The regular meeting of the Planning Commission of the County of Kaua‘i was called to order by Chair Mahoney at 8:58 a.m., at the Līhu‘e Civic Center, Mo‘ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Chair. Sean Mahoney
Ms. Glenda Nogami Streufert – (Arrived at 9:02 am)
Ms. Donna Apisa
Mr. Roy Ho
Mr. Kimo Keawe

Absent and Excused:
Ms. Kanoe Ahuna
Mr. Elester Calipio

The following staff members were present: Planning Department – Director Ka‘āina Hull, Chance Bukoski, and Dale Cua; Office of the County Attorney – Deputy County Attorney Nicholas Courson Office of Boards and Commissions – Administrative Specialist Anela Segreti, Support Clerk Arleen Kuwamura

CALL TO ORDER

Chair Mahoney called the meeting to order at 8:58 a.m.

ROLL CALL

Planning Director Ka‘āina Hull: Good morning, Chair and members of the Commission. The first order of business is roll call. Commissioner Ahuna is excused, Commissioner Ho.

Mr. Ho: Here.

Mr. Hull: Commissioner Streufert is also excused. Chair Mahoney.

Chair Mahoney: Here.

Mr. Hull: Commissioner Apisa.

Ms. Apisa: Here.

Mr. Hull: Commissioner Keawe.

Mr. Keawe: Here.
Mr. Hull: Chair, we have a Quorum

APPROVAL OF AGENDA

Mr. Hull: Next order of business is the approval of the agenda. The Department recommends that Item K1, Subdivision Committee Report be moved right before agenda item I., General Business Matters, and for the purposes of the Executive Session that it be moved to the end of agenda with Adjournment to follow.

Chair Mahoney: Do we have a motion for an amended agenda.

Ms. Apisa: I move to amend the agenda as suggested

Chair Mahoney: To approve?

Mr. Ho: Seconded.

Chair Mahoney: It’s been moved and seconded. Any further discussions? Hearing none? All in favor signify by saying aye? (Unanimous voice vote) Any opposed? (None) Motion carries 4:0.

MINUTES of the meeting(s) of the Planning Commission

Meeting of December 11, 2018

Mr. Hull: The next agenda item is for – minutes for the meeting of December 18, 2018.

Chair Mahoney: Chair will entertain a motion for approval?

Mr. Keawe: Motion to approve the minutes to December 18th.

Ms Apisa: Seconded.

Chair Mahony: It’s been moved and seconded. Any further discussion? Hearing none? All in favor signify by saying aye? (Unanimous voice vote) Any opposed? (None) Motion carries 5:0.

RECEIPT OF ITEMS FOR THE RECORD (None)

There were no items to receive for the record.

HEARINGS AND PUBLIC COMMENT

Continued Agency Hearing
Mr. Hull: The next agenda item is Agenda Item F., Hearings and Public comments. Individuals may orally testify on Items on this agenda during this public comment period. You may come to the microphone.

Chair Mahoney: Could you state your name for the record please.

Ms. Anne Kane: I am Anne Kane, the Principal of Kauai High school. I am here to provide some back ground on regarding our new gymnasion facility.

Mr. Hull: Ma’am, sorry to interrupt are you the applicant?

Ms. Kane: Yes.

Mr. Hull: Ok, if you’re the applicant, you will be given time for that. This is just for public testimony for if anyone wants to speak.

Chair Mahoney: When the agenda Item comes up you’ll have an opportunity and it might be better for you. Thank you. Is there any member of the public who would like to testify on any agenda Item that’s not a representative?

Ms Apisa: Do we need to say or I mean, is it exactly 30 calendar days or do we just say it to the first meeting in February, the February 12th, meeting just to be technical?

Chair Mahoney: Seeing none.

New Agency Hearing

Class IV Zoning Permit Z-IV-2019-8, Use Permit U-2019-6 to construct a new gymnasion on the Kauai High School campus in Nawiliwili, and Variance Permit V-2019-2 to deviate from the height requirements within the Residential zoning district, situated approx. 1,800 ft. east of the Nawiliwili Road/Lala Road intersection, further identified as 3577 Lala Road, Tax Map Keys: 3-2-005:010, 011 and 3-3-003:007, 015, and containing a total area of 28.978 acres = State of Hawaii, Department of Education.

Mr. Hull: Seeing none. We actually have the Agency Hearing. This is also for the Agency Hearing portion listed so the public can testify on the specific agenda Item. First agency hearing Item 2.a., Class IV Zoning Permit Z-IV-2019-8, Use Permit U-2019-6 to construct a new gymnasion on the Kauai High School campus in Nawiliwili, and Variance Permit V-2019-2 to deviate from the height requirements within the Residential zoning district, situated approx. 1,800 ft. east of the Nawiliwili Road/Lala Road intersection, further identified as 3577 Lala Road, Tax Map Keys: 3-2-005:010, 011 and 3-3-003:007, 015, and containing a total area of 28.978 acres = the applicant is State of Hawaii Department of Education. This is just an Agency Hear we don’t have anybody signed up. Is there anybody here to testify specifically on the Kauai High School agenda Item? Seeing none the Department will recommend closing the Agency Hearing.
Chair Mahoney: The Chair moves to entertain a motion to close the agency hearing.

Ms. Apisa: I make a motion we close the agency hearing.

Mr. Keawe: Seconded.

Chair Mahoney: OK. It’s been moved and seconded. All in favor signify by saying, Aye? (Unanimous voice vote) Opposed? Motion carries. 5:0.

Continued Agency Hearing

Class IV Zoning Permit Z-IV-2019-9, Use Permit U-2019-7, and Special Permit SP-2019-4 to allow installation of a stealth telecommunication structure and associated equipment on a parcel located along Koloa Road in Omao, situated approx. 1,000 ft. east of its intersection with Manahema Place, further identified as Tax Map Key: 2-7-003:024, and affecting an area approx. 1,200 sq. ft. in size = Verizon Wireless.

Mr. Hull: The next Agency Hearing is 2.b., Class IV Zoning Permit Z-IV- 2019-9, Use Permit U-2019-7, and Special Permit SP-2019-4 to allow installation of a stealth telecommunication structure and associated equipment on a parcel located along Koloa Road in Omao, situated approx. 1,000 ft. east of its intersection with Manahema Place, further identified as Tax Map Key: 2-7-003:024, and affecting an area approx. 1,200 sq. ft. in size = Verizon Wireless. Again this is just for the Agency Hearing. Is there anybody in here to testify, is there anybody from the public here to testify on the Agency Hearing on the Verizon Wireless application? Seeing none the Department would recommend closing the Agency Hearing Chair.

Chair Mahoney: Chair will entertain a motion to close the Agency Hearing.

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

Ms. Apisa: seconded

Chair Mahoney: OK. It’s been moved and seconded. All in favor signify by saying, Aye? (Unanimous voice vote) Opposed? Motion carries. 5:0.

CONSENT CALENDER

Status Reports

Director’s Report for Project Scheduled for Agency Hearing on Tuesday, 2/12/19.

Chair Mahoney: Chair will entertain a motion to approve the Consent Calendar?

Mr. Keawe: I move that we accept the Consent Calendar.
Ms. Nogami Streufert: Seconded.

Chair Mahoney: OK. It’s been moved and seconded. All in favor signify by saying, Aye? (Unanimous voice vote) Opposed? Motion carries.5:0.

COMMITTEE REPORTS

Subdivision (Action Matters)

Subdivision Application No. S-2019-8 (Stephanie Fernandes) Proposed 5-lot
Subdivision TMK: (4) 4-2- 005:044, Kapaa, Kaua‘i

Mr. Hull: Next agenda Item as amended would be Committee Report Subdivision action matter listed on the Community agenda.

Chair Mahoney: Is there a representative of the Subdivision Committee?

Mr. Ho: It took us a moment to get reorganized here, for action tentative map approval for Stephanie Fernandes was approved, and that was our committee meeting.

Chair Mahoney: Any further discussions? Chair will entertain a motion.

Ms. Apisa: I move we approve the minutes of the Subdivision Committee meeting.

Mr. Keawe: Seconded.

Chair Mahoney: OK. It’s been moved and seconded. Is there any further discussions. Hearing none. All in favor signify by saying, Aye? (Unanimous voice vote) Opposed? Motion carries.5:0.

GENERAL BUSINESS MATTERS

In the matter of Petition to Appeal Decision of Planning Director Relating to the Notice of Violation and Order to Pay fines for the Operation of an Unpermitted Transient Vacation Rental on Property Situated in Wailua, Kauai, Hawaii, identified by Kauai TMK No. (4) 4-1-004:019 containing 11,979 square feet= Greg L. Allen, Jr. and Joanne B. Allen.

Mr. Bukoski: Chair next up is the Item I.1., the General Business Matter. In the matter of Petition to Appeal decision of Planning Director Relating to the Notice of Violation and Order to pay fines for the Operation of an Unpermitted Transient Vacation Rental on Property Situated in Wailua, Kauai, identified by Kauai TMK No. (4) 4-1-004:019 containing 11,979 Square feet= Greg L. Allen Jr. and Joanne B. Allen. Hearing Officers Report and Recommended Contested Case dated December 3, 2018 and Petitioners’ Exceptions to Hearing officer’s Report and Recommendation of Contested Case; Request for Oral Argument: Certificate of Service.
Chair Mahoney: Ok. So at this juncture there’s been a request for oral argument so the options ...the County Attorney can correct me if I am wrong. We can either adopt the Hearing Officer or amend or listen to oral arguments. So at this time we’ll have the parties come up, the legal parties and identify themselves and then we can decide how we are going to move forward on this. If the parties could come and state their names for the record please.


Adam Roversi: Chair. Adam Roversi Deputy County Attorney Planning Department in this case.

Chair Mahoney: At this time could you explain why you want to give oral argument at this time after the hearing officers made a decision and the (inaudible) right? Could you explain your request for oral argument this juncture please.

Ms. Joanna Zeigler: Sure. The parties request for argument to give the Planning Commission a little bit more context facts of the case there’s so many facts. The location of the petitioner’s property, the petitioners also presented some constitutional arguments that we feel were not really addressed in the Hearing Officers’ report and would be able to be clarified if we were able to have an oral argument and a discussion with the Planning Commission.

Chair Mahoney: Could we have the Planning Department position on it this please.

Adam Roversi: The Planning Department believes this case was fully vetted by the Hearings officer we request that the Commission adopt the Hearing Officers report and recommendations. And as to the applicants accretion they want to discuss constitution issues with you, as the Planning Department argues before the Hearings Officer and we reiterate today, neither the Hearings Officer nor this Commission has the jurisdiction on defining the constitutionality of the County Ordinances so that would be a useless exercise (inaudible).

Chair Mahoney: Thank you.

Ms. Joanna Zeigler: Sorry, just one other comment. Part of our constitutional arguments in the fine imposed by the Hearing Officer in this case which this Commission would have the authority to look at because we believe the fine was unreasonably high and unconstitutional in that sense. We have other constitutional arguments as well but for that one specifically we believe the Planning commission would have the authority to look at.

Chair Mahoney: Before the Commission now you heard the words of the County Attorney the threshold argument now it’s up to us to decide if you want to adopt the ...Yes, certainly.

County Attorney Nicholas Courson: I think the first order of business is to decide rather or not you are going to grant the petitioners request for oral arguments. Depending on the answer to that we would get to (inaudible) Hearings Officer.
Chair Mahoney: Thank you. So Commissioners, I guess before us the first order would be to decide rather we are going to accept oral arguments at this juncture.

Ms. Apisa: I would say yes. It would be important that they’re adequately aired and heard.

Chair Mahoney: Commissioner Ho.

Mr. Ho: Are we opening it up for something for discussion that wasn’t covered by the Hearing Officer or are we just going to stay within that argument?

Chair Mahoney: We are going to allow if the Commission agrees that we should open up, so you have to make the decision whether we are going to allow this to have further or oral arguments. It’s already been adjudicated before a Hearings Officer now they are requesting oral arguments. Are we going to allow that to Happen? You may want to try to make a decision based on those facts. If that’s helpful at all.

Mr. Keawe: Your petition for the oral argument, aside from the Constitutional issues which you mentioned. Could you give me an idea of the specific items that you felt warranted and oral argument?

Ms. Joanna Zeigler: Sure. We did submit exceptions to the Hearing Officers Report so I think oral argument will just give us a chance to clarify those exceptions in where we feel in the hearing Officers Report lacked evidence to support its conclusion.

Mr. Keawe: OK. Constitutional issues are totally separate but it’s part of your petition.

Ms. Joanna Zeigler: Yes, we presented Constitutional issues as well as other issues.

Chair Mahoney: Commissioner.

Ms. Nogami Streufert: If we were to do this could we limit the amount of time or is this just open ended?

County Attorney Nicholas Courson: You could limit the amount of time. Just for preliminaries sake, it would be helpful to have a motion on the floor, you could always vote it down but it’s helpful to frame the conversation in a context motion either to grant or deny.

Ms. Apisa: I guess I would ask. How much time do you think you need to present what you feel wasn’t heard before? Five minutes?

Ms. Joanna Zeigler: I guess I did not contemplate the time but I don’t think we would need much time. Maybe five to ten minutes at the most.

Ms. Nogami Streufert: I move to grant oral arguments for 10 minutes per side.
Ms. Apisa: I'll second it.

Chair Mahoney: OK. It's been moved and seconded. Is there any further discussions. Hearing none.

Mr. Nicholas Courson: Commissioner Ho.

Mr. Ho: No.

Mr. Nicholas Courson: Commissioner Streufert.

Ms. Nogami Streufert: Yes.

Mr. Nicholas Courson: Commissioner Keawe.

Mr. Keawe: No.

Mr. Nicholas Courson: Commissioner Apisa.

Ms. Apisa: Yes.

Mr. Nicholas Courson: Chair Mahoney.

Chair Mahoney: No.

Mr. Nicholas Courson: Motion fails. 3:2.

Chair Mahoney: On the floor there would be motion to either ...

Ms. Nogami Streufert: I move to accept the Hearing Officers Report.

Ms. Apisa: I'll second it.

Chair Mahoney: OK. It's been moved and seconded. Is there any further discussions to accept the Hearing Officers Report? Hearing none. All in favor signify by saying, Aye? (Unanimous voice vote) Opposed? Motion carries.5:0.

Notice of Appeal and Demand for Contested Case Hearing from Denial of Submission of Administrative Fee for: 7214 Alamoo Road, Haena, HI 96714 (Certified No. 1202) Aninina, LLC, from Gregory W. Kugle, Esq., and Joanna C. Zeigler, Esq., to Clerk of Planning Commission, Mr. Kaaina S. Hull (12/31/18) [Contested Case No. CC-2018-14].

Mr. Hull: Next agenda Item would be General Business Matters I.2. Notice of Appeal and Demand for Contested Case Hearing from Denial of Submission of Administrative Fee for:
7214 Alamoo Road, Heana, Hi 96714, the Applicant is Anininina, LLC, Gregory Kugle Esq., and Joanna Zeigler, Esq., to the Clerk of the Planning Commission. This is essentially notice of appeal to deny the renewal application. The Department would recommend referring this to a Hearings Officer.

County Attorney Maryann Sasaki: Maryann Sasaki Deputy County Attorney. This has already been decided by the Hearings Officer, this is the same claim that they made in 2017. It could go to a Hearing Officer but that would appear to me to be redundant I think it should go straight to the Planning Commission because a decision has been made on this matter already. They just keep bringing the same claim over and over again.

Ms. Joanna Zeigler: I actually represent the... I think Ms. Sasaki is referring to the next three items on the agenda the Anininina, the PMD Hanalei, and the Boomerang, Ltd., they all reflect similar circumstances however, the Denial letters specifically says that the petitioners have the right to appeal and are in entitled to contested case hearings. We would disagree that the case has been decided and I guess whether or not it’s before the Commission or the Hearing Officer obviously we are still entitled to their due process and contested hearings.

Ms. Maryann Sasaki: Currently none of these Petitioners have a valid TVR. The TVR isn’t valid (inaudible) so they are entitled to an appeal the first it was denied, but to keep re-arguing it and re-litigating it is just a waste of time and money so I would once again say not before the same Hearing Officer who already rendered a decision in this case but in front of the Commission, that’s all I have to say.

Ms. Joanna Zeigler: Just one other point. Ms. Sasaki says that they are operating an illegal TVR but that case hasn’t been fully adjudicated its stuck. The prior appeal which is not these three appeals is before the circuit court right now so it has not been finally decided and these are three different, three separate applications for 2018 renewal.

Mr. Nicholas Courson: So Commission having heard from both sides I think the issue before the Commission right now is rather or not to hold the contested case yourselves or rather to refer it to a Hearings Officer that’s the decision today.

Ms. Nogami Streufert: But this is about 2018 approval as opposed to a 2017, and 2016?

Mr. Nicholas Courson: That’s what Counsel is saying, yes.

Ms. Maryann Sasaki: The 2017 approval was denied then they brought an appeal for the 2018 same (Inaudible) circumstances.

Ms. Joanna Zeigler: Sorry just to clarify, your right the renewal was applied for in 2018 but it’s for the calendar year 2017.

Ms. Nogami Streufert: OK.
Ms. Joanna Zeigler: Sorry one other clarification, I believe with these appeals are regarding a rejection of administrative fee which is actually not completely accurate to say that it’s their entire 2018 renewal. What happened was the Hearing Officer said that the application was incomplete minus this administrative fee so they submitted their administrative fee and that’s what they are appealing now, now that their application is complete they were still denied.

Ms. Nogami Streufert: Well their application was denied.

Ms. Joanna Zeigler: Well no the Hearing Officer said (inaudible).

Mr. Nicholas Courson: So to jump in before we get into arguments on the merits I think the decision right now on this particular issue, does the Commission wish to hold the contested case itself? Or does the Commission want to refer this to a Hearings Officer?

Mr. Keawe: Yes. I think that the process for holding Contested Case Hearings initially if before a Hearings Officer. Again we have to remember we are lay people we are not Attorneys and so that particular process I think should be used to go ahead and hear the merits of the case. However, my concern was you had mentioned there was still one of the cases that was in appeal from the previous decision?

Ms. Maryann Sasaki: Both these cases have been denied for non-conforming issues previously and they were denied in the subsequent year because they had been denied previously.

Mr. Keawe: True, but all three of the cases have not gone to a hearing Officer.

Mr. Nicholas Courson: It sounds like they have.

Mr. Keawe: Either they have or they haven’t so. Have they gone?

Mr. Nicholas Courson: The pieces of property have gone on but there can be different procedural steps in any particular property and I think that’s petitioners... Counsels arguing. Yes, this has been before a Hearings Officer but this is a newer issue. The Departments counsel can say it’s the same, it should be treated the same as you say you are lay people, it might be better to have those arguments before a Hearings Officer.

Mr. Keawe: Yes, that was my point.

Ms. Maryann Sasaki: I would also note then on the other hand that since they are in Circuit Court it might be advisable to wait for the judge to determine the outcome, the Hearing Officer just is really redundant.

Mr. Keawe: That’s why I asked the questions, she had mentioned they were in court so that’s why I ask the question would it be better to wait from our perspective for those decisions before we go ahead and say fine we are going to hear the case.
Ms. Joanna Zeigler: As was stated this is a separate issue regarding the same property so these specific cases are not before Circuit Court its separate issue involving the properties.

Ms. Nogami Streufert: Chair, may I ask a question. Exactly what is the issue? I’m a little confuse at this point.

Chair Mahoney: Yes.

Ms. Joanna Zeigler: Each one of these Properties.

Chair Mahoney: Are we getting into too much...If I can stop you for a moment and just clarify what our mission, right now, is not to get into too much merits of the case, and what our procedural duties is right now. Either we are going go to a Hearing Officer or hear the case. Am I correct on that?

Mr. Nicholas Courson: You’re correct Chair.

Chair Mahoney: So then let’s focus on those two particular items and the particulars will come out either when it comes to a Hearing Officer or if the choice is to hear it by the Commission. So before us would be the decision to either go to a Hearings Officer or the choice was to hear it by the Commission. So, before us would be either go to a Hearings Officer or the Commission hear the case. Correct on that?

Mr. Nicholas Courson: Correct Chair.

Chair Mahoney: So let’s focus on that. So if Commissioners have any?

Mr. Keawe: I want to express my...

Ms. Apisa: Put it in a form of a motion.

Mr. Keawe: Yes. I move that we...the motion is to refer this particular case Certificate No. 1201 Anininina LLC, to a Hearings Officer.

Ms. Apisa: Seconded.

Chair Mahoney: OK. It’s been moved and seconded. Is there any further discussions?

Mr. Ho: What is the motion, please?

Chair Mahoney: To move it to a Hearings Officer.

Ms. Nogami Streufert: But the Hearings Officer is only about this particular situation.

Chair Mahoney: The motion is to move it to a Hearings Officer that’s what’s on the floor and its either you want it to go to a Hearings Officer or not.
Ms. Nogami Streufert: I guess my question would be whether we are re-doing the entire thing or just this particular issue?

Chair Mahoney: The motion I think is pretty clear, without getting into all the merits of the case either you want a Hearings Officer to hear the case or you want the Commission to hear the case? So that’s what the motion on the floor is, it’s been seconded.

Ms. Apisa: And we are just talking about Anininina, LLC?

Chair Mahoney: We are talking about the motion that’s on the floor, accept or not accept?

Chair Mahoney: OK. It’s been moved and seconded. Is there any further discussions? Hearing none. All in favor signify by saying, Aye? (Unanimous voice vote) Opposed? Motion carries.5:0.

Mr. Keawe: I cannot oppose my own motion right?

Chair Mahoney: I don’t understand that one.

Mr. Nicholas Courson: You can but that motions is...

Mr. Keawe: A excuse me I...let’s do a roll call.

Mr. Nicholas Courson: Oh.

Chair Mahoney: Let’s do a roll call. Ok, the motion was to move to a Hearings Officer am I correct on that?

Ms. Apisa: Correct.

Chair Mahoney: Roll call please.

Mr. Nicholas Courson: Commissioner Apisa.

Ms. Apisa: Yes,

Mr. Nicholas Courson: Commissioner Keawe.

Mr. Keawe: Yes.

Mr. Nicholas Courson: Commissioner Ho.

Mr. Ho: No.

Mr. Nicholas Courson: Commissioner Streufert.
Ms. Nogami Streufert: Yes.

Mr. Nicholas Courson: Chair Mahoney.

Chair Mahoney: Yes.

Mr. Nicholas Courson: The ayes have it. Motion carries 4:1.

Notice of Appeal and Demand for Contested Case Hearing from Denial of Submission of Administrative Fee for: 5204 Weke Road, Hanalei HI 96714, (Certificate No. 1166), **PMD Hanalei, LLC**, from Gregory W. Kugle, Esq., and Joaana C. Zeigler, Esq., to Clerk of Planning Commission, Mr. Kaaina S. Hull (12/31/18) [Contested Case No. CC-2018-15].

Mr. Hull: Next agenda Item I.3. Notice of Appeal and Demand for Contested Case Hearing from Denial Submission of Administrative Fee for: 5204 Weke Road, Hanalei, HI 96714 PMD Hanalei, LLC, From Gregory W. Kugle, Esq., and Joanne C. Zeigler, Esq., to the Clerk of Planning Commission.

Ms. Apisa: Well since it’s similar I don’t know if we need any other discussion on it but being similar I would make a similar motion to the previous one that we... do we need discussion on it?

Mr. Nicholas Courson:
I would allow them. I would just ask if anyone has anything new to say.

Chair Mahoney: Is there anyone from the party’s is there anything additional that you want to include in these other cases that you would like to mention? Hearing none.

Ms. Apisa: I would make the motion to move Certificate No. 1166 PMD Hanalei, LLC, to a Hearings Officer.

Chair Mahoney: Is there a second?

Mr. Keawe: Second.
Chair Mahoney: It’s been moved and seconded. Is there any further discussions? Hearing none. Could we have a roll call vote on this please?

Mr. Nicholas Courson: Commissioner Apisa.

Ms. Apisa: Yes.

Mr. Nicholas Courson: Commissioner Keawe.

Mr. Keawe: Yes.
Mr. Nicholas Courson: Commissioner Ho.

Mr. Ho: No.

Mr. Nicholas Courson: Commissioner Streufert.


Mr. Nicholas Courson: Chair Mahoney.

Chair Mahoney: Aye.

Mr. Nicholas Courson: Motion Carries 4:1.

Notice of Appeal and Demand for Contested Case Hearing from Denial of submission of Administrative Fee for: 2559 Puuholo Road, Koloa, Hi 96756, TVNCU No. 5035, Boomerang, Ltd., from Gregory W. Kugle, Esq., and Joanna C. Zeigler, Esq., to Clerk of Planning Commission. Mr. Kaaina S. Hull (12/31/18).

Mr. Hull: The final General Business Matters Item I.4. Notice of Appeal and Demand for Contested Case Hearing from Denial of Submission of Administrative Fee for: 2559 Puuholo Road, HI 96756, TVNCU No. 5035, Boomerang, Ltd., from Gregory W. Kugle, Esq., and Joanne C. Zeigler, Esq., to Clerk of Planning Commission.

Chair Mahoney: Ok. Want again anything further from the party’s? No. OK. So the Chair will entertain a motion.

Ms. Nogami Streufert: I move to refer this case to a Hearings Officer.

Mr. Keawe: Second.

Chair Mahoney: It’s been moved and seconded. Is there any further discussions? Hearing none. Could we have a roll call vote on this please?

Mr. Nicholas Courson: Commissioner Apisa.

Ms. Apisa: Yes.

Mr. Nicholas Courson: Commissioner Keawe.

Mr. Keawe: Yes.

Mr. Nicholas Courson: Commissioner Ho.
Mr. Ho: No.

Mr. Nicholas Courson: Commissioner Streufert.


Mr. Nicholas Courson: Chair Mahoney.

Aye.

Mr. Nicholas Courson: Motion Carries 4:1.

COMMUNICATIONS (None)

HEARINGS AND PUBLIC COMMENTS

New Agency Hearing

Class IV Zoning Permit Z-IV-2019-8, Use Permit U-2019-6, to construct a new gymnasium on the Kauai High School campus in Nawiliwili, and Variance Permit V-2019-2 to deviate from the height requirements within the Residential zoning district, situated approx. 1,800 ft. east of the Nawiliwili Road/Lala Road intersection, further identified as 3577 Lala Road, Tax Map Keys: 3-2-005:010, 011 and 3-3-003:007,015, and containing a total area of 28.978 acres =State of Hawaii, Department of Education. [Directors report received 1/8/19].

Mr. Hall: First up is Class Iv Zoning Permit Z-IV-2019-8, Use Permit U-2019-6, to construct a new gymnasium on the Kauai High School campus in Nawiliwili, and Variance Permit V-2019-2 to deviate from the height requirements within the Residential zoning district, situated approx. 1,800 ft. east of the Nawiliwili Road/Lala Road intersection, further identified as 3577 Lala Road, Tax Map Keys: 3-2-005:010, 011 and 3-3-003:007, 015, and containing a total area of 28.978 acres. The applicant is State of Hawaii, Department of Education and Dale is our Planner.

Mr. Cua read the Director’s Report for the record (on file with the Planning Department).

Chair Mahoney: Members of the Commission. Is there any questions for the Planner?

Ms. Nogami Streufert: I do have one. There’s one issue that came up about water, that water at this point water is becoming an issue there? Not the waste water but water availability?

Mr. Cua: The domestic water situation will have to work directly and closely with the Water Department in terms of water allocations. Yes.
Ms. Nogami Streufert: Right now do you happen to know what the capacity of the gymnasium is? The current.
Mr. Cua: The current? I don’t have the information but I know the applicant and the athletic Director is here to answer those questions.

Mr. Keawe: Chair, I had some questions. The Variance request basically the limit 30ft, and they are going 49.6 ft.

Mr. Cua: Correct.

Mr. Keawe: And it said that the height of the existing gym is comparable. Do you know what the height of the existing gym is?

Mr. Cua: I would say they are very similar in height, it’s somewhere close to 50ft.

Mr. Keawe: Somewhere close to 50 ft. OK. So this Variance would not be in opposition’s to somethings that maybe surrounding the buildings?

Mr. Cua: No not at all because some of the classroom buildings on campus are over the 30 ft. thrush hold anyway.

Mr. Keawe: Another thing, this would be used as a future Hurricane Shelter.

Mr. Cua: Correct.

Mr. Keawe: Now there’s one other thing with regard to water on the road and runoff there was some concern with runoff on the road and mitigated measures to address that run off during the heavy rain.

Mr. Cua: Correct. Ah, with your report, I think, the Department added a supplement report to the Director’s report. In there we address that specific issue with regards to drainage and posed an additional condition in that supplemental report. Correct

Mr. Keawe: it’s a drainage study or something of that sort? Alright.

Mr. Cua: Correct.

Ms. Nogami Streufert: The gymnasium supposed to be capable of having 15 hundred people. I am not sure what it is right now, but it is an increase in space. To date has there been any concerns about parking when there are large events out there by the neighbors?

Mr. Cua: I believe the applicant will be addressing the parking situation and more likely providing parking on campus.

Ms. Nogami Streufert: Ok. Because that was not in the report as I read it. Thank you.
Chair Mahoney: Ok. Maybe when the applicant comes up we can clarify some of the other mitigations. Any further questions for the Planner? Seeing None. Is there a representative for the Applicant? Could you come up and state your name for the record please.

Mr. Keola Chang: My name is Keola Chang and I am a representative of the applicant.

Mr. Keawe: What is his name?

Mr. Dalton Beauprez: My name is Dalton Beauprez and we are working together on this application.

Mr. Chang: We are working together on this application. I believe there was some questions in regards to the existing capacity of the current gymnasium.

Mr. Keawe: You guys got to talk louder.

Ms. Nogami Streufert: Put the mike closer.

Mr. Dalton Beauprez: The existing capacity for the existing gym is approx. 750-800 people which is about 70% of the student enrollment.

Mr. Chang: The design of the proposed new gymnasium is to accommodate up to 1500 people which allows the school to accommodate the entire enrollment at one time. Currently there is a hardship involved like when they have large assembly’s they have to have some students stand outside. I’ll just talk loud.

Ms. Apisa: But into the mike.

Mr. Nicholas Courson: Please talk in the mike because it helps keep a record.

Mr. Chang: Basically the design of the gym is for 1500 people, it will accommodate the full enrollment of the school which fluctuates around 1100 to 1200 a year. It’s not anticipated to expand or grow that’s what DOE projections show, it will be pretty consistent with enrollment. So I guess the base line here is we are not really proposing any intensification of use necessarily it’s just basically more or less to accommodate existing school uses. The previous gym was constructed in 1938, 1939, it’s kind of an eighty year old facility at the time it predates title nine and you know the growth and the co-educational sports activities so at this point the existing gym is incapable of meeting the needs of the school from both the athletic and administrative standpoint. This new facility is meant to correct that issue and just account for school needs. I believe, from what you’ve been told, larger school events the gym averages 650 people in attendance and to date they have not had any issues with parking. Basically, overflow is handled on campus, they will open up the fields there is a parking lot up in the back they paved over recently that’s been kind of attached to this proposal and was meant to accommodate this gymnasium project as well. Most large sporting events happen on the weekend or after hours when school is not in session so basically any additional parking needs are solved on campus.
Chair Mahoney: OK. Commissioner Keawe, you got a question?

Mr. Keawe: Yes. Did I hear you correctly, or maybe the principle can reiterate. So you can’t accommodate the entire student body in that facility?

Mr. Chang: Yes, that’s correct. In the existing facility.

Mr. Keawe: Yes. Well that would be interesting to find out how they do that now. But obviously with 1500 seat stadium for facility you will be able to accommodate a lot more and having an all school assembly, I would assume.

Mr. Chang: Yes. It would be nice so they can have events and they can have parents involved as well. To try and fit the entire school in the gym is kind of hard.

Ms. Nogami Streufert: If you’re demolishing the old gymnasium, well right now it’s an impermeable field at this point because of that, if your demolishing it will that be a permeable field so that you won’t have the kind of run off problems that they are talking about here?

Mr. Chang: There is two parts, so I believe when the existing gymnasium is demolished. So I’m sorry, talking into the mike again. So the design of the new gym basically has a condition from the County. What they told us is that the design (inaudible) that we have to be able to retain a 100 year storm event on site. So with the new gym there is not going to be any additional storm water impacts outside of maybe a hurricane which would exceed the 100 year storm event and would cause flooding anyway. So there is going to be no net increase in storm water runoff, proposed action, and at the same time when the existing gym is demolished, I believe, the plans are to basically either convert it into some sort of permeable surface. So there will be overall a net improvement in storm water runoff retention on site.

Mr. Hull: I can also add, Commissioners, Dale alluded to earlier, the Department has been aware of community concerns and neighbor concerns about drainage impacts from the overall site and the Department of Public Works Engineering Division has recommended that a study for the entire site not just the project site but the school site be done in order to see if further mitigation measures can be done in order to ensure that current flooding may or may not being caused. Right now that’s why the request is for a comprehensive study be done and that is what the updated recommended Condition N.8 requires, that comprehensive study be done and prior to building permit approval, they can work with both Planning, or more specifically, with Engineering to resolving any of those issues if that study demonstrates that there are those issues in fact.

Chair Mahoney: OK. Is there any further questions for the applicant? Ok, yes.

Mr. Keawe: Yes. Just one more question. So as I looked at the plans am I reading that there is going to be a separate wrestling room that is part of that, which would be pretty good for that particular sport obviously? I was quite impressed that you would have something and try to expand the programs that we have on Kauai so seems to be a real interesting, wrestling now, and
with larger facility you will be able to accommodate more tournaments and get more people to come visit. Thank you.

Mr. Chang: Yes, that’s correct.

Chair Mahoney: Any further questions for the applicants Ok. I guess you could step down for public testimony. Is there anyone from the public that would like to testify on this Agenda Item? You gentlemen can sit down. Thank you very much. Could you come and state your name for the record please and you have 3 minutes for testimony allotted thank you.

Ms. Anne Kane: Hi. I am Anne Kane, I’m the Principal at Kauai High School to answer some of the questions that have come up the existing gym was constructed about 1938 and its 81 years old. Just some background, it’s extremely dilapidated, there is structural termite damage, louvers don’t open it doesn’t have a lot of things, and what the students need. Our enrollment has been pretty consistent at about 1120 give or take 20 students, the existing gym only 800 we have to have kids sitting on the floor, we are over fire code let’s face it. When we have homecoming, May Day, and then we have parents and then students are sitting at their feet and you’re trying to have the homecoming dance or the May Day dance, it’s just not adequate for things like that. The existing gym only has two one seater restrooms, so when you have a big… parent… I mean it’s just not adequate. There is no locker rooms, there’s no shower facilities for when you have visiting teams so the new gym will provide adequate space for parents and students for everything we do. It will provide locker rooms, it does have an adjacent wrestling room, right now our wrestler practice in the cafeteria and because we don’t have any space for them. It will have inviting large restrooms for when communities uses the gym as the community uses the gym on multiples occasions. It will basically provide a safe state of the art facility for the school and after school hours for the community events. From a Principals point of view, students react to their environment and a dingy termite ridden gym with window louvers that don’t open and close, no locker facilities, parents squashed with children at their feet during assemblies, the students don’t like to sit on the floor either. It’s just not an environment that is conducive to a proud Red Raider and there is nothing new, everything will be…something new there’s is nothing expanded that will happen accept that people will be more comfortable in a state of the art facility.

Chair Mahoney: OK. Thank you. Would you…

Mr. Christian Morgado: Hi I am Christian Keali’i Margado the Athletic Director just here to answer any questions you might have about the facility and how we use it.

Chair Mahoney: Well, I think we understand the facility needs and uses and I guess one of the outlined questions was the drainage and I think Director addressed it.

Ms. Nogami Streufert: There was also the question of the water demand is at capacity right now with a 4 inch pipe so that going to be worked out with the Department of Water that correct?
Chair Mahoney: Any further questions for the applicants? Is there any other member from the public that would like to testify on this Agenda Item? Please state your name for the record, I think we all know you but.

Mr. Randal Nishimura: For the record Randal Nishimura. I am a resident in the nearby area and I was the one that submitted the request for a DLNR assist for the drainage study. In listening to your discussion, I just wanted to verify rather the existing gymnasium will be in fact demolished because I thought it was on the Historic register?

Mr. Cua: Just based in the application it shows that the existing gym will be in place but I did not read anything about it being demolished.

Ms. Nogami Streufert: A little louder.

Mr. Cua: Yes. The application shows that the gym will be in place, I did not read in the application that it was to be retained or be removed.

Chair Mahoney: OK. In that case we can try to find that out.

Mr. Hull: Chair you can bring the applicant up after.

Chair Mahoney: Yes. We will bring the applicant up to clarify.

Mr. Nishimura: Relative to additional parking requirements, I would suggest or ask that the of Public Works when they look at it that they consider utilizing all of the existing parking areas on campus prior to allowing them to create more parking and if any kind of parking is created that you know the drainage impacts be mitigated. Thank you.

Chair Mahoney: Thank you very much. Is there anyone else? Could you please state your name for the record and speak directly into the microphone please.

Ms. Lori Takeyamagoshi: Lori Takeyamagoshi and I’m with the Architects office John Hara Associates, Inc.

Ms Apisa: Move closer to the mike.

Ms. Takeyamagoshi: I’m Lori. Can you hear me now?

Chair Mahoney: Yes.

Ms. Takeyamagoshi: Lori Takeyamagoshi and I’m with John Hara Associates, were are the Architects for the gym and I just wanted to address the parking question you had I think? In anticipation of the gym, in the first phase we move portables from the site and we did construct a new 52 car parking lot so there is additional parking as well and that drainage, there is a dentation basin agreement there so it retains the runoff water from that parking lot.
Chair Mahoney: What about the existing gymnasium, is that going to stay?

Ms. Takeyamagoshi: My understanding was that it was going to be demolished but I can’t speak for the Department of Education.

Chair Mahoney: Ok, so we will have to clarify that.

Ms. Nogami Streufert: I think it was in there somewhere I remember reading that.

Mr. Hull: Yes. I will (inaudible) demolition as one of the members spoke up from the public Mr. Nishimura the issue with the historic Perseveration of the site. It’s not a registered site on the State or the National register but it is pursuant to where the Hawaii Statutes categorized as a Historic Structure. So demolition of a Historic Structure can happen it just needs to be vetted through the proper reviews and protocols which would include but not limited to going before the Kauai Historic Preservation Review Commission as well as the State Historic Preservation Division under DLNR.

Ms. Nogami Streufert: On page five it does say that once construction complete the exiting gymnasium it says exiting, but I presume that it means existing gymnasium will be demolished.

Chair Mahoney: Ok

Mr. Hull: Yes. Like I was saying the Demolition Permit, they have to submit for a Demolition Permit and that Demolition Permit gets vetted to the Historical Review Bodies if you will.

Chair Mahoney: OK. Is there anything else or conclusion from our Planner? Our planner would you like to make your recommendation?

Mr. Cua: Moving on to the conclusion and recommendation for the project based on the foregoing findings and evaluation it is concluded that proper mitigated measures and compliance efforts the proposed development can be considered and it should not have significant adverse impacts to the environment or the surrounding neighborhood. The proposal is generally in compliance with the current criteria outlined for the granting of a Variance Permit, Use Permit, and Class IV Zoning Permit. Applicant should institute the best management practices to ensure that the operation of this facility does not generate impacts that may affect the health, safety, and welfare of those in the surrounding are of the proposal. Moving on to the recommendation. Based on the foregoing evaluation and conclusion it is here by recommended that Class IV Zoning Permit Z-IV-2019-8, Use Permit U-2019-6, and Variance Permit V-2019-2 be approved subject to the following requirements: 1. The proposed facility shall be constructed as represented any changes to said structures and or facility shall be removed by the Planning Department to determine rather the Planning Commission and approval is warranted. 2. The applicant shall develop and utilize best management practices of all phases of development in order to minimize erosion, dust, and sedimentation impacts to the project to a budding properties. 3. In order to minimize adverse impacts to the Federal Listed Threatened Species Newell’s Shearwater and other sea birds if external lighting is to be used in connection with the proposed project all external lighting shall be only of the following types; downward facing shielded
lights, spot lights in upward or spot lighting of structure shall be prohibited. 4. The applicant should resolve and comply with all Agencies requirements as recommended in the Permit application review including but not limited to building permit and drainage requirements of the County Department of Public Works engineering Division, County Fire Department, Portable water and fire protection requirements for the County Department of Water, and involving environmental concerns as it administered by the State Department of Health. 5. The applicant is advised that should any archeological or historical resources be discovered during ground disturbing construction work, all work in the area of the archeological historical findings shall immediately cease and applicant shall contact the State Department of Land and Natural Resources Historic Preservation Division and the Planning Department to determine mitigation measures. 6. The Planning Commission reserves the right to revise, add, or delete conditions of approval in order to address or mitigate unforeseen impacts the project may create or to revoke the permits for proper procedure should conditions of approval not be complied with or be violated. 7. The applicant is advised that additional Government Agency conditions may be imposed, it shall be the applicant’s responsibility to resolve those conditions with respective Agencies. And finally, Condition 8. From the supplement number 1, Condition 8. Prior to building permit approval the applicant shall prepare a Drainage Study to evaluate any impacts to downstream due to storm water runoff from the entire school site. Based on the analyst, the applicant shall work with the County Department of Public Works and Planning to mitigate drainage impacts to the surrounding area. And that concludes the Departments recommendation.

Chair Mahoney: Ok, thank you. Could the applicant representative come back to (inaudible) and once again state your name for the record please.

Mr. Chang: My name is Keola Chang.

Mr. Dalton Beauprez: My name is Dalton Beauprez.

Chair Mahoney: OK. I think at this juncture the chair will entertain a motion.

Mr. Keawe: OK. I move to approve Class IV Zoning Permit Z-IV-2019-8, Use Permit U-2019-6, to a new gymnasium on the Kauai High School campus and Variance Permit V-2019-2, to deviate from the height requirement.

Ms. Apisa: Seconded.

Chair Mahoney: The motion on the floor it’s been moved and seconded. Is there any further discussion? Hearing none. All in favor signify by saying aye. (Unanimous voice vote) Opposed? (None) Motion carries 5:0.

The Commission recessed this portion of the meeting at 9:58 a.m.
The Commission reconvened this portion of the meeting at 10:13 a.m.
New Agency Hearing (Cont’d)

Class IV Zoning Permit Z-IV-2019-9, Use Permit U-2019-7, and Special Permit SP-2019-4 to allow installation of a stealth telecommunication structure and associated equipment on a parcel located along Koloa Road in Omao, Situated approx. 1,000 ft. east of its intersection with Manahema Place, further identified as Tax Map Key: 2-7-003:024, and affecting an area approx. 1,200 sq. ft. in size = Verizon Wireless. [Director’s Report received 1/8/19.]

Mr. Hull: Next agenda Item is Class IV Zoning Permit Z-IV-2019-9, Use Permit U-2019-7, and special Permit SP-2019-4 to allow installation of a stealth telecommunication structure and associated equipment on a parcel located along Koloa Road in Omao, situated at Tax Map Key: 2-7-003:024, and affecting an area approx. 1,200 sq. ft. in size the applicant is Verizon Wireless and the Planner is Mr. Bukoski.

Mr. Bukoski: Good Morning Chair. Commissioners. Before I begin I would like to summarize this Directors Report and also there was an addition to the foregoing Permit in front of you for supplemental information on different view planes and also provided before you is comments from Department Of Public Works as we just received.

Mr. Bukoski read the Director’s Report for the record (on file with the Planning Department).

Chair Mahoney: Thank you. Is there any questions by the Commissioners to the Planner?

Ms. Nogami Streufert: This cell tower will be close to (inaudible) farm and substation, will there be any interference based on the high frequency (inaudible).

Mr. Bukoski: I’m unaware of that, I will leave that question up to the applicant in a sense.

Chair Mahoney: Any further to the Planner? Hearing none. Any representative for the applicant please come up to the microphone and state your name for the record please.

Mr. Mike Bissen: Good Morning Commissioners. My name is Mike Bissen I’ve been working on Verizon projects for the past 20 years here in Hawaii. Wanted to go a little bit back ground on how we come to this site now. We started this project in 2013, looking around to try to cover the highway, the valley, and Lawai areas. Primarily focusing in the properties at that time at the highway side. In the middle of 2014, we found out that AT&T was submitting an application for a tower on the Koloa Road end of that area. Verizon put their plans aside expecting that it would be better to co-locate on that tower as opposed to do another tower. The Planning Commission in 2014, approved a 70 foot tower on what is the adjacent property to what we are proposing, that project never got built. So we come back a year and half later and start again with the idea that well since the idea that project did not get built the radio engineers looked over on that side to see if this is something that would work for them and we came up with the plan that we have now. It has a good view ability to look up and down Koloa Road it sees the valley well it’s going to reach over to the highway. We proposed the same thing a tree pole design, one of the
things I wanted to add to the project description is the power and telephone is going to be under the ground so when they talk about lines these are underground lines and will not be visible element added to the project. The generator I think your familiar with telecommunication sites, they all include sound cowling to bring the noise down to what’s considered State level allowable use in the agricultural area so that is how we address sound in that part of the project. The Planning Department asked me to go back out and look at the area the other views that was the supplemental part here, I hadn’t expected to see much from my earlier visits in the area. I was able to find one spot on Omao Road at the park that had a view of this property were the sites going to be, the photos shows the views that I was able to find, I found two other locations looking between trees you could see the property so I identified those, that of course is from the public perspective. I expect private properties will probably see similar view given the trees are all in an open area. After doing that site walk I got a call from a neighbor that’s up hill to the west from the property. From the property itself you see more of houses out across the valley to Omao Road but you don’t see anything uphill, and of course they happen to be uphill. They have expressed their concerns about the view that it will be in their view. I thought that we had almost come up with a perfect project here but there are some private views that will see this project. The last part the Planning Department asked about presenting a water tank concept, we did not feel like that was an appropriate structure to be building, we think the tree poles better some of the surrounding photographs show that there are large cool pines out there and that was a better design then actually doing a manmade structure in a sense of architectural building idea that’s in the supplemental report that you have but just emphasizing we think the tree poles a better design for camouflaging what we can. Are there any questions?

Chair Mahoney: Are there any questions for the applicant?

Ms. Nogami Streufert: My question is it’s going to be relatively close to the 200 acre solar farm with their substation?

Mr. Bissen: That’s the existing farm.


Mr. Bissen: I don’t believe we are shadowing any farm because

Ms. Nogami Streufert: It’s across the street.

Mr. Bissen: Oh no. Definitely not shadowing and interferences, these are all licensed frequencies so if somebody using a frequency that Verizon is using it’s on them to correct it. In the Conditions of approval there is another part I wanted to add. I have read the preliminary Conditions of approval and we accept them. One of those things is to make sure we don’t interfere with police and that’s always the case that we make sure we don’t do that. But as a licensed frequency there shouldn’t be any crossing interference.

Ms. Nogami Streufert: I also want to commend you that you’re doing things underground from the road to your facility and that’s something I appreciate not having airspace full of cords.
Mr. Bissen: Yes. It’s definitely an extra expense but its ideally going to look sharp.

Chair Mahoney: Is there any other questions Commissioners to the applicant? Having none. Thank you. Is there any member of the public that would like to testify on this Agenda Item, if so please come to the microphone and state your name for the record? Seeing none. Could we go to the Planner for your conclusion and recommendation?

Mr. Bukoski: Conclusion, based on the information contained on the Staff Report Findings and Evaluations the Planning Department concludes the following; 1. The proposed development should not have any substantial adverse impact to the surrounding neighborhood. 2. The applicants proposed plans are in line with the guidelines of the General Plan and conformance with the development standards classified in the South Kauai Community Plan and comprehensive zoning ordinance. Moving on to the recommendation. Based on the foregoing findings it is here by recommended that Class IV Zoning Permit Z-2019-9, Use Permit U-2019-7, and Special Permit SP-2019-4, be approved to the following nine Conditions.

Chair Mahoney: Do you want to hear the conditions? Does everybody understand the Conditions? Could they please come back to the podium please and state your name again for the record?

Mr. Bissen: Mike Bissen again representing Verizon.

Chair Mahoney: So you’ve read and understand the conditions and are willing to comply with all conditions?

Mr. Bissen: The Preliminary recommendation and nine Conditions given that there all the same Conditions we agree we can meet this Condition.

Mr. Bukoski: Based on the foregoing findings Class IV Zoning Permit Z-2019-9, Use Permit U-2019-7, and Special Permit SP-2019-4, be approved to the following nine Conditions.


Chair Mahoney: There is a move is there a second?

Ms. Apisa: Seconded.

Chair Mahoney: It’s been moved and seconded. Is there any further discussion? Hearing none. All in favor signify by saying aye. (Unanimous voice vote) Opposed? (None) Motion carries 5:0.

ANNOUNCEMENTS

Topics for Future Meetings
Mr. Hull: Next agenda Item is Announcement and topics for future meetings we have the updated list projects and in the pipe or working their way through the pipe. Does anyone have any questions on that? I do also realize that at the last meeting Commissioner Ho, and I have to apologize Commissioner Ho requested an update on the ARU Bill, and so we will make sure we will work (inaudible) to get it. I believe at the last meeting you asked for that for this meeting agenda. I apologize because we did not get that on, but we will work with the Chair to get it on the following agenda.

Mr. Ho: February 12th?

Mr. Hull: Correct.

EXECUTIVE SESSION

Pursuant to Hawai‘i Revised Statues Section 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 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. Hull: Seeing no questions the agenda item is the Executive Session pursuant to Hawai‘i Revised Statutes Section 92-4 and 92-5(a) (4), the purpose of this executive session is to consult with the County 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 contested case CC-2015-20, Class IV Zoning Z-IV-2007-1, Use Permit U-2007-1, Special Permit SP-2007-01, Tax Key Map: (4) 2-8-002: por. 005 =Kaua‘i Springs, Inc.

The agenda was amended for adjournment to follow Executive Session.

Chair Mahoney: Do we have a motion to go into Executive Session with an amended adjournment?

Ms. Nogami Streufert: I move to go into Executive Session followed by Adjournment.

Mr. Ho: Second.

Chair Mahoney: It's been moved and seconded. Any discussion? Hearing none. Do you want a roll call?

Mr. Keawe: No.

Chair Mahoney: OK. All in favor signify by saying aye. (Unanimous voice vote) Opposed? (None) Motion carries 5:0. Adjourned. Thank you.
The Commission recessed this portion of the meeting at 10:29 am.

ADJOURNMENT

Chair Mahoney adjourned the meeting 10:55a.m.

Respectfully submitted by:

[Signature]

Arleen Kuwamura,
Commission Support Clerk

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

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