

KAUA'I PLANNING COMMISSION
REGULAR MEETING
November 26, 2018

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair Apisa at 9:14 a.m., at the Līhu'e Civic Center, Mo'ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Chair Donna Apisa
Vice Chair Glenda Nogami Streufert
Ms. Kanoe Ahuna
Mr. Elesther Calipjo (*left at 11:45 a.m.*)
Mr. Roy Ho
Mr. Kimo Keawe
Mr. Sean Mahoney (*arrived at 9:45 a.m.*)

The following staff members were present: Planning Department – Director Michael Dahilig, Chance Bukoski, Dale Cua, Jody Galinato, Ka'āina, Hull, Duke Nakamatsu, Leslie Takasaki; Office of the County Attorney – Deputy County Attorney Jodi Higuchi Sayegusa and Deputy County Attorney Mahealani Krafft

CALL TO ORDER

Chair Apisa called the meeting to order at 9:14 a.m.

ROLL CALL

Planning Director Michael Dahilig: Commissioner Ahuna.

Ms. Ahuna: Here.

Mr. Dahilig: Commissioner Ho.

Mr. Ho: Here.

Mr. Dahilig: Vice Chair Streufert.

Ms. Nogami Streufert: Here.

Mr. Dahilig: Commissioner Mahoney. Commissioner Keawe.

Mr. Keawe: Here.

Mr. Dahilig: Commissioner Calipjo.

Mr. Calipjo: Here.

Mr. Dahilig: Chair Apisa.

Chair Apisa: Here.

Mr. Dahilig: Madame Chair, you have six members present this morning.

APPROVAL OF AGENDA

Mr. Dahilig: We are on Item C, which is the Approval of the Agenda. Madame Chair, the Department would recommend making a number of changes to this morning's agenda to facilitate a number of individuals that...and to help with the flow of the meeting. I would suggest moving Item K, which is the Subdivision Committee Reports, to immediately before the Executive Session under Item H; then move Item I.5., which is the nomination, appointment, and hiring of a new Planning Director or Interim Planning Director immediately after Executive Session; then take Item I.1.; and then Item I.4.; and then Item M if the public hearings under Item F.2. are closed; and then go into the returns on Contested Case hearings at the very end of the Planning Commission's meeting today. So I can repeat that one more time if that helps everybody.

Ms. Nogami Streufert: Yes, please, that would.

Mr. Dahilig: So that would be, again, to take Item K before the Executive Sessions – this is relating to Committee Reports – then take the Executive Sessions; then go into Item I.5., which is the nomination, appointment, and hiring of a new Planning Director or Interim Planning Director; move into Item I.1.; then I.4., which is the Jasper item; and then go into Item M, which is New Business if the hearings on Item F.2. are closed; and then go into the returns on Contested Case hearing matters on Items I.2., I.3., and Item L.1.

Ms. Nogami Streufert: I move to accept the agenda as amended.

Chair Apisa: Second?

Mr. Ho: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion passes 6:0.

Mr. Dahilig: Thank you, Madame Chair.

MINUTES of the meeting(s) of the Planning Commission

There were no minutes to consider.

RECEIPT OF ITEMS FOR THE RECORD

Mr. Dahilig: We do not have any times for receipt for the record.

HEARINGS AND PUBLIC COMMENT

Mr. Dahilig: Item F – this is Hearings and Public Comment.

Continued Agency Hearing

Mr. Dahilig: Item F.1., Continued Agency Hearing – we have none.

New Agency Hearing

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 Līhu‘e, situated on the makai side of the Nāwiliwili Road/Kaumuali‘i 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 = Hawai‘i Technology Academy. [Director’s Report received 11/13/18.]

Mr. Dahilig: Item F.2.a. – this is 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 Līhu‘e, situated on the makai side of the Nāwiliwili Road/Kaumuali‘i Highway intersection, further identified as 4370 Kukui Grove Street, Tax Map Key: (4) 3-3-006 Parcel 026, and containing a total area of 0.9447 acres. The applicant is Hawai‘i Technology Academy and there is a Director’s Report that was received on 11/13/18.

Madame Chair, the Director would recommend opening the agency hearing at this time.

Chair Apisa: We will open the agency hearing.

Mr. Dahilig: Madame Chair, I do not have anybody signed up to testify for this particular agency hearing. The Department would recommend closing the agency hearing on this matter at this time.

Chair Apisa: A motion?

Ms. Nogami Streufert: I move to close the agency hearing.

Mr. Keawe: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 6:0.

Mr. Dahilig: Thank you, Madame Chair.

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 Nāwiliwili, situated on the makai side of the Nāwiliwili 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.]

Mr. Dahilig: We are on Item F.2.b. This is 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 Nāwiliwili, situated on the makai side of the Nāwiliwili Road/Paena Loop intersection, further identified as 3490 Paena Loop, at Tax Map Key: (4) 3-5-002 Parcel 013, and containing a total area of 5,557 square feet. The applicant is the Guerber Family Trust and there is a Director's Report received on 11/13/18.

Madame Chair, the Director would recommend opening the agency hearing on this matter at this time.

Chair Apisa: We will open the agency hearing at this time.

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

Chair Apisa: Anyone else wish to testify on this matter? Hearing none. A motion to close—

Ms. Nogami Streufert: I move to close the agency hearing.

Mr. Ho: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 6:0.

Mr. Dahilig: Thank you, Madame Chair.

Continued Public Hearing

Mr. Dahilig: We are on Item F.3. This is Continued Public Hearing. We have no public hearing at this time.

New Public Hearing

Mr. Dahilig: And Item F.4., New Public Hearing. We have nobody signed up to testify for a new public hearing at this time.

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

Mr. Dahilig: Madame Chair, we are now on Item F.5. This is all remaining public testimony pursuant to Hawai'i Revised Statutes 92. There is nobody signed up to testify on any other agenda item this morning, and the Department would recommend making a final call for any individuals wishing to testify on any other agenda item pursuant to Hawai'i Revised Statutes Chapter 92, otherwise known as the Sunshine Law.

Chair Apisa: Is there anyone here to testify on any other Sunshine Law matter? Hearing none.

Mr. Dahilig: Thank you, Madame Chair.

CONSENT CALENDAR

Status Reports

Director's Report for Project Scheduled for Agency Hearing on Tuesday, 12/11/18.

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 Kaumuali'i 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 & Kaua'i 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.]

Mr. Dahilig: We are on Item G. This is the Consent Calendar. Item G.1. – we have no status reports. We do have a Director's Report that is scheduled for agency hearing on Tuesday, 12/11/18. This is, again, something that had to be reposted relating to Class IV Zoning Permit Z-IV-2019-5 and PDU-2019-3 at Tax Map Key: 1-6-008:006 relating to Ahe Group.

Other than that, Madame Chair, if there are no two commissioners that wish to talk about this item further, the Department would recommend moving on to Item K.

Chair Apisa: Is there anyone here wishing to discuss that? Hearing none.

Mr. Dahilig: Thank you, Madame Chair.

COMMITTEE REPORTS

Subdivision

Mr. Dahilig: We changed the Subdivision...or we moved the Subdivision Committee Report up on the agenda for report.

Chair Apisa: Committee Report – Subdivision.

Mr. Keawe: Yes. Subdivision Committee – we had one item on the agenda and that was for the approval of a restated subdivision agreement for S-99-49, Association of Apartment Owners, and that was approved 2:0, and would recommend that the Commission approve and accept this report.

Ms. Nogami Streufert: I move to accept the Subdivision Committee meeting report.

Chair Apisa: Second?

Ms. Ahuna: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 6:0.

Just before we go into Executive Session, I would like to present our outgoing Planning Director with a lei from the Planning Commission and all of the Department.

Ms. Nogami Streufert: Words? Any speech?

Mr. Dahilig: Well...I don't know what to say.

Mr. Keawe: That's a first.

Mr. Dahilig: I know. No, thank you, Chair and thank you, Commissioners. Thank you for your confidence over the past so many years, individually, I've been with you here at the table, but also, commissioners going back to 2010 when I first started over here. It has been a real joy and a real growing experience. I certainly will miss being able to work as intimately with all of you on matters that press the future of our county, but also, my staff, who is supposed to be working, over there. A lot of what comes to this table is not done without their work and it's a pleasure to and a real honor to be able to present a lot of their work product on behalf of them at this table. I came in in 2010 not knowing what I would be doing in this job. Learned a lot about myself and I think even being here on Kaua'i...you know, for an O'ahu kid to come over here in kind of a culture, it has really dropped my blood pressure down quite a bit, so it has been a real joy and pleasure. I am not going far. I will be moving a couple floors up, but I certainly will still have a lot of the interest that I have learned here at the Planning Department at heart when I take my new position, and hopefully continue to move this island forward.

To my staff, to all of you commissioners, thank you so much over the past years. It's been a pleasure.

Chair Apisa: Thank you, Mike. You've certainly been a good addition to the Department (with your legal background and all your wisdom and everything. We appreciate all you've done, and we are glad to know you will still be close by.

Mr. Dahilig: Thank you very much.

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.*

Mr. Dahilig: All right. We are on Item H.1. Actually, if I could ask the attorney here to read Item H.1., and then call Deputy County Attorney Krafft to come up and read Item H.2. into the record.

Deputy County Attorney Jodi Higuchi Sayegusa: Okay. H.1. – 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 005 – Kaua'i Springs, Inc.

Mr. Dahilig: Madame Chair, it would probably best to take this as a separate motion.

Chair Apisa: Okay. Do we have a–

Ms. Nogami Streufert: I move that we go into Executive Session for the purpose of consulting with our legal attorney.

Mr. Keawe: Second.

Chair Apisa: All in favor? (Voice vote)

Mr. Dahilig: I'll do a roll call on this.

Chair Apisa: Okay.

Mr. Dahilig: Again, this is a roll call vote on Item H.1., the Executive Session as listed on the Kaua'i Springs matter.

Commissioner Ahuna.

Ms. Ahuna: Here. Or Aye.

Mr. Dahilig: Commissioner Ho.

Mr. Ho: Aye.

Mr. Dahilig: Vice Chair Streufert.

Ms. Nogami Streufert: Aye.

Mr. Dahilig: Commissioner Keawe.

Mr. Keawe: Aye.

Mr. Dahilig: Commissioner Calipjo.

Mr. Calipjo: Aye.

Mr. Dahilig: Chair Apisa.

Chair Apisa: Aye.

Mr. Dahilig: Six ayes, Madame Chair. Motion carried 6:0.

Chair Apisa: Do we take the second motion now? Changing of the guards here.

Pursuant to Hawai'i 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 Kaua'i and Chapter 15 of the Rules of Practice and Procedure of the Kaua'i County Planning Commission.

Deputy County Attorney Mahealani Krafft: Pursuant to Hawai'i Revised Statutes Sections 92-4 and 92-5(a) Subsections 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 the 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 Kaua'i and Chapter 15 of the Rules of Practice and Procedure of the Kaua'i County Planning Commission.

Chair Apisa: Do we have a motion to address this in Executive Session?

Ms. Ahuna: I make a motion to address these issues in Executive Session listed in Section 92-5(a), Hawai'i Revised Statutes, HRS, without noticing the Executive Session on the agenda.

Mr. Dahilig: Actually, this would be Item H.2.

Ms. Ahuna: H.2., yes.

Ms. Nogami Streufert: Second.

Chair Apisa: So we've got a motion to put Item H.2. on Executive Session. All in favor?
(Voice vote) Roll call.

Mr. Dahilig: Madame Chair, this is a roll call on Item H.2. This is the Executive Session relating to the hiring of a new Planning Director or Interim Planning Director as stated in the agenda.

Commissioner Ahuna.

Ms. Ahuna: Aye.

Mr. Dahilig: Commissioner Ho.

Mr. Ho: Aye.

Mr. Dahilig: Vice Chair Streufert.

Ms. Nogami Streufert: Aye.

Mr. Dahilig: Commissioner Keawe.

Mr. Keawe: Aye.

Mr. Dahilig: Commissioner Calipjo.

Mr. Calipjo: Aye.

Mr. Dahilig: Chair Apisa.

Chair Apisa: Aye.

Mr. Dahilig: (Motion carried) 6:0, Madame Chair. I would suggest, maybe, recessing to Executive Session and clearing the room.

Chair Apisa: Yes, we will recess to Executive Session. We will aim for one hour, so you know what time to come back.

The Commission recessed this portion of the meeting at 9:28 a.m.

Mr. Mahoney entered the meeting at 9:45 a.m.

The Commission reconvened this portion of the meeting at 10:36 a.m.

Chair Apisa: Reconvene the meeting.

GENERAL BUSINESS MATTERS

Nomination, Appointment, and Hiring of a new Planning Director or Interim Planning Director under Section 14.04 of the Charter of the County of Kaua‘i and Chapter 15 of the Rules of Practice and Procedure of the Kaua‘i County Planning Commission.

Mr. Dahilig: Madame Chair, we are on Item I.5. This is the nomination, appointment, and hiring of a new Planning Director or Interim Planning Director under Section 14.04 of the Kaua‘i County Charter and Chapter 15 of the Rules of Practice and Procedure of the Kaua‘i County Planning Commission, and I will turn this over to the Deputy County Attorney for any further remarks.

Chair Apisa: She has no remarks.

Mr. Dahilig: Okay.

Chair Apisa: We would like to call Ka‘āina Hull up to the speaking table.

Deputy Planning Director Ka‘āina Hull: Good morning, Chair and members of the Commission.

Chair Apisa: Thank you very much. We are very proud and honored to offer you the position of Planning Director if you would accept. Is that...do we have to vote on this now?

Ms. Ahuna: We have to make a nomination.

Chair Apisa: Yes, (I) would entertain a motion for this nomination, and then we will make it official.

Ms. Nogami Streufert: I nominate Ka‘āina Hull as the Planning Director.

Mr. Mahoney: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 7:0. It's unanimous. Congratulations. Do you accept?

Mr. Hull: Yes, Chair. I am humbled and honored at the possibility of taking up the reins, as Mike...oh. As I was saying, I am humbled and honored and would be...I am absolutely honored to be able to take that position, and thank you so much for the generous offer. Of course, this is all a consequence of the sitting-Planning Director leaving our department, so I would be remiss to not mention – and somewhat of a farewell to Mike – that it has been an absolute honor to watch Mike. Mike came into the office a real tour de force; really going after a whole lot of things that, quite honestly, he revolutionized and changed a lot of the Department's...within the entire Planning Department, I should say, aspects from the Enforcement Division to the

Regulatory Division. With the Long Range Division, he basically accomplished 20 years of planning work in the 8 years that he has been here. And to be able to watch him do that with your authority and with your oversight as the Planning Commission has been awe-inspiring, humbling, a little frightening to have to fill those shoes, quite honestly, but it is not a task that I take lightly. And you have my firm and unyielding commitment to essentially continue the upward trajectory in land use planning that Mike and you, as a body, have set. So I thank you all for that.

Chair Apisa: Well, thank you very much. We know Planning Director Dahilig leaves big shoes to be filled, but we have every confidence that you will...(are) the right person to fill those.

Ms. Ahuna: Ka'āina, if you can, also, just share what you shared with us prior, like just your passion for working with the County and your interest in your return rights. I think it's important for the community to hear that.

Mr. Hull: Yes, there was some discussion in Executive Session as I was being vetted as a possible candidate for this position. And for the public to know, one of my, somewhat, conditions of taking the position, while I very much want to take the position, is this issue of return rights. Under civil service employment, which I am a civil service planner originally, you can take an appointed position and have the ability to return back to your civil service position, and I was hired as a planner in the County of Kaua'i about 11 years ago. Three years ago I took the reins as Mike's deputy with the explicit understanding that I would be returning back to my civil service position when...and in discussions with you folks, I made it very clear that I am very interested and would jump at the challenge of leading and continuing Mike and you folks' work as the Planning Director, but I did have the condition of being able to return back to my original position as a planner when I am done with the Director position. Some of that is...some people may have issue with that, quite honestly, because it may seem as if...it's a protection-type game or whatnot. But in discussing with my family about this position and the sacrifices that come with it, particularly the sacrifices on the family that are a consequence of this job, my wife asked me specifically, what did I want to do, and I had to take a moment of pause and analyze where did I want to be in 20 years. And as I mentioned to you folks earlier, it is a natural evolution – at least historically speaking – for many of those individuals that sat in the Planning Director position to move on to the private sector, and while I am very excited about the opportunities in partnering with the private sector to move the needle forward on Kaua'i in sustainable development, my interest and my whole heart is all in the Planning Department. And in 20 years, I still want to be a planner with the County of Kaua'i, Planning Department because that is where my heart is and I think that is where I could be most useful to the island. So that was somewhat of my condition and reasoning behind asking you folks if you were willing to make the appointment, to do so with the ability to return back to a planner because, again, that is where my heart is.

Ms. Ahuna: No, thank you. I didn't see that as an issue at all. I thought that was definitely a benefit to our community here on Kaua'i. Mahalo.

Chair Apisa: Now that we have nominated him and he has accepted, we need an official motion to appoint him.

Ms. Nogami Streufert: I move to appoint Ka'āina Hull as the next Planning Director.

Mr. Mahoney: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 7:0. Congratulations, Ka'āina.

Mr. Hull: Thank you all.

Chair Apisa: Thank you.

Mr. Dahilig: Before he leaves the mic, I just want to say that...you know, for me, personally, thank you, Commissioners, for making this appointment. I think his breadth of experience and his wit in some ways well-exceeds my skillset, and so I look forward to a lot of the work and, kind of, innovation that you are going to see coming out of his tenure as the Director. I think you will be presently surprised by what you start seeing coming across this table. I will say that what has been cool about the past three and a half years that we've been paired as a team, we've complimented each other in many ways, so it's my hope that he's able to find that compliment in his...the No. 2 position because it is something that he is responsible for doing so, and not only continue that work, but actually look at how he can make some of this stuff his own and really leave his indelible mark on the island. So thank you, Ka'āina, for being my deputy the past three and a half years, and still looking forward to working with you upstairs.

Chair Apisa: For the record, this baton will officially be passed on December 3, 2018.

Mr. Dahilig: At noon.

Chair Apisa: At 12 noon.

Mr. Hull: Thanks, again, Mike. Thank you all.

Chair Apisa: Thank you.

Mr. Mahoney: Congratulations.

Mr. Dahilig: Thank you, Madame Chair.

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, Kaua'i = Keith P. Robinson. [Director's Report received, deferred 11/13/18.]

Mr. Dahilig: We are now on Item I.1. This is a request for extension of time for two 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 SP-2006-2, at Tax Map Key: 1-7-001 Parcel 011, in Makaweli. The applicant was Keith Robinson.

There was a Director's Report that was received for this matter, as well as deliberations by the Commission, but then we had discovered, upon (the) making of a motion, that the Chapter 92 compliance notice items were not correct, so this is meant to, I guess, close the loop on those items. Chance is still here if you have any other questions related to the subject matter. But again, we had to repost this in order to meet Sunshine Law requirements.

Chair Apisa: Chance, give us your report, please.

Staff Planner Chance Bukoski: Thank you, Chair. I know we briefly went over...I mean, we (inaudible) went over the report and also, the applicant was here giving his...of what he does at the property. I am certainly convinced that he is able to still follow the necessary conditions that was granted back in 2006. So you have received my report and also, we are still sticking with the recommendation of three additional years, so a total of five years.

Mr. Keawe: Chair, I had a question. So Chance, so the recommendation is five years instead of two. Is that correct?

Mr. Bukoski: Correct, Commissioner.

Mr. Keawe: Okay.

Chair Apisa: Any other questions or comments? Is the applicant...

Ms. Ahuna: I don't think he's here.

Chair Apisa: Okay, but he was here at our previous meeting. Do we have anything further?

Mr. Bukoski: Yes. Do you want me to read off the...

Chair Apisa: Conclusion.

Mr. Bukoski: Conclusion?

Chair Apisa: Please.

Mr. Bukoski: Based on the foregoing findings, evaluation, and conclusion, it is hereby recommended that the applicant be allowed to continue the operation of the helicopter landing facility and botanical tours at the subject property under Special Permit SP-2006-2, Use Permit U-2006-28, and Class IV Zoning Permit Z-IV-2006-31 for an additional five years. This extension of time shall be granted until October 12, 2023.

Chair Apisa: Thank you. Anything further from the Commissioners? Or a motion?

Mr. Mahoney: Chair, move to approve the request for extension – five years – Class IV Zoning Permit Z-IV-2006-31, Use Permit U-2006-28, and Special Permit SP-2006-2.

Ms. Nogami Streufert: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 7:0.

Mr. Bukoski: Thank you, Madame Chair.

Chair Apisa: Thank you.

Mr. Bukoski: Thank you, Commissioners.

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 Kapa‘a Town, along the mauka side of Kūhiō 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 Kaua‘i Product Fair).

Mr. Dahilig: Madame Chair, we are supposed to be on Item I.4., but we, at this time, can't seem to locate the applicant, so we will do some effort while there are other agenda items to try to see if we can locate the applicant, but at this time, if I could ask to, maybe, just have that item moved to the end of the agenda.

Chair Apisa: Do we have a motion to move this to the end of the agenda – Item I.4. regarding Jasper Properties, LLC, also known as Kaua‘i Product Fair?

Mr. Keawe: Okay. I move to move this particular item, Jasper Properties, LLC, to the end of the agenda.

Mr. Mahoney: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion passed 7:0. Thank you.

Mr. Dahilig: Thank you, Madame Chair.

NEW BUISNESS

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 Līhu‘e, situated on the makai side of the Nāwiliwili Road/Kaumuali‘i 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 = Hawai‘i Technology Academy. [Director’s Report received 11/13/18.]

Mr. Dahilig: Let's move back to Item M, which is action on closed new agency hearings. This is action for Item F.2.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 Center at Tax Map Key: (4) 3-3-006 Parcel 026. Jody Galinato will be providing the report on behalf of the Department.

Staff Planner Jody Galinato: Good morning, Madame Chair and members of the Commission. I am going to try to shorten this for you. So this is a Class IV Zoning Permit and Use Permit for Hawai'i Technology Academy.

Ms. Galinato read the Permit Information, Project Description and Use, and Additional Findings sections of the Director's Report for the record (on file with the Planning Department).

Ms. Galinato: For the Preliminary Evaluation, do you want me to hold off or do you want me to read it? Just go to the recommend–

Chair Apisa: Is there anyone here for Hawai'i Technology Academy? We will, maybe, hold off on that.

Mr. Ron Agor: Good morning, Chair and Planning Commissioners. For the record, my name is Ron Agor, and I have with me Leigh Fitzgerald, who is the Executive Director of HTA, and Stacy [sic], who is the Kaua'i Director. We are here to answer any questions you may have.

Chair Apisa: Do you have anything you wanted to add to what we've heard earlier?

Mr. Agor: No, we concur.

Chair Apisa: Okay, thank you. Commissioners, any questions?

Mr. Ho: Is it Ron? Ron? The other tenants in the building – do you know who they are?

Ms. Leigh Fitzgerald: Good morning everybody. Thank you for having us. The other tenants in the building – and I will let Traci Sullivan speak a bit as well – it's several county agencies and there are several medical suites as well. Did you want to add on to...?

Ms. Traci Sullivan: There's a dentist in the building, a couple of financial organizations.

Mr. Ho: I'm sorry. I should've...is there someone in that building that a school shouldn't be next to? A bar, an adult store...

Ms. Fitzgerald: Thank you for asking. I was actually wondering if that's where the question was going. No. When we were actually surveying potential sites into which to locate the charter school, that is always something that we look for and one of the reasons that this building was attractive to us, is that everything was either associated with the County and/or 99 percent of the

businesses is some sort of family practice in which we felt as though young people would be coming in and out anyway, so nothing questionable as of now.

Mr. Ho: One more. Did you engage in conversation with the County regarding a bus shelter of some sort in front of your building?

Mr. Agor: About a half an hour ago I spoke to the landlord and from what I understand, in years past, he has offered to build a bus stop and the agency couldn't come up with a decision on whether they wanted that or not. And I know there is a condition in here that contributes \$14,000 to the bus, and Mr. Jared Watermoule has no problems with that and concurs with their recommendation of the Director.

Chair Apisa: Kimo.

Mr. Keawe: Just a couple. You are a Title I school, right?

Ms. Fitzgerald: Correct.

Mr. Keawe: So as a Title I school, the State allocates to you more money per student and that includes...does it include money for meals as a Title I school?

Ms. Fitzgerald: So HTA...because the students don't come for a full day, we don't actually offer a lunch program to our students.

Mr. Keawe: Okay.

Ms. Fitzgerald: That said, the students all receive immediate...if they qualify, they receive immediate discounting on anything from field trips--

Mr. Keawe: Oh okay, so that's how you do it. The students get the discount.

Ms. Fitzgerald: Yes, the students--

Mr. Keawe: I was concerned about...yes, how that would come down.

Ms. Fitzgerald: No, it is a direct line to students. Title I funds also provide for additional resources--

Mr. Keawe: Right, right.

Ms. Fitzgerald: --in terms of human resources, curriculum, etc.

Mr. Keawe: Yes, the sole object of Title I is--

Ms. Fitzgerald: Yes.

Mr. Keawe: Okay.

Ms. Fitzgerald: Correct.

Ms. Nogami Streufert: Right now you are planning for about 70 students. Is that correct?

Ms. Fitzgerald: Correct.

Ms. Nogami Streufert: And of the 70 students at different locations, are any of them handicapped? Physically...have physical problems (inaudible).

Ms. Fitzgerald: Currently, no. That said, as a public charter school, we have to ensure that any space that we inhabit complies with all ADA access.

Ms. Nogami Streufert: And the reason for asking this is because there are only four parking spaces, and with the kinds of timing you've got here and the age of the students, it seems that there needs to be more of a pick-up and drop-off area, especially for students who may have some physical disabilities, or they might just break a leg at some point in time and need that... Is there anything in there that would allow that kind of...more flexibility?

Mr. Agor: There is an area that's mauka of the facility that is sort of a...it is not demarked, but it is a place where people pull up and drop off people who go to work at the executive center, and we probably will be using that same area. I can also make a commitment to talk to the landlord about actually marking that area for a drop-off area. There is enough space for it.

Ms. Nogami Streufert: As long as it is accessible for people who might have some physical disability.

Mr. Agor: Yes. At that drop-off point, it is accessible.

Ms. Nogami Streufert: The other question that I have is that this is, right now, anticipated for 70 total students. Is there an anticipation that that will increase in size over time and what are your plans for that?

Ms. Fitzgerald: Sure. Thank you for asking. Sorry, I was going to add something on the parking question, too, but I've forgotten where that went. Oh, just one very quick thing with drop-offs and pick-ups is we do run a staggered schedule, and just not shared before is we don't have 70 students there at any one time. It is usually about 25 students at a time, and even within that 25, we have a pick-up and drop-off window as opposed to 20 cars arriving at the same time, per se. So that is something that we've taken into consideration.

And then when we look at our overall plan, we likely – in the current space – would only extend to about 80 to 85 students; that would be our capacity within that space, and when we look at the growth of overall program, that is where we are looking to grow to at this time.

Ms. Nogami Streufert: And if you went to 80 to 85 students, would you have more employees there that might need more parking?

Ms. Fitzgerald: It would actually add an employee on what is our middle school day. So right now the teachers...more teachers are there for...the four on Mondays and Wednesdays, and there is only one on Tuesday/Thursday; that add-on would be on the Tuesday/Thursday.

Ms. Nogami Streufert: If I could ask the Planning...Jody. Should they increase the size of their classes or increase the number of students, is there any provision for increasing the number of either dedicated parking spaces or for handicap parking space, or for a drop-off/pick-up area?

Ms. Galinato: Basically, the parking requirement would be one parking stall for every three employees.

Ms. Nogami Streufert: But this is a school. This is not just a business.

Ms. Galinato: Yes. We don't have any set parking standards for schools. What we would do is if we had parking issues, it would be to the Planning Director to...he has the right to come in with additional conditions, if we needed that. Does that answer your question?

Ms. Nogami Streufert: As long as we have that possibility. The reason for asking this is because it is a safety issue. We have a lot of rain on Kaua'i and for people who...for kids – these are 12- to 18-year-old kids – and they still are kids. I just want to make sure that because this is in a business area, that they are safe when they are either dropped off, they can get into the building, and then they are picked up in a safe place, and that they don't get inordinately wet every time it rains out here.

Chair Apisa: Any other questions?

Ms. Ahuna: Do you want her to respond to that?

Ms. Nogami Streufert: If you want to.

Ms. Fitzgerald: HTA has several campuses across the state. Everywhere...because charter schools don't receive facilities funding, commercial areas are really where we are usually able to afford, and so this is something that we think about and plan for each location. Traci, who is our Kaua'i Director...just to speak to your question and comment, Commissioner, we ensure that we have an adult who is present at drop-off/pick-up time, even as the kids get older, to make sure that...are they and can they get into the building safely. Rain is always a problem everywhere, so I appreciate the line of questioning. It is something that we think about, especially at the middle school level where the kids are still young; of making sure that we have either parents who are assisting us or the teachers or director or office manager.

Ms. Nogami Streufert: (Inaudible) if you have parents assisting, then you also need parking space for them.

Ms. Fitzgerald: Need parking, yes. It's the double-edged sword, yes.

Ms. Nogami Streufert: (Inaudible) circular kind of thing, right?

Ms. Fitzgerald: Yes.

Chair Apisa: Thank you. Any other questions? Go ahead, Lesther.

Mr. Calipjo: You said you have a waitlist of students. Do you have 70 right now?

Ms. Fitzgerald: We have 70 students currently.

Mr. Calipjo: And you have 85 max. What happens when you reach that? You guys...what is the plan?

Ms. Fitzgerald: So right now, that's...we try to be conscience of not growing too quickly and having a thoughtful growth model, and there is a change up when you...85 is a small school. Once you jump up into the hundreds, the dynamic of the school changes and then of course when we look at courses and teachers...sort of when we look at incremental growth right now, we are at 70 this year, which was also our capped enrollment for this year; that, then, forced waitlists after that. We didn't have an expansion plan to 85 this year. We could look at that for next year in order to grow the middle school just a bit to offer more class selection. But at this time, we are not planning to grow the school exponentially.

Mr. Calipjo: So you will just max out to 85 if it--

Ms. Fitzgerald: In the current plan, yes.

Ms. Ahuna: So my understanding of charter schools is that October 1st or the 15th is your per-pupil application cutoff, so you would know by then. And as long as you are not maxing beyond the 85...from what I understand that you are saying is that they won't expand beyond that in the next school years forthcoming. Is that correct?

Ms. Fitzgerald: Correct.

Ms. Ahuna: Yes. I am an advocate for charter schools, so I am just going to stay quiet here.

Chair Apisa: Any other questions? We are ready for the conclusion.

Ms. Galinato: Okay.

Ms. Galinato read the Preliminary Conclusion section of the Director's Report for the record (on file with the Planning Department).

Ms. Galinato: Based on the foregoing evaluation and conclusion, it is hereby recommended that Class IV Zoning Permit Z-IV-2019-6 and Use Permit U-2019-4 be approved. Madame Chair, I have 11 conditions. I can read those out for you if you would like.

Ms. Ahuna: The main ones.

Chair Apisa: Are there any main ones? I don't know that we...

Ms. Galinato: The applicant has agreed to Condition 11 with the contribution for the bus stop.

Ms. Ahuna: Yes, that's the one.

Mr. Agor: Yes, we have.

Chair Apisa: And you've agreed to them?

Mr. Keawe: Would that be an amended condition, Jody?

Ms. Galinato: No. They actually agreed to it.

Mr. Keawe: Okay.

Ms. Galinato: Yes.

Chair Apisa: So they have agreed to all of the conditions, so any other discussion or a motion on the floor?

Mr. Keawe: I will move to approve Class IV Zoning Permit Z-IV-2019-6 and Use Permit U-2019-4 to allow establishment of a public charter school in the Executive Center in Līhu'e – Hawai'i Technology Academy.

Ms. Ahuna: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 7:0. Congratulations. Thank you.

Mr. Dahilig: Thank you, Madame Chair.

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 Nāwiliwili, situated on the makai side of the Nāwiliwili 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.]

Mr. Dahilig: We are now on Item F.2.b. This is Class IV Zoning Permit Z-IV-2019-7 and Use Permit U-2019-5 at TMK: (4) 3-5-002 Parcel 013 – Guerber Family Trust. Madame Chair, Jody will also be providing the report on behalf of the Department.

Ms. Galinato: Good morning, again.

Ms. Galinato read the Permit Information, Project Description and Use, Additional Findings, Preliminary Evaluation, and Preliminary Conclusion sections of the Director's Report for the record (on file with the Planning Department).

Ms. Galinato: And I will hold off for the recommendation.

Chair Apisa: Thank you. Anyone here for the applicant, Guerber Family Trust?

Mr. Jim Guerber: Hi everyone. I am Jim Guerber. I am the owner of the property, which is leased out to the Nāwiliwili Tavern, and I am here to answer any questions.

Mr. Keawe: So Jim, basically you are adding six new hotel rooms. Are there existing rooms there now upstairs?

Mr. Guerber: No. This was rebuilt in 1992. They did not get a permit for the second floor at all.

Mr. Keawe: Okay.

Mr. Guerber: So right...at this point, we are just trying to permit the second floor.

Mr. Keawe: Right, so there are six hotel rooms – two of them are above the kitchen...two rooms above the kitchen.

Mr. Guerber: And four in the front.

Mr. Keawe: Right. And then there are two metal exit stairways, also.

Mr. Guerber: (Inaudible) end of the building.

Mr. Keawe: Right, right, okay. Jody, on the setback requirement – because the value of their renovation does not exceed 50% of the value of property. Is that correct?

Ms. Galinato: They are outside the shoreline setback area, but in regards to the FEMA flood–

Mr. Keawe: Right.

Ms. Galinato: –valuation, they are less than 50%, yes.

Mr. Keawe: Okay. All right. That's it.

Chair Apisa: Thank you. Other questions?

Ms. Nogami Streufert: Since this is a historic building, will the façade stay the same or will that be renovated or how...what are you plans?

Mr. Guerber: The façade should stay the same, or it be repainted or whatever. It should look the same as it did. It was a hotel before and it should be a hotel again. I'm just trying to make...upgrade this property, not to try to change it in any way.

Ms. Ahuna: So you purchased it in 1992, correct? Or when—

Mr. Guerber: 2012.

Ms. Ahuna: 2012. But prior to that, it already had...the intention of the building was for that purpose when you purchased it?

Mr. Guerber: When I purchased it, it was just as a tavern. It was rebuilt from the hurricane and they did not permit the second floor, which was hotel rooms. I am trying to get that back in again. So when I purchased it in 2012, which was, like, 7 years ago, it was just Nāwiliwili Tavern, and I kept it the same.

Ms. Ahuna: In regards to the parking, it is really congested over there, yes?

Mr. Guerber: Yes.

Ms. Ahuna: So how can...what is your response to making that...you know, I go in there – in and out – go surfing, whatever; it is, like, a very congested area, so how would you respond for the people who would be residing?

Mr. Guerber: The congestion is partly...it is partly the County parking lot – that's where the beach parking is – that's not paved or anything, so cars go in there in a jumble. We could fit more cars in there if it was paved and made better. But where I am, where the Tavern is, there are four parking spots right along there with enough space for two lanes of traffic on the road in front. We are going to build a two-car garage. There was an office...if you can picture the front to the left, there is an office that's a single story. We are going to put two cars in there.

Ms. Ahuna: So you will have six parking. Only because the Tavern is a restaurant, so already there is, like, no place to go. I mean, if I go there, it is hard to park as it is and then you are adding residents...not residents, but people who would be staying at the hotel, and how would that kind of work? Or how do you foresee it?

Mr. Guerber: Parking is difficult and technology is advancing, and so public transportation is getting more and more popular; Uber and Lyft are getting more and more popular. I understand the parking requirements and we are trying to meet those requirements today. I don't believe we will have...it will get worse than it is in terms of the hotel.

Ms. Ahuna: So, maybe...I guess, would the people who stay at the hotel, so to speak – the visitors – would they come with a parking pass with your...or, like, how–

Mr. Guerber: We haven't determined that yet.

Ms. Ahuna: I mean, because I don't foresee that could happen with the limited parking already.

Mr. Guerber: I don't...we haven't discussed that at all. What you are talking about is the conflict between hotel room owners or renters and Tavern users. I can tell you that Kaua'i Beer Company, which I also have, has the same issue. Parking...there were two kinds of parking issues: one is the ordinances and the regulations, and the other one is reality. Kaua'i Beer Company has, like, four parking spaces. In reality, no one complains; there is no complaint about it. We had to restrict parking next door at Yoneji's because customers would park there. We've got signs put up and...but, there are plenty of parking spaces around at certain/different times. The Tavern is open starting at five o'clock at night. The people that are the beach goers and whatever – they are usually out by then.

Ms. Ahuna: I would just encourage that if...your visitors don't have a parking option. They just use the public system.

Mr. Guerber: I would encourage that as well.

Chair Apisa: Any other questions? Are we ready for the conclusion or recommendation?

Ms. Galinato: Sure. Based on the foregoing evaluation and conclusion, it is hereby recommended that Class IV Zoning Permit Z-IV-2019-7 and Use Permit U-2019-5 be approved. If approved, the following conditions should be implemented.

Madame Chair, I have 12 conditions in here, including the \$14,000 development fee to fund the bus stop. And Commissioner Ahuna, I have Condition 7 that addresses parking requirements and the Planning Director's oversight if there are problems.

Chair Apisa: Has the applicant agreed to these conditions?

Mr. Guerber: I have agreed to most of the conditions. I would ask that the Commission excuse No. 10. Since the outdoor space...this says, "The Applicant shall apply for proper permits to address the outdoor use." The outdoor use has been there; it has been grandfathered in. It has always been there for the Tavern. There are tables and chairs out there now. I wonder if we are supposed to remove those. Is that this condition?

Ms. Galinato: This condition would just apply if it were to be expanded from its existing use; that's all.

Mr. Guerber: Okay.

Mr. Keawe: So if I understand, Jody, as long as he has the existing use with the tables and chairs, that's fine.

Ms. Galinato: That's fine.

Mr. Keawe: If he decides to add 10 more or 20 more, then it is an issue.

Ms. Galinato: Yes.

Mr. Keawe: Okay.

Mr. Guerber: Okay.

Mr. Mahoney: Does that mean you are going to comply?

Mr. Guerber: Yes.

Chair Apisa: You are in agreement.

Mr. Guerber: I am.

Chair Apisa: Any other questions? Or do we have a motion?

Ms. Nogami Streufert: I move to approve Class IV Zoning Permit Z-IV-2019-7 and Use Permit U-2019-5 to allow the operation of a hotel containing six units within the Hotel Kuboyama site in Nāwiliwili.

Mr. Keawe: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 7:0. Congratulations.

Mr. Guerber: Thank you.

Mr. Dahilig: Thank you, Madame Chair.

GENERAL BUSINESS MATTERS (Continued)

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 Lāwa'i, Kaua'i, Hawai'i, 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 Lāwa‘i, Kaua‘i, Hawai‘i, identified by Kaua‘i 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.]

Mr. Dahilig: I am going to turn over Items I.2., I.3., and L.1. over to the County Attorney for guidance.

Ms. Higuchi Sayegusa: Madame Chair, we are on Item I.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 Lāwa‘i, Kaua‘i, Hawai‘i, 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 Lāwa‘i, Kaua‘i, Hawai‘i, identified by Kaua‘i TMK No. (4) 2-5-002:037, and containing a total area of 3.089 acres – William I. Cowern and Catherine F. Cowern.

Chair Apisa: Is there anyone here representing the Cowerns?

Mr. Barry Edwards: Good morning, Commission. Barry Edwards on behalf of Mr. and Mrs. Cowern who are also present. I am here with Mr. Matt Bracken.

First Deputy County Attorney Matthew Bracken: I am Matthew Bracken on behalf of the Planning Department.

Chair Apisa: Thank you.

Mr. Bracken: Thank you. So we did, earlier...just recently, we did submit an agreement and stipulated conditions, and this was to help simplify, kind of, the process we are looking at currently. So we know that the Hearing Officer’s report and recommendation is before you today. There were exceptions that were filed by the Petitioner and a support filed by the Planning Department. At this time, we are withdrawing both the exceptions and the support, and the parties are mutually requesting that the Planning Commission adopt the Hearing Officer’s report and recommendation.

And then we’ve also stipulated to conditions that both parties have agreed to, which are contained in that agreement and stipulation. The Planning Department is also recommending approval of the permits at this time.

Chair Apisa: Thank you. We’ve lost one commissioner, just temporarily. Any other questions here?

Ms. Nogami Streufert: Could you clarify that for me? What exactly is it that the Department is now...what has the Department, as well as the Applicant, agreed to?

Mr. Bracken: So we have both agreed to mutually accept the Hearing Officer's findings. And then along with the Hearing Officer's findings, part of that was...the Planning Department is recommending approval of the permits. The only thing that wasn't a part of this entire process were the conditions that were...the permit conditions, so the parties have discussed and agreed to the specific conditions that would go with the permits. So that agreement contains all the conditions that the permits would be subject to, as well as our agreement to agree to the Hearing Officer's recommendation and report.

Mr. Edwards: You may remember that we asked to continue this matter back in September so that we could work out conditions' language and that's what has happened. The transition of late extended a little bit, but that's what we've done.

Ms. Higuchi Sayegusa: Being that these are commission-issued permits, perhaps it might be beneficial for the Commission to hear what the stipulated conditions are.

Mr. Bracken: So these are the recommended conditions that we've agreed to. Did you all receive a copy of our stipulated agreement? I can read through them as well, but just want to make sure that we are all looking at the same thing. I think it was brought up earlier.

So if you look at page two of that document, that's the agreement; just kind of what I just covered. Page three would be...page three and four would be the recommended conditions for the permits. I can read through those if you'd like, or...

Chair Apisa: It would take kind of a while. I think we could probably read through it quickly.

Mr. Ho: Mr. Bracken, what has become of the fines?

Mr. Bracken: So that was part of the Hearing Officer's report. The Hearing Officer determined that there wasn't appropriate notice for the fines, and so the Hearing Officer recommended to not sustain the fines.

Ms. Ahuna: Do you know if...I know you are representing the client or the property owner. Was it their initial intent to do this when they purchased the property?

Mr. Edwards: You are talking about...I represent the owner of the property.

Ms. Ahuna: Oh okay.

Mr. Edwards: In 1992, no, but they have been operating a bed and breakfast, or homestay, since 1992. But when they bought the property, it was vacant.

Ms. Ahuna: Yes, but did they initially reside in the property? Or they purchased it to do the bed and breakfast?

Mr. Edwards: They bought raw land and built the house and guest house, and resided there ever since.

Ms. Ahuna: Okay, so they live here.

Mr. Edwards: Yes, yes. They are long-term locals.

Mr. Ho: Mr. Bracken, by this...what am I reading here, you want to reinstate the permits or are you asking for brand new permits to be issued?

Mr. Bracken: So this was an initial permit application and so it's not reinstating them, so it would be an approval of the initial permits.

Mr. Mahoney: Okay, so if I could clarify for my own...maybe some of the other commissioners, so it has been agreed by the two parties to accept the Hearing Officer's report and approve the permits, subject to the conditions you just mentioned, and approve the permits. Is that correct?

Mr. Bracken: That's correct.

Mr. Mahoney: Okay.

Ms. Nogami Streufert: Okay, so if I understand this correctly, paragraph 15 of the Hearing Officer's report says, "Those standards provide that the Planning Commission may only grant a special permit for transient vacation rental operations for property located in the SLU Agricultural Districts if (1) the property had a registered agricultural dedication; (2) a bona fide agricultural operation existed; or (3) the Planning Commission finds that the size, shape, topography, location or surrounding of the property, or other circumstances, did not allow an applicant to qualify for an agricultural dedication or inhibited intensive agricultural activities." Is that correct? That's the Hearing Officer's report.

Mr. Bracken: That is my understanding, yes.

Ms. Nogami Streufert: So that we would have to then...we can only grant a special permit if one of these three conditions is met, or all three of the conditions are met.

Mr. Bracken: I'm actually going to...let me pull up the report.

Mr. Edwards: The report basically says that there were many single-family TVR special permits in Ag land granted and that these applicants, who are long-term residents, should be treated similarly to the single-family TVRs, which were all given special permits some time ago; there were over a hundred of them actually. So it is a complicated recitation – I appreciate that – which Nadine Ando gave in her report, but at the end of the day, her recommendation is what we based our agreement on and what we based our conditions upon. So that's the way I summarize what's happened here.

Ms. Nogami Streufert: But if I am understanding all the documents that we have here, Hawaiian Mahogany, Inc. is using other off-site Ag zoned property for the development of their trees; that's your words – "using other off-site Agriculture zoned property." That was in your application.

Mr. Edwards: Well, at the time of the application, but there was a lot of evidence during the hearing process discussing the agricultural issue, and the report that was rendered by Bruce Plasch was used by Ms. Ando to support her position that the income condition, which had been proposed by the Planning Department and is no longer proposed, didn't satisfy her feelings, her decision. So there has been a recommendation already by the Hearing Officer with this property with the Tropical Timber nursery, which has been on the property – two or three hundred trees and so forth – you will see in that condition. It does satisfy the condition you are concerned about.

Ms. Nogami Streufert: But also in the application it says that the business was insolvent because of the judgement against it.

Mr. Edwards: That's correct. We're not talking...you are talking about two different things. The condition that relates to the agricultural use on this property has been agreed upon, and it's based upon Mr. Plasch's report. The off-site income from the former tree nursery, or the former tree operation – the timber operation, which has become insolvent – is not a part of this consideration. It is not a part of this application.

Ms. Nogami Streufert: Oh, I thought we went to the original application which does include that. Is this a different application?

Mr. Edwards: Well, it...maybe you can help.

Mr. Bracken: The original application is...definitely it is part of the record. It is the basis for all the proceedings up to this point. Sorry, I do have it open now. What specific section were you referring to?

Ms. Nogami Streufert: (Section) 15 on page 19.

Mr. Bracken: Page 19. Okay. So, I mean, that's specific so that...

Ms. Nogami Streufert: That's pretty specific from the Hearing Officer.

Mr. Bracken: Yes, the Hearing Officer is basically saying you have to have one of those three things, and in this case, the applicant actually has the agricultural dedication – number one – that it lists. And I can't recall what her specific findings were.

Ms. Nogami Streufert: But it says it is an agriculture...it would be considered to be agricultural (inaudible).

Mr. Bracken: That was Plasch's...

Mr. Edwards: That was Mr. Plasch's report.

Mr. Bracken: Yes, that was Plasch's report; that's what he defined it as.

Mr. Edwards: But Mr. Plasch also reported, and Ms. Ando discussed, the fact that there was bona fide agricultural activity taking place on these 3.089 acres in the form of a substantial tree nursery – Tropical Timber – that's been grown by Mr. Cowern over 30 years or more. So that is also one of the satisfying parts of the application as it was presented during a hearing.

Chair Apisa: Questions?

Mr. Mahoney: Yes. No. 3 in the stipulated conditions – ensure the homestay operation remains compatible with the Agricultural District, the existing tropical tree nursery consisting of 200 to 300 trees, about 100 varieties – Mahogany, Rosewood, Ebony – as described in the agricultural assessment shall be preserved and maintained in accordance with normal operations of an active nursery. Is that...to complete that?

Mr. Edwards: That's what I was talking about.

Mr. Mahoney: Yes, okay.

Chair Apisa: Go ahead.

Mr. Ho: Mr. Bracken, in our consideration today, is it a fair argument that we are going to consider having a TVR on agricultural land?

Mr. Bracken: (Inaudible) application for...it is a homestay application and it is on SLUD Ag land. It was on agricultural land.

Chair Apisa: A homestay is slightly different than a full-on TVR; the owner has to live there. Correct?

Ms. Ahuna: It's a bed and breakfast.

Mr. Bracken: That is correct.

Ms. Ahuna: And this was a longstanding resident of Kaua'i prior to the purchase? Or...you know, the owners that live there currently.

Mr. Bracken: Yes, I believe...I mean...

Mr. Edwards: Mr. Cowern bought the land; it was a raw piece of land. He built the house and the guest house. He and his family – his children – moved there and they lived there ever since. The property was acquired in 1992. They are paying their Transient Accommodations Taxes. They have a Commercial real property tax classification in terms of the real property tax they pay, and they have openly operated Hale Kua during the entire time. He planted the timber

nursery on the property, and while the off-site business was capable of making ends meet, the seeds from those trees that were within the timber nursery were used in part on the off-site property, so it really is an active tree nursery.

Ms. Nogami Streufert: So I could see that the off-site property would be agriculture, but I'm not sure that the location where this bed and breakfast would be would be agricultural since it is not really in use for agriculture.

Mr. Edwards: Well, that's why you have the opportunity to grant a Special Permit for unusual circumstances when there is no opportunity for intensive agriculture, but there is bona fide agricultural activity existing and ongoing on the property; that is what Nadine Ando found.

Chair Apisa: So the Planning Department is in agreement with this, correct?

Mr. Bracken: That is correct.

Mr. Keawe: So Chair, what is the recommendation from the...whoever, the Planning Department, the County Attorney?

Mr. Calipjo left the meeting at 11:45 a.m.

Chair Apisa: He needs to...he has a one o'clock flight. He needed to leave, so we lost one of our commissioners.

Ms. Higuchi Sayegusa: I believe the parties...the Planning Department is represented by First Deputy Matthew Bracken, and so his...he, as you recall, I think, a couple meetings back, this came up – the report and recommendation was on our agenda, but they needed an opportunity to work out what the conditions of approval would be, and so that is what they've done. So I think...my understanding is the Department has met and worked with the applicant's attorney, and they've come to an agreement that the decision should be to adopt the Hearing Officer's report and recommendation, which recommended to approve the permits, but they did come up with this set of conditions. So I believe that is their recommendation; is to–

Mr. Keawe: Is this document.

Ms. Higuchi Sayegusa: Yes. Well, is to approve the Hearing Officer's report and recommendation–

Mr. Keawe: HO report and in addition–

Ms. Higuchi Sayegusa: And then issue a permit with–

Mr. Keawe: –this settlement document.

Ms. Higuchi Sayegusa: –with these conditions incorporated.

Ms. Nogami Streufert: Could I ask a question of the attorney? Does this...

Ms. Higuchi Sayegusa: Sure.

Chair Apisa: Which one?

Ms. Nogami Streufert: Either one. Does this set a precedent where you can have a residence on Agricultural land that does not produce agriculture, but because the agriculture is produced on a separate site, away from that site, it is still considered to be agriculture?

Chair Apisa: It is all one...

Ms. Nogami Streufert: No, it is on separate sites.

Chair Apisa: Separate. I will let the attorney address that.

Mr. Edwards: That's really not what the issue is. There is not a question, in this particular application today, that there is an off-site product – agriculture. The question is, does this particular site satisfy the requirements of Chapter 205? And Ms. Ando and the Planning Department both agree that it does based upon what was determined throughout the hearing process that they had back in June. So these conditions are designed to satisfy both the requirements that the Planning Department has regarding typical conditions of Special Permits; also, to confirm the agricultural activity which must continue on this property. I think that's the summary.

Ms. Nogami Streufert: I understand that that's this case right now.

Mr. Edwards: Yes.

Ms. Nogami Streufert: My question is, what does this do in terms of setting a precedent? Or does it set a precedent? That's my question to the attorneys.

Mr. Bracken: So currently, the way the Ordinance is currently written, a homestay is now only permitted within the Visitor Destination Area, which is the VDA. And so the Visitor Destination Area is currently...I mean, specific areas and I don't believe it contains agricultural areas; I would have to double check on that. But currently, you can only get a homestay permit within the VDA. When these applications were received, it was prior to that law passing, so there's probably six similar cases in this situation where it is a homestay on agricultural land. As of now, you can't even apply to operate a homestay on agricultural land.

Ms. Nogami Streufer: Earlier our attorney made a distinction between homestays versus TVRs, and it is a TVR that is not allowed in a...outside of a Visitor Destination Area. Is that really true for a homestay, also?

Ms. Higuchi Sayegusa: Yes.

Ms. Nogami Streufert: And for a bed and breakfast?

Ms. Higuchi Sayegusa: Yes, the current...the Ordinance has been amended a couple times and so the...most recently – I think it was two years ago – it was a band on homestays outside of the Visitor Destination Area.

Chair Apisa: So you can't even apply...I mean, an application would not even be received to start a new B&B today. This one has been ongoing since 1992?

Mr. Edwards: 2015.

Chair Apisa: 2015.

Mr. Keawe: So, Chair, sorry. So that means if someone wanted to do exactly what this particular applicant did, they can't do it now based on the current ordinances that are in place.

Chair Apisa: I will ask the attorney.

Mr. Keawe: I think that is the question.

Mr. Bracken: That is correct.

Mr. Keawe: That is correct?

Mr. Bracken: Yes, I mean, you could not currently apply for these permits.

Mr. Keawe: All right.

Ms. Nogami Streufert: And there's no grandfathering of anyone else that has been doing this?

Mr. Bracken: No.

Chair Apisa: Well, any other questions? I mean, I have to have some faith in our Planning Department and our attorney.

Mr. Mahoney: The Hearing Officer...they went before the Hearing Officer and they came up with some conclusions. Further, the Planning Department and the Applicant have met and come to an agreement–

Ms. Ahuna: It seems like this has been going for 26 years, correct? This family has lived on this property and doing their ag. I mean, I don't know how long the homestay has been...it just...I don't know. I don't know. To me, as long as...I'm with Glenda on that that others cannot apply (for) this (in the) future, moving forward. I mean, from my understanding, this was...the application was put in prior to those VDAs being made. Is that correct, Jodi?

Ms. Higuchi Sayegusa: Right. This application was lodged prior to the law change.

Chair Apisa: Well, again, I–

Ms. Ahuna: That is what is in question.

Chair Apisa: I do have faith in our Planning Department and the attorney, but if...any other questions here to...? Are we ready for a motion?

Mr. Ho: Madame Chair, I move that we deny the permits.

Chair Apisa: Do we have a second? Do we have a second?

Ms. Nogami Streufert: Second.

Chair Apisa: We have a motion on the floor. Any...who is in favor? (Voice vote) We probably need to do a roll call on this.

Ms. Higuchi Sayegusa: Madame Chair, the motion on the floor is to deny the permits.

Roll call vote – Commissioner Ahuna.

Ms. Ahuna: Aye.

Mr. Keawe: An “aye” is to deny the permit.

Ms. Ahuna: An “aye” is to deny the permit?

Mr. Keawe: Yes.

Ms. Ahuna: So the motion is to deny.

Ms. Higuchi Sayegusa: To deny the permits.

Mr. Keawe: Can you read the motion again and explain what it means?

Ms. Higuchi Sayegusa: The motion on the floor is to deny the Use Permit, Special Permit, and Class IV Zoning Permits for the conversion of an existing residence into a homestay operation.

Chair Apisa: So the motion would be to close it down; an “aye” vote would be to close it down.

Ms. Higuchi Sayegusa: Yes.

Chair Apisa: A “no” vote would...

Ms. Higuchi Sayegusa: Would be to...

Chair Apisa: Let it continue.

Ms. Higuchi Sayegusa: With that clarification, I will start over.

Ms. Ahuna: And the Hearing Officer was to approve with these conditions, correct?

Ms. Higuchi Sayegusa: Right. Yes.

So again, the motion is to deny the permits, so I guess it would be a reversal of the Hearing Officer's report and recommendation.

Commissioner Ahuna.

Ms. Ahuna: Aye.

Ms. Higuchi Sayegusa: Commissioner Ho.

Mr. Ho: Aye.

Ms. Higuchi Sayegusa: Commissioner Streufert.

Ms. Nogami Streufert: Aye.

Ms. Higuchi Sayegusa: Commissioner Mahoney.

Mr. Mahoney: No.

Ms. Higuchi Sayegusa: Commissioner Keawe.

Mr. Keawe: No.

Ms. Higuchi Sayegusa: Commissioner Calipjo stepped out. And Chair Apisa.

Chair Apisa: No.

Ms. Higuchi Sayegusa: The motion fails 3:3.

Chair Apisa: So do we have another motion? Or what do we...

Ms. Higuchi Sayegusa: So the motion failed. Unless anybody wanted to change their vote, we may have to continue this to the next meeting. If I could just have a couple minutes.

Chair Apisa: Okay, we will take a seven-minute recess.

The Commission recessed this portion of the meeting at 11:55 a.m.
The Commission reconvened this portion of the meeting at 12:04 p.m.

Chair Apisa: Reconvene the meeting. First, I would like to clarify that Commissioner Calipjo was excused; he had a one o'clock flight and he needed to leave, so he was excused from the vote. I would like to ask if...what would be the Commission's pleasure. To revote on the same motion, or is there any objection to...or would the Commission like to do that? Is there any objection to doing that?

Ms. Nogami Streufert: If I could make a couple comments. First of all, I think we have a lot of faith in the Planning Department, so whatever their conclusions are, I am sure they are well-thought out and well-defined, so I have no problems, no issues with that. I would like to have a clarification of what this vote would mean in terms of future petitions that can come before the Commission and how this might have an impact; the ruling here might have an impact upon future decisions we may have to come up with. Rather than having to redo this every time something like this comes up, what is the...how does this all work?

Ms. Ahuna: I, as well, want a clarification on these types of petitions and how many, perhaps, there might be out there regarding applications that came before the VDA ruling or ordinance.

Chair Apisa: Would either of the attorneys present...

Mr. Edwards: I am not sure I can answer all your questions, but I will try. I do want to provide a little information for you. The Planning Commission – I believe with most of you as members, not all of you – has approved a number of bed and breakfasts in Ag land – homestays or whatever – during the last couple of years since 2015. My understanding is it would be between 10 and 15 bed and breakfasts. One of the conditions that was made...an important condition to those bed and breakfast approvals in Ag land was that they prove that they generated more money from agriculture than they did from the bed and breakfast operation, no matter how long they have been in existence, and you approved those and you granted the Special Permits. There were no Special Permits and there were no permits at all; nothing happened between 1994 and 2015. This is all documented in the Hearing Officer's report. We went to hearing, Contested Case, mainly over the economic requirement because it did not seem fair to us that a property, which was not capable of intensive agriculture, be required to produce more income from intensive agriculture than it made from its bed and breakfast. Particularly, since all of those single-family TVR permits, which were given Ag permits on...rather Special Permits on Ag land, had no such economic addition. Ms. Ando agreed with us. She agreed with us, and that is why we are back here before you. The Planning Department reversed its position and agreed that we should have these permits. They were longstanding bed and breakfasts which were not allowed to apply for permits or didn't get to apply for permits until 2015, and that is the process that you've been seeing through these years.

So the question is, do you agree with the Planning Department that these...that this particular applicant is an unusual and reasonable use under Chapter 205 that has agricultural activity on the land and will maintain and preserve it, and should get the permits that the Planning Department has said they should receive, subject to the conditions we've agreed upon? That's the simplest way I can put it. There are other applicants before you in the same situation; two of whom I represent, or my firm represents. And they are in almost identical situations. They are rich land, not intensively agricultural. They are in a Contested Case process and they may come before

you in the future with substantially identical conditions because they are in the same boat. Again, it is about whether or not Ms. Ando was correct in her assessment and whether or not the Planning Department was correct in its support of her or not. We agree with the Planning Department. We've agreed to the conditions that are before you, and that's the best I can tell you.

Ms. Ahuna: Jodi, I think the clarification that we are both looking for – and I speak for myself, but maybe Glenda as well – is how many of those do we have before us remaining, so to speak, that is not beyond that? Does that make...do you understand my question?

Ms. Higuchi Sayegusa: Right, right. I think...probably the Planning Department has the most accurate information, but (inaudible) the exact number of applicants we are looking at to the Department.

Mr. Bracken: Okay, so my current understanding is...and this is an estimate, but I believe that there are six pending cases of homestays that applied before the ordinance change which made them unlawful, so there are six. Like he mentioned, he represents two other ones. I believe there are just three other ones, but I can say that there are no more than eight; I believe the number is six though.

Ms. Ahuna: Okay. So if there are no more than six or somewhat eight, beyond that, is that...anything beyond that is questionable? Or that's just like a...

Ms. Higuchi Sayegusa: Right. So previous to the law changing, it was...the position of the Department, is my understanding, was that a Use Permit was required. So without a Use Permit, they should have not been operating a homestay. So as a result of that distinction and clarification to the public, they did receive a number of applications, and I think that they are about eight or six. But subsequently, the law changed to band homestays outside of the Visitor Destination Area, and so if there are homestays that are operating outside of the Visitor Destination Area, they would be illegal and subject to enforcement.

Chair Apisa: So there are no new applications.

Ms. Higuchi Sayegusa: There should not be, or there shouldn't be any existing operations that are illegal because they need to have had a Use Permit.

Mr. Keawe: I think the concern is the precedent. If we approve this stipulated agreement, does that set a precedent for somebody who is going to come in brand new and say oh, by the way, you guys approved this based on Ms. Ando's HO report and why can't I do it? Or, is there some legal point that would put that whole issue in jeopardy? The whole issue of homestays on Ag land. Aside from the six or the eight – six or eight, that's a finite number, okay, we know that's a... – is there any situation that could come up that would actually open it up further from where we are now? I think that is the concern.

Ms. Higuchi Sayegusa: I don't think there should be because, again, without a permit in hand or an application lodged prior to the law change, there is no means at this point to now obtain a permit for a homestay outside of the Visitor Destination Area.

Mr. Keawe: So there is no means for someone to do that, and if they did, it would be illegal.

Ms. Higuchi Sayegusa: Right.

Chair Apisa: Any other clarification questions? You got any questions? Questions?

Ms. Higuchi Sayegusa: I'm sorry. The other clarification was that the only possible implication is for the other...this decision might be instructive for the other appeals that are currently lodged.

Ms. Ahuna: Which is basically six to eight, possibly.

Ms. Higuchi Sayegusa: Yes, those six to eight.

Mr. Keawe: Yes, that was the question.

Ms. Higuchi Sayegusa: Right.

Mr. Keawe: "How many?"

Ms. Nogami Streufert: We had a lot of Contested Cases that came up which have also not yet been resolved.

Chair Apisa: But those are...does the TVR case differ from the bed and breakfast?

Ms. Nogami Streufert: This is also a TVR issue.

Ms. Higuchi Sayegusa: This is under a separate set of laws. This is a distinctive issue.

Mr. Keawe: Yes, it's a separate...

Ms. Ahuna: It's not the same as the Contested TVRs.

Ms. Higuchi Sayegusa: Right. It is under a different legal regime under the CZO.

Mr. Keawe: So worst case scenario – six or eight.

Ms. Higuchi Sayegusa: Yes.

Mr. Keawe: On appeal.

Ms. Higuchi Sayegusa: My understanding is six to eight.

Mr. Keawe: Based on the Hearing Officer's report.

Ms. Higuchi Sayegusa: Yes.

Mr. Ho: Madame Chair?

Chair Apisa: Yes.

Mr. Ho: Where would you like this to go now?

Chair Apisa: Well, my understanding is that we could either take a vote on the same motion, or if there is any objection to that, we could entertain a new motion and vote on that. What would the Commissioners like to do?

Mr. Ho: Would you want a new motion?

Chair Apisa: We will entertain a new motion.

Mr. Ho: Motion to deny the permits.

Chair Apisa: That's the same motion. It's to revote on the same motion.

Mr. Ho: Yes, ma'am.

Chair Apisa: Is there any objection to that? We can take the same...

Mr. Mahoney: He needs a second, I guess.

Chair Apisa: Yes, we would have to have a second. That's a motion to take a revote on the same motion.

Ms. Nogami Streufert: It has to be (inaudible).

Chair Apisa: I'm sorry, what was that?

Mr. Mahoney: I'll second if it is for the revote.

Chair Apisa: Okay, we better take a roll call. So we are taking a revote on the same motion to deny the permit.

Ms. Higuchi Sayegusa: And reverse the recommendation of the Hearing Officer.

Chair Apisa: Reverse the recommendation of the Hearing Officer.

Ms. Higuchi Sayegusa: Commissioner Ahuna. I'm sorry.

Chair Apisa: This is a revote on the same motion.

Mr. Keawe: Again, can you clarify – “yes” means what and “no” means what?

Ms. Higuchi Sayegusa: Sure. Okay, so again, the motion on the floor is to deny the permits and to reverse the Hearing Officer’s report and recommendation. So essentially, a “yes” vote would be to deny the permits.

Ms. Ahuna: How many votes do we need to approve and deny?

Chair Apisa: Well, we have six people, so we need some...majority?

Ms. Higuchi Sayegusa: Right. We do have seven members and any vote–

Ms. Ahuna: I know the vote is on the table–

Ms. Higuchi Sayegusa: –to prevail has to be four.

Ms. Ahuna: –but I still have, like, some...you know, I want more clarity on the six to eight and how many have...like, so I want to talk...if there’s no time to talk right now (inaudible).

Chair Apisa: Well, no, we do...this is a time for discussion after you have a first and a second; there is time for discussion.

Ms. Ahuna: Have any of the appeals moved forward in the past? Or is this going to be the first one?

Mr. Bracken: This is the first one.

Chair Apisa: The first out of the six or eight.

Mr. Bracken: Correct. This is the first one that has been heard by a Hearing Officer. I would say three of the other ones are tied up on an appeal...currently an appeal up to the ICA, and that had to do with...they were attempting to disqualify the Hearing Officer, so that ended up in an appeal, so that’s currently in the ICA. So I want to say at least three of them are tied up and will be tied up for several years. And then three of them...this is one of the three that are proceeding, so there are two more that are currently scheduled for hearings.

Chair Apisa: So there are six total; this is one of the six.

Mr. Bracken: Yes. That is my recollection. There might be another one or two that I can’t recall.

Mr. Edwards: And those three that are currently pending on appeal are represented by us, and they are in the same...almost exactly the same situation.

Chair Apisa: So we would be setting a precedent for the three.

Ms. Nogami Streufert: And that's...you've made our point rather than...because it does a set precedent for the other six to eight. But there is a finite number that we are looking at. So Mr. Edwards, I think your defense of what you were doing earlier is really supporting our argument that we did not want to see this as a...the reason for rulings in the future. We were concerned about that, but now that we know that there is, and we have been reassured, that there is a finite number of cases and it has absolutely nothing to do with our confidence either with the Hearing Officer or with the Planning Department, it is something to do with the way that we are interpreting what we are reading and what we see as our role in trying to identify where the island is going to grow or how it is going to grow, because we do have a problem with affordable housing, as well as with all kinds of issues, I am willing to revote.

Chair Apisa: Question – since it has been operating, have there been any issues with neighbors? Has it been homogenous? Any situation with the neighborhood?

Mr. Edwards: No.

Mr. Keawe: Was there a second?

Mr. Edwards: There were no complaints.

Ms. Nogami Streufert: Yes, there was a second.

Chair Apisa: Sean made a second just to get it on the floor to have further discussion on it.

Ms. Higuchi Sayegusa: Okay.

Ms. Nogami Streufert: Call for the vote.

Ms. Higuchi Sayegusa: Okay. And just to repeat again, the motion on the floor is to deny the permits, reverse the Hearing Officer's report and recommendation; a "yes" vote means that you are denying the permit.

Commissioner–

Ms. Ahuna: And a non-vote means what?

Ms. Higuchi Sayegusa: A silent vote goes with the...is in the affirmative under our rules.

Chair Apisa: So basically, it is a "yes" vote that you are denying it, so you might as well vote "yes" or "no."

Ms. Higuchi Sayegusa: Our Commission rules clarify that unless a member is excused, a silent vote shall be recorded as an affirmative vote.

Okay, Commissioner Ahuna.

Ms. Ahuna: Sorry, what's the vote on? It's his, yes?

Chair Apisa: The motion is the original motion to deny it, which would...right.

Ms. Higuchi Sayegusa: Would be to reverse the Hearing Officer's report and recommendation (and) deny the permits. So a "yes" vote would be to support the denial and reversal of the Hearing Officer's report and recommendation.

Ms. Ahuna: And why are the other three at the ICA?

Mr. Bracken: At one point the petitioners in those cases challenged the Hearing Officer – his ability to hear the case. They were alleging that he had a conflict of interest, and so that conflict of interest was presented to this body, and then from there, there was an appeal to the Circuit Court where Judge Watanabe ruled that there was no conflict of interest, and then it was subsequently appealed to the Intermediate Court of Appeals, or the ICA, just recently – couple weeks ago.

Ms. Ahuna: So those three were actually...the Hearing Officer was not in favor of them.

Mr. Bracken: The Hearing Officer had never heard those cases. It was before anything ever occurred in any of those cases, really. The challenge was–

Chair Apisa: Who the officer was.

Mr. Bracken: Who the officer was. So he hadn't ruled on them, he hadn't heard any of the evidence on any of those cases.

Ms. Ahuna: Oh, got it.

Ms. Higuchi Sayegusa: Okay, so...

Ms. Ahuna: My vote. I mean, like, for me, I just don't want to see this open up a can of worms. This is, like, not going to (inaudible), so no...I mean, yes; same as Mr. Ho's.

Ms. Higuchi Sayegusa: So, I'm sorry, just to clarify, "yes" in the affirmative to deny the permits and reverse the Hearing Officer's report and recommendation?

Ms. Ahuna: Deny the permits...I'm confused now. Deny the permits and reverse the Hearing Officer's–

Ms. Higuchi Sayegusa: Perhaps, maybe, we can have a little bit of time; like a five-minute recess.

Chair Apisa: Okay. Five-minute recess.

The Commission recessed this portion of the meeting at 12:14 p.m.
The Commission reconvened this portion of the meeting at 12:22 p.m.

Chair Apisa: The meeting is reconvened.

Ms. Higuchi Sayegusa: Again, Commissioners, the motion on the floor is to deny the permits, reverse the report and recommendation of the Hearing Officer; a “yes” vote would be to support the denial and reversal of the Hearing Officer’s report and recommendation.

Commissioner Ahuna.

Ms. Ahuna: Yes.

Ms. Higuchi Sayegusa: Commissioner Ho.

Mr. Ho: Aye.

Ms. Higuchi Sayegusa: Commissioner Streufert.

Ms. Nogami Streufert: (Silent)

Ms. Higuchi Sayegusa: Commissioner Mahoney.

Mr. Mahoney: No.

Ms. Higuchi Sayegusa: Commissioner Keawe.

Mr. Keawe: No.

Ms. Higuchi Sayegusa: Commissioner Calipjo was excused. Chair Apisa.

Chair Apisa: No.

Ms. Higuchi Sayegusa: Okay, the motion fails 3:3.

Chair Apisa: No...oh, yes, the motion fails. So, well, we don’t have a draw. So we entertain a new motion?

Ms. Higuchi Sayegusa: So, right, you can entertain a new motion. If none is on the table, then it will have to be continued as a special order of the day at the next meeting.

Chair Apisa: Would the Commissioners like to make a new motion or defer it to the next meeting?

Ms. Nogami Streufert: I move to accept the agreement, the stipulated conditions for CC-2016-2, Class Z-IV-2015-26, Use Permit U-2015-25, and Special Permit SP-2015-6 at TMK: (4) 2-5-002:037.

Mr. Mahoney: Second.

Chair Apisa: We have a motion on the floor. Any other discussion? All right. We will take a roll call. Oh, go ahead.

Ms. Ahuna: If we move to defer, then we have...then it would be heard at the next.

Mr. Mahoney: It is too late now.

Chair Apisa: We have a motion on the floor, so we have to vote on this motion.

Mr. Keawe: Yes.

Chair Apisa: I would like to take a roll call.

Ms. Higuchi Sayegusa: Sure. Chair, the motion on the floor is to accept and approve the report and recommendation of the Hearing Officer...I'm sorry? With the stipulated conditions of approval incorporated in the approval of the permits. Okay.

Commissioner Ahuna.

Ms. Ahuna: Are we still on the same case?

Chair Apisa: This is the opposite vote now. Yes, same case because the vote failed—

Ms. Ahuna: Right.

Chair Apisa: —to...so this is a new motion. So again, go over the motion because it's kind of the reverse motion now.

Ms. Higuchi Sayegusa: Okay. Again, the motion on the floor is to accept and approve the Hearing Officer's report and recommendation, and incorporate the stipulated conditions of approval as conditions of approval to the permits that are going to be issued.

Ms. Ahuna: That the attorney brought in...presented.

Ms. Higuchi Sayegusa: Yes. And a "yes" vote would be to approve...well, adopt the Hearing Officer's report and recommendations, and approve the conditions incorporated into the permit.

Ms. Ahuna: All right.

Ms. Higuchi Sayegusa: Okay. Commissioner Ahuna.

Ms. Ahuna: Yes, and these cases will be independently heard, correct? Moving forward.

Ms. Higuchi Sayegusa: Yes.

Ms. Ahuna: Yes.

Ms. Higuchi Sayegusa: Okay, yes. Commissioner Ho.

Mr. Ho: No.

Ms. Higuchi Sayegusa: Commissioner Streufert.

Ms. Nogami Streufert: Yes.

Ms. Higuchi Sayegusa: Commissioner Mahoney.

Mr. Mahoney: Yes.

Ms. Higuchi Sayegusa: Commissioner Keawe.

Mr. Keawe: Yes.

Ms. Higuchi Sayegusa: Commissioner Calipjo is excused. Chair Apisa.

Chair Apisa: Yes.

Ms. Higuchi Sayegusa: Okay. The vote here is 5:1.

Chair Apisa: Motion is approved. Thank you.

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 = *Kaua'i 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]

Ms. Higuchi Sayegusa: Chair, we are on Item I.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, and Special Permit SP-2007-01, Tax Map Key: (4) 2-8-002 Portion of 005 – Kaua'i Springs, Inc.

Commissioners, you folks have been provided with the draft Findings of Fact, Conclusions of Law, and Decision and Order.

Mr. Keawe: We are on Kaua'i Springs, right?

Ms. Higuchi Sayegusa: Yes.

Chair Apisa: We are on Kaua'i Springs.

Ms. Higuchi Sayegusa: Just to, I guess, provide some context, you folks did vote to deny the permits on June 28, 2018. It is just now a matter of adopting the Findings of Fact, Conclusions of Law, and Decision and Order.

Chair Apisa: Are the Commissioners ready to make a motion to adopt or to not adopt the recommendation?

Ms. Nogami Streufert: I move to accept the Findings of Fact, Conclusions of Law, and Decision and Order for 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 005.

Mr. Keawe: Second.

Ms. Ahuna: I second the motion.

Ms. Higuchi Sayegusa: Just to clarify, is that adoption?

Ms. Nogami Streufert: Adoption.

Ms. Higuchi Sayegusa: Okay, thank you.

Ms. Nogami Streufert: To accept and adopt.

Ms. Higuchi Sayegusa: Okay.

Ms. Ahuna: I second that adoption.

Chair Apisa: The motion.

Ms. Ahuna: The motion to adopt.

Chair Apisa: Any discussion on this?

Mr. Keawe: No.

Chair Apisa: Okay, take a roll call on this, also.

Ms. Higuchi Sayegusa: Okay, sure. The motion on the floor is to adopt the Findings of Fact, Conclusions of Law, and Decision and Order.

Commissioner Ahuna.

Ms. Ahuna: Aye.

Ms. Higuchi Sayegusa: Commissioner Ho.

Mr. Ho: Aye.

Ms. Higuchi Sayegusa: Commissioner Streufert.

Ms. Nogami Streufert: Aye.

Ms. Higuchi Sayegusa: Commissioner Mahoney.

Mr. Mahoney: Aye.

Ms. Higuchi Sayegusa: Commissioner Keawe.

Mr. Keawe: Aye.

Ms. Higuchi Sayegusa: Commissioner Calipjo is excused. Chair Apisa.

Chair Apisa: Aye.

Ms. Higuchi Sayegusa: The vote is 6:0.

Chair Apisa: So the motion has been approved.

Ms. Higuchi Sayegusa: Thank you.

UNFINISHED BUSINESS (For Action)

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 Kīlauea, Kaua‘i, Hawai‘i, Tax Map Key No. (4) 5-3-007-006.

Ms. Higuchi Sayegusa: Chair, we are on Item L.1. – petition to appeal decision of the Planning Director, Exhibits “A” through “K,” from Dennis M. Lombardi and David G. Brittin, attorneys for appellant, regarding ‘Anini Beach Hale, LLC for a Transient Vacation Rental Non-Conforming Use Certificate #5081 for property located in Kīlauea, Kaua‘i, Hawai‘i, Tax Map Key No. (4) 5-3-007-006.

Commissioners, you folks received the Clerk of the Commission’s recommendation to refer, dated August 20, 2018, the appeal of the Planning Department’s decision related to the denial of Non-Conforming Use Certificate packet submitted on August 13, 2018, under KCC 8-17.10,

(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.

In addition, there was a letter dated September 7, 2018, from Dennis M. Lombardi and David G. Brittin, attorneys for appellant, regarding 'Anini Beach Hale, LLC for a Transient Vacation Rental Non-Conforming Use Certificate #5081 pursuant to Section 1-9-4(c) of the Rules of Practice and Procedure of the Commission requesting that the subject appeal be deferred and not placed on the Planning Commission agenda for a period of 90 days so that the appellant may evaluate this matter.

Chair Apisa: Is there a representative here for the 'Anini Beach Hale, LLC?

Ms. Higuchi Sayegusa: I'm sorry. I think there is no representative from the applicant, but still on the table is this letter from the applicant's attorney requesting that the appeal be deferred further. So it was dated September 7th – that was quite a while ago – but...

Mr. Keawe: Basically, he wants a deferral for 90 days?

Ms. Higuchi Sayegusa: Yes.

Mr. Dahilig: For the record, Madame Chair, the Department has no objections to the request submitted by Mr. Lombardi.

Mr. Keawe: What was that, Mike? I couldn't hear.

Mr. Dahilig: The Department has no objections to the request by Mr. Lombardi.

Chair Apisa: For the 90-day deferral.

Mr. Keawe: For the 90-day...

Mr. Dahilig: Yes.

Mr. Keawe: Okay. All right.

Ms. Nogami Streufert: Are there any time limitations on this that we have to hear it by a certain date (inaudible)?

Mr. Dahilig: That's what is on today, but I think because of the request for deferral, everything gets tolled, so it's...

Ms. Nogami Streufert: It just restarts?

Mr. Dahilig: It just restarts. Yes, I think it–

Mr. Keawe: So if we agree to the deferral, that already sets the date again? Resets the date, right?

Mr. Dahilig: Well, for 90 days.

Mr. Keawe: Yes, right. Okay.

Chair Apisa: Do we have a motion on this?

Mr. Keawe: Yes. I will move to approve the attorneys' request for the 'Anini Beach Hale, LLC Contested Case for 90 days from today.

Mr. Mahoney: Second.

Ms. Higuchi Sayegusa: So again, the motion is to approve the deferral?

Mr. Keawe: Yes.

Ms. Higuchi Sayegusa: Yes, okay.

Mr. Keawe: Move to approve the deferral for 90 days from today.

Chair Apisa: And we have a second. Any...no discussion. All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 6:0.

Mr. Dahilig: Thank you, Madame Chair.

GENERAL BUSINESS MATTERS (Continued)

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 Kapa'a Town, along the mauka side of Kūhiō 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 Kaua'i Product Fair).

Mr. Dahilig: The last item for action is Item I.4. This is a 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 four retail kiosks with four affordable housing units on a parcel located in the northern section of Kapa'a Town, on the mauka side of Kūhiō Highway, situated directly across the Otsuka Furniture Retail Store, further identified as Tax Map Key: 4-5-013 Parcel 026, and affecting a total area of 20.025 square feet. The applicant is Jasper Properties, LLC (also known as Kaua'i Product Fair, and Dale will be presenting the report on behalf of the Department.

Staff Planner Dale Cua: Good afternoon, Madame Chair and members of the Commission.

Mr. Cua read the Summary, Project Data, Project Description and Use, and Applicant's Reasons/Justification sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: At (this) time, that concludes the Department's findings and I will hold off on the recommendation.

Chair Apisa: Thank you, Dale. The applicant is present.

Mr. James T. Jasper: Yes.

Chair Apisa: Would you like to make a statement?

Mr. Jasper: James T. Jasper, President, Jasper Properties. Looking to put some employee housing issues to bed here, hopefully, with this project going forward.

Chair Apisa: Go ahead.

Mr. Mahoney: And you are going to use shipping containers?

Mr. Jasper: Yes.

Mr. Mahoney: Two-story?

Mr. Jasper: Yes. Presently, the structure of the fair itself is based on recycled 40-foot shipping containers cut in half. It doesn't look like it from the outside, but that's the premise; is to use recycled...and stack them in this case. Make them employee housing units.

Mr. Keawe: So your intent is to rent these to employees?

Mr. Jasper: Correct.

Mr. Keawe: Can you explain a little bit – I had a hard time looking at your plan to figure out what's what. You had really nice floor plan elevations, but I'm missing one floor. So I am assuming you go upstairs to the living area and then the bedroom is downstairs. Is that it?

Mr. Jasper: That's for view plain purposes. I am using the top as the sleeping quarters and the bottom for the kitchen and bathroom and whatnot. I don't know–

Mr. Keawe: Well, I'm looking at your plan, so it shows...from what I can see, (inaudible). So the bottom is the sleeping quarters and the bathroom, and the top is...

Mr. Jasper: Sleeping quarters, also.

Mr. Keawe: Sleeping quarters, also?

Mr. Jasper: Yes, sir.

Mr. Keawe: So they do have two separate entries or just one?

Mr. Jasper: Just one.

Mr. Keawe: And the one entry is from upstairs or downstairs?

Mr. Jasper: It is from downstairs.

Mr. Keawe: Upstairs?

Mr. Jasper: Enter from the bottom, and there's—

Mr. Keawe: There's a stairway that goes up.

Mr. Jasper: Yes, sir.

Mr. Keawe: Okay.

Mr. Dahilig: Commissioners, just for a little bit more background, this structure was actually permitted as a one-story structure for commercial uses, so the reason why it's coming before you is because it's...from a massing standpoint, they're adding that second story. There is no other structure right now that's a second-story structure on that site, so that's one reason. The second thing is, again, it's a use conversion from commercial to residential. So if you've driven by the site, you've noticed that they've opened a number of containers for commercial usage already.

Mr. Keawe: And they've got the...you have the storefronts, right, in the front?

Mr. Jasper: Yes.

Mr. Keawe: It looks nice. Yes.

Mr. Jasper: Thank you.

Mr. Keawe: It's basically...you know, containers.

Mr. Jasper: Yes. Basically, we'd just add another container and keep the same look and continuity of the project.

Mr. Keawe: But even with the storefront on the bottom? No, that's going to be something different because your drawing is—

Mr. Jasper: Storefront on the bottom is...presently, we have roll-up garage door things and that unit...the residential units have French doors on the bottom.

Mr. Keawe: They have what?

Mr. Jasper: French doors.

Mr. Keawe: French doors on the bottom.

Mr. Jasper: Yes.

Mr. Keawe: Okay. So again, the two stacked containers are one living unit.

Mr. Jasper: Correct.

Mr. Keawe: Is that correct?

Mr. Jasper: Correct.

Mr. Keawe: Okay.

Mr. Jasper: Times four.

Ms. Ahuna: And it would be, like, your ground maintenance guys that kind of secure the property there on property for those reasons.

Mr. Jasper: Yes.

Ms. Nogami Streufert: So is this considered to be long-term rentals?

Mr. Jasper: Correct. Employee housing – JJ’s employees, Anchor Cove employees, on and on and on.

Ms. Ahuna: I like the idea. I think...we always need more affordable housing than visitor units.

Mr. Keawe: Yes. So the dimensions on it – is it 40 feet by 8 feet wide? Is that...

Mr. Jasper: No. They are 40 footers – we cut in half because, No. 1, they are more predominant in the State; there are more 40s laying around than there are 20s. No. 2 is that the ceilings are 9½ feet tall in the 40 footers.

Mr. Keawe: Okay, so–

Mr. Jasper: They are only 8 (feet) in the 20s.

Mr. Keawe: So then you’ve got two...basically, the 40, which is cut into 2, so you have two 20-foot stacked on top of each other.

Mr. Jasper: Correct. And then we button-up the ends, obviously.

Mr. Keawe: Yes, and then you...okay.

Mr. Jasper: Correct.

Mr. Keawe: All right.

Chair Apisa: Pretty creative.

Mr. Keawe: Yes, yes.

Mr. Jasper: My team is good. My architects are some good guys.

Chair Apisa: Any other questions? Do we have a motion on the floor? Oh, I'm sorry, yes, the recommendation from the Planning Department. Thank you. Jumped the gun there.

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

Chair Apisa: Thank you.

Ms. Nogami Streufert: Could I ask a question?

Chair Apisa: Sure, now.

Ms. Nogami Streufert: These are...you've added Condition 10 and Condition 17; 10 is (inaudible).

Mr. Cua: Right. Condition 10 has been amended to read as noted in the report, and Condition No. 17 is new since we are applying the residential development standards for the project.

Ms. Nogami Streufert: Is there a condition that requires the completion of this project by "x" date?

Mr. Cua: No. Only just...right now, the only deadline date imposed as a result of this project will be for the paved parking area, and that would be May 14, 2020. As far as the affordable housing aspect of the project, I left it open and leave it to the applicant to come in for permits.

Ms. Nogami Streufert: The original approval letter was in 2007, so already 12 (inaudible).

Mr. Cua: Right, and the reason for the project amendment is, again, as noted in the first page of the report, the project was originally approved as a commercial retail facility, and now this permit amendment would add the affordable housing units to the project.

Mr. Keawe: Mr. Jasper, subject to this approval, how long do you think it is going to take you to build these?

Mr. Jasper: That is always the million dollar question.

Mr. Keawe: Yes, and it has been the million dollar question for 12 years.

Mr. Jasper: Well, my family is just hardworking, small businessmen trying to serve (inaudible), put people to work, and paid property taxes for 51 years.

Mr. Keawe: Okay.

Mr. Jasper: We just work hard and try to get it accomplished as fast as we can.

Mr. Keawe: I understand.

Mr. Jasper: With that being said, we got floods and contractors are all busy, and there are just obstacles living on an island, as we all know, that happen.

Mr. Keawe: So, no idea how long it might take.

Mr. Jasper: Well, I mean, the permits itself take, in my opinion, 10/11 months just to get a piece of paper to start digging. So if you put a 2-year caption on it, so you've got basically 13 months to build your project. That's what I always have always thought was kind of strange. It takes 11 months to get permits and so if you put a 2-year caption on it, it is almost impossible to build a project like that in 13 months. That's just what...I am not saying...that's the reality that I live in.

Ms. Nogami Streufert: If you had your druthers, what would be a--

Mr. Jasper: Pardon me?

Ms. Nogami Streufert: If you had your choice--

Mr. Jasper: Yes.

Ms. Nogami Streufert: --and you had a completion date, what would that be?

Mr. Jasper: Well, two years, but the permit process is long and arduous.

Ms. Nogami Streufert: I understand that, but that's why I'm asking.

Mr. Jasper: I mean, I'd like to do it fast. I would like to service that and get cash flow and make my happy bankers and pay property taxes, but...and put guys in and take hot showers. You know, I work every day (inaudible).

Ms. Ahuna: Can we ask (for) a recommendation from the Planning Director? What he thinks is a good...

Mr. Dahilig: I think two years to receive Certificate of Occupancy is reasonable, considering that this is also being promoted as a type of project that is supposed to speed up construction by using pre-existing materials, like containers. So whereas if there may be issues on the permit on the frontend, there is backend benefits by looking at this, so I think two years to receive Certificate of Occupancy is reasonable. So maybe the language would be, “Prior to building permit application, the development of the affordable housing units shall be subjected to development standards contained in...” the sections as stated “...as amended, and shall receive Certificate of Occupancy no later than two years from today.”

Ms. Ahuna: We should just say January 1, 2020, yes? Or '21. What is that? December 31st.

Mr. Dahilig: Well, if you just do two years...I mean—

Chair Apisa: Mr. Jasper has a comment to add.

Mr. Jasper: This is just my...what I would...as a small-time family developer, I would like to, if in a perfect world, have the clock start when I get the actual permit, you know, so then you have two years. But if I get the permit to build these units April 1, then as a small-time developer would like the two years once I get the approval to do so because when people...even my bankers ask me “when can you go?” and I said, “Well, I don’t know. It’s coming down the pipe. It’s in the process.” That’s all. If I had it my way, but that’s completely up to you guys.

Mr. Dahilig: I think the Department would stand on its recommendation. We think that’s reasonable.

Mr. Jasper: Okay. Fine.

Ms. Nogami Streufert: Which is?

Mr. Dahilig: Two years from today, to receive Certificate of Occupancy.

Ms. Nogami Streufert: (Inaudible) Recommendation 17 or (inaudible).

Mr. Dahilig: Yes, so our orally-recommended condition would be, “Prior to building permit application, the development of the affordable housing units...” I’m going to add the phrase “as represented” just to make sure that we are clear that that’s what... “..., as represented, shall be subjected to development standards contained in...” these sections “...as amended, and shall receive Certificate of Occupancy by...” two years from today.

Chair Apisa: Which is November 26, 2020.

Mr. Dahilig: Do you have any objections, Mr. Jasper?

Mr. Jasper: No, no.

Chair Apisa: And no further questions. Do we have a motion on the floor?

Ms. Nogami Streufert: I move to accept the amended recommendation from the Planning Department for the proposed amendment to Class IV Zoning Permit Z-IV-2006-32 and Variance Permit V-2006-10.

Chair Apisa: Second?

Mr. Mahoney: Second.

Chair Apisa: We have a motion and a second on the floor. All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 6:0. Congratulations.

Mr. Jasper: Thank you.

Mr. Dahilig: Thank you, Madame Chair.

COMMUNICATION (For Action)

There were no communications for action.

ANNOUNCEMENTS

Topics for Future Meetings

Mr. Dahilig: Topics for Future Meetings. We will get an on-deck sheet circulated; we will have Leslie email those to you directly.

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, December 11, 2018.

Mr. Dahilig: And the following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter, in this room on Tuesday, December 11, 2018. It has been a pleasure, Commissioners.

Mr. Mahoney: Thank you, Mike.

Mr. Keawe: Thank you, Mike.

Chair Apisa: Only one meeting in December.

ADJOURNMENT

Ms. Nogami Streufert: Move to adjourn.

Mr. Mahoney: Second.

Chair Apisa: Motion to adjourn. We have a motion on the floor. All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 6:0. Meeting is adjourned.

Chair Apisa adjourned the meeting at 12:59 p.m.

Respectfully submitted by:



Darcie Agaran,
Commission Support Clerk

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

() Approved as amended. See minutes of _____ meeting.