

KAUA'I PLANNING COMMISSION  
SUBDIVISION COMMITTEE MEETING  
February 14, 2023

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

The following Commissioners were present:

Mr. Gerald Ako  
Ms. Donna Apisa  
Mr. Jerry Ornellas

Excused or Absent

The following staff members were present: Planning Department – Director Ka'aina Hull, Deputy Director Jodi Higuchi Sayegusa, Staff Planner Dale Cua, Kenny Estes, and Planning Commission Secretary Shanlee Jimenez; Office of the County Attorney – County Deputy 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 Gerald Ako: Good morning. Today is Tuesday, February 14, 2023, and this is the meeting for the Subdivision Committee Meeting of the Planning Commission. It's 8:30 a.m., and I'd like to call the meeting to order. Mr. Clerk, can we have a roll call?

**ROLL CALL**

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

Commissioner Apisa: Here.

Mr. Hull: Commissioner Ornellas?

Commissioner Ornellas: Here.

Mr. Hull: Chair Ako?

Mr. Ako: Here.

Mr. Hull: You have a quorum, Mr. Chair. We have one minor amendment to the agenda (inaudible) the talk earlier, Mr. Chair. The D.1. and D.2. were previously reviewed and acted upon at a prior meeting, so we'll amend the agenda to remove Sections D.1. and D.2. Request that the agenda be amended to remove D.1. and D.2.

## **APPROVAL OF AGENDA**

Mr. Ako: Can we have a motion to accept the agenda with the deletion of D.1. and D.2., which are the minutes of the October 11<sup>th</sup> and the October 25<sup>th</sup>, 2022, meeting.

Mr. Ornellas: I move to amend the agenda.

Ms. Apisa: Second.

Ms. Barzilai: We need a motion to approve the agenda too, Chair. Motion to approve as amended.

Mr. Ako: Okay. Motion to amend as well to approve.

Mr. Ornellas: Motion to approve the agenda as amended.

Ms. Apisa: Second.

Mr. Ako: If we can just have a voice vote. All those in favor say aye. Aye (unanimous voice vote). All those oppose. No. Motion passes. 3:0.

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

Mr. Hull: Next we have Agenda Item D. minutes for the November 15, 2022, meeting and the January 24, 2023, meeting.

Ms. Apisa: Move to approve minutes of the November 15, 2022, and January 24, 2023, minutes of the Subdivision Committee.

Mr. Ornellas: Second.

Chair Ako: With that, if we can have a voice vote. All those in favor. Aye (unanimous voice vote). All those opposed. Nay. Motion passes. 3:0.

Mr. Hull: We have no additional Receipt of Items for the Record. We have no Unfinished Business. We'll be moving on to Agenda Item G. Sorry, prior to going into (inaudible) note for the record that written testimony as well as agency comments received after the posting of the agenda for the Subdivision Committee were placed all before (inaudible) Commissioners this morning. We have packets of those testimonies as well as agency comments available to the public (inaudible) Planning Commission (inaudible) as well the Planning Department front counter. So, with that moving on to item G.1.

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

Subdivision Application No. HS-2023-2

**State of Hawai'i, Department of Hawaiian Home Lands (DHHL)**

DHHL Hanapepe, Phase 2 Subdivision

Proposed 136-lot Subdivision

TM Ks: (4) 1-8-007:003, 018, and 021; (4) 1-8-017:001 to 020; (4) 1-8-018:001 to 027 Hanapepe, Waimea, Kaua'i

Mr. Hull: I'll turn it over to Kenny for the subdivision report pertaining to this matter. Sorry, before I turn it over to Kenny. It may be appropriate to ask for public testimony. We have nobody signed up, is there

anybody in the audience that is not part of the application, and would like to testify as a member of the public on this agenda item? Seeing none, back over to you, Kenny.

Staff Planner Kenny Estes: Good morning. I'll summarize the report for the record.

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

Mr. Estes: Chair, we have received agency comments from the Department of Public Works Engineering Division, the County Department of Water, the State Department of Health, and before you, we have received comments from the State Historic Preservation Division. That SHPD has made a determination on (inaudible) properties are affected before the (inaudible) projects. At the very end of their report they have requested to attached the following comments at the end of the report. The department is recommending to amend Condition 6.A. of the Subdivision Report to read those comments.

Mr. Hull: Kenny, do you want to read those updated SHPD comments for the record.

Mr. Estes: SHPD has noted in the event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, artifacts sand deposits, or sink holes are identified during the demolition and their construction work, cease work in the immediate vicinity of the (inaudible), protect the find from additional disturbance and contact the State Historic Preservation at 808-462-3225.

Chair Ako: Any questions for our staff?

Mr. Hull: And just for clarification what Kenny just referendum or updated SHPD comments which generally all subdivision tentative approval recommendations have a pretty standard SHPD condition. In this communication we got from SHPD, they've asked for updated language to it, so we received that after the report was drafted, so essentially I'd say, oh there's no problem with that, but we just need it reflected on the record, and if the Commissioners willing to update that, that proposed amendment.

Ms. Apisa: Sounds fine to me. (Inaudible).

Mr. Hull: Yeah.

Chair Ako: With that, if we have no other questions for the staff. Do we have a representative from the applicant here.

Ms. Maren Arismendez: Good morning, this is Maren Arismendez from Esaki Surveying here on behalf of the applicant. We would like to respectfully request your tentative approval. The applicant is willing to accept all the proposed conditions, and to work with all county agencies on the infrastructure improvements.

Chair Ako: Questions?

Ms. Apisa: No questions.

Mr. Hull: This is an interesting proposal. The Department of Hawaiian Home Lands is actually exempt from county zoning review, if you will, and so if they wanted to they could technically submit a map to the Planning Department with whichever lines they're proposing, because they're exempt from our review, we just basically stamp, you know, approve to get it moving on to the next process. They're coming in recognize that exception for some the lot with depth standards from the agriculture district, as well as the one-time Subdivision Restrictions Act, which (inaudible) but they are (inaudible) to the process to ensure that the infrastructure requirements that would be necessary for them to tie into the

county systems is fully adequate and that they could still do that on their own without going through this process but they kind of avail themselves to the process to essentially utilize the subdivision to (inaudible) those issues out, so there might be a lot of questions why there's all these exceptions, but then again because Department of Hawaiian Home Lands is not subject to our review technically.

Chair Ako: Pretty much they're exempt from the State and County planning regulations.

Mr. Hull: Basically.

Chair Ako: But they still follow all the...

Mr. Hull: Yeah, you often see Department of Hawaiian Home Land applications going through the building permit process (inaudible), they are technically, legally exempt from that as well, but they require, Department of Hawaiian Home Lands (inaudible) themselves as well to ensure that the homes and structures are constructed in a manner that they're safe and usable under building department standards, so we get the applications all the time, coming to us for building (inaudible) review, then a gain from the zoning perspective, we're just like, exempt, moving on.

Ms. Arismendez: To just interject, I think what Department of Hawaiian Home Lands is doing (inaudible) is trying to make it as much conformed to county standards and requirements as possible, even though it's not necessarily, technically required. Probably to open it up to county and even with this public comment.

Ms. Apisa: Thank you.

Mr. Ornellas: (Inaudible), along those lines and I realized there (inaudible), but I noticed a lot of Hawaiian home developments do have parks and in some cases recreational areas, like a (inaudible) that they have in Anahola, I was just wondering because, is there any indication that there will be such addition to this subdivision.

Mr. Hull: I'll have to defer to the applicant for that one.

Mr. Stewart Matsunaga: Aloha, Stewart Matsunaga, I'm the acting administrator for Land Development Division at Department of Hawaiian Home Lands. I really appreciate the opportunity to be here and I appreciate the comments that I've heard regarding DHHL's powers, and so we do want to work as closely as we can with eh county because the county plays a vital role in maintaining roadways and infrastructure, so we appreciate that, so we do what we can to comply with the subdivision standards throughout our parcels. In regards to parks and open space, we do have an environmental assessment done for the entire Hanapēpē area and there are other areas set aside for community and open space, but tied to this subdivision however, there is no specific park area, and so we'll have to go back to our EA master plan and then look at what other open space or park opportunities there are. Basically, DHHL, our main mission is providing homestead lots and that's, in terms of land development division that's our bread and butter, what we do provide homelands and homesteads, houses for native Hawaiians on the waiting lists, so appreciate all of the assistance from the county, from planning, and all of the other departments have been really good to work with, so we appreciate that. Excuse, can I make one more comment, regarding the construction of houses and going through the building permit process, you know, we need to do that because the lenders who are providing the home construction and take out financing, requires building permits, and so that is really all about health and safety, and so we don't want anybody to go and circumvent any of those, the county construction standards, building, plumbing, electrical, so we choose to comply in that regard.

Chair Ako: Mr. Matsunaga, maybe just for myself, yeah, can you educate me a little bit about Hawaiian Home Lands, maybe like 3-minute kind. I know this could go on forever, but these are State lands? (Inaudible).

Mr. Matsunaga: Yes, these are state lands, created by Act of Congress in 1920, Prince Kūhiō, is basically our founding father, set up the Hawaiian Homes Commission Act. We have approximately 200,000 acres statewide and, so we have a waiting list established by the department for these lands, residential and agricultural, pastoral, and even aquacultural homesteading purposes, so when we develop something like Hanapēpē, which is residential, we have a waiting list of, I think it's in the range of 4,000 native Hawaiians who are waiting for homestead opportunities.

Chair Ako: But Kaua'i (inaudible).

Mr. Matsunaga: For Kaua'i would be 4,000. Statewide we have something in the range of 25,000 plus. You've seen us in the news and all of that, and most recently we we're blessed, legislature providing 600,000,000 million dollars to expand and move our program even further, but that covers maybe 3,000 homesteads and so, we are in need of a 10x more funding to provide residential, ag, and pastoral homesteads, and so I think the construction contract for this project in Hanapēpē is over 17-million dollars, so hopefully we'll be starting construction soon and then we're going to be putting our requests for proposals to build the houses on many of these lots, so I appreciate the question and we're always here to provide whatever education.

Chair Ako: So, this is Phase II?

Mr. Matsunaga: This is Phase...the new lots are considered Phase II, there's 82 new lots. What this subdivision request also does is expands our first phase lots, there are roughly about 6,000 square feet, they're really skinny lots and so, the commission looked at and approved extending the backs of the lots, above 1,500 square feet, so that these lots would be equal in size to the new lots.

Chair Ako: And best guess scenario everything goes right, permits all get approved, when do you think that final house will be sold?

Mr. Matsunaga: The final house?

Chair Ako: Yeah.

Mr. Matsunaga: I'm thinking that infrastructure would take about a year or so, and so probably another year after that, in terms of completing all of the houses.

Ms. Apisa: I'm just curious, do you build the houses and then the people buy them with the house on it, or do they do the construction?

Mr. Matsunaga: We have multiple way of going through the house construction process, so in Anahola we had a program called Vacant Lot Awards, and so in those cases the individual lessees would obtain their financing, obtain house construction plans, and they'd be like an owner builder type. We also have turnkey, which possibly Hanapēpē will be, but we will have a developer contractor come in and they'll be required to obtain construction financing, so they'll be building the houses and then actually selling those to the waiting list, whoever is financially qualified, and we go by rank order, so the top of the list and qualify them and then basically continue until we can get all buyers.

Ms. Apisa: Thank you.

Mr. Matsunaga: We also have, if habitat is available or other self-help entities, we like to also go through that process because it's more affordable.

Chair Ako: Anything else Commissioners? Thank you very much for coming and sharing.

Mr. Matsunaga: Thank you. We've not been here for some time, and we hope to be back soon.

Chair Ako: Alright, thank you. So, with that, Mr. Estes, can we have the recommendation.

Ms. Apisa: I move to grant tentative approval with Condition 6.A. as amended.

Ms. Barzilai: Commissioner, would you like to hear the recommendation of the department prior to your (inaudible)?

Ms. Apisa: Oops. Yes.

Mr. Hull: (Inaudible) as part of the record, (inaudible) record (inaudible).

Chair Ako: We can just move forward.

Ms. Apisa: Thank you.

Chair Ako: We have a motion on the floor.

Mr. Ornellas: Second.

Chair Ako: Any other concerns or comments? If not, Mr. Clerk, roll call vote please.

Mr. Hull: Roll call on a motion to approve. Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 3:0. With that, that completes all of our agenda items for (inaudible).

Chair Ako: Okay, there are no more items on the agenda. I can entertain a motion to adjourn.

Mr. Ornellas: Move to adjourn.

Ms. Apisa: Second.

Chair Ako: All those in favor say aye. Aye (unanimous voice vote). Those opposed. 3:0. Meeting adjourned.

Chair Ako adjourned meeting at 8:54 a.m.

Respectfully submitted by:

*Lisa Oyama*  
Lisa Oyama,  
Commission Support Clerk

Approved as circulated (Meeting of April 11, 2023).

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