

KAUA‘I PLANNING COMMISSION
SUBDIVISION COMMITTEE MEETING
September 08, 2020

The regular meeting of the Planning Commission Subdivision Committee of the County of Kaua‘i was called to order at 8:35 a.m., Microsoft Teleconference. The following Commissioners were present:

Mr. Roy Ho
Ms. Donna Apisa
Mr. Francis DeGracia

Absent and Excused:

The following staff members were present: Planning Department Director Kaaina Hull – Planning Deputy Director Jodi Higuchi Sayegusa, Dale Cua, and Planning Commission Secretary Leslie Takasaki; Office of the County Attorney –County Attorney Matthew Bracken; Office of Boards and Commissions – Commission Support Clerk Arleen Kuwamura.

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

Chair Ho: Good morning, everyone, welcome to Subdivision. This call will start with our roll, please. (Inaudible) Commissioner Apisa.

Planning Director Kaaina Hull: Roll call. Commissioner Apisa.

Ms. Apisa: Here

Mr. Hull: Commissioner DeGracia.

Mr. DeGracia: Here

Mr. Hull: Chair Ho.

Chair Ho: Here.

Mr. Hull: You have a quorum. Three Present.

APPROVAL OF AGENDA

Mr. Hull: The next up is approval of the Agenda. The Planning Department does not have any recommended amendments.

Ms. Apisa: I move we approve the agenda as submitted.

Mr. DeGracia: Second.

Chair Ho: The motion before us is the approval of the Agenda. All in favor? Aye (Unanimous voice vote) Motion carries. Motion carries 3:0.

MINUTES of the meeting(s) of the Subdivision Committee

Mr. Hull: Next up is Agenda Item is review and approve of the meeting minutes for June 09, 2020.

Ms. Apisa: I move we approve the minutes of June 09, 2020.

Mr. DeGracia: Second.

Chair Ho: The motion before us is to approval the minutes of June 09, 2020. All in favor? Aye (Unanimous voice vote) Motion approved. Motion carries 3:0.

RECEIPT OF ITEMS FOR THE RECORD (None)

Mr. Hull: There is no Receipt of Items for the Record.

HEARINGS AND PUBLIC COMMENT

Mr. Hull: Okay. Next, we have a Hearings and Public Comment. Planning Commission and Subdivision Committee testimony needs to be submitted 24 hours in advance, however, you may submit after we received, you have not received any public testimony, written comments for any Subdivision agenda items. For those who are calling in, this is the time to testimony on any of the agenda items. Is there anybody who is calling in that would like to testify as a member of the public? Applicants, if you're an applicant, you have your time to speak on the specific agenda item, but is there any member of the public that has called in that would like to testify on the agenda items? Hearing none. Moving onto New Business. I have one (inaudible) on the agenda.

GENERAL BUSINESS MATTERS

UNFINISHED BUSINESS (For Action)

Mr. Hull: We will move on to Unfinished Business, there is no Unfinished Business.

NEW BUSINESS (For Action)

Tentative Subdivision Map Approval.

Subdivision Application No. S-2020-11 Kukui`ula Development CO,
Proposed 14-lot Subdivision TMKs: (4) 2-6-019: 048 Kukui`ula, Kauai

Mr. Hull: Moving onto New Business. I have one, ah, (inaudible...)

Mr. Avery Youn: (Inaudible), on the agenda.

Mr. Hull: (Inaudible) Yes, you have, Avery, we have a specific request from you for intervention and appeal that's being placed for the Kilauea Ohana Plateau, so we'll bring it up and you can discuss that communication during that particular agenda item. However, did you want to testify on any other – other agenda items set?

Mr. Youn: No, no, thank you very much for letting me know.

Mr. Hull: Okay, thanks, Avery. So back to I.1, Tentative Subdivision Approval Subdivision application number S-2021-11, Kukui`ula Development Company, a proposed 14-lot subdivision, TMK, 2-6-019:048. The application or the subdivision planner is Dale, and I will turn it over to Dale.

Staff Planner Dale Cua: Thank you, Chair, and members of the Subdivision Committee. What you have before you is subdivision application up for tentative approval. It is regarded as the Kukui`ula CC West Subdivision and its phase two.

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

Mr. Cua: The Department is recommending a tentative approval but pending the request for a modification of requirement.

Chair Ho: Are we waiting for you to speak?

Mr. Lindsay Crawford: I am sorry, Dale, was the request for Lindsay to speak?

Mr. Cua: Yes, so sorry, Lindsey, you can go ahead and present your argument, please.

Mr. Crawford: Okay, thank you, Dale. Yes, as Dale indicated, Planning Commissioner, excuse me, Lindsey Crawford, Kukui`ula Development for the record. As Dale indicated, Kukui`ula is

requesting as we have done before on very similar small residential lot subdivisions, a waiver from the sidewalks and curbs and gutters on this particular subdivision. I submitted a request letter and an exhibit showing exactly where the adjacent sidewalk on Ala Kukui`ula Drive is, it's a matter of standing 45 feet away, so an internal set of sidewalks on the small little residential cul-de-sac road is probably unnecessary. Therefore we are requesting a waiver for the sidewalk, the ideal sidewalk Condition, very, very similar to what we had on the last map is you would like to refer to the last map we had approved I am going to say six months ago. In addition, we are asking for a waiver for the curbs and gutters because we –we have swales, County approved swales if you did your approved swales, it serves these rural type neighborhoods very similar to every other subdivision we have done into Kukui`ula.

Chair Ho: Commissioner, you have any questions for Mr. Crawford.

Ms. Apisa: No questions.

Mr. Crawford: Okay, thank you.

Chair Ho: Oh, Lindsey, are you asking for the waiver only in that small, what is it like a semi-circle portion?

Mr. Crawford: Are you talking, (inaudible), are you talking about the cul-de-sac?

Chair Ho: Yes.

Mr. Crawford: Ah, no. Actually I am asking for it for the entire length of the road which is a, ah, a single loaded 14 residential lot roadway. It has 14 (inaudible) excuse me, 11, 11 lots and just a cul-de-sac road. It is not just a cul-de-sac but the stem of the road also.

Chair Ho: So, the residents, they face all of the Ala Kukui`ula Road? Are you asking for waiver on that portion also?

Mr. Crawford: I am sorry; I am not recalling you saying that. It's – these residential lots...

Chair Ho: Yes, and they back up to that all of Ala Kukui`ula Road? Am I reading this map correctly?

Mr. Crawford: Yes, that is our major arterial roadway through the subdivision. It's all of Ala Kukui`ula Road, about a seven foot, an existing seven foot wide sidewalk instead of a regional sidewalk it could usually serve as a sidewalk for this particular residential subdivision.

Chair Ho: Okay. So it does have a (inaudible) particular road and a residential.

Mr. Crawford: Yes, yes, it does.

Chair Ho: Thank you, Lindsay.

Mr. Crawford: You are welcome.

Mr. Cua: Sir, just for clarification purposes, the modification for the roadway construction relates to the interior roadway serving this development. And as Lindsey mentioned, there is already an existing sidewalk along Ala Kukui`ula Road.

Chair Ho: Thank you. Commissioners, you okay to vote, a motion.

Ms. Apisa: I take it Dale that you are in agreement with that.

Mr. Cua: Yes, correct.

Mr. Crawford: Yes.

Ms. Apisa: I am ready to make a motion.

Chair Ho: Please do.

Ms. Apisa: I move that we approve subdivision application number S-2021-11 Kukui`ula Development Company proposed 14 lot subdivision as modified.

Mr. DeGracia: Seconded.

Chair Ho: The motion before is Tentative Map Approval, permit number 2020-11 for modification...

Ms. Apisa: 2021?

Chair Ho: All in favor. Application Number S-2020-11, is that correct?

Mr. Cua: The agenda item is, ah, incorrectly – this – the application number for the record is 2020-11.

Ms. Apisa: My, I correct that in my motion then also.

Chair Ho: Yes.

Ms. Apisa: Thank you.

Chair Ho: Motion before us is for Tentative Map Approval Application number 2020-11, all in – with modification. All in favor? Aye (Unanimous voice vote) Motion approved. Motion carries 3:0.

Ms. Apisa: Obviously, that was not quite into 2021 yet.

Mr. Cua: Yes, I apologies.

Final Subdivision Map Approval.

Subdivision Application No. S-2018-15 Kilauea Ohana Plateau, LLC,
Proposed 10-lot Subdivision TMK: (4) 5-2-005: 023 Kilauea, Kauai

Mr. Hull: Next we have I.2, final subdivision map approval, A, subdivision application number S-2018-15, Kilauea Ohana Plateau, LLC as the applicant, that's a proposed 10-lot subdivision-TMK: (4) 5-2-005:023, there's also additional communications to this particular agenda item. The first one is request from Avery Youn, dated September 1, 2020, to become a part application and allow intervening in the process and appeal decision with Planning Director. To assure that action on the proposed final subdivision approval be postpone until the application can be (inaudible) flats if both Subdivision Ordinance and Chapter 205 (inaudible).

And then you also have another memorandum on the, essentially in response to the request, this is from the applicant's representative Ian K. Jung, requesting the (inaudible) just answer the under appeal of the decision be dismissed for failing to meet the rules provided for any RP piece and the final subdivision map approval being granted. At this point because its request is possibly appealing the Director's Decision, a turn in review and action concerning Avery's petition at the again response over to you, Chair, as well as to Matt Bracken, the County Attorney.

Chair Ho: I ask that Matt Bracken give his opinion on this rebuttal convene in June.

County Attorney Matthew Bracken: Good morning, Matt Bracken, County Attorney. This action is governed by County Code Section 9-3.8, which is the Final Subdivision Map Section. Section (inaudible) E.1, which is directed (inaudible) Commissioner, exponentially E.2 that is the Commission's permanent map (inaudible). In this situation, we have to look at two different sections within the Planning Commission rules. The first one read Chapter 4, which governs intervention, Section 1-4-1, does not allow intervention in the appeals of actions of (inaudible) pursuant to chapter 9. In this situation, we have a Planning Director's Report, under the rules it does not allow for intervention. Then, you have to look at Chapter 9; it governs the appeals, specifically Section 1-9-1, which states, intervention pursuant to Chapter 4 of these rules shall not be allowed in appeals from the Action Director. Again, this is the Action of Directors who intervention would not be allowed and an appeal would not be allowed. So if you look at the appeal, intervention is not allowed, the person would not be a party and they would not be a party and they would not have the right to appeal this matter of the law. But the rules also don't allow for appeals. So it does allow for appeals from the applicant. The applicant has a right to appeal but that is it. So in this situation, the rules do not allow for intervention and they do not allow for appeals, you know. If you want me to review specific communications that can be done, but that is needs to be made specifically through my email, as a request.

Chair Ho: Thank you, Matthew. Mr. Hull, could you please forward on me?

Mr. Hull: I will come in Chair; I think when you guys actually review the Subdivision action. You may want allow Avery as well as Ian to present their (inaudible) to these folks.

Chair Ho: Let me see. All right. We will hear from, Mr. Jung, please.

Planning Deputy Director Jodi Higuchi Sayegusa: Mute.

Mr. Ian Jung: Sorry about that. I was on mute. Again, good morning, Subdivision Committee Chair, members of the Committee, Ian Jung on behalf of the applicant Kilauea Ohana Plateau Subdivision. We did receive Mr. Youn's request for intervention and we do concur with the County Attorney opinion on this. We actually prepared a memo in response and guidance you folks, we tried to rush it in to get it in before Friday. So when we get subdivisions, I think its pretty square when you have a subdivision you're looking at hitting all the task items from preliminary approval and if the applicant gets those task items in the preliminary approval letter, then final subdivision is sort of a ministerial approach to resolve the remaining Conditions.

I do not think there is any way for Mr. Youn appeal let alone intervene in a final subdivision matter. It is my perspective that the carryover that Mr. Youn has concerns which starts with the Gather SCU project that occurred in 2019. Mr. Youn actually lives with a significant other on adjacent property and when they testified to this Commission previously, they were concerned with there being noise and the ongoing construction. They tried to intervene late through a motion of reconsideration as noted in his request. However, again, they were too late on that similar to this case. But we met all Conditions with final subdivision approval and are now on track to final (merit) approval. We actually do not post approval of the Gather. I went to a meeting that Tessa Shimabukuru was also on line to answer any questions if you folks have any questions on the Gather project. But we coordinated a meeting, invited Avery, ah, one of those individuals did appear and we tried to work a scenario where we can start construction timelines at a certain time that's, you know, reasonable for the adjacent neighbors so the beeping noises wouldn't beep to impact those throughout the day.

But unfortunately Avery did not show up to that meeting so we weren't able to get his official comments on that. Now we are dealing with late in the game challenge which as I agree with or the County Attorney, you know, it is not a plausible challenge even when we're at the final leg of this. Just to bring the committee to full circle on this, this started about three to four years ago, we negotiated with the County of Kauai who wanted this New Town Kilauea Road, in response to what then Bernard, Mayor Bernard Carvalho, Jr. wanted as fulfilling the 2006 Kilauea Town Plans. So when it this road design came through, this little R.6 or R.6 section that was there and identified by then Planning Director Mike Dahilig, he actually required that we put some kind of housing in that strip. So that's lots B.1 and B.2, and I'll show you on the map. Mr. Youn's concern – sorry, I am going to try to share the screen previous map – Mr. Youn's concern is highlighted in pink. This is the official zoning map, Mr. Youn actually submits only tax maps as part of his record request. In this case, it is clearly shown on the class, on the Kilauea Town

Core Map that the area in question is in the urban and R.6 section. I want to show you the online GIS system mapping that the State Land Use Commission maintains, the lines there. It shows that bump. When they align that subdivision, they did not follow the exact location of the zoning line.

Mr. Youn does raise an issue of once all recorded down in the tax maps, but that is just not the case, you know, that the state used to manage tax maps pre-86 and now the county manages the tax maps. The tax maps are for tax purposes only. When you go to the course of law, you have to look at what are the actual map shows and that is binding rather than a reference to a map – tax map key number. So it's critical that we look to the actual zoning map and the State Land Use Map rather than just a tax map, Mr. Youn applied. So with that said, you know, we understand his concern and, again, Gather is willing to sit down with Mr. Youn if he's willing to come to the table to work out, potential (inaudible), that may affect his significant other's property and trying to come to a reasonable solution. Unfortunately, this just isn't the vehicle to waste the Commissioner's time on holding an intervention request when if he really wants to have a challenge to mapping. He has a private right of that actual challenge under Chapter 205, to challenge this declaratory action of the Court, rather than before this Commission. So with that said, I will turn it over the subdivision planner, try and round out the conversation of how we fulfill all the Tentative Conditions.

Chair Ho: Mr. Hull, are we going to ask Mr. Youn to comment?

Mr. Hull: I am trying to stay out of this because (inaudible) again he is potentially proposing but I would strongly encourage being that it is a communication that went to the Committee Chair, that you ask Mr. Youn to speak his communication.

Chair Ho: With that, Mr. Youn would you please comment?

Mr. Avery Youn: Thank you very much, Mr. Chairman. Can you hear me?

Chair Ho: Yes.

Mr. Youn: Okay. I'm – I'm a little upset right now 'cause I had a funny feeling I was going to get cut on the legal proceedings. But the issue here, first of all, I am lying awake at night. The issue here is somewhat subdivision itself but on the way of the urban designation was (inaudible). I disagree with Mr. Jung because I went to the Land Use Commission and first, I have been on that side of the table for 13 years as a Director and a Planning – Planning Director and Deputies. I went on this side of the table for about 30 – Sorry, I am trying to turn this off. Sorry. I'm very familiar with election clause, (inaudible) what the Land Use State, I went to the Land Use Commission twice and I got their maps and I totally disagreed with Mr. Jung. When you apply for a Land Use, you apply with a tax key and a specific tax key use parcel. This came here the Land Use (inaudible) for the Kilauea Plateau Subdivision, was never part of that

application for an application, you cannot take one tax map designated urban and include that other one next door, the other designation.

My other question, too, is for the County Attorney, um, and an adjoining property owner or, ah, an adjoining person that has standing to a subdivision cannot appeal under a decision of the Director or file for Intervention then what can we do? We - is our only option to go to court in my land use piece because we have been shut down. This is the fourth time we have shut been down on this issue. I can say when you do a land use things, not so much the subdivision itself, this is what the problem is, the land use thing, you cannot just arbitrarily add an adjoining lots and make it urban when it doesn't go to the proper authority. The proper authority to make that designation is you the Planning Commission and the County Council. It is not the Planning Director. You cannot apparently move the line into the access and call it urban. And I - and I can say that because I have the application before we through the Land Use Commission I have the subdivision map and I can show you the boundary, it's different from what Mr. Jung has showed you and here I'll show you.

This map has submitted to the Land Use Commission. It is right here, and it shows this as the urban boundary. This is Jung's map up here. So this is what the Land Use Commission approved and what Mr. Jung showed you is what the Planning Director approved. However, the authority to change the urban designation rests with the Planning Commission and the County Council not the Planning Director. And, um, and I know Mr. Jung is going to want to comment and what I say, and I reserve the right to comment on what he says 'cause he'll probably say that I'm wrong on everything. Like I said, I have enough experience, all the (inaudible) however, I am very familiar with Land Use changes and zoning and I know for sure (inaudible), this is the land use commission for urban designation is what was approved here. The zoning (inaudible) and (inaudible), the issue is the subdivision is wrong if guys don't allow me to appeal or intervene at this point and we have no option but the Planning (inaudible). What I am trying to do is - I am not trying to waste your time and I actually come in to see (inaudible) by breaking this up with the County.

I understand what this subdivision is for; to create a bypass road for Kilauea I am not really against the subdivision, what I am against is how it was done. It does not follow your rules, and as an example is on the subdivision itself, a roadway A, which is the bypass road, we need us to, ah, representing every landowner or that we have to follow the subdivision on this. In this case, the roadway A does not have construction plan on it - on it is the subdivision agreement to post a bond, construction, it is the (inaudible) modification requirement, it is like what you just had with Kukui'ula. This was not on so that violates Subdivision Ordinance 2. My conclusion is that the authority to designate land that is not part of a tax map key, it was - that it is urban. The authority to make that change that the Planning Director did rests with you, the Commissioners and the County Council. Not arbitrarily (inaudible). For urban designation 223 into an Ag. Designation. The map is very clear the boundary of the land use change was approximate 733. It now 953. How can you move from 733 to 953, when you have a tax key defining the exact

boundary? The zoning, the (inaudible) Ag. Designation is not part of the application. How can it be automatically put into the urban designation? That is wrong.

So you might deny me my appeal, my intervention. But the subdivision and the urban designation is still wrong. And when I said the County Attorney addressed and say I have no right to appeal or to intervening. What rights does a private landowner have to oppose a subdivision? By the way, there is precedence on this, there is precedence, that I – I could not find – I had it earlier. The subdivision colony where an adjoining landowner was allowed to re-subdivision at the time of final approval and the Planning Commission did allow him to come in there and convene as a party and they resolved the issue. But you do have precedence. I am not making this up. Thank you.

Chair Ho: Thank you, Mr. Youn. I will take this; I will take this meeting back now. I think we have heard from the attorney. He has ruled that intervention is not at applicable here. So with that, Mr. Hull would you take us back to our meeting, please. We are on the Final Subdivision Map Approval for Kilauea Ohana Plateau, please.

Mr. Hull: Before I turn over the appeal, let me just ask from the County Attorney Matt, does, the Subdivision Committee need to take action on Mr. Youn's request or, does it just take it as a communication that they note in their reveal the Subdivision application?

Mr. Bracken: I would recommend taking action, and I can even see the recommended – the recommendation to the client Commission, but I would recommend a formal motion and then not have questions (inaudible).

Mr. Hull: So, Chair, I think with what Matt is essentially saying is that you should have a motion for Mr. Youn's request before going back into review of the actual Subdivision Application for our Kilauea Ohana Plateau.

Chair Ho: How would the motion be stated? And how do we proceed now?

Mr. Bracken: So if it a motion to deny the appeal or the request for inter- it could just be a motion to deny the request for intervention and appeal. If that is what the committee like to do.

Chair Ho: Commissioners, would that be by Mr. Bracken? Would you give me a motion please?

Ms. Apisa: I like the simplicity of it; I will move to deny the request or intervention and appeal.

Mr. DeGracia: Second.

Chair Ho: A motion before us is to deny the appeal of Mr. Youn, I need a roll call vote please, Kaaina. Commissioner Apisa.

Mr. Hull: Commissioner Apisa.

Ms. Apisa: Aye.

Mr. Hull: Commissioner DeGracia.

Mr. DeGracia: Aye.

Mr. Hull: Chair Ho.

Chair Ho: Aye.

Mr. Hull: The motion has passed 3:0. Chair Ho.

So, Dale, now that we're back to the regular Subdivision portion of the Agenda, I'll turn over the Kilauea Ohana Plateau Subdivision to you.

Mr. Cua: Okay, correct. Thank you. So Commissioners, what you have before you is consideration for final subdivision map approval of subdivision application S-2018-15.

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

Mr. Cua: The final subdivision map has been routed to the various agencies for their review and approval. The department has received all of the agency approval letters and the applicant has the one remaining (inaudible) that need to be completed. As a result, of the Department is recommending final subdivision approval of this application.

Chair Ho: Is Mr. Jung still with us for this?

Mr. Jung: Yes, yeah, and I just wanted to (inaudible) Mr. Youn did raise an important question on this subdivision with regard to road block – road block A., that particular lot is the intended road that will be dedicated over to the County. So in Section 2.4 of our memorandum of understanding with County of Kauai is a full applicant with Mr. Hay and his entity. We actually put in a provision in there that we would just hand over the land, and at the time where they can use the dedicated land as a soft cost match, to go in and build the road and they would use that dedication. Then use the soft – soft match to go and build and design the road based on what the County specifically wants.

So we have an agreement set out in four – prior to even filing the subdivision to address road plotting. Now for road lot here we did do a design of the road, um, which will be the access road to Gather and then future R6 subdivision that will go in at the further time that we're discussing with portable housing proponents who are looking at that lot. So a lot of the infrastructure, especially to lot A, is relative only to a future build out based on Federal fund request, things like that, so that's the issue with road lot A and that was pre-prescribed in the MOU to address that

matter. Other than that, I will be happy to answer any specific questions with regard to the subdivision.

Chair Ho: Does the commission have any questions for Mr. Jung?

Ms. Apisa: I have no questions.

Chair Ho: This roadblock and you going to turn it over on unimproved with just a raw land, you will be giving the County.

Mr. Jung: Yeah, when we were in discussing how to go about doing the width of the road and whatnot, we went through several iterations because they wanted a create – rather create a multiuse path adjacent to the road and whatnot. So, we're just going to dedicate the land as what was requested by the County and then so the land is the dedication of the road lot A and then the multiuse part which spurs off to go towards Kauapea Beach access. So there are two lots that will dedicated over the County. I can show you all on the map. I highlighted the actual road dedication and then the orange is the Spur bike path that will take individuals and kids over to the Kalihiwai Road area. Let me see that.

Chair Ho: On your map that you just showed, where is the Credit Union, please?

Mr. Jung: Okay. So the Credit Union is the smaller lot, its B.1, right adjacent to the green. You can see where the green and yellow merge. So this map, this map here, I sent this over the Housing Director because the larger lot is what they're looking at for future affordable housing, for purchase from Mr. Hay as part of the dedication of its purchase that could do potential affordable housing in that location here. But another group is looking at this portioning green which is the R.6 portion that is disputed by Mr. Youn to do a potential affordable housing project there as well. So the Gather lot is right here, B.1.

Chair Ho: That B lot as you just spoke of the future affordable housing lot is that across the highway or is that... that...

Mr. Jung: Yeah. This is the, this is – sorry, my finger, following the highway here.

Chair Ho: Okay, okay, yeah.

Mr. Jung: So a portion of this lot is actually in the Urban District so that is why the County is really interested in that (inaudible) proposal. And I'll show you the New Town, this is the map from Kilauea New Town plan which shows that area and that's shaded where the road would be here. So how future of housing in this area so for Kilauea Conceptual Plan on this map.

Chair Ho: At one point that area once was it designated Princeville to fulfill its housing requirements. Was that the idea of that lot?

Mr. Jung: No, with that, that lot is actually where Mr. Youn resides with his significant other. That was (inaudible) was affordable housing component for Princeville Subdivision or Principal Development.

Chair Ho: Thank you.

Mr. Jung: Yes, and I can ask, I will show you, that is right here in this particular lot. This is the area and this is the actual zoning map. Sorry. This is the actual zoning map that everybody relies on, and this is the area, where you can see the zoning boundary and the urban boundary. That is in dispute. So just to address Mr. Youn's question, I know this is a very technical issue that I think is being raised if he does want to challenge this, the right and appropriate venue is to challenge it under a Chapter 2., Applied Right of Action, that's the way to do it, not from the Subdivision. We can take the matter up at the courts rather than you folks.

Chair Ho: Is there questions, Commissioners?

Ms. Apisa: No, you had good questions, Roy.

Mr. DeGracia: No questions.

Chair Ho: Okay. So no questions. So before is the Final Subdivision Map Approval, motion please.

Mr. DeGracia: I move to approve Subdivision application as 2018-15.

Ms. Apisa: Second.

Chair Ho: Motion before us is for a Final Subdivision Map Approval Application of S-2018-15. Kilauea Ohana Plateau, LLC. Roll call, please, Mr. Hull.

Mr. Hull: Roll vote, Commissioner Apisa.

Ms. Apisa: Aye.

Mr. Hull: Commissioner DeGracia.

Mr. DeGracia: Aye.

Mr. Hull: Chair Ho.

Chair Ho: Aye. Motion has passed 3:0. Final Subdivision Map Approval.

Mr. Hull: Thank you.

Subdivision Application No. S-2019-15 *Matthew Nelson/Stephanie & Katherine Skow*, Proposed 2-lot Subdivision
TMK: (4) 4-7-006:019 Kealia, Kauai

Mr. Hull: Next, on the agenda, Subdivision Application number S-2019-15, the applicant is Nelson and Stephanie and Kathryn Skow proposed to loss of division campaign 4-7-006019, located in again Kauai. I will turn this over to Dale.

Mr. Cua: Okay. Commissioners, as Kaaina, noted this involves a two-lot subdivision.

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

Mr. Cua: The Department has received all of the eight agency recommendations for final subdivision approval; as a result, the Department is recommending Final Subdivision Approval of this application.

Chair Ho: Are there any questions for the Planner? Recommendation is for approval, Dale.

Mr. Cua: Correct. Yes, for final subdivision approval, yes.

Chair Ho: Commissioners, please, I need a motion

Ms. Apisa: I move that we approve subdivision application as 2019-15, Matthew Nelson and Stephanie and Kathryn Skow.

Mr. DeGracia: Second.

Chair Ho: Motion before us, Final Subdivision Map Approval application number S-2019-15, Matthew Nelson, Stephanie and Kathryn Skow, roll call vote, please.

Mr. Hull: Roll call vote, Commissioner Apisa.

Ms. Apisa: Aye.

Mr. Hull: Commissioner DeGracia.

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ho, or Chair Ho.

Chair Ho: Aye. Motion passed 3:0. Final Subdivision Map approval granted.

Subdivision Application No. S-2019-19 Kukui`ula Development Co.
Proposed 8-lot Subdivision TMKs: (4) 2-6-022:019 Kukui`ula, Kauai

Mr. Hull: Next, on the agenda is Subdivision Application No. S-2019-19, applicant is Kukui`ula Development Company. It is a proposed subdivision TMK 2-6-022019. It is located in the Kukui`ula, Kauai. I will turn this over to Dale now, okay.

Mr. Cua: Commissioners, what you have before you is an eight lot Subdivision within the Kukui`ula Master Plan Area.

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

Mr. Cua: The Department has received all of the correspondence from these agencies. As a result, we are recommending Final Subdivision Map Approval of this application.

Chair Ho: Is Lindsey still with...

Ms. Apisa: I move – go ahead.

Chair Ho: Is Lindsey still with us?

Mr. Lindsay Crawford: Yes, I am. Yes. Can you hear me, Commissioners? This is Lindsay Crawford.

Chair Ho: Yes, we hear you. Is there anything that you would like to tell us about this?

Mr. Crawford: No, I think Dale has covered quite adequately. It produces four residential lots as roadway lots and a couple of other remaining lots but it is an eight-lot subdivision producing four residential single-family lots.

Ms. Apisa: Are we ready for a motion?

Chair Ho: Yes, we are.

Ms. Apisa: I move...

Chair Ho: Motion, please.

Ms. Apisa: ...application number S-2019-19 Kukui`ula Development Company.

Mr. DeGracia: Second.

Chair Ho: Motion on the floor to approve Kukui`ula Subdivision Final Map of S – permit number S-2019-19. All in favor? Signify by saying Aye. (Unanimous voice vote).

Ms. Apisa: Aye.

Mr. DeGracia: Aye.

Chair Ho: Aye. Opposed? (None). Motion carries. 3:0. Thank you.

Subdivision Application No. S-2020-2 Kukui`ula Development Co.
Proposed 13-lot Subdivision TMKs: (4) 2-6-022:020 Kukui`ula, Kauai

Mr. Hull: Next, on the Agenda is Subdivision Application No. S-2020-2, Kukui`ula Development is also the applicant. It is a proposed 13-lot subdivision, KMK 2-6-022-020, located again in Kukui`ula, Kauai. I will turn it over to Dale.

Mr. Cua: Thank you. This particular development identified as the Parcel E Subdivision, which is situated in close proximity to the previous application that you folks took action on.

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

Mr. Cua: The applicant has met the requirements of the subdivision and the Department has received agency approval letters, as a result are recommending subdivision approval of this application.

Chair Ho: Lindsay, would you like to say something?

Mr. Crawford: I guess, yes again, thank you for looking at this map. This is a 13-lot Subdivision, these are 11 residential lots, roadway lots and remnant lots, very simple and Dale has explained it very accurately.

Chair Ho: Thank you, Lindsey. With that, if there is no further questions, Commissioners, motion please.

Mr. DeGracia: I move to accept subdivision application number S-2020-2 Kukui`ula Development Company.

Ms. Apisa: Second.

Chair Ho: Motion before us Final Subdivision, Final Subdivision Map Approval, application number S-2020-2 Kukui`ula Development Company. All in favor please signify by saying aye. (Unanimous voice vote).

Ms. Apisa: Aye.

Mr. DeGracia: Aye.

Chair Ho: Aye. Final Subdivision Map Approval has passed. Motion carried. 3:0. Thank you.

NEW BUSINESS (For Action)

Tentative Subdivision Extension Request.

Subdivision Application No. S-2018-12 AOA O Kulana Condominium.
Proposed 2-lot Subdivision TMKs: (4) 4-4-003:089 Kapaa, Kauai

Mr. Hull: Okay, next we have is New Business. There are Tentative Subdivision Extension Requests. So the first request, subdivision application No. S-2018-12, AOA O Kulana Condominium proposed 2-lot subdivision, TMK: 4-4-003:089. I will hand it over to Dale.

Mr. Cua: Okay, Commissioners. What you have before you is a second extension request of this application as noted in the Department's Report, the proposal involves two-lot subdivision and essentially, the primary purpose of this subdivision is to subdivide a lot for the water tank that is currently on the property that will be dedicated to the Water Department.

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

Mr. Cua: The applicant is moving closely towards obtaining Final Subdivision Approval, so the Department and the agencies have no objections to the extension request. The Department is recommending an extension of time to May 22, 2021, with the provision the applicant submitted and updated status report for further extensions requests.

Chair Ho: Are there any questions for the planner? If not, I will entertain a motion please.

Ms. Apisa: I move that we approve the tentative subdivision extension request for application S-2018-12 Kulana Condominium with the provision that they give up status reports. Ah, we extended to May 22, 2021, when would be an appropriate status report?

Mr. Cua: The requirement recommends that the applicants submit a status report 60 days prior to the expiration date.

Ms. Apisa: So that would be on March with the provision that we have a status report on or about March 22, 2021.

Mr. Cua: Yes.

Mr. DeGracia: Second.

Chair Ho: Motion before is, ah, extension request for AOA O Kulana Condominium, application number S-2018-12, extension request is made for May 22, 2021, with a review March 22, 2021. All in favor please signify by saying aye. (Unanimous voice vote).

Ms. Apisa: Aye.

Mr. DeGracia: Aye.

Chair Ho: Aye. Thank you, the request has been granted. Motion carried. 3:0.

Subdivision Application No. S-2012-3 *McBryde Sugar Co., LLC./Sunset Strip Properties, LLC.* 2-lot Subdivision TMKs: (4) 2-4-007:002, Kalaheo, Kauai
Proposed 5-lot Boundary Adjustment

Mr. Hull: Next, up we have Subdivision application No. S-2019-3, McBride Sugar Company, LLC and Sunset Strip Property, LLC, are the applicant. It is a two-lot subdivision, TMK 2-4-007:020, it is located in Kaleheo, Kauia, I'll turn it over to Dale.

Mr. Cua: Hey, Commissioners, um, in this application, this is the applicant's first extension request involving this subdivision.

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

Mr. Cua: The Department's recommendation is to grant the extension to November 18, 2021, and similar to the previous application, the applicant will be required to submit an updated status report no later than 60 days prior to the expiration date.

Ms. Apisa: I move for...

Chair Ho: Is there anyone...

Ms. Apisa: Sorry.

Chair Ho: Let me call for it; is there anyone from McBride that is willing to testify?

Mr. Clyde Kodani: Good morning. Can did you hear me? Yes, this Clyde Kodani for the applicant. Happy New Year Chair Ho and Commissioners. We do not have any objections to status reports and we are here just to answer any questions that you may have.

Ms. Apisa: No questions.

Chair Ho: No questions. Francis, do you have any questions for him?

Mr. DeGracia: No questions.

Chair Ho: Okay. With that, Commissioners, I will entertain a motion please.

Ms. Apisa: I move that we approve subdivision tentative subdivision application number S-2019-3 McBride Sugar Company, LLC, Sunset Strip Properties, LLC, to November 18, 2021, with a status report by 18-2021.

Mr. DeGracia: Second.

Chair Ho: The motion before us Extension Request for McBride Sugar, application number S-2019-3, is asking for an extension to November 18, there is status report 60 days prior to, November 18. All in favor signify by saying aye. (Unanimous voice vote).

Ms. Apisa: Aye.

Mr. DeGracia: Aye.

Chair Ho: Aye. Motion passed 3:0. Extension has been granted.

Mr. Kodani: Thank you.

Subdivision Application No. S-2019-8 *Stephanie Fernandes*.
TMKs: (4) 4-2-005:044 Poipu, Kauai

Mr. Hull: Subdivision applicant number S-2019-8, Stephanie Fernandes is the applicant. It is located in TMK 4-2-005:044, located in Poipu Kauai, turn it over to Dale.

Mr. Cua: Thank you, Commissioners. What is here before you is a five-block subdivision in the Wailua Homestead area.

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

Mr. Cua: The request has been routed to both Public Works and Water and they have no objections to the request. As a result, the Department is recommending an extension of time to January 22, 2021; the applicant will be required to submit an updated status report no later than 60 days prior to the expiration date. Also wanted to note that I will be the extension date that the Department is granting is relatively around the corner. I also wanted to note that final subdivision map was brought into the agencies for their review and approval and I believe the Department is just waiting for one more agency approval. So they are getting really close to getting final.

Chair Ho: Is there someone from the audience that wishing to speak for Stephanie Fernandes. No comment? Um, that date, is that correct, January 22, 2021?

Mr. Cua: Yeah, it is about five months from – five months from now but as – as I mentioned, the final subdivision map was already routed, of the three agencies that require final approval, that the Department had already received two of the three.

Chair Ho: Okay. Commissioners? Motion please.

Mr. DeGracia: I move to accept the extension request for subdivision application number S-2019-8, (Stephanie Fernandez). Extension until January 22, 2021 with a status report submitted to Planning Department no later than 60 days prior to the expiration.

Ms. Apisa: Second.

Chair Ho: The motion before us is Tentative Extension Request for Subdivision application number S-20190-8 to January 22, 21, 2021, with an action report 60 days prior. All in favor signify by saying aye. (Unanimous voice vote).

Mr. DeGracia: Aye.

Ms. Apisa: Aye. Aye.

Chair Ho: Aye. The motion before is passed 3:0. Extension request has been granted.

Subdivision Application No. S-2019-16 Robert S./Kerrilyn R.V. Barros.
TMKs: (4) 2-5-008:005 Lawai, Kauai

Mr. Hull: And the last item we have is application number S-2019-16, applicant is Robert Kerrilyn Barros, TMKs: 2-5-008:005, located in Lawai, Kauai. I will turn it over to Dale.

Mr. Cua: Hey Commissioners, what you have in this proposal is two-lot subdivision in the Lawai area.

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

Mr. Cua: The request was routed to agencies for their comment and there are no objections. We are recommending an extension of time to May 28, 2021, and the applicant is required to submit a status report no later than 60 days prior to the expiration date.

Chair Ho: Is there someone from Robert and Kerrilyn Barros office?

Ms. Maren Arismendez-Herrera: Good morning, Commissioners. This is Maren Arismendez-Herrera from Esaki's Surveying and on behalf of the owners. We would request your approval for the extension. The owners have been working to advance with to the Conditions and in filing the extension request, actually the final map to County, but we are just waiting for County to review and hear back from agencies. We would like your approval and need an extension request.

Ms. Apisa: I have a question. I noticed you asked for one year and – and the recommendation is until May 28. Is that sufficient time?

Ms. Arismendez-Herrera: Yes, we have submitted the pre-final maps and they are being reviewed, we addressed all outstanding Conditions and it is really just time to allow the County and approving the agencies to review the pre-final.

Ms. Apisa: Thank you.

Chair Ho: Are there any other questions, Commissioners?

Mr. DeGracia: Yes, no questions.

Chair Ho: I will entertain a motion, please.

Ms. Apisa: I move that we approve tentative subdivision application S-2019-16, Robert S. and Kerrilyn R.V. Barros until May 28, 2021, with a status report submitted to the Planning Department no later than 60 days prior to the expiration date.

Mr. DeGracia: Second.

Chair Ho: The motion before us the Extension Request Subdivision Application number S-2019-16, Robert and Kerrilyn Barros to May 28, with a status report 60 days prior. All in favor please reply by saying aye. (Unanimous voice vote).

Ms. Apisa: Aye.

Mr. DeGracia: Aye.

Mr. Hull: Aye.

Chair Ho: Motion is passed 3:0. The extension has been granted. Thank you, all.

ADJOURNMENT

Mr. Hull: And that concludes our Subdivision Agenda Item, Chair, are you ready to adjourn to reconvene another time, Commission?

Chair Ho: Ah, is Dale still with us? Dale? Dale, please.

Mr. Cua: Yes, I am here.

Chair Ho: Yeah, okay. One question, please. Ah, we have finished with Kukui`ula and in these last two requests for final subdivision math approval, I know he's – Kukui`ula has asked us to waive curbs, gutters, sidewalks, and he's, you know, for grass swale. This was not brought up at this time. Is there a future time where he can appeal that and ask for deletion of the curbs, gutters and sidewalks?

Mr. Cua: Yeah, generally in the past, applicants will anticipate, you know, this requirement, as required – the requirement for curbs, gutters and sidewalks. Um, you know, upon submittal of their application. So, you know, it's been the Department's preference to receive the request to the top five and the initial application is taken in but in this case, I think more recently the appli- you know, the request is me, the day of. But I can honestly say, because the requirement for curbs, gutters and sidewalks has ended in my subdivision ordinance. It is almost an automatic that will be imposed on subdivisions whether it is in Kukui`ula or other areas.

Chair Ho: Thank you. I believe Mr. Hull was calling for a motion for adjournment, please.

Ms. Apisa: Move like to adjourn.

Mr. DeGracia: Second.

Chair Ho: Motion is to adjourn. All in favor please signify by saying aye. (Unanimous voice vote)

Ms. Apisa: Aye.

Mr. DeGracia: Aye.

Chair Ho: Motion carries 3:0. We are adjourned. Thank you.

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

Respectfully submitted by:

Arleen Kuwamura
Arleen Kuwamura
Commission Support Clerk

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

() Approved as amended. See minutes of _____ meeting