

KAUA‘I PLANNING COMMISSION  
OPEN SESSION MEETING  
Tuesday July 12, 2022  
**DRAFT**

The regular meeting of the Planning Commission of the County of Kaua‘i was called to order by Chair DeGracia at 9:01 a.m. - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

Ms. Donna Apisa  
Mr. Gerald Ako  
Ms. Helen Cox  
Mr. Francis DeGracia

Excused or Absent

Ms. Lori Otsuka

The following staff members were present: Planning Department – Director Kaaina Hull, Deputy Director Jodi Higuchi Sayegusa, Staff Planner Myles Hironaka, Dale Cua, Kenny Estes, Shelea Blackstad, Alisha Summers, Kristen Romuar-Cabico and Planning Commission Secretary Shanlee Jimenez; Office of the County Attorney – County Deputy Attorney Laura Barzilai, Office of Boards and Commissions – Support Clerk Arleen Kuwamura and Support Clerk Lisa Oyama.

Discussion of the meeting, in effect, ensued:

**CALL TO ORDER**

Chair Cox: Called the meeting to order at 9:52 a.m.

**ROLL CALL**

Planning Director Kaaina Hull: Roll call I next on the agenda, Madam Chair. So, roll call. Commissioner Ako?

Commissioner Ako: Here.

Mr. Hull: Commissioner Apisa?

Commissioner Apisa: Here.

Mr. Hull: And Chair DeGracia?

Commissioner DeGracia: Here.

Mr. Hull: Commissioner Otsuka is excused. Chair Cox?

Chair Cox: Here.

Mr. Hull: You have a quorum Madam Chair. Next up we have the Approval of the Agenda.

**APPROVAL OF AGENDA**

Mr. Hull: The Department does have a request that the, L.1. The Department requested the agenda be amended, so that L.1. directly follows F.4.a., which is respective Public Hearing and L.2. directly follows F.b., which is also Public Hearing.

Chair Cox: Entertain a motion.

Ms. Apisa: I move we amend the agenda as suggested.

Chair Cox: Do we have a second?

Mr. Ako: Second.

Chair Cox: (inaudible) we've been seconded. Any discussion? If not, I think a voice...All those in favor? Aye (Unanimous voice vote). Any oppose? Motion carried 4:0.

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

Mr. Hull: Next, we don't have any Receipt if Items for the Record. We have no Hearings and Public Comment for Agency Hearings. (inaudible) Public Hearings.

Mr. Hull: As applicably stated in Subdivision Committee Meeting, the, for several years the Planning Commission has entertained public testimony at the very beginning of the agenda to accommodate essentially for (inaudible) when there are lengthy agendas. Recently the Hawaii State Legislature amended Section 92, that actually restricts Boards and Commissions from holding oral testimony only in the beginning of the agenda item and that was adopted as Act 264 and signed by the Governor into law recently. So, (inaudible) no longer being able to restrict only to the beginning. The discretion of the Chair (inaudible) we're having public testimony on each of the agenda items, for each of the subject matters. So, we will be going through each of the agenda items and asking for public testimony at that time as we move through the agenda. Again, I'll also ask and remind the public that any testimony that contains vulgar or hostile actions will not be tolerated. The commission will go into recess and the Chair will determine whether or not that testifier will be allowed to testify again concerning that specific agenda items. So, please be considerate and respectful of this, the discussion is going to occur and of the Commissioners here today while providing testimony. With that, moving into the next agenda item is New Public Hearing.

### **New Public Hearing**

ZA-2022-9: A bill for an ordinance amending Chapter 10, Article 3, Kauai County Code 1987, as amended, relating to the West Kauai Community Plan. The proposal amends Section 10-3 of the Kauai County Code relating to text and mapping requirements within to establish a Special Planning Area "O", which shall also be known as the "Plantation Camp Walkable Mixed Use District", and be designated as "SPA-O" as shown on Zoning Maps ZM-KV-100 (Kaumakani Village) and ZM-KA-100 (Kaumakani Avenue) for a portion of a property further identified as tax map key 1-7-006:001 = ***County of Kaua'i, Planning Department.***

Mr. Hull: Next agenda item is New Public Hearing. Zoning amendment 2022-9. A bill for an ordinance amending Chapter 10, Article 3, Kauai County Code 1987, as amended, relating to the West Kauai Community Plan. The proposal amends Section 10-3 of the Kauai County Code relating to text and mapping requirements within to establish a Special Planning Area "O", which shall also be known as the "Plantation Camp Walkable Mixed Use District", and be designated as "SPA-O" as shown on Zoning Maps ZM-KV-100 (Kaumakani Village) and ZM-KA-100 (Kaumakani Avenue) for a portion of a property further identified as Tax Map Key 1-7-006:001 = County of Kaua'i, Planning Department. Hold on one second, I

just wanna double check on sign up. No member of the public has signed up to testify in person here on this agenda item. Is there anyone here that would like to testify on this agenda item that has not signed up? And I know, landowners have representatives that will be bringing you folks up as part of our discussion. But is there anyone else that would like to testify on this agenda item that has signed up and is here in person? Seeing none. Do we have anybody attending virtually that would like to testify on this agenda item? If so, please raise your digital hand.

Deputy Director Jodi Higuchi Sayegusa: We do have one individual with her hand raised. Tara Rojas. You need to enable your video and audio on your end. Please accept on your end and you're able to enable your audio and video and begin your testimony.

Ms. Rojas: Could you please repeat which business item? I know you did a change that's why, I was trying to catch it. What are we commenting on right now, L.1?

Mr. Hull: We're on agenda item 4.a., Zoning Amendment 2022-9.

Ms. Rojas: Zone A 2022-9, yes okay. The West Kaua'i Community Plan?

Mr. Hull: Yes.

Ms. Rojas: Yes, okay. So, this is just, I am gonna, and its new business. Awesome. Okay, so my testimony regarding this is, again, there's a conflict of interest right away on this. So, apparently the engineer that was brought on board to go ahead and do this plan didn't let, I don't know, you know, you all know that he used to work for the company that ended up getting the approval to work on this plan for \$240,000 and that he was also one of the three (3) committee members to approve this company. So right there, you know, that's a conflict of interest. So, right away, please stop it. Another point, Kaua'i is Kaua'i, please do not make it look like the continent. Please do not make Kaua'i look like plantation camp walkable mixed, you know, why you wanna go back to plantation camps? Why do you wanna go back to colonization? And there is no need for it. I mean, the community is saying a'ole, stop the development, stop with this changing Kaua'i. Keep Kaua'i. Do not change Kaua'i to Kailua. Do not change Kaua'i to Waikiki. Please keep Kaua'i, Kaua'i. Where is the water gonna come from? Where is all the land (inaudible) and by the way, the way I testify is, I do like to bring in, you know, background information and history because if somebody's joining this for the first time, and they don't know this, or you yourselves are not maybe, you know, the original planning members that did the previous decision making, you know I understand that. And that's really important to remind you where we at because we're so colonized in our mindset that right now it's 2022, we need to decolonize our mindset, we really need to stand to keep Hawaii, Hawaii. Hawaii is Hawaii because of Hawaiians, because of kānaka maoli. So, I'm gonna say this, I'm gonna end with this. It is that the last person who spoke that says, you know that they been on the commission for about a year. That they're you know, disheartened to hear that the testament, the frustration about this and that they wanted to you know, kinda just, it says, make mention the fact of the incredible work that the department does and that the staff does, and the time and the effort that they put into each application. It's very disturbing to hear you know, my, I guess my testimony opposition, the only one speaking up. But it says right there you know, putting, I wanted to thank you all for not only the motions of putting the package together, and everything will, and just putting your hearts and soul into the work that you guys do. And so, I wanna say this...

Ms. Higuchi Sayegusa: Three minutes.

Ms. Rojas: ...I wanna thank all the previous testifiers and all the kānaka maoli that are standing up. You know I have a right to my testimony because it's all tied in. So just as you all say, if you can give congratulations and you know, merit to the Planning committee for doing the work. I would like to give you know, the compliments and you know, and also for the, all the work that the kānaka maoli do, putting their heart...

Mr. Hull: (inaudible).

Ms. Rojas: ...and soul into keeping Hawaii Hawaii. Yes, and so, yes. Cause k̄naka maoli have been taking care of the land, are still taking care of the land, and need to be the ones taking care of the land. And this mindset about plantation is what got to where we're at now. And this ties into the thirteen (13) original white businessmen that haole businessmen that came in foreigners, that came and...

Mr. Hull: Please wrap up your testimony Ms. Rojas.

Ms. Rojas: ...(inaudible) illegal occupation of Hawaii. Yes, so, summarizing it up, that's the legacy that still continues till this day. So, please recognize the hard work, the heart and soul of the k̄naka maoli, who these lands, they are entrusted to. Mahalo. So, no to the L.1 Agenda Item. No, to this new plan. And please check the conflict of interest between the engineer and the company that was hired to do it. Mahalo.

Chair Cox: Thank you.

Mr. Hull: Is there anyone else attending virtually on Zoom that would like to testify on this agenda item? If so, please indicate by raising your digital hand.

Ms. Higuchi Sayegusa: There's no other attendee with their hands raised at this point.

Mr. Hull: With that, I'll turn it over to Shelea, who's our planner on this.

(inaudible)

Mr. Hull: Oh, I apologize.

Chair Cox: It's okay.

Mr. Hull: We're still on Public Hearing. The department actually anticipate a request. There's gonna be a request to (inaudible) an agenda item. That the agenda item be deferred to the next meeting. There are still some additional tweaks that need to be done, including but not limited to some of the (inaudible) that are provided as part of the Form Based Code. So, the department actually has to be commission...well if there are no further testimony here, the department asks that the commission defer this public hearing to July 26.

Chair Cox: I'd like to entertain a motion to (inaudible).

Commissioner DeGracia: Motion to defer this item, ZA-2022-9 to the July 26 commission meeting.

Commissioner Ako: I second.

Chair Cox: Okay, it's been moved and seconded. Any discussion? Should take a roll call.

Mr. Hull: The roll call. Roll call Madam Chair. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Apisa?

Commissioner Apisa: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Chair Cox?

Chair Cox: Aye.

Mr. Hull: Motion passes, Madam Chair. 4:0.

ZA-2022-9: A bill for an ordinance amending Chapter 10, Article 3, Kauai County Code 1987, as amended, relating to the West Kauai Community Plan. The proposal amends Section 10-3 of the Kauai County Code relating to text and mapping requirements within to establish a Special Planning Area "O", which shall also be known as the "Plantation Camp Walkable Mixed Use District", and be designated as "SPA-O" as shown on Zoning Maps ZM-KV-100 (Kaumakani Village) and ZM-KA-100 (Kaumakani Avenue) for a portion of a property further identified as tax map key 1-7-006:001 = County of Kaua'i, Planning Department.

Mr. Hull: So now pursuant to the amendment that was made to the agenda, we'll go into the actual general business matter or new business of ZA-2022-9: A bill for an ordinance amending Chapter 10, Article 3, Kauai County Code 1987, as amended, relating to the West Kauai Community Plan. The proposal amends Section 10-3 of the Kauai County Code relating to text and mapping requirements within to establish a Special Planning Area "O", which shall also be known as the "Plantation Camp Walkable Mixed Use District", and be designated as "SPA-O" as shown on Zoning Maps ZM-KV-100 (Kaumakani Village) and ZM-KA-100 (Kaumakani Avenue) for a portion of a property further identified as tax map key 1-7-006:001 = County of Kaua'i, Planning Department. And now I'll turn it over to Shelea for the report summary for this zoning.

Staff Planner Shelea Blackstad: Good Morning Madam Chair and Commissioners, for your consideration this morning, amendment to Chapter 10-3, Kaua'i County code as amended. Pertaining to the West Kaua'i Community Plan (inaudible) Ordinance, ZA-2022-9, the applicant, County of Kaua'i Planning Department. The proposed legislation is being initiated by the County of Kaua'i Planning Department, and would amend Section 10-3, by introducing a new Special Planning Area "O", which shall also be known as the "Kaumakani Plantation Camp Walkable Mixed-Use District." The Special Planning Area would be adopted within the West Kaua'i Community Plan, with new design standard and maps. Form based code incorporates detailed regulations specific to building types, street standards and civic space that are sensitive to the surrounding local character. The regulations set forth in a Plantation Camp Form-Based-Code helps maintain the unique characteristics of specific town such as Kaumakani Village and Kaumakani Avenue. Creating design standard specific to these areas ensure the history and culture is a part of the future. In the Plantation Form-Based Code, the types of roof pitches, materials, building massing, building types, frontages, setbacks, and wings are regulated to enforce existing character and to create new, compatible neighborhoods in Kaumakani Village and Kaumakani Avenue. Before I move to the next step, I would like to make a couple corrections on the floor. There are three (3) pages, fifty-seven (57) through fifty-nine (59) at the end of the Plantation Camp Form-Based Code. That was left inadvertently. Those slides will be removed prior to transmittal. On the Draft Ordinance, there is a typo on Section 2. It should read, the purpose of this Ordinance is to utilize Form-Based Code to maintain the unique historical character of Kaumakanis' (inaudible) environment while also allowing additional housing and limited commercial development on the vacant areas of the Kaumakani Camp and Kaumakani Avenue areas in a manner that reinforces and maintains the pattern of the associate neighborhood. Any questions before I read my recommendation?

(inaudible)

Chair Cox: Can we hear from the applicant?

Mr. Hull: Well, technically, we are the applicant on this. (inaudible).

Chair Cox: No, I mean from the...

Mr. Hull: We'll definitely get to the landowner.

Chair Cox: Okay.

Mr. Hull: I think. I can give some further background over this. This was a fairly exciting project for the Planning Department. So, some of you not all of you were on the commission when the West Kaua`i Community Plan came through and the various aspects of the West Kaua`i Community Plan and the (inaudible) a lot of community outreach interaction and this course was done with the community of West Kaua`i as well as the sub-communities, if you will, that are located within West Kaua`i. One of, (inaudible), one of the things the plan identified were the existing plantation camps out at Kaumakani Village, Kaumakani Avenue, as well as Pakala and (inaudible). As areas that are actual communities, in and of themselves, you think of West Kaua`i as you know, Hanapepe, Ele`ele, Waimea, Kekaha. The camps themselves aren't necessarily referenced a lot. But in doing the West Kaua`i Community Plan, we recognize these. These are actual communities. And we had to recognize what the standing zoning, regulations and policies were for these communities. And the standing zoning part of the policy prior to the actual West Kaua`i Community Plan was to amortize these communities out of existence. In essence, you could not repair these structures beyond a 50% threshold. So, the tenants or the landowners could not really bring these housing units, and there's hundreds out there, into a full repair to allow families to continue there. There are technically, areas of land that were, I don't know if they have that much density. They only allow leaving five (5) dwelling units for the entire lot, despite there being hundreds of homes out there and eventually if they kept on going into disrepair, there was no legal way for them to again, restore the house back to its true originality. So, we (inaudible) up, recognizing these as communities, recognizing, you know, in the middle of a housing crisis, where it's pretty much a local population. Many of them, kānaka maoli themselves. Not one to amortize and move these communities out of the areas. We adopted, we have the Planning Commission (inaudible) the County Council, a plantation camp zoning district. That just recognized the existing structures and units out there and allowed either the tenant or the landowner to be able to rebuild those structures and units. That was a very, you know, (inaudible) step forward in preserving these communities. Recognizing that these are communities that need to also be able to adapt and grow to various needs. The Planning Department in discussions with the commission and the Council said, we do recognize the need to further accommodate additions in the areas but at the same time recognizing that these areas have very historical and cultural context. That perhaps overlay these standards, say residential zoning district or even a mixed-use zoning district may be appropriate. (inaudible) said, looking at Form-Based Code, is a (inaudible) which we may allow for the natural progression of some of these communities or within the form and character that is in hand within them. So, Shelea, myself other planners like, Alan Clinton and Marie Williams spent several months on property with the landowner, the tenants, consultant, their own consultant, (inaudible). Basically, and I'm not joking, literally measuring every single structure out there to get a design perimeter that is indicative of the form and character and from that, working for several months to (inaudible) standards that allow for future development in pocket areas in Kaumakani Avenue and in Kaumakani Village camp there's a, actually a vacant quadrant that allows those communities to develop in the same form and character. What was somewhat astonishing to find in there is, I think the Commissions gotten used to the Planning Department work with the various communities to allow for a nominal amount of growth but to do it again, within the context of the towns. And a lot of it has to be with the ability to make the towns interact in a vibrant way that was indicative of these towns in the 60's and 70's maybe before then. So much of what we're trying to reinstall in some of our towns, (inaudible) that was in the past, is still very much alive and well-going in places like Kaumakani Camp. Children are still bicycling the streets between those homes. You're not worried about cars, plowing over kupuna or kids. That is still very much a communal space. And we're recognizing that there's standards, that could be derived in these towns. That actually can be used in a bigger context in allowing other possible developments to have this. Maybe a scenario is well, cause right now, the camps themselves, while this bill is trying to allow them to continue and persevere on. On their own existing codes, no landowner could ever recreate those plantation camps by prohibition of our own ordinances. Having small 1,200 square foot units with small 6,000 square foot parcels that would be very much (inaudible) that local populations. It is actually prohibited right now (inaudible). It's something that we'll be working on that we gotten used to in understanding how wonderful

these places can be (inaudible). But at least for today, we're just looking specifically at adopting these Form-Based Codes that will allow for some progression and some growth in the (inaudible) of again, Kaumakani Avenue and Kaumakani Camp. We ultimately decided not to go after Numila because the landowner really wasn't interested in that. And then Pakala Camp, which there is interest from the landowner, however there's still some adjustments that need to be made concerning the state land use district, as well as, really needed to be careful (inaudible) how Form-Based Code is used in coastal areas and that unlike the Kaumakani Camp and Avenue areas, coastal areas can become more (inaudible) to the nature. I don't think the landowners even desires of entering into that market but there is that question that we felt we needed to be a bit more, not cautious but (inaudible) overall to get that particular code right. So, I don't mean to keep on going on and on but that's it in a nutshell of where we're at and it's just a very exciting project. But if you guys have any questions for us on the process or what kind of a design standard, would have you, otherwise we also have the landowner here that can make any statements or answer any questions.

Chair Cox: Questions?

Mr. Ako: One quick question I have. Throughout the State of Hawaii, are there other camps like this still in existence? Statewide.

Mr. Hull: Not that I'm aware of, there may be on Hawaii island. The landowner's representative, (inaudible) who works statewide may actually address that question (inaudible) she is, I believe one of the panelists that may be able to speak to that.

Mr. Ako: Thank you.

Chair Cox: Any other questions for the department before we (inaudible)? I want to make a comment. I just think this is fantastic. Those communities really are special, and they also speak to a lot of the needs of the people today and things that we forgotten, like the being able to ride our bike, the kids to ride their bikes and not worry about cars and working together. So, I just wanna commend you for working on this and I love the fact that you're thinking, maybe this is the beginning (inaudible) looking at further developments in the same way that right now are prohibited. We'd like to hear from the landowner.

Mr. Howard Green: Good Morning.

Chair Cox: Morning.

Mr. Green: I'm Howard Green, Senior Vice President of Gay & Robinson and this is...

Mr. Koa Delphin: Good Morning, I'm Koa Delphin with Gay & Robinson, Real Estate Director.

Chair Cox: Do you wanna tell us a little bit about the project or you want us to just ask you questions?

Mr. Green: Yes, I'll tell you a little bit about our housing in general. First of all, we're very appreciative of this process and we feel just blessed to have the Planning Departments so interested working this problem. You know, these camps are over a hundred years old, even older than that. The current form is within a hundred to...Kaumakani Camp is 1944, 46. So, they're very old camps and they're very dilapidated. I'll just summarize our housing policy. When we went out of sugar, we have three-hundred fifty (350) homes on the entire property. But when we went out of sugar, we severed a lot of these folks. They didn't have jobs, they didn't work. So, a lot of the severed guys we gave them houses, in the range of rents of three-hundred seventy-five (375) dollars. It's gone up slightly since then, but they pay very low rents. Some of the old G&R retirees, from the original Robinson handshake deals, pay no rent at all. We have a number of residents that we allow, the retirees and their spouses, that live on, to live there rent free for their lives. We support needy and homeless people within the community that need houses. Unfortunately, we don't have any inventory available but as soon as we have a house open, we try to fix it back up and fill it with, primarily ag workers, either on our property or on the west side but we do entertain other families that work locally on

the west side as well. That's our housing policy in a nutshell. Our rents are well below HUD or market. Well south of that for even outsiders. So, the work that the Planning Department has done, will enable us to continue with this housing policy. And we're very much appreciative. The infrastructure is dilapidated, the roads, the water, the sewer and without a clear vision moving forward, we have a hard time developing an investment policy in this infrastructure. With this Form-Based Code we can have a vision and we can invest in these communities. You know, he's talking about little kids riding their bikes on the streets, well they're not really streets anymore, they're dirt roads because the pavement has just completely eroded away, so we need to look at improving all this tuff but without a comprehensive plan, it's hard to get the investment, other than just fixing a roof here and there, we really wanna rebuild homes. We're not talking the entire property but at one time we had ten (10) camps, covering a little over a thousand (1,000) homes on the property. But we see with this Form-Based Code, we're gonna be able to do a lot more infill where there used to be homes that were, long time demolished or fallen into disrepair and we have to build up those homes. We don't have the exact number of what we can build yet, but we envision building dozens and dozens of new homes and repairing the two-hundred and...Kaumakani Camp and Kaumakani Avenue, we currently have forty (40) homes, so we envision fixing all those up again and making them a lot nicer for the residents.

Chair Cox: Questions, comments?

Mr. DeGracia: I have one question. You spoke about the housing, and I been around the Pakala's area, surfed out there, you know, been in the community for a little bit, it is a very special place, so I commend, you know, pushing forward to preserve that. But I have a question on the mixed-use side of it. Do you guys have any plans for like, commercial side?

Mr. Green: Yes, good question. You know we wanna preserve the existing character. Kaumakani Village, as you know has the Thrifty Mart, the historic shopping center there, used to have an old theater. What the Planning Department did was they looked at all these historic uses. We had the first hospital on the west side of Kaua'i, right there in Kaumakani. We had a boarding house for workers, we had company stores throughout the property. We still have our administrative office on Kaumakani Avenue. So, within some of these flex zones that they developed, they identified uses, one in Kaumakani Avenue, where we could do more administrative style stuff and then in the Kaumakani Village, we'll preserve that sort of community shopping center feeling for that neighborhood.

Mr. DeGracia: Thank you.

Mr. Hull: I'll also say to the vast majority of the zones, like in Kaumakani Camp or Kaumakani Village, right. Recognizing that the use of the primary or the historically residential (inaudible) it's not a mixed-use zone. So, that'll make often Form-Based Code will have mixed-use throughout the entire zones. In this case, recognizing the historical aspect of it, the only mixed-use zone is really up in the front where Thrifty Mart is, and then for the avenue, that has additional historical indications as well, that that mixed-use zone or whether some industrial stuff is really down only by the industrial offices.

Mr. Ako: Okay, I got a question. You know, thanks to the County of Kaua'i, I get to go to the Kaumakani Village to deliver food out there, so I get to see what's out there. And I know there's some new homes that have been built in that subdivision already. Is that what we kinda, a preview of what we're about to see?

Mr. Green: Yes, I'm glad you brought that up and thanks for coming out to Kaumakani to do those distributions.

Mr. Ako: My pleasure.

Mr. Green: Appreciated by the residents. Yes, under the recently passed plantation district zoning, we were able to build, and we just completed eight (8) new homes that are the same exact historical fashion as the

original two hundred (200) homes. So, we have, almost of them occupied at this point but they're all spoken for, and they will be occupied soon, but that's an example, you know, what we did previously, and this Form-Based Code will build upon that and allow us to, you know, further enhance those communities in that light.

Mr. Ako: Very unique community.

Mr. Green: Those are nine hundred (900) square foot homes, in particular those ones. Three (3) bedroom, two (2) bath.

Mr. Ako: Thank you.

Chair Cox: Any questions or comments? Okay.

Mr. Green: Koa, do you have anything to add? (inaudible) or you wanna say anything?

Mr. Delphin: Nothing in particular other than this, you know, just thanks to the County, thanks to the Commission. I know this is getting deferred. But, on G&R side it's definitely, this project is supported by our Board of Directors and our management team. We look forward to providing more (inaudible) in our camps and even those flex areas that Kaaina was mentioning (inaudible) that's more housing that's within the same character, historical character as we have there. So, that's all I have unless you guys have any more questions.

Chair Cox: Any questions? So, we entertain a motion to defer or (inaudible) a recommendation first.

Mr. Hull: Well, the recommendation is just to approve the Form-Based Code as (inaudible). (inaudible) the deferral and recognizing that this is technically a separate agenda item. For that action, I'm gonna ask if you can entertain if there are still public comments.

Chair Cox: Okay.

Mr. Hull: We don't have anybody signed up. Is there anybody in person that would like to testify that has not signed up on this this agenda item? Seeing none. Is there anybody attending virtually that would like to testify on this agenda item? If so, please indicate by raising your digital hand.

Ms. Higuchi Sayegusa: There's one person wishing to testify, Tara Rojas. Promoting you to panelist. You can accept on your end and enable your video and audio when you're ready.

Ms. Rojas: Yes, Aloha, I do have questions. You know, I was listening to this and know it's deferred; however, I do wanna ask my questions now while we're in the process. You know, and I recognize, and I appreciate, you know any housing because the (inaudible) we all mentioned, the housing crisis. It was great to actually hear you all mention that. Now let's go back to this, what you're talking about is looking at the or just testify residential versus mixed-use, and the key word that was mentioned is historical. I wanna ask the, you know, the proponents of this, and I know you all worked really hard and everything on it, which is great but think about, and I'm gonna ask about, when you say historical and going back to, you know, plantation dates, then we do need to bring in eventually history plantation. What does that represent to the kānaka maoli of this land? If you're gonna keep excluding kānaka maoli from this conversation or from this process, then it defeats the purpose and we're still going back in time. Plantation mentality and way of living was not fond nor a great nor a pono history for kānaka maoli. They were pushed out of their own lands and to this day, which is, they are not the ones, you know, (inaudible) part of the housing that is being built or remodeled. So, my question is, are the two hundred (200) or so, you know, residential or these houses that are being upgraded or what nut, how many of the families are actually kānaka maoli? Are they kama'āina but not of kānaka maoli descent? Where is the consultation with kānaka maoli? Yeah, maybe these are the people that are there from plantation days but if these are the people that there from plantation days, again,

this exclusion of kānaka maoli. Was usually the (inaudible), (inaudible), the Puerto Rican, the Japanese etc... The Koreans etc... You know, so where do kānaka maoli play in their own lands? It's 2022, we need to break out of this plantation mentality, we need to take into consideration the voices of kānaka maoli to be heard in this process. So, when I ask, has there been an EIS or an EA for this? As well as you all know the mo'olelo of that ahupua'a, the stories of that section of land that has been in since 1940's, you know, (inaudible) went to farm these houses that removed native Hawaiians, excuse me, not native Hawaiians, that's the wrong (inaudible) it's called kānaka maoli. What about the historical iwi kupuna? It's already, like, you see the plaques on the hotels, outside. Oh, this is or well this was a heiau, and then you see the hotel built right there. The pools at the hotels...

Ms. Higuchi Sayegusa: Three minutes.

Ms. Rojas: Were remodeled to do, to make, remove iwi kupuna to do the pools. When is all of that gonna take into consideration? So, I'm glad this is deferred because you need to get the community, the lahui input. You need to hear kānaka maoli input. And the fact that, you know the question and answers...

Mr. Hull: Please wrap up your testimony Ms. Rojas.

Ms. Rojas: Only took three (3) minutes. I'm actually the only person online at any of these, four (4) or five (5) meetings.

Mr. Hull: Please wrap up your testimony Ms. Rojas. You had three (3) minutes for your testimony.

Ms. Rojas: So, my testimony is, for the builders of this. If you're thinking is, this is so great, and I applaud for, you know, for the families that live there that gonna get this upgrading, but how many kānaka maoli families were displaced to house these two hundred (200) families that are there now? When are kānaka maoli voices, cultural practices, iwi kupuna, everything gonna be heard, respected, researched as well. They're hard (inaudible)...

Mr. Hull: Is there any other person that has signed up or would like to testify on this agenda item, virtually on Zoom? If so, please indicate by raising your digital hand.

Ms. Higuchi Sayegusa: There's one other testifier wishing to testify, Kiara Rodrigues. Enable your audio on your end and (inaudible).

Ms. Rodrigues: Okay, can you folks hear me?

Mr. Hull: Yes.

Ms. Rodrigues: Okay, I just have a few questions. I know that you guys want to go ahead and refurbish, right, these camps. But my question is, are there gonna be areas that they allow the families that do inhabit these areas to grow their own foods? We do know that here in Hawaii we have the best soil, so, and we know that back in plantation times these were the bread baskets. These areas were making well amounts of food and they were actually sending most of this food off to the mainland. And I'm just saying this because again, like self-sustainability it's, they can, not just for the kānaka maoli but all of the other people who call Hawaii home. Especially teaching the younger generations, you know, where our food comes from. I just wondered that. Also, I wanted to ask, so, they're refurbishing homes that are currently like, totally like bad or are they refurbishing homes that are like, plantation families have lived in there for ages and now they're kinda dilapidated because I'm originally from Moku o Keawe, Big Island and I do understand how the camps work there but most of them unfortunately are run down and there's not much like, people that are coming in to refurbish. So, I'm just wondering how this all works and how it could kind of set a stage, you know, for the rest of the islands, because I think this could be a good thing as long as it works hand in hand in preserving not only our culture but our iwi kupuna and all of our wahi pana's or 'ōlelo's that come with these areas. Mahalo.

Chair Cox: Would you like to respond to some of the questions? If you'd like. It not necessary but...

Mr. Green: She already...I appreciate some of those questions. We actually do have some very vibrant community gardens going now. Our residents are provided with free water to do whatever farming they'd like. However, in some of this plantation camp zoning we are gonna be displacing some of those gardens, so we're gonna find new areas for those gardens and hopefully expand upon those gardens and give a lot more opportunity to our residents to do that sort of sustenance farming but we have a long history, going back even to World War II when we issued all these etiquettes to our residents. We have these great old letters, talking about the victory farms we used to have on the property. So, really those have continued on since the 1940's and we look forward to doing a lot more of that. This housing will (inaudible) be dedicated to our agricultural workforce. And we're diversifying our operations on the ranch and on the plantation lands to do various agricultural crops and continue on the ranching side of things. So, it will support the ag and sustainability initiatives that we are focused on.

Mr. Hull: And I'll just add that doing the work out there was, we were shocked (inaudible) Kaumakani as far as, which is essentially an urban footprint. Per capita, there is no greener, more productive, agricultural space than what's going on in Kaumakani and that's, not (inaudible) but you know, that is done by each respective tenants and their gardens that they do within their own small little plots. So, it's absolutely amazing on top of that, they do have these larger garden tracts that Howards referring to, that is some of the areas that is indeed slated for possible housing as well. But I think they've already kind of sectioned off areas in which those gardens and small farms can be (inaudible). But it's remarkable as to allow of gardening and agricultural activity that each tenant does in their own space.

Chair Cox: That's great. Any other questions or comments? I think there was another question which I think I understand. And that is, there was a question about whether some of these homes are dilapidated and you'll be upgrading them, and my understanding is yes, in addition to building new homes. Is that correct?

Mr. Green: Yes, that's correct. Some of them are in disrepair and often times we don't, we provide all of the repairs to the houses. Even a broken window or torn screens, we do all the repairs on these houses at no cost to the tenants and some of the old timers, they, we feel that they don't wanna bother us or they're worried, you know, just about bothering us and they don't tell us like, that they're roof has been leaking for a year or their water heater doesn't work or all these various things wrong with the house and we go in there and go like, oh, why didn't you tell us? Oh, we didn't wanna bother you. So, you know, we wanna go in there and address all these problems before they get so dilapidated that we have to tear them down. And truly some of them had to be torn down or need to be torn down and rebuilt cause they're in that bad of shape. So, we would like to go in as people allow us to, as people move out or switch houses. Some people we have switching houses so we can just go in there, totally remodel the house, bring it back up to par and reoccupy that house. So, there's a lot of that going on. Like I said, some of these houses are a hundred years old. The newest ones are from the 1940's. So, it's a big challenge. Koa gets to take it on.

Chair Cox: Any comments or questions?

Ms. Apisa: Just a comment. I think it's wonderful and it's great.

Mr. Green: Thank you.

Chair Cox: We have not heard the recommendation from Shelea.

Ms. Blackstad: Based on the foregoing evaluation and conclusion. It is recommended that Zoning Amendment ZA-2022-9, be approved.

Mr. Hull: (inaudible) we're still asking for a deferral.

Chair Cox: Okay. I think we need to make sure there's no more testimonies.

Mr. Hull: (inaudible)

Chair Cox: So, we're okay and I think we can entertain a motion at this point.

Ms. Apisa: I will make a motion. On how long of a referral?

Mr. Hull: We're just asking till the next meeting, July 26.

Ms. Apisa: I move that we defer ZA-2022-9 until our next meeting on July 26th, 2022.

Mr. DeGracia: Second.

Chair Cox: We've been moved and seconded. Any further discussion? If not, let's do a roll call vote.

Mr. Hull: Roll call Madam Chair. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Chair Cox?

Chair Cox: Aye.

Mr. Hull: Motion passes Madam Chair. 4:0. Next we have Agenda Item F.4.b.

ZA-2022-12: A bill for an ordinance amending Chapter 8, Kauai County Code 1987, as amended, relating to Comprehensive Zoning Ordinance (CZO). The proposal amends Article 12 of the CZO relating to Constraint Districts. The purpose of the ordinance is to amend the CZO's Constraint Shoreline District (S-SH) and Flood District (S-FL) to become the Constraint Sea Level Rise District to address sea level rise impacts on annual high wave run up and passive flooding projected to occur within this century by a County of Kauai Sea Level Rise Constraint District Viewer = ***County of Kaua'i, Planning Department.***

Mr. Hull: This is the Public Hearing portion of the agenda. We have no individuals signed up to testify on the agenda item here in person. Do we anybody attending in person that has not signed up for this agenda item but would like to testify? Seeing none. Do we have any members of the public attending virtually on Zoom that would like to testify virtually? If so, please indicate by raising your digital hand.

Ms. Higuchi Sayegusa: We do have one attendee wishing to testify, Tara Rojas. Promoting you to panelist at this point. Please enable your video and audio on your end.

Ms. Rojas: Aloha, so regarding this ZA-2022-12, regarding the CVE amendment.

Chair Cox: Okay.

Ms. Rojas: I would like to address the sea level rise, the high wave impacts, so, again, just as I mentioned before. Look at these buildings, these plannings, the climate change, look at all of these issues together. Think of the actions that you're taking now. For who is it the betterment of, if it's the betterment of the community of Kaua'i, as a whole. And I'm just gonna keep advocating for it because there's nobody else advocating, you know, well there are, they come, and they testify as well for advocating for. Who is Kaua'i? Is it just, like myself fourth generation, coming from plantation, you know, great-grandparents, grandparents but not of kānaka maoli descent, so in other words kama'āina, born and raised here. What about the kānaka maoli, for anything? Like I mentioned the last time, the ordinances, the (inaudible), the wai, that's gonna be issues as we speak. Three million gallons are still being leaked. Three million gallons of wai, precious wai on Kaua'i is being leaked as we speak. They cannot find it since April. The ahupua'a mo'olelo of the land, the iwi kupuna, all of the housing that is developed on the shoreline should not be there. It's Kaua'i, it's a cave system, it's all connected. Again, there are lawsuits about housing now. And it's really the same thing, disappointing to hear after even the matter of testimony, if you guys are just for something you're just gonna approve it, not even deferred until July 26 the next meeting for the previous item. Which sounds great if it's to improve the life of kupuna, whether of kānaka maoli descent or not.

Ms. Higuchi Sayegusa: Three minutes.

Ms. Rojas: You're, it's disheartening to hear that it sounds like, no matter if you defer it, if you all are for it, you're just gonna approve it. So, I really hope, and I'll really hope the lahui, you know, really evaluates this plan, and again, please look it, if this is the same, the engineer developer that got to choose his former previous, you know company to do this. I don't know, conflict of interest, that this type of thing (inaudible)

Mr. Hull: Please wrap up your testimony Ms. Rojas.

Ms. Rojas: So, I wanna wrap up my testimony but there has to be a time where you really decolonize your mindset and include kānaka maoli on every Planning Commission, to be in those seats and in every decision that you all make. Because they are, to this day, still displaced. And so, please, this is Hawaii because of kānaka maoli. Mahalo.

Chair Cox: Thank you.

Mr. Hull: Is there anybody else attending virtually that would like to testify on this agenda item? If so, please indicate by raising your digital hand.

Ms. Higuchi Sayegusa: No other person with their hands raised on this item. Thank you.

Mr. Hull: Thank you. With that, I will ask that we close the Public Hearing for this subject matter.

Chair Cox: Can I have a motion to close?

Mr. Ako: I so move to close the Public Hearing.

Ms. Apisa: Second.

Chair Cox: There's been a motion to close and seconded. We're closing ZA-2022-12. All those in favor say aye? Aye. (Unanimous voice vote). Any opposed? 4:0. The Public Hearing is closed.

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

Mr. Hull: The Public Hearing (inaudible) closed. Moving directly into the New Business matter for this

same items.

ZA-2022-12: A bill for an ordinance amending Chapter 8, Kauai County Code 1987, as amended, relating to Comprehensive Zoning Ordinance (CZO). The proposal amends Article 12 of the CZO relating to Constraint Districts. The purpose of the ordinance is to amend the CZO's Constraint Shoreline District (S-SH) and Flood District (S-FL) to become the Constraint Sea Level Rise District to address sea level rise impacts on annual high wave run up and passive flooding projected to occur within this century by a County of Kauai Sea Level Rise Constraint District Viewer = County of Kaua'i, Planning Department.

Mr. Hull: I'll turn it over to our Planner, who's new to the Planning Commission, Ms. Alisha Summers. Alisha, you wanna go into the Director's Report Summary?

Ms. Summers: Sounds good. Good morning, Planning Commission Chair and Commissioners. For your consideration this morning, amendment to Chapter 8, Kaua'i County Code, as amended relating to Article 12, Constraint Districts.

Ms. Summers read the Summary, Project Data, Project Description and Use, Additional Findings, Preliminary Evaluation, and Preliminary Conclusion sections of the Director's Report for the record (on file with the Planning Department).

Ms. Summers: Before I read the recommendations, are there any questions?

Chair Cox: Questions? Comments? From any of the Commissioners. Thank you for the examples, I think that was very helpful. Are we ready for the recommendations? Guess so, go ahead with the recommendations.

Ms. Summers: Based on the foregoing evaluation and conclusion, it is recommended that Zoning Amendment ZA-2022-12 be approved.

Chair Cox: Thank you. Any discussion?

Ms. Apisa: I'd just like to make a comment. When I read this packet, I'm really torn on the subject. Just, I mean overall I am in favor of it, but I guess (inaudible) and specifically I know it applied to Honolulu but caused a lot of hardship for the developer, who had to always (inaudible) and all of a sudden had to elevate the building and the ground floor and so, I know that there's a hardship in their constraints but I am a believer that global warming and sea-level rise is happening and so, I know it's something that has to happen. We have to take steps to be prepared for it. I know there's also questions especially among realtors, of how accurate that, the sea-level rise (inaudible) is but I know we have to trust and believe it was done by UH, we have to trust that they know a lot know more about it than I do. So, I just want it to go on record in knowing that I was pretty torn with this, but I am prepared to move forward.

Mr. Hull: I can address some of those. (inaudible) Commissioner Apisa. As far as your concerns about heightening and the cost that it could bring. The Department is particularly sympathetic to that. We seen a fair amount of issues (inaudible) ordinance get caught up into that. And some of the standards are very similar to the flood ordinance. From the overall accuracy of the data, I can say, and then this isn't (inaudible) we're not trying to hide anything. It's that the data that was created for the Hawaii State Sea Level Rise Viewer, which essentially fed into the data that we use for our Kaua'i Sea Level Rise Viewer has been (inaudible) challenged (inaudible). To take a step back, for those that may not be that familiar with the Hawaii Sea Level Rise Viewer, so, few years ago back in 2018, the State of Hawaii Climate Change Commission adopted the Sea Level Rise Viewer (inaudible), adopted a Hawaii Sea Level Rise Viewer, which was the work of several years of UH and NOAA and various entities using modeling and projections to determine what 3.2 feet of sea level rise would do to our island when it comes to just water and flooding and

identifying, and then the three standard accepted the 3.2 feet of sea level rise, that happened within this century. This is predicted to probably be sooner than that century now. By accepting that 3.2 feet height, (inaudible) for three hazards, one being coastal erosion, another being passive flooding and another being highway runoff. Coastal erosion is the most damaging effect of the viewer, in that with 3.2 feet of sea level rise, we're expected to lose this much beach and this much land fronting the ocean, meaning in perpetuity that land is gone, it's not coming back. Maui did attempt, sorry, the other two, are passive flooding that's essentially as the sea levels rise and increase tides, what type of water will inundate certain areas because of sea level rise. The last one being highway runoff, waves that with this new 3.2 feet sea level rise, where they will be when they're, once a year the highest wave, where it's going to crest and reach on land. So, those are the three main hazard points and when it first came out, the Commission was strongly pushing the various islands to consider using this data and its viewer to frame a regulatory approach for construction and building in these zones and make sure we address it. When it happened, there was a fair amount of objections coming from some in the engineering field and some in the legal field, considering the way this viewers data was generated, whether or not regulations should be spot on. Maui decided to look at coastal erosion. Kaua'i has one of the most robust and progressive shoreline setback ordinances in the country, it's a minimum of sixty feet, you can't build from the ocean line, period, you can't build. That's a (inaudible) but you can't build. Depending on the erosion rate or the lot depth, (inaudible) sixty feet can be increased drastically, the most drastic amount I think is probably a 400-foot setback where you cannot build 400 feet from the shoreline. So, it depends on your erosion rate. We recognize that with our really robust shoreline setback ordinance, that we pretty much address the vast majority of where it's projected to be under water with (inaudible) with sea level rise. And knowing that there were legal concerns about approaching erosion from that data, Maui embarked on looking at trying to create regulations on the erosion data. Kaua'i embarked on trying to see if we could (inaudible) regulations on passive flooding and highway runoff. Knowing that we've already setback any future developments and structures, from the coastline to (inaudible) erosion, we're now just looking at passive flooding and highway runoff. And we spent quite honestly 2 years trying to figure out how to (inaudible). We spent some time monitoring and looking at various municipalities across the country. And virtually, no one (inaudible) really tackled sea level rise flood elevations on a granular level. We did identify Boston, as having a model, in which they elevate a certain height above the sea level rise protective depths, but they only based it on pretty large-scale products or (inaudible) two or three hundred units, not on the granular level. We monitored that as well as we worked with everybody from Chip Fletcher to Sea Engineering, various entities of groups to try to come up with just, ultimately, we're trying to figure out, how do we mitigate against this water, as well coastal erosion is going to be (inaudible). The water we're looking at from passive flooding highway runoff is temporal by nature, it rises with the high tide, or it comes (inaudible) highways, so, (inaudible) is one of the problems as far as, you shouldn't be building that, I think we're in agreement, you really should not be building in a place that's projected to be inundated by sea level rise. We also have to balance the constitutional protections of these property owners, the property owners that (inaudible) that they can, legally on the United States Constitution build there. If we attempt to prevent them, we would easily have that action overturn into a lawsuit before any court. So, recognizing that they can't build there, shouldn't we be looking at this data as a way to mitigate the water and be able to handle the flow of the water on occasion. That's where we came up with these depth elevations. So, we're looking at specifically saying, for (inaudible) structure, you need to elevate two feet above the projected depth, if you're not having structures, one foot above. That's it in a nutshell. I'm making these statements, (inaudible) because we're presenting this, a lot of places are getting excited about it, want to hear about it. I want to make one thing very clear (inaudible), the sea level rise projections and this (inaudible) is absolutely necessary to accommodate and adapt to our changing climate, but it is just an adaption mitigation based off of sea level rise. It is not based off of a full brunt and affects that are anticipated and are happening with climate change. Sea level rise is a particularly destructive force. What the most destructive force, the place like Kaua'i much less the globe faces in a climate change is the increase in intensity and frequency of storms and the water that flows during these high precipitation events, often as water moving down large valleys and then hitting an ocean area that has storm surge, and those two bodies of water coming together and inundating communities, which is essentially how it happened in Hanalei in 2018, right. I want to be clear. This bill would not save Hanalei from what happened and that's because, while this is a step in the right direction, it's only looking at sea

level rise. The vast majority of destruction force (inaudible) high intensity storms is covered by FEMA's flood standards and those are the flood ordinances that require what are called base line elevations, we elevate the structure, the baseline elevation is ten feet (inaudible) but all that data, all that science is based off of historical events, so, what happened the past hundred years, it bases low elevations. It does not account for the fact that with climate change there are increased intensity frequency, all these storms and, increased precipitation in these storms, increase higher levels of water. That is, to be honest a weakness of this draft ordinance because it doesn't request that. We think this is a step in the right direction and eventually that modeling needs to happen where it can project not just sea level rise but increase precipitation events, so, we'd be looking at additional depths above and beyond that. But for now, this is a (inaudible) step in that direction, and we think it's the right step in that direction. Well Maui faced considerably opposition and is still working on it, I'm not trying to fault on Maui, they're really trying to work with the sea level rise data, coastal erosion. We credit their team trying to assess it, but I can say that it's many of those individuals who are at these organizations that have been somewhat critical of trying to use that data in the Maui model. We have met with, to go over specifically from a legal aspect and from an engineering aspect and they have lent the support behind the Kaua'i bill to say, this is using the data that they felt was in our (inaudible) matter. So, that's kind of (inaudible). Sorry, that was kind of long-winded.

Ms. Apisa: No, I appreciate your input in this. One last comment that I heard is that government shouldn't be regulating because insurance companies sort of control that and just say (inaudible) just says, I won't insure you just because (inaudible) insurance, so I don't know if you have any comments (inaudible) to me.

Mr. Hull: The insurance program is set up through FEMA and through a federal entity that looks at providing flood insurance for homes built in the flood zone, that a municipality has to have regulations for that (inaudible) participate in the insurance program and as long as that individual is paying those rates, they'll get the subsidies necessary for being built for when their house gets wiped out. When that federal insurance rate program was set up back in the 40's and 50's, a few floods had happened and it was a recommendation of the federal government to say, hey, these homeowners need to be alleviated of the pressure of rebuilding, and so a subsidy program was adopted. Now fast forward to 50-60 years later, where much of the continent is subject to these drastic impacts from storms events. The federal government is subsidizing homeowners to rebuild their structure in a hazardous area. It is what it is. That's the reason why, I brought up why these elevations of these need to be relooked at and updated. But it is what it is. I can say that FEMA is actually making adjustments to that now. Whether you have (inaudible) subsidy program, now we're having repetitive events, repetitive loses. FEMA is in the updating, where they are saying, leave it up high, exorbitant rates now to actually rebuild (inaudible). So, they are making those adjustments. I credit FEMA in that area. I can say though, this bill is outside of the insurance program. So, regardless of insurance rate, this bill covers sea level rise, which FEMA does not, (inaudible) acknowledged in their standards yet and is just (inaudible) to Kaua'i. So, there's no insurance program involved. I can say with flood events, it's not just the homeowner's responsibility and not (inaudible), oh this is a step addressing like Hanalei will not address it fully (inaudible) happened. Those weren't homeowners picking themselves off the roofs getting rescued, those were firefighters out there. Those county services resources personnel risking their lives because (inaudible) structures were in hazardous areas and even in evacuation stages, we evacuate them and yes, there was a provider, but we got billed for that aid. It was by helicopter evacuation alone to evacuate people out of Wainiha, Haena during that flooding, that as just under a million dollars and we got billed for it. So, we are constructing, these are homes constructed on hazardous areas, that the homeowner might say, that's my responsibility, government get out of the way. When we're evacuating, when we're rescuing, we're paying that bill. So, and I think from a long-range projection it is incumbent upon the county to look at, ensuring that any future development is able to adequately (inaudible) and respond to these hazards. This isn't even going to do it, it's a step in the right direction but it's not fully bearing.

Ms. Apisa: Thank you very much. Hanalei to Haena is certainly a current real example of what's happening. Thank you.

Mr. Hull: (inaudible)

Chair Cox: Yes, thanks for the thorough explanation. I really appreciate it and as somebody who has been involved in this (inaudible) keeping up with it, I do applaud you actually for trying to be at the cutting edge and I really think it's protecting people but it's also protecting financially, not just the county but also the developers because it's not going to help them if they build someplace but then it gets destroyed. I really commend for being a (inaudible).

Mr. Hull: Thanks.

Ms. Apisa: I'm proud of Kaua'i and everything you do to be a leader. I truly believe Kaua'i is a leader and I think that's wonderful.

Chair Cox: Yes.

Mr. Hull: Thank you.

Chair Cox: So, are we ready...

Mr. Hull: If there are any other question, I do have to say that this is technically a separate agenda item. We'll make a call again for any members of the public in person that would like to testify. We have one member in person and then we'll go to the virtual.

Male from audience: Hi, my name is...hello, hello.

Mr. Hull: Oh, sorry.

Male from audience: Is it dead?

(Mr. Hull brought the staffing mic over for testifier to use)

Male from audience: Hello, I have four questions. Sorry, I'm Tyler Navaro, I work in Engineering & Development. First question is, will these new elevation, I know we're talking about long-term durability of Kaua'i. Will this affect new infrastructure, new road elevations? Question two is. What is the trigger for current properties that will become non-compliant under this new 3.2 increase elevation? Number three is, if we're talking about factoring a 3.2 sea level rise, are we maintaining the current data on this on the reference benchmarks to measure, because those are all reference to (inaudible) sea level currently. Number four is, what mechanism, what document, what has this been thought about, an elevation certificate, will that be required for properties that are outside the FEMA flood zones? Because right now the current mechanism it is, you submit a FEMA elevation certificate for these properties. So, those are my four questions.

Mr. Hull: Sir, for public testimony it's not a (inaudible). You can ask questions...

Mr. Navaro: I can ask questions, but you may not respond but these are just questions that I'd like to pose now to make that when this bill does go in for approval, that these things are thought about as the guy who is going to be on the design consultive side, to have to comply with these requirements, I just want to make that these things are being thought of.

Chair Cox: Thank you.

Mr. Navaro: Thank you.

Mr. Hull: Is there (inaudible) commissioners that want to follow up with those questions, (inaudible) can

reach out to Tyler on the side too. (inaudible) the department (inaudible) but if there's any clarifications, during the public testimony it's not engaging that (inaudible) any questions (inaudible) questions from the public (inaudible).

Ms. Apisa: I guess I did wonder when I read through this, at what point, what I believe the proposed ordinance reads for new construction, substantial improvements, so at what point is new construction, is it pre-building permit or is it prestart of work, at what point does this trigger for new construction?

Mr. Hull: It's during the building permit and it would be for anything that's determined to be a brand-new structure, of course but if you're talking about repair, it's the same threshold, there's a (inaudible) and a flood review, as far as the fifty percent of this (inaudible) doing that threshold and department (inaudible) and Planning will have to go through the calculation for a (inaudible) to determine whether or not it's substantial enough to (inaudible) as a rebuild or if it's still (inaudible).

Ms. Apisa: So, if the building permit is still in process, then it would apply and if the building permit were already issued then we go under the old (inaudible).

Mr. Hull: From a zoning standpoint, no, you have a building permit in, so, say this bill, and the bill ultimately has to be adopted by Council but even adopted by Council, (inaudible) in and signed into law by the mayor for it to have the effect of law. If Council say, adopted it today and the mayor signed it tomorrow, if you have a building permit in right now the department does not have the authority to exert with this new regulation. It's any building permit that's going to apply for after the enrollment and Council.

Ms. Apisa: Thank you.

Chair Cox: I have a question about the road construction. Can we speak to that, I know that was one of the questions that came up. (inaudible).

Mr. Hull: For planning, road wouldn't be cataloged in this structure. So, if any road development would not be subject to this. And then, (inaudible) encounter to the overall intent if you require a road to elevate six feet, it's just going to push that water somewhere else. Within road design whether it's for public works or an applicant. Taking this into account and being able to accommodate for that water in that manner is generally advisable but at this point engineering doesn't have any specific sea level rise standards being adopted so, it's (inaudible) but no (inaudible).

Chair Cox: Thank you. Any other questions? I guess we need to see if there's more testifiers.

Mr. Hull: Anybody else in person here at the meeting that has not signed up to testify on this agenda item that would like to testify on this agenda item? Seeing none. Do we have anybody attending virtually that would like to testify on this agenda item? If so, please indicate by raising your digital hand.

Ms. Higuchi Sayegusa: We have one attendee wishing to testify, Tara Rojas. Promoting you to panelist, please on your end activate your audio and video.

Ms. Rojas: Aloha, just really glad to hear this actual discussion of these items and the questions brought up by the public. (inaudible) I do have a question for you all, being that it's cutting edge and just as far as ordinances and everything. I just was wondering about this, the closed captioning, I'm not sure you're able to look at it, and this is just a suggestions (inaudible) listen and because I'm trying to listen the meeting and even though I'm listening live some things I couldn't quite catch or what it is you're saying and there's no way to raise your hand to ask in that moment, so when the other lady who testified had to ask questions. I just was wondering if you could do something or if there's a better closed captioning system that you could use because, actually if you go back and try to read the transcripts, it translates into profanity and then you try and read it and it does not makes sense, a lot of sections and so, like I said trying to listen to live, I don't

capture it quite clearly so I rely on the transcript, the caption and even at that it's not making sense. So, I just was wondering for consideration if you have any control or ability to find a either improve this one or find a better one because it really is hard when you're trying to re-read it or understand live and there's no way stop the process when you have a question in that moment. And that was basically it, the technicalities of the captioning and the process of the meeting itself that we can't understand what someone is saying. Mahalo.

Chair Cox: Thank you.

Mr. Hull: Is there anybody else on Zoom that would like to testify virtually? If so, please indicate by raising your digital hand.

Ms. Higuchi Sayegusa: No other attendee with their hands raised at this point.

Mr. Hull: Thank you. With that, the department is recommending approval, unless there are questions or (inaudible).

Chair Cox: Any more discussions on this...questions? Okay, we'll entertain a motion.

Mr. Ako: I so move to approve the zoning amendment ZA-2022-12.

Mr. DeGracia: Second.

Chair Cox: Okay, we've been moved and seconded. Are there any further discussions? Roll call.

Mr. Hull: Roll call Madam Chair. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Chair Cox?

Chair Cox: Aye.

Mr. Hull: Motion passes Madam Chair. 4:0.

### **CONSENT CALENDAR**

Mr. Hull: Next we have the Consent Calendar, which does not need action by the Commission. However, is there anybody in-person that would like to testify on the consent calendar agenda items? If so, please indicate or please step forward. Seeing none. Is there anyone online, excuse me, anybody on Zoom that would like to testify virtually? If so, please indicate by raising your digital hand.

Ms. Higuchi Sayegusa: No attendee with their hands raised at this point.

### **GENERAL BUSINESS MATTERS**

Mr. Hull: Seeing none, we can move on to Agenda Item H. However,...

Chair Cox: There's been a request to have a five-minute recess.

Mr. Hull: We'll return back at 11:25.

The Commission recessed this portion of the meeting at 11:18 a.m.

The Commission reconvened this portion of the meeting at 11:25 a.m.

Chair Cox: We're reconvening the Planning Commission meeting.

Mr. Hull: We are on Agenda Item H. General Business Matters, H.1.

Planning Director Kaaina S. Hull's Petition to Revoke Applicant Sally Sellar Reed Trust TVNCU Certificate and Issue an Order to Show Cause and Set Hearing.

Mr. Hull: The department is (inaudible) asking for withdrawal of this petition. There is improper formatting and that this wasn't the vacation rental (inaudible) Special Permit. There are still revocation proceedings pending for this but technically this is for the department and not the Commission. So, I apologize for that oversight. So, we're just withdrawing this petition.

Chair Cox: Do we have to have a motion to remove it, since it's on the agenda?

Mr. Hull: No, I think we could for posterity statement we could do a motion to receive the withdrawal.

County Deputy Attorney Laura Barzilai: A motion to go through (inaudible)

Mr. Hull: But before I go into that, it is an agenda item, so I'm going to ask, is there anybody, nobody signed up to testify in-person. Anybody in-person that would like to testify on this agenda item that hasn't signed up? Seeing none. Is there anybody attending virtually that would like to testify on this agenda item?

Ms. Higuchi Sayegusa: There's one attendee wishing to testify, Jonathan Chun. I'll promote you to panelist. On your end you have to accept the promotion and enable your audio and video.

Mr. Chun: Thank you very much. Sorry, I'm just getting used to this new technology. I just wanted to represent the applicant or Ms. Sally Reed and we are working currently with the department to resolve these matters. I appreciate the Planning Departments withdrawal of this petition, so that we can continue working. We have made progress and hopefully this matter can be resolved very quickly. Thank you.

Chair Cox: Thank you.

Mr. Hull: Is there anyone else attending virtually that would like to testify on this agenda item?

Ms. Higuchi Sayegusa: No other attendee with their hands raised on this item.

Chair Cox: I'd like to entertain a motion to approve the Director's withdrawal of this item.

Mr. DeGracia: Motion to approve that the Director's withdrawal of this agenda item.

Ms. Apisa: Second.

Chair Cox: We've been moved and seconded. All in favor say, aye? Aye. (Unanimous voice vote). Any opposed? None. Motion passes 4:0.

Mr. Hull: Moving on to Agenda Item H. 2.

AMENDMENT TO CLASS IV ZONING PERMIT (Z-IV-2020-1), AND USE PERMIT (U-2020-1) to amend Condition No. 8 to allow completion of the project to construct a new branch office building and associated site improvements on property located within Kīlauea Town, situated immediately across the Kīlauea Post Office facility and immediately adjacent to the Kīlauea Lighthouse Shopping Center, along the northern side of the Kīlauea Lighthouse Road, Keneke Road intersection, further identified as Tax Map Key: 5-1-2-0005:023, and affecting a portion of the larger parcel containing approx.. 179.439 acres = ***Gather Federal Credit Union.***

Mr. Hull: Before I turn it over to Dale. I want to ask, although there is no official public hearing, it is an agenda item and subject to Sunshine Law. Is there anybody that is in attendance that would like to testify on this agenda item? Seeing none. Is there anybody attending virtually that would like to testify on this agenda item via Zoom? If so, please indicate by raising your digital hand.

Ms. Higuchi Sayegusa: No attendee with their hands raised at this point.

Mr. Hull: Thank you. With that, Dale, I'll turn it over to you for the Directors Report.

Staff Planner Dale Cua: Good morning, Madam Chair, and members of the Planning Commission. I'll quickly summarize the Director's Report.

Mr. Cua read the Summary, Project Data, Project Description and Use, Additional Findings, Preliminary Evaluation, and Preliminary Conclusion sections of the Director's Report for the record (on file with the Planning Department).

Chair Cox: Thank you Dale. Any questions for the department? Can we hear from the applicant? (inaudible)

Male from audience: Good morning.

Chair Cox: Good morning.

Male from audience: Madam Chair and members of the Commission. My name is Sherman Shiroishi and I'm an attorney representing the applicant. I have nothing to add to the departments report, other than to say that we have submitted our application for our building permit. It was submitted on April 1<sup>st</sup> and it is stuck in the Water Department, and we are closely working with the Water Department to address their concerns regarding water (inaudible) to the project.

Chair Cox: Thank you. Any questions for the applicant? Are we ready for a motion?

Mr. Ako: I so move for the approval for the Class IV Zoning Permit (Z-IV-2020-1) and Use Permit (U-2020-1) to amend Condition No. 8.

Chair Cox: Is there a second?

Mr. DeGracia: Second.

Chair Cox: It's been moved and seconded. Any further discussion? We can take a roll call vote.

Mr. Hull: Roll call Madam Chair. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Chair Cox?

Chair Cox: Aye.

Mr. Hull: Motion passes Madam Chair. 4:0.

Mr. Shiroishi: Thank you very much.

Chair Cox: Thank you.

### **COMMUNICATION**

Mr. Hull: Next we have no Communication for this agenda.

### **COMMITTEE REPORTS**

#### **Subdivision**

Mr. Hull: Committee Reports, Subdivision Committee Report. Before I turn it over to the Subdivision Committee Chair, I want to see if there is anybody in-person attending that would like to testify on this agenda item. Seeing none. Is there anybody attending virtually that would like to testify on this agenda item via Zoom? If so, please indicate so by raising your digital hand.

Ms. Higuchi Sayegusa: No attendee with their hands raised at this point.

Mr. Hull: Thank you. With that, Subdivision Committee, Chair Ako.

Mr. Ako: The Subdivision Committee did meet this morning at 8:33 a.m. Present was myself as well as Commissioner DeGracia. On our agenda we had five applications for Preliminary Subdivision Extension Request, and we had two Final Subdivision Map Approval. All seven of these were discussed and approved with a 2:0 vote on all of the items on the agenda. And at 9:42 a.m. the meeting was adjourned. Any questions?

Chair Cox: Thank you, Commissioner Ako. Any questions? Shall we entertain a motion to approve the Subdivision Committee report?

Ms. Apisa: Motion to approve the Subdivision Committee report.

Mr. DeGracia: Second.

Chair Cox: We've been moved and seconded. All in favor say, aye? Aye. (Unanimous voice vote). Any opposed? None. Motion passes 4:0.

### **UNFINISHED BUSINESS (For Action)**

Mr. Hull: With that, we have no Unfinished Business.

## **ANNOUNCEMENTS**

Mr. Hull: Announcements, for Future Topic Meetings, we are looking at still a series of zoning amendments, you folks have been entertaining a handful over the past few months, Today was probably the (inaudible) zoning amendments, we have a few more coming to the commission's way one pursuing guest houses. Of course, Plantation Camps will be back and (inaudible) will actually have an update to the Comprehensive Zoning Ordinances definitions, which the department has been working on with the Commission and Council for the past ten years and so hopefully we'll get this one pass the finished line, but we'll see. Other than that, is there anything (inaudible). Other than that

The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter, on July 26, 2022. The Planning Commission anticipates this meeting to be held in-person at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Hawaii 96766. The Commission also anticipates providing telephone and a virtual platform capability for members of the public to testify remotely. The Commission will announce its intended meeting method via an agenda electronically posted at least six days prior to the meeting date.

Mr. Hull: And with that, Madam Chair we are ready for adjournment.

## **ADJOURNMENT**

Chair Cox: I'd like to have a motion to adjourn.

Mr. DeGracia: Motion to adjourn.

Ms. Apisa: Second.

Chair Cox: All in favor say, aye? Aye. (Unanimous voice vote). Any opposed? None. Motion passes 4:0.

Chair Cox adjourned the meeting at 11:37 a.m.

Respectfully submitted by:

Lisa Oyama  
Lisa Oyama,  
Commission Support Clerk

Approved as circulated \_\_\_\_\_.

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



