

KAUA'I PLANNING COMMISSION
SUBDIVISION COMMITTEE MEETING
October 23, 2018

The regular meeting of the Planning Commission Subdivision Committee of the County of Kaua'i was called to order at 8:31 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. Kimo Keawe
Mr. Sean Mahoney

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

CALL TO ORDER

Subdivision Committee Chair Ho called the meeting to order at 8:31 a.m.

ROLL CALL

Mr. Ho: We will start with our roll. Mr. Bukoski, will you start us off, please?

Mr. Bukoski: Good morning, Chair and Commissioners. Chair Ho.

Mr. Ho: Here.

Mr. Bukoski: Commissioner Mahoney.

Mr. Mahoney: Here.

Mr. Bukoski: Commissioner Keawe.

Mr. Keawe: Here.

Mr. Bukoski: We have three present at this time.

APPROVAL OF AGENDA

Mr. Bukoski: Moving on to Item C, Approval of the Agenda.

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

Mr. Keawe: Second.

Mr. Ho: The motion is to approve the agenda. All in favor? (Unanimous voice vote) Motion carries 3:0.

Mr. Bukoski: Thank you, Chair.

MINUTES of the meeting(s) of the Subdivision Committee

Meeting of September 25, 2018

Mr. Bukoski: Moving on to Item D, Minutes of the Meeting of the Subdivision Committee – Meeting of September 25, 2018.

Mr. Keawe: I move to approve the meeting minutes of September 25, 2018.

Mr. Mahoney: Second.

Mr. Ho: Motion before us is to approve the minutes of the meeting of September 25th. All in favor? (Unanimous voice vote) Motion carries 3:0.

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. Is there anyone in the audience that would like to testify on any items on the agenda? Seeing none.

GENERAL BUSINESS MATTERS (None)

Mr. Bukoski: Moving on to Item G, General Business Matters. None.

UNFINISHED BUSINESS (None)

Mr. Bukoski: Item H, Unfinished Business. None.

NEW BUSINESS (For Action)

Tentative Subdivision Map Approval

Subdivision Application No. S-2019-2; *SUNSET STRIP PROPERTIES, LLC & MCBRYDE SUGAR COMPANY, LLC*; Proposed 12-lot Consolidation; TMK: (4) 2-4-016:001 & 021-031; Kalāheo, Kauaʻi

Mr. Bukoski: Item I, New Business for Action. Tentative subdivision map approval – Subdivision Application No. S-2019-2; Sunset (Strip) Properties, LLC and McBryde Sugar Company, LLC; proposed 12-lot consolidation; TMK: (4) 2-4-016 Parcel 001 and Parcels 020 through 031; Kalāheo, Kauaʻi.

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

Mr. Bukoski: Speaking on that, Commissioners, I have passed out a stipulation to void the final subdivision map approval documents to you. Unfortunately, it was my bad to put it on...I did not put it on the agenda, and we are requesting a deferral of this matter to the next Subdivision meeting, which will be November 13th, in order to correct this.

Mr. Ho: Thank you. I guess, now, anybody from McBryde or Sunset Strip Properties, please?

Mr. Tom Shigemoto: Morning, Subdivision Committee members. For the record, my name is Tom Shigemoto. Ian Jung is here with me. He represents the buyer or the owner of the property now. I represent the seller of that property.

As Chance explained, we had filed a Stipulation (and) Order to cancel the subdivision and it, basically, wasn't supposed to appear on the agenda because it was supposed to be something that was going to be entertained as a General Business Matter for the Planning Commission. So we concur with the deferral if that is your pleasure, and you can defer this particular item to the next meeting.

Mr. Ho: Is that all right with your client, Mr. Jung?

Mr. Ian Jung: Yes. So just to give you a quick, sort of, summary on what's going on here, there are two subdivision actions which have historically been ongoing for quite some time. My client had purchased the property last year, and in coordination with McBryde, we entered into a development agreement, which, essentially, was a non-development agreement. Basically, it outlined how we were going to cancel and terminate the subdivisions.

So in terminating this particular subdivision, we prepared a stipulation to void the subdivision. The reason we took that approach is, under Chapter 12, the Commission has the authority to

cancel an entitlement where there are laid-over conditions and agreements. So that document, essentially, just cancels all the conditions and the subdivision agreements that go with it.

The second part of it, which is the next subdivision item, is actually a consolidation of two lots, which we will explain, but we are creating two lots to separate out the reservoir portion of the property so A&B can keep that in there and water infrastructure for their other Ag opportunities out there.

So this particular subdivision – we are asking it to totally be cancelled.

One of the conditions that DOT wanted is that we just have a buffer along the road widening reserves as a setback. So I think the way Mr. Bukoski laid it out – applying the new subdivision number – was a correct approach where we can have that subdivision, but basically just have that one condition tied in to the stipulated order to cancel the subdivision. I think we'd be wrapped up on this particular subdivision.

Mr. Ho: Mr. Keawe.

Mr. Keawe: Ian, we are deferring this to the regular session of the next Planning Commission meeting.

Mr. Jung: Correct.

Mr. Keawe: As opposed to the Subdivision Committee.

Mr. Jung: Right.

Mr. Keawe: Okay.

Mr. Jung: Because in the two subdivisions, this one actually gets terminated, but the other one we will be entertaining next actually gets totally consolidated to split-off the water infrastructure.

Mr. Ho: And your deferral would be to November 13th. Is that what I understand it to be?

Mr. Bukoski: Correct, Chair.

Mr. Ho: Okay, gentlemen, I need a motion.

Mr. Keawe: All right, I move to defer the tentative subdivision map approval – Subdivision Application No. S-2019-2, Sunset (Strip) Properties, LLC and McBryde Sugar Company, LLC – to the regular session of the November 13th Planning Commission.

Mr. Mahoney: Second.

Mr. Ho: Motion on the floor is to defer to the regular Committee [sic] meeting on November 13th. All in favor? (Unanimous voice vote) Motion carries 3:0.

Mr. Bukoski: Thank you, Chair.

Subdivision Application No. S-2019-3; *SUNSET STRIP PROPERTIES, LLC & MCBRYDE SUGAR COMPANY, LLC*; Proposed 16-lot Consolidation; TMK: (4) 2-4-016:001, 013, 015 & 016; Kalāheo, Kauaʻi

Mr. Bukoski: Moving on to the next item in Item I. Tentative subdivision map approval – Subdivision Application No. S-2019-3; Sunset (Strip) Properties, LLC (and) McBryde Sugar Company, LLC; proposed 16-lot consolidation; TMK: (4) 2-4-016 Parcels 001, 013, 015, and 016; Kalāheo, Kauaʻi.

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

Mr. Bukoski: Chair and Commissioners, we have received all various government agencies' comments and we are recommending tentative approval.

Mr. Ho: Gentlemen, do you have any comments for us?

Mr. Jung: On this particular subdivision, as indicated on the last item, the idea here is we are still trying to, essentially, wipe clean the lot lines that were established in the original subdivision, but the way the purchase contract was set up is A&B and McBryde wanted to retain the reservoir lots to allow for the continued water infrastructure to agricultural activities that happen downstream and down ditch. So, in effect, there is no real development ongoing with this particular property.

We do have just one comment on the proposed conditions and that's 3.b., where the Department of Water had requested that we do a water main extension. There is no anticipated lot lines for any residential development in the area, so we would just like the opportunity to go back and meet with them to try and identify why they want a water main extension when there is actually a reduction in development versus new development. So if we could amend 3.b. to reflect just a general catch-all provision that we will resolve the requirements with the Department of Water relating to water infrastructure for just 3.b., then we could move forward and go and meet with them prior to final. Because in this particular subdivision, we are going to go the normal track where we have tentative and then final, and then the tentative condition would require us to get their approval before we get final on the subdivision anyway.

Mr. Ho: What is the zoning on this, Ian?

Mr. Jung: The zoning is split, Ag and Open. The State Land Use District is Ag as well, but it is still General Plan Residential Community. But there is no...my client has no interest in doing any agricultural subdivisions or any new development on the property right now.

Mr. Keawe: Chair? I have a question, Ian. So in the evaluation, it says landowners do not intend to develop the properties but rather (have the) properties (as) a whole, so that means there is not going to be any development on that property once you consolidate into two lots?

Mr. Jung: Well, “development” is a very broad word, right? You could say–

Mr. Keawe: I understand.

Mr. Jung: There could be a couple house sites.

Mr. Keawe: But in the true sense of developing the property over and above what will end up as the end product, currently, with this action.

Mr. Jung: As you guys know when you have a subdivision, then you subdivide out to get subdivision density, and so basically we are taking away that subdivision density from the creation of those lot lines to really scale back what is going to go on the property.

So as of right now, there is one house on this particular main lot and my client intends to leave that one house with no foreseeable future intent to build any future residences on that portion. But by virtue of having the density allocated via Ag and Open, there is a split density of, I think, about 10 total units versus the result density on the subdivided lots, I think, came out to be about 46 units for Phase II. Is that correct?

Mr. Shigemoto: I think a total of 80 – Phase II and III.

Mr. Jung: Yes, so I think split up on Phase II, it was going to be about 46 units.

Mr. Keawe: Excuse me, how many?

Mr. Jung: Forty-six (units). So basically, you are stripping down potential density by removing the lot lines.

Mr. Keawe: Okay, so getting back to my original question, five years from now, are we looking at a new different kind of development?

Mr. Jung: I don’t think from this particular client, no.

Mr. Keawe: Okay.

Mr. Jung: But I can’t say... five years from now, someone else may come in. But as of right now, there are no plans to further subdivide this property or do any type of development on the property.

Mr. Keawe: Okay, so you are just going to hold it?

Mr. Jung: Yes.

Mr. Keawe: All right.

Mr. Ho: Gentlemen, I need a motion, please.

Mr. Mahoney: What about – excuse me, Chair – Condition 3.b., does that have to be modified before we would accept the tentative...?

Mr. Jung: Yes, I would suggest that we could say that the applicant shall resolve with the Department of Water any requirements for additional water infrastructure for the subject lots. Because as you know, we are taking 19 away and creating 2, and 2 would be going to A&B and the 1 remnant master lot would be going to Sunset Strip Properties, so that is why we are sort of tied at the hip here, making this approach.

Mr. Ho: Before you go on, perhaps the attorney will shape the motion for us?

Mr. Mahoney: Or is this applicable for the Department to change the condition?

Mr. Bukoski: Technically, it is possible; however, I cannot speak on DOW's jurisdiction on that. However, the applicant does propose...if we are willing, we could actually...I can put more of a common type of condition, which is, "The subdivider shall comply with all the requirements of the Department of Water, if any, prior to the final subdivision approval," rather than having...so what we would do is (have) Condition 3.a. to be amended to reflect that condition I just mentioned. So the applicant could actually go in, consult with the Department of Water, and resolve all the conditions that were brought to them from this.

Mr. Jung: And that would be fine. Just for background, where Tom's client and my client are at, we both submitted just one request for a single meter, and we have those documents lodged already with the Department of Water. So it is not like we are asking for five meters or anything that would actually require a full buildout of water infrastructure in that area. There is already an existing main line that we could tap into for that single meter.

And then if we were ever to require more meters, then they can pose these same requirements. But because we are taking away development, we just prefer to have a general condition so we can work it out, let Department of Water understand that we are not actually doing a real development here – it is taking away entitlements – and maybe we could get these strip down so it is not as onerous on the applicant. Because in the case of a typical development, you are going to have these types of conditions, but this is sort of your untypical development where you are actually stripping entitlements.

Deputy County Attorney Jodi Higuchi Sayegusa: Right, I mean, the subdivision application process and approval process requires that, of course, all the respective agencies with their requirements according to and scaled to what the application is has been resolved, so I think you folks could consider amending the exact condition to at least give the applicant an opportunity to work with the Department to resolve any requirements that they impose. But of course the mechanism that will require whatever requirements that the Water Department would impose would be through the permitting, so I think the catch-all will still put a peg in it to make sure that any conditions that the Water Department imposes would be resolved.

Mr. Ho: Mr. Keawe.

Mr. Keawe: And again, in my understanding, this is a tentative approval. Is it not?

Mr. Jung: That is correct, yes.

Mr. Mahoney: Chair – to the Chair – could we adopt the language that the Department...?

Mr. Bukoski: Sure. Would you like me to read the language as well?

Mr. Mahoney: Yes, please.

Mr. Bukoski: “The subdivider shall comply with all requirements of the Department of Water, if any, prior to final subdivision map approval.”

Mr. Mahoney: Is that acceptable?

Mr. Jung: That is fine with us, yes.

Mr. Mahoney: Okay. Chair, I would like to make a motion to approve tentative subdivision map approval – Subdivision Application No. S-2019-3, Sunset Strip Properties, LLC and McBryde Sugar Company, LLC.

Mr. Keawe: Second.

Mr. Ho: Motion on the floor is to approve tentative subdivision map approval. All in favor? (Unanimous voice vote) Motion carries 3:0.

Mr. Shigemoto: Thank you.

Mr. Jung: Thank you.

Final Subdivision Map Approval

Subdivision Application No. S-2017-8; NEIL & DESIREE FAGARANG; Proposed 2-lot Subdivision; TMK: (4) 3-7-006:097; Līhu‘e, Kaua‘i

Mr. Bukoski: Moving on to the next item in Item I. Final subdivision map approval – Subdivision Application No. S-2017-8; Neil and Desiree Fagarang; proposed 2-lot subdivision; TMK: (4) 3-7-006 Parcel 097; Līhu‘e, Kaua‘i.

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

Mr. Bukoski: Chair and Commissioners, we have received all various government agencies’ comments and we are recommending final approval.

Mr. Ho: Is there someone in the audience for...?

Ms. Maren Arismendez-Herrera: Good morning. Maren Arismendez-Herrera from Esaki Surveying, here on behalf of the owner. We would like to request final subdivision approval. The owners have complied with all of the agency requirements. Any questions?

Mr. Keawe: Chair? Just one comment. Just wanted to commend your client for working with the Department to work out all the kinks and it was kind of a very unusual situation.

Ms. Arismendez-Herrera: Right, a very special case.

Mr. Keawe: But they were willing to do it and do the right thing.

Ms. Arismendez-Herrera: Right.

Mr. Keawe: In lieu of what's going on in that whole subdivision, so just make sure you convey to them that we appreciate their going through the right steps to get it done.

Ms. Arismendez-Herrera: I will. Thank you. I must say, they were very patient, also. It is commendable. I will pass that on to them.

Mr. Mahoney: Chair, I move to approve final subdivision map approval – Subdivision Application No. S-2017-8, proposed 2-lot subdivision.

Mr. Keawe: Second.

Mr. Ho: Motion on the floor is to approve final map approval, and vote, please.

Mr. Mahoney: All in favor.

Mr. Ho: I'm sorry. All in favor? (Unanimous voice vote) Motion carries 3:0.

Ms. Arismendez-Herrera: Thank you.

Mr. Bukoski: Thank you.

Subdivision Application No. S-2018-17; JOANNE P. ROBSEN; Proposed 2-lot Consolidation; TMK: (4) 2-6-016:023 & 024; Kōloa, Kaua'i

Mr. Bukoski: Moving on to the last item on the agenda. Subdivision Application No. S-2018-17; Joanne P. Robsen; proposed 2-lot consolidation; TMK: (4) 2-6-016 Parcel 023 and Parcel 024; Kōloa, Kaua'i.

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

Mr. Bukoski: Chair and Commissioners, the applicants have met all various government agencies' conditions and we are recommending final subdivision map approval.

Mr. Ho: Is there anyone here for Joanne Robsen, please?

Ms. Arismendez-Herrera: Good morning. Maren Arismendez-Herrera from Esaki Surveying, here on behalf of the owners, requesting final approval. This is a simple consolidation of two adjoining lots – they are owned by the same owner – that would just simplify the management of his properties.

Mr. Ho: What is the zoning for this?

Ms. Arismendez-Herrera: This is Residential, and the structures are already built. All improvements are on the lot.

Mr. Ho: Mr. Bukoski, R-...what?

Mr. Bukoski: Residential R-4, sir.

Mr. Ho: R-4?

Mr. Bukoski: Yes.

Mr. Ho: And they will keep the R-4 designation?

Mr. Bukoski: Correct.

Mr. Ho: Gentlemen?

Mr. Keawe: Just a comment. I think, probably, it would be in her best interest to do this because I think they get charged by lot for all of the common area charges and stuff. So when they consolidate it to one, then she is going to pay just one, I think – I don't know. Anyway...

Mr. Ho: Any other discussion?

Mr. Keawe: Any other?

Mr. Mahoney: No.

Mr. Keawe: No.

Mr. Ho: Motion, please.

Mr. Mahoney: Chair, I move to approve Subdivision Application No. S-2018-17, Joanne P. Robsen, proposed 2-lot consolidation.

Mr. Keawe: Second.

Mr. Ho: Motion on the floor is (for) final map approval for Joanne Robsen. All in favor?
(Unanimous voice vote) Motion carries 3:0.

Ms. Arismendez-Herrera: Thank you.

Mr. Bukoski: Thank you, Chair.

ADJOURNMENT

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

Mr. Keawe: Move to adjourn.

Mr. Mahoney: Second.

Mr. Ho: We are adjourned.

Subdivision Committee Chair Ho adjourned the meeting at 8:54 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.