

KAUA‘I PLANNING COMMISSION  
SUBDIVISION SESSION  
**August 10, 2021**

The regular meeting of the Planning Commission Subdivision Committee of the County of Kaua‘i was called to order at 8:33 a.m., Microsoft Teleconference. 1 469-848-0234, Conference ID: 747 174 28# The following Commissioners were present:

Mr. Francis DeGracia  
Mr. Chiba

Absent and Excused:

The following staff members were present: Planning Department Director Kaaina Hull-Planning Deputy Director Jodi Higuchi Sayegusa, Dale Cua, Kenneth Estes, and Planning Commission Secretary Shanlee Jimenez; Office of the County Attorney – Deputy County Attorney Laura Barzilai; Office of Boards and Commissions – Support Clerk Arleen Kuwamura

Discussion of the meeting, in effect, ensued:

**CALL TO ORDER**

Subdivision Committee Chair DeGracia: Called the meeting to order at 8:33 a.m.

**ROLL CALL**

Planning Director Mr. Kaaina Hull: Chair, it is 8:33 a.m. and we let the entire lobby in are you ready to commence the meeting.

Chair DeGracia: Yes, I’d like to call to order the Subdivision Committee Meeting for Tuesday August 10, 2021, roll call please.

Mr. Hull: Roll call, Commissioner Chiba.

Mr. Chiba: Here

Mr. Hull: Chair DeGracia

Chair DeGracia: Here

Mr. Hull: You have a quorum Mr. Chair. Two Present.

**APPROVAL OF AGENDA**

Mr. Hull: Next agenda item is the approval of the agenda. The Department has no recommended changes.

Chair DeGracia: Thank you. Do we have a motion to approve the agenda as is?

Mr. Chiba: I move to approve the agenda.

Chair DeGracia: Second. All in Favor? Aye (Unanimous voice vote). Opposed? Discussion? Hearing None. Motion carried 2:0.

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

Mr. Hull: Next, we have the minutes for the July 14, 2020, and minutes for September 8, 2020, meeting.

Mr. Chiba: I moved to approve the minutes dated July 14, 2020.

Chair DeGracia: I'll Second. All in Favor of approval? Aye (Unanimous voice vote). Any Opposed? Discussion? Motion carried 2:0.

Mr. Hull: Next, we need a motion for the September 8, 2020, minutes as well Chair.

Chair DeGracia: Motion to approve for September 28.

Mr. Chiba: I moved to approve the minutes for the Subdivision Committee dated September 8, 2020.

Chair DeGracia: I'll Second. All in Favor of the approval of September 8, 2021, minutes, Say aye? Aye (Unanimous voice vote). Oppose? Discussion? Hearing none. Motion carried 2:0.

### **RECEIPT OF ITEMS FOR THE RECORD**

Mr. Hull: Thank you Chair, we have no additional receipt of items for the record.

### **HEARINGS AND PUBLIC COMMENT**

Mr. Hull: We have F. Hearings and Public Comment the Planning Commission accepts written testimony as well as oral testimonies, at this for members of the Public that have called in. We will be calling out the phone numbers of your respective phone number, if you would like to testify, please state your name and that you would like to testify, and you will have three minutes for testimony. So, moving down the list for people that have called in. Area code (406) 249-8914 would you like to testify on any Subdivision Committee agenda item at this time? Area code (406) 249-8914 would you like to testify on any Subdivision Committee agenda item at this time?

Mr. Brackenridge: This is Zach Brackenridge of area code (406) 249-8914, no I would not.

Mr. Hull: Thank you. Area code (415) 264-3621 would you like to testify on any agenda item on the Subdivision Committee at this time?

Mr. Pinxton: This is Gary Pinxton, I had called in and I am the owner of one of the subject Subdivisions, I am in favor of it. But I don't think I will, probably speak later.

Mr. Hull: Sorry about that, for those that have called in if you are not going to testify, but again if you would like to testify remember public this would be the time. Moving on to the next phone number area code (808) 245-3681 would you like to testify on any agenda item at this time? Hearing none. Next, area code (808) 346-1973 would you like to testify on any agenda item at this time?

Ms. Bridget Hammerquist: Yes, this is Bridget Hammerquist I wish to testify on item 1.c.

Mr. Hull: Hold on, for members of the public that have called in please mute your phone, we are getting feedback.

Ms. Hammerquist: Thank you, that wasn't me.

Mr. Hull: Go ahead you have three minutes for your testimony.

Ms. Hammerquist: Okay, I don't need three minutes. Members of the Commission and the Subdivision Committee are probably aware we filed written testimony on behalf of Friends of Mahaulepu and Ki'aiwai 'O Waialeale and I would like to supplement the testimony with two Supreme Court Cases that have decisions making them apply to this and that was the 1250 Ocean Side and Kauai Springs Case. Both, Hawaii Supreme Court Cases that basically said that every political subdivision of the State has the duty to protect the constitutionally identified resources of the State. I think in this case, their very disturbed by lack of protection for the endangered species on the property, for their habitat, that was identified on the Eastern and Southern portions of the entire DVA parcel which would include this particular parcel and for the illegal operation of rock crushing, track hoe, front-end loader, road making, clearing, drilling, that has taken place without any Federal, State or County permits. And I strongly urge that our county take "No Action" that would in any way further this development or their developer's interest until all of these transgressions can be dealt with and rectified. Thank you for time this morning I appreciate it.

Mr. Hull: Thank you for your testimony, calling on area code (808) 652-7272 would you like to testify on any Subdivision Committee agenda item at this time?

Man: No thank you.

Mr. Hull: Thank you, area code (808) 742-3044, would you like to testify on any agenda item at this time?

Man: No, I would not.

Mr. Hull: Thank you, area code (858) 699-0084, would you like to testify on any agenda item at this time?

Woman: No, thank you.

Mr. Hull: Thank you, area code (310) 487-9945, would you like to testify on any agenda item at this time?

Man: No, thank you.

Mr. Hull: Thank you, I have called all the listed phone numbers, but as a last call are there any members of the public that called in that would like to testify on any of the agenda items before the Subdivision Committee at this time? Please state your name if so. I have one last phone number that came in area code (808) 221-5169, would you like to testify on any agenda item at this time?

Woman: No, thank you.

Mr. Hull: Thank you, hearing no further testimony Chair, we can move on to New Business.

**GENERAL BUSINESS MATTERS (None)**

Mr. Hull: General Business, we have none.

**UNFINISHED BUSINESS (For Action) (None)**

Mr. Hull: We have no Unfinished Business.

**NEW BUSINESS (For Action)**

Tentative Subdivision Map Approval.

Subdivision Application No. S-2021-5 Kukui`ula Development Co., LLC.  
Proposed 11-lot Subdivision TMK: (4) 2-6-022:055 Koloa, Kauai

Mr. Hull: Item I. 1. Tentative Subdivision Map Approval for Subdivision Application No. S-2021-5 Kukui`ula Development Co., LLC, is the applicant. It is a proposed 11-lot Subdivision. TMK: (4) 2-6-022:055, located in Koloa, Kaua`i. I'll turn it over to Kenny who is the planner for this application.

Staff Planner Mr. Estes: Hi, Good morning. I will read the report for the record. Residential District (Par 4).

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

Mr. Estes: Based on the reasons noted above the Department supports the applicant's deviation request and recommends it's approval. However, the applicant shall be made aware that in the

event these private roadways are dedicated to the County the developer would be required to retrofit roadways to comply with the present roadway standards that are administered by the County of Kauai Department of Public Works Engineering Division. Chair we have received our agency comments are still pending from the Department of Public Works and Department of Water. However, in the subdivision report is noted that the applicant shall comply with those agencies prior to final decision.

Chair DeGracia: Thank you Kenny, do we have any questions for the Department Planner? Hearing none, I have no questions. At this time, would the applicants or applicant's representative like to make any comments.

Ms. Maren Arismendez-Herrera: Good morning this is Maren Arismendez-Herrera of Esaki Surveying, here on behalf of the owners. The owners accept the Conditions and would like to respectfully request your tentative approval and I would answer any questions from the Commission, if there are any, thank you.

Chair DeGracia: Thank you, do we have any questions for the applicant or applicant's representative?

Mr. Chiba: I do not have any.

Chair DeGracia: I have no questions, hearing no questions, I'll entertain a motion.

Mr. Chiba: I would like to make a motion to approve the Tentative Subdivision Map approval of the Tentative Subdivision Map Application No. S-2021-5.

Chair DeGracia: Second. Motion is to approve Tentative Subdivision Map Approval for Subdivision Application No. S-2021-5. All in Favor? Aye (Unanimous voice vote). Any Opposed? Any discussion? Hearing none. Motion carried 2:0.

Subdivision Application No. S-2021-6 *Kee Kauai Carport, LLC.*  
Proposed 2-lot Subdivision TMK: (4) 2-6-017:045 Koloa, Kauai

Chair DeGracia: Mr. Hull?

Mr. Hull: Apologies, I was on mute. Moving on to the next Subdivision Item I 1.b. Subdivision Application No. S-2021-6 Kee Kauai Carport, LLC. Proposed 2-lot subdivision TMK: (4) 2-6017:045, Koloa, Kona. Kauai. I will turn it over to Kenny who is the planner on this application.

Staff Planner Mr. Estes: I will read the evaluation. The proposed development involves a 2-lot subdivision within the Kauai County Residential, the subject property was originally part of Kukui`ula's Residential Subdivision Phase II Subdivision Application No. S-2021-6 that was approved by the Kauai Planning Commission on April 24, 2012. Chair the department is recommending tentative Subdivision approval.

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

Staff Planner Mr. Estes: Chair, the Department is recommending tentative Subdivision approval.

Chair DeGracia: Thank you Kenny. Do we have any questions for the Department or Planner at this time? Hearing none, does the applicants or applicant's representative like to make any comments at this time.

Mr. Eric Kaneshiro: Hello. This is Eric Kaneshiro the representative for the applicants, I'll be glad to take any questions or answer any questions if there may be.

Chair DeGracia: Do we have any questions? I have no questions, hearing none I'll entertain a motion.

Mr. Chiba: I move to approve the Subdivision Map Application No. S-2021-6 Kee Kauai Carport, LLC.

Chair DeGracia: Motion on the floor is to approve Subdivision Map Application No. S-2021-6 for Kee Kauai Carport, LLC. Second. All in Favor of this motion say? Aye (Unanimous voice vote). Opposed? Any discussion? Hearing none. Motion carried 2:0.

Subdivision Application No. S-2021-7 *Yellow Hale, LLC.*  
Proposed 2-lot Consolidation and Re-subdivision into 4-lots  
TMK: (4) 2-8-014:032 Koloa, Kauai

Mr. Hull: Thank you Chair, moving on to Item I. c. Subdivision Application No S-2021-7 Yellow Hale, LLC is the applicant. There is a proposed 2-lot consolidation a resub division into 4 lots TMK: (4) 2-8-014:032. Again, Kenny is our planner on this application.

Staff Planner Mr. Estes: I will read the evaluation for the record. The proposed development involves a four lot Subdivision that establishes 2-lots within the County Residential District R10 zoning 1 remanent lot zoned open district and one roadway lot.

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

Mr. Estes: Chair, I just would like to note for the record that the Department has revised the Subdivision Report to include conditions 2a. and 2b. that is noted on the approval letter for Class 4 Zoning Permit. Z4-2006-27 and those conditions are noted on the revised Subdivision Report as condition 1a and b.

Chair DeGracia: Thank you Kenny. Do we have any questions for the Department or Planner? I have a couple of questions for the Department. Reading through a lot of testimonies there were many concerns that brought up and a lot of it surrounded cultural resources, archeological remains and whether or not they are abiding by regulations for the Department of Interior. Would

the Department like to speak on any of those items, to clear up any possible Conditions that may not be followed or needs to be followed so, I can better understand this situation.

Mr. Hull: Yes, sure, Mr. Chair, I will briefly address that so as this is a tentative Subdivision approval recommendation all tentative Subdivision is ensuring that the applicant has met the basic standards of providing the maps which is necessary documentation to initiate the application process. Should the Commission choose to act today, to approve tentative approval that does not mean that this project is approved by any means. What it means is that it can move forward with agency conditions and requirements. There are several outstanding agency conditions that need to be resolved prior to final action including and not limited to poly works, Department of Health, Department of Water, as well as the State Historic Preservation Division requirements; concerning cultural or archeological features on the site. So, all it is doing is initiating the project to go and be able to look at resolving those requirements from those respected agencies. So, at this time that is all this action would be. I also clarify that the Department and the Commission ultimately did get a fair amount of testimony concerning this project. Now, while this project is occurring on the same property that a 280 multifamily unit project is occurring. This project is not that. It is part of in a sense, that it's the Subdivision of a road out of the project area. The 280 units that's a lot of the testimony that was referring to, those reviewed previously and have been actually granted their approval. Much, much due back in 2006 or 2007 and that not what this application is for. If there are concerns and there may very well be concerns about roadway subdivision occurring, and the applicant needs to address those concerns prior to coming back to you folks for final actions. But that is ultimately that is what this application is in front of you right now.

Chair DeGracia: Thank you, Mr. Hull. And just for clarification this roadway feeds into the Wainani Subdivision, correct?

Mr. Estes: Yes, correct.

Chair DeGracia: I have no further questions. Do we have questions to the Department? Hearing none, would the applicants or applicant's representative like to make any comments at this time.

Ms. Maren Arismendez-Herrera: Good morning, Commission, this is Maren Arismendez-Herrera of Esaki Surveying, here on behalf of the owners. The main purpose that was stated previously is to separate the roadways, to make it into a separate lot, and we would like to respectfully request your tentative approval and I would answer any questions that the Commission has, thank you.

Chair DeGracia: Do we have any questions for the applicant? I have no questions. Hearing no questions, at this time I would like to entertain a motion.

Mr. Chiba: I would like to make a motion to approve a Tentative Subdivision Application No. S-2021-7, Yellow Hale, LLC.

Chair DeGracia: Second. Motion on the floor is to approve Tentative Subdivision Application No. S-2021-7 for Yellow Hale, LLC. All in Favor of this motion say? Aye. (Unanimous voice vote). All opposed? Any discussion? Hearing none. Motion carried 2:0.

Final Subdivision Map Approval.

Subdivision Application No. S-2021-3 *Allan & Karen Nesbitt, Trust*  
Proposed 2-lot Boundary Adjustment TMK: (4) 2-3-022:044 &045  
Koloa, Kauai

Mr. Hull: Next, we have Agenda Item I 2. a. Subdivision Application No. S-2021-3 Allan & Karen Nesbitt, Trust Proposed 2-lot Boundary Adjustment TMKs: (4) 2-3-022-044 & 045 turn it back over to Kenny for this matter.

Staff Planner Mr. Estes: The proposed evaluation boundary adjustment between two existing lots.

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

Mr. Estes: Chair we have received final recommendations from the Department of Public Works, Department of Water, and the Department of Health. The Planning Department is recommending is requesting an approval of this Subdivision Application.

Chair DeGracia: Thank you Kenny. Any questions for the Department or Planner? I have no questions, would the applicants or applicant's representative like to make any comments at this time.

Mr. Zach Brackenridge: This Zach Brackenridge, the applicant's representative. I have no comments.

Chair DeGracia: Any questions applicants or applicant's representative? Hearing none, I will entertain a motion at this time.

Mr. Chiba: I move to approve the Subdivision Map for Application No. S-2021-3 Allan & Karen Nesbitt, Trust.

Chair DeGracia: Second. Motion on the floor is to approve Final Subdivision Map approval for Application No. S-2021-3 for Allan & Karen Nesbitt, Trust. All in Favor of this motion say? Aye (Unanimous voice vote). Opposed? Any discussion? Hearing none. Motion carried 2:0.

Mr. Hull: And with that Chair, we have no further agenda items, the Committee will be ready for adjournment.

**ADJOURNMENT**

Chair DeGracia: Could we have a motion to adjourn the meeting.



Mr. Chiba: I'll motion to adjourn the meeting.

Chair DeGracia: I'll Second. Approve say? Aye (Unanimous voice vote). Meetings adjourned.  
Motion carried 2:0.

Subdivision Committee Chair DeGracia adjourned the meeting at 9:02 a.m.

Respectfully submitted by:

Arleen L. Kuwamura  
Arleen Kuwamura,  
Commission Support Clerk

( ) Approved as circulated (add date of meeting approval)

( X ) Approved as amended. See minutes of 01/11/2022 meeting.