

KAUA‘I PLANNING COMMISSION  
REGULAR MEETING  
**October 12, 2021**

The regular meeting of the Planning Commission of the County of Kaua‘i was called to order by Chair Cox at 9:00 a.m., - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

Ms. Helen Cox  
Mr. Gerald Ako  
Mr. Melvin Chiba  
Mr. Francis DeGracia  
Ms. Glenda Nogami-Streufert  
Ms. Lori Otsuka

Excused or Absent

Ms. Donna Apisa

The following staff members were present: Planning Department – Director Kaaina Hull, Deputy Director Jodi Higuchi Sayegusa, Myles Hironaka, Dale Cua, Romio Idica, and Planning Commission Secretary Shanlee Jimenez; Office of the County Attorney – Deputy County Attorney Laura Barzilai, Chris Donahoe, Office of Boards and Commissions – Administrator-Ellen Ching, Administrative Specialist Anela Segreti, and Support Clerk Arleen Kuwamura.

Discussion of the meeting, in effect, ensued:

**CALL TO ORDER**

Vice Chair Cox: Called the meeting to order at 9:00 a.m.

**ROLL CALL**

Planning Director Kaaina Hull: Madam Chair, its 9:00, we can start the meeting whenever you folks are ready.

Vice Chair Cox: I think there's no reason to wait, let's go ahead and call the meeting to order. Kaaina, can you do a roll call?

Mr. Hull: Roll call, Madame Chair. Chair Apisa is excused. Commissioner Ako?

Mr. Ako: Here and by myself.

Mr. Hull: Commissioner Chiba?

Mr. Chiba: Here and I'm alone.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Here by myself.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Here and by myself

Mr. Hull: Commissioner Streufert?

Ms. Nogami-Streufert: Here by myself.

Mr. Hull: Chair Cox?

Chair Cox: Here, and by myself except my dog, sorry we can have a little levity, can't we? Anyway, he's not listening.

Mr. Hull: Thank you Madam Chair, we have a quorum. Seven Present.

### **APPROVAL OF AGENDA**

Mr. Hull: Moving on to Approval of the Agenda.

Deputy County Attorney Laura Barzilai: Good morning, Madam Chair. Deputy County Attorney Laura Barzilai. In order to properly address today's Agenda Items a motion to amend the agenda items is necessary to allow for Item L and Item H, to immediately follow Item F. It is appropriate for you Madame Chair, to entertain such a motion at this time.

Chair Cox: Thank you Laura, can somebody make a motion to that effect.

Ms. Nogami-Streufert: I move to amend the agenda. I'm not sure exactly what it was to allow for Item L. I, to come directly after.

Chair Cox: Item L. Item L.

Ms. Nogami-Streufert: Okay.

Ms. Barzilai: Madame Chair, if I could state again, the order of flow should be Item F, followed by Item L, then Item H.

Ms. Nogami-Streufert: I moved to amend the agenda item, L, followed by... I'm sorry, I'm getting this confused. Okay, as stated by the attorney.

Chair Cox: Is there a second.

Ms. Otsuka: Second.

Chair Cox: Thank you. Any discussion? Okay, I think we can just do a voice vote on this one. So,

all those in favor? Aye. (Unanimous voice vote). Any opposed? Hearing none. Motion carried. 6:0.

### **MINUTES of the meeting(s) of the Planning Commission**

Mr. Hull: Next, on the agenda would be the Minutes for the approval of the Minutes for February 9, 2021, March 9, 2021, and April 13, 2021.

Chair Cox: I think we can take these together unless someone needs to separate them out. Do any commissioners have any discussion about these minutes. If not, can someone make an agenda. I mean that motion. I'm sorry.

Ms. Nogami-Streufert: I moved to accept the Minutes as presented.

Chair Cox: Do we have a second?

Mr. Chiba: Second.

Chair Cox: Thank you. It has been moved and seconded. Any further discussion? Since there was none to begin with, I am assuming not. I think we should probably do a roll call vote on this one, Kaaina.

Mr. Hull: Roll call, Madame Chair. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Chiba?

Mr. Chiba: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Nogami-Streufert: Aye.

Mr. Hull: Chair Cox?

Chair Cox: Aye.

Mr. Hull: Motion Passes, 6:0. Madam Chair.

## **RECEIPT OF ITEMS FOR THE RECORD (None)**

Mr. Hull: There are no Receipt of Items for the record.

## **HEARINGS AND PUBLIC COMMENT**

Mr. Hull: Next, rounding Hearings and Public Comment. We did not receive any registered requests in advance of this meeting for virtual oral presentations. Written testimony was received for one of the cases of the Agency Hearings and will be read during that time.

### Continued Agency Hearing

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 and immediately adjacent to property identified as 4254 Kahili Makai Street, Tax Map Key: (4) 5-2-021:007 (Unit E), and affecting a portion of a larger parcel approx. 27.56 acres in size= Valerie M. Neilson and David N. Kells. [Director's Report received by Commission Clerk, 10/8/19, deferred 10/22/19.]

Mr. Hull: So, we will be moving on to the next portion of the Agenda Item, which is F.1, and being that is as part of a Contest Case Hearing, Madam Chair, I will turn this portion of the agenda over to you, and we call your turn.

Chair Cox: Thank you, Kaaina. So, we're moving on to item F.1.a, a Continued Agency Hearing of Nielson Kells. I'm going to read into the record that Item, Special Management Area Use Permit SMA(U) 2020-1, Class IV Zoning Permits 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, and immediately adjacent to property identified as 4254 Kahili Makai Street, Tax Map Key: (4) 5-2-021:007 Unit E, and affecting a portion of a larger parcel approximately 27.56 acres in size. Valerie M. Nielson and David and Kells. I don't know if I'm supposed to read the Directors Report was received by the Commission Clerk. On October 8, 2019, and was deferred until 10 22, 19. And we really what we need here is a motion for an open-ended deferral of the agency hearing, so that the Unfinished Business at Item, L may be addressed.

Deputy Planning Director Jodi Higuchi Sayegusa: Sorry, sorry to interject, but I just wanted to also note that we didn't, we did not receive any request for testimony. So just according to how we set up the process here just so that we can manage the logistics behind the scenes on the, you know, recording and accepting and allowing everybody to have your opportunity to testify. We've asked that folks who are interested in testifying to email the Department and then we'll send them send out the registration link. We didn't receive anything prior to 9am yesterday and October 11, but we did receive a number of have written testimony that you folks have received since yesterday at 9am on October 11. We received a letter, two letters one dated October 7 and one day, October 8 from Cori Qian Kiiyana. We also received a letter from Bill Chase, a letter from Aaron Rosenstiel, a letter from Leilani SimGodbehere, a letter from Brent A. Godbehere, a letter from Eric Hansen, and a letter from Amber Morrison. So, that was transmitted to you folks, and was received prior to the

cut off yesterday at 9am. Thank you, and that's all I have.

Chair Cox: Thank you very much. Okay. So, did anybody, did everybody understand the motion that we need is to defer an open-ended deferral so that we can go on to item L., and address this issue under Unfinished Business. We have motion.

Deputy County Attorney Laura: Madam Chair, just to clarify, that motion to defer the Agency Hearing. That's what you're requesting at this time.

Chair Cox: Yes, an open-ended deferral of the Agency Hearing.

Ms. Barzilai: Thank you.

Ms. Nogami-Streufert: I moved to defer this to the open, the Agency Hearing to defer the agency hearing.

Ms. Otsuka: I second.

Chair Cox: It's been moved and seconded. Is there any discussion? Hearing none. I guess we're ready for, I think we should do a roll call vote on this one.

Ms. Barzilai: Yes, Madam Chair. Yes, I can take roll. Commissioner Ako?

Mr. Ako: Aye.

Ms. Barzilai: Commissioner Chiba?

Mr. Chiba: Aye.

Ms. Barzilai: Commissioner DeGracia?

Mr. DeGracia: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Nogami-Streufert: Aye.

Ms. Barzilai: Chair Cox?

Chair Cox: Aye.

Ms. Barzilai: Motion passed. Six Ayes, Madam Chair. Motion passes 6:0.

UNFINISHED BUSINESS (For Action)

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 and immediately adjacent to property identified as 4254 Kahili Makai Street, Tax Map Key: (4) 5-2-021:007 (Unit E), and affecting a portion of a larger parcel approx. 27.56 acres in size= Valerie M. Neilson and David N. Kells. [Director's Report received by Commission Clerk, 10/8/19, deferred 10/22/19.]

- a. Consideration of the Hearing Officer's Report and Recommendation of Contested Case, CC-2020-2, Valerie M. Neilson & David N. Kells, concerning Special Management Area use Permit SMA (U) -2020-1, Class 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 and Immediately adjacent to Property identified as 4316-Z Kahili Makai Road, Tax Map Key: (4) 5-2-001:007 (Unit E), and affecting a portion of a larger parcel approx. 27.56 acres in size.
  - i. Intervenor CS Development LLC and Charles Somers Individually, Exception to the Hearing Officer's Report and Recommendations; Request for Oral Argument Before the Commission; Certificate of Service.
  - ii. Respondent Planning Department of the County of Kaua'i Report and Recommendation; Certificate of Service.
  - iii. Petitioner's Support of the Hearing Officer's Report and Recommendation; Certificate of Service.

Chair Cox: Thank you. So now we're going to move on to item, 1 Unfinished Business for Action Nielson Kells, and I will read in the record that item. 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 and immediately adjacent to property identified as 4254 Kahili Makai Street, Tax Map Key: (4) 5-2-021:007 (Unit E), and affecting a portion of a larger parcel approx. 27.56 acres in size = Valerie M. Neilson and David N. Kells. Consideration of the Hearing Officer's Reporting and Recommendation of Contested Case CC-2020-2, Valerie of Nielson and David and Kells concerning Special Management Area Use Permit SMA(U) 2020-1, Class IV Zoning Permits 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, and immediately adjacent to Property identified as 4316 - Z Kahili Makai Road Tax Map Key: (4)-5-2-001:007 Unit E, and affecting a portion of a larger parcel approx. 27.56 acres in size. Intervenor CS Development LLC and Charles Somer's Individually, Exception to the Hearing Officer's Report and Recommendations; Request for Oral Argument before the Commission Certificate of Service. 2. Respond that Planning Department of the County, Hawaii Report, and recommendations Certificate of service. 3. Petitioners Support of the Hearings Officer's reference Report and Recommendation; Certificate of Service.

So, at this point we need we need to entertain either a motion to grant or to deny the Interviewers request for oral argument.

Ms. Higuchi Sayegusa: Sorry to interject. I just wanted to let you folks know that the parties are now here. I'm not sure if you want to (unintelligible).

Chair Cox: Thanks, Jodi.

Ms. Higuchi Sayegusa: Yeah, so, all the parties are all admitted in the meeting at this point. Thanks.

Chair Cox: Great, thank you. So, we need a motion either to, so what we're being asked to do is do we want to allow for the oral testimony that the interveners have requested or deny that testimony.

Mr. Mauna Kea Trask: Chair, I'm sorry. For the record, Mauna Kea Trask. Can I, can we speak on this request, is that all right? Because we didn't make the written request for the rules to explain.

Chair Cox: I don't know. I'll have to ask our attorney.

Ms. Barzilai: Yes, Madam Chair. Mr. Trask, you want to clarify your request?

Mr. Mauna Kea Trask: No, we would we submitted the request for argument pursuant to the Commission Rules and prior to the voting on the motion or making the motion. We just like an opportunity to describe, you know, why, just to be heard on it.

Ms. Barzilai: Madam Chair, I think that's fine. I mean, so long as Mr. Trask is not reaching the substance during this portion, I think that that's fine.

Chair Cox: Okay, go ahead.

Mr. Trask: Thank you very much. Chair, Honorable Commissioners. Intervenors have made a request for oral argument, and we think it's appropriate, in this case, not only for ourselves but for all parties. You know, this was supposed to be a three to four day Contested Case Hearing. The last hearing, we had with everyone in the room was March 30, 2020. About a week or so thereafter the world went into global pandemic and we're still kind of into it. I think that given the extensive record, the issues related to the application, the recommendation of the hearings officer, I think the Commission would benefit from hearing from all parties. You know you have the written submitted so it's not going to be anything. You know, very expansive it's just something that I think is appropriate, so you can understand where the parties are coming from, there's days of transcripts, hundreds of pages. I don't expect you have to have read all of them, but I think that it would be appropriate under the rules, and due process to allow for argument by each of the parties, and we just make the request such, Thank you.

Chair Cox: Thank you for clarifying.

Ms. Barzilai: Madam Chair, Laura, if I may, it might be appropriate this time to hear from Ms. Nielson and Mr. Kells, regarding their position on our arguments. If you would like to welcome them to speak?

Chair Cox: Yes, thank you. I see David is on I don't, David Kells would you like to speak. Oh,

there's Valerie Okay, go ahead.

Ms. Valerie Neilson: So, am I just speaking to whether or not we want to hear oral argument?

Chair Cox: Yes, yes. Because the substance will come later if we vote. If we approve the motion to hear oral arguments, then you will have a chance to give your, you know, the substance that you'd like to say.

Ms. Valerie Neilson: Thank you. We, we don't feel that, given the amount of time, that we have already invested including the Planning Department feel that these details need to be rehashed. We've spent extensive amounts of times with a Hearings Officer and all parties to very tightly comb through every detail of our 228-page application. The Hearings Officer has rendered his decision, and we respect that and want to move forward without additional delay.

Chair Cox: Okay. And we want to hear from the Planning Department as well, Laura? Since we can from the other two.

Ms. Barzilai: Okay, yes, since you have opposing arguments, we can hear from the Department.

Deputy County Attorney Chris Donahoe: Good morning, Commission. Deputy County Attorney Chris out on behalf of the Department. The Department takes no position to the (unintelligible) argument. It is allowable under the rules so (unintelligible) on that. Thank you.

Chair Cox: Okay. Is there a motion or do we want to discuss further before a motion of why we would want to accept the request of the interveners for oral argument or deny it?

Ms. Otsuka: Okay, yes, I'm ready to make a motion.

Chair Cox: You're ready to make a motion.

Ms. Otsuka: I make a motion to accept interveners request for oral testimony.

Chair Cox: Thank you, Lori. Is there a second? I thought I heard a second. Was that you Gerald? Did I hear a second?

Mr. Ako: Yes, I second it.

Chair Cox: Okay, thank you, Gerald. Okay, so it's been moved and seconded. Is there further discussion? Hearing none. We'll take a roll call vote.

Ms. Barzilai: Roll call, Madam Chair. Commissioner Ako?

Mr. Ako: Aye.

Ms. Barzilai: Commissioner Chiba?

Mr. Chiba: Aye.

Ms. Barzilai: Commissioner DeGracia?

Mr. DeGracia: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Nogami-Streufert: Aye.

Ms. Barzilai: Chair Cox?

Chair Cox: Aye.

Ms. Barzilai: Unanimous vote, Madam Chair. Motion carried. 6:0. Thank you.

Chair Cox: So, we oral argument has been granted. Therefore, each of the three parties are entitled to 10-minutes to present their argument, with three minutes rebuttal per party. The order of arguments is going to be interveners Somers, respondent, Department, and then Petitioners Nielson/Kells. So, Mr. Trask you may proceed.

Mr. Trask: Thank you very much, Chair, Honorable Commissioner's. Intervenors are wanting to make it clear that the Hearing's Officer is not recommending approval of these permits today. After review and consideration all the facts and evidence, he is recommending the applicants be ordered to cure various deficiencies in the application, including submitting plans to scale as simply required by the CZO and SMA Rules, conduct a Ka Pa'akai analysis of traditional customary Hawaiian rights, resubmit the revised application to the Planning Department, and a State Historic Preservation division or SHP, and hold another hearing on this matter, public hearing on this matter.

However, intervenors argue that the Hearing's Officers recommendation is problematic for a few reasons. It requires the Department itself, not the applicant to conduct a Ka Pa'akai analysis on their behalf. Something that is outside of the Department's expertise, as testified to by Mr. Cua during the Contested Case Hearing and is improper under the rules. The Planning Department should not be doing the petitioners job for them. They should be acting as a ref calling the balls and strikes. Further, the Hearing's Officer recommendation is unclear as to future procedure. Whether it allows Somer's and other interested parties to comment, review, and potentially intervene in future application processes.

Further, and improperly, it suggests approval or recommends approval of future applications based solely on a revised Director's report, without providing for public input or input from other interests of persons are the decisions as to the approval of the permits. Instead, the application must be denied today, for two basic reasons. First, granting this permit application as currently submitted, would be in violation of the CZO density limitations in the open zoning district on ag

within the state line use agricultural district area. This is a hard denial full stop. It's a 9-acre parcel. you can't have more than one unit per 5-acres. Second, the fact that circumstances show the application does not comply with the submission requirements have a complete application. And then petitioners failed to sustain that burden to prove by preponderance of the evidence that the proposed development is consistent with the SMA rules. Coastal Management Act, the HRS 258, and the CZO with regard to development within the County Open Special Treatment Resource Zoning District.

First off, is clear under the CZO Section 8- 9.2 (b)(2), provide that no more than one single-family detached farm dwelling unit per 5-acres of land shall be permitted in the open zone lands, but within state land use ag district. This partial is within the open zone special human resource, and is 9.197 acres, and therefore, only one farm dwelling unit is allowed. The Director's Report specifically states that estimate use permit is required, because it exceeds \$500,000, and includes the construction of a second dwelling unit on the parcel. Petitioners' own standards on (unintelligible) application confirms this, and states that there is one existing dwelling unit on the subject property. Petitioners have resided on the subject property full time since (unintelligible) 2018 in that dwelling unit. There was a K-2 Survey Map showing the property with the petitioners current dwelling identified as a dwelling unit that's Exhibit A and Exhibit B, and Mr. Cua testified that petitioners are currently residing on the subject property in a dwelling unit, given the structure they're living in has a bathroom, a toilet and outside shower and a kitchen area where petitioners plugin appliances and prepare food. That's it, June 24 transcript page, 35 to 36. Finally, a certificate of occupancy was issued on September 12, 2004, use of the, what is alternately described as a garage in the application as a dwelling unit, and that's exhibit LVIX.

Second, the application fails to sustain petitioners' burden of proof to show that this proposed development is consistent with the CZO and SMA use permit object as policies and guidelines. And this is very important. The application is incomplete. It was submitted five times, between October 2018, September 16, 2019, each and every time it was rejected by the Planning Department correctly so, because of various deficiencies. And the last time, it was denied was May 23, 2019. It was then accepted on September 16, 2019. Not because the application changed. In fact, Dale testified the application was the exact same. The only thing that changed was September 16, 2019, Mr. Cua testified agreed that it was only after pressure from the mayor's office to an email that the Planning Department process petitioner's application and needed to approve it as complete. That said, the June 24 transcript the page 81. And it's also reflected in exhibit XLIX of interveners as exhibits. It's premature to allow any further consideration this application, until it has actually been complete, and we would argue that the Hearing Officer recognizes this, because he says you have to cure deficiencies 1. Which are scale plans. 2. Resubmittal as SHPD, and 6. With regard to (unintelligible).

Second, this is a very sensitive site, this parcel and this specific building site contains four (4) documented historic sites, three (3) of which cites 974, 975, and 976 or recognizes significant. It's a combined total of recognized 42 historic sites in the subject property, including two (2) potential burials recognized by Wainiha and the Burial Counsel. Despite past damage to the sites, Mr. Cua agreed, and Ms. Nancy McMahan confirmed, that out of 42 features, 28 are still remaining untouched. Site 974 has sixteen (16) untouched historic sites, site 975 has six (6) untouched historic sites, and site 976 has five (5). Nancy McMahan concurred with the assessment and also testified that the proposed building site is within the historic preservation area. The proposed

building site is in violation of the Preservation Plan. And this is on June 25, hearing transcript that 1516 respectively. The historic properties may be significantly adversely affected by proposed development, the Ka Pa'akai analysis insufficient, the permit application is inadequate to show consistency with the objectives and policies of the SMA concerning preservation protection of historic resources. According to the plans as submitted the east wing of the house appears to encroach within sight 974, and the 1997 EIS, which is 24 years old, and applies to an entirely different development needs to be updated to assess the impact on historic sites by this specific development. This current development. Further, the 2017 SHP determination of no historic effect was erroneous. Petitioners did not provide SHPD Susan (unintelligible) with any plans or architectural renderings of the proposed project. And this previous assessment by SHPD was later supplanted by an October 30, 2020, letter the Planning Department received from SHPD, saying that the application contains insufficient information to determine the potential for the project to adversely affect archaeological sites.

Moving on the application is insufficient to sustain petitioners' burden of proof that it complies to the requirements of the CZO again, none of these plans are to scale, it's impossible for you to determine size and density and height and distance from the slope as required by previous SMA permits that entitled The CPR development, because there's no scale. And that's testified to by Ron Agor, who actually prepared what he called these are renderings. These are rough drafts that you can use preliminarily, but Ron testified they're not to scale, and they need to be because of the historic sensitivity in this site, because you could plop it right down in historic sites. Further, it is too close, it's within 25 feet of the slope. That's (unintelligible) silty clay as recognized by the NCRS and it's highly eroded.

Further Ron testified that you need a topographic map. In order to map all pertinent aspects of the site. And that said this the July 2 transcript the page 121 21. The plans are not to scale, and sure that the proposed structure is much less than 25 feet from the slope that's a page 124. Mr. Agor says, it requires a grading permit. That's a page 121 47. There is no discussion no one in the community, Kilauea Neighborhood Association or the public knows that you need a grading permit for this development. But not even the petitioners know. Mr. Agor testify the lack of survey could cause the house again to be placed within the historic site that's 153. The rocks on the site or historic features at 155, and the plan is submitted or not to scale and are unreliable, because they were repeatedly changed as being blown up and shrunk over time on a copy machine and cannot be relied upon. So, as it stands right now, it's just simply insufficient. And you can't play personality, there's a lot of testimony that was submitted recently...

Ms. Barzilai: Pardon, 10-minutes, Madame Chair.

Mr. Trask: May I just wrap up real briefly? Thank you. We're dealing with legal standards here. These are basic requirements that everyone the county should be held to, it is not relevant, that is Charles Somers bringing up these issues. You got to look at the law, what does the CZO say, what is the SMA rules say, and they require this to be denied at this time. And we reserve, our rebuttal. Thank you.

Chair Cox: Thank you, Mr. Trask. Ms. Nielson are you are going to present for the petitioners.

Ms. Nielson: Yes.

Chair Cox: Okay.

Ms. Nielson: So, you know David is in a different location than I, so he may want to interject or say his piece, after I'm done. Dave, and I have no desire to relive the past 24 months. So, we hope to make this brief. We chose to undergo the daunting task of completing the planning application without hiring professional or legal representation. Some might say that choices, naive, or possibly even stupid, but we want you to sincerely know the reason why that we made that decision. Dave and I feel that by doing the work we are simple ownership of this land is transformed to stewardship. It is in becoming steward's that we apply our experience our knowledge to the everyday decisions that we will be faced with when managing this special property on Kauai. It's only when we embrace and attempt to understand what the state of Hawaii, the County of Kauai, and the town of Kilauea are faced with can we become a part of a bigger solution, albeit small, but nonetheless that part of that solution.

For these reasons Dave and I undertook this very unfamiliar task, something we've never done before. And while on this path we made many, many, many friends, and we found a few enemies, and I bet you can guess who they are. But what we have gained as the experience, knowledge and perspectives beyond our personal Vantage. Last week people called David and I to remind us that this process is more than an application to get permission to build a home. The planning application process for us, our process has been about building community, and about bringing people together. So, we are consciously aware of how building projects impact neighborhoods. The Kilauea Neighborhood Association supports the application, their support was publicly reaffirmed following the conclusion of the Contested Case Hearing. I went to them and asked if we needed to represent, and I was told no, that their support does not have a deadline, and they have all the information they need to support us, there have been multiple opportunities for public testimony to express opposition and yet Mr. Somers alone, objects to the proposed development. Mr. Trask assured us during the Contested Case Hearing that would change, he repeatedly claimed that are comparatively modest build would interfere with his ability to hike, to fish, to swim, on his palatial estate during his occasional visit to Kauai.

Our planning application was submitted May 2019, and yes, we did work closely with the Planning Department, I would think you guys would embrace that. It was accepted complete September 2019, and with proof of appropriate public node is given by the Department and us. We were granted a spot on the Planning Commission public hearing agenda, October 22, 2019. Intervention was granted despite the fact, that we were not given appropriate notice and intervene admitted that the application has not even been read, prior to being granted intervene or status. In fact, intervener to try to subpoena the county for what was public record some four months after the scheduled hearing. These details along with every jot and tittle of the approximate 228-page application were reviewed for nine grueling days that expanded, many, many months. David and I had resolved at the prehearing meeting in February 2020, that he and I would accept the hearings, the Hearing Officer's Findings and that we would adhere to his recommendations, even for we had an opportunity to present our evidence. We tried very hard to view the lengthy legal process is an opportunity to gain knowledge.

So here we are. Some 24 months later, and although Dave and I don't completely agree with all the findings from Hearing Officer Kimura, we agree with his recommendation to provide the requested information so this Commission can ultimately approve the application for SMA use permit, use permit, and class IV zoning permit for our proposed project that we received the hearing officers report and recommendation on August 24, 2021. He, where he advised that the petitioners provide the Planning Department with revised application addressing alleged deficiencies, Dave and I will work to address those alleged deficiencies as recommended by Mr. Kimura. And we will resubmit the rescheduling fees as recommended by Mr. Kimura, and we will provide SHPD a copy of the revised application to confirm that their findings in 2017, their determination, that our proposed project has no effect on significant historic sites, still holds true.

Dave and I will work with community members and seek guidance with the assistance from Dawn Chang to complete our Ka Pa'akai analysis. It's David's in my position as petitioners that our application was deemed complete by the Planning Department in 2019. Appropriate notice was given, and intervener status should not have been granted to someone who never even read it. However, the information requested by the Hearing Officer is valuable and will help to clarify any alleged deficiencies. Therefore, the petitioners agree to an open-ended deferment that will allow us time to gather, organize, and include the information requested and Mr. Kimura's recommendations to the application. This will allow time for revised Director's Report on the newly included information and allow time to reschedule to a future Planning Commission meeting for permanent approval, while following the standard protocol timelines of 60 days from the filing. We don't have any interest of rehash in those details, the shotgun that Mr. Trask is attempting to bring up. We've hashed those details and there's no need to go through them again. Thank you.

Chair Cox: Thank you very much. I apologize, because I originally said the order was going to have the Planning Department before you, Valerie, and I apologize. You jumped right in when I asked you. I know we're still within time, did David want to add anything?

Ms. Barzilai: Madam Chair, we have 2-minutes 35 seconds remaining.

Chair Cox: Okay, thank you. David Kells, would you like to add anything?

Ms. Nielson: I don't think he knows how to unmute himself.

Chair Cox: Okay.

Ms. Nielson: He just he just texted me said, "no" but thank you.

Chair Cox: Okay. Thank you. Okay, so we will now move on to the Planning Department.

Deputy County Attorney Chris Donahoe: Thank you, Commissioner. Again, for the record Deputy County Attorney Chris Donahoe, representing for Planning Department. As previously stated in the Submission of September 7, 2020, the Planning Department is in support of the adoption of the Hearing Officer's Report and recommendations in full the Contested Case received on August 24, 2021, as was set forth in our submission. It's the position of the respondent Planning Department that pursuant to RPPC RP PPC 1-6-17, be there was a preponderance of the evidence presented over the course of multiple Contested Case Hearings, as well as necessary statutory and case law

authority to properly support not only the determination of the Directors Report, as well as properly support the Hearing Officer's report and recommendations of the Contest Cases that were received on August 24, 2021.

And the for the benefit of time, I'm not going to reiterate the evidence and arguments that were laid out by the Planning Department in its submission of September 17, 2021, as I'm certain the Commission has reviewed all the pleadings. Which were extensive, and I understand that, and I appreciate the Commission taking the time to review the, the, all the evidence in this case, I'm given that there's a preponderance of the evidence, given that the statutory case law authority. The Plan Department respectfully request the Planning Commission to adopt in full, the Hearing Officer's Report and recommendation, in August, that was received August 24, 2021. With that said, if the Planning Commission adopts the Hearing Officer's Report and recommendations. I like to bring to the Commission's attention, two separate issues, and I'll be brief. One is, involving the timelines, that may be affected. Should the Hearing Officer's Report and Recommendations, be adopted. First, Pursuant to KCC Section 8- 3.1(f), regarding Class IV Zoning Permits, 8- 3.1(f)(3) states within 60 days after the filing of a completed application. The Planning Director shall prepare a report that indicates the reason supporting the issuance with conditions or denial of the application. KCC Section 8- 3.1(f)(4) states within 60 days after the receipt of the Plan Director's Report or within such longer period as may be agreed by the applicant, the Planning Commission shall hold at least one public hearing on the application in issue the permit with without the conditions or deny the permit.

And then second, SMA Rule 10 states, that the Planning Commission shall act by majority vote of its total membership upon an application within 60 calendar days after the conclusion of the hearing, except in cases of emergency, or in cases where the Planning Commission requires further information or find that issues require further classification, or we're an extension of time, has been agreed to by the applicant. Therefore, the Hearing Officer's Reporting and Recommendations are adopted by the Planning Commission. It's, it's our position that petitioners would have to waive any timeline set forth by both KCC Section 8- 3.1(f) and SMA Rule 10. It's my understanding that the petitioners would be willing to wait these timelines, but it would be requested that the Plan Department can confirm this for the petitioners.

Second, if the petitioners waive the timelines, and the Planning Commission does have authority to adopt the Report and Recommendations in full, so that that additional information requested by the Hearing Officer can be provided. And the authority is found in RPPC 1-6- 19-8-2, regarding Commission action for post agency hearing procedures, which states, upon filing of the exceptions and support documents as was the case here, the Commission may under little I little I little I, reopen the docket and take further evidence for may take such other disposition of the case that is necessary under the circumstances. So, for those reasons, the Planning Department supports the adoption the Hearing Officer's Recommendation received in full by this Commission, and the Planning Department will reserve any remaining time for them. Thank you, Commission.

Chair Cox: Thank you. Hearing the arguments, I think we're now ready to go to the rebuttal and we'll take the same order we did before, so, Mr. Trask.

Mr. Trask: Thank you, Honorable Chair. In regard to the arguments by petitioners. First, these are adversarial proceedings, there's no enemies made here, it's that's unfortunate to say it that way

because people are just advocating their interests in this in this proceeding. However, it is telling that applicants said they chose to undergo this process themselves, not to hire any professional legal help. Now that's partially true, they did do this hearing themselves, but they did Hire Ron Agor first. And if you look at the facts and evidence that the hearing, Ron Agor was effectively fired, they agreed amicably to split, but Ron was let go. Because of his insistence on items that would comprise a complete application. Specifically, scaled plans, a survey of the building site, so you can understand the location of the of the proposed development, regarding the historic sites, and updated Historical study, and archeological study, because of his knowledge of this historic sites. See Ron did the plan for the previous development for another landowner over here, he knew that this was a sensitive area, and it was in assistance, and the delay afforded to that insistence that cause petitioners to fire him. So, there was help, but again, this goes back to the first argument. This is not about the personalities; this is about the law.

The SMA policy is clear when managing development, the commission must use implement and enforce existing law effectively to the maximum extent possible and managing present and future coastal zone development. If you look at the KNA letter, 2 KNA members said voted against this, because they said the SMA so sensitive shouldn't be developed. If you look at this Dale Cua's testimony, he says, Appendix 10 which is the KNA a letter. He testified the letters to the neighbors does not reflect the description of the development in the application, that's June 24, transcript page 70-73. Dale testified that the presentation to the KNA by the petitioners, was incorrect and inconsistent with the application that's June 24 transcript, 74 and 76. That's just the fact. Mr. Donahoe is right. Upon the submission of a complete application, you proceed the public hearing, the application is incomplete. That's it. It's not sufficient, though.

People can denigrate Somer's and people have denigrated me personally, but that's not relevant, I would hope these arguments in any other circumstance. With regards to the presence of sensitive historic sites, including Two (2) burials recognized by the Burial Council would be enough for this Commission in any situation, including those involving Somer's and myself personally, to deny it application and simply require resubmittal. And the reason why that's so important is because procedurally, it gets bogged down. I'm sure Mr. Nielsen talked to some people on KNA, but they don't know, they weren't there at the Contest the Case Hearing. They don't know this evidence. They don't know Dale's testimony; they don't know Ron's testimony. I mean if you look at the application itself dependency (Unintelligible).

Ms. Barzilai: Madame Chair, three minutes.

Mr. Trask: Thank you very much. And just in closing. Again, the appropriate thing is to deny this application because it's just simply insufficient under the law. thank you so much.

Chair Cox: Thank you, Mr. Trask. Ms. Nielsen, your return.

Ms. Nielson: My position, again, David's and my position, again, is all this was hashed and rehashed at nauseum with Mr. Kimura. When I presented to the association the second time, I expressed to them, the concerns that Somer's brought up about the size and things like that. And the reality is the reason, the primary reason there was a change, is because of recommendations that came out of the KNA a meeting. They had looked at our original design, and said that you know, some things need to change, and we made those modifications. And so that's why the presentation

from the KNA to what was actually completed in the application, there is a difference. But what didn't change is, we aren't building a private mansion. We are building a very modest home on a reasonable parcel of land in the same footprint that was previously approved by the Planning Department. I think if we're given the opportunity to hear from SHPD, we are in the process of right now, of getting a, an additional field survey, working with engineers and archaeologists, I'm in the process of contacting local native cultural practitioners so we can understand from their perspective, what can we do to understand if there is an impact. So, Dave and I are working diligently from our heart. No, we're not as familiar with the law, as Mr. Trask is, but we're not taking this necessarily from a solely legal perspective we're taking it from the perspective of being a part of a community and understanding and participating in that community. I understand, we have rights we have a right to build on our land, we have a right to make good use of that, but we also have an obligation to be to be good citizens, and that's what we're trying to do. And I would think that the Commission Members would jump with joy that you have two committed, community members who've done this legwork and gone to such efforts to understand and apply the rules and regulations. So, I don't want to rehash those, and be bogged down with legal jargon that Mr. Trask is throwing at us. The bottom line is our application was complete. It's not perfect, but neither am I. And neither is anybody else. Am I willing to get it closer to perfect? Absolutely. We don't want this applicant application to be approved, because of some loophole, like we weren't given appropriate notice but that was a loophole. We want it to be approved because you guys have confidence that David I will comply and follow the rules and regulations as they, as they are written.

Ms. Barzilai: Excuse me. Madam Chair, three minutes.

Ms. Nielson: I'm done. Thank you.

Chair Cox: Thank you. And now, Planning Department, three minutes.

Mr. Donahoe: Thank you, Commission. The application that was submitted was deemed complete by the Planning Department. It's normal for additional information, and that's what's being requested here, additional information to that completed application by the Hearing Officer. And as case law says ordinarily difference will be given the decisions of administrative agencies, acting within the realm of their expertise. The Director's Report should be given deference, and the decision of Planning Commission should be given difference because analysis of permit applications and approval permits is within its realm of expertise. Therefore, again, that's more support for the adoption of the Hearing Officer's Recommendation and Report, in this case, and nothing further. Thank you.

Chair Cox: Thank you. Before I open it up, thank you for all of you, for your oral testimony. I'm going to open it up to questions from the Commissioners in just a second, but first, I want to clarify one thing with you miss Nielson, and that's that you and Mr. Kells do waive the timelines, as stated as necessary from the Planning Department.

Ms. Nielson: Yes.

Chair Cox: Thank you. We just needed that on record because we won't have time to consider it unless those are waived Thank you very much. Okay, so Commissioners any, questions, any

discussion. And at this point, your questions should be related to the content of the Hearing Officer's report and the party's arguments.

Mr. Ako: Chair Cox, I have a question.

Chair Cox: Yes?

Mr. Ako: This is Gerald Ako. I noticed in the documents that both have said, we talked about the preponderance of evidence in there. But going back before that. I think what I was kind of trying to figure out is that does one party have a burden of proof in the hearing itself? That would be applicant, or?

Chair Cox: I believe that's a Laura question.

Ms. Barzilai: Madam Chair, I think, what would be most productive is for Commission Ako to direct his question to one of the attorneys. If he could please direct it either to the Department or to Mr. Trask.

Mr. Ako: I think that being the case, I think go directly to attorney Donahoe whether the applicant had the burden of proof in hearing case.

Mr. Donahoe: Yes, Commissioner Ako, Thank you. The applicant would have the burden of proof during the course of the Contestant Case hearing. And that is under 167. Yeah, sorry.

Mr. Ako: Yes, I guess now, that the hearing is over, the recommendation that has come forward yeah, an oral argument has been placed on the table to examine again. I guess both positions as well as the Hearings Officer's Recommendation. I guess I would have address this to Mr. Trask, as the burden of proof, their burden of proof in this oral argument here. Or does it still remain with the applicant.

Mr. Trask: Yes, Honorable Commissioner Ako. Yes, so the rule is clear, under 1-6-17(b) the party initiated the commission considerations in this case the applicant, shall have the burden of proof, including the burden of producing evidence, as well as a burden of persuasion. And the degree of quantum approve shall be a preponderance of evidence so that's more likely than not, and that's why it's so important. They shoulder everything. It's if they choose to proceed a certain way that's their choice, if they choose certain exhibits that's their choice, if they choose not to have scale plans that's their choice. That's their burden, it's just like a criminal case, you can sit there and say nothing and walk because it's the prosecution. So, in this case it is, and it you know and not to be course or anything like that, but you make your bed you lie in it. And that's, that's the issue.

Mr. Ako: Oh, are you referring to the hearing itself, or does that burden also transfer over to, I guess, while we make oral arguments here?

Mr. Trask: Well, it transfers over because the Hearing's Officer is a delegated person to hear it, but you have to approve it. You have to be persuaded; you have to be satisfied. And this is important. You know, the authority of the SMA is the Commission, it's not the Department, the Department is your administrative helper, you make the decision you have to know. And that's why this is so

important to argue today and bring up these issues because it's you know what else.

Mr. Ako: Thank you.

Chair Cox: I'm wondering if the Commission would feel it appropriate to move into an executive session?

Mr. Ako: Chair Cox, I would move to an executive session.

Chair Cox: Okay. Pursuant to Hawaii Revised Statutes section 92-4 and 92-5(a)(4) for 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 matter of Hearing Officer's Report and Recommendation of Contested Case CC-2022, Valerie M. Nielson and David and Kells, concerning Special Management Area Use Permit SMA-2020-1, Class IV Zoning Permits Z IV-2023, and Use Permit U-2023-3, 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 the Kahili Makai Street and immediately adjacent Property Identified as 4316-Z, Kahili Makai Road Tax Max Key: (4) 5-2-001:007 Unit E, and affecting a portion of a larger personal approx. 27.56 acres in size.

We have a motion. Do we have a second to move into executive session?

Ms. Nogami-Streufert: I second.

Chair Cox: Okay, I believe, at this point I'm the one who has to take the roll call. So, Commissioner Ako?

Mr. Ako: Aye.

Chair Cox: Commissioner Chiba?

Mr. Chiba: Aye.

Chair Cox: Commissioner DeGracia?

Mr. DeGracia: Aye.

Chair Cox: Commissioner Otsuka?

Ms. Otsuka: Aye.

Chair Cox: Commissioner Streufert?

Ms. Streufert: Aye.

Chair Cox: And me. Yes, aye. It's unanimous, Motion Passes, 6:0. Therefore we will go into

executive session probably for about 30-minutes. That means Commissioners, you will go off this place and go on to our Teams Executive Session. Laura, do you have anything to say before we do this?

Ms. Barzilai: Yes, Madame Chair. Can you just briefly clarify the purpose of the executive session just beyond the notice you just read. Very simply clarify the purpose.

Chair Cox: Beyond what I just read? It's to consider the Contested Case Hearings Officers Report and Recommendations.

Ms. Barzilai: Thank you for your clarification.

Chair Cox: So, we will leave now, we think it will be about 30-minutes and return. Thank you for your patience.

The Commission moved into Executive Session at 9:56 a.m.  
The Commission returned to Open Session at 10:45 a.m.

Chair Cox: Call the meeting back to order after Executive Session.  
Laura, I believe we are all here. Could you take roll call so that we can begin the meeting.

Ms. Barzilai: Yes, of course, Madam Chair. Yes, I can take roll. Commissioner Ako?

Mr. Ako: Here and by myself.

Ms. Barzilai: Commissioner Chiba?

Mr. Chiba: Here and by myself.

Ms. Barzilai: Commissioner DeGracia? Commissioner DeGracia?

Mr. DeGracia: Can you hear me?

Ms. Barzilai: Yes, I do.

Mr. DeGracia: Here and by myself.

Ms. Barzilai: Thank you. Commissioner Otsuka?

Ms. Otsuka: Here and I'm by myself.

Ms. Barzilai: Commissioner Streufert?

Ms. Nogami-Streufert: Here and by myself.

Ms. Barzilai: Chair Cox?

Chair Cox: Here and still with my dog.

Ms. Barzilai: All present Madam Chair, you have a quorum. Six Present. You may proceed.

Chair Cox: Okay, are there any questions that the Commissioners have?

Ms. Nogami-Streufert: Yes, if I could.

Chair Cox: Go ahead.

Ms. Nogami-Streufert: I would like to ask the petitioners Valerie Nielsen and David Kells, are they on?

Chair Cox: Yes, they are.

Ms. Nogami-Streufert: I believe you are in receipt of the Hearing Officer's Report, as well as Recommendations, and in his decision in order, he's got three recommendations four, which talks about providing a revised application addressing deficiencies, or alleged deficiencies. (Unintelligible) for the SHPD, as well as the Conditions that were part of the Planning Commission approval from the earlier application. Are you willing to, or do you accept these Conditions, and Recommendations?

Ms. Nielson: Yes.

Ms. Nogami-Streufert: Okay. Thank you. That's what I needed to know.

Chair Cox: Thank you. Any other questions? Okay. Hearing none, we have now considered the record and the argument of the parties as well as the Hearing Officer's Report. So, I would entertain a motion to either adopt, reverse, or modify the Hearing Officer's Recommendation or Report and Recommendations.

Ms. Nogami-Streufert: Right, I move to accept the Hearing Officer's Report and Recommendation of Contested Case. CC-2020-2, Special Management Area Use Permit SMA(U)-2020-1, Class IV Zoning Permit Z-IV-2020-3, Use Permit U-2020-3, on TMK (4) 5-2-001:007 Unit E.

Ms. Otsuka: I second.

Chair Cox: We have a motion and a second. Any further discussion. I believe we're ready for a vote. Laura, can you do a roll call vote please.

Ms. Barzilai: Yes, Madam Chair. Commissioner Ako?

Mr. Ako: Aye.

Ms. Barzilai: Commissioner Chiba?

Mr. Chiba: Aye.

Ms. Barzilai: Commissioner DeGracia?

Mr. DeGracia: Aye.

Ms. Barzilai: Thank you. Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Nogami-Streufert: Aye.

Ms. Barzilai: Chair Cox?

Chair Cox: Aye.

Ms. Barzilai: Six Ayes, Madam Chair, Motion Passes 6:0.

Chair Cox: Thank you. And just as a reminder to all of us that the deferral of the Agency Hearing has been approved as an open-ended deferral. And so, these, it will return to the Commissioners agenda after the requested materials are submitted and proper notice and publication is completed.

Mr. Trask: Thank you, Chair. For the record, Mauna Kea Trask. I just want to clarify that given the open deferral; interveners are still parties to this proceeding as it goes forward. So, we were entitled to notice and participate and be present at the agency here. Am I correct? We believe that's correct under the Planning Commission Rules.

Chair Cox: I believe that is correct. Laura, can you clarify.

Ms. Barzilai: Yes, Madam Chair, the intervener maintains their status because this is a Continued Agency Hearing.

Mr. Trask: Thank you so much for the clarification appreciate.

Chair Cox: Thank you. So, we now need a motion to close the Unfinished Business so that we can move on in the agenda. Is there such emotion?

Ms. Otsuka: I motion to close Unfinished Business.

Ms. Nogami-Streufert: I Second.

Chair Cox: All those in favor? Do we need a roll call for this, Laura?

Ms. Barzilai: I think a voice vote would be fine, Madame.

Chair Cox: All those in favor say aye. Aye. (Unanimous voice vote) Aye. All those opposed. Hearing none. Thank you. Motion carried 6:0. Thank you very much for everyone's patience and

commitment, and I believe we'll go back to the rest of the agenda.

Ms. Nielson: Thank you.

New Agency Hearing

Mr. Hull: There is no New Agency Hearing.

Continued Public Hearing

Mr. Hull: There is no Continued Public Hearing

New Public Hearing

Mr. Hull: There is no New Public Hearing

All remaining public testimony pursuant to HRS 92 (Sunshine Law)

**CONSENT CALENDAR**

Status Reports

AMENDMENT TO SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-88-10, CLASS IV ZONING PERMIT (Z-IV-88-39), USE PERMIT (U-88-31), and SPECIAL PERMIT (SP-88-6) to allow construction of a paved parking lot containing approximately 90 off-street parking stalls, landscaping, and related improvements on a parcel situated on the mauka side of Po'ipu Road, situated directly across the Grand Hyatt Kauai Resort & Spa, affecting a portion of the Poipu Bay Golf Course further identified as Tax Map Key: 2-9-001:007, and affecting an area approx. 1.3 acres in size.

Mr. Hull: Thank you Madam Chair, members the Commission. Moving on to Agenda Item G Consent Calendar. So, unless a commissioner wanted to discuss any of the Consent Calendar Agenda Item, the Department would be asking for a motion to receive the motion to approve the Consent Calendar.

Chair Cox: Is there a motion?

Ms. Nogami-Streufert: I motion to (unintelligible) Calendar.

Ms. Otsuka: I second.

Chair Cox: Okay. Thank you. It's been moved and seconded. All those in favor say aye. (Unanimous voice vote) Aye. All those opposed. Hearing none. The Motion carried 6:0.

## **NEW BUSINESS.**

For Action- See Agenda F for Project Descriptions

Mr. Hull: We have no New Business.

## **ANNOUNCEMENTS**

Topics for Future Meetings

The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter on October 26, 2021. The Planning Commission anticipates meeting via teleconference but will announce its intended meeting method via agenda electronically posted at least six days prior to the meeting date.

Mr. Hull: With that Madam Chair, moving on to Announcements the next meeting Planning Commission meeting is scheduled for October 26, 2021. On that agenda currently we have tentatively the Hyatt parking lot expansion proposal, as well as the Seacliff application for the Greens residences returning to the commission. Upcoming, you know, for future just on the horizon we a lot more zoning amendments that council has forward over to us concerning the zoning ordinance. And one in particular how condominium property regime rule are implemented. But nothing else. Just so you are aware, we are not having a second meeting in November, as that it could conflict with members of the public as well as Commissioner as possible holiday activities. And then, just say also aware that it's also common practice, that if we hold a meeting in December, it's just generally the first meeting and not the second meeting for the same reasons as the November meetings. If there's any topics you folks would like to see us bring to the agenda item, you can let us know and we can work with the Chair. Other than that, that's all we have to report.

## **ADJOURNMENT**

Chair Cox: Thank you, Kaaina. I believe we are done if somebody would like to move that we close the meeting.

Ms. Otsuka: I move that we adjourn today's meeting.

Ms. Nogami-Streufert: Second.

Chair Cox: All those in favor say aye? Aye. (Unanimous voice vote). All those opposed. Hearing none. I believe we are adjourned. Motion carried 6:0. Thank you.

Chair Cox: adjourned the meeting at 10:55 a.m.

Respectfully submitted by:

*Arleen L. Kuwamura*

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Arleen Kuwamura,  
Commission Support Clerk

Approved as circulated 02/08/2022 Meeting.

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