item C, which is the Approval of the Agenda. The Department would recommend moving Item H to after Announcements, and adjourn the meeting to go into Executive Session and adjourn at the conclusion of that Executive Session.

Vice Chair Nogami Streufert: Do I hear any motion to accept the agenda as amended?

Mr. Mahoney: Chair, move to approve the amended agenda as stated by the Planning Director.

Mr. Keawe: Second.

Vice Chair Nogami Streufert: All those in favor? (Unanimous voice vote) Those opposed? (None) Motion carries 5:0.

Mr. Dahilig: Thank you, Madame Chair.

### **MINUTES of the meeting(s) of the Planning Commission**

#### **Meeting of September 11, 2018**

Mr. Dahilig: We have Item D. These are the minutes of the meeting of the Planning Commission for September 11, 2018, for your approval.

Vice Chair Nogami Streufert: Any discussion?

Mr. Mahoney: Chair, move to accept the minutes of September 11, 2018.

Mr. Ho: Second.

Vice Chair Nogami Streufert: It's been moved and seconded. Any discussion? All those in favor? (Unanimous voice vote) All those opposed? (None) Motion carries 5:0.

Mr. Dahilig: Thank you, Madame Chair.

## RECEIPT OF ITEMS FOR THE RECORD

There were no items to receive for the record.

## HEARINGS AND PUBLIC COMMENT

### Continued Agency Hearing

Class IV Zoning Permit Z-IV-2019-3 and Variance Permit V-2019-1 to deviate from the lot length requirements within the Residential (R-2) zoning district, pursuant to Sections 8-4.4(a)(3)(A) & 8-4.4(a)(3)(B) of the Kaua'i County Code (1987), as amended, involving an 8-lot subdivision of a parcel situated on the eastern side of Kamalu Road in Wailua Homesteads, approx. 350 ft. south of the Kamalu Road/Opaekaa Road intersection, further identified as 370 A Kamalu Road, Tax Map Key: (4) 4-2-003:023, and containing a total area of 4.068 acres = Alexander and Vivian Youn Family Trust. [Director's Report received 9/11/18, hearing deferred applicant's request 9/25/18.]

Mr. Dahilig: We are on Item F. This is Item F.1.a. – a continued agency hearing for Class IV Zoning Permit Z-IV-2019-3 and Variance Permit V-2019-1 to deviate from the lot length requirements within the Residential 2 zoning district, pursuant to Sections 8-4.4(a)(3)(A) and 8-4.4(a)(3)(B) of the Kaua'i County Code 1987, as amended, involving an 8-lot subdivision of a parcel situated on the eastern side of Kamalu Road in Wailua Homesteads, approximately 350 feet south of the Kamalu Road/Opaekaa Road intersection, further identified as 370 A Kamalu Road at Tax Map Key: (4) 4-2-003 Parcel 023, and containing a total area of 4.068 acres. The applicant is the Alexander and Vivian Youn Family Trust. There was a Director's Report received on 9/11/18, and the hearing was opened and deferred at the applicant's request on 9/25/18.

Madame Chair, I would recommend that the Commission open the continued agency hearing at this time.

Vice Chair Nogami Streufert: The continued hearing is open at this time.

Mr. Dahilig: Madame Chair, I do not have anybody signed up to testify for this particular agency hearing. The Department would recommend making a final call for any testifiers for this agency hearing and close the agency hearing at this time.

Vice Chair Nogami Streufert: Is there anyone who would like to speak on this?

Mr. Keawe: I move to close the agency hearing.

Mr. Mahoney: Second.

Vice Chair Nogami Streufert: It has been moved and seconded to close the agency hearing on this matter. All those in favor? (Unanimous voice vote) All those opposed? (None) Motion carries 5:0.

Mr. Dahilig: Thank you, Madame Chair.

New Agency Hearing

Mr. Dahilig: We are now on Item F.2., New Agency Hearings. We have none for this morning.

Continued Public Hearing

Mr. Dahilig: F.3. – Continued Public Hearings. We have none for this morning.

New Public Hearing

Mr. Dahilig: F.4. – New Public Hearings. We have none for this morning.

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

Mr. Dahilig: And Item F.5. – all remaining public testimony pursuant to HRS 92.

Madame Chair, I do not have anybody signed up to testify for any remaining agenda item. The Department would recommend making a final call for any individuals who would like to testify on any agenda item at this time.

Vice Chair Nogami Streufert: Final call for any testifiers. None.

Mr. Dahilig: Thank you, Madame Chair.

**CONSENT CALENDAR**

Status Reports

Annual Status Report 2018 relating to Condition 5 of Class IV Zoning Permit Z-IV-92-38, Use Permit U-92-36, and Special Permit SP-92-6, Tax Map Keys: (4) 2-9-003:005, 006 (Portion) = *Jas. W. Glover, Ltd.*

Director's Report(s) for Project(s) Scheduled for Agency Hearing on 10/23/18.

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 Kūhiō Highway in Moloa'a, approx. 1,500 ft. north of the Koolau Road/Kūhiō 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 = Moloa 'a Irrigation Cooperative (MIC).

Mr. Dahilig: We are on Item G.1.a. and G.2.a. These are status reports and Director's Reports for agency hearing on 10/23/18. The Department would present these for the Consent Calendar, and if there are two commissioners that wish to discuss these items, we are prepared to at this time. If not, we would recommend moving on to General Business Matters.

Vice Chair Nogami Streufert: Before we do that, may I ask a question on this?

Mr. Dahilig: Yes, sure.

Vice Chair Nogami Streufert: This is the quarry at Māhā'ulepū.

Mr. Dahilig: Yes.

Vice Chair Nogami Streufert: And this is the third quarry as I recall that has been (inaudible).

Mr. Dahilig: Okay.

Vice Chair Nogami Streufert: Do we have any information about what the plans are for the future of this? Or how many quarries (inaudible)?

Mr. Dahilig: I think if there are any additional quarries that need to be constructed, they would have to be permitted under the same process that this one was, so I don't think...let me pull this item up. Yes, so this continues to remain.

Dale is on leave and should be back in two weeks. Maybe it is probably better if I let him explain the lengthy history of this thing, and maybe we would just suggest moving Item G.1.a. over to the meeting in two weeks for his discussion; we can put it on General Business, if that's all right.

Mr. Ho: Chair? Has there been any complaints against Glover since they have taken over the plant?

Mr. Dahilig: Not with Glover particularly, but it is more just the general issues around Māhā'ulepū. There is always attention between access, between potential development, between environmental protection, and historical protection, so they tend to converge into these discussions. I wouldn't say there has been a complaint specifically with the quarry, but there are always general complaints with Grove Farm, there are always general complaints with public access, that kind of thing.

If I could take leave, Madame Chair, I would recommend maybe just moving Item G.1.a. over to General Business on October 23<sup>rd</sup>.

Vice Chair Nogami Streufert: Since you need two commissioners who has any concerns, if there are no...the question is whether there are any commissioners who raise concerns on this one.

Mr. Ho: Madame Chair, could you repeat that, please?

Vice Chair Nogami Streufert: It takes two commissioners to have some concern before it can be...or to allow it to come to discussion. So the question is, are there two commissioners who are interested in having this report?

Deputy County Attorney Jodi Higuchi Sayegusa: This is a status report, so this could...if you had questions, you could simply elect to defer and address those questions to Dale Cua—

Mr. Dahilig: Yes.

Ms. Higuchi Sayegusa: —who is the assigned planner on this item.

Mr. Dahilig: I guess the rule of two is if there is a motion and a second, so that is typically what the rule of two (is). So if there are two commissioners that wish to have this matter...

Ms. Higuchi Sayegusa: Deferred.

Mr. Dahilig: ...deferred or discussed more in-depth, instead of taken off the calendar because that is what the Consent Calendar is really meant to do.

Mr. Keawe: Right, right.

Mr. Dahilig: It is just for efficiency purposes (inaudible).

Mr. Keawe: Madame Chair?

Vice Chair Nogami Streufert: Yes.

Mr. Keawe: I think Mike said it; he would probably prefer Dale to address all of the concerns because it is his project, so he is much more familiar with the details of the project.

Vice Chair Nogami Streufert: Any objection to that?

Mr. Ho: Do you need a motion for that?

Ms. Higuchi Sayegusa: You would still need a motion and a second whether or not to defer the matter.

Mr. Keawe: Yes. I move to defer this matter, which is the annual status report 2018 relating to Condition 5 of the Class IV Zoning Permit Z-IV-92-38, Use Permit U-92-36, and Special Permit SP-92-6, Tax Map Keys: (4) 2-9-003:005, 006 portion – Jas. W. Gover, Ltd. to a future...

Mr. Dahilig: October 23<sup>rd</sup>.

Mr. Keawe: October 23<sup>rd</sup>? To the October 23<sup>rd</sup> regular meeting.

Mr. Mahoney: Second.

Vice Chair Nogami Streufert: Any discussion? All those in favor? (Unanimous voice vote) All those opposed? (None) Motion carries 5:0.

Mr. Dahilig: Thank you, Madame Chair.

### **GENERAL BUSINESS MATTERS**

Mr. Dahilig: We've moved Item H to the end of the agenda. Item I, which (is) General Business Matters. We have none.

### **COMMUNICATION (For Action)**

Mr. Dahilig: Communication – we have none for this morning.

### **COMMITTEE REPORTS**

#### **Subdivision**

Mr. Dahilig: We do have a Subdivision Committee Report that has been circulated.

Mr. Keawe: Madame Chair, you have a copy of the Subdivision Report. Just as an overview, the first item – the tentative subdivision map approval – was deferred and that was an open deferral, and the vote was 3:0. The final subdivision map approval was recommended and that was for Grove Farm Company, LLC, and the approval was 3:0.

I would move that we accept and approve this report.

Mr. Mahoney: Second.

Vice Chair Nogami Streufert: Any discussion? All those for this? (Unanimous voice vote) All those opposed? (None) Motion carries 5:0.

Mr. Dahilig: Thank you, Madame Chair.

### **UNFINISHED BUSINESS (For Action)**

Mr. Dahilig: We are on Item L, Unfinished Business. We have none this morning.

## **NEW BUISNESS**

Class IV Zoning Permit Z-IV-2019-3 and Variance Permit V-2019-1 to deviate from the lot length requirements within the Residential (R-2) zoning district, pursuant to Sections 8-4.4(a)(3)(A) & 8-4.4(a)(3)(B) of the Kaua'i County Code (1987), as amended, involving an 8-lot subdivision of a parcel situated on the eastern side of Kamalu Road in Wailua Homesteads, approx. 350 ft. south of the Kamalu Road/Opaekaa Road intersection, further identified as 370 A Kamalu Road, Tax Map Key: (4) 4-2-003:023, and containing a total area of 4.068 acres = Alexander and Vivian Youn Family Trust. [Director's Report received 9/11/18, hearing deferred applicant's request 9/25/18.]

Mr. Dahilig: Item M – this is New Business for Action. We turn back to our closed agency hearing matter under Item F.1.a., which is Class IV Zoning Permit Z-IV-2019-3 and Variance Permit V-2019-1 at TMK: (4) 4-2-003 Parcel 023. Mr. Bukoski will be presenting the report on behalf of the Department.

Staff Planner Chance Bukoski: Good morning, Madame Chair and Commissioners. I would like to summarize this report as best as possible.

Mr. Bukoski read the Summary, Project Data, Project Description and Use, Additional Findings, and Preliminary Evaluation sections of the Director's Report for the record (on file with the Planning Department).

Mr. Bukoski: That concludes my staff report and I will hold off on my recommendation.

Vice Chair Nogami Streufert: Is there anyone representing the property owners?

Mr. Avery Youn: Good morning, Commissioners. My name is Avery Youn. I am the trustee for the Alexander and Vivian Youn Trust. I totally agree with the staff report and thank you very much. I just had one thing to add in order to provide justification for this. The Rural classification is like an in-between zone between the Urban and the Agriculture; however, the Zoning Ordinance applies Residential standards to the Rural classification. There is no transition between Residential and Ag, and what I am trying to say is that in the Residential zone, the lot length to width ratio is 1:3, and to the Ag zone, it is 1:4, so there is no transition in between like 1:3.5 for the Rural district or something; similar with the pole portion of the flag lots. In a Residential district, Urban, it is 150 feet and then when you get to the Ag district, it is limitless, so there is no transition to accommodate Rural. So that is why we are forced to apply for a Variance. I guess that is about the only justification I can offer other than we are not being granted any special privileges because there are similar lots right in the immediate neighborhood that do have pole lengths longer than 150 feet and lot length to width ratios greater than 3:1. In the Rural zone, which has been designated R-2, which is a Residential zoning designation – in the Rural zone, it allows for both Residential and Ag uses; however, in the R-2 zone, it is meant



mostly for Urban standards to apply more to Residential uses, not Ag uses. And that is why I am just saying that we have no choice but to apply for the Variance in order to accommodate this.

Are there any questions?

Vice Chair Nogami Streufert: Commissioners, are there any questions? Yes, Mr. Ho.

Mr. Ho: Avery, you stated that within the subdivision itself, or your neighbors, the flag lot and pole lots are not in (conformance) with what the Department wants?

Mr. Youn: The neighbors? The neighbors' lots probably do conform because they apply to different standards, but if you look at the Variance section, it relates to neighborhood, not zoning. So in this case, we have Residential zoning immediately adjacent to Agricultural zoning, so we have to comply with the Residential zoning standards and our neighbor complies with the Ag district standards, which allows them to go...bigger lots, different lot length to width ratios and longer flag lots.

Mr. Keawe: Madame Chair?

Vice Chair Nogami Streufert: Any other questions? Yes.

Mr. Keawe: Technically, Avery, that is right across the stream, right? You've got that...the difference between...

Mr. Youn: It is just...yes-

Mr. Keawe: Yes.

Mr. Youn: -across the street from the original subdivision-

Mr. Keawe: From the original, right.

Mr. Youn: -that created this lot.

Mr. Keawe: Right, right, right; those are abutting. The intent is...this is for family, your family?

Mr. Youn: Yes. Coincidentally, the eight lots...there are eight in my family so, coincidentally, the zoning allows for eight lots. We are all older now, so it is time to divide it up.

Vice Chair Nogami Streufert: Any other questions?

Mr. Youn: One thing I would like to add, though, is this is probably going to go to our children. If your children are like mine, they are having difficulty buying their own home, so what this does is it eliminates the land cost so they can concentrate on just building their house without having to purchase a property.

Anyway, this property has been in our family for four generations, and when we create the deeds, there is going to be a right of first refusal, so they cannot just open it up and sell it to anyone; they have to offer it to family first. So that is one way we are trying to keep it in the family for a couple more generations at least.

Vice Chair Nogami Streufert: Any other questions? Do I hear a motion?

Mr. Youn: Thank you.

Mr. Mahoney: Recommendation.

Vice Chair Nogami Streufert: I'm sorry.

Mr. Bukoski: Madame Chair, would you like me to read all the recommendations [sic]?

Vice Chair Nogami Streufert: How long is it going to be?

Mr. Bukoski: I have seven.

Vice Chair Nogami Streufert: Please do.

Mr. Bukoski read the Preliminary Recommendation section of the Director's Report for the record (on file with the Planning Department).

Mr. Bukoski: That concludes the Recommendation.

Vice Chair Nogami Streufert: Mr. Youn, do you have any...have you accepted all of these conditions?

Mr. Youn: I appreciate the conditions and I just want to thank the Commission and the Department very much.

Vice Chair Nogami Streufert: Can you make the motion?

Mr. Mahoney: Yes. Chair, I would like to make a motion to approve Class IV Zoning Permit Z-IV-2019-3 and Variance Permit V-2019-1 to deviate from lot requirements from Residential district.

Vice Chair Nogami Streufert: Second?

Mr. Keawe: Second.

Vice Chair Nogami Streufert: Any discussion? All those in favor? (Unanimous voice vote) All those opposed? (None) Motion carries 5:0.

Mr. Dahilig: Thank you, Madame Chair.

Vice Chair Nogami Streufert: Congratulations.

Mr. Dahilig: Thank you, Madame Chair.

## **ANNOUNCEMENTS**

### Topics for Future Meetings

The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Līhu‘e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu‘e, Kaua‘i, Hawai‘i 96766 on Tuesday, October 23, 2018.

Mr. Dahilig: We move on to Announcements. We have the on deck sheets that have been circulated for the next few meetings. You will notice, again, that in November we have a couple of more deeper items when it comes to permits, particularly on November 13<sup>th</sup>. We also expect...there are a few Contested Case hearing items that are not listed here that will be coming...a few Contested Case items that will be coming up in November that we should...just to be aware on the horizon, so we expect November to be a pretty heavy month.

With that, the next following meeting of this commission will be held in this room at 9:00 a.m. on Tuesday, October 23, 2018.

And I leave it up to the Deputy County Attorney to handle Item H.

## **EXECUTIVE SESSION**

Pursuant to Hawai‘i 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 = *Kaua‘i Springs, Inc.*

Ms. Higuchi Sayegusa: Chair, we are on Item H, Executive Session. Pursuant to Hawai‘i 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, TMK: (4) 2-8-002 portion of Parcel 005 – Kaua‘i Springs, Inc.

I would recommend a roll call vote, assuming we have a motion and a second to go in Executive Session that also includes an adjournment directly after Executive Session.

Mr. Keawe: I move to go into Executive Session and at the conclusion of our session, adjourn the meeting.

Mr. Ho: Second.

Vice Chair Nogami Streufert: Discussion? All those in favor?

Mr. Mahoney: Roll call.

Ms. Higuchi Sayegusa: Could we just do a roll call, please?

Vice Chair Nogami Streufert: All right.

Ms. Higuchi Sayegusa: Thank you.

Mr. Dahilig: Madame Chair, the motion on the floor is to go into Executive Session as listed under Item H.1. and to adjourn the Planning Commission meeting at the conclusion of that Executive Session.

Commissioner Mahoney.

Mr. Mahoney: Aye.

Mr. Dahilig: Commissioner Keawe.

Mr. Keawe: Aye.

Mr. Dahilig: Commissioner Ho.

Mr. Ho: Aye.

Mr. Dahilig: Commissioner Calipjo.

Mr. Calipjo: Aye.

Mr. Dahilig: Chair Streufert.

Vice Chair Nogami Streufert: Aye.

Mr. Dahilig: Five ayes, Madame Chair. Motion carries 5:0.

The Commission recessed this portion of the meeting to go into Executive Session at 9:29 a.m.

## **ADJOURNMENT**

Vice Chair Nogami Streufert adjourned the meeting at 10:25 a.m.

Respectfully submitted by:



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Darcie Agaran,  
Commission Support Clerk

( ) Approved as circulated (add date of meeting approval)

( ) Approved as amended. See minutes of \_\_\_\_\_ meeting.