

KAUA'I PLANNING COMMISSION
SUBDIVISION COMMITTEE MEETING
July 11, 2023

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Subdivision Committee Vice Chair Apisa at 8:30 a.m. - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

Ms. Donna Apisa
Mr. Jerry Ornellas

Excused or Absent

Mr. Gerald Ako

The following staff members were present: Planning Department - Director Ka'aina Hull, Planning Department – Deputy Director Jodi Sayegusa, Staff Planners Dale Cua, Kenny Estes, Romio Idica, Shelea Koga, Planning Staff Duke Nakamatsu and Kristen Romuar-Cabico, and Planning Commission Secretary Shanlee Jimenez; Office of the County Attorney – County Deputy Attorney Laura Barzilai, Office of Boards and Commissions – Support Clerk Lisa Oyama.

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Subdivision Committee Vice Chair Donna Apisa: Call the meeting to order. Subdivision Committee for the Kaua'i Planning Commission. Roll call please.

Planning Director Ka'aina Hull: Roll call, Madam Chair. Commissioner Ornellas?

Commissioner Jerry Ornellas: Here.

Mr. Hull: Commissioner Ako is excused. Commissioner Apisa?

Commissioner Donna Apisa: Here.

Mr. Hull: You have a quorum, Madam Chair.

Vice Chair Apisa: At this time, we'll take a 10-minute recess because we do have some recent testimony that was submitted, and we just need 10-minutes to read the recently submitted testimony, and then we will resume.

Subdivision Committee went into recess at 8:58 a.m.
Subdivision Committee reconvened from recess at 9:05 a.m.

APPROVAL OF AGENDA

Mr. Hull: Next up we have Approval of the Agenda. The Department has no recommended changes to the agenda.

Vice Chair Apisa: Motion to approve the agenda.

Mr. Ornellas: Move to approve the agenda.

Vice Chair Apisa: Second. All those in favor, voice vote. Aye (unanimous voice vote). The agenda is approved. 2:0.

MINUTES of the meeting(s) of the Subdivision Committee

Mr. Hull: Next, we have minutes of the May 9th meeting.

Vice Chair Apisa: Motion to approve.

Mr. Ornellas: Move to approve minutes.

Vice Chair Apisa: Second. I'll call for a voice vote. All in favor. Aye (unanimous voice vote). Motion passes. 2:0.

RECEIPT OF ITEMS FOR THE RECORD

Mr. Hull: Next, we have no Receipt of Items for the Record.

UNFINISHED BUSINESS

Preliminary Subdivision Extension Request

Subdivision Application No. S-2021-7
5425 Pa'u A Laka, LLC.
Proposed 2-lot Consolidation and Resubdivision into 4-lots
TMK: (4) 2-8-014: 032
Koloa, Kaua'i

Mr. Hull: Calling for public testimony at this time. So, this is on the first subdivision, again, Subdivision S-2021-7. If you'd like to sign up to testify on this agenda item, please do so at the front. First person we have signed up to testify, oh, I just want to say, there is a petition for intervention request, which will be handled after public testimony, so if you're an attorney for the petition, you'll be granted time during the petition, when I turn it over to the Chair. At this point in the agenda, we're just looking at public testimony for this agenda item. First person we have signed up is Bridget Hammerquist.

Ms. Bridget Hammerquist: Good morning, Commissioners of the Subdivision Committee. My name is Bridget Hammerquist and I live in Kōloa, and I'll be very brief. I'm here to ask that the county code be abided by and it be recognized that any approval in the subdivision process, the tentative approval granted August 10, 2021 had expired, lapsed, for lack of request for continuance and therefore it's now void and I believe the applicant has to start again, and I'm asking that that be enforced, and I thank you for your time. I also think it would be helpful for the public, if you can help us understand why the consolidation is needed, and then why the four lots are needed from that. That's an area of confusion that's never really been addressed by any of the paperwork that we were able to find. Thank you.

Vice Chair Apisa: Thank you.

Mr. Hull: Thank you for your testimony. Next, we have Bianca Isaki.

Ms. Bianca Isaki: I'm going to wait.

Mr. Hull: Okay, you're with the petition. Next, we have signed up, Ryan Hunley.

Mr. Ryan Hunley: Hurley, I'm gonna have to wait (inaudible).

Mr. Hull: Next, we have signed up, Joe...excuse me, next, we have signed up is Joe Wiezgodzki.

Unknown Male from Audience: (Inaudible).

Mr. Hull: Wait? Okay. Next, we have signed up, Tristan Daniel.

Ms. Tristan Daniel: Aloha.

Mr. Hull: If you could approach the microphone, state your name for the record, and you have three minutes for testimony.

Ms. Daniel: Mahalo. Thank you for having us. Thank you for listening. I'm testifying in opposition. I don't know whether I'm too late with some of the information. I worked with Keith Ching and Allen Biel at Coldwell Banker commercial for years. Anybody that knows those two gentlemen, knows that they knew a lot about the property. I ended up meeting with several of the trust members to look at for 50 lots because they wanted me to help them find a developer for those 50 lots. All was put on hold because of some legal issues. And I think it was about a year later that they asked me to come work with them, so I have walked most of all their property, I lived at Kahili for a while. There was, I helped flag, put orange mesh fencing around lava tubes and some of the cultural sites. There was a cultural site plan with (inaudible) name on it showing the cultural sites, and I don't know whether that's part of what's already been blasted or not, but I felt like everybody should know that I walked the land, I marked a lot of these sites, and so it is real and it was there. So, thank you for your time.

Vice Chair Apisa: Thank you.

Mr. Hull: Next, we have signed up, Randall Francisco.

Mr. Randall Francisco: I'll stand on my testimony.

Mr. Hull: Thank you. Next, we have signed up, Stephanie Iona.

Ms. Stephanie Iona: Good morning, Chair. Thank you for allowing us to come before you this morning. I am just speaking on behalf of Meridian Pacific and the effort that they have provided in Kaua'i as well as the times that I've known them in the past. I never mentioned it before because it didn't involve Kaua'i, but I think from what I have, shall I say, understood, and what people have been sharing about, the owners and the team of Meridian Pacific, it's important to provide some history. Mr. Pinkston and I over 22 years ago used to have a relationship with the Carpenter's Union. Mr. Pinkston was the finance advisor to Mr. Walter Kupau, and at the time we did a lot of good developments on the island of O'ahu. He at that time, 22 years ago, purchased the Waipahu Shopping Center, that for many years has been doing a lot of good community outreach for schools, Waipahu, the community, numerous support in making that community a better place to live for people. Fast forward to Kaua'i, same thing, same dynamics, same

aloha. When we were facing Covid issues, he stepped up to the plate immediately, with support to feed people, including the Kōloa community, that Hawai'i Food Bank and I and our Ag. groups all supported. We fed the children of that community; we also fed the hotel workers, and he had no time used at any kind of measurement of wanting anything back for what he was trying to create in this community. The Reverend of Kōloa church and I have talked about it with regard to what he has been trying and do, I worked with the late, Teddy Blake on the Hapa Trail, I was one of the communities that brought in equipment to clean that trail and it was at the request of Meridian Pacific that we continue that effort. So, all I wanna say is, there's always two sides to a story, and from what the community of Kōloa has experienced, and I cannot judge whatever anybody else feels, but all I can judge is what we have done and that has been to continue to support that community and be a part of it and all the testimony that we stand on what we show. Thank you very much.

Vice Chair Apisa: Thank you.

Mr. Hull: Next, we have signed up, Rupert Rowe. If you can state your name for the record, and you have three minutes for testimony.

Mr. Rupert Rowe: My name is Rupert Rowe, and I'm the po'o of Kānei'olouma Heiau. I wanna get to this issue. I'm against what is taking place down in Po'ipū. The reason that I testified in front the Land Use Commission and the developer, four hundred acres was denied zoning changes because there was no Master Drainage Plan. Secondly, culturally we took the stone from Kānei'olouma and placed it in Kamehameha's heiau on the Big Island, thirty days later the National Park took the stone and put it in the office, and it was ordered from Washington DC to replace back the stone back in the heiau. The kānaka maoli is being violated and this violation is very critical. We must have a great look at the problem that exists down there. I don't care about the developer, he doesn't care about our culture, he's all about money. Money is the root to all evil. (Inaudible due to applause from public audience).

Mr. Hull: Excuse me, excuse me. If we could allow the testifier to speak. Any disruption will not be afforded this time to allow us to give the public testimony. Thank you.

Mr. Rowe: Ka'aina, for this time that was interrupted, I need it to be add on to my time. Secondly, there's a lot of damage that is going on down there. The Master Drainage Plan is involved for Grove Farm too. Everybody does not have a drainage plan, so, let's all get on the right page. Let's not talk about how great the developers are, that's a lot of nonsense. And when you have kānakas talking nonsense then you are not really who you are. So, me, as the po'o, I will voice my concern, and if the state denies the application from changing the plan down there, cause they don't have a drainage plan, it is not the kuleana of the kānaka maoli to worry about the problem that exists out there. So, be very akamai on the advice of counsel we will wait to see the outcome of this, and we will move this into the federal court and also to the United States Supreme Court that our religion rights is being violated by the process. That's all I get to say.

Vice Chair Apisa: Thank you.

Mr. Hull: Again, if you can hold the applause, there is people to testify publicly, as well as get through several agenda items, so please, in (inaudible) rules of the Chair, please hold any outbursts or applause. Thank you. Next, we have signed up is, Bator Bonia? Is there a Bator Bonia? Hearing none, seeing none, next up...

Unknown woman from public audience: What's the name?

Mr. Hull: I have a B-A-T-O-R or A-R.

Unknown woman from public audience: Yeah, it's Polish for hero, I mean Mongolian, e kalamai. Good morning.

Mr. Hull: If you can state your name for the record, you have three minutes for testimony.

Ms. Bonnie Bator: My name is Bonnie Bator. Can I have my reading glasses, please? I have been blessed to live in Hawai'i nei for over 50 years, and I can't see right now, I'm waiting for my glasses. E kalamai, being old is not easy. Dear Planning Commission members, please deny Gary Pinkston, Developer, and corporate entity, Meridian Pacific's request to modify comprehensive drainage requirement for the 280 condominiums unaffordable for any local people. Proposed at 280 Kiahuna Plantation Drive. The track record that Gary Pinkston has perpetuated upon Kōloa town is despicable. I know he gave food during Covid, but guess what, that's manini kine, it was free food from food bank, anyways. So, desecration of burials, violation of the endangered species act, evil disregard of a species found nowhere else on earth, but Kōloa, habitat of the blind cave spider, and the endangered blind amphipod, 8 months of detonating explosives, obliteration of 'aina with acts of destruction. Immediately, I ask for the County of Kaua'i Planning Commission, you outta file criminal misconduct charges against Gary Pinkston/Meridian Pacific and its misrepresentation of Kaua'i residents, local people of Kōloa and struggling taxpayers, struggling taxpayers to entertain this developer and the corporation, Meridian Pacific. Please fine them and all the corporate shareholders. Anybody else did what he did? They'd be sitting in the Wailua Hilton or in the federal detention center. It's not fair for him to get away with this criminal acts or his shareholders. It's beyond reason that the County of Kaua'i Planning Commission has not upheld the federal ESA to protect the Kōloa blind cave spider and blind cave amphipod species, endemic only to Kōloa. You don't find that shameful. The elite, wealthy are given free reign of destruction of Kōloa at the expense of the working class of Kaua'i. Morals cease to exist for money. Creatures which have evolved over the millennia. County of Kaua'i Planning Commission cares not for affordable housing, affordable housing, right, you guys don't care about that right, Kainoa, or whatever your name is. Or the struggling families of Kaua'i, yeah, throw them a peanut butter sandwich with some cookies or something, but give them a roof over their heads, auwē, a'ole. The Planning Commission should help the local folks. Not to worry, Planning Commission members have no accountability for their actions, decisions, they'll just segway into positions of money and power, or a job with whatever developer, you know, that's what happens after you leave this position, you go work for the developers. The developer has violated conditions, failed to meet conditions, and irreparably changed the 'aina. Mahalo for possible pono action, there's always hope, right. You could always make the right decision, what's righteous to hold Gary Pinkston...

Mr. Hull: Three minutes.

Ms. Bator: ...and Meridian Pacific accountable...

Mr. Hull: Please wrap up your testimony.

Ms. Bator: ... for the transgressions perpetuate on that parcel of 'aina, formerly known as Moana Corporation, the (inaudible) Companies, sports (inaudible) and their...

Mr. Hull: Ma'am, please wrap up your testimony.

Ms. Bator: Are you listening to me, I have like three more words.

Mr. Hull: You have three minutes and...

Ms. Bator: Yeah, I'm a taxpayer. Just hang on bruh. I got this. Three more words, okay. So, I'm gonna have to repeat myself since you interrupted me. Mahalo for possible pono action to hold Gary Pinkston/Meridian Pacific accountable for the transgressions perpetuated on that parcel of 'aina, formerly known as Moana Corporation, the (inaudible) Companies Sports Shinko and their Shinko Kiahuna master plan. Think aloha 'aina rather than (inaudible)...

Mr. Hull: That's it, that was three minutes for testimony.

Ms. Bator: ...thank you for (inaudible) the developers.

Mr. Hull: The rules have been established in order to get through public testimony and we're gonna take a ten-minute recess and to establish that time. Thank you.

Vice Chair Apisa: We're going to take a ten-minute recess.

Subdivision Committee went into recess at 8:58 a.m.
Subdivision Committee reconvened from recess at 9:05 a.m.

Vice Chair Apisa: Call the meeting back to order.

Mr. Hull: Next, we have signed up, not quite legible the first name, but last name, Keana'aina? Last name, I believe, it's not quite legible, but Keana'aina? No? Next, we have up is, Elizabeth Okinaka. If you could state your name for the record, and you have three minutes for testimony.

Ms. Elizabeth Okinaka: Elizabeth Okinaka for the record. I'd like to testify in opposition of this development and this developer. I think any community members that are coming to forward today, backing in this developer is obviously receiving money from this developer. I can tell you personally that I came forward years in advance of heavy machinery ever breaking ground on this property. Ka'aina, Jodi, I came forward, I notified them, there were burials, there were heiau. Cushnie Construction crushed a part of the walls, and they were fired, I was told personally by the developer that they were fired from this job because of all the destruction they caused. Now we have Earthworks Construction, which has micro blasted one of the ten most endangered cave systems in the entire world. I can tell you that I personally worked with these endangered species, and they are estimated to be less than 300 or about 300 in the entire world. A lot of that is because of this critical habitat is on these golf courses. They have denied U.S. Fish and Wildlife to even do surveys of these caves. I have been inside these caves, and they are being affected by this blasting. These caves are a continuous system. This developer after attempts of bribing community members failed, hired the Kaua'i Police Department. We had off duty officers who were down there in full uniform with guns on their hip. Hapa Trail was completely inaccessible up until a few days ago. There was an agreement with Teddy Blake that was in place, and we know that Teddy Blake was working for this developer, and he died after naming this project. There are three burial mounds on this property. These burials have been registered multiple times. The Kaua'i Island Burial Specialist's own mother manages this property. There is deep corruption. The Kaua'i development manager quit the county to work for this developer. We've got multiple ex-county attorneys who now represent this developer. There was an agreement that was made in 2003, Ian Costa, the head of the Planning Commission, Laurel Loo, the County Attorney, the head of Kiahuna, and the head of the Knudsen Trust made an agreement on Christmas Eve. This developer is using is using this agreement today as leverage against you folks, threatening you guys with lawsuits using this agreement. That county attorney that signed that agreement now works for this developer. We have to stop lending these billionaires and developers come in and take advantage of these loopholes while they are prostituting our community, they're desecrating sacred sites. Kiahuna is part of the Kōloa cave ecosystem. There were caves that have been destroyed, but you guys still have the chance to save this property. He has bypassed

his tentative approval, he's lapsed. How did you guys approve a traffic amendment or a bypassing his traffic plan in February, when you already knew that he had passed that tentative approval. Since, 2021, he can't meet the conditions because there is no drainage plan, there's no traffic plan, there's no archaeological, and there's no biological study. Mahalo.

Mr. Hull: Again, if we can refrain from the outburst to get through public testimony. Thank you. Next, we have signed up is, Terrie Hayes. Please state your name for the record, and you have three minutes for testimony.

Ms. Terrie Hayes: I will. Aloha, good morning. Terrie Hayes for the record. Thank you for having us. Lot of emotion connected with this. It's going on for so long. The applicant is advised, I'm quoting, the applicant is advised that the property is subject to the condition of land use decision and order A76-418 and the County Ordinances No. PM-31-79, PM-148-87, and PM-334-97, which shall run with the land, subject land. Ordinances that are established. All conditions of the ordinance are enforceable against any part of any party, any party, we don't care who they are, any party, all these people coming at you, from all sides, to divide, already been decided, 9-15-2006, signed by Ian Costa, Planning Director, 2006. So, we are way down the road. Nothing has been complied with. Land Use 7 was before any actual work, that's what's upsetting. We're talking about all these things, but this should have been taken care of prior to any actual work being started. People have dropped the ball; we can point fingers all over the place. That's not gonna get us anywhere. We have to, you have to help us stop this from continually coming to your plate. There's been decisions. Nothing has changed, the archaeology hasn't changed in 15 years, it hasn't changed for hundreds of years. Things that were found...Dr. Hammett, who they utilize to do this Pa Ka'aina, Ka Pa Ka'aina, I have a hard time with that one. He did not give them a clearance, he gave them an assessment of what was there. The investigation does not fulfill the requirements of an archeological survey. HAR 13-276, if it's not complete, it's not complete. It's been presented, it's been... That's why nothing's been developed there so far, until he came in, unfortunately, started blasting without having the proper documents. It's destroyed cultural habitat, it's destroyed plant, animal habitat, it's devastated our community, and the people that say, oh, I want to come here and talk about it, just, okay, somebody, there was a hit and run right on Po'ipū Road, that's the entrance to where this is, so, we have issues with the traffic already, the roundabout has issues, one person runs into a rock, the whole road is stopped up, there's no access, Dr. Hammett will tell you, you can call him up. Hapa Trail is not an access road. You cannot use that in the event of an emergency. I'll speak later. Thank you.

Mr. Hull: Thank you.

Vice Chair Apisa: Thank you.

Mr. Hull: Next up we have, can't quite read the last name, Andrew Cabebe?

Mr. Andrew Cabebe: Excuse me. Thank you.

Mr. Hull: If you could state your name for the record, and you have three minutes for testimony.

Mr. Cabebe: Whatever it is, you hold the keys to everything, and that's why we here today. You tell us what to do. All my life, when you took my garden, my garden, my beautiful garden out of my schools and told me I going in the laboratory now for build my garden, yeah, yeah, right, that's where I come from. You know, stole everything, stole everything, our histories tells us tells about what you are, who you are in the world today. (Inaudible) culture everywhere around the world calling you to accountability. You wanna hit your gavel, go ahead anytime. You guys know the main gist of what I talking about right now, you know, our lives that you blame us for, because of what's happening in Hawai'i today, and especially on Kaua'i, our fault. You look at us, all the people you work for, look at us, point their fingers at us and

pay you all what you need to keep us where we are today. That's why we do what we do today. In every department. Every department we come into you. For me, I neva like be here, but you talking about my everything, you talking about today. My church, my church, my graveyards. Nice, yeah. Nive what you do. You know, who are we? Nothing, nobody, we are the problem, we are the problem. The problem is speaking to you today, we want to fill all your departments with our people. Enough already of you guys bringing you people in for what? For what? For all these disease. From first contact, you guys been feeding us all this stuff, right. All this poison stuff. Every pill you guys put out into, out of your hospitals, when we can grow our own medicine, we can grow our own food, like we did, right? Right? No, not right? I'm wrong, yeah, I'm wrong. That's what I'm talking to you guys about, you blame me. I gotta talk to your governor, and what he do, point his finger at me, your fault, you the one spreading all the disease. Nobody answer. You neva pound your gavel. Look at this light.

Mr. Hull: Three minutes.

Mr. Cabebe: I am the light.

Mr. Hull: If you can wrap up the testimony.

Mr. Cabebe: Thank you.

Mr. Hull: Thank you.

Mr. Cabebe: I am the light.

Mr. Hull: Thank you.

Vice Chair Apisa: Thank you.

Mr. Cabebe: For my people. This is who I am. This is what I am. That's my graveyards, my heiaus, my church.

Mr. Hull: Thank you. Thank you, Sir. Moving on to the next testifier. Thank you.

Mr. Cabebe: We get a lot to talk about, brah.

Mr. Hull: Next, we have signed up, Puanani Rogers.

Ms. Puanani Rogers: That's me.

Mr. Hull: If you can state your name for the record, and you have three minutes for testimony.

Ms. Rogers: I sure will, Ka'aina. Thank you. For the record, my name is Puanani Rogers, I was born and raised in the ahupua'a of Kealia. I am a kūpuna of 83 years old. I claim this 'aina because I was born here. I am indigenous to this 'aina, and I stand to protect it anytime I can, especially our cultural values. Which is not being done by you people, at all. I don't see any justification of why you cannot stop this development. Give me a good reason. Because there's so many reasons why you should. If Mr. Pinkston was here right now, I think a sheriff should go and arrest him for his criminal acts against our 'aina, our iwi kūpuna, our endangered species, all the things that was listed many, in the past two years they've been telling you this and nothing has been done. I'm so disappointed in you, Ka'aina, Dale Cua. I don't even know any of you people on this commission. I never see you out in our community trying to protect our 'aina. Who put you in this place to make rules for us? That are on the grounds and protecting. Who are

you people? I don't see you showing any respect for our 'aina, for our cultural values for our na iwi kūpuna. So, I speak in strong opposition to any permitting or any further development happening in Kōloa right now. Stop it now! Time is of the essence. You're destroying things over there. We're outraged, our community is outraged. Stop! Stop now. You don't even have the authority to sell any of our lands. Nobody's got clear title to sell our lands. Go and check Knudsens land titles. None! (Inaudible). Broken chain of title. And you guys don't even care. Dig deep into your na'au. You people live here too, you have the kuleana to protect this place, just as much as anybody. I don't care if you're Hawaiian, Filipino, or Portuguese, all of you that live here, it's your kuleana. Protect this 'aina! Especially all our cultural values because this is kānaka maoli lands. And your government is illegal. So, stop it! Stop it now, please! I pray deeply for all of you to dig deep into your hearts and, you know, go talk to your kūpuna, like how we can. Get the right messages! Stop this development, period, or any other development...

Mr. Hull: Three minutes.

Ms. Rogers: ...on Kaua'i...

Mr. Hull: If you can wrap up your testimony.

Ms. Rogers: ...that disturbs our culture and our na iwi kūpuna. Can you please give me a justification...

Mr. Hull: Three minutes. Please.

Ms. Rogers: ...of why you cannot stop it? Why aren't you stopping it? Okay, I'm done! Ka'aina, you are a disappointment!

Vice Chair Apisa: Thank you. We'll, call another recess if we have to. We appreciate and respect everyone's opinion, but please refrain from personal attacks. The subject here is an extension of time. And let's get, keep to the agenda subject matter, and refrain from personal attacks. That's not the order of business here.

Mr. Hull: Next, we have signed up, Moana McAdams. If you can state your name for the record, and you have three minutes for testimony.

Ms. Moana McAdams: Aloha, mai kākou, my name is Moana McAdams, my maiden name is Viado. Mahalo for allowing me to speak today. Today I'm speaking on behalf of the kānaka maoli community. My ohana has been here for hundreds of years. You know, I wanna really talk about cost of living. Not just for this developer, but just with large on our island, and in the state. I recently read a report earlier in 2023. The average housing price is on Kaua'i is 900,000 to 1 million dollars. In order for someone to afford to live in that, we talking about like a \$8,000 mortgage, when you incorporate taxes and all the other things that come with home ownership. So, I asked with this community, who is this community for, because the locals here cannot afford that. The average household income here on the island of Kaua'i is 80,000, and that does not give you the money that you can afford the types of buildings, apartment complexes, condominiums, that are accessible to our community. So, who are we inviting here, and who are we really serving? 50% of the native Hawaiians no longer live in Hawai'i because of this problem. How are we serving them, when this is their 'aina, this is our native lands. As our kūpuna have spoken, you know, we are talking about our sacred spaces right now. Our sacred spaces, our kūpuna, our ancestors that are buried in the caves, that we are destroying their bones. So, I ask you to think about where are your kūpuna, where do they lay, and how would you feel if someone went in there and blasted where they lived? You know, I now live on the continent, in the DC area. Their most sacred space is Arlington Cemetery. How do you think anyone would react if we went in there with dynamite and blew

up our veterans who have served our country. That is an act of war. That is not what you do to a place that you say that you consider, you know, that you respect the community. I mahalo Aunty Stephanie for talking about what he did for the community, to provide food, but that is not long-lasting solutions. That is like a band aid on a wound that has been gushing for hundreds of years and then it is not a sustainable solution. So, I really ask all of you, to you know, really think about this things, right, like this is not just an issue to be upset about, there are a lot of people that are affected by the decisions that are being made year over year. So, at what point do you even consider the native Hawaiians...

Mr. Hull: Three minutes. Please wrap up your testimony.

Vice Chair Apisa: If you could wrap up your testimony.

Ms. McAdams: Mahalo, and I leave you with one quote, "He ali'i ka 'āina, he kauwā ke kanaka."

Vice Chair Apisa: Thank you. Again, I respect each and every one's opinion, but the agenda item here today is a request for an extension of time. If we could just stick to the agenda item for all future testimony, please. Thank you.

Mr. Hull: Next, we have signed up, I can't read the last name, but Leilani?

Ms. Leilani Kaleiohi: Aloha.

Mr. Hull: If you can state your name for the record, and you have three minutes for testimony.

Ms. Kaleiohi: Leilani Kalilimoku Kaleiohi. I am a descendant of Kaua'i, my kūpuna come from the Kalalau Valley, and they taught us many ways of how to take care of our land, our people and we still follow it till today. We offer oli for healing, for many different things. As I do now, (speaking in Hawaiian). I am a high-risk, homeless elder here on the island of Kaua'i and this is a crime. I'm watching this development, and I've gone to that place, and I've talked to kūpuna who are broken, crying. How much time you need for continue to bus' up and break us up, break our culture. I go there to oli, and everything is in tears maybe you don't understand that but those of us who are deeply connected with this place here, cries. We hear the cries every day, (inaudible) was pounding that that time was given to this man and to continue to dissipate, and desecrate, and desecrate, while many of us, I am going to be homeless on August 2nd, because the place, the condo I live in is up for sale, and this is the world we live in here on Kaua'i. I have DHHL land lot, I cannot stay on it. Why? Because of all the rules and regulations. We like time too. We like be given the time to take care of our homes at DHHL even, or anywhere along Kaua'i, but here we got this guy, bussin' up, taking up, taking our culture, destroying our culture, and you want time, for what, continue the breaking of our culture. We have a whole lot, a whole ahupua'a, a home lot that is being damaged, and hurt, and killed. And it's breaking us up because it's filtering onto people like me and others who are kūpuna here, who cannot afford to be here, this is our home, where else are we going to go. I'm going to go camp or whatever I gotta! But this is my emotional testimony, and I am pleading to you, please, help us. In your capacity that you that you can with the rules that you got, that we gotta follow. Please make these other people follow too. I pau.

Vice Chair Apisa: Thank you.

Mr. Hull: For this agenda, we don't have anybody else signed, but if you haven't signed up and would like to testify on this agenda item, and again, this for an extension of time for Subdivision Application No. S-2021-7. Please approach the microphone, and if you can state your name and you have three minutes for testimony. If you intend to speak on this, you don't need to sign up, you can just...just state your name for the record and you have three minutes for testimony.

Ms. Malia Chun: Aloha nui kākou, I'm Malia Chun, addressing the committee of desecrating 'aina. It's a privilege to be here, actually it's a workday and most people can't afford to sit to give testimony. Kalamai, I'm a little emotional listening to these kūpuna. And as far as this extension goes You guys have been giving a 200-year extension to desecrate 'aina, and that extension is over. I sat in front of this committee many times sharing testimony from the perspective of kānaka and I can see that a few of you guys actually get koko running through you. And it hurts my na'au, that our people, our kūpuna who are houseless in their own land have to come here and state the obvious. Our 200-year extension is over. Our people, need viable solution to stay in Hawai'i. Our keiki can no longer see a future in their own 'aina kūpuna. That's infuriating! That's wrong! And I hope each of you guys can dig deep as aunty said, into your na'au and see where we're coming from. The audacity, to ask for an extension. To continue to desecrate churches, continue to desecrate the resting places of our kūpuna. For what? To build? Housing for people who have no connection to this 'aina. When I invested in our culture and our people, in seeing this place flourish for everyone. You think our kids will ever be able to turn the key to any of these homes that you guys have projected? A'ole. There's no way! So, I come to you as not just as a kānaka, but as a mother and as an educator. And I can see with my two eyes, that the decisions you guys are making on behalf of our children are not allowing them to call their own place, their own home, home, it's impossible. Mahalo.

Vice Chair Apisa: Thank you.

Mr. Hull: Again, if there's anybody else that hasn't signed up and previously spoken, but would like to testify on this agenda item, please approach the microphone, and state your name for record. You have three minutes for testimony.

Ms. Robin Yost: Good morning, my name is Robin Yost, and I'm here to ask you to deny this developer any extended time. Thank you.

Vice Chair Apisa: Thank you.

Mr. Hull: Again, last call. If there's anybody who hasn't spoken.

Unknown woman from public audience: Can I go again?

Mr. Hull: Not if you've previously spoken on this agenda item. Is there anybody else who hasn't spoken on this agenda item, please approach the microphone. Please state your name for the record, and you have three minutes for testimony.

Ms. Kelly Chow: Hi there, my name is Kelly Hi'ilani Chow, and I just wanna come up here, as an unhousted Hawaiian. I'm not gonna sit here and just ask you guys for your support because obviously you're not gonna give it to us, otherwise we wouldn't be having this conversation. So, what I'm, I'm just here to say my situation about this and how I'm very grateful for you guys. Listening to us and I'm very grateful for you guys opening this base for us but at the end of the day what's actually going to happen from this. What's actually going to happen? Are you guys actually going to stop the development, I don't think so, but that's fine. You know, I'd rather dirt poor, homeless, as a kānaka living on this land then move away, cause that's what they want. They want us to be displaced from our 'aina, so, I'd rather live here struggling, than ever live anywhere else and take up space because it is important for us kānaka to stay here, and to take up as much space as possible. And to the developer in the back, I really think that if you're going to continue this desecration, I'd start praying. Mahalo.

Vice Chair Apisa: Thank you.

Mr. Hull: Is there anyone else who has not previously spoken on this agenda item but would like to speak. If so, please approach the microphone. Seeing none, I'll turn this over to Chair for the Petition for Intervention.

Vice Chair Apisa: Thank you, Ka'aina. I will now read the remainder of the notice so we can proceed. The Subdivision Report pertaining to this matter. Supplement #1, to Subdivision Report.

In the Matter of the Applications for (1) Preliminary subdivision extension request for application no. S-2021-7, 5425 PA'U A LAKA, LLC for proposed 2-lot consolidation and resubdivision into 4-lots; and, (2) Amendment to Class IV Zoning Permit (Z-IV-2006-27), Use Permit (U-2006-26), and Project Development Use Permit (PDU-2006-25) for modification to Condition No. 26 relating to drainage requirement for a development situated at the Pau A Laka Street/Kiahuna Plantation Drive, 5425 Pau A Laka Street, Tax Map Key: 2-8-014:032, and containing a total area of 27.886 acres. **Petitioners Friends of Māhā'ulepū and Save Koloa's Petition to Intervene and, Alternatively for Denial of Applications.**

Vice Chair Apisa: We have here a petition to intervene and a request for a referral, for a deferral, regarding Friends of Māhā'ulepū and Save Kōloa Petition to Intervene, pursuant to Commission Rule 1-2-13 C-E. This petition is referred to the full Planning Commission for consideration and decision. In lieu of substantive discussion regarding the Departments request to defer this item, pending a legal opinion from the Office of the County Attorney, I recommend that this agenda item be deferred, contingent upon consideration today by the full commission, pursuant to this report of this committee at today's commission meeting. I will now take a motion to defer, contingent upon full commission approval.

Mr. Ornellas: I move to defer the request for extension of time for Subdivision Application No. S-2021-7, pending full commission ratification.

Vice Chair Apisa: Second. Any discussion on this matter?

County Deputy Attorney Laura Barzilai: I can take a roll call vote. Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Chair Apisa?

Vice Chair Apisa: Aye.

Ms. Barzilai: Motion carries. 2:0. We can proceed to Item D. So, the petition for intervention will be handled by the full commission.

Mr. Hull: Next, we have up Agenda Item.

Subdivision Application No. S-2022-6
Kukui'ula Development Company, LLC./
MP Kaua'i HH Development Fund, LLC.
Kukui'ula Parcel HH Subdivision
Proposed 3-lot Consolidation and Resubdivision into 51-lots
TMK: (4) 2-6-019: 026, 029, 031
Koloa, Kaua'i

Mr. Hull: We'll take public testimony. We have anybody signed up. No one signed up for this agenda item. If anybody would like to speak on this item and state your name.

Unknown woman from public audience: Can you repeat the agenda item?

Mr. Hull: What was that?

Unknown woman from public audience: Can you repeat the agenda item?

Mr. Hull: This is for Subdivision Application No. S-2022-6.

Unknown woman from public audience: For the 51-lots?

Mr. Hull: For the 51-lots.

Unknown woman from public audience: Okay.

Mr. Hull: Approach the microphone.

Ms. Elizabeth Okinaka: Aloha Commission, my name is Elizabeth Okinaka. Again, I'd like to testify in opposition of this development. This is the same developer, correct? In Kukui'ula like I stated in the past, I think is a huge risk, there's one road in one road out. This continued development in these areas are going to be a continued death trap. Waita Reservoir has 3.2 billion gallons of water that are a direct threat to the population of Kōloa and Po'ipū. There's other reservoirs that are connected to these and if one of them fail it will be a collective fail, all of them will go. There's no evacuation plan. There's no monitoring plan and all of these developments are planned directly below the flood zone. I think this is a huge, huge issue that the county and the Planning Commission really needs to start paying attention to. Just a year ago we had a huge flood and Kukui'ula and this entire area was basically inaccessible. Waikomo Stream easily can go over the road and block these areas near the round-about. Again, this area is a huge open area, it's one of the last open spaces. The density will be greatly affected by the Kōloa Boat Harbor. This is one of the last few beaches that the local community can access. Po'ipū Beach to the local community is inaccessible. We have seen that down here, locals can't even go there anymore, there's no parking, and I think we continue again to make extensions and keep giving these guys loopholes, but you guys have really gotta start standing up to these developers and stop letting them extort our natural resources. These areas are all set back zones and we have proof that in '92 and the hurricanes in the past this entire area it was completely wiped out. It's well documented. So, this developer again, is coming in, worsening the housing crisis and I'm sorry but for the locals that are here backing him because they're getting paid off of these developments, you guys really, really need to start thinking about the future of our community. Zuckerberg, all these people, Knudsens, these major landholders that are continuing to extort, they're not building local homes. You guys really need to look at the backstory. There's no EIS for these. These developers should not be allowed to come in and get permits to build with EIS reports that are 30 or 40 years old. We need to start setting better standards for our community. Let's have expiration dates on these, let's hold these guys accountable. There was no Ka Pa'akai Analysis for this development, again I was consulted for a Ka Pa'akai Analysis, and never once did they tell me that it would be for 3 completely different areas that Ka Pa'akai Analysis is completely invalid and again we have a developer and the same area where they have no drainage, no traffic, no archaeological, and no biological study. So, please, I ask you guys, these again, Kukui'ula is a cave system and I want to know what's the difference between our side of prayer...

Mr. Hull: Three minutes, Madam Chair.

Ms. Okinaka: ...and visiting these burials and these sites being our churches versus places like the Kōloa Church.

Vice Chair Apisa: Thank you. In pursuant to Rule 1-2-21, we cannot take repetitious testimony so please address the request for extension on this particular application. Thank you.

Unknown woman from public audience: I'm addressing this particular application.

Vice Chair Apisa: Thank you.

Mr. Hull: If could state your name for the record.

Ms. Elizabeth Scamahorn: Oh, Elizabeth Scamahorn, and I was here when the general plan over 4 years ago designed, Kōloa. I'm a Kalaheo resident, I go to Kōloa many times a week. I think it's time that you put a stop to any further development because the general plan was made at a time when we had 32,000 people on the island, we have more than doubled that now. And if you don't put a stop now, there won't be a stop ever. It is your kuleana to do the right thing, and work within the confines of a general plan that was made too long and has been adjusted, but only adjusted not in the right areas, in my opinion. Thank you.

Vice Chair Apisa: Thank you.

Mr. Hull: Anyone else that would like to testify on this agenda item, please approach the microphone.

Ms. Bridget Hammerquist: Thank you. My name is Bridget Hammerquist, and just briefly, if this is a request for extension, and the one year has the lapsed, I would object to it being extended for the same reasons, and the same county code, Planning Code section that applies to the Kiahuna property. In addition, I think that I would just request that before anything further go on with these developments, I do echo the community's concern. There does need to be a drainage plan. The boat harbor is a special place for many people, many locals, many little children swim and play there, and I looked up from the boat harbor and saw where these units were supposed to go, and the drainage from construction is going to be handled by that bay, and it could be (inaudible) contaminating and very dangerous for the community. And I think too often we plan the develop and then we worry about what it's gonna do to the infrastructure after the fact. Please, if you have an opportunity, let's look at what's happening to the infrastructure before the building. What's gonna happen to the traffic on the little road there that goes by Lawai Beach and the harbor? What's gonna happen to the wastewater? What's gonna happen to the solid waste? What's gonna happen to the construction waste? And try to iron out those things before we give any extensions or before we give any building permits. Please put the cart behind the horse, not in front of it. Thank you, thank you for your time.

Vice Chair Apisa: Thank you.

Mr. Hull: Okay, we still have no one signed up for this agenda item, but if anyone would like to testify on this agenda item, please approach the microphone. If you could state your name for the record and you have three minutes for testimony.

Ms. Bonnie Bator: My name is Bonnie Bator, I'm blessed to be here in Hawai'i nei for over 50 years and I would like to the lack of infrastructure, the wastewater treatment is non-existent and archaic. It's not all, you can go from Leho Road all the way to the houselots and smell the feces, or the whatever you call it, the archaic wastewater treatment, so there's no place to put another 51 people, and they're pooping and all of that stuff, and Mount Kekaha is now, it had an extension for a 120 feet above sea level, it's now 200

feet above sea level, there's no liner in that municipal waste dump, and here we are, you guys are still rubber stamping stuff for more people to come here and bring all more rubbish. Don't we feel for the people of Kekaha, and isn't it like 2023, shouldn't we have infrastructure that can handle the solid waste that's just piling up 200 feet above sea level, and there's no plan, the EIS. They spent a couple of million dollars you guys for the one at Ma'alo for the proposal over there to put the dump, and that's got shot down. We're in a crisis situation with our rubbish, we're in a crisis situation with the feces, there's no infrastructure. It's a major, Hawai'i has the most cesspools in the whole, whatever world or something. Not the world but its, raw sewage is going into the ocean that everyone loves the ocean, here we are, our kids are swimming in it, eating the fish, the subsistence people, so I think you should put everything on hold until that's addressed. Mahalo for your valuable time and I speak, I back up everything everybody else said, especially Bridget, and all the kūpuna, auwe no ho'i e, it's shameful the Hawaiians are homeless and houseless in their 'aina. Mahalo.

Vice Chair Apisa: Thank you.

Mr. Hull: Again, anybody else would like to testify on this agenda item that hasn't previously spoken?

Ms. Terrie Hayes: Aloha, Terrie Hayes for the record. In order to not be redundant, I would like to bring to your attention something we just recently discovered in one of the developers' projects, Po'ipū Estates, there's a house being built. Now this is an area that has protected caves, registered heiau, and developers or personal people still intrude upon it, encroach upon it, there's no buffer zone. The trouble is that no matter what's been done, it's still not being protected. This house is being built, my understanding by the same gentleman that cut down the 75 palm trees on state land by Coco Palms, so, they do one thing on one side of the island, then they come to the other side of the, something else.

Vice Chair Apisa: If we could just stick to (inaudible).

Ms. Hayes: ...we're opposed to this being extended. I thought this was about the road. last time was about the road. I hope, I hope this has not gone before Public Works, the road, because they don't have the pay grade to even make a decision like that without proper engineering. So, I've been a bit confused, and I'll admit that there's so much going on. We do not, they should not have an extension. Extension could have been granted my understanding, was one year. They should have had the maps. This is more than a year, therefore, it's out. They shouldn't...it's like asking if I have a warranty for my stove. Oh wait, I forgot to buy the warranty, but now I'd like to buy it after it's been a year. You know what they tell you? Good luck. It should not happen. Kukui'ula does not need any further development. It's a bowl, people have been washed out, homes have been destroyed, high water, king tides hit the whole harbor last time took out our road. We have to do something. If we keep ignoring climate change and what's going on, we're gonna have a much bigger disaster here than what's going on? It's only a matter of time. Please, please do the right thing. Thank you.

Vice Chair Apisa: Thank you.

Mr. Hull: Anyone else that has not spoken on this agenda item and would like to speak, please approach the microphone. Seeing none, I'll turn it over to staff for the staff report pertaining to this matter.

Staff Planner Kenny Estes: I'll just give a brief overview of this subdivision.

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

Mr. Hull: So, in a nutshell, the Department is recommending that concerns have definitely been raised about the deadline having lapsed on the extension request, recommending a deferral on this item to be referred to the County Attorney's Office for review and (inaudible). Before any discussion, is there any representative from the applicant that would like to make any statements? No, (inaudible).

Vice Chair Apisa: Any questions or discussions? Okay, hearing none.

Ms. Barzilai: We're ready for a motion.

Mr. Ornellas: I move to defer the request for extension of time for Subdivision Application S-2022-6.

Vice Chair Apisa: To the county...

Mr. Ornellas: Yeah, pending the full commissions ratification.

Vice Chair Apisa: To the County Attorney?

Ms. Barzilai: I think at this time we are deferring so that the Office of the County Attorney can render an opinion. If you'd like to amend your motion.

Mr. Ornellas: To defer until such time as the County Attorney can render an opinion.

Vice Chair Apisa: Thank you. We have a motion on the floor. I second that. All in favor? Aye (unanimous voice vote). Motion passes. 2:0. It is deferred to the Office of the County Attorney for legal opinion.

Mr. Hull: Next, we have Agenda Item G.

NEW BUSINESS (For Action)

Preliminary Subdivision Map Approval

Subdivision Application No. S-2023-4
BBCP Kukui'ula Development, LLC.
Kukui'ula Parcel JI-A Subdivision
Proposed 18-lot Subdivision
TMK: (4) 2-6-023: 040
Koloa (Makai), Koloa, Kaua'i

Mr. Hull: We don't anyone signed up on this agenda item. If anyone would like to testify on this agenda item, please approach the microphone and state your name.

Ms. Okinaka: Aloha. Elizabeth Okinaka for the record. Again, I'd like to testify in opposition of Kukui'ula. This is a different developer, but again, the same greater area. I think again, roadways in and out are a huge concern for this development, and in general, this entire community has blocked access to cultural sites. I've gone in with cultural practitioners and tried to visit sacred sites. I know of burials that have been disturbed. I know of burials inside of wa'as and canoes that have been found during the construction of Kukui'ula. The last mummified body ever found in the State of Hawai'i was inside of a cave in Kukui'ula Golf Course. The largest reinternment on the south side of Kaua'i and probably all of Kaua'i exist in Kukui'ula. This is a huge concern. Why do these developers get to own a burial cave and whenever iwi and bones are discovered it's taken onto their property? Then nobody's ever allowed to

access these sites. They have security that when culture practitioners try to access these sites, security will immediately follow them, get down their license plates, try to find their name, and it's illegal. We've been completely blocked from the resources here and it's a huge concern of what this development is planning. Kukui'ula, pitched when I was a kid, I remember sitting in Pa'anau as a kid in the low-income housing and watching these million-dollar houses start to be built on the hills. I think you guys need to realize what it feels like for those kids down there in Kōloa, living paycheck or barely even surviving off of that and looking at more and more of these million-dollar homes being built on the hills, knowing that they'll never be able to afford that, they'll be lucky if they get to get a job cleaning those people's houses. Our children should not be servants to the rich and the elite flocking here building their billion-dollar homes. This entire community is gentrified and it's a gated community. They thrive on trying to plan to have their own hotels and their own schools and their own hospitals because they don't even want their children to be in school with the local children. This is not what Kaua'i needs. Kukui'ula has greatly, greatly affected more than anything I can tell you as a kid growing up in Kōloa, Kukui'ula is the worst thing that's ever happened to the southside community. And I know you guys view Po'ipū in general as just a vacation destination, but it's not. It's more than that. There's a lot of heiau, there's a lot of cultural sites, and yes, these hotels and condos may have been planned in the 70's, but now it's 2023 and we know right from wrong, so I ask you guys to please stop following these plans and these developments that were pitched in the 70's. We know right from now and it's time for you guys to use your kuleana and your power to do right from wrong. Think about the future generations, think about your children because your children are going to be affected by this. Whether you live in north shore, west side, east side, developments like this are going to continue popping up if you allow these developers and continue to grant them extensions. Mahalo.

Vice Chair Apisa: Thank you. Thank you for being respectful of the meeting.

Mr. Hull: Please state your name and you have three minutes for testimony.

Ms. Scamahorn: Elizabeth Scamahorn. I would like to introduce a word. The word is moratorium. Because I turned off my phone, I can't look at the precise definition, but I have never my life of living on this 'aina, heard a moratorium being proposed. We need to take a break, cool off, take a couple years off. Do the infrastructure and then reassess the general plan and our visitor destinations. Thank you.

Mr. Hull: Is there anyone else who would like to testify on this agenda item who not previously spoken on this agenda item? If so, please approach the microphone.

Ms. Terrie Hayes: Aloha. Terrie Hayes for the record. I just want to remind you about the wastewater treatment issue in Kukui'ula, which is now, it's coming over, it has been. They don't want it over there. Now you wanna add more to it. My dear friend, engineer Joel Canzeneri(sp.), who came back in 2006, explained to the then Planning Commission that they ultimately have to plan for the big flush. What if everybody comes to visit and they all flush at the same time? We're gonna have a huge problem, and we do have a huge problem, and as long as every day we drive up and down Po'ipū Road and you can smell, not just on the hot days of summer, but you can smell the wastewater treatment plant that's overloaded that is...it needs to repair. We should not be doing...this is totally cart before the horse. I've heard this at the Planning Commission. We put the cart before the horse. You need to have infrastructure. You have to plan for these developments. It can't just keep going into the ocean. You're ruining the resource, which is what we need to live. You can't destroy the marine environment, our environment. We received a letter about a potential wastewater treatment plant in Wailua. It comes addressed to Billy, po'o for Ahamoku, registered mail, that's the way this is supposed to happen. It's been a long time getting to this point, but when we finally have made law. Why aren't we following it? Why are you allowing whoever it is? And it doesn't matter to me who it is because if it's not them, there will be more people doing this again. Money doesn't care who has it. This has been going on for years. Knudsens, Cayman, Kam, I think he's even in

the audience. This has been going on for a long time and it's been allowed to happen. Cigarette smoking used to be legal too. People used to think it was glamorous. We've changed their minds about that. It's time to change your mind about this obsessive inappropriate development and think about the people that live here first. Thank you.

Mr. Hull: Thank you for your testimony. Is there anyone else who would like to testify on this agenda item? If so, please approach the microphone.

Ms. Bonnie Bator: It's me again, Bonnie Bator, Anahola. Almost 50 years blessed to be in Hawai'i nei. On this agenda item, are you guys paying attention?

Vice Chair Apisa: Yes. Thank you.

Ms. Bator: Thank you. Well, lack of mental health services. The young lady, who came up here and testified about how it feels to be a local person. A young kid growing up down yonder in Po'ipū area and have all this multi-billion-dollar homes and people moving in. The Boys and Girls Club in Kapa'a just got a flush toilet, in 2023. They've been spending a grand a month on porta pottys. Our children of this beautiful Kaua'i are suffering. We have the largest, the national data of youth suicide...

Vice Chair Apisa: Could we stick to the agenda item please?

Ms. Bator: ...yeah, because...

Vice Chair Apisa: ...if this is grounds...

Ms. Bator: ...of this proposal, it is relevant...

Vice Chair Apisa: Preliminary Subdivision.

Ms. Bator: ...it's relevant because of what you perpetuate by...you're supposed to be a Planning Commission and you're not planning, and our kids are taking a jerk, they're taking their lives. There's no mental health services. The one up there, Ma'alo, that was proposed, 30 years ago, it finally got built and they housed tourists there during the pandemic. Our children are crying out. Most people aren't coming up here to the mic because they're scared, you know, public speaking is like number one of scary trips, so people have them that's why they're here, they're here in opposition of all those last three agenda items and any other proposals that are on this agenda, okay. Are kids are suffering. Can you do the right thing for once? Mahalo.

Vice Chair Apisa: Thank you.

Mr. Hull: Anyone else like to testify on this agenda item? Please approach the microphone. Please state your name for the record, and you have three minutes for testimony.

Mr. Andrew Cabebe: Thank you for this time. I've been sitting here listening. And whenever I come to these meetings, we learn what we need to do, what we can do, how to do it. Most of us in Hawai'i today, know the truth of what is happening around the world. It's not easy cause the people in control are not of us, they not of who we are, here especially on Kaua'i. I moved here for a reason. I wanted to be in a place where it didn't look like O'ahu. I've watched O'ahu grow to what it is today, from what was, pineapple fields, cane fields, now nothing, nothing, except for what you guys bring to the land for your people, and our people suffer. Till today, from first contact, like I said, and as you guys know, everywhere around the world the indigenous people are seeking, accountability. Accountability for us, here on You're

on Kaua'i, for me where I live, well, where I call my home. I'm a O'ahu guy and coming to Kaua'i was not easy. I not even from Kaua'i, but I am a kānaka. My last name tells me who I am, where my family came from, to this Kaua'i. Yeah, I'm part Filipino, I'm half Filipino. My family going serve the host culture here. That's all I'm saying. I know how to help my host culture, I hope you guys (inaudible) after all these years. You heard everything for years, you guys been listening to this, and I'm sorry that I have to take you guys time, to speak from my heart. I'm not a (profanity). Thank you.

Vice Chair Apisa: Thank you.

Mr. Hull: Is there anyone else that would like to testify on this agenda item? If so, please approach the microphone. Seeing none, I'll turn it over to the staff for the staff report pertaining to this matter.

Mr. Estes: I'll give a brief description of the subdivision.

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

Mr. Estes: Madam Chair, we have received agency comments from the County of Water and the State Department of Health. Comments are still pending from the County Public Works Engineering Division and the State Historic Preservation Division. At this time the Planning Department is recommending preliminary subdivision map approval.

Vice Chair Apisa: Can I ask you to address the comments about the cultural sites and infrastructure? There were comments.

Mr. Hull: You may want to direct that to the applicant.

Vice Chair Apisa: To the applicant. Okay. Thank you.

Ms. Rogers (from back of room): Please speak up, we can't hear you.

Mr. Hull: So, if you guys don't have any other questions for Kenny, we can bring the applicant up.

Vice Chair Apisa: No questions for Kenny, thank you.

Mr. Hull: If the applicant is here.

Mr. Mauna Kea Trask: Aloha kākou, 'o Mauna Kea Trask ko'u inoa. Kānaka 'ōiwi, Ko'olau, Kaua'i. I'm here on behalf of BBCP Kukui'ula Development, LLC., for Subdivision Application No. S-2023-4, like Kenny said, concerning the subdivision of Parcel of J1-A, a proposed subdivision of a small 7.96-acre portion of TML Parcel No. 40. The subdivision is located within the long permitted entitled Kukui'ula Development project. The property's within the State Land Use Urban District. It's zoned residential R 4, and open special treatment open. The subdivision of this property will result, like Kenny said, in 14 residential lots, 2 roadway lots, and a common (inaudible) for landscaping. The BBCP is not here to circumvent the law. Obviously, we're not here to destroy historical or archaeological sites, we're not here to take endangered or threatened species, and we're definitely not here to desecrate burials. BBCP is simply here to subdivide a small portion of the parcel for the development and sale of houses. BBCP is compiled with all the requirements of the subdivision ordinance, and today's hearing like the Subdivision Committee Chair said, is (inaudible) to address committee's concerns and your duty with regard conducting a Ka Pa'akai Analysis for the project. Now, in order to facilitate your analysis, BBCP

commissioned Cultural Surveys Hawai'i to conducted 118-page Ka Pa'akai Analysis for your view and consideration. Additionally, BBCP has also reviewed the guidance provided by the Planning Department, and by the Native Hawaiian Legal Corporation, and Ka Huli Ao Center for Excellence in Native Hawaiian Law contained in Part 4, Chapters 14-17 of the Hawaiian Law Treatise and Hoola Aku; a legal primer for traditional and customary rights in Hawai'i. Now Ka Pa'akai Analysis is not the tool to stop development. It's a part of the development process. Ka Pa'akai Analysis and analytical framework, the Planning Commission must follow as part of its legal responsibility, in order to ensure that proposed developments feasibly and reasonably protect traditional customary native Hawaiian rights. The Ka Pa'akai Analysis requires you to make findings during the following, one, the identity and scope of value, cultural, historical, or natural resources within this project area, not within the entire Kōloa ahupua'a, not within Lawa'i, not within Kalaheo, not within the whole island. Within this project area. Including the extent to which any traditional customary native Hawaiian rights are exercised in the project area, if any. Second, the Ka Pa'akai Analysis requires you to make findings regarding the extent to which those resources, including traditional customary native Hawaiian rights will be affected or impaired by the proposed action, and finally, the feasible action, if any, to be taken by Planning Commission to reasonably protect native foreign rights if they are found to exist. Pursuant to and consistent with the guidance provided by the Planning Department and the law, the Ka Pa'akai Analysis contains the detailed maps of the project site, the results of cultural consultation, summary of community outreach, a recitation summary of 30 years of archeological impact surveys, and other historical and archaeological studies, cultural impact assessments and environmental studies, and for the record it's approximately 59 total. Further the Ka Pa'akai Analysis contains information for meetings within consultation with native Hawaiians. Now based upon all the information that I've just mentioned, which is contained in the Ka Pa'akai Analysis, no value, cultural, historical, or natural resources were identified within the 7.96-acre project area. The project area is entirely mowed guinea grass and the outer portion, which is covered by haole koa. There are no kuleana lots within the project area, and no owners (inaudible) any kuleana lots within the ahupua'a of Kōloa, have asserted that any firewood, house timber, aho (cord), or ti leaf is present in the project area, nor are there any drinking water resources located in the project areas, such rivers, streams or springs, and further there are no traditional historical trails in the project area, so no access or right away problems exist, therefore, none of the kuleana land owner rights are affected as protected by Hawai'i Revised Statutes 7-1. There have been no assertions or claims concerning the range of practices associated with the ancient way of life of native Hawaiians, which required the utilization of the undeveloped property of others, and which were not found within HRS 7-1, and protected thereby. The continuation of which is protected by HRS 1-1, as provided in Kalipi vs. Hawaiian Trust Co. 6 Hawai'i 1 656 Pacific 2nd 745, 1982. There are no hunting resources on the project area, there are no fishing resources within the project area. Like, I stated previously there's no floral resources for subsistence, medical, and or ceremonial purposes or uses, including but not limited to 'olena, 'ohe, olonā, wauke, awa, 'ōhi'a lehua, or awapuhi. Finally, there have been no (inaudible) assertions or claims made that any rights or practices were traditionally, and customarily exercised within this project area for subsistence, cultural and religious purposes, and possess by the native Hawaiian ahupua'a tenants of Kōloa prior to 1892. There has been testimony from others who are outside of from the ahupua'a from other places on this island, however none of them have proffered any evidence that any ahupua'a outside of Kōloa was afforded traditional customary, (inaudible), I'm sorry, of any ahupua'a outside of Kōloa, we're afforded any traditional customary rights to gather within Kōloa as required by Pele Defense Fund vs. Paty or Pele (inaudible), 73 Hawai'i 578 837 Pacific 2nd 1247, 1992. There are no burial caves or burial sites within the project area. Nor are there any archaeological or historic resources within the project. Now as far as the land use tenure history of this project site, as some know, the bulk of the Kōloa ahupua'a was awarded to someone was not from Kaua'i, he was a Kamehameha chief from the Big Island, and like all konohiki lands on this island, they were taken by non Kaua'i chiefs after the rebellion of 1824. The bulk of Kōloa was awarded to Moses Kekūāiwa, Land Commission Award 7714-B. Kekūāiwa was the son of Kekūanaō'a and Kīna'u, and the brother of Alexander Liholiho, Kamehameha IV, Lot Kapuāiwa, Kamehameha V, and Victoria Kamāmalu. He died at 19 years old, unmarried, no kids.

Kamāmalu, his sister, inherited the unclaimed lands at Wahiawa and within this area following the untimely death of Kekūāiwa in 1848. In the mid-19th century, Duncan McBryde acquired a lease for the lands at Wahiawa from Victoria Kamāmalu, sister to Moses Kekūāiwa. McBryde acquired the land in Wahiawa later owned in fee simple and leased land in Kalaheo from the crown directly. Eventually, he developed a plantation that's covered most of the western Kōloa district, including Wahiawa, Kalaheo, Lawa'i, and the western section of the Kōloa ahupua'a, west of Waikomo Stream, within the general area vicinity of Kukui'ula. Now in 1886 after Queen Emma's death, Mrs. Elizabeth McBryde bought the entire ahupua'a of Lawa'i for 50,000 dollars. The upper lands are planted as sugar cane and the valley was leased to Chinese rice growers and taro planters. I'm not saying any of this is good or bad, there should be no value to it, whatsoever, this is just the facts of the (inaudible) history. Now beyond the Ka Pa'akai Analysis, BBCP has moved into the community recently, but obviously there's no intent to displace anyone or anger anyone or fight anyone. The objections that we've heard today and that we've heard in the past, are objections against development in general, and that's understandable. As a native Hawaiian, I feel the same way, however the right to possess, acquire and develop one's property is not only protected in the state and federal constitutions, it was also protected in the Constitution of the Hawaiian kingdom of 1840, 1852 and 1864. I'm gonna stop because I don't count the (inaudible) Constitution of 1887, or the Constitution of 1892. The most pressing objection that we've heard, is that these houses will not be for locals, but wealthy kōleā that fly here part of the year, however, this objection ignores the hundreds of units of affordable housing, from Kōloa to 'Ele'ele that have already been provided as part of the land use and entitlement process for the Kukui'ula development going back to the 90's. You know, again, I don't work for Kukui'ula Development Company Hawai'i, I don't work for A&B, I work for BBCP, but if you look at the record, the undisputed facts and the documents contained in the Land Use Commission files and the Planning Departments files, you'll know that from 1990's till today, the Kukui'ula project has directly resulted in approximately 300 affordable housing units from 'Ele'ele to Kōloa, including 'Ele'ele Nani Phase II, Pa'anau Phases I and II, and Kaua'i Makana. There's been allegations today that the cart was put before the horse, with regard to Kukui'ula. The facts don't pair that out, the horse was put well before the cart. Another objection is to the strain on existing infrastructure this development will bring, however, again, this argument ignores the millions of dollars spent on the development improvement and maintenance on Kōloa's regional infrastructure by Kukui'ula, and the results thereof, including development of new regional roadways and support of the improvement of existing roadways, like (inaudible) and Kaumaka, and a \$600,000, I guess, was it an assessment or a payment? To fund improvements, the roadway systems throughout Kōloa. As part of the Kuhio Development Project, potable water system and improvements have been made, including two ground water wells, four water tanks and several miles of transmission lines, a portion of which directly serves Pa'anau Phases I and II. There's been land donation for Civil Defense sirens, public parking improvements for beach and recreational use across of (inaudible) pond, and the provision of land for park and recreational use around the Lawa'i Boat Harbor. Additionally, there's been 16-acre donation of land to the Royal Order of Kamehameha, which contains the burial reinternment site, and it includes addition to the Prince Kuhio Park. Further, wastewater management was mentioned, and as a result at Kukui'ula, the development has result in the construction of wastewater treatment plant that serves the entire Kukui'ula area, the capacity of 1.2 million gallons per day. Now mahalo for your time and attention to this request. The area we're talking about, right now, is mauka of a little portion of the golf course or part of the golf course, mauka of the clubhouse, kinda more up, and again, it's covered entirely in (inaudible). Prior to that it was extensively cultivated by sugar cane, up to '96 when it closed. There are other cultural sites in the area, and there's a lot of concerns being mentioned about, for example the burial reinternment site, but again, as you know, the treatment of and the protection of burial sites is the jurisdiction and kuleana of the Kaua'i/Ni'ihau Island Burial Council if there are any objections to the current barrel treatment plan of which there is, then that's the body to complain to. Lot of this is a matter of jurisdiction.

Mr. Hull: Excuse me, Mauna Kea. There's a lot of disruption coming from the audience. If the testifier cannot be given (inaudible) of that respective to make their statements, we're going to take a recess until the audience can afford that respect So, please keep it down. Thank you.

Mr. Trask: Thank you. I'll wrap it up. So again, according to 30 years of studies, 30 years of consultation, this subdivision will not adversely impact any traditional customary rights, any natural resources or any endangered species, all necessary plans have been done and whether for better or worse, Kaua'i's entire housing development project for affordable housing is predicated upon entitling large developments. Land is expensive, infrastructure is expensive for the County of Kaua'i itself, and so this is where the rubber meets the road, I suppose. Whether for better or worse. So, again, mahalo for your time and attention to this request. BBCP submits that it's fulfilled its legal obligations to any native Hawaiian (inaudible) customary rights, resources, and practices that's protected by the Hawai'i State Constitution, HRS 7-1, HRS 1-1, and any encumbrances upon it's (inaudible). I'm happy to answer any questions that you may have, but if not, we humbly ask that you grant us tentative approval of the subject subdivision as recommended by the Department's Subdivision Report, and to anyone who would wish ill on my client or myself, I say, "ho'i no ai i ko ka." Mahalo.

Vice Chair Apisa: Thank you. Earlier, I had asked for more comments about cultural sites and infrastructure, but I think you've definitely, adequately explained that it was an excellent report. Thank you.

Mr. Trask: Mahalo, Chair.

Vice Chair Apisa: Any further questions or comments from the Committee?

Mr. Hull: Kenny, gave the recommendation. The recommendation from the Department is tentative approval.

Ms. Barzilai: So, you're ready for a motion, Chair.

Vice Chair Apisa: Ready for a motion. Thank you.

Mr. Ornellas: I move for tentative subdivision approval for Subdivision Application No. S-2023-4.

Vice Chair Apisa: I will second that. Any other discussion on it?

Ms. Rogers (from back of room): Hewa! A'ole!

Mr. Hull: We're gonna take a 10-minute recess. Thank you.

Subdivision Committee went into recess at 10:24 a.m.
Subdivision Committee reconvened from recess at 10:32 a.m.

Vice Chair Apisa: Call the meeting back to order, and when we took recess we had a motion on the floor for Preliminary Subdivision Approval of Subdivision application No. S-2023-4, BBCP Kukui'ula Development LLC., and I believe there was no further discussion on this. Is there any further discussion at this time? Hearing none, I'm ready for a motion. I'm sorry, ready for the vote. Roll call.

Mr. Hull: Roll call, Madam Chair. Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Chair Apisa?

Vice Chair Apisa: Aye.

Mr. Hull: Motion passes, Madam Chair. 2:0.

Mr. Trask: Mahalo.

Mr. Hull: There are no further agenda items on the Subdivision Meeting Agenda, so, we'll reconvene, say in 10-minutes for the full Planning Commission meeting.

Vice Chair Apisa: Motion for adjournment.

Mr. Ornellas: So moved.

Vice Chair Apisa: Second. All in favor. Aye (unanimous voice vote). Meeting is adjourned.

Vice Chair Apisa adjourned the meeting at 10:33 a.m.

Respectfully submitted by:

Lisa Oyama

Lisa Oyama,
Commission Support Clerk

(X) Approved as circulated (October 10, 2023, meeting).

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