

KAUAI PLANNING COMMISSION
CONTESTED CASE CALENDAR

Tuesday, February 28, 2017

9:00:02 a.m. or Soon Thereafter
Līhu'e Civic Center, Moikeha Building
Meeting Room 2A-2B
4444 Rice Street, Lihue, Kauai, Hawai'i

CALENDAR

A. Status and Scheduling of the following matters on the Planning Commission Contested Case Calendar of 12/13/16 and deferred on 12/13/16, pertaining to:

1. Petitioners Kirby B. Guyer and Milton Searles' Motion to Disqualify Hearing Officer, Declaration Jonathan J. Chun; Certificate of Service (related to Application for a Use Permit, Special Management Area Permit and Class IV Zoning Permit on Property Situated at Haena, Kauai, Hawaii identified by Kauai TMK No. (4)5-8-012: 22 containing a total area of 11,827 sq. ft.) [Deferred 12/31/16.]
 - a. Respondent Planning Department of the County of Kauai's Memorandum of Law in Opposition to Petitioners Kirby B. Guyer and Milton Searles' Motion to Disqualify Hearing Officer filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits "1" and "2"; Certificate of Service.
 - b. Respondent Planning Department of the County of Kauai's Amendment to its Memorandum in Opposition to Petitioners Kirby B. Guyer and Milton Searles' Motion to Disqualify Hearing Officer filed September 2, 2016; Affidavit of Ann Marie K. Wooton; Exhibit "1" and Exhibit "2"; Certificate of Service
 - c. Minute Order Regarding Petitioners Kirby B. Guyer and Milton Searles Motion to Disqualify Hearing Officer; Certificate of Service
 - d. Barbara Robeson and Caren Diamond, Pro Se Intervenors, Requesting a Joinder of Parties with Respondent Planning Department of the County of Kauai Memorandum in Opposition to Petitioners Kirby B. Guyer and Milton Searles' Motion to Disqualify Hearing Officer Filed September 2, 2016 and Certificate of Service
 - e. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter.
2. Petitioners John R. Hoff Trust and Lorna E. Hoff Trusts' Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Appeal Decision of Planning Director Relating to the Notice of Violation and Order to Pay Fines Related to Use Permit U-2015-28, Special Permit SP-2015-9 and Class IV Zoning Permit Z-IV-2015-29 on Property Situated at Lawai, Kauai, Hawaii, identified by Kauai TMK No. (4) 2-5-005: 080 CPR Unit 1 containing a total area of 1.032 acres) (contested case files CC-2015-18, CC-2016-7) [Deferred 12/31/16.]
 - a. Planning Department of the County of Kauai's Memorandum of Law in Opposition to Petitioners John R. Hoff, Trust and Lorna E. Hoff, Trust's Motion

- to Disqualify Hearing Officer filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits “1” and “2”; Certificate of Service.
- b. Minute Order Regarding Petitioners John F. Hoff Trust and Lorna E. Hoff Trusts’ Motion to Disqualify Hearing Officer; Certificate of Service
 - c. Planning Department of the County of Kauai’s Amendments to its Memorandum of Law in Opposition to Petitioners John R. Hoff, Trust and Lorna E. Hoff, Trust’s Motion to Disqualify Hearing Officer Filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits 1-2; Affidavit of Ann Marie K. Wooton; Certificate of Service
 - d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter.
3. Petitioners Lloyd R. Fischer and Shirley E. Fischer’s Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Petition to Appeal Decision of Planning Director Relating to the Forfeiture of Non-Conforming Use Certificate TVNCU #5003 for Property Situated at Kekaha, Kauai, Hawaii, identified by TMK No. (4)1-3-001: 88 containing a total area of 12,453 sq.ft (contested case files CC-2016-9, CC-2016-10) [Deferred 12/31/16.]
- a. Respondent Planning Department of the County of Kauai’s Memorandum in Opposition to Petitioners Lloyd R. Fischer’s and Shirley E. Fischer’s; Brysone K. Nishimoto’s and Catherine J. Nishimoto’s; and Todd Schirm’s Motion to Disqualify Hearing Officer filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibit “1” and Exhibit “2”; Certificate of Service.
 - b. Minute Order Regarding Petitioners Lloyd R. Fischer and Shirley E. Fischer’s Motion to Disqualify Hearing Officer; Certificate of Service
 - c. Respondent Planning Department of the County of Kauai’s Amendments to its Memorandum in Opposition to Petitioners Lloyd R. Fischer’s and Shirley E. Fischer’s; Brysone K. Nishimoto’s and Catherine J. Nishimoto’s; and Todd Schirm’s Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits “1-2”; Affidavit of Ann Marie K. Wooton; Certificate of Service
 - d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter.
4. Petitioner Todd Schirm’s Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU # 5138 (Hale Cook) for Failure to Renew for Property Situated in Wainiha, Kauai, Hawaii, identified by Kauai TMK No. (4)5-8-009: 8 CPR Units 1 and 2 containing a combined total area of 11,250.0 sq. ft.) (contested case file CC-2015-24) [Deferred 12/31/16.]
- a. Respondent Planning Department of the County of Kauai’s Memorandum in Opposition to Petitioners Lloyd R. Fischer’s and Shirley E. Fischer’s; Brysone K. Nishimoto’s and Catherine J. Nishimoto’s; and Todd Schirm’s Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibit “1” and Exhibit “2”; Certificate of Service
 - b. Minute Order Regarding Petitioner Todd Schirm’s Motion to Disqualify Hearing Officer; Certificate of Service
 - c. Respondent Planning Department of the County of Kauai’s Amendments to its Memorandum in Opposition to Petitioners Lloyd R. Fischer’s and Shirley E. Fischer’s; Brysone K. Nishimoto’s and Catherine J. Nishimoto’s; and Todd Schirm’s Motion to Disqualify Hearing Officer, filed September 2, 2016;

Affidavit of Ernest W. Barreira; Exhibits “1-2”; Affidavit of Ann Marie K. Wooton; Certificate of Service

- d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter.
5. Petitioners Brysone K. Nishimoto and Catherine J. Nishimoto’s Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #1171 (Ivy’s Place) for Failure to Renew for Property Situated in Wainiha, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-8-004: 26 containing 8.343 acres) (contested case file CC-2015-23) [Deferred 12/31/16.]
 - a. Respondent Planning Department of the County of Kauai’s Memorandum in Opposition to Petitioners Lloyd R. Fischer’s and Shirley E. Fischer’s; Brysone K. Nishimoto’s and Catherine J. Nishimoto’s; and Todd Schirm’s Motion to Disqualify Hearing Officer filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibit “1” and Exhibit “2”; Certificate of Service
 - b. Minute Order Regarding Petitioners Brysone K. Nishimoto and Catherine J. Nishimoto’s Motion to Disqualify Hearing Officer; Certificate of Service
 - c. Respondent Planning Department of the County of Kauai’s Amendments to its Memorandum in Opposition to Petitioners Lloyd R. Fischer’s and Shirley E. Fischer’s; Brysone K. Nishimoto’s and Catherine J. Nishimoto’s; and Todd Schirm’s Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits “1-2”; Affidavit of Ann Marie K. Wooton; Certificate of Service
 - d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter.
6. Petitioner Michael Chandler’s Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU # 4222 (Hale O Lani) Related to Special Permit SP-2012-1 for Failure to Renew for Property Situated at 3239 A Kalihiwai Road, Kilauea, Kauai, Hawaii, identified by TMK No. (4)5-3-003: 45 containing an area of 74,923 sq. ft.) (contested case file CC-2016-4) [Deferred 12/31/16.]
 - a. Respondent Planning Department of the County of Kauai’s Memorandum in Opposition to Petitioners Michael Chandler’s and John and Shannon Wark’s Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibit “1” and Exhibit “2”; Certificate of Service
 - b. Minute Order Regarding Petitioner Michael Chandler’s Motion to Disqualify Hearing Officer; Certificate of Service
 - c. Respondent Planning Department of the County of Kauai’s Amendments to its Memorandum in Opposition to Petitioners Michael Chandler’s and John and Shannon Wark’s Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits “1-2”; Affidavit of Ann Marie K. Wooton; Certificate of Service
 - d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter.
7. Petitioners John Wark and Shannon Wark’s Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNC #4219 (Anini Kai) related to Special Permit SP-2011-13 for Failure to Renew for Property Situated at 3525 Anini Road, Kilauea, Kauai, Hawaii identified by TMK No. (4)5-3-004: 29 containing an

area of 13,608 sq. ft.) (contested case file CC-2016-5) [Deferred 12/31/16.]

- a. Minute Order Regarding Petitioners John Wark and Shannon Wark's Motion to Disqualify Hearing Officer; Certificate of Service
 - b. Respondent Planning Department of the County of Kauai's Memorandum in Opposition to Petitioners Michael Chandler's and John and Shannon Wark's Motion to Disqualify Hearing Officer, Filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibit "1" and Exhibit "2"; Certificate of Service
 - c. Respondent Planning Department of the County of Kauai's Amendments to its Memorandum in Opposition to Petitioners Michael Chandler's and John and Shannon Wark's Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits "1-2"; Affidavit of Ann Marie K. Wooton; Certificate of Service
 - d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter.
8. Petitioners Parnell H. Kaiser and Michele L. Kaiser's Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Application for a Use Permit, Special Management Area Permit and Class IV Zoning Permit on Property Situated at Hanalei, Kauai, Hawaii, identified by Kauai TMK No. (4)5-5-004: 15 containing a total area of 6,046 sq. ft.) (contested case file CC-2015-15) [Deferred 12/31/16.]
- a. Minute Order Regarding Petitioners Parnell H. Kaiser and Michele L. Kaiser's Motion to Disqualify Hearing Officer; Certificate of Service
 - b. Planning Department of the County of Kauai's Memorandum of Law in Opposition to Petitioners Parnell H. Kaiser and Michele L. Kaiser's Motion to Disqualify Hearing Officer Filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits "1" and "2"; Certificate of Service
 - c. Planning Department of the County of Kauai's Amendments to its memorandum of Law in Opposition to Petitioners Parnell H. Kaiser and Michele L. Kaiser's Motion to Disqualify Hearing Officer; Affidavit of Ernest W. Barreira; Affidavit of Ann Marie K. Wooton; Certificate of Service
 - d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter.
9. Petitioners Toni Sutherland's and Alta Management Services, LLC's Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to the Appeal of the Planning Director's Decision Related to the Notice and Order to Pay Fines for the Continued Operation of an unpermitted Vacation Rental for Property situate in Haena, Kauai, Hawaii, identified by Kauai TMK No. (4)5-8-011: 59, Unit A, and containing a total area of 6,250.0 sq. ft.) (contested case CC-2016-8) [Deferred 12/31/16.]
- a. Minute Order Regarding Petitioners Toni Sutherland's and Alta Management Services, LLC's Motion to Disqualify Hearing Officer; Certificate of Service
 - b. Planning Department of the County of Kauai's Memorandum of Law in Opposition to Petitioners Toni Sutherland and Alta Management Services, LLC's Motion to Disqualify Hearing Officer Filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits 1-2; Certificate of Service
 - c. Planning Department of the County of Kauai's Amendments to its Memorandum of Law in Opposition to Petitioners Toni Sutherland and Alta Management Services, LLC's Motion to Disqualify Hearing Officer filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits 1-2; Affidavit of Ann Marie K. Wooton;

Certificate of Service

- d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter.
10. Motion to Disqualify Hearing Officer; Certificate of Service (related to Petition to Appeal of Planning Director; and Application for a State Special Permit, etc. (Consolidated Cases) by Michael Levy and Alexis Boilini, Trustees of the Levy-Boilini Living Trust (contested case CC-2015-14, CC-2016-1) [Deferred 12/31/16.]
 - a. Respondent Planning Department of the County of Kauai's Amendments to its Memorandum in Opposition to Appellants/Applicants' Levy-Boilini Trusts Motion to Disqualify Hearing Officer; Memorandum in Support of Motion; Declaration of Ann Wooton; Exhibits "A" – "B"; Certificate of Service
 - b. Motion to Set Hearing on Motion to Disqualify Hearing Officer, and for Stay of Proceedings Pending its Resolution
 - c. Minute Order Regarding Pending Prehearing Motions; Certificate of Service
 - d. Amended and Supplemental Motion to Disqualify Hearing Officer; Certificate of Service
 - e. Respondent Planning Department of the County of Kauai's Memorandum in Opposition to Petitioner's Amended and Supplemental Motion to Disqualify Hearing Officer; Affidavit of Ernest W. Barreira; Exhibits 1 and 2; Certificate of Service
 - f. Respondent Planning Department of the County of Kauai's Amendment to its Memorandum in Opposition to Petitioners' Amended and Supplemental Motion to Disqualify Hearing Officer; Affidavit of Ann Marie K. Wooton; Certificate of Service
 11. Petitioner's Steven and Eddi Henry Motion to Disqualify Hearing Officer; Certificate of Service (related to Petition for Appeal of Decision of Planning Director; and, Application for a State Special Permit, etc.) (contested case file CC-2016-11) [Deferred 12/31/16.]
 - a. Minute Order Regarding Petitioners Steven Henry and Eddi Henry's Motion to Disqualify Hearing Officer; Certificate of Service
 - b. Planning Department of the County of Kauai's memorandum of Law in Opposition to Petitioners Steven and Eddi Henry's Motion to Disqualify Hearing Officer, filed September 27, 2016; Affidavit of Myles Hironaka; Affidavit of Ann Marie K. Wooton; Certificate of Service
 12. Petitioner's William I. Cowern and Catherine F. Cowern Motion to Disqualify Hearing Officer; Certificate of Service (related to Petition to Appeal Decision of Planning Director; and, Application for a State Special Permit, etc. (Consolidated Cases) (contested case files CC-2015-17, CC-2016-2) [Deferred 12/31/16.]
 - a. Minute Order Regarding Petitioners William I. Cowern and Catherine F. Cowern's Motion to Disqualify Hearing Officer; Certificate of Service
 - b. Planning Department of the County of Kauai's memorandum of Law in Opposition to Petitioners William I. Cowern and Catherine F. Cowern's Motion to Disqualify Hearing Officer, filed September 27, 2016; Affidavit of Ernest W. Barreira; Exhibits 1-2; Affidavit of Ann Marie K. Wooton; Certificate of Service

13. Petitioner Anthony S. Bardin Motion to Disqualify Hearings Officer; Declaration of Sommerset K.M. Wong; Certificate of Service (related to Petition to Appeal Decision of Planning Director Relating to TVRNCU #1225 for Property Situated in Hanalei, Kauai, Hawaii, identified by Kauai TK No. (4)5-5-010: 39 containing 5,654 sq. ft.) (contested case file CC-2013-83) [Deferred 12/31/16.]
 - a. Minute Order Regarding Petitioner's Motion to Disqualify Hearings Officer; Certificate of Service
 - b. Planning Department of the County of Kauai's Memorandum of Law in Opposition to Petitioner Anthony S. Bardin's Motion to Disqualify Hearings Officer; Affidavit of Ann Marie K. Wooton; Certificate of Service

14. Petitioner's Greg Allen, Sr., and Greg Allen, Jr. Motion to Disqualify Hearings Officer; Declaration of Sommerset K.M. Wong; Certificate of Service (related to Petition to Appeal of Violation and Levi of SMA Fines Involving Property Situate in Kilauea, Kauai, Hawaii, identified by Kauai TMK No. (4)5-3-007: 14, and containing a total area of 16,552.0 sq. ft.) (contested case file CC-2015-4) [Deferred 12/31/16.]
 - a. Minute Order Regarding Petitioners Greg Allen, Sr., and Greg Allen, Jr.'s Motion to Disqualify Hearing Officer; Certificate of Service
 - b. Planning Department of the County of Kauai's memorandum in Opposition to Petitioner Greg Allen, Sr.'s Motion to Disqualify Hearing Officer, Filed September 28, 2016; Affidavit of Ernest W. Barreira; Exhibits 1-2; Affidavit of Ann Marie K. Wooton; Certificate of Service

15. Petitioners Thomas J. Brooks and Jennifer S. Brooks' Motion to Disqualify Hearings Officer; Declaration of Jonathan J. Chun, Certificate of Service (1/30/17) (related to Petition to Appeal Decision of Planning Director Relating to the Forfeiture of Non-Conforming Use Certificate TVNCU #4291 (Pohaku), TMK No. (4)58008021, Haena, Kauai.) (contested case file CC-2017-1) [Referred to Hearings Officer 1/24/17.]
 - a. Minute Order Regarding Petitioners Thomas J. Brooks and Jennifer S. Brooks' Motion to Disqualify Hearing Officer, Certificate of Service (2/1/17)
 - b. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter.