

KAUA'I PLANNING COMMISSION  
SUBDIVISION COMMITTEE MEETING  
**April 11, 2023**

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

The following Commissioners were present:

Mr. Gerald Ako  
Ms. Donna Apisa  
Mr. Jerry Ornellas

Excused or Absent

The following staff members were present: Planning Department – Director Ka'aina Hull, Deputy Director Jodi Higuchi Sayegusa, Staff Planner Dale Cua, Kenny Estes, 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 Chair Gerald Ako: Good morning. Today is Tuesday, April 11, 2023, and I'd like to call to order the Subdivision Committee Meeting of the Planning Commission. It is 8:30 a.m. Mr. Clerk, can we have a roll call?

**ROLL CALL**

Planning Director Ka'aina Hull: Roll call, Mr. Chair. Commissioner Apisa?

Commissioner Apisa: Here.

Mr. Hull: Commissioner Ornellas?

Commissioner Ornellas: Here.

Mr. Hull: Chair Ako?

Chair Ako: Here.

Mr. Hull: We have a quorum, Mr. Chair.

**APPROVAL OF AGENDA**

Chair Ako: We have the agenda before us, is there any additions or corrections to the agenda? If not, can we have a motion for approval?

Ms. Apisa: Motion to approve agenda as circulated.

Mr. Ornellas: Second.

Chair Ako: All those in favor say aye. Aye (unanimous voice vote). All those oppose. The agenda is approved. Motion passes. 3:0.

### **MINUTES of the meeting(s) of the Subdivision Committee**

Chair Ako: You also have in front of you the minutes of the Subdivision Committee Meeting of February 14, 2023.

Ms. Apisa: Move to approve minutes of the February 14, 2023, Subdivision Committee.

Mr. Ornellas: Second.

Chair Ako: All those in favor say aye. Aye (unanimous voice vote). All those opposed. The minutes have been accepted. Motion passes. 3:0. With that, Mr. Clerk.

Mr. Hull: We have no additional Receipt of Items for the Record. We have no Unfinished Business. We'll move right into Agenda Item G, New Business G.1.

### **NEW BUSINESS (For Action)**

#### **Preliminary Subdivision Map Approval**

Subdivision Application No. S-2021-5  
**Kukui'ula Vistas, LLC. (formerly Kukui'ula Development Company, LLC.)**  
Kukui'ula Parcel H, Lot 19 Subdivision  
Proposed 8-lot Subdivision  
TMK: (4) 2-6-022: 055  
Koloa, Kaua'i

Mr. Hull: I'll turn it over to Kenny for the report pertaining to this matter.

Staff Planner Kenny Estes: Good morning, Commissioners. I'll read the report for the record.

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

Mr. Estes: Chair, we have received revised preliminary agency comments from the Department of Public Works Engineering Division, the County Department of Water, the State Department of Health, and the State Historic Preservation Division. The Planning Department is recommending Preliminary Subdivision Map Approval.

Chair Ako: We have any questions for Mr. Estes? If not, do we have a representative for the applicant that wants to add or have some concerns?

Ms. Maren Arismendez: Good morning, Commission.

Chair Ako: Good morning.

Ms. Arismendez: My name is Maren Arismendez, and I'm here on behalf of the owner. We would like to respectfully request a tentative approval and I'm here to answer any questions that you may have.

Chair Ako: Any questions for the applicant?

Ms. Apisa: Just a comment. Thank you for revising your arrangement of lots.

Ms. Arismendez: Yes, this is the second time that we are going in for tentative for the subdivision. The first round we did receive some comments from Public Works regarding some change in access, we worked with County, the department to change the layout and reduce the density to allow a new roadway. So, that brings us too today for the new tentative.

Chair Ako: Thank you for doing that. We're good?

Mr. Hull: You may want to call for public testimony. Seeing the public, I don't think there will be, but just the matter of process, if you will.

Chair Ako: Is there anybody in the public that would like to testify on this agenda item? Nobody in the public. If not, we can entertain a motion for approval.

Ms. Apisa: I move that we approve Subdivision Application No. S-2021-5, Kukui'ula Vistas, LLC.

Chair Ako: Second? Can I have a second?

Mr. Ornellas: Second.

Chair Ako: There's a motion and second on the floor. Are there any other comments from the Commissioners? If not, Mr. Clerk, can we have a roll vote please?

Mr. Hull: Roll call, Mr. Chair. Commissioner Apisa?

Ms. Apisa: Aye

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 3:0.

Chair Ako: Thank you very much.

Ms. Arismendez: Thank you.

Mr. Hull: Next, we have agenda item G.1.b.

Subdivision Application No. S-2022-2  
**Kukui'ula Vistas, LLC.**  
Kukui'ula Parcel H, Lot 18 Subdivision  
Proposed 7-lot Subdivision  
TMK: (4) 2-6-022: 054  
Koloa, Kaua'i

Mr. Hull: I'll turn it back over to Kenny for the report pertaining to this matter.

Mr. Estes: I'll read the report for the record.

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

Mr. Estes: Chair, we have received agency comments from the Department of Public Works Engineering Division, the County Department of Water, and the State Department of Health, agency comments from the State Historic Preservation Division is still pending. The Planning Department is recommending Preliminary Subdivision Map Approval.

Chair Ako: Thank you, Mr. Estes. Any questions for the staff? Is there anything the applicant would like to comment or add?

Ms. Arismendez: Good morning. Maren Arismendez from Esaki Surveying here on behalf of the owner. We would just like to respectfully request tentative approval for this revised layout of the previous (inaudible), noted before had some issues with the length to width in doing the variance application. It was advised that we could create a non-density lot to address the issues, so we've added that lot and we designed the layout for the subdivision to comply with zoning ordinance.

Ms. Apisa: Again, thank you for your reconfiguration of the lots.

Chair Ako: Any other questions for the applicant or the staff? If not, I'll be glad to entertain a motion.

Mr. Hull: Sorry, (inaudible).

Ms. Barzilai: We need testimony, Chair.

Chair Ako: One day I'm going to get this. Is there anybody in the public that would like to testify on this agenda item? Seeing none.

Mr. Hull: Thank you, Chair. Just a reminder, this is an application that originally when the design was proposed, the department was recommending denial under the variance and we appreciate the applicant going back to the drawing board and refiguring out how to conform to the standards set in the subdivision ordinance then (inaudible) the proposed subdivision does conform to this, they established that and so we appreciate the changes that were made.

Chair Ako: With that, I'll entertain a motion.

Mr. Ornellas: Move to approve Subdivision Application No. S-2022-2, Preliminary Subdivision Map.

Ms. Apisa: Second.

Chair Ako: Any other questions or comments? If not, Mr. Clerk.

Mr. Hull: Roll call, Mr. Chair. Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 3:0.

Chair Ako: Thank you very much.

Ms. Arismendez: Thank you.

Preliminary Subdivision Extension Request

Mr. Hull: Next, we have Preliminary Subdivision Extension Request for

Subdivision Application No. S-2019-8

**Stephanie Fernandes**

Fernandes ET AL. Subdivision

Proposed 5-lot Subdivision

TMK: (4) 4-2-005: 044

Wailua, Kawaihau, Kaua'i

Mr. Hull: We'll call for public testimony at this time. We have nobody signed up but is there anybody in the audience that would like to testify on this agenda item? Seeing none, I'll turn it over to Kenny for the report pertaining to this matter.

Mr. Estes: I'll read the report for the record.

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

Chair Ako: Thank you, Mr. Estes. Any questions for the staff? If not, is there anybody that would like to testify on behalf of the applicant? I'm sorry, choice of words.

Mr. Jonathan Chun: Good morning, Jonathan Chun on behalf of the applicant. We thank the commission and the staff for at least considering the request for an addition, extension. We know it's been a long time; it's been a long progress. Be assured that as (inaudible), oh, sorry, Jonathan Chun, the Commissioner appointed by the court to oversee this subdivision, but as part of my job as a commissioner I've been in discussion a lot with some of the family members and they are also very, very, very anxious to get this through and to finish. We hope this is the last extension. One of the last things that we need to get done is to finalize our agreement with the Department of Water. The Department of Water has made another counter offer or proposal to us regarding the water meter situation, and we have replied to them and they're considering our request for changes to that, but that really is the last thing that seems to be holding us up, is the water agreement, and I don't want to go into details about those things, but we are making progress with that and we'd just like to thank the commission for giving us an opportunity to try to get this thing resolved, hopefully by January 2024.

Chair Ako: Thank you. Any questions? No questions. Thank you, Mr. Chun.

Mr. Chun: Thank you, Chair Ako.

Chair Ako: Do we have anybody else that would like to testify on behalf of the public? If not, I'm willing to entertain a motion.

Ms. Apisa: I move that we approve the extension to January 24, 2024, or as soon thereafter. Should that meeting be postponed?

Chair Ako: Is that January 22?

Ms. Apisa: January 22, 2024, yes, or the next following meeting, should meeting not occur. This is for Subdivision Application S-2019-8, Stephanie Fernandes.

Mr. Ornellas: Second.

Chair Ako: Motion has been seconded. Any other questions or concerns? If not, Mr. Clerk, can we have a roll call vote please?

Mr. Hull: Roll call, Mr. Chair. Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 3:0. Next, we have agenda item G.3.

Final Subdivision Map Approval

Subdivision Application No. S-2022-4  
**Tower Kaua'i Lagoons Sub 4, LLC.**  
Hokuala Resort Subdivision 4  
Proposed 25-lot Boundary Adjustment  
TMKs: (4) 3-5-004: 400 to 424  
Kalapaki, Lihu'e, Kaua'i

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

Mr. Estes: I'll read the report for the record.

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

Chair Ako: Thank you, Mr. Estes. Any questions for Mr. Estes? If not, do we have anybody on behalf of the applicant that would like to add comments?

Mr. Gary Siracusa: Good morning, Commissioners. Gary Siracusa on behalf of the applicant, I'm here to answer any questions that you may have on this final approval request.

Ms. Apisa: No questions.

Chair Ako: We have no questions. With that, we thank you, Mr. Siracusa, for coming.

Mr. Siracusa: We thank you as well, on behalf of TKL.

Chair Ako: Ok since there's no other questions. I'd be willing to entertain a motion.

Ms. Apisa: I move we provide final approval for Subdivision Application S-2022-4, Tower Kaua'i Lagoons Sub 4, LLC.

Mr. Ornellas: Second.

Chair Ako: Before we get to the vote, is this for the final approval?

Mr. Hull: It's for final approval.

Chair Ako: Okay. Any other comments? If not, Mr. Clerk.

Mr. Hull: Roll call, Mr. Chair. Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 3:0. With that we have no further agenda items and at your discretion, we are ready for adjournment.

Mr. Ornellas: Are we going to go into executive session?

Mr. Hull: No, so the executive sessions are just listed in the event that the commissioner or commission, sorry, the committee wanted to go into executive session under any of those specific agenda items. So, we just have to list it. There was a complaint made that we need to list each of the respective agenda items in a possible executive session should the commission want to go into it.

Mr. Ornellas: Can we discuss part of the items in executive session?

Mr. Hull: Yes.

Mr. Ornellas: I would like to do that.

Mr. Hull: Yes, can.

County Deputy Attorney Laura Barzilai: The vote has already been taken, Commissioner, but we could enter to have a post discussion if you would like to discuss the impact.

Mr. Ornellas: Yes.

Ms. Barzilai: I need a motion on that please.

Mr. Hull: Which one, Commissioner Ornellas?

Mr. Ornellas: S-2019-8.

Ms. Barzilai: Chair Ako, I would ask you to please read the executive session notice on that item.

Chair Ako: Okay, I'm going to need a little help with that.

Ms. Barzilai: Sure. So, now we're referring to Item H. on page 3 of the agenda.

Ms. Apisa: H.C.

Ms. Barzilai: H.C. We can read the beginning of H. the first paragraph, and then you can refer to Item C.

Mr. Hull: (Inaudible).

Ms. Barzilai: Sure.

### **EXECUTIVE SESSION**

Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with the County's legal counsel on questions, issues, status, and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to the following matters:

Subdivision Application No. S-2019-8  
**Stephanie Fernandes**  
Fernandes ET AL. Subdivision  
Proposed 5-lot Subdivision  
TMK: (4) 4-2-005: 044  
Wailua, Kawaihau, Kaua'i

Chair Ako: So, with that, I know we had a motion. Did we have a second on this?

Ms. Apisa: Second.

Ms. Barzilai: It can be by voice vote, Chair.

Chair Ako: By voice vote. All those in favor to go into executive session. Aye (unanimous voice vote).

Ms. Barzilai: Then folks would have to leave the room, so that we could consult.

Chair Ako: Yeah.

Mr. Hull: So, for those members of the audience here, the Subdivision Committee is going into executive session, so you have to vacate the premise until executive session is done. Thank you.

Subdivision Committee went into Executive Session at 8:58 a.m.

Subdivision Committee reconvened from Executive Session at 9:06 a.m.

Chair Ako: If we can reconvene our Subdivision Committee meeting. So, at this point if we can entertain a motion.

Mr. Hull: Sorry, hold on one second, Chair. Okay, thank you, Chair.

Chair Ako: Okay if we can reconvene the Subdivision Committee meeting of the Planning Commission. So, at this time, having no further business, can I have a motion to adjourn.

Mr. Ornellas: Move to adjourn.

Ms. Apisa: Second.

Chair Ako: All those in favor say aye. Aye (unanimous vote). The Subdivision Committee meeting is adjourned.

Chair Ako adjourned the meeting at 9:11 a.m.

Respectfully submitted by:

*Lisa Oyama*  
Lisa Oyama,  
Commission Support Clerk

Approved as circulated (Meeting of April 11, 2023).

Approved as amended. See minutes of \_\_\_\_\_ meeting.