

KAUA‘I PLANNING COMMISSION
SUBDIVISION COMMITTEE MEETING
February 13, 2018

The regular meeting of the Planning Commission Subdivision Committee of the County of Kaua‘i was called to order at 8:35 a.m., at the Līhu‘e Civic Center, Mo‘ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Mr. Roy Ho
Mr. Sean Mahoney

Absent and Excused:
Mr. Wade Lord

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

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Subdivision Committee Chair Ho called the meeting to order at 8:35 a.m.

ROLL CALL

Mr. Ho: Mr. Bukoski, could you take our roll, get us started?

Staff Planner Chance Bukoski: Chair Ho.

Mr. Ho: Here.

Mr. Bukoski: Commissioner Mahoney.

Mr. Mahoney: Here.

Mr. Bukoski: Commissioner Lord. Two (2) present.

APPROVAL OF AGENDA

Mr. Bukoski: Moving on to Approval of Agenda.

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

Mr. Ho: Second. A motion has been made to approve our agenda; seconded. All in favor? (Unanimous voice vote) Motion carries 2:0.

Mr. Bukoski: Thank you, Chair.

MINUTES of the meeting(s) of the Subdivision Committee

Meeting of January 23, 2018

Mr. Bukoski: Moving on to Item D, Minutes of the Meeting of January 23, 2018.

Mr. Mahoney: Chair, move to approve the minutes of January 23, 2018.

Mr. Ho: Second. The motion is to approve the minutes of the January 23rd meeting of 2018. All in favor? (Unanimous voice vote) Motion carries 2:0.

Mr. Bukoski: Thank you, Chair.

RECEIPT OF ITEMS FOR THE RECORD (None)

Mr. Bukoski: Moving on to Item E, Receipt of Items for the Record. Seeing none.

HEARINGS AND PUBLIC COMMENT

Mr. Bukoski: Moving on to Item F, Hearings and Public Comment. I believe the Director has the comments [*sic*] sheet.

Planning Director Michael Dahilig: Mr. Committee Chair, I wonder if...given some of the material that has been circulated to the Committee members, whether or not you would like to take the public testimony before or after the discussion.

Mr. Ho: Mr. Mahoney?

Mr. Mahoney: Whatever; it is up to you, Chair.

Mr. Ho: Let's do it before.

Mr. Dahilig: Okay. I do have eight (8) individuals signed up on the Kōloa Estates item that is on this morning's agenda. With three (3) minutes to speak, Mr. Chair, first is Mary Kay Hertog, followed by Ray Gordon, followed by Malia Thain. She has also submitted written testimony, Mr. Chair.

Ms. Mary Kay Hertog: Good morning. I am Mary Kay Hertog, a resident of Kōloa Estates.

Ms. Hertog read her written testimony for the record (on file with the Planning Department).

Mr. Dahilig: Ray Gordon, followed by Malia Thain, followed by Bradford Thain.

Mr. Ray Gordon: Thank you. I would like to appreciate your having the time to hear us make this presentation. My name is Ray Gordon. I am the president of the Kōloa Estates Community Association. I am an architect. I have a Master's in City and Regional Planning, and I come to this issue with a background that has a certain amount of understanding of the issues as they were presented. I had managed an environmental sciences firm for several years where we did large-scale project development and we also had the largest traffic engineering division of a private consultant in the northeast of the United States. I also taught the subject in the Master's level at both Pratt Institute and at NYU for seventeen (17) years.

Twenty (20) years ago there was a plan – a subdivision plan, I believe – that was submitted for Kukui'ula. Kōloa Estates was the first phase of that project. At the time, we were the front door. In 2005, our project was split-off from Kukui'ula and we were, then, made a separate entity. A lot of the assumptions that we believe were made twenty (20) years ago are no longer as valid as they would be now. We would like to refer to the document that I presented. It is rather lengthy and we appreciate your taking the time to read it. It talks about these things in very much more detail. I would just like to talk about a couple of the issues that the community feels is important and I will just briefly summarize them. They are all dealt with in more detail and I would be very happy to talk to you about these issues or answer any of your questions.

There are no destinations, north or south, of Lopaka Paipa that would require traffic through our community. There are no developments at all on the bypass north of us. To the west and south of us there is only Kukui'ula, and those people generally do not go across to go to any destination on Po'ipū Road. If they need to go to Kōloa Town, they go directly north on the bypass. If they need to go to Po'ipū, they go directly south on the bypass. Very much a similar situation on Po'ipū Road.

The increase of traffic, even if it is not significant, on Lopaka Paipa will increase the congestion on Po'ipū Road by adding turning motions both north and south on that road, and any turning motion there is going to slow down traffic. The moderate-income housing that is going to be going in across the street has an acceleration lane right before the entrance to Lopaka Paipa and Po'ipū Road. There is no room for a dedicated left-hand turn lane in neither direction on Po'ipū Road and that will additionally–

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

Mr. Gordon: –create that problem.

Mr. Ho: Mr. Gordon.

Mr. Gordon: Yes.

Mr. Ho: I will give you a little leeway. Could you finish?

Mr. Gordon: Okay, I will summarize quickly. Thank you. Dangerous intersections will put pedestrians, especially local children, at risk. We don't see why we need to have a connection through a community where there might be another alternative. The issue with Paanau Village, I think, was something that you are well aware of, and that was also in the plan and was never implemented because of those safety issues. There is also a drainage problem. The highway, that bypass, is much higher than our community, and if you build a road in there, it is going to significantly adversely impact our community and add to the flooding issues we've had.

I just want to summarize and finalize this by saying the community association in Kōloa Estates is very willing to work with the County to improve pedestrian and bicycle connections through that property, and we would be willing to help fund that. Thank you very much.

Mr. Dahilig: Malia Thain, followed by Bradford Thain, followed by Peter Sievert.

Ms. Malia Thain: Good morning. I am Malia Thain. I am a resident in Kōloa Estates. I just don't really understand what the impetus was to make that connection. As everyone discussed, originally, we were a part of the master plan community, we were a thoroughfare to actually enter into the Kukui'ula Subdivision, which is no longer the case. So I am just asking that you reconsider, first of all, whether or not it would be any benefit to the traffic. Secondly, that it would take our quiet neighborhood and cause much more traffic in it, which, obviously, we don't want. Also, I know that there is often a lot of going back and forth between the things that Kukui'ula has been asked to do or required to do when this is something that would be...that they would need to do, and I would like to have you folks consider both the low-income housing that is going in across the street and the park that is to be built, and to really consider how that will affect the traffic in the future and whether or not it would be better for us to consider extending that road or a different solution after those things have gone in. It is my understanding that both things should be built sometime in the near future. I believe the park was supposed to be built several years ago and we are still waiting to see that happen, but that's all. Thank you.

Mr. Dahilig: Bradford Thain, followed by Peter Sievert, followed by Bridget Hammerquist.

Mr. Bradford Thain: I just think that you...I don't think it would be safe for more and more traffic to be coming up through Kukui'ula and around Po'ipū. I think that it would be better if...I don't know...they just focused on doing...like maybe putting up the park they promised a long time ago or something else. Thank you.

Mr. Ho: What is your name, young man? What is your name, please?

Mr. Thain: Bradford Thain.

Mr. Ho: Thank you.

Mr. Dahilig: Peter Sievert, followed by Bridget Hammerquist, followed by Dave Hutchinson.

Mr. Peter Sievert: Good morning. My name is Pete Sievert. I have been a member of the Kōloa Estates Community for the past fifteen (15) years as I have lived there. We are a community of seniors through youth, as you have heard. We have a viable association that is active in generating a neighborhood atmosphere. Clearly, it is my opinion that connecting a road through the middle of our neighborhood would be detrimental to our neighborhood and not necessarily an asset to the island. I encourage you all to come and see Kōloa Estates and to see our beautiful greenery, our beautiful shower trees that we actively maintain, and picture a bypass coming right through the middle of our neighborhood, which, in our opinion, is the worst possible choice. There are smarter and more viable alternatives available if the Commission is willing to spend the time to review a 20-year-old document that, in my opinion, is clearly out of date. Thank you.

Mr. Dahilig: Bridget Hammerquist, followed by Dave Hutchinson, followed by Ted K. Blake.

Ms. Bridget Hammerquist: Good morning, members of the Commission and Planning Department personnel. My name is Bridget Hammerquist and I live in Kōloa Estates. I would just echo Mr. Sievert's invitation that you might want to make a site visit at a minimum before you make any decisions. There is a big change in the last 20 years that has happened to traffic flow in Po'ipū; primarily with the development and buildout of the traffic circle. I don't think anybody had an idea of how efficient that would be. It is very efficient. It takes traffic from the Po'ipū basin all along the beach. If people are going west, they go out the western bypass, if they are going east on the island, they go up into Kōloa and out through the tree tunnel.

The need for Lopaka Paipa as a through street may have existed at one time, but I really don't think it does today. I would just ask that there be a current study, as Ms. Hertog stated, that validates the need for the connection before you go to the extent of changing – dramatically and drastically changing – a neighborhood to run a major street through. I think there are big safety issues with the children in the area. There was a park that we were told would be developed by 2010; it has never come to be. I understand that that is a requirement of the development of Kōloa Estates, and I think, at a minimum, if the park was developed first and the County had a better feel for how many children are in the area, a decision would be made similar to the one that was made when Paanau was developed; where the County abandoned making the through connection for safety reasons. I think we already have safety issues with going from zero...a complete stop, no merge lanes, turning onto the western bypass without any merge lane, and going from zero to traffic flow that is going 40 miles an hour with a rather blind curve just makai of our development. So the entry to Kukui'ula is about halfway between us and the Shops at Kukui'ula – makai of us – and in that area there is a curve, so if you are leaving Kōloa Estates going north on the western bypass, you will look to your left but there is a vehicle coming at 40 miles an hour and you have to get out there. There are very few "T" intersections on the island that don't have a merge lane when you are going from a dead stop into 40 mile per hour traffic. So there are some big issues and I just think a more current look before construction has started is a reasonably prudent request to make, and I would ask that the Planning Commission do that for us at a minimum and maybe come and give us a chance to meet with you and hear the neighborhood concerns because I think the neighborhood–

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

Ms. Hammerquist: –is very united in its interest to keep the quietness of the neighborhood. You know, neighborhoods are special, and to destroy one needlessly would be a tragedy. Thank you very much.

Mr. Dahilig: Dave Hutchinson, followed by Ted K. Blake, followed by Lee Morey. Mr. Chair, I might have some questions for Mr. Hutchinson after he gives his testimony.

Mr. Ho: Excuse me, what is it?

Mr. Dahilig: I may have some questions for Mr. Hutchinson after he gives some testimony.

Mr. Dave Hutchinson: Good morning. For the record, Dave Hutchinson, Kukui‘ula Development Company. We wanted to just express our support for the Kōloa Estates homeowners’ position on this topic. I will keep it at that. We support what they are saying.

Mr. Dahilig: Mr. Hutchinson, I have circulated, to the Planning Commission, a copy of a 2005 agreement that Alexander & Baldwin and your development company has with them compelling the developer to actually support this effort. What is your opinion concerning the developer’s, I guess, resolve to fulfill conditions of approval as required by County ordinance and by County permit?

Mr. Hutchinson: I am aware of the obligation that you are pointing out and the settlement agreement specifically that we have with Kōloa Estates when Kukui‘ula signed that agreement back, like, twenty (20) years ago, or close to it, so we certainly are honoring that, but we agree with the points that they are bringing out about not really convinced that this proposal is going to relieve the traffic conditions or improve those. And then we are also curious about just the timing of it, and not really sure we understand exactly what the timing is behind those improvements.

Mr. Dahilig: Are you aware that the appearance of this, given that the delay in connection to the road was at the developer’s request back in 1999–

Mr. Hutchinson: I am, yes.

Mr. Dahilig: –and this does appear as if the developer is making promises to receive approvals and then does not follow through with it by agreeing to, essentially, take an opposing position? What does this say about the developer’s intent concerning actually following through with these commitments to the County?

Mr. Hutchinson: Well, I mean, you know, it has been nineteen (19) years and so I think the caveat that was in the agreement originally was stated just on need. And if the County believes that the need is prudent now, then we are going to follow what the County expects to be done.

Mr. Dahilig: So is this the perception that any condition that has been delayed should be reevaluated concerning whether or not the developer should be following through with these commitments that they made to the public?

Mr. Hutchinson: Yes.

Mr. Dahilig: So that is the approach that we should be taking with all of our conditions; that the developer thinks that none of them are set in stone and they should always be in a position to be negotiated upon, even after they received approvals for construction?

Mr. Hutchinson: Outside of that, I think time always creates situations that should be reevaluated. It doesn't have anything to do with our obligation to...whether it would be the Kōloa Estates homeowners or to the County, but evaluation of each one of those situations should be done on a time-sensitive basis.

Mr. Dahilig: Okay. But you are aware that it was the developer that had made this request to delay this construction in the first place?

Mr. Hutchinson: Absolutely.

Mr. Dahilig: It appears very awkward that the delay was granted as a courtesy by the Enforcement Office of this department and that courtesy is now being taken advantage of in the situation because conditions have changed.

Mr. Hutchinson: It could be interpreted that way.

Mr. Dahilig: And so what does that say about the developer's genuine intent with respect to actually fulfilling its conditions of approval?

Mr. Hutchinson: The genuine intent right now?

Mr. Dahilig: Well, just in general because there are a lot of other obligations that still have not been fulfilled by the developer and yet, there are a number of approvals that the developer is continuing to seek regarding their development at Kukui'ula. All these developments at Kukui'ula do create a community impact and if they are being treated as if they are coming from a position of not being taken seriously, what does this say about the developer's approach towards...and its sincerity in mitigating community impacts?

Mr. Hutchinson: Yes, I understand the question. I think the only way I can respond to that is that Kukui'ula has fulfilled the majority of the obligations that came through the CZO and all different aspects of our entitlements, and the few that remain are purely, I think, business issues to where the success of Kukui'ula, as a vibrant community within the island of Kaua'i, inevitably is going to come down to some type of business decisions. So to defer the improvements as time goes on is purely a matter of business, and as the community is successful, financially, and we can afford to fulfill the obligations that we have is always going to come into play.

Mr. Dahilig: But you understand that it is not the County's responsibility to be concerned about the financial wherewithal of the developer to complete these conditions.

Mr. Hutchinson: I understand.

Mr. Dahilig: So the impacts are being created as we speak with the creation of more and more resort homes at Kukui'ula.

I would be very cautious, Commission, concerning how we look at future asks by the developer when it is very apparent that there are some issues concerning their sincerity in being able to fulfill these conditions of approval. I will leave that as a comment, Mr. Chair.

Mr. Ho: Thank you. Can we move on?

Mr. Dahilig: Yes. Ted K. Blake, followed by Lee Morey, followed by Tommy Noyes.

Mr. Ted K. Blake: Aloha mai kākou. Ted Blake ko'ū inoa. (Speaking Hawaiian) I have sat on plans over the years that addressed traffic. We had a title wave of development that started in the early 2000s. We were looking at 4,000 more units, whether it be townhouses or vacant lots that were coming into the community. It is going to cause a lot of traffic; at least 4,000 cars or, more likely, 8,000 cars. No development talked about a comprehensive traffic plan. The community went out and did it. We held the County hostage, we got the funds, we got three quarters of a million dollars, put it in a separate account, we got one of the best planners in the nation which the County backed us up by bringing him back numerous times to talk to the County, and we worked on a traffic plan; took us a year. We asked for more money so we could get it completed in a year, which we did; that happened in 2006 or 2007. (In) 2014/2015, it was made part of the South Shore planning update and became law. The developer talked about this; that was one of the conditions he put down for the subdivision. Like the gentleman that talked here before me, there are numerous other conditions that they put down: a 20-acre regional park, workforce rental, a beach park – nothing has happened. This happened a long time (ago). They were flying these flags early when they were trying to get their zoning. So what is the perception from the community? After they go through and then... I mean, they had \$2 million lots, now they have \$10 million lots because they put more dirt in there and they raised it up. But we are an afterthought. You know, The Aloha Spirit was coined by or made very popular by the Hawai'i Visitors Bureau. A wise man once told me, "They don't mind sticking their hands in our bucket. They don't like us sticking our hands in their bucket."

They talk about traffic safety on the road. I live on Waikomo Road. When I was growing up, I could mow the lawn any way I wanted to; facing the road. Nowadays, I don't face the road because too many guys stop; they talk and I have a big yard to mow. And that is the major, major thoroughfare for children from Kōloa Town to Kōloa School. We have talked about trying to slow the traffic down, but no matter what happens, there is a lot of traffic because that is one of the ways into Kōloa. I feel for these guys, but that is what they signed for; it was on their CCRs [*sic*]. The plan was...when A&B went in for the development that was on it. (In) 2004, something else happened. 2006 was part of the community plan and it was a plan of the...I mean, I'm sorry, the traffic plan, and later it was part of the south shore planning update. We

had numerous meetings. We had so much development in Kōloa we would come here to testify at 9:30 and not testify until 11 o'clock at night; that is how concerned we were. All these things were put down. We didn't like it, but we said listen, this is part of development but at least they have connectivity.

One thing Jim Charlier was really interested in—

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

Mr. Blake: —was not to make bigger intersections or more roads; it was connectivity. We live in a small place. We have shared our aloha. We need some aloha back for us.

I definitely don't agree with this. When I talk to guys about this they go geez, they are pulling another fast one; and that is the perception of your community. We are the guys that suffer. Granted, it is a beautiful place. My road, Waikomo, was a beautiful place, too, at one time, but we have plenty traffic now. What do I do? Thank you.

Mr. Dahilig: Lee Morey, followed by Tommy Noyes.

Ms. Lee Morey: Lee Morey, Coldwell Banker, Turtle Cove Realty. I am representing myself, not the Board of Realtors; just want to make that perfectly clear right now. Teddy has a point; traffic does ruin a neighborhood — he just said it. So what you are looking at here — and I hope that I am approaching it logically and as a realtor — is that you are going to go through an existing quiet neighborhood; there are no vacation rentals in this neighborhood, which is something that is in their CC&Rs, and where children play in the streets and ride their bikes. It will be completely changed and completely disrupted; not even to mention the fact that the values of all the properties in that neighborhood are going to be diminished because of this thoroughfare. Now, according to my calculations, because they are all residential — there are no vacation rentals in there — over ten (10) years, you could conceivably be losing over \$300,000 worth of property tax revenue by doing this because you will be diminishing values; that has already proven itself to be true just by virtue of fact of the threat of the road going through.

Now, I understand the need to connect the two (2) roads, but in just looking at the plan that Ray presented, it appears to me that the most logical thing to do is put the road where it would be most beneficial to the community, which is where the parks are because moms are going to be dropping their kids off and picking their kids up from the parks. I understand you guys didn't...I mean, you made the conscious decision not to put it through where the apartments are because of the same reasons; there are kids playing and it is a community. Well, have that same respect for the one right next door; it is a community, there are kids playing. It really has nothing to do with Kukui'ula's responsibilities because things do change and you said yourself, Mike, that you negotiate...it is always a negotiation. Somebody should sit down and look at this logically. The road going where the park is is the most logical thing and would not reduce property values.

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

Ms. Morey: Oh, is it three (3) minutes?

Mr. Ho: I will give you a little leeway. Please finish.

Ms. Morey: Okay, thank you. Well, anyway, putting the road there, in my opinion, would not reduce property values; it would maintain property values. You are serving a community further on down in Po'ipū that is vacation rental. This is one of the little enclaves where people really live there with kids and families, and you are going to disrupt it by doing this. It makes no logical sense. So, anyway, thank you so much.

Mr. Dahilig: Tommy Noyes. Just as a note, Mr. Chair, he has also submitted written testimony, as well as Ms. Hammerquist and the Kōloa Estates Association.

Mr. Tommy Noyes: Good morning. My name is Tommy Noyes. I am the executive director of Kaua'i Path, a 501(c)(3) advocacy organization.

Mr. Noyes read his written testimony for the record (on file with the Planning Department).

Mr. Noyes: I believe that this roadway design is an opportunity for us to—

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

Mr. Noyes: —implement some of the proven traffic calming measures that are forward-thinking and appropriate in this instance. Thank you very much.

Mr. Dahilig: Mr. Chair, that's all I have signed up to testify for this status report. I would suggest — I noticed a number of individuals have come into the room — making a final call for anybody that would like to provide testimony at this time.

Mr. Ho: Is there anybody in the audience that wishes to testify on this matter? Please come up.

Ms. Tessie Kinnaman: Good morning, Commissioners. Tessie Kinnaman for the record. I am here on another subject, but I am surprised this came up. Anyway, I am in full support of the condition to still do that connector road. The community, for years — I don't know how long it was but when the Kukui'ula conditions and development, the whole project, was being progressed — that was part of the conditions for the Kōloa community. We worked very hard for the connector road basically for, besides circulation, for safety because if you look at how it is, if there is ever a safety concern with natural disasters, these people would not be able to turn left because the road is going to be so backed up. So another outlet, as far as I am concerned, is hooking up with Ala Kalanikaumaka Street; that is how I look at it from a safety concern. The community has worked very, very hard for this connector road, and we have done a very good job working with the Charlier plan and trying to live up to the plan because of...our community is growing and besides Kukui'ula development, we also have the Kiahuna development that is coming up; that is another couple thousand more people besides the Kukui'ula development, so we are going to have to have any kind of outlet that we can get with conditions. We have to have it because, I mean, we can't add any more land to the island, if you know what I mean.

I hope that you do keep these conditions in place and besides, there are other conditions that Kukui‘ula needs to complete. So far that is my testimony. Mahalo.

Mr. Ho: Again, last call, anyone wishing to testify on this item, please? Last call.

Mr. Dahilig: Thank you, Mr. Subdivision Committee Chair.

GENERAL BUSINESS MATTERS (For Action)

Status on Subdivision Application No. S-98-9; TMK (4) 2-6-014:042; Kōloa, Kaua‘i

Mr. Dahilig: I would like to point all the Committee members to Page No. 10 of the PDF. This item was brought to our attention at the request of the County Council where the County Councilmembers of the Public Works Committee had asked us to take a look at this item. What we have done to prepare the Commission Committee members – we have provided a chronology, and I believe you have seen that, that shows kind of the timetable of how this all transpired. For the public’s edification, I will just go over it again. Back in December of 1997, there was a zoning amendment, as well as an ordinance, that required a subdivision of this area. This folded in those zoning amendment and ordinance requirements back in ‘97. And in ‘97 when this subdivision started, what was clear was that this connection to Ala Kalanikaumaka, or at that time it was called the western bypass, was entertained as a requirement. Back in ‘98, the developer, both Alexander & Baldwin and Mr. Hutchinson’s company, both of them had a joint development agreement and they had requested deferral of the connection because the western bypass was not constructed at that point, so they had actually requested that to be deferred. The Department, a couple weeks later, under then-Director Dee Crowell, had concurred and said okay, we will defer enforcement of this condition. So I want to make clear to the Commissioners that we are treating this as an enforcement matter, not as a permitting matter; this is an enforcement matter that we, as you will see through the chronology, are going through those appropriate steps to seek compliance. When you look at ‘99, final subdivision approval was granted, so, in effect, there was this acceptance by the Planning Commission that a deferred connection was sufficient enough to have that obligation by the developers still be met, notwithstanding the fact that it was not completed. So it was an unusual step for the Planning Commission to actually give final approval without full construction of the needed improvements, so that was a courtesy that was afforded by this Commission in order for the developer to begin selling lots; they could not have done that without the Commission giving that courtesy. So again, I want to reemphasize that there would not be any lots if the Commission, at the time, did not say okay, if you promise to build it later, we will allow you to sell these lots off. So that is why there is a very clear paper trail when it comes to what had transpired with enforcement during the tentative approvals, what was constructed, what was not constructed, and what was satisfactory to the Planning Commission, at that time, given representations of the developer.

Now, why I express a little bit of frustration to Mr. Hutchinson at this enforcement level is that we became aware of an agreement that they had signed back in 2005 that essentially contradicts their public statement before the Planning Commission that they were going to complete this

section of the road. So they had entered into a settlement agreement with the Association and Kōloa Estates to essentially bind themselves to the position that they do not want to complete this anymore. So that's why, in effect, the Department's position is a bit unusual in that we are actually working against the developer because they have contractually obligated themselves to work against the County in this matter, and we find that quite disturbing.

When you look at what has happened since then, Ala Kalanikaumaka has been completed. It is already a very well-used thoroughfare. Last year – last July – the Department decided to move forward on enforcement proceedings on this because we found no good cause as to why the road still had not been completed even though they had made representations that they were going to build it back in 1998. So we entered into discussions with the developer concerning their compliance with this, and at that time, they had expressed their desire to not complete the road and we understood that position. They had presented alternatives, and I am actually going to ask Mr. Shigemoto on the floor whether or not they would also entertain one (1) alternative and would they be willing to fully pay for that alternative, so I may ask that just for the Commissioners' edification at one point.

What has also transpired parallel to the timeline that just relates to this particular residential subdivision is that there have been a number of studies within the past five (5) years that have looked at the connection of this road as part of an overall circulation plan. Back in July of 2015, the County Council approved the South Kōloa Community Plan, which folded in a circulation plan that was approved by the Council again in 2013 that talked about this section of road being connected, so that was less than four (4) years ago, Mr. Chair. And then on top of that, we have had the environmental permitting and eventual construction of the Kōloa affordable housing development that is a consequence of the construction at Kukui'ula. At that time, Austin, Tsutsumi & Associates, an engineering firm, had done a Traffic Impact Analysis report that is required as part of Chapter 343 disclosures, and I know that some people in the audience are very familiar with environmental impact disclosures given some of the dairy comments that have been coming in, Mr. Chair. What was very clear in the Traffic Impact Analysis report was that the northbound left turn lane at Po'ipū Road and Kōloa Road, if the affordable housing development is going to be constructed – again, these are studies that are less than two and a half (2 ½) years old – would be at a Level F. So that intersection right where the Chevron is, with the construction of the affordable housing development, is going to be an F. The reason why this is significant is because that housing development will necessitate much traffic going northbound, and if there is not an alternative route to go northbound – via cutting through Lopaka Paipa and then going up Ala Kalanikaumaka if people are heading toward the west side of the island – everything bottlenecks up at that intersection right where the Chevron is. So it is very clear that the Traffic Impact Analysis report conducted by the traffic engineers as part of the Kōloa development and disclosed as part of the Environmental Assessment that was accepted by the Housing Office and as well as individually consented to by the Land Use Commission and our department, was very clear that the traffic is going to be impacted by the Kōloa development and that is why the Housing Office has expressed its concern that this road would not be completed because they do want to make sure that their residents, these affordable housing residents, would not be negatively impacted by the fact that they would be causing more traffic. So there is very recent traffic analysis that has been given to this, Mr. Chair.

There has also been some recent discussion concerning a circulation plan in 2007. Again, this is a plan that Kukui‘ula Development paid for that talked about this connection. So two (2) years after they had agreed not to actually build the road – because that was a settlement agreement as part of their issues with the Kōloa Estates Association – their own consultant, back in 2007, had actually called for this to be constructed. It is very clear to the Department that after we have given all this material and circulated it to our partner agencies...I have circulated an email from the Acting County Engineer stating the Department of Public Works’ clear position that they still want this road constructed. We see no good cause at this point, Mr. Chair, to deviate from the enforcement mechanism that we have started to implement as part of compliance on this.

I would also like to note that we have taken this tact of trying to work with the developer against their will, even though they have bound themselves, because the alternative would be for me to ask for an Order to Show Cause for the Planning Commission, and the consequence of an Order to Show Cause, if granted by the Planning Commission, would essentially encumber the title for all the lots within that subdivision because they do not have a completed condition of approval. We found that to be a little harsh, but it is still a mechanism that we feel could be exercised but it would be at very deep consequence to the landowners that the title on their land would all be clouded as a consequence of them not meeting this condition of approval.

Just as a status – again, we are not asking for any action today; there is no action that is on the board. But at the request of the Council, we are providing this status on the enforcement that we are exercising. I would like to ask Mr. Shigemoto one (1) question concerning an alternative because that was brought up concerning the cane haul road and whether or not the developer would be willing to look at the cane haul road, so if you can have Mr. Shigemoto come up.

Mr. Ho: Mr. Shigemoto please.

Mr. Dahilig: Sorry to put you on the spot, Mr. Shigemoto, but–

Mr. Tom Shigemoto: Do I have to state my name?

Mr. Dahilig: Yes.

Mr. Shigemoto: For the record, Tom Shigemoto, representing A&B Properties.

Mr. Dahilig: Mr. Shigemoto, given that there has been presentation by the public concerning alternative accesses – one along the cane haul road and one along Paanau Village – would Kukui‘ula Development be willing to pay for a County standard road, the full-length between Ala Kalanikaumaka and, I guess, Po‘ipū Road at this point? Would they be willing to build a full-length County standard road with sidewalks, drainage, etc. along that cane haul road?

Mr. Shigemoto: If we were required to build that road instead–

Mr. Dahilig: And you would be willing to pay for it in total.

Mr. Shigemoto: Yes, we would have to pay for it, but at the expense of bifurcating the 20-acre park that the old cane haul road traverses.

Mr. Dahilig: Okay.

Mr. Ho: Mike, what was the question you were...

Mr. Dahilig: I guess because alternatives have been brought up by the public – there was Paanau that was brought up as an alternative, as well as the cane haul road as an alternative – we just want to flush out the wherewithal concerning the viability of these accesses and, notwithstanding what may be the developer's ability to pay for it, I think our concern is that it does split up a park area that would be used by children, that would be used in that manner, as well as the timing of that construction, and whether or not there would be increased delays with this.

Mr. Ho: Are you offering a trade out?

Mr. Dahilig: No. I think this is more a discussion concerning the fact that this alternative has been brought up by the public and why or why not this alternative is something that is viable. I think that is where, in fairness to that discussion, whether or not we would go forward with trying to do the trade out. But I think we have concerns about the massing of the park, as Mr. Shigemoto pointed out, as well as the timing on this because you would have to go through a full set of new engineering, a full set of new construction. And Koa'e is planning on breaking ground anytime soon, so these units will be online sooner than we can probably get that road into place.

Mr. Ho: Any comment?

Mr. Shigemoto: Just for clarification, because I heard the Paanau Road extension as an alternative that hasn't been... I guess it was considered, but if you look at the elevation difference between where that Paanau Road enters into Paanau Village II and where the bypass road is, the steep grade would not have been able to make a smooth connection or a connection that meets County standards, so that is why that alternative wasn't pursued. That is all I want to say.

Mr. Dahilig: Just as a further addition, these alternative accesses actually did go through one more round of community discussion as part of the South Kaua'i Community Plan. As you know, the plan outlines this particular access out of the three as the one that is part of the circulation plan for the area. We have gone through a number of analyses with these alternatives and it wasn't clearly just simply dismissed by the Department. Rather, we have actually gone through the consideration of looking at Paanau, we have gone through the consideration of cane haul (road), but we want to make it clear that it is not necessarily a financial issue; that it is really, in effect, a circulation issue and a connectivity issue for us, and so that everybody is aware that the developer has the wherewithal to do this. But I think it is very clear from the policy of the County, based on approved Council documents, that this is the preferable connection, so we are moving forward with enforcement in that manner.

I do want to disclose to the Commission that we did already receive construction plans for this connection from the developer per our enforcement timeline that we have with them, and that we are having those already reviewed by the Department of Public Works. However, what we will do is – many of these safety items that have been brought up in the public testimony today – we will forward the transcript of it over to the County Engineer’s office to ensure that there is at least some consideration in the design of the road, and where the public members in that Kōloa Estates Subdivision are concerned about, whether or not those could be mitigated as a consequence of this connection.

With that, Mr. Chair, if there are any questions, I am happy to answer them.

Mr. Ho: Anything you want to add, Tom?

Mr. Shigemoto: No, that’s it.

Mr. Ho: Okay. I think right now I would like a 5-minute recess just to speak with you. We are going to recess. We will be back here at 9:35 (a.m.). Thank you.

The Subdivision Committee recessed this portion of the meeting at 9:29 a.m.

The Subdivision Committee reconvened this portion of the meeting at 9:34 a.m.

Mr. Ho: I will call the meeting back to order.

Mr. Dahilig: Mr. Chair, I am available for any questions concerning this. I, again, would like to reiterate that we are treating this as an enforcement matter, not as a permitting matter, and that in terms of compliance with the conditions of approval as required by this Planning Commission, we are working at it as we would with any type of normal enforcement issue. With that, if there are any questions by the Commission Committee members, I am happy to answer them at this time.

Mr. Ho: Mr. Mahoney.

Mr. Mahoney: No, I don’t have any questions.

Mr. Ho: Alright. We are not here for any action, really; it is a status report. Is that...I got it. No action will be taken by the Commission today. Did you and Mr. Shigemoto discuss anything?

Mr. Dahilig: Just now?

Mr. Ho: Yes.

Mr. Dahilig: What we discussed is whether or not...because there are Commission members that are in the room, whether or not they would probably have questions when the Subdivision Committee report does come up for full Commission discussion. The Chair is not here at this point, but our suggestion is to ask – because many members of the public that are here that

would maybe want to listen to what the Subdivision Committee report may involve – that we try to move this item up on the agenda rather than having it later on in the agenda closer to New Business.

Mr. Ho: This will come up our – what is it – March 27th agenda then?

Mr. Dahilig: No. I guess, you know, typically when we do Committee reports that there is one other item that is on the agenda today that still needs full consent of the Commission, so just in case that there were any questions by Commissioners, even though there is no action that is needed by the Planning Commission on it, I suggested to Mr. Shigemoto that they may want to stick around in case there are questions by any of the Commissioners that are currently in the room, hearing what is going on, and may have some questions about it. We can't have them ask the questions on the floor at this point because this is before Committee, but in case there's any questions by them at that time, it would probably be best for us to move the agenda item up since we have them here right now, as well as members of the public that may want to hear.

Mr. Ho: With that information, Mr. Bukoski, would you take it and finish our agenda?

Mr. Bukoski: Thank you, Chair.

UNFINISHED BUSINESS (None)

Mr. Bukoski: Moving on to Item H, Unfinished Business. Seeing none.

NEW BUSINESS (For Action)

Tentative Subdivision Map Approval

Subdivision Application No. S-2018-7; GREG & ROBIN YOST; Proposed 2-lot Subdivision; TMK: (4) 4-6-016:006; Kapa'a, Kaua'i

Mr. Bukoski: Moving on to Item I, New Business. We have tentative subdivision map approval of Subdivision No. S-2018-7, Greg and Robin Yost, proposed 2-lot subdivision, TMK: (4) 4-6-016:006, Kapa'a, Kaua'i.

Mr. Bukoski read the Subdivision Report for the record (on file with the Planning Department).

Mr. Bukoski: We have received all various government comments and we are recommending tentative approval.

Mr. Ho: Are the applicants here today?

Mr. Bukoski: I did see Mr. Caires in here. I am not too sure if he left, or he could just be outside.

Mr. Ho: Thank you. Your recommendation, Mr. Bukoski.

Mr. Bukoski: For tentative approval.

Mr. Ho: Tentative approval?

Mr. Bukoski: Correct.

Mr. Ho: I will entertain a motion, please.

Mr. Mahoney: Is the applicant here? No?

Mr. Ho: No.

Mr. Mahoney: Seeing this is for tentative approval and by recommendation of the Department and reading over the conditions, I would move to approve tentative approval.

Mr. Ho: Second. The motion is to approve tentative approval. All those in favor? (Unanimous voice vote) Motion carried 2:0.

I will now ask for a...

ADJOURNMENT

Mr. Bukoski: Moving on to Item J, Adjournment.

Mr. Ho: That is what I am asking for. A motion, please.

Mr. Mahoney: Oh. Move to adjourn.

Mr. Ho: Second. All in favor? (Unanimous voice vote) Motion carried 2:0. We are adjourned.

Subdivision Committee Chair Ho adjourned the meeting at 9:39 a.m.

Respectfully submitted by:


Darcie Agaran
Commission Support Clerk

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

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