

KAUA‘I PLANNING COMMISSION
REGULAR MEETING
February 11, 2020

The regular meeting of the Planning Commission of the County of Kaua‘i was called to order by Chair Sean Mahoney at 9:02 a.m., at the Līhu‘e Civic Center, Mo‘ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Mr. Sean Mahoney
Ms. Glenda Nogami Streufert
Mr. Roy Ho
Ms. Donna Apisa
Lori Otsuka
Melvin Chiba

Absent:

The following staff members were present: Planning Department – Director Kaaina Hull, Deputy Director Jodi Higuchi Sayegusa, Chance Bukoski, Jody Galinato, Dale Cua, Romio Idica, Marie Williams, Lee Steinmetz, Leanora Kaiakamalie, Marisa Valenciano, Nani Sadora, and Planning Commission Secretary Leslie Takasaki; Office of the County Attorney – Deputy County Attorney Nicholas Courson; Office of Boards and Commissions –Support Clerk Arleen Kuwamura

CALL TO ORDER

Chair Mahoney: Called the meeting to order at 9:02 a.m.

ROLL CALL

Planning Director Mr. Kaaina Hull: Good morning Chair and members of the Commission. First order of business is roll call. Commissioner Mahoney.

Mr. Mahony: Here.

Mr. Hull: Commissioner Ho?

Mr. Ho: Here.

Mr. Hull: Commissioner Apisa

Ms. Apisa: Here.

Mr. Hull: Commissioner Otsuka.

Ms. Otsuka: Here.

Mr. Hull: Commissioner Chiba.

Mr. Chiba: Here.

Mr. Hull: Chair Streufert.

Chair Nogami Streufert: Here.

Mr. Hull: Madame Chair, you do have a quorum.

APPROVAL OF AGENDA

Mr. Hull: The next Agenda Item is Approval of the Agenda. The Department has no recommended changes at this time.

Mr. Mahoney: Chair, move to approve the agenda.

Ms. Apisa: Second.

Chair Nogami Streufert: It's been moved and seconded to approve the Agenda as stated. Any discussion? All in favor, signify by saying, aye. Aye. (Unanimous voice vote). Opposed? (None). Motion carried. 6:0.

MINUTES of the meeting(s) of the Planning Commission

Mr. Hull: Next Agenda Item is the Minutes of the Meeting for the Planning Commission. There is a bit of a typo, just to make that correction. These are the minutes of December 10, 2019.

Ms. Apisa: I move that we approve the minutes of the Planning Commission from December 10, 2019.

Chair Nogami Streufert: Subdivision Committee Meeting?

Ms. Apisa: Planning Commission.

Ms. Otsuka: Seconded.

Chair Nogami Streufert: It's been moved and seconded. Any discussion? All in favor, signify by saying, aye. Aye. (Unanimous voice vote). Opposed? (None). Motion carried. 6:0.

RECEIPT OF ITEMS FOR THE RECORD (None)

Mr. Hull: There are no receipt of items for the record.

HEARINGS AND PUBLIC COMMENT

Mr. Hull: Next Agenda Item is Hearings and Public Comment. At this time, there are series of agenda items. A sign-up sheet is located at the front of the Commission. You can sign-up for those who would like to speak at the specific hearings themselves, if you don't want to wait for the actually hearing to come up. Now is the time afforded to the public and any member of the audience who would like to testify on any agenda item? Is there anyone in the public that would like to testify prior to the designated hearing items? Seeing none.

New Agency Hearing

Mr. Hull: We have no Agency Hearing.

Continued Public Hearing

Zoning Amendment ZA-2016-3: A bill for an ordinance Amending Chapter 8, Kauai County Code 1987, as amended, relating to Definitions = County of Kauai, Planning Department. [Director's Report received & hearing continued 2/23/16, Supplement No. 1 to Director' s Report received & hearing continued 3/8/16, Supplement No. 2 received & hearing continued 6/14/16, Supplement No. 3 received & hearing continued 1/28/2020.]

Mr. Hull: Moving on to Continue Public Hearing. Zoning Amendment ZA-2016-3. A bill for an ordinance Amending Chapter 8, Kauai County Code 1987, as amended, relating to Definitions. The applicant is the County of Kauai Planning Department and Jodi is our Planner on this, so I will turn it over to Jodi.

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

Deputy Planning Director Jodi Higuchi Sayegusa: Good morning Chair and Commissioner. So based on the discussion that you folks had during the last Commission Meeting regarding regarding the Zoning Amendment, the Department made revisions to the proposed amendment to the definition of "applicant" under Kauai County Code 8-1.5. So we proposed to remove language allowing persons leasing the land of another for a term of five years or more, or who has authorization from the leaser as being an applicant. It affects the following individual's submitting zoning applications. One, owners having full equitable and legal title of land in fee simple, or any person who has full written authorization of the owner. So this amendment furthers the Department's intent to ensure that we have the right people applying for zoning entitlements. The nature of zoning entitlements run with the land. So the amendment aligns with having the owner being the applicant or those who have authorization from the owner. It also eliminates the concern that lease holders may execute land use changes on property, when they don't own the land you know, especially if they are at the tail-end of their lease. So that is the nature of the amendment, and I'm here for any questions that you have.

Chair Nogami Streufert: Mr. Ho.

Mr. Ho: Jodi, how does the owner pass his right of being the resident to someone else? The reason I ask is attorneys frequently represent the owners. Is that the case? Can that be done?

Ms. Higuchi Sayegusa: Right. That is why the language of any person who has full authorization of the owner will be able to apply in behalf of the owner. In most scenarios we require a sign-up sheet, or we have an authorization sheet. So the representative will have to get a signature of the owner that we have on record, and we verify that our records that the owner...all the owners have signed-off and have given the representative the authorization to represent or submit an application on behalf of the owner.

Mr. Ho: It's not simply a letter from the owner?

Ms. Higuchi Sayegusa: It could be a letter. We have a form here in the front for folks' convenience, but it could be a letter directly from the owner that authorizes so and so to be their representative. It could be an attorney. It could be any person on behalf of the owner. And again, we anticipate maybe looking at possibly looking at some rules to further flush out the requirements that we are going to be looking at it from the Departments perspective. But again, this is the first step to clarify the definition of "applicant" and "owner."

Mr. Ho: Thank you.

Chair Nogami Streufert: Any other questions for the Planner?

Ms. Apisa: I guess just any signature, doesn't have to be notarized?

Ms. Higuchi Sayegusa: We may look at requiring notary, notarized signatures going forward.

Chair Nogami Streufert: This I think makes it clear that the owners still owns the property, even though he/she has leased it out to someone else. Otherwise, because the zoning goes with the land and with whomever owns it at that time. It makes it clearer.

Ms. Higuchi Sayegusa: Right.

Ms. Apisa: I'm hearing that it could be a lease or not even a lease. It could just be anybody that the owner wishes to grant that authority to.

Mr. Hull: So just for clarification, at the last Commission Meeting there was some concern that there was language in the draft Ordinance that was actually from the original and currently existing definition of "applicant" to include not only the owner, but also a tenant that has a lease of up to five years, five years or greater. And so going over that concerns voiced at the Commission Meeting, the Department felt it prudent to just apply the authorization solely to the owner of the property, and that is it. To take away the discussion concerning a lessor of whatever years, it's just straight up, it's up to the owner. Now any owner of a property can cede the authorization over to any party regardless of this proposal to apply for certain permits. So if they've sign an authorization somebody to do that's just a legal right that they can exercise. Jodi is just clarifying that yes indeed, it can be anybody, but it's not an automatic authorization that a

lessor or tenant or anybody can come. They have to get, again, the actual owner to sign that authorization over.

Ms. Apisa: Makes sense. Thank you.

Chair Nogami Streufert: Do we have a motion?

Mr. Hull: Prior to any motions the Department has actually, this is the public hearing. So we have two individuals signed up for this Zoning Amendment. First person signed up is Gordon LaBedz.

Chair Nogami Streufert: Please state your name.

Mr. Gordon LaBedz: Good morning everybody. My name is Gordon LaBedz and I'm a retired physician and medical school professor. I live in Kekaha and I'm the zone that you want to re-zone.

Mr. Hull: Hold on, Mr. LeBedz. Are you here for the Special Treatment Coastal Zone?

Mr. LaBedz: Special treatment? Is it the wrong subject?

Mr. Hull: That's coming up.

Mr. LaBedz: Thank you.

Mr. Hull: Next speaker we have signed up is Richard Daley.

Mr. Richard Daley: My name is Richard Daley. I'm the co-owner of two units in Waimea by the Sea Condominiums in Waimea. And we are currently in your proposed Ordinance in the Special Area.

Mr. Hull: Mr. Daley sorry to interrupt. The Zoning Amendment concerning the definition of "applicant." Concerning Special Treatment Coastal Edge, that is coming up with the West Kauai Plan.

Chair Nogami Streufert: Any other testimony? I'll entertain a motion.

Mr. Mahoney: Chair, move to approve Zoning Amendment ZA-2016-3, to amend definition of "applicant."

Ms. Otsuka: Second.

Chair Nogami Streufert: It's been moved and seconded to accept the Zoning Amendment ZA-2016-3. Any further discussion? All in favor, signify by saying, aye. Aye. (Unanimous voice vote). Opposed? (None). Motion carried. 6:0.

New Public Hearing

Zoning Amendment ZA-2020-6: A bill for an ordinance amending Chapter 8, Article 2, of the Kauai County Code 1987, as amended, relating to the Table of Uses in the Comprehensive Zoning Ordinance (CZO). The proposal amends Section 8-2.4 Table of Uses to allow residential uses as generally permitted in the General Commercial (CG) and Neighborhood Commercial (CN) Zoning Districts = *County of Kauai, Planning Department.*

Mr. Hull: Next on the Agenda is a New Public Hearing for Zoning Amendment ZA-2020-6: A bill for an ordinance amending Chapter 8, Article 2, of the Kauai County Code 1987, as amended, relating to the Table of Uses in the Comprehensive Zoning Ordinance (CZO). The proposal amends Section 8-2.4 Table of Uses to allow residential uses as generally permitted in the General Commercial (CG) and Neighborhood Commercial (CN) Zoning Districts. County of Kauai, Planning Department. Marisa is our Planner so I will turn it over to her.

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

Staff Planner Marisa Valenciano: Good morning Madame Chair and Commissioner. Chair, may I please have permission to summarize my report?

Chair Nogami Streufert: Yes, please.

Ms. Valenciano: Thank you. So today, before you is a bill to amend Chapter 8 of the Kauai County Code 1987, regarding generally permitted residential uses in the general commercial and neighborhood-commercial zoning districts. Under project description and use, the draft amends the table of uses in the comprehensive Zoning Ordinance to allow residential uses from a use permit, to a permitted in the general commercial and neighborhood-commercial zoning districts. Under the applicant's reason and justification it's really simple. The first reason, is to address Kauai's housing crisis and in an effort to address the housing crisis for this island, the County has taken proactive measures to increase the inventory of housing opportunities across the island. And over the last few years, the County of Kauai has amended the Residential Development Standards to provide flexibility and to increase the construction of housing units in residential zoning districts. Second, this proposed amendment implements the 2018 General Plan and specifically, it addresses the goals and policies outlined in the General Plan by providing housing and supporting the vibrant mixes uses and walkable communities. Third, this proposed bill streamlines the permitting process for compatible uses. When residential uses are located within commercial zoning districts, they are not only compatible, but they contribute towards a vibrant and thriving town center and therefore, residential uses that are located within commercial areas should not be subject to the existing use permit process. This summarizes my report and I would be happy to answer any questions that you may have.

Chair Nogami Streufert: Are there any questions for the Planner? If I could ask one question. We're all very concerned about affordable housing and about having enough housing inventory, because we have a problem with housing here. But sometimes when we look at these kind of things we come up with short-term solutions that may have long-term... not be in our best

interest. Can you discuss a little bit about how this is going to fit into the overall General Plan?

Ms. Valenciano: I think just going back to my report, I think just allowing commercial uses...I'm sorry, I apologize. Allowing residential uses outright in the commercial general areas would actually be appropriate and it would be fitting and aligns with the current goals and policies in the General Plan. In the General Plan, it supports this walkable mixed-use compact community design and I think this really helps to enhance and move those goals forward.

Chair Nogami Streufert: Mr. Ho.

Mr. Ho: Marisa, what would...this is a mixed-use of a commercial lot?

Ms. Valenciano: So the zoning would be...this would apply for zoning districts for the commercial, general and commercial areas? Right now in the CZO, residential uses are a use permit and this would just allow it to be an outright permitted use for this zoning district.

Mr. Ho: What would this look like, you have a restaurant below and an apartment building above it?

Ms. Valenciano: I think it would just allow for the use, and if the use were to look like that, I think that could be one option. But it mainly would just open up the use. So it could be configured perhaps maybe in a mixed-use building or being allowed outright as a single-story or multi-family unit.

Chair Nogami Streufert: Any other questions? I entertain a motion?

Mr. Hull: The Department doesn't have anyone signed up for testimony on this. Chair it would be appropriate to ask if there is any public testimony.

Chair Nogami Streufert: Thank you. Is there any public testimony on this particular amendment? Please. Would you like to step to the microphone?

Mr. Richard Rodarte: Hello my name is Richard Rodarte a commercial real estate broker in the area. I manage quite a bit of property throughout the County, actually. I would support a use of this nature, knowing the nature of our housing situation and how it affects the tenants and their ability to have employees. They are always struggling with even short-term housing scenarios to get people at least grounded in looking for longer term solutions. Any type of housing component that can help tenants and their employees operate their businesses at the commercial-level is a good idea and I support it. Thank you.

Chair Nogami Streufert: Thank you. Anyone else?

Mr. Hull: Seeing none. And if there are no further questions the Department actually asked for a Continuance of this Hearing. The Planner and the Department are in discussions with a couple of agencies concerning their comments to the proposal. So we would just like some additional time to have discussions with those agencies. So the Department, again, if you guys have any questions or further discussion, by all means, but at the end, the Department is requesting a Deferral to the February 25th Planning Commission Meeting...excuse me. Yes, February 25th Planning Commission Meeting.

Ms. Apisa: I move that we Continue Zoning Amendment ZA-2020-6 to our February 25 2020 Meeting.

Mr. Mahoney: Second.

Chair Nogami Streufert: It's been moved and seconded to continue the Zoning Amendment ZA-2020-6 to the next Meeting on February 25th. Any further discussion? All in favor, signify by saying, aye. Aye. (Unanimous voice vote). Opposed? (None). Motion carried. 6:0.

Zoning Amendment ZA-2020 7:

DEVELOPMENT PLAN AMENDMENTS: Hanapepe-'Ele'ele Development Plan and Waimea-Kekaha Development Plan.

ZONING MAP AMENDMENTS: ZM-K 100 Kekaha, ZM-W 100 Waimea, and ZMH200 Hanapepe-Port Allen-'Ele'ele.

This bill for an ordinance proposes to adopt and implement the West Kauai Community Plan, which is an update to the Hanapepe-'Ele'ele Development Plan and the Waimea-Kekaha Development Plan, and includes the communities of Kekaha, Waimea, Hanapepe, 'Ele'ele, and Kaumakani. The proposed ordinance will amend Chapter 10, Articles 3 and 4 of the Kauai County Code to adopt the West Kauai Community Plan and establish special planning areas for the town centers of Kekaha, Waimea, Hanapepe, and 'Ele'ele-Port Allen. The special planning areas will use form-based code to provide development standards and guidelines to further the goals and objectives for the West Kauai Community Plan that were created through a public planning process. The following special planning areas are proposed:

- Special Planning Area "K", also known as the "Kekaha Town Walkable Mixed Use District".
- Special Planning Area "L", also known as the "Waimea Town Walkable Mixed Use District".
- Special Planning Area "M", also known as the "Hanapepe Town Walkable Mixed Use District".
- Special Planning Area "N", also known as the "'Ele'ele-Port Allen Walkable Mixed Use District"= County of Kauai, Planning Department.

Mr. Hull: Next on the Agenda Zoning Amendment ZA-2020 7: Development Plan Amendments: Hanapepe-'Ele'ele Development Plan and Waimea-Kekaha Development Plan. Zoning Map Amendments: ZM-K 100 Kekaha, ZM-W 100 Waimea, and ZMH200 Hanapepe-Port Allen-'Ele'ele. This bill for an ordinance proposes to adopt and implement the West Kauai Community Plan, which is an update to the Hanapepe-'Ele'ele Development Plan and the Waimea-Kekaha Development Plan, and includes the communities of Kekaha, Waimea, Hanapepe, 'Ele'ele, and Kaumakani. The proposed Ordinance will amend Chapter 10, Articles 3 and 4 of the Kauai County Code to adopt the West Kauai Community Plan and Establish Special Planning Areas for the town centers of Kekaha, Waimea, Hanapepe, and 'Ele'ele-Port Allen. The special planning areas will use form-based code to provide development standards and guidelines to further the goals and objectives for the West Kauai Community Plan that were

created through a public planning process. The following special planning areas are proposed: Special Planning Area "K", also known as the "Kekaha Town Walkable Mixed Use District". Special Planning Area "L", also known as the "Waimea Town Walkable Mixed Use District". Special Planning Area "M", also known as the "Hanapepe Town Walkable Mixed Use District". Special Planning Area "N", also known as the "' Ele' ele-Port Allen Walkable Mixed Use District". The County of Kauai, Planning Department. I am going to ask if we could have a few minutes for our team to set-up there projector and slide show power point for the presentation.

Chair Nogami Streufert: We will take a ten (10) minute break.

The Commission recessed this portion of the meeting at 9:21 a.m

The Commission reconvened this portion of the meeting at 9:29 a.m.

Chair Nogami Streufert: Call the meeting back to order.

Mr. Hull: I'm going to turn the long-range team who will be presenting on the Draft West Kauai Plan here. So a little bit of background. The Department embarked on the West Kauai Plan about two years ago. And the team will go into the series of outreach and the workshops we held and how we got to the process. Over the past two years, the Department has been working pretty intimately and robustly out in the community to update this Draft Plan and provide it to you folks. So this essentially the first product that the Department is bring to you guys with the recommended proposals and policies. It is by no means a final product. This is the first official Hearing on it, and the propose of it is to still engage community members, property owners, policymakers, like yourselves, and dialogue what areas of the plan are appropriate and what area of the plan are perhaps not appropriate? Where the plans should be changed and what not should be changed and so on and so forth. This is still very much in its draft stages and we are bringing it to you folks at the next meeting February 25th an actual series of zoning amendments that looks at implementing specific policies that are drafted in this plan. But even like I said, about the plan, those draft Ordinances are also in draft format and we still want to engage you folks and still want to engage the community on as far as potential amendments, tweaks, or what have you to make sure that they are, that they have the intended implementation consequences that we desire out of these policies. So, I will turn it over to Marie and here team and we will be available for questions afterwards.

Long Range Staff Planner Marie Williams: Good morning Commission Chair, and members of the Commission. Draft Bill and Zoning Amendments 2020-7, this is a draft bill to adopt and implement the West Kauai Community Plan by repealing and replacing two (2) Articles in Chapter 10, which is where we house our Special Development Plan or Community Plans in the Kauai County Code. And also, just as the Planning Director clarified, I again, would like to clarify that there are other zoning amendments that will accompany this plan as a package. But the public hearing for those will be at the next Planning Commission Meeting on February 25, 2020. Instead, we wanted to take the time today to really focus on the plan, and the process that we took to arrive at the draft that you have before you. And if it is okay, I would like to forego the reading of the Planning Director's Report and dive straight into the presentation.

Today, we have our entire team before you, and just on behalf of the team, it's been a real

pleasure and a privilege working on this Community Plan. And I also just want to say that this is a very hard-working team. You don't complete a plan like this without having a strong team to push it forward, especially as this time we did not have a prime consultant, and instead we relied on sub consultants where we didn't have the expertise in-house. Let me go ahead and begin the slide.

Ms. Williams presented the PowerPoint on the West Kauai Community Plan (on file with the Planning Department).

Ms. Williams: Thank you. And our presentation is almost at close. So thank you for bearing with us. But very quickly, I'm just going to explain how we implement plans this. Lee definitely went over the purpose of the plans and why we are required to maintain and update these Community Plans and their importance. So I'm just going to repeat that again. This is essentially a Land Use Plan that meant to guide how we...how the County grows and how we develop whether it's individual projects or the areas in which zoning amendments or State Land use boundary amendments could occur. For that to happen, sometimes the zoning would have to change. So we are proposing to through a series of zoning amendments changes to our zoning code that will influence how development occurs. Just to clarify, we're not...through this process, proposing any changes to our tax regime, but that can be influenced through policies as well.

On the other side, that is how the County delivers its services and how we build infrastructure and plans like this do help guide or six (6) year Capital Improvement Program. This is a mid-range plan that kind of overviews the County's needs, and wants projects from roads to parks. We last updated the six (6) year Capital Improvement a few years ago and that is actually a duty of all of you; that the Planning Commission is meant to maintain this program. And of course, this feeds into the annual budget as well that ultimately decides what monies will be allocated to different projects. But of course, even though this is a County Plan, we do want to work closely with the other agencies, departments, other community groups, nonprofits, and so when it comes to the the State and Federal side, of course, we do welcome their input. We seek their input and planning processes like this, and likewise they often engage us when they have their master plan processes, and we would use this plan as a basis for working with them when it comes to issues relevant to the west side.

And finally, when it comes to the public groups, community groups, of course, they can do whatever they want with or without the plan. We would hope that our plan, our policies, do support the direction that they are headed to improve their community, and towns and we definitely seek and welcome their input in planning processes like this. So that's a summary of how plans like this don't stay on the shelf, but actually have legs and run. We are, as I mentioned earlier for next Commission on February 25th, there is a whole zoning amendment package that we will be proposing. We'll probably do another presentation to go over them and explain the relationship of these amendments to the actual plan. I just like to clarify that No. 2. a. is the ZA before you, not 8. And we are also seeking to amend the General Plan just to assure alignment with some of...and clarification of some of the items that we are proposing in the West Kauai Community Plan. And that will be up in two weeks as well. So with that, that is the end of our presentation and we thank you. It's been an hour-long presentation. It's longer than we thought, but if there are any questions, we would love to discuss and answer.

Chair Nogami Streufert: Are there any questions from the Commissioners to any of the Planners?

Mr. Mahony: Chair, I don't have a question per se, but just a comment. Just like to thank the Planners for the presentation. There was a lot of community outreach and they did a terrific job on the outreach and I'm anxious to hear from the public on some of the changes that re proposed. Once again that is such volumes of work, everybody put in and thank you.

Ms. Apisa: That was a very good presentation. Great team there. Good work. Thank you.

Chair Nogami Streufert: I'd like to add my appreciation also, because I think that you touched on a lot of different things from the audience all the way from the kupuna to keiki to the time span from the past all the way to the present and all the way to the future. And the extraordinary media that so many different mediums that you used for trying to get all the public to participate in this and also the creativity with the essays and the artwork, the art contest. And how you've gone all the way from very hand-on old-school shaking hands all the way to social media. I thought that was very good. Thank you very much. That was a lot of work that can be seen by the number of meetings that you held with people. I'm sure that some of them might have gotten a little heated, but we know everything is for looking at the well-being of our future, and for the future of the island. So appreciate your work. Any other comments from the Commission members? If not—

Mr. Hull: If not, and like I said, this is kind of going back to earlier comments. Thank you Marie and the team for making that presentation. It's been a lot of hard work and this is definitely not the end of it. It's still part of the process. But the Department anticipates ...well, we are as was mentioned earlier, we're actually going to go deeper into a dive when we have our presentations at the next Planning Commission Meeting at the actual public hearings for the zoning amendments. And I imagine there is going to be significant discussion during those, as well as we anticipate a couple months' dialogue and discussion. This is just the formal presentation to get the Commission used to the big overarching view of the plan. But like I said, we plan to be here next month or two (2) working with you folks to go through more specifically in detail some of these policy proposals. But if you don't have any other questions, I would recommend opening up to public testimony at this time, unless you folks have questions.

Chair Nogami Streufert: Will all Planners stay to comment?

Mr. Hull: Yes, Lea folks, if you folks could sit in the rear in case of specific questions after public testimony for some of the plan policies. Thank you.

Chair Nogami Streufert: Thank you for the presentation.

Mr. Hull: Okay. First, we have signed up as I return to the list. Gordon LaBetz.

Chair Nogami Streufert: Would you please state your name first.

Mr. Gordon LaBetz: Hi. I'm Gordon LeBetz and I'm here testify on the zoning amendment. Is

that more appropriately done at the next meeting?

Mr. Hull: So indeed, the actual public hearing is scheduled for the Special Treatment Coastal Edge Zoning Amendment is scheduled on February 25th. However, it is to a certain degree part of this package proposal so testifying at this time is certainly appropriate and it's really up to you.

Mr. Gordon LaBetz: Thank you. My name is Gordon LaBetz and I live in one of the proposed in Kekaha, the Special District. And I'm here to talk about that just a little slice of this program. I'm not talking about just the zoning change. I've been involved in coastal protection my entire life. 1984 I'm given credit for organizing the Surf Rider Foundation, it's a coastal environmental group that now has 80 Chapters in the United States, and we have a very active Chapter her on Kauai, which I serve on the board. I've been in coastal protection my entire life. I was leader in the National Sierra Club and got pretty good credentials on coastal protection. In my view, the biggest threat to our coast is coastal armoring. That is breakwaters, and seawalls, and that's the jurisdiction of the State. Because the beaches are publicly owned private seawalls cause beaches to disappear. The other major threat to our coast lines pollution and the biggest source of pollution on the island is of Kauai, is cesspools and septic tanks. And cesspools and septic tanks are particularly troublesome in coastal area where it rains a lot. Where I live in Kekaha, it's not very rainy, so you can get away with a septic tank on the beach, without really doing too much harm. But in areas like Hanapepe, where it rains a lot, or in Hanalei, where it rains all the time, cesspools and septic tanks are big threats to the ocean, and the coast. And my concern about this zone change, is it doesn't do anything to protect the beaches from the environmental assaults. What I read in the thing that was sent out was a whole list of rules that builders have to kind of jump through a hoops to build a house. I remember when I built my house in Kekaha, it took me a year-and-a-half to get the permits to build. And I know that was different Planning Department and a different Director and it was a long time ago, and probably things are way better now. But I'm not sure putting a special district and putting a whole lot of rules that don't really help anything that I could see, that don't address the coastal erosion issue and the sea wall issue of houses—

Mr. Hull: Three (3) minutes, Chair.

Mr. Gordon LaBetz: That were built to close to the beach. Am I done?

Chair Nogami Streufert: Yes, please.

Mr. Hull: Sorry.

Mr. Gordon LaBetz: Okay, well thanks. We'll talk more about it later. Thanks for listening.

Mr. Hull: Next we have Richard Daley.

Mr. Richard Daley: Please let me know if this needs to be discussed at your February Meeting instead of this one?

Chair Nogami Streufert: State your name first, please state your name?

Mr. Daley: I'm sorry. Richard Daley. I'm a co-owner of two condominium units in Waimea by the Sea. And although I don't represent to the other eight (8) owners today, they are interested in this process. In the 31 October letter we received our condominium was exempted from any zone changes. In this most recent letter that we received, our condominium has been included in the in the Special Treatment Coastal Edge (STCE). We noted that all the houses to the Lihue side of us, they are essentially on the same distance from the ocean have been exempted from the STCE, and we're requesting that your zoning plan be modified to exempt our condominium from the STCE and that is essentially all I have to say. Thank you.

Chair Nogami Streufert: State thank you.

Mr. Hull: That's all we have for the sign-up list. I see other members in the audience. Is there anybody else in the audience that would like to testify?

Ms. Laurel Loo: Thank you. I'm an Attorney in Lihue. Mr. Hull, the reason there are people here, is because we got letters asking to be here to testify on the Coastal Edge Ordinance. So my name is Laurel Loo. I was born and raised in Special Planning District N, and graduated high school from Special Planning District 1. And I also represent seven individuals who received letters on the Coastal Edge Ordinance, as well as I also represent Kikiaola Land Company, which is the largest private land owner in Waimea. So we all received letters on the Coastal Edge Ordinance, the original one and then the revised one. Because a lot of these property owners are either off island or very elderly and some couldn't be here today because they are working, they asked me to testify on their behalf. I have some, Marie, I printed out a couple of the testimonies for you that were also emailed in. Just to make sure they got on the record. A lot of them don't understand the application of this new proposed Ordinance to their properties. And if fact, I liken this Ordinance... proposed Ordinance to something different than the prior proposed zoning ordinance where it affects the whole island, you know? You're changing the definition, et cetera. These people actually got specific targeted letters to them. So it's a known group of people who are affected by this Ordinance, and they are requesting time to see how it affects their Development Plans? Specifically for Kikiaola, it is going through a Development Plan and Strategic Plan now, hiring consultants as recently as last week, and this week, to help them with their Waimea Regional Planning. And so we would like to be able to have some time to see how this Ordinance would apply to some of their plans? So all of my clients are opposed to this Ordinance only because the spent decades understanding the current Ordinances that apply to their properties and now there's one that is just a few weeks old, and they are not sure how it applies to their future plans? For a lot of these people, this is their retirement properties. So it's important to them. Thank you.

Mr. Hull: Thank you, Laurel.

Chair Nogami Streufert: Thank you.

Mr. Hull: Are there any members of the public that aren't signed up who would like to testify on this agenda item?

Mr. George Magan: Hello. My name is George Magan, property owner in Kekaha, and we

received your certified letter and we're currently in process of building a house on an oceanfront property. We are about a mile-and-a-half north from the harbor, and the harbor itself has created an erosion situation at one time that was severe. Now it has reduced, and the current erosion rate that we have to follow to build our house was almost 271' from certified shoreline. We are already impacted severely by the original rules. We are outside of the 100-year floodplain and now we're added to this additional Special Coastal Treatment Edge Ordinance. We would like to be removed from it, because it is already severe enough and we have already complied with the current planning requirements. Thank you.

Chair Nogami Streufert: Thank you.

Mr. Hull: I had a quick question. Just for clarification, did you receive your zoning permits already?

Mr. Magan: Did I receive what?

Mr. Hull: Have you already gotten your zoning permits just out of curiosity? Have you gotten your zoning permits for your house?

Mr. Magan: I have a permit, yes.

Mr. Hull: Thank you. Is there any other members of the public who wish to testify on this agenda item? Seeing none. Are there any questions or further clarifications? Ultimately, the Department is going to ask for a Continuance to this Hearing to keep it open. All the comments received now from the public will of course, germane to one particular zoning amendment. But overall, we're still requesting that we keep the whole overarching zone amendment open as we continue this process. Any questions the Commissions has for us?

Chair Nogami Streufert: This is a process that's going to be continuing on with consultation with the residents on the west shore.

Mr. Hull: Yes. And I will say, we'll get into it deeper at the official public hearing on the 25th. What essentially is some of the applicants were testifying to, excuse me. Land owners are testifying on is an overlay that the Planning Department is recommending in this official plan. The official public hearing is scheduled for February 25th for an actual ordinance that puts a zoning overlay over properties that through the planning process have identified is particularly vulnerable to coastal hazards including, but not limited to sea level rise, increased frequency of storms, coastal erosion, and highway run-off and flooding and so on. When we looked at these area's the Department and in consultation and discussions with the community meetings, there was a lot of concern about the resiliency of West Kauai when it pertains to these coastal areas. We looked at possibly what could be considered a down zoning of these properties that we identified as particularly vulnerable and to go from whatever respective zoning district they are in to the open zoning district. The open zoning district has a density of one house per acre essentially. So a lot of the properties in this area are already in the open district and there really wasn't much of a change being proposed for them. But some of the properties were in the residential zoning districts. So had they had zoning like R-4 and some cases R-10 or higher, which is four (4) units per acre or ten (10) units per acre and now with the science that we have

available to us, and the studies available to us, recognizing that these are particularly hazardous. What we are looking at is down zoning to say, you can keep what you have, but sending more developments into these particularly hazard areas isn't appropriate anymore. And so after we notified all the property owners that we were looking at that, we wanted to discuss with any that had concerns.

We did have several discussions, Jodi Sayegusa our Deputy had several discussions with property owners concerning this and we looked at various policies, and potential paths forward, and we decided at this time, it's not appropriate at this time to down zone these properties. But it is appropriate and we have before you in the plan and we'll be presenting more thoroughly on the 25th is that it may be appropriate to have an overlay on these properties. That says, given the hazardous scenarios that these properties are subjected to, it is appropriate not to take away the density. So you can build what you are entitled to. But in doing so, you will go through a use permit process to demonstrate that any new structures will not be built in a manner that are particularly susceptible to these hazards, and to build them in a manner that can protect against them and, as well as can be built in manner that will not negatively impact other property owners.

What we are finding, I think, one of the gentlemen spoke about it early on Mr. LaBetz about seawalls. We are actually finding there is some construction going on within coastal developments in which they are actually burying foundations 10-12' deep in anticipation of erosion. So it doesn't count as a seawall when they construct it, but when they built it 50, 80, or 100' away from the coastline. But now 50-20 years from the time depending on the erosion rate, when that shoreline is at the foundation buried 10' deep and now functions like a seawall. And is actually negatively impacting the nearby properties. So it's just to ensure that amongst other things, one, that they can be constructed in a manner that can mitigate these hazards and can be constructed in a manner that won't negatively impact other properties. We expect a fair amount of discussion after we have the official public hearing and presentation. And to the members of the public that are here and would like to discuss with the Department. We can provide you with appointment times to come in and sit and talk through some of these issues and sceneries that pertain to your property. And so we will be available to give you our contact information. On February 25th we will have our official presentation on that.

Chair Nogami Streufert: And that information will also include information on how you came into that process, or what the process was? Because I think that is part of the issue we are hearing from the public right now.

Mr. Hull: Correct. If you have questions, if not, we ask for a Continuance of the hearing.

Chair Nogami Streufert: Chair will entertain a motion.

Ms. Apisa: How much of a continuance?

Mr. Hull: We request it be continued to February 25th 2020.

Ms. Apisa: I move that this be Continued to our February 25th Meeting.

Ms. Otsuka: I second.

Chair Nogami Streufert: It's been moved and seconded to Continue to the next Hearing on February 25th. Any further discussion? All in favor, signify by saying, aye. Aye. (Unanimous voice vote). Opposed? (None). Motion carried. 6:0.

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

CONSENT CALENDAR

Status Reports

Seventh Annual Status Report 2019 for Special Management Area Use Permit SMA(U)-2008-5, Use Permit U-2008-4, and Class IV Zoning Permit Z-IV-2008-6, Tax Map Keys: (4) 5-2-012:03 5, (4) 5-2-004:047 CPR No. 2 = Charles Somers as Trustee of the Charles Somers Living Trust dated November 12, 2002 and West Sunset 32 Phase I, LLC, a California limited liability company.

Director's Report for Project Scheduled for Agency Hearing on Tuesday, February 25, 2020.

Class IV Zoning Permit Z-IV-2020-9 to develop a mixed-use commercial/multi-family residential project containing spaces for retail, office, and restaurant operations, 62 residential units and associated site improvements on a parcel situated within the Lihue Town Core area on the corner of Rice Street and Umi Street, further identified as 3016 Umi Street, Tax Map Key: 3-6-003:010, and containing a total area of 1.5313 acres=
RBM UMI, LLC.

Mr. Hull: Next Agenda Item is the Consent Calendar. Status Report, excuse me, Consent Calendar has one (1) Status Report and one (1) Director's Report.

Chair Nogami Streufert: Do we want to take a ten (10) minute break? Let's take a ten (10) minute break.

The Commission recessed this portion of the meeting at 10:40 a.m.

The Commission reconvened this portion of the meeting at 10:51 a.m.

Chair Nogami Streufert: Call the meeting back to order.

Mr. Hull: The next Agenda Item is G. Consent Calendar. The Department is essentially looking for a motion to accept, unless any Commission members wanted to remove an item on the consent calendar discuss it individually.

Chair Nogami Streufert: Is there anyone who would want to discuss anything on the consent calendar?

Mr. Mahoney: Move to accept the Consent Calendar.

Ms. Apisa: I second.

Chair Nogami Streufert: It's been moved and seconded to accept the Consent Calendar. Any further discussion? All in favor, signify by saying, aye. Aye. (Unanimous voice vote). Opposed? (None). Motion carried. 6:0.

EXECUTIVE SESSION

Mr. Hull: Motion passes. Madame Chair, moving on to item...there is no Executive Session scheduled.

GENERAL BUSINESS MATTERS

Adoption of Findings of Fact, Conclusions of Law and Decision and Order regarding the denial of Class IV Zoning Permit Z-IV-20202-2, Use Permit U-2020-2, and Special Permit SP-2020-1 regarding the conversion of a farm dwelling and accessory building into a school on Tax Map Key 4-6-007:057 in Kapaa = Matthew and Naomi Yoshida.

Mr. Hull: Moving on to Item I. General Business. Adoption of Findings of Fact, Conclusions of Law and Decision and Order regarding the denial of Class IV Zoning Permit Z-IV-20202-2, Use Permit U-2020-2, and Special Permit SP-2020-1 regarding the conversion of a farm dwelling and accessory building into a school on Tax Map Key 4-6-007:057 in Kapaa. The applicant is Matthew and Naomi Yoshida. This application was taken action upon at the last Planning Commission Meeting and ultimately, it was a unanimous vote to deny the proposed permit. What you have before you folks is the drafted Findings of Fact, and Conclusion of Law, and Decision Order, which is a standard document generated whenever a permit is denied. And so Jody has drafted that for you folks to summarize the Findings of Fact and Conclusion of Law and Decision and Order of this body in its action to deny the proposed request. And so we just have that before you folks, if you feel that it's prudent to make any amendment to the Decision and Order to reflect what better happened at the meeting? We are open for that, but it's ultimately here for adoption of your action at the last meeting.

Mr. Ho: The action required is to accept it?

Ms. Otsuka: Accept the denial.

Mr. Hull: Motion to approve the Decision and Order.

Chair Nogami Streufert: Would the Planner like to summarize what's in that?

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

Staff Planner Jody Galinato: Good Morning Madame Chair, and members of the Commission. Ka'aina pretty much summarized it, it's just a procedural matter to documents your decision.

Mr. Courson: If the applicants were to disagreed with your decision, this is what they would appeal. So this is the record that goes up to the Circuit Court. So there's Findings of Fact and there is Conclusions of Law and the Department just did their best based off the discussion that happened to reduce that to a formal language.

Mr. Hull: So just to add what Nick, was saying, when the Department recommends denial, we'll

generally attach a Findings of Fact, and Conclusions of Law, and Decision and Order to our recommendations, should the Planning Commission side with the Department, you would just automatically adopt or adopt an amended version that (inaudible) to our report. Because there was no formal recommendation at that time to deny, this and the Commission took action, this again formalizing it, and as Nick pointed out, this is what would be used in any appeals to the Court. Jody did notify the applicant and their representative of this draft decision order being on the agenda. So they are aware of it, but they are not here to contest it at this point.

Mr. Courson: Yes, this summarizes, it's a good faith effort to summarize what you were trying to say. The Department is not going to take it as any sort of criticism, if you want to wordsmith this at all. But it is...they do it as a routine matter. The only reason as Ka'aina said it's particularly coming before you, normally the Department and the Commission are like aligned from the get go. In this particular case the Department was initially recommending yes, and then there was a lot of testimony where it became dubious whether the use was compatible and the Commission based on that said no. And that is the purpose of public hearings. I mean, that is the process working, but that's why it's just slightly different then what your used to.

Chair Nogami Streufert: And there is no one to represent the applicant here?

Mr. Hull: No.

Ms. Apisa: So again, the action today would be to—

Mr. Hull: We are requesting approval of the Decision and Order as it reflects the action of this body. But like I said and like Nick pointed out, if you want to amend it, if it doesn't quite reflect what you intended when motions were made and comments were stated on the floor, it's completely up for amendment as well.

Ms. Apisa: The public comments were pretty clear.

Mr. Courson: The decision was made, it's whether or not this document properly reflects why you made that decision?

Mr. Mahoney: I think it does. If know body disagrees I'd make a motion to accept the adoption of Findings of Facts, and Conclusion of Law, and Decision and order regarding the denial of Class IV Zoning permit Z-IV-2020-2, Use permit U-2020-2, and Special permit SP-2020-1.

Ms. Apisa: Second.

Chair Nogami Streufert: It's been moved and seconded to adopt the Findings of Fact, and Conclusion of Law, and Decision and Order regarding the denial of Class IV Zoning Permit Z-IV-2020-2, and Use permit U-2020-2, and Special permit SP-2020-1. Any further discussion? All in favor, signify by saying, aye. Aye. (Unanimous voice vote). Opposed? (None). Motion carried. 6:0.

COMMUNICATION (For Action)

Mr. Hull: Next on the Agenda Item, there was no Communication for Action.

COMMITTEE REPORTS

Subdivision: Subdivision Action matters listed in the Subdivision Committee Agenda (attached).

Mr. Hull: On K. Committee Report, Subdivision Committee?

Mr. Ho: We had two items to report this morning. We had a Tentative Map Approval McBryde, Conception, Pacuilla and we approve that 3-0. We had a Subdivision Extension Request from Alexander and Vivian Trust, and that was also approved 3-0. I recommend to the Commission to accept the Minutes of the Subdivision Committee Report.

Ms. Apisa: Second.

Chair Nogami Streufert: It's been moved and seconded to approve the Subdivision Meeting results. Any discussion? All in favor, signify by saying, aye. Aye. (Unanimous voice vote). Opposed? (None). Motion carried. 6:0. Thank you.

UNFINISHED BUSINESS (For Action)

Mr. Hull: Next, we have no Unfinished Business.

NEW BUSINESS

Mr. Hull: Next, we have no New Business.

ANNOUNCEMENTS

Topics for Future Meetings

Mr. Hull: Topics for Future Meetings. We got a couple got a couple more as we round out our legislative package for the two years. We have got...we will have the Commercial Zoning District, Residential Zoning Amendment that you folks reviewed today, but we also have a couple more concerning the Shoreline Set-back Ordinance, as well as an update to adopt new Standards and Studies that have been also updated in the interim, and so just bring that information into the fold. We also have another zoning amendment looking at agricultural zoning district and permissible uses there. And aside from that, for the next month or two (2), we are looking specifically at consistently having on each of the agendas the West Kauai Community Plan as we work through those topics, issues, and policy recommendation. Other than that, any questions on topics for future meetings?

The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Līhu'e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i 96766 on Tuesday, February 25, 2020.

Mr. Hull: Okay. So the 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, February 25, 2020.

Chair Nogami Streufert: May I have a motion to adjourn?

Ms. Apisa: Move to adjourn

Ms. Otsuka: Second.

Chair Nogami Streufert: Any discussion? All in favor, signify by saying, aye. Aye.
(Unanimous voice vote). Opposed? (None). Motion carried. 6:0. Thank you.

ADJOURNMENT

Chair Nogami Streufert adjourned the meeting 11:02 a.m.

Respectfully submitted by:



Arleen Kuwamura,
Commission Support Clerk

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

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