

KAUA'I PLANNING COMMISSION  
SUBDIVISION COMMITTEE MEETING  
June 04, 2024  
**DRAFT**

The regular meeting of the Planning Subdivision Committee of the County of Kaua'i was called to order by Subdivision Committee Chair Francis DeGracia at 8:30 a.m. - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

Mr. Gerald Ako  
Mr. Francis DeGracia  
Mr. Jerry Ornellas

Excused or Absent

The following staff members were present: Planning Department - Director Ka'aina Hull, Planning Department, Staff Planner Kenny Estes, Planning Secretary Shanlee Jimenez; Office of the County Attorney – Deputy County Attorney Laura Barzilai, Office of Boards and Commissions – Support Clerk Lisa Oyama.

Discussion of the meeting, in effect, ensued:

**CALL TO ORDER**

Subdivision Committee Chair Francis DeGracia: Good morning. The time is 8:30. I'd like to call to order the Subdivision Committee meeting for Tuesday, June 4, 2024. Roll call, please, Mr. Clerk.

**ROLL CALL**

Planning Department Director Ka'aina Hull: Roll call, Mr. Chair. Commissioner Ako?

Commissioner Gerald Ako: Here.

Mr. Hull: Commissioner Ornellas?

Commissioner Jerry Ornellas: Here.

Mr. Hull: Chair DeGracia?

Mr. DeGracia: Here.

Mr. Hull: You have a quorum, Mr. Chair.

Chair DeGracia: Thank you.

### **APPROVAL OF AGENDA**

Mr. Hull: Next up would be the Approval of the Agenda. The Department doesn't have any recommended changes for the agenda.

Mr. Ako: I so move to approve the agenda for the Subdivision Committee meeting for Tuesday, June 4, 2024.

Mr. Ornellas: Second.

Chair DeGracia: Commissioners, motion on the floor is to approve the agenda as is. We'll take a voice vote. All in favor, say aye. Aye (unanimous voice vote). Opposed. Hearing none, motion carries. 3:0.

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

Mr. Hull: Next, we have the Minutes of the Subdivision Committee meeting minutes March 12, 2024, April 9, 2024.

Chair DeGracia: Okay.

Mr. Ako: I so move to approve the minutes of the Subdivision Committee meetings for March 12, 2024, and for April 9, 2024.

Mr. Ornellas: Second.

Chair DeGracia: Commissioners, motion on the floor is to approve the minutes of March 12, 2024, and April 9, 2024. We'll take a voice vote. All in favor, say aye. Aye (unanimous voice vote). Opposed. Hearing none, motion carries. 3:0.

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

Mr. Hull: Next, we have no Receipt of Items for the Record, however we did receive testimony that was past the 24-hour deadline for us to be able to bundle it for a packet for you folks as well as well past the seven-day deadline to get it within the formal agenda packet. Hawai'i Revised Statutes has been amended to allow for some allowances for these new transmittals that come in at a later hour. Laura Barzilai, our attorney, will be digesting how we implement that in future meetings, but as of yet, we haven't gotten the policy in place, so I believe the Chair wants to take 10-minutes for the Commissioners to review the testimony that came in within that 24-hour mark.

Chair DeGracia: Thank you. We'll take a 10-minute recess, reconvening in 10 minutes.

The Committee went into recess at 8:32 a.m.  
The Committee reconvened from recess at 8:42 a.m.

Chair DeGracia: Thank you for your patience. I'd like to call the Subdivision Committee meeting back to order.

**NEW BUSINESS (For Action)**

Mr. Hull: Thank you, Chair. Going into New Business for action.

Preliminary Subdivision Map Approval

Subdivision Application No. S-2024-9

**Inouye Family Trust, et al.**

Proposed 2-Lot Boundary Adjustment

TMK: (4) 2-3-018: 015 and 036

Kalaheo, Koloa, Kaua'i

- 1) Subdivision Report pertaining to this matter.

Mr. Hull: Before I go into it. Is there anybody in the public that would like to testify on this agenda item? We don't have any signed up but if anybody would like to testify and the Inouye Family Trust Subdivision application. Seeing none, I'll turn the subdivision report over to Kenny at this time.

Staff Planner Kenny Estes: I'll go over the report for the record.

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

Chair DeGracia: Thank you. Commissioners, any questions for the department? At this time, is there anybody in the, would like to come up on behalf of the applicant?

Ms. Maren Arismendez: Good morning.

Chair DeGracia: Good morning.

Ms. Arismendez: Maren Arismendez from Esaki Surveying here on behalf of the owners. We have reviewed the tentative part one, I guess letter, and accept the conditions and we are looking forward to working with the department to clarify the issue.

Chair DeGracia: Thank you. Commissioners. Any questions for the applicant?

Mr. Ornellas: I have a question. So, where is the applicant now as far as determining that they are indeed (inaudible) record?

Ms. Arismendez: I been doing record searches through Bureau of Conveyances as far back as I can go is a book and page number from, I believe 1970 or 1972, unfortunately, the only online records available are from 1973 forward, so I have to follow up with Bureau of Conveyances to see the procedure to get earlier records. I've also reached out to real property tax to get copies of the subdivisions for portions of the original lot that were subdivided to see how the remaining portions are referenced.

Mr. Ornellas: Thank you.

Chair DeGracia: Commissioners, any further questions? Hearing none, I'll entertain a motion.

Mr. Hull: I'll just add real quick on this one. I just can't help myself. This is a lot within the residential district. It is a family lot in which they're moving the boundary line to incorporate 1,000 square feet into the other lot. There is no added density. There will be no development out of this, but this applicant is required to go through what will probably be two to three years of public hearings and Planning Commission processes. There are some, I would say, op eds and articles that were recently published on a state law that allows these type of applications to be done ministerially and at a much quicker rate. And again, this is just one in which is literally 1000 square feet. We'll be giving a briefing on that state law and administrative rules to that effect, but as we battle and deal with the housing crisis, being able to do these somewhat in a much more efficient manners, it somewhat behooves us all. I couldn't help myself on that, sorry.

Chair DeGracia: Thank you. Commissioners looks like we should be ready for a motion.

Mr. Ornellas: I move for approval of Subdivision Map Application No. S-2024-9, with conditions as outlined in the agency requirements in the subdivision report.

Mr. Ako: Second.

Chair DeGracia: Okay. Commissioners motion on the floor is to approve this agenda item with conditions outlined in the subdivision report. We'll take a roll call vote, Mr. Clerk.

Mr. Hull: Roll call. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes. 3:0.

Chair DeGracia: Thank you.

Ms. Arismendez: Thank you.

Mr. Hull: Next, we have Agenda Item G.2.

Preliminary Subdivision Extension Request

Subdivision Application No. S-2017-6  
**Moloa'a Valley Homeowners, LLC.**

Proposed 7-Lot Subdivision  
TMK: (4) 4-9-011: 013  
Kawaihau, Kaua'i

- 1) Transmittal of Public Testimony to Planning Commission.
- 2) Subdivision Report pertaining to this matter.

Mr. Hull: Before I turn it over to Kenny, we do have some members of the public signed up to testify. The first person assigned to testify on this agenda item is Gregg Winston.

Mr. Gregg Winston: Morning, everybody. My name is Gregg Winston. I've been a resident for decades here...

Mr. Hull: If you could take a seat, Sir, and you've got three minutes for testimony.

Mr. Winston: Pardon me?

Mr. Hull: You've got three minutes for testimony.

Mr. Winston: Okay. Can I sit?

Mr. Hull: By all means, yes.

Mr. Winston: Thank you. Anyway, my name is Gregg Winston. I've been a decades long resident on Kaua'i, and I've been over the years involved in real estate development, so I think that created the very first Residential CPR on a R4 Zoning in Kapa'a in like the 1980's. I think I've done, as principle, three separate CPR's, intention being that because of the subdivision process, you know what you couldn't create two separate deeds in making money off of development in that manner, so the CPR process, according to my values, has always been to circumvent the solution. Anyway, regarding this subdivision, I'm in favor of the subdivision wholeheartedly. I'm in favor of the people that live on the property to be able to build their home and live there, but then I have some concerns about what it might do to the neighborhood, the surrounding neighborhood, open zoning districts, some concerns, so a lot has changed since 2017, when the preliminary subdivision approval was granted. So much has changed in the demographics of our island. The prices of land. The housing crisis, and so I would, I would say that rather than extending their permit that's taken so long since so much has changed, I would say to let them go back to the drawing board and see if they can maybe move some of the potential up to 50 homes, some of that access up to Kuhio Highway instead of up to 50 homes worth of traffic going off of Moloa'a Road, which will impact in neighborhood, major. And then also I would consider because as far as I know I could be wrong the county has the ability to have the developer made concessions. How about if it's up to 50 homes, give the 21 CPR owners their home, let them have it, and then create 30 workforce homes maybe up by the highway and there's so many solutions that can be met by taking this back to the drawing board involving the community, which was not, I don't think it really aware of or involved in the subdivision application and then make it something that's pono for everybody that will enhance our community and will help people be on their land and build their homes, grow some great food. And also, I didn't notice in anything if there was a survey done for archaeological or cultural sites. I know that that Moloa'a Valley is beautiful, is historical, there's terraces along the river, and so there's some things that with

community involvement, there's no problems only solutions. So, I'd like to see a pause, like to see this happen to benefit community in the neighborhood. Thank you for your time. Thank you for your consideration. Aloha.

Mr. Hull: Thank you.

Chair DeGracia: Thank you.

Mr. Hull: Next, we have signed up to testify as Kristina Carrillo-Bucaram, I hope I pronounced that right.

Ms. Kristina Carrillo-Bucaram: Hello. Thank you.

Mr. Hull: If you can state your name for the record and you have three minutes for testimony.

Ms. Carrillo-Bucaram: Thank you so much for allowing me to speak. My name is Kristina Carrillo-Bucaram and I'm a homeowner in Moloa'a. I trust you've received the petition I submitted and in this brief testimony, I'd like to make requests on behalf of my community and the now over 160 signatures presented for the following, if this development is to be extended. The most important factor is to be considered for those of us living in the area, and the most important point of concern right now is the infrastructure of Moloa'a and creating a foundation that can support 21 to 52 new homes. Our home is directly adjacent to where all this would be taking place, and so we as homeowners have seen a lot of traffic accidents, you can understand, so we request that you please take into action, helping us to find a way to offset not just the incoming traffic and the crowding, but also the extra pollution and runoff that will affect our very small bay, that's already very crowded and Moloa'a Bay is the most polluted stream on the island now. Other neighbors have stepped up to try and speak on this. Please create the needed roads or drainage or safety precautions to be able to support this new development for the other neighbors that will be affected. We also believe that a better density plan for this project can help support our neighborhood and if possible, we would like for those to be considered and in addition, we would like to request that if possible, the entrance to the neighborhood can be reconsidered and moved, because the dirt road juncture on Ko'olau Road cannot support all of the potential traffic that 21 to 50 new homes would create, and we would request more community involvement, not just from the developers as well, because it will greatly affect everyone in the neighborhood. There is a bigger picture at hand that will impact everyone in the area and when the dust settles and the lots are sold because a majority of them are already pending for sale or already on the market for sale and new houses are built, we ask that you please consider the ramifications for the rest of the neighborhood community who will remain here in Moloa'a and our community intention is to find the best quality of life for everyone and we hope we can find a positive solution for all. Thank you.

Mr. Hull: Thank you for your testimony.

Chair DeGracia: Thank you.

Mr. Hull: Last up we have is Susan, I believe it says Paulson, Paulson.

Ms. Susan Paulson: Aloha. My name is Susan Paulson, and I've lived Kaua'i 10 years, and Maui 10 years and I have a total love for the 'aina and Moloa'a Bay in particular is home to a lot of the endangered monk seals, which we know is like there's less than a few 100 left on the planet, and so they live down in the oceans off of Moloa'a Bay and there's also a lot of albatross that come and live there. So, there's really a special ecosystem for the animals. And I just would like to ask consideration for respecting that life, because that life really helps keep the island alive, as we all know, Kaua'i is a very sacred place. There's no place where I get on the planet and it's a really, really special place to be. So, I think in consideration with everything that being built, but we need to take into consideration the sacredness of the land and the ecosystem that's here and really work to keep the waterways clean and also you have to make sure that people feel safe where they're at too, like the roads, because Moloa'a is a very windy road and it's not super well done. It needs a lot more infrastructure if there's going to be more building and stuff, so mahalo.

Mr. Hull: Thank you for your testimony. We don't have anybody else signed up for this agenda item but is there any member of the public that hasn't signed up but would like to testify on this agenda item. If so, you may approach the microphone. Seeing none, I'll turn it over to Kenny for the Director's Report pertaining to this extension request.

Mr. Estes: I'll summarize the Director's Report.

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

Chair DeGracia: Okay. Commissioners, any questions further the department at this time? Okay, at this time...

Mr. Hull: I think I'll just address cause I think there's, from the public testimony, there's some concern about the proposal in particular the impacts and overall the infrastructure inadequacy of the site to possibly handle the subdivision. For the testifiers that they've been given, points are definitely noted and understandable what's before the commission is just an extension request, it's not the actual subdivision approvals, it's just whether or not they can extend it. And as the primary purpose of a subdivision is to ensure that if subdivided all of the lands respective infrastructure be it roads, be it water via wastewater, are upgraded in a manner that can handle that additional development rights. So, that's essentially what the applicant is going, should the Planning Commission grant extension today, the applicant is still working to ensure that infrastructure is adequately handled and there still will be a subsequent public hearing, should they be able to come back with that. So, for clarification points on that.

Mr. Ako: If I can follow up on that, Mr. Chair.

Chair DeGracia: Sure.

Mr. Ako: One of the concerns comments that came up was rather than granting the extension was to take it back to the drawing board and start all over again. Does that mean that if we don't grant the extension, take it back to means to revoke the permit?

Mr. Hull: It's not a revocation of, oh sorry, you could in theory revoke the subdivision's tentative approval because it's past the original deadline, but the applicant pursuant to subdivision, the

subdivision ordinance would have the right to resubmit the exact same plans for review and shouldn't meet the dimension standards laid out in the Comprehensive Zoning Ordinance. This body would be essentially required to approve to give tentative approval to this preliminary rendering, so you know whether or not the applicant wants to take some of this into consideration to consult with some of these concerns raised by the neighboring condominium property regime. It's kind of on them really as far as what the (inaudible) authority of the commission is, again, it's not, and I think a lot of members of public, and a lot of people, see the Planning Commission as always, reviewing use permits to determine compatibility and the subdivision process isn't a compatibility of higher intensification of use per say, it literally is the standards that the commission can operate within our, for the first tentative approval, does it meet the dimension requirements set in the CZO and if it meets the dimensional requirements set in the CZO, the commissioner (inaudible) required to approve it because it meets those standards and then subsequent to that tentative approval, then the applicant needs to work with all the respective infrastructure agencies to ensure that they meet wastewater, water, drainage, roads, all those requirements, so the commission functions in the subdivision process really is a clearing house. It doesn't have much of a discretionary authority over these applications, should they meet all those standards. And that's why there's a public process to this and I think to a certain degree, whether or not the landowner wants to meet some of these concerns being raised by the public, it kind of is on them because once they meet the requirements set in the CZO, there's not much discretion that this body has to stray beyond discretionary requirements, if you will.

Mr. Ako: Thank you for the clarification.

Chair DeGracia: Thank you. At this time, I'd like to invite the applicant or applicant's representative up.

Ms. Arismendez: Good morning, Maren Arismendez from Esaki Surveying.

Mr. Mark Freeman: Mark Freeman, Moloa'a Valley Homeowners Association.

Ms. Arismendez: Of course, would like to respectfully request the extension. The tentative conditions were extends for this subdivision and the owners have been working diligently to satisfy all of the conditions. The latest one is the construction plans, which I believe a draft version was submitted. It should be one of the last few conditions, so we're really getting close and that additional time would allow to get this subdivision to the hopefully finish line. So, as part of the conditions that they've satisfied has been a traffic study, let's see, traffic study drainage study so the flood setbacks have been set from Moloa'a Stream that would not allow any building within that setback. Additional conditions regarding utilities, we are going to be working on the utilities as far as electric and water. There will be no requirement for county water, and I believe they signed a waiver to the effect of also you signed, the owners have signed housing agreement to limit the density on the subdivision and water will be by lot, individual wastewater so that will be not required by county. He's also worked with the Fire Department to set the emergency vehicle access. So, we've been working with all the different agencies to make sure we satisfy all their conditions.

Mr. Hull: Quick question, Maren. So, with those agencies that you're working towards getting their signatory of approval, what is the limitation of density that they're restricting you to?



Ms. Arismendez: I think that the agreement that was signed...

Mr. Freeman: I can answer that question. So, I believe this zoning approves this property would in the open zoning for 25 home sites, and we've limited the density to 24 home sites and one guest house. So, we're not asking for anything beyond what the CZO requires. There's also a (inaudible), yeah, also I mentioned archaeological study was done. I think it was back in 2005, for the whole property, so that was done, flood study was done, the traffic study was done. We've been working diligently for the last 6-7 years to get all this completed and now the construction plans have been finalized and submitted to the Planning Commission. So, we're right down to not very much left really.

Chair DeGracia: Thank you. Commissioners, any questions for the applicant or the department? If there's no further questions, I'll entertain a motion.

Mr. Ako: Regarding Subdivision Application S-2012, I move to approve the extension request until May 9, 2025.

Mr. Ornellas: Second.

Chair DeGracia: Okay. Commissioners, motion on the floor is to approve Subdivision Application No. S-2017-6, tentative approval extension to May 9<sup>th</sup>, 2025. We'll take a roll call vote, Mr. Clerk.

Mr. Hull: Roll call, Mr. Chair. On the motion to grant the extension. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes, Mr. Chair. 3:0.

Ms. Arismendez: Thank you.

Mr. Freeman: Thank you.

Mr. Hull: We have no further items for this subdivision agenda, Chair

## **ADJOURNMENT**

Chair DeGracia: Okay. Thank you. With that, I'll take a motion to adjourn.

Mr. Ako: So move to adjourn.

Chair DeGracia: Okay, I'll second. I'll take a voice vote. All in favor, say aye. Aye (unanimous voice vote). Oppose. Hearing none. Motion carries. Meeting is adjourned. 3:0.

Committee Chair DeGracia adjourned the meeting at 9:08 a.m.

Respectfully submitted by:

    *Lisa Oyama*    

Lisa Oyama,  
Commission Support Clerk

( ) Approved as circulated (date of meeting approved).

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