



PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISSION

DONNA APISA, CHAIR
HELEN COX, VICE CHAIR
MELVIN CHIBA, MEMBER
FRANCIS DEGRACIA, MEMBER
GLENDA NOGAMI-STREUFERT, MEMBER
LORI OTSUKA, MEMBER

MEMORANDUM

DATE: October 11, 2021

TO: Planning Commission

FROM: Clerk of the Commission

SUBJECT: 1st Addition to the 10/12/2021 Planning Commission Agenda

F. HEARINGS AND PUBLIC COMMENT

1. Continued Agency Hearing

a. **Valerie M. Neilson and David N. Kells.**

1. Letter (10/7/2021) from Cori Kiiyana.
2. Letter (10/8/2021) from Cori Kiiyana.
3. Letter (10/8/2021) from Bill Chase.
4. Letter (10/8/2021) from Aaron Rosenstiel.
5. Letter (10/8/2021) from Leilani Sim-Godbehere, DVM.
6. Letter (10/8/2021) from Brent Godbehere.
7. Letter (10/10/2021) from Eric Hansen.
8. Letter (10/11/2021) from Amber Morrison.

Duke Nakamatsu

From: Cori Kiiyana <coriameen@gmail.com>
Sent: Thursday, October 7, 2021 11:58 PM
To: Planning Department
Subject: LETTER OF SUPPORT FOR THE KELLS
Attachments: LETTER OF SUPPORT.docx

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

Attached is a document stating my concerns and support for the Kells and their planning application.

This has been an ongoing battle for them and I would like to use my voice to help on their behalf.

Mahalo,

Cori Storey

F.I.A.I.
OCT 12 2021 (A)

October 07, 2021

Donna, Apisa, Chair
Helen Cox, Vice Chair
Melvin Chiba, Member
Roy Ho, Member
Glenda Nogami-Streufert, Member
Lori Otsuka, Member

Regarding: Special Management Area Use Permit SMA(U)-2020-1, Class IV Zoning Permit Z-IV-2020-3, and Use Permit U-2020-3 for the Construction of a Farm Dwelling Unit within Lot 7 of the Kahili Makai Subdivision in Kilauea, Involving a Parcel Situated at the Terminus of Kahili Makai Street. Property Identified as 4316-Z Kahili Makai Street, Tax Map Key: (4)5-2-21:007 (Unit E), and Affecting a Portion of a Larger Parcel Aprox. 27.56 Acres in size,

Dear County of Kauai Planning Commission Board Members,

My name is Cori Storey- I'm representing myself as a private citizen of Kauai and want to express my *full support* of the Kells/Neilson Planning Application.

David and Valerie have owned the property for six years and live there full time. They understood the special nature of the property so their first approach was to the State of Hawaii Preservation Division (SHPD) to get guidance on where to position their home on the property. They completed the application themselves. The application was accepted as "Complete" with all the appropriate public and private notifications met. Without appropriate notification applications don't make it on the Planning Commission Public Hearing Agenda. Their hearing dates was *Oct 22, 2019*....Almost 2 years ago.

They have been in a Contested Case since then because Intervener status was granted although they had not received timely and appropriate notice as required by your own rules.

David and Valerie have a profound resolve to move forward with this project despite what they have had to endure. The entire community is very familiar of certain individuals with "unlimited resource" who's tactics include building barriers that obstruct, interfere and harass neighbors through the help of his legal counsel who is a former employee of the Planning Department. This attorney's knowledge and experience as a county employee gives him considerable advantage to manipulate the planning process. The community is watching!

Community members in support of the project are fully expecting others who have low thresholds for objectivity and honesty to be approached for their false testimony. We encourage the Commission Member not to be intimidated by fancy legal speak and by manufactured untruths. Recognize that David and Valerie have been responsible land owners who respect the processes and have worked closely with the Planning Department and SHPD. They have put their hearts into thoroughly completing this Planning Application.

They are NOT building a disguised transient vacation rental on a private park. They are asking permission to build a home to gather with family and friends.

Sincerely yours,

Cori Storey

Kristen Romuar-Cabico

From: Cori Kiiyana <coriameen@gmail.com>
Sent: Friday, October 8, 2021 11:24 AM
To: Kaaina Hull; Planning Department
Subject: LETTER OF SUPPORT FOR THE KELLS
Attachments: LETTER OF SUPPORT.docx

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

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Mahalo,

Cori Storey

F.I.A.2.
OCT 12 2021 (A)

October 07, 2021

Donna, Apisa, Chair
Helen Cox, Vice Chair
Melvin Chiba, Member
Roy Ho, Member
Glenda Nogami-Streufert, Member
Lori Otsuka, Member

Regarding: Special Management Area Use Permit SMA(U)-2020-1, Class IV Zoning Permit Z-IV-2020-3, and Use Permit U-2020-3 for the Construction of a Farm Dwelling Unit within Lot 7 of the Kahili Makai Subdivision in Kilauea, Involving a Parcel Situated at the Terminus of Kahili Makai Street. Property Identified as 4316-Z Kahili Makai Street, Tax Map Key: (4)5-2-21:007 (Unit E), and Affecting a Portion of a Larger Parcel Aprox. 27.56 Acres in size,

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They are NOT building a disguised transient vacation rental on a private park. They are asking permission to build a home to gather with family and friends.

Sincerely yours,

Cori Storey

Kristen Romuar-Cabico

From: Bill Chase <bill.oncenter@gmail.com>
Sent: Friday, October 8, 2021 11:48 PM
To: Kaaina Hull; Planning Department
Subject: written testimony
Attachments: Neilson support testimony 100821.doc

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Please see written testimony attached below. . .

F.I.A.3.
OCT 12 2021 (A)

10/8/21

Commissioners,

Regarding: Special Management Area Use Permit SMA(U)-2020-1, Class IV Zoning Permit Z-IV-2020-3, and Use Permit U-2020-3 for the Construction of a Farm Dwelling Unit within Lot 7 of the Kahili Makai Subdivision in Kilauea, Involving a Parcel Situated at the Terminus of Kahili Makai Street. Property Identified as 4316-Z Kahili Makai Street, Tax Map Key: (4)5-2-21:007 (Unit E), and Affecting a Portion of a Larger Parcel Aprox. 27.56 Acres in size,

Comissioners,

In 2013 Mr Somers was before this body in a contested case hearing regarding access to Kilauea Falls, which he closed to community use despite sustained efforts by numerous community group to find a workable balance between his legitimate concerns regarding management, privacy, and security and the equally legitimate concerns of the community (backed by the President of the United States and the US Fish and Wildlife Service) indicating there are no conflicts between the biological, cultural and scenic values to the community and the private rights enjoyed by Mr. Somers as the land owner. Never the less Mr. Somers chose to refuse to negotiate and closed out the community. Prior to that he was before this body in 2008 to out maneuver community objections over the small hotel complex he has built and called a private residence.

In the ensuing years has continued to expand his iron control over the Kilauea Valley. When simple economic incentives fail to work, he resorts to law suits or contested case hearings, such as the one before you today, to enlarge what is slowly becoming his personal fiefdom..

The irony is that now, besides a litany of frivolous technicalities that, in any other venue would smack of a bald faced harassment suit, he appears to be wrapping himself in the **same** biological, cultural, and scenic values he vigorously challenged eight years ago.

In today's proceeding instead of manipulating the system to ignore and close out the entire community of Kilauea, he is bullying nearby landowners, who have clear and consistent rebuttals by relevant and respected State and Federal agencies to the empty claims of threats or damages to now oh so conveniently resurrected community concerns.

Bah! There are times when lines need to be drawn. Otherwise the fabric of our communities will continue to be rewoven by those who have the wherewithal to influence, persuade, and outlast the general interest of our communities by those who can afford to re-write history and work the system for their personal agenda.

How much of the valley is enough? The Neilson's have sought out, complied with, and continue to seek guidance from all relevant Local, State, and Federal agencies, yet Mr. Somer's persists to bully to get his way.

The health and vibrance of any watershed is better served by a diversity of species.. Yet small private landowner is now endangered in Sommerville. The Neilson's have so far proven to be much more honest, open, and engaged stewards of their property than Mr. Somer's ever has been with his.

Will the power of money prevail? The Kilauea community needs your strength. The Kilauea community needs your strategic vision, the long view. The Neilson's need your support and protection. Please grant permission for the construction of their farm dwelling unit.

Sincerely,

Bill Chase

Kristen Romuar-Cabico

From: a rosenstiel <arosenstiel@yahoo.com>
Sent: Friday, October 8, 2021 2:29 PM
To: Kaaiana Hull; Planning Department
Subject: Property Identified as 4316-Z Kahili Makai Street, Tax Map Key: (4)5-2-21:007 (Unit E)

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,


Mahalo for taking the time to read my testimony regarding the proposed zoning permit application

This letter is for: Special Management Area Use Permit SMA(U)-2020-1, Class IV Zoning Permit Z-IV-2020-3, and Use Permit U-2020-3 for the Construction of a Farm Dwelling Unit within Lot 7 of the Kahili Makai Subdivision in Kilauea, Involving a Parcel Situated at the Terminus of Kahili Makai Street. Property Identified as 4316-Z Kahili Makai Street, Tax Map Key: (4)5-2-21:007 (Unit E), and Affecting a Portion of a Larger Parcel Aprox. 27.56 Acres in size.

I am writing to inform you that I support this application. The proposed use is consistent with the surrounding use of the area and should not pose any significant risk with proper design and engineering.

Mahalo,

Aaron Rosenstiel

F.I.A.4.
OCT 12 2021 

Kristen Romuar-Cabico

From: Leilani SimGodbehere <lsimgod@gmail.com>
Sent: Friday, October 8, 2021 4:49 PM
To: Planning Department; Kaaina Hull
Subject: David and Valerie Kells Testimony in favor
Attachments: Testimony for Kells 2.docx

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

To the Planning Dept,
Please include the attached Testimony in favor of Kell's and upcoming Planning commission meeting for Oct 12,2021.

Mahalo,
Leilani Sim-Godbehere, DVM
808 368 5974 cell

F.I.R.S.
OCT 12 2021 (A)

Leilani Sim-Godbehere, D.V.M
6115 Waipouli Rd.
Kapaa, HI 96746
808 368 5974 cell
lsimgod@gmail.com

10/8/21

To: Planning Commission, County of Kauai Planning Dept
4444 Rice St, Kapule Bldg, Lihue, HI 96766

Re: Testimony on behalf of David and Valerie Kells

Regarding: Special Management Area Use Permit SMA(U)-2020-1, Class IV Zoning Permit Z-IV-2020-3, and Use Permit U-2020-3 for the Construction of a Farm Dwelling Unit within Lot 7 of the Kahili Makai Subdivision in Kilauea, Involving a Parcel Situated at the Terminus of Kahili Makai Street. Property Identified as 4316-Z Kahili Makai Street, Tax Map Key: (4)5-2-21:007 (Unit E), and Affecting a Portion of a Larger Parcel Aprox. 27.56 Acres in size,

To Whom it May Concern,

I have known Valerie and David Kells for 4 1/2 years, since Jan 2017. I know them both on a professional level and on a personal level. Having done some work with them at their property, with their chickens, and with a remodel project, I can say they are excellent people to work for. I found them both to be clear, concise, and articulate communicators. They were timely and responsive with not only communication but with answering any questions or doing needed legwork to move the project along. They were engaged and entirely caring about all endeavors we worked together in. On a personal level, I found the Kells' to be honest and trustworthy. If they made a promise they followed through and kept the promise. They held up their end of any agreement that we made. They are both skilled in many ways, and enthusiastic homesteaders and intelligent stewards of the land.

David is a retired physician and obstetrician.

Valerie is a very high level radiology technician and master gardener among her many other skills.

Retaining such skilled and productive community members would be an asset to our Kauai community.

Allowing them to build a home on the property they have so carefully tended and cleared would be the right path and the necessary path if we wish to keep these two community members staying here on Kauai.

They would be an asset to any neighborhood or community and I look forward to having them as my neighbors and friends for many years.

Please grant them the needed permits to build their home.

Sincerely,
Leilani Sim-Godbehere, D.V.M.

Kristen Romuar-Cabico

From: Leilani SimGodbehere <lsimgod@gmail.com>
Sent: Friday, October 8, 2021 4:56 PM
To: Kaaina Hull; Planning Department
Subject: Testimony in favor of David and Valerie Kells for Oct 12,2021 meeting
Attachments: Kells.pdf

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Regarding: Special Management Area Use Permit SMA(U)-2020-1, Class IV Zoning Permit Z-IV-2020-3, and Use Permit U-2020-3 for the Construction of a Farm Dwelling Unit within Lot 7 of the Kahili Makai Subdivision in Kilauea, Involving a Parcel Situated at the Terminus of Kahili Makai Street. Property Identified as 4316-Z Kahili Makai Street, Tax Map Key: (4)5-2-21:007 (Unit E), and Affecting a Portion of a Larger Parcel Aprox. 27.56 Acres in size,

Dear Planning Dept,

The attached letter is enclosed in favor of Dr and Mrs David Kells for the upcoming Planning Commission meeting Oct 12,2021.

Mahalo,
Brent Godbehere

F.I.A.B.
OCT 12 2021 (A)

October 10, 2019

To whom it may concern,

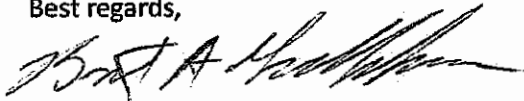
I have known Valerie & David Kells for going on five years.

I met Valerie & David by doing construction work for them. They have always been honest and easy to work with. They are both extremely reliable and fair minded. Of all the people I have built homes for or other construction work, the Kells have been one of the best people to work with without question.

Over the years I have come to know the Kells quite well. They both have a Green Thumb and are very good at farming. They are very mindful of the history in the area they live, are good stewards of the land, will cultivate the native Hawaiian foliage and rid the area of any invasive species. They are really great about wanting to keep Kauai the Garden Island. They will be an outstanding addition to the Farmers Market in their area of Kilauea and Kapaa.

My own family has been in Hawaii for millennia on one side and since 1911 on the other. Everyone in my family agrees that the Kells are a great addition to Kauai and the neighborhood in which they live. I would be thrilled as would all my family to have the Kells as our own direct neighbors. In all my decades of living in Hawaii/Kauai I have never met a couple more interested in preserving Hawaii, keeping our beautiful island home not only as it is but making it even better by adding to the native plants on our island, ridding it of the troublesome invasive species and by not only having Aloha but by living Aloha!

Best regards,



Brent A Godbehre

Godbehre Construction Co.
6115 Waipouli Road
Kapaa HI. 96746
808-346-1014

Kristen Romuar-Cabico

From: Eric Hansen <ewhansen@hawaii.edu>
Sent: Sunday, October 10, 2021 5:44 PM
To: Kaaina Hull
Cc: Planning Department
Subject: Letter of Support for Kells/ Neilson for Tues Oct 12th Agenda
Attachments: KELLS_OctSupport Letter.pdf

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha

I am submitting this letter in support of the Kells/ Neilson Application for the Tuesday October 12th Agenda.

Mahalo nui loa,
Eric Hansen

F.I.A.T.
OCT 12 2021 (A)

October 09, 2021

Donna, Apisa, Chair
Helen Cox, Vice Chair
Melvin Chiba, Member
Roy Ho, Member
Glenda Nogami-Streufert, Member
Lori Otsuka, Member

Dear County of Kauai Planning Commission Board Members,

I am writing in full support of the Kells/Neilson Planning Application.

I first meet the Valerie and David when the enrolled in the farmer training program I teach, Go Farm Hawaii, in the early spring of 2018. Over the years I have learned of their genuine interest to develop their home with intension to farm and protect the rural integrity of the Ko'olau moku. They are passionate about natural resource management and have taken a natural affinity to honoring Kauai's host culture.

Since buying their property in 2015 they have only walked lightly and with nothing but pono intentions. Kells/ Neilson have worked with State of Hawaii Preservation Division for ensure all cultural resources are preserved. They have also consulted with the U.S. Department of Agriculture's Natural Resource Conservation Service to determine what are the best management practices for agricultural use on their land. They have also consulted with botanists to ensure botanical resources are inventoried and conserved. David and Valerie voluntarily took these steps to be good citizens doing the right things. They worked closely with the Planning Department and finally completed the application. The application was complete with all the appropriate public and private notifications met in order to get on the Planning Commission Public Hearing Agenda Oct 22, 2019. David and Valerie are steadfast in their sincere and genuine pursuit to move forward with this project thoughtfully and conscientiously.

Intervenor status was granted despite the fact that they had not received timely and appropriate notice from Mr. Somers, his counsel, nor the Planning Department. They have been in a Contested Case since that time.

Mr. Somers has been trying to use fear tactics on Valerie and David to move on sell their property. I seen Mr. Somers try similar fear tactics on other land owners and on the county of Kauai. Please do not let those with an excess of money boss us all around. Can we say enough to people like this?

Mahalo nui loa,



Eric Hansen

Kristen Romuar-Cabico

From: amber morrison <a_m3@hotmail.com>
Sent: Monday, October 11, 2021 7:32 AM
To: Kaaina Hull; Planning Department
Subject: written testimony kells/nielson

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

October 08, 2021

Donna, Apisa, Chair
Helen Cox, Vice Chair
Melvin Chiba, Member
Roy Ho, Member
Glenda Nogami-Streufert, Member
Lori Otsuka, Member

Regarding: Special Management Area Use Permit SMA(U)-2020-1, Class IV Zoning Permit Z-IV-2020-3, and Use Permit U-2020-3 for the Construction of a Farm Dwelling Unit within Lot 7 of the Kahili Makai Subdivision in Kilauea, Involving a Parcel Situated at the Terminus of Kahili Makai Street. Property Identified as 4316-Z Kahili Makai Street, Tax Map Key: (4)5-2-21:007 (Unit E), and Affecting a Portion of a Larger Parcel Aprox. 27.56 Acres in size,

Dear County of Kauai Planning Commission Board Members,

I am a neighbor of Valerie Nielson and David Kells and am writing this testimony in full support of their building project. I have been impressed by their genuine investment to learn of the archeological, cultural and ecological aspects of their property. They have invited an Oahu Kahuna to their land for a deeper understanding of the spiritual history and care of that aina and the island of Kauai, homesteaded on their land, grow tremendous amounts of food, spoil their chickens like loved ones and attend nearly every Kilauea town meeting.

Valerie Nielson and David Kells are uniquely caring individuals, who have maintained tremendous grace and honor in stewarding their special land and contribute time to local nonprofits, even in the face of the false accusations, legal interference and harassment, from their very own neighbor. I cannot imagine the stress and time such legal and financial intimidation has caused for them and their dreams of building a dream home on their dream land.

Valerie and David stand with resilience and integrity regardless of false claims and painful attacks and the sacred care of their land, their commitment to the community and the permits to build their home is a reflection of this. This two rare people embody the values we all want and need to have on Kauai, and are most deserving of having their dreams finally approved!

F.I.R.C.
OCT 12 2021 **(A)**

Mahalo for your time and consideration!

Sincerely,

Amber Morrison

4316 Kahili Makai Unit 5
Owner of lots D and E