

KAUA'I PLANNING COMMISSION  
REGULAR MEETING  
**June 04, 2024**

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair Donna Apisa at 9:24 a.m. - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

Mr. Gerald Ako  
Ms. Donna Apisa  
Ms. Helen Cox  
Mr. Francis DeGracia  
Ms. Glenda Nogami Streufert  
Mr. Jerry Ornellas  
Ms. Lori Otsuka

Excused or Absent

The following staff members were present: Planning Department – Director Ka'aina Hull, Deputy Director Jodi Sayegusa, Staff Planner Kenny Estes, Shelea Koga; 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**

Chair Donna Apisa: Call the meeting to order. Thank you.

**ROLL CALL**

Planning Department Director Ka'aina Hull: Good morning, Madam Chair, members of the Commission. First order of business is roll call. Commissioner Ako?

Commissioner Gerald Ako: Here.

Mr. Hull: Commissioner Cox?

Commissioner Helen Cox: Here.

Mr. Hull: Commissioner DeGracia?

Commissioner Francis DeGracia: Here.

Mr. Hull: Commissioner Ornellas?

Commissioner Jerry Ornellas: Here.

Mr. Hull: Commissioner Otsuka?

Commissioner Lori Otsuka: Here.

Mr. Hull: Commissioner Streufert?

Commissioner Glenda Nogami Streufert: Here.

Mr. Hull: Chair Apisa?

Chair Donna Apisa: Here.

Mr. Hull: You have a quorum, Madam Chair. 7:0.

### **APPROVAL OF AGENDA**

Mr. Hull: Next, we have up is Approval of the Agenda. Is there any public testimony on approval of the agenda? Chris, Chris, Chris, we're not on the minutes yet. We're not on the minutes. Is there any other testimony on approval of the agenda? Seeing none. The department has a few recommended changes to the agenda. We've got a number of applicants in the audience today and then we also have a series of zoning amendments that don't have applicant specific agenda items, so the department is recommending that we adjust the agenda to accommodate those that are here for applications, so that each of the respective L items for new business immediately precede the their respective agency or public hearings. We're also recommending that Agenda Item G.1., Uahi Ridge be moved to directly proceed Agenda Item F.b., and lastly, we're recommending that the agenda reflect the accurate March meeting minutes from March 12th 2024, as opposed to March 3rd.

Mr. DeGracia: I move to approve the agenda as stated by the Director.

Ms. Streufert: Second.

Chair Apisa: We have a motion on the floor. All in favor, I think a voice call is fine. Aye (unanimous voice vote). Motion carried. 7:0.

### **MINUTES OF THE MEETING(S) OF THE PLANNING COMMISSION**

Mr. Hull: Next, we have up is Minutes of the Meeting of the Planning Commission, March 12th, 2024. Is there any public testimony for the minutes of the Planning Commission meeting?

Deputy County Attorney Chris Donahoe: Thank you, Commission. Good morning, Deputy County Attorney Chris Donahoe on behalf of the County Attorney's Office. As far as the minutes go, my office and the department are in the process of compiling a certified record on appeal for an agency appeal with the Circuit Court. It was brought to my attention by Council Bianca Isaki, who represents Friends of Māhā'ulepū/Save Kōloa that there was a discrepancy in the minutes.

She gave me the portion of the videotape, the video recording. I did watch it, I did confirm that that certain words were omitted. It is on page 67 on line 3, Ms. Hammerquist is saying she didn't just drop out of the sky and then the words that were emitted were, so this and then testimony continues. So, I confirmed that that they were omitted, so I'd be just requesting that the commission move to amend line 3 on page 67 include the word, so this in that portion and grant the motion to approve the amended minutes so that we can have an accurate record, a certified record filed with the Circuit Court. That's all.

Ms. Streufert: I'm sorry. I don't quite understand that. So this comes after she didn't drop out of the sky?

Mr. Donahoe: Yes.

Chair Apisa: So this.

Mr. Donahoe: So, the video recording you hear Ms. Hammerquist after saying she says, so she didn't just drop out of the sky so this and then, and then Ms. Neustein says I came to speak to Chris Donahoe.

Ms. Streufert: I see, okay.

Mr. Donahoe: So, it would just give the addition of those two words, so this. That's all.

Chair Apisa: Do we have any discussion on it or a motion to approve the minutes as...

Deputy County Attorney Laura Barzilai: Madam Chair, I think (inaudible) testimony.

Mr. Donahoe: Thank you, Commissioners.

Mr. Hull: Before that you still wanna call for additional public testimony.

Deputy County Attorney Laura Barzilai: We have additional testimony.

Chair Apisa: Oh okay. I'm sorry, additional testimony.

Mr. Hull: Is there any additional testimony from the public on this agenda item for the meeting minutes of March 12th, 2024? Seeing none.

Chair Apisa: Okay. Now any from the Commissioners, any questions or comments or ready for a motion.

Ms. Streufert: I move to accept the minutes of the meeting with the correction.

Ms. Otsuka: Second.

Chair Apisa: We have a motion on the floor. Any discussion? All in favor? I think a voice call would be fine. Aye (unanimous voice vote). In favor? Aye. Motion carried. 7:0. Thank you.

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

**HEARINGS AND PUBLIC COMMENT**

**Continued Agency Hearing** (None)

**New Agency Hearing**

Mr. Hull: Thank you. Next up we have F.2. We have no Continuity Agency Hearing, so moving...Oh, I apologize.

Chair Apisa: We'll take...there was some last-minute testimony, so we're going to take a 10-minute recess, so the Commissioners have an opportunity to read the late testimony received.

The Commission went into recess at 9:29 a.m.  
The Commission reconvened from recess at 9:40 a.m.

Chair Apisa: The meeting is reconvened. Thank you.

Mr. Hull: Next on the agenda, we have Agenda Item F. Hearings and Public Comment, New Agency hearing.

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2024-9), CLASS IV ZONING PERMIT (Z-IV-2024-4), and USE PERMIT (U-2024-4) to allow construction of a parking facility featuring four (4) canopy structures with rooftop photovoltaic (PV) system, new storage building, associated on-site improvements on a parcel situated on the west side of Ala Kalanikaumaka in Po'ipu, immediately adjacent to the Kukui'ula Shopping Center, situated approximately 350 feet west of the Ka'ulu Street/Ala Kalanikaumaka intersection, further identified as Tax Map Keys: (4) 2-6-015:010 & 011 (Par.), and affecting a total land area of approximately 13.35 acres = KUKU'ULA VILLAGE LLC. [Director's report received 5/22/2024.]

1. Transmittal of Agency Comments to Planning Commission.
2. Director's Report pertaining to this matter.

Mr. Hull: I don't have anyone signed up for public testimony. Is there anyone in the audience who has not signed up for public testimony, but would like to testify on this agenda item? If so, please approach the microphone. Seeing none, the department would recommend closing the agency hearing.

Ms. Cox: I move to close the agency hearing.

Ms. Streufert: Second.

Chair Apisa: We have a motion on the floor to close the agency hearing. All in favor? Voice vote, that's fine. Aye (unanimous voice vote). Motion carried. 7:0.

**NEW BUSINESS (For Action)**

Mr. Hull: And now proceeding directly to the Agenda Item L.1., I'll turn it over to Shelea for the, for a summary of the Director's Report pertaining to this matter.

Staff Planner Shelea Koga:

Ms. Koga 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).

Mr. Hull: Thanks Shelea. Is there any questions for staff, for myself, I thank, Shelea for pitching hitting, Romio had a bit of a family emergency. Shelea's filling in for him. If there's no question for us, we can bring the applicant up.

Ms. Streufert: That's a good idea.

Chair Apisa: I think we're ready for the applicant.

Unknown man from audience: Good morning, Chair, Planning Commissioners, thank you for allowing us to...I have a short presentation that I want to show. Just log into the Zoom, I think, get it up on the screen.

Ms. Otsuka: He didn't give his name.

Mr. Hull: Tom, if you can state your name for the record.

Mr. Tom Schnell: Oh, I'm sorry. My name is Tom Schnell. I'm with PBR Hawaii, we're the agent for the applicant. PBR Hawaii is a land planning and landscape architecture firm. We're based on O'ahu and they do work on all islands. I think I'm logged into the Zoom already.

(Mr. Schnell trying to log onto Zoom for his presentation)

Mr. Schnell: I think I need permission to share my screen.

Ms. Otsuka: Donna? Donna? He asked for permission...

Chair Apisa: Oh, yes, please proceed to show your screen. We look forward to seeing it.

Mr. Hull: Sorry, Shan...

Ms. Cox: (Inaudible) get permission.

Mr. Schnell: I need permission.

Mr. Hull: Digitally, we're trying to set that up.

Chair Apisa: Oh, oh, oh. Okay.

Ms. Otsuka: I'm sorry, I'm sorry. It's my fault.

(Planning Staff assisting Mr. Schnell to set up his presentation)

Ms. Koga: Does it allow you to now?

Mr. Schnell: (Inaudible) my video, yeah. It still says disabled.

Mr. Hull: Okay, Tom, you're up now, (inaudible) it.

Mr. Schnell: Alright.

(Planning Staff assisting Mr. Schnell to set up his presentation)

Mr. Hull: Can you make him a host, Shelea?

Ms. Koga: Yeah, that's what I was going to do.

Mr. Schnell: Okay, we're there. I don't think...is this mic on, yeah? Okay, all right. Thank you for your patience. As I mentioned, my name is Tom Schnell, I'm with PBR Hawaii. Also, with me today is Francisco Gutierrez, he's with A&B and the Shops at Kukui'ula, and then Stacie Chiba is also with A&B and the Shops at Kukui'ula. Kevin Goto is our Project Engineer and Trisha Watson from Honua Consulting prepared a Ka Pa'akai Analysis for the project. So, we're here today. We submitted a combined application for an SMA Major, a Class IV Zoning Permit and a Use Permit. I'll just briefly go over the location it's in Po'ipu. It's adjacent to the Shops at Kukui'ula. This is a better picture, I think. So, here's an aerial view of the Shops at Kukui'ula, outlined in yellow. The red that you see on the side that is the condominium property regime lot that Sheila mentioned it's outlined as red, it's a CPR lot and that's where the parking lot expansion will be. It's in the state urban district. General plan is neighborhood center, zoning is neighborhood center, or commercial, general plan is residential community, and the zoning is residential R10 on (inaudible). It's in the special management area. The existing conditions is that this area here is on the left side is a dirt parking lot already. It's already used by employees for parking, it's graded already previously. I'll show you a picture of the proposed improvements in a moment, but the project is to pave the parking area and put PV canopy structures on the top. The PV structures would provide about 38% of the shopping center's power. And these are site photographs, and you can see that this is the existing parking lot area that's been paved. It's gravel. It presents an uneven surface for employees to walk over and the lighting at night, so those will be major improvements for employee safety. Where the boulders are here you can see the edge of the existing shopping center parcel and the parking, there's kukui trees there and so on the right side is the existing parking facility. And this is just another farther back view of the area. So, the proposed improvements include a paved parking area with 92 parking stalls in our application in the Director's Report it noted 90 parking stalls, but plans were revised a little bit since we have last submitted the SMA application. So, it's 92 parking stalls and we will comply with Kaua'i County code regarding the requirements for EV parking. Currently we, you know, we had planned for seven parking spaces but if the code says 14, we'll do 14. That's fine. These are EV-ready parking spaces, meaning they'll be power provided to the parking spaces, the applicant is currently working with a vendor to provide the charging system, but they didn't get a vendor signed up yet to provide the chargers. The project improvements will also include a

drainage system for the parking lot, landscaping and irrigation for landscaped areas and the four PV structures over the parking lot and will also provide shade for the parking area. And there's an electrical system to transfer the PV power to the shopping center. The proposed improvements also include a small storage building, it's about 500 square feet, it's circled here in red, which is down a little bit further from the parking area and I have a picture in elevations of that I'll describe that in a moment. The PV structures themselves, there's three different types. One is approximately 23 feet 11 inches tall; the other is 22, and 9 inches tall, and there's one on the right side that's like a cantilevered structure, it's 19 feet 3 inches tall. There's concrete footings that hold the poles in place.

Ms. Streufert: Before you go can I ask a question on that? Sorry.

Mr. Schnell: Sure.

Ms. Streufert: Because it is about the elevation. Why does it have to be, I understand the angle of, because it's about 20 degrees, I think, and we're at 21 degrees latitude, so that makes sense that it would be about 20 degrees. But the question is one of, why does it have to be that high to start with?

Mr. Schnell: I could bring our Project Civil Engineer up to answer that question, but maybe I'll...

Ms. Streufert: We'll wait.

Mr. Schnell: ...go through the rest of the presentation and we'll...

Ms. Streufert: That's (inaudible).

Mr. Schnell: Thank you. The storage building, here's some shots of the elevations, but it basically is a storage building footprint is about 500 square feet, little bit less than that, I think it's 451. It's a standing seam roof and it'll be hardi plank lap siding with trim around the doorways and the edges and the height is about 9 feet, not including the roof, about 13 to 14 feet with the roof. And this is our landscape plan, the landscape plan includes native and (inaudible) plants as had been recommended and I'll just leave it at that, but here's a plant palette. Next slide, here we go. Plant palette includes White Hibiscus, Dwarf Laua'e Ferns, 'A'ali'i, Red Hibiscus, Kukui Trees. That's all I have for the summary, but I'm sure if you have questions, we're available.

Chair Apisa: Commissioners have any questions for the applicant?

Ms. Cox: I have a couple. One is, so you're, I guess this is not even a question, it's a recommendation, that you go with the larger number of EV stalls because we're already seeing more and more transition to EV vehicles, and we really need move in that direction. The question is about the pending Ka Pa'akai Analysis for the larger TMK that's mentioned in the application. Do we know when that's going to happen?

Mr. Schnell: So, there was a subdivision, tentative subdivision approval for the larger lot, there's one portion where we're putting the parking that's been as CP, that's a CPR lot. There's a tentative subdivision application for the complete, you know, it will no longer be CPR it'd be a

subdivision. The application has been approved and we're in tentative approval. There's a lot of conditions that go with that application, so Ka Pa'akai is just one of the conditions that I think the applicant for that subdivision has been working through for the last couple of years.

Ms. Cox: Okay, but there's no expectation that, that larger Ka Pa'akai will be done before this project (inaudible).

Mr. Schnell: No, we would like this project to move forward. That's why we did a separate Ka Pa'akai Analysis just for this piece.

Ms. Cox: Thank you.

Ms. Otsuka: Just for my curiosity, why three different heights in the structure?

Mr. Schnell: I think it has to do with the spans or the areas that it must cover, but I think maybe our civil engineer can answer that question along with another question.

Ms. Otsuka: Thank you.

Ms. Streufert: I have another...oh, go ahead. Did you have a question? On page 45, you do specify that the under Scenic and Open Space Resources, the improvements are not expected to have an impact on scenic resources in the coastal areas, the property is not near the shoreline and the PV canopies over the parking lot may partially obscure distant views of the ocean from the vantage point of the existing parking lots serving the shopping center currently. But it will obscure the view from the older homes in Kōloa that are on the opposite side of the bypass. Is it possible then to move more of the parking further south or further makai, which is where most of the shops are, right now you have the parking where there are very few shops, right? So, if you move that parking closer to the shopping center further makai of that, adjacent to the parking, adjacent to the shops, you would have your customers closer and your workers closer to where they would be working or shopping and you would not be blocking as much as the view from the older homes in Kōloa on Kōloa Road. Could that be considered?

Mr. Schnell: I understand your question. Let me take it in two parts. The reason why it was located at the top part of that parcel (inaudible), is that's already an existing, graded and compacted area and that's where employees currently work and this parking, additional parking pavement area is meant for employee parking, so it is kind of far away from the shops on purpose, and it's adjacent to a larger mauka parking area too. As far as the views from other homes, or I'm not sure the elevation of those other homes maybe that there's, if they're mauka maybe they're slightly higher, no?

Ms. Streufert: No, they're not, they're about the same. This is the area that I know pretty well and the older homes on Kōloa Road are about the same elevation and they're across the street, there's an open space and then there are the older homes. I think this might block some of their view and I'm just so I'm wondering why it can't be, because 23 feet 9 inches is pretty high and if that, if that can be put further down closer to the makai side of it, closer to the shops, you wouldn't be blocking as much of their view. I'm not sure that you're going to blocking any of it, but it will be at least lesser and everything, people are going to be closer to it, to include your workers. I'm sure your workers would appreciate being closer to where they have been working to.



Mr. Schnell: I think, if we moved it down a little bit further, that would be more, you know, a less disturbed area that we require more grading, and it's already not established as a parking area. So, there's at the bottom of that piece, there's nothing proposed this time and the existing shopping center has two-story buildings. I'm not sure how high they are, they must be about 30-35 feet, so, in context with the surrounding area it may not be that significant impediment to folks' view.

Ms. Streufert: Let's see, I think most of those older homes are a little north of where the buildings are, so, all I'm trying to do is to make sure that the people who are currently living there, who are probably more established residents in that area are not going to lose any more of that view that they absolutely have to.

Mr. Schnell: As part of the public hearing process, we sent notices of this hearing to everybody that lives within 300 feet. We (inaudible)...

Ms. Streufert: They're above, they're further than 300 feet, I think, so, you wouldn't have gotten to them.

Mr. Schnell: So, maybe I can bring our (inaudible). Francisco would like to come up.

Mr. Francisco Gutierrez: Hi. Good morning, Chair and members. My name is Francisco Gutierrez, I'm with A&B with the Shops at Kukui'ula. Thank you for your question. So, we have spent time looking at the site to understand whether there was going to be any visual impact, and we have taken views from different places across the street and the placement of the canopy was intentionally so that it would be behind some of the existing trees and we didn't really see any specific impact, if there is some we're happy to review again, but we couldn't find any direct visual impact because of the existing trees. The slope of the canopy is based on the maximum efficiency for the panels and that's how we go from 16 to 23. We can revisit through the permitting process maybe to try to lower that a little bit, maybe from 16 down a little bit to the extent that it doesn't interfere with emergency vehicles in the driveway, we'll be happy to release that for the permitting process, but again, I think we have made every effort to make sure the panels wouldn't have any visual impact.

Ms. Streufert: I'm just concerned about the residents of Kōloa, and that they have a right to a scenic view and not just PVC canopies. And they've already lost a lot of their scenic resources by all of the building that's going on there and I would like to ensure that every effort is made to ensure that we do not encroach anymore on their scenic views. And I'm very glad to see that you were going to go up to 14 EV units because that seven was not appropriate for your 92, it would have been 14.

Chair Apisa: Thank you. Any further questions for the applicant? I think we're ready for the recommendation from the county. Thank you, Tom, for your presentation.

Mr. Schnell: Thank you very much.

Mr. Hull: I'll say the recommendation standard is originally drafted with one exception. There needs to be a correction made to condition one, which reference of boat touring facility, which this is clearly not, so, Sheleah, could you revise that condition?

Ms. Koga: Yep. I have it noted here also, as I go through the recommendation. So, based on the forgoing, it is hereby recommended that the construction of a PV system and employee parking through Class IV Zoning Permit (Z-IV-2024-4), Use Permit (U-2024-4), and Special Management Area Use Permit (SMA (U)-2024-9) be approved with the following conditions listed in the Director's report. There is a correction to be made for condition one and should be read as follows; the proposed development shall be constructed as represented, any changes to the operation and uses of the respective structure shall be reviewed by the County of Kaua'i, Department of Planning to determine whether Planning Commission review and approval is required, and all other conditions will remain the same.

Ms. Streufert: Could I ask a question on that?

Mr. Hull: Yep.

Ms. Streufert: If they, if you are truly considering lowering the canopy of the PVC, and if they then decide that they might want to move the parking further makai, does that have to come through us again, or does that go just directly to (inaudible)?

Mr. Hull: Generally speaking, nominal move like that under the condition one would be entertained by the Planning Department, unless you folks have an objection to that and you can make it clear on the record that any move makai would necessitate further ado by the Planning Commission, I mean if that's stated on the record then should that happen, we would forward it back to you folks, but generally speaking as the way condition one is referenced a nominal move like that would not warrant coming back to the commission.

Ms. Streufert: Could another condition be put on there, that all efforts must be made to ensure that the scenic resources from the residents of Kōloa are, I can't say protected, but are considered in the location of the parking or something to that effect.

Mr. Hull: Absolutely.

Chair Apisa: Helen?

Ms. Cox: Yeah, I'm wondering about the condition, the one about the...oh, it's Condition 4, which now says 7 photovoltaic EV stalls, but it sounds like they're willing to go up to 14. Could we change that to 14?

Ms. Koga: So, the way the code is actually written is, sorry let me read it off of here, 15% of the total number of parking spaces with a minimum of one parking space and all fractions rounding up, minus the number of any EVCS spaces voluntary installed to the standards prescribed by this article, and so what it's saying in Condition 4 is that, so they originally proposed seven parking space, and so they have to, they have to give seven more to meet that 15% or 15%, which is a total of 14 EV spaces.

Ms. Cox: Oh, okay, okay. Thank you.

Ms. Koga: It was just minusing the number that they had already given voluntarily.

Ms. Cox: I see got it. Thanks.

Ms. Otsuka: So, I'm not, I'm not sure if my question was answered as far as why the difference in the elevation of the structures, the shortest being the 19 feet and 22 feet, I'm wondering if the two feet would make enough of a difference to satisfy Glenda's concern as far as the view. I don't know.

Ms. Streufert: But it would help.

Ms. Otsuka: Like could they all be 19 feet?

Mr. Gutierrez: So, the...is this on? Can you hear me? Depending on the width of the canopy, the longer the, the wider the canopy, the taller it gets, right, because the slope is constant. So, some of these canopies are, they have different sizes. That's why some of them are taller, right? So, the two tools we have is, we either change the slope to bring the top down a little bit, or we just drop everything. And again, there is no benefit to us to make these canopies taller than they have to be, right? We want to keep them as low as possible. So again, if we can bring them down without any creating any interference with the path for vehicles or any other problem I don't know why we wouldn't to try to bring them down, so, we'll be happy to revisit that and again reconsider whether they have any visual impact, which again we haven't been able to identify any direct impact because the place, we have place these canopies as far back as possible from the public right away already, and behind those trees very intentionally and strategically to minimize the impact, but we'll be happy to revisit the angle as well as the height through the building permit process and make sure we make every effort to lower them. Lower canopies would also be lower cost of building the canopies. I can see how that would be beneficial to everyone.

Ms. Otsuka: That's good to know. Thank you.

Mr. Ako: Madam Chair, I got a question. What does Condition 1, read again as amended?

Mr. Hull: Condition 1 would read as amended, if the proposed developments (inaudible) be constructed as represented. Any changes to the operation and uses of the respective structures shall be reviewed by the County of Kaua'i Department of Planning to determine whether Planning Commission review and approval is required.

Mr. Ako: Okay, that's it. There's no mention about...

Mr. Hull: Boating.

Ms. Cox: Boats.

Mr. Ako: No, I just thought there was something in there about the...that you would lower it as much as you could in there.

Mr. Hull: No, so for, Commissioner Streufert's comment, we could, we could, I would have no problem doing it as a department recommendation, add a Condition 13, which states and I just was drafting this while discussion was going on, so, Commissioner Streufert, if this isn't to your kind of liking, we can kind of revisit, but Condition 13 could read; all considerations shall be

made during building permit submittal to protect the view plain corridors of Kōloa and Po'ipū residents and those that visit or frequent area. I'm not sure that gets to what you're meaning, Commissioner Streufert.

Ms. Streufert: I don't know how that would, that's so...

Ms. Otsuka: Kinda vague.

Ms. Streufert: ...generic, but I'm not sure that that actually conveys, but I'm not sure I know how to do it otherwise.

Mr. Hull: Yeah, so, and there's a question of having this discussion and trying to hash it out on the floor versus asking the applicant for, you know, a view plain analysis and or possible alternatives. The one way you know, absent that, the kind of generic, you shall make every attempt, but there's no hard and fast regulatory requirement. The other aspect, should you guys want to continue these discussions on the floor is is we could adjust Condition 1 to state, and it would read as follows; with the exception of the height of the photovoltaic canopy structures, which shall not exceed "X" height, the proposed development and the condition would read as is, so you have the authority to set a height envelope on the canopy structures. Absent that, you know, trying to get you know, action from the commission today and...action today is also not necessary. I think the commission seems to be grappling just primarily with the height and the impact of the view corridor.

Ms. Streufert: And the location.

Mr. Hull: And the location. So, if there's a desire to request additional review plane analysis be provided by the applicant that's completely within your purview as well.

Mr. Ako: Commissioner, your issue with the location is based upon the view or...

Ms. Streufert: From the homes.

Mr. Ako: So, if we just lower it down at the current location and you don't obstruct the view, is there an issue about moving the parking structure further?

Ms. Streufert: You know, I really don't know. I can't tell you. I just think that there are those homes along Kōloa Road. There are older homes and right now they have, Kukui'ula has a, the shopping centers have blocked some of that view, not that they have a direct view to the ocean, but it's more an open playing field. By putting the wider structures closer to the road, you're also blocking more of the view because it does, it does dip down a little and it just seemed to make more sense to put it closer to where the shops are, Lapperts, and all those shops where most people go to are further down, not at the top. I understand the reason for putting it at the top there that it's closer to the other parking areas, but it's just a, it's a consideration. I'm not sure that it's within our zoning rights to be able to make those kinds of requirements. So, I guess I'm looking for a good-faith effort by the builders as well as working with the Planning Department to ensure that as much as possible can be done. I don't, I only know about the angle of it, which is supposed to be the angle of the latitude or wherever you're putting it and that's 20 degrees and we're at 21, so that seems to make sense, but height and everything else, I'm not really sure. I'm

not a, I'm not an architect, and I'm not a builder, but I'm looking out for the residents of Kōloa, so that was if the Planning Department will work with them to ensure that we have as much of the view plain as possible for the residents. I have full faith in the Planning Department, and I will put my faith in the developers to work together.

Ms. Otsuka: Ka'aina, I'm not sure if I read somewhere that in the future in the larger property on the side of this parking lot will someday be resort.

Mr. Hull: There's potential for resort development in Kukui'ula.

Ms. Otsuka: Potential. So, for me, I cannot see worried about the PV parking thing versus a resort right next. It's gonna block it anyway.

Ms. Streufert: At some point, depending on how they build the resort and whoever is on the Planning Commission at that point, can have that responsibility. It's not mine. I only have a little bit of influence on what we have right now.

Mr. DeGracia: I believe I might have a question for the applicant. I believe they mentioned that there were trees that were already going to be blocking. I had question about the trees, what type of trees they are, how tall they normally grow, because if we're discussing the height of this PV with the height of 19 feet at the tallest, and with the trees...

Ms. Streufert: 23 feet.

Mr. DeGracia: ...23 feet. If these trees naturally grow taller then I'm not sure if you know...

Ms. Otsuka: Gonna block anyway.

Mr. DeGracia: It'll be blocked anyway by the trees.

Ms. Streufert: But they're cutting the trees.

Mr. DeGracia: Oh.

Ms. Streufert: You're cutting some trees. I'm not sure which trees they are that you're cutting.

Mr. Kevin Goto: Hi. Kevin Goto from Goto Engineering, I'm the Civil Engineer on the project. So, yeah, we are removing some trees to accommodate for the parking and the PV. We're putting that trees in its place. It might not be as tall as the PV canopy heights, but there will be trees there. There will be vertical elements. Elevation wise related to the residential communities nearby, the parking area is already pretty downlow, and the natural slope goes up, so from the houses looking down, I mean you're already kind of above, right, the canopy heights somewhat.

Ms. Streufert: Not much.

Ms. Otsuka: The current trees, you mean. I already (inaudible).

Mr. Goto: Well, the trees and then also...

Ms. Otsuka: 23 feet.

Mr. Goto: ...the elevation of the site itself is sloping up to the residential community, so it's not like, you know, everybody's on a level plain looking over, so, there will be some elevation difference like we said before, we will look back again and see how much we can lower it as much as we can, there are other considerations to, like the emergency vehicles and also, garbage trucks that will go underneath the canopy as well, so that was part of the reason why it's the way it is, but certainly if we can make it lower, you know it's for our benefit to right, from a cost standpoint. So, that is something that we will be looking at after this.

Mr. Hull: I can say for you, Commissioner Streufert, you made a statement that you're not sure if it's within your zoning authority to require lowering or moving, it is absolutely within this bodies purview and authority to say, in order to impact, in order to mitigate impacts including but not limited to view plains, to require them to move a structure or to shorten the height, and that's a pretty standard authority of a Planning Commission. You may not be able to get to what you want to require without additional analysis or provisions from the applicant so there is that I want to just state that for the record. On the flip side, you also mentioned something about just making sure that they work with the department on that avenue you know we could adjust Condition one to state, what it states right now; the proposed (inaudible) should be constructed as represented etcetera, etcetera, etcetera and then finish with, good faith efforts shall be made by the applicant to further mitigate the following the photovoltaic canopy view plain impacts and so, in working with the Planning Department we would require, you know, them to look at either moving it or lessening the height in a manner that further mitigates and if they can provide those documentations and reasons and justifications for why they cannot, and if it's not to our acceptance, we send it back to the Planning Commission to say, these good faith efforts have not been made, we're going through a secondary review with the commission. That's one approach on it. I want to stress, it's not necessary to take action today, but if the commission's kind of leaning to take action today, from what I'm hearing from Commissioner Streufert's comments, that is one possible avenue.

Mr. Ornellas: Which in my mind raises a question. Does the county have a view plain ordinance in place today?

Mr. Hull: It does not, but within the discretion of a use permit application, which this is, a use permit application, essentially, the use permit is to allow for a higher intensified use than the zoning district allows for ministerially, technically while the shopping centers and the commercial zoning district and commercial uses and commercial parking are outright permissible in that lot this respective lot is within the residential zoning district, so it requires the use permit because it's a higher intensified use of the area. And so, in that higher intensified use to go back to compatibility, (inaudible) we have this discussion about subdivision, there isn't a use permit compatibility distinguishing fact, there is and this, and view plain within your own, you know, individual discretions come to the table to apply what you think is compatible and what isn't and then ultimately it goes to the vote to see if the body agrees or not. Sorry, that was kind of long winded, does that somewhat make sense?

Mr. Ornellas: Thank you.

Ms. Barzilai: I would add that we're also dealing with significant adverse effect under SMA 7.4...

Mr. Hull: Yeah.

Ms. Barzilai: ...the commission can consider...

Mr. Hull: Yeah.

Ms. Barzilai: ...including environmental effects. So, it is within your authority.

Mr. Ako: Madam Chair, I would say that, you know as much as, I guess I'm glad that it's part of our authority to make definitive lines and limitations of where we are, yeah, but when I look at this, this is pretty complex, I mean, we talked about it, you know, about the garbage trucks come inside, it might be a really simple thing, but you know it's something that I'm not even coming within the realm of my thoughts and there, so, it's a lot more complicated than I think for me to go ahead and figure this out, but, you know when we talk about the idea about, you know working in good faith with the department as well as with the corporation, you know, I have a lot of faith in that, you know, and because of that faith, I think I have that I would be good in keeping the permit as it is and leaving it up to the two parties come together as you try in your best faith to see whether it's feasible or not lower or heights, you know for the sake of visibility of the residents.

Ms. Streufert: I'm willing to go along with the, with the, what Ka'aina has proposed, because I'm not an expert in this and I don't intend to be, but I do know that I believe that the people of Kōloa also have a right to open space and to have a scenic view. It may not be of the ocean, but at least it's a little bit better than seeing PVC panels above car parking lots. And I, but I do appreciate that (inaudible), I have full faith in the Planning Department and in Ka'aina, and his staff to include Romio and Shelea to work with the builder to come up with something that may be more feasible or at least to ensure that the people on that road know what's happening and what's going to be happening. Yes, they might be development, but the question is really (inaudible), if they're lower buildings they're not going to be 23 (inaudible), 23 feet 9 inches, or whatever. So, it's just a question of how to balance it.

Ms. Cox: I guess I would, I agree, adding them to the Condition No. 1 is a great idea and I completely trust working together, but I also think that maybe part of that working together is also looking again at the view plain because there does seem to be a difference of opinion and frankly, I would have thought that those Kōloa homes would not be impacted by those and I'm not saying I know, but I mean, I just think if you're gonna, if we're asking them to either move or lower, let's make sure first of all that it is an issue. That's all.

Ms. Otsuka: Yeah, good point.

Chair Apisa: I like Ka'aina's proposal there and it seems like Chair Streufert is leaning in that, can you kind of like formulate it and give it to us one more time, for amending Condition No.1.

Mr. Hull: So, Condition No. 1 currently reads the proposed development shall be constructed as represented. Any changes to the operation and the uses of the respective structures shall be reviewed by the County of Kaua'i Department of Planning to determine whether Planning Commission review and approval is required. And the new language would be added to that to read at the end of it, good faith efforts shall be made by the applicant to further mitigate the PV photovoltaic canopies view plain impacts.

Ms. Cox: Yeah, that's good.

Ms. Streufert: it's good.

Chair Apisa: Any other discussion on this? Or is someone ready to make a motion?

Mr. Ako: Before we get there, is this okay with that applicant?

Unknown male: Yeah.

Ms. Cox: Yeah, they're saying okay.

Ms. Schnell: For the record, yes.

Chair Apisa: Okay, I would entertain a motion from the Commission.

Ms. Cox: I move that we approve, the Director's report with the amendment to Condition No. 1, for the consideration of Class IV Zoning Permit, Use Permit, and Special Management Area Use Permit for the construction of photovoltaic system, storage building and employee parking.

Mr. DeGracia: Second.

Chair Apisa: We have a motion on the floor. Is there any further discussion? I would like to take a roll call on this one.

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

Mr. Ako: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?



Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye, with full faith in the department in working with the contractor.

Mr. Hull: Chair Apisa?

Chair Apisa: Aye.

Mr. Hull: Motion passes, Madam Chair. 7:0.

Chair Apisa: Thank you.

Mr. Hull: Next, we have on the agenda.

CLASS IV ZONING PERMIT (Z-IV-2024-5), VARIANCE PERMIT (V-2024-1), involving a 2-lot subdivision to allow deviations from the development standards within the Residential zoning district, and SPECIAL PERMIT (SP-2024-2) to allow a deviation from the minimum lot size requirement within the State Rural Land Use District, as prescribed by Hawaii Revised Statutes (HRS) Section 205-2(4)(c), on a parcel situated on the eastern side of Oma'o Road, approximately 1,700 feet south of the Oma'o Road/Naulu Place intersection, and further identified as 3756 Oma'o Road, Tax Map Key: (4) 2-7-004:007, and containing a total area of 1.126 acres = **DAVID A. & JODY K. STILLWELL, TRUSTEES.** [Director's report received 5/22/2024.]

Mr. Hull: We don't have anybody signed up to testify on this agenda item. Is there any member of the public that would like to testify on this agenda item? Seeing none, the department would recommend closing the agency.

Ms. Cox: I move, we close the agency hearing.

Mr. DeGracia: Second.

Chair Apisa: We have a motion on the floor to close the agency hearing. Any discussion? Hearing none, a roll call is, I mean, I'm sorry a voice vote is fine. All in favor? Aye (unanimous voice vote). Motion carried. 7:0.

Mr. Hull: And with that. We'll proceed directly into the New Business for Actions, so I'll turn it over to Kenny for the Director's Report pertaining to this matter.

Staff Planner Kenny Estes: Good morning, all. I'll summarize the report for the record. Good morning, Madam Chair members of the Planning Commission.

Mr. Estes 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).

Mr. Hull: That's a lot of words. For what ultimately can be summarized in this property owner is trying to grab 1900 square feet of land to be able to accommodate a septic system for their house. They are required by the subdivision to go through a subdivision application, a Special permits, and a variance permit application subject to public hearings at the subdivision level at the Planning Commission level, subject to intervention, potential contested case hearings, and if this were 15 acres, the Land Use Commission. The reason I stressed this so much is because in the housing crisis there are some strong regulatory mechanisms that prevent a lot of families from doing somethings like putting a septic system in place and there have been recent movements at the state legislature and individuals and organizations that are fiercely going after the Planning Department and state legislators for trying to remove barriers to do things like put a septic system in. Sorry, I just was moved to make that statement. But at the end of the day, it's a variance permit. The administrative rules haven't been changed at this point. We got to run them through a variance. We gotta run them through Planning Commission, public hearings and Special permits, so, but in a nutshell, we're talking about 1900 square feet. Sorry about that.

Ms. Cox: I have a really basic question. What does pole width, what does that mean?

Mr. Estes: So in a flag lot there is 2 portions of the lot,...

Ms. Cox: Right.

Mr. Estes: ...which is the pole portion, and then there's a flag portion which is normally considered the buildable area.

Ms. Cox: Oh.

Mr. Estes: So, the pole portion is normally considered like a driveway you would use that portion as a driveway.

Ms. Cox: Okay. Thank you.

Chair Apisa: Any further questions from the Commissioners? If not, is the applicant present?

Mr. Jonathan Chun: Good morning, Madam Chair. Jonathan Chun, on behalf of the applicant, along with Jody Stillwell, and Bill Eddy for the engineer who was working on this project. Thank you for the opportunity to present this application. No comments on the Director's comments. I do understand where he's coming from. The engineers and the lawyers thank you for your comments, but anyway I'd like to say that the, you know, this base this project is required, we're asking for the two variances as outlined by the planner. This property is being used right now, by basically family members. We have three houses on the property. Two of them are rented to family members, one is rented long term to a, somebody who works at the PMRF. This is a, I would have emphasized and agree with the director. This is a project that was needed to (inaudible) support housing on the island, but we are required to go through this process, so we ask, and we've gone through the Director's Report we accept the Director's Report. I think that based on good comments we have no suggested changes or amendments and we're here to ask and answer any questions that you might have in regards to this project.

Chair Apisa: Questions from the Commissioners.

Ms. Otsuka: This is a generic question.

Mr. Chun: Yeah, go ahead.

Ms. Otsuka: I am hearing more often, long term rental. Is it standard that is minimum 15 years?

Unknown Commissioners: What?

Ms. Otsuka: What is determined as long-term rental?

Mr. Chun: Under the ordinance, short terms are at six months, I believe, or less...

Chair Apisa: Right, 180 days.

Mr. Chun: ...so anything over six months would be considered a long term, under one definition of long-term rental. But I would say under CZO you would use a six month as the cutoff.

Ms. Otsuka: Okay.

Chair Apisa: Using the transient accommodation tax thing, I think, technically you're supposed to pay TAT on anything under the 180 days, so six months or 180 days and longer is considered long term.

Ms. Otsuka: It's just for my mom's house real property tax. For a long term, it has to state 15 years.

Chair Apisa: Oh.

Mr. Chun: Yeah, that's...

Ms. Otsuka: Except for the exemption.

Chair Apisa: But that's different.

Mr. Chun: Right, that's for the exemption.

Ms. Otsuka: Yeah, so it's different.

Mr. Chun: What you're talking is the exemption for homeowner occupant, the owner occupant.

Ms. Otsuka: Yeah, yeah.

Mr. Chun: Or that, yeah.

Ms. Otsuka: So, that's totally different.

Mr. Chun: Owner occupants, yeah, real property tax requires the owner be, owner of the property and fee or least a lessee of 15 years, or minimum.

Ms. Otsuka: Okay.

Chair Apisa: That's if it's a land is leasehold...

Ms. Otsuka: Okay.

Chair Apisa: ...you need at least 15 years on the land lease.

Mr. Chun: Right.

Chair Apisa: If you're a leasehold occupant on the land.

Ms. Otsuka: Okay.

Chair Apisa: Different than the residential lease for the property.

Ms. Otsuka: Okay. Thank you.

Mr. Chun: Lot of complicated issues (inaudible) yes, I agree, Commissioner.

Chair Apisa: It seems pretty straightforward and Ka'aina, thank you for your opening comments. Any other questions from the Commissioners?

Ms. Streufert: Just a question, how many, how many properties or what percentage are the properties that we have on Kaua'i have cesspools still and not (inaudible).

Chair Apisa: Whoa, a lot. A lot.

Mr. Hull: I don't know off the top of my head, but it's very high number.

Mr. Chun: In the thousands, probably.

Ms. Streufert: So, this would allow you to become, to put into septic systems as opposed to...

Mr. Chun: We already have septic's already on the property.

Ms. Streufert: I saw two of them, yeah.

Mr. Chun: Yeah. We could probably put another one, but yes, any future development with this property is going to require a septic system.

Chair Apisa: Installing a septic is a good thing.

Mr. Chun: Yes.

Chair Apisa: Well, no further questions for the applicants. Thank you. I believe for the county's recommendation.

Mr. Estes: Okay. For the record, based on the forgoing evaluation and conclusion, it is hereby recommending that Class IV Zoning Permit Z-IV-2024-5, Variance Permit V-2024-1, and Special Permit SP-2024-2 be approve subject to the following conditions as noted in the Director's Report.

Ms. Streufert: I move to accept the Planning Departments recommendation to approve Class IV Zoning Permit Z-IV-2024-5, Variance Permit V-2024-1, and Special Permit SP-2024-2, with the conditions outlined.

Ms. Otsuka: Second.

Chair Apisa: We have a motion on the floor. Any further discussion? Hearing none, I'll take a roll call vote.

Mr. Hull: Oh, roll call. I'm sorry, Madam Chair. Roll call. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Apisa?

Chair Apisa: Aye.

Mr. Hull: Motion passes, Madam Chair. 7:0.

Chair Apisa: It seemed like a slam dunk, but I thought we'd better do roll call just in case.

Mr. Chun: Thank you, Madam Chair, and members of the commission.

Chair Apisa: Thank you.

Ms. Otsuka: Thank you.

Chair Apisa: Thank you for (inaudible) me.

Ms. Cox: Thanks for your patience.

Mr. Hull: Next, on the agenda we have.

### **New Public Hearing**

ZA-2024-1: A bill for an ordinance amending Chapter 8, Kauai County Code 1987, as amended, relating to Zoning Designations in Wailua, Kauai that would amend Zoning Map ZM-WA 500 (Wailua). The purpose of the bill is to eliminate the Special Treatment - Public Facilities (ST-P) zoning district designation for affected residential lots within Wailua = COUNTY OF KAUAI, PLANNING DEPARTMENT.

1. Transmittal of Agency Comments to Planning Commission.
2. Director's Report pertaining to this matter.

Mr. Hull: I have no one signed, oh, I apologize.

Ms. Barzilai: I think what you wanted to do was to take Uahi.

Mr. Hull: I apologize.

Ms. Barzilai: No.

Mr. Hull: The agenda was amended to have the status report, sorry, so going back, we are now on agenda item, which was formally G.1. to the Status report.

### **CONSENT CALENDAR**

#### **Status Reports**

Project status update for Project Development Use Permit PDU-2009-9, Class IV Zoning Permit Z-IV-2009-6, Tax Map Key: (4)3-8-005:022 = UAH I RIDGE HUI, LIMITED PARTNERSHIP.

Mr. Hull: Let's see if we can get you guys digital access to our Neat Board. Are you guys able to share screen?

Ms. Koga: (Inaudible) says it's still disabled.

Chair Apisa: Thank you.

Mr. Dean Sakata: Good morning, Chair, Commissioners, and Director Hull. Thanks for allowing us to provide the Status Report on Uahi Ridge Project. My name is Dean Sakata, I'm with Mark Development, Inc., and we represent Uahi Ridge Hui, (inaudible) Partners, so well as 3 Leaf Holdings, and we're the developers of this project. This is a planned 156-unit affordable housing project, all affordable housing in Līhu'e. So, this is right off Kaumuali'i Highway. I know this commission has probably seen this project before for many number of years ago, it's been on the books but, you know, we've solved many problems along the way, and you know we're at the goal line to close. So, we're looking at closing out financing on Phase One to start construction in July. So, as you can see, it borders the highway, and the site is not flat. So, we've had some very, you know, some challenges on site work as well as you know solving our septic problem. So, we actually are connecting to a sewer treatment plant that's located across the highway. So, we're micro tunneling underneath the highway as part, to provide a septic access, so, you know, we had many challenges, but you know, we're almost there. As I mentioned, this is a two-phase project so this is Phase One which will consist of 96 units. All affordable rentals ranging between 30% of median income and (inaudible)% of media income. And then we have a second phase, which is a 60-unit project and we're looking to close a Phase Two financing and start construction, maybe a month or two after Phase One. Our team consists of Mark Ventura, the architect and you know designed three story apartment building, we believe that it's consistent with the neighborhood and the surrounding area. It's a mix of 1-, 2- and 3-bedroom units. All of the units are will be available to families. So, this is another rendering of our project. So, you know, we've accomplished a lot over the last 2-3 years. We've secured financing for both phases both from HHFDC and also with the support of the county. We also received the project-based vouchers, as well as county loan from Kaua'i County Housing. So yeah, we're working toward our financial posing. We're in the last steps of our permitting review for Phase One and we will start our permitting review for Phase Two shortly we will be submitting plans for that phase. So, yeah you know, we're really close, we've accomplished a lot over the last three years, we're actually, we've actually purchased the land in February from the former owner. So, we own, we own the prop sites now and close to finalizing our financing and moving forward with construction. I want to thank you for giving us this opportunity to present our project, but I'd also like to introduce our team that's present here, so, to my left is Alicia (inaudible), she is with (inaudible) Partners. We also have Paul and Kyle Watase from Mark Development and Patti Takaeo from (inaudible) Partners, as well as Mark Ventura, our architect. We're available to answer any questions that you may have.

Chair Apisa: Thank you. Commissioners? (Inaudible) I am it's a walk-up project, right, no elevator.

Mr. Sakata: It's a walk-up, yes.

Chair Apisa: And thank you. I mean, we desperately need some housing, so thank you.

Mr. Hull: I'll say that the reason the applicant, this got approved several years ago via the Planning Commission and the entitlements, frankly for this housing project don't have a sunset date, so it runs in perpetuity with the land. However, one of the conditions is that a status report be provided to the Planning Commission. The previous landowner did not provide status reports for several years, so the developer coming in now is about to make ready on the project, (inaudible) actually about to go through some groundbreaking activities and Kenny did see

reviewing the grading permit that this one condition was still outstanding. We were not of the mind that it warrants a (inaudible) cause or revocation proceedings on this one minor condition, but having them provide the status report, and status reports are generally just consent calendar, you guys accept them unless you want to move them off because it had been some years and that condition existed there, we ask, you know the team if they would be able to make themselves available to provide that status report, just to kind of make the permits whole again, if you will. So, thank you guys for coming. Not sure if there are actual questions, but we wanted to cross that “t” and dot that “i”.

Ms. Streufert: Can I ask a question that’s not specifically to you, but when it says affordable housing and how do you, for how long is that affordable housing?

Mr. Hull: You guys wanna...

Mr. Sakata: Sure. So, as a condition of the financing we received from state and county government. So, in this case, HHFDC is, will be the regulating entities, so there is a restrictive covenant recorded on the property and we will be required to maintain this property as affordable for 61 years.

Ms. Cox: Oh, wow!

Ms. Streufert: 61?

Mr. Sakata: Yes. So, it's a long-term affordable housing commitment.

Ms. Streufert: That's great. Good to know.

Ms. Cox: It is great.

Chair Apisa: And it's affordable housing standing on its own, like any time a developer has a condition to build housing and that, but you're not tied with any development, you're free standing.

Mr. Sakata: Yes, that's correct.

Chair Apisa: Thank you.

Mr. Hull: So, to clarify, the affordable housing requirement isn’t being placed on them by the county. This was originally just a free standing development on its own in their pursuit of propping it up, going through, I believe the (inaudible) essentially was the requirement of a certain affordability and then the County of Kaua'i of course welcomes affordable housing projects, you know, across the board, but we also are looking and (inaudible) that aren't necessarily in that category because they're also still so many families, your typical firefighters, even (inaudible) carpenters are earning outside of that affordability level and...yeah.

Chair Apisa: Hopefully schoolteachers, nurses, lots of, lots of people.

Mr. Ako: So, these are rental units?



Mr. Sakata: Yes, these are rental units.

Mr. Ako: So, if I wanted to purchase it, I wouldn't be able to.

Chair Apisa: No.

Mr. Ako: So, just rental. So, when you talk about 61 years, you're talking about the amount you pay for rent would fall under this AMI...

Mr. Sakata: Correct...

Mr. Ako: 60%, 30%...

Mr. Sakata: So, we would be regulated based upon the various income restrictions placed on the property and the rents would be commensurate to that median income group, so, and we would be bound to that for a 61-year period. So, any renter that rents there, you know in 61 years would you know benefit from the lower rents.

Ms. Streufert: That's great.

Mr. Ornellas: Well, I certainly applaud your efforts and thank you for all of the team for coming here today and briefing us. It's a really aggressive timeline as far as completion, you saying 2025, is that correct?

Mr. Sakata: Correct. Yes, and yes, it is ambitious, but it's doable, I mean, we've got this great team, Mark Ventura, Bow Engineering, Shioi Construction and Goodfellow Brothers, you know, we've been working on this project as a team for about a year and a half, so yeah, it is a realistic schedule.

Ms. Streufert: So, is this just to receive the report?

Chair Apisa: Yes, this was moved from our consent calendar to just receive your report, but we did move it to general business, so we could get a little more input, but I would like a motion unless there are any further questions, a motion to receive the report.

Ms. Streufert: I move to receive the report from Uahi Ridge Hui.

Ms. Cox: Second.

Chair Apisa: We have a motion on the floor to receive the status report. Any further comments or questions? Hearing none, shall we do a roll call again?

Mr. Hull: Your preference, Chair.

Chair Apisa: I don't think it's needed, but for the record, let's do it then.

Mr. Hull: Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Apisa?

Chair Apisa: Aye. Motion carried. 7:0. The report is received and thank you for coming in to give us your report. It's very encouraging.

Mr. Sakata: Thank you.

Ms. Otsuka: Thank you.

Chair Apisa: Very promising.

Mr. Hull: Okay. Now back to Agenda Item...

Ms. Otsuka: Wait, Jerry...

Mr. Ornellas: Madam Chair, can we take a 5-minute recess?

Mr. Hull: Oh, sorry.

Chair Apisa: Yes, 5-minute recess.

The Commission went into recess at 11:02 a.m.  
The Commission reconvened from recess at 11:15 a.m.

Chair Apisa: Call the meeting back to order.

Mr. Hull: And now we are on Agenda Item F.4.

## **New Public Hearing**

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1. Transmittal of Agency Comments to Planning Commission.
2. Director's Report pertaining to this matter.

Mr. Hull: We don't have any signed up, but is there any member of the public that would like to testify on this agenda item? Seeing none, our staff planner had a bit of an emergency and she had to step away for the day, so I'm just going to go over briefly a summary of this zoning amendment as well as the second zoning amendment, which are very similar. The Special Treatment Public Overlay, I'm sorry, I'm gonna take a step back. As you're all familiar the County of Kaua'i's zoning authority, is within the State Land Use Urban, State Land Use Rural, and State Land Use Agricultural districts, and within those districts we have certain zoning districts that have a primary purpose in the residential district. The primary function is to accommodate and facilitate residential development at varying degrees of density. In the commercial district the primary function is to facilitate commercial development and operations, and industrial district, industrial so on and so forth. Within the Comprehensive Zoning Ordinance standard, you know, zoning districts, you also have what are called the zoning overlays, and these overlays will comprise of constraint districts that have particular constraints or hazards on development that then need to be accounted for when reviewing permits. You also have a Special Treatment District Overlay, which accounts for things like cultural resources or what have you, and in this particular case you have, what's called the Special Treatment Public District, and that overlay is to accommodate and facilitate community engagement for public or quasi-public facilities, a public facility being like where we are today, the Civic Center, a quasi-public, it's not quite state or county government, but say like a church could be considered quasi-public. And within the Special Treatment public district you, one of the required, one of the regulations is that any substantial 3 dimensional alteration of the built environment requires a use permit, and so if we're going to propose, you know, a brand new building and the parking lot here at the Civic Center this is a public area, this is the general public civic space. Because we have a higher threshold for development, it necessitates us coming to the Planning Commission to say, build a 2-story office, which would otherwise be alright permissible, so the public can engage and interface with that proposal and we can, you know, ferret out issues of compatibility. What happened in Wailua in this area and also in Hanapēpē, which we're going to the next bill, is you have a park facility and park facilities are public facilities and it's pretty standard to put a Special Treatment Public Overlay, so if any proposal is going to go in there, a public hearing is going to be held via use permit process to engage the public. For some reason or another, which we can't really determine through historical records, but in 1972, when the zoning overlays were made, not only was the park in Wailua put any Special Treatment Public Overlay, several of the residential properties around the park were also put in the Special Treatment Public Overlay and overtime developed and were built out via over-the-counter permits. But for some reason or another, at the time when they were reviewed, there wasn't a use permit triggered on the development of these private properties, even though they're within the overlay. Over time, there

has been some recognition that, oh wait, this overlay necessitates a use permit, or could necessitate a use permit for any development of these private. And some of these landowners were prevented from applying for Class 1 Zoning Permits over the permit, to do things like additions to their homes, accessory sheds without first coming to the Planning Commission for a use permit. Since my time as a Planning Director, I've taken a fairly liberal interpretation of the Special Treatment Public Overlay requirement that a three-dimensional alteration of the built environment necessitates a use permit in that I've made an interpretive determination that these proposals are in keeping with the existing built environment of single family houses or multifamily houses and so any addition is warranted via ministerial permit as opposed to use permit application. It is facilitating, i.e., additional residential development within a residential district, but to speak candidly, somewhat liability wise, I'm hanging my a\*\* out there. And so, to shore it up to ensure that this interpretation can stand that scrutiny, should it be scrutinized as well as for the future Planning Director in a couple of years, whoever that is, to be able to not necessarily have to navigate whether or not he or she triggers a use permit on some poor property owner that wants to make a bedroom addition. The team has spun up a series of clean up, what we think are clean up bills to remove the Special Treatment of public overlay from the private properties that are not public or quasi-public to remove them from the private property owners while still maintaining a Special Treatment Public Overlay on the public facilities. So, that's this zoning amendment in a nutshell. I hope that makes sense.

Ms. Barzilai: Sorry to be a pest, sorry to be a pest. I just want to make sure that Mr. Kamen, and the other gentleman are not here to testify on this bill, the next.

Chair Apisa: The...here...

Unknown Male from audience: Here for 2919.

Ms. Barzilai: Okay, not these two companion bills. Okay.

Mr. Hull: Hold on. I think Mr. Nitta's here for the second bill.

Ms. Barzilai: Okay. Thank you.

Ms. Cox: So now what?

Mr. Hull: Oh no, they're not here for this bill. They're not testifying on this bill.

Ms. Barzilai: Not yet.

Mr. Hull: Just making sure. Is there any member of the public that would like to testify on this agenda item?

Ms. Cox: I think you already asked that.

Unknown Male from audience: (Inaudible)?

Mr. Hull: No, just the Wailua. Okay. Are there any questions that the commission has? Well, that was quick.

Ms. Cox: Seemed easy.

Ms. Otsuka: Yeah, thank you.

Ms. Streufert: I have a question on this one. The Wailua one, it's only for this particular area. Are there any other STP's around?

Mr. Hull: Hanapēpē has a large chunk.

Ms. Otsuka: And Wailua.

Ms. Streufert: For this one?

Mr. Hull: Not particularly. We're making analysis where there might be a handful of properties that maybe shouldn't be in it, but the team is making that analysis. This one and the Hanapēpē one it was clear that there were a significant chunk of residential private properties that had this public zoning overlay on them.

Ms. Otsuka: Yeah. Thank you. Thank you and the department for the clean-up.

Ms. Cox: Yeah.

Mr. Hull: With that, when we get into the Hanapēpē one, there, there are some mapping issues that we're going to ask for a deferral on and because they kind of function together, ultimately the department is asking for a deferral on this zoning amendment.

Ms. Streufert: On this one also?

Mr. Hull: Yeah. So, they can ride together essentially.

Ms. Otsuka: So, motion to defer?

Ms. Barzilai: Yes, so they can travel as a companion set.

Ms. Streufert: I move to defer Zoning Amendment ZA-2024-1.

Ms. Cox: I second that.

Chair Apisa: We have a motion on the floor to defer this Zoning Amendment or Zoning Ordinance Amendment.

Ms. Barzilai: A voice vote is fine, Chair.

Chair Apisa: Any discussion on it?

Mr. Ornellas: I was just wondering what kind of action by the commission does this require?

Mr. Hull: So ultimately, it's a draft ordinance that goes to the Planning Commission. So, any draft ordinance that pertains to the Comprehensive Zoning Ordinance, the Subdivision

Ordinance, or the Special Planning Areas requires review and analysis by the Planning Commission and then the Planning Commission ultimately sends a recommendation of the draft ordinance to Council with either amendments or a recommendation to deny. Sorry, there's three recommendations that could happen from the Planning Commission for a draft ordinance. Unlike a use permit or subdivision, where your action is pretty much final, it's an approval with draft ordinances the Planning Commission serves as an advisory body to the County Council and to the mayor when he essentially receives it. So, when you take action it's a recommended action that gets sent to the Council, and that recommendation can either be to approve the draft ordinance as submitted, to approve with amendments, or to recommend denial. In either scenario, any one of those relations will go up to County Council and they'll review the draft ordinance with the recommendation of the Planning Commission.

Mr. Ornellas: Thank you.

Chair Apisa: So, we have a motion on the floor. Thank you. Good comments. I think we can do a voice call, voice vote. All in favor. Aye (unanimous voice vote). Motion carried. 7:0.

Mr. Hull: Next up, we have Zoning Amendment.

ZA-2024-2: A bill for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to Zoning Designations in Hanapepe, Kauai that would amend Zoning Map ZM-H 200 (Hanapepe). The purpose of the bill is to eliminate the Special Treatment- Public Facilities (ST-P) zoning district designation for affected residential lots within Hanapepe = COUNTY OF KAUAI, PLANNING DEPARTMENT.

1. Director's Report pertaining to this matter.

Mr. Hull: We don't have anybody signed up for testimony, but would anybody in the general public like to testify on this agenda item? We going do public testimony, if anybody wants to testify on this agenda item. Hanapēpē. I can take some liberties as the Clerk of the Commission. Ladies and gentlemen, the man, the myth, the legend.

Mr. Keith Nitta: Good morning, members of the Planning Commission, and Staff. My name is Keith Nitta and I used to be with the Planning Department. So, I'm here to testify about the zoning change in Hanapēpē Heights. I have five points to go through. Hopefully I can do it in three minutes, but anyway let me start. First of all I support the application and I think I supported because it's consistent with the current use, you know, and it'll benefit about, I think about 140 lots, people will benefit from this change, so in that sense it will simplify the process for a lot of people. And also my second point is that the question of, how did the subdivision take place with that zoning? This project was initially a project by the housing HFDC State of Hawai'i. Raymond Ho was the developer, and what happened was I think this would be about maybe the first or second project that the county ever received where they would ask for exemptions from zoning and Public Works standards. So, what happened is that one of the exemptions that they asked for was the, to not go through the use permit process because of the SDP, so that's how it got you know, approved, and there are a number of exemptions that we was granted, example would be locked with because more than 20% of the lots are less than 60-feet

wide, density and a number of other things, and as far as Public Works is concerned, I think it was like to put wider pavement within a narrow right-a-way width, so anyway that led to problems in the future, but the project never went through the county, but they still out of courtesy had the Planning Department handle the project as best as we could giving input to the developer. But anyway, that's how the whole thing got started, because if you're wondering how, how did they do it without, you know, under this STP zoning was because of the exemptions from the state. And then my third point is that Section 8-11.5e of the CZO allows the Planning Director to waive the public hearing, the Use Permit, you know, so he could have done that instead of change the zoning, but I think it's a discretionary process that the director would have to go through, which is kind of cumbersome and I think this way is more practical and it's very cut and dry to, you know, it's better for the applicant, better for the Planning Department because there's a lot of benefit in doing this amendment. My fourth point is that the Hanapēpē, Ele'ele development plan, and this is back in 1975, identifies this particular site to be an elementary school, so initially it was supposed to be an elementary school and I don't think the vision at the time was to have Hanapēpē Heights go beyond what it is where Hanapēpē Cliffside is, you know, which is why they put the school there and what did they, they saw that there would be residential use around it, but the point was an elementary school, what was the purpose of the zoning.

Mr. Hull: Three minutes, Madam Chair.

Mr. Nitta: I'm sorry.

Mr. Hull: I think...you asked...

Chair Apisa: We have three minutes. Just a little caution that your three minutes are up.

Mr. Nitta: Oh, okay. Sorry.

Chair Apisa: If you can kind of wrap it up.

Ms. Otsuka: But his information it is good to know.

Chair Apisa: But I guess it's the Chair's prerogative. We could give you an extension.

Ms. Otsuka: Yeah.

Mr. Hull: If you guys have questions of Mr. Nitta beyond his three minutes, of course he's willing to answer the questions.

Ms. Otsuka: He's very informative.

Mr. Hull: You could ask him what was his fifth point.

Ms. Streufert: Yeah. What is his fifth point?

Mr. Nitta: The (inaudible) of my testimony is the fifth point.

Chair Apisa: Okay. I think that Commissioners would like to hear your fifth point. What is it?

Mr. Nitta: Thank you very much. And this is more for the consideration of the commission and the department, the removal of the STP zoning essentially to me it's warranted because I don't think the school is, can be built anyway at that point because there's houses there, but I feel that this removal of the STP zoning should not be misconstrued to mean that there is not a need for a school in the west side. Yeah, so if you take it away, but I think there's still a need and the reason I say that is because we have three things going on the west side in the immediate area, Lima Ola, which is 915 unit plus, you have the Habitat for Humanity next door, which is about 100 units, and I think Hanapēpē Heights they have DHHL is considering about 50 units? Is that, am I...

Mr. Hull: Yeah.

Mr. Nitta: Around there.

Mr. Hull: A little more in fact.

Mr. Nitta: So, in total there's about 1000 units with just within the Hanapēpē, Ele'ele area, and to remove school zoning is kind of like saying, no maybe there's no need for a school, but I don't think that's the message that you guys are trying to get across, but...so, what I feel is that, oh anyway this is just a side note, this is in the mid 90's when I was with the department there's a project, an (inaudible)-subdivision division across Brydeswood, you guys are familiar with that? In Kalāheo, and part of that (inaudible)-subdivision package was a, to reserve an area between 50 to 88 acres for, like a...because Kalāheo lost Big Save they were thinking like a Foodland and part of that would also include a school site, a middle school site, so while processing the application the Planning Department was in contact with the Department of Ed, and A&B, Alexander & Baldwin about what should we do, should we be in the rural district or should it be in the urban district, and at that time the state ledge was considering amendments to the rural district to allow neighborhood commercial and but anyway, the point was the (inaudible) of the application was a school site and apparently according to DOE there was a need for a school in the Kōloa area because Ōma'o, Lawa'i, Kalāheo, I think were going to Waimea, and then I think Kōloa went to Līhu'e, but so...and part of the consideration was traffic too because with middle school at Kalāheo the traffic will go westward versus Līhu'e. So, part of it was to alleviate (inaudible) school traffic, but anyway, that particular project, died at the westside because Waimea High School enrollment is going dropping and Chiefess was being considered at that time, so the whole thing was left. But the point was that there is a need for school facility on the westside. And, anyway I feel that, you know, even if although this administrative matter to simplify permitting, I think it'll, it should also, a message should be sent out that we taking away a school site, but we're not saying that we shouldn't have one, you know. So, my recommendation for your consideration is that, maybe not the slow process down, but like a DP Amendment, Development Plan Amendment to acknowledge that there is, to explore the need for a school with the, because of the removal of this zoning and because of the upcoming projects like, Lima Ola, Habitat for Humanity, and the DHHL, so, because it's about a thousand more units so, and I don't know if that warrants a new school, but it would definitely impact the school, you know, the schools so, some kind of acknowledgement in the development plan for



the area. Just to cover the bases, you know, but anyway. And also, there's, I think he mentioned, Ka'aina, a mapping issues with this because I think the park should be remain in this.

Mr. Hull: Yeah, yeah.

Mr. Nitta: If that's what you're referring to.

Mr. Hull: Yeah, that's what I'm referring to.

Mr. Nitta: So anyway, I am for this zoning amendment. I support it. I think it's, it will help a lot of people that's why, you. About 140 people will be impacted (inaudible) simplify the process, but then again, the Planning Department should also consider the fact that, you removing a school site, then maybe we should acknowledge that it doesn't discount the need, but anyway that's...I'm open to any questions.

Ms. Streufert: Can I ask a question? You said across Brydeswood, you said across from Brydeswood was an area where they were considering a school?

Mr. Nitta: Yeah. That's about like a...

Ms. Streufert: Is that where the Kaua'i Coffee is now?

Mr. Nitta: Was formally, no was, it's by the managers house, I don't know if you're familiar with the Brydeswood area.

Ms. Streufert: Okay.

Mr. Nitta: And goes mauka almost to the conservation district.

Ms. Streufert: Okay.

Mr. Nitta: But the school site that was under discussion with the, you familiar with the Brydeswood area?

Ms. Streufert: Yeah.

Mr. Nitta: Directly across the street. Across the highway.

Ms. Streufert: So, isn't that now Kaua'i Coffee?

Mr. Nitta: I'm sorry.

Ms. Streufert: Isn't that now Kaua'i Coffee?

Mr. Nitta: Yeah. I think it's...

Ms. Streufert: Thank you.

Mr. Ornellas: So, presently DHHL lands are exempt from ST-P.

Mr. Nitta: Oh, I'm sorry my...

Mr. Ornellas: DHHL lands are now exempt from...

Mr. Nitta: Right. DHHL is exempt from county and...

Mr. Ornellas: Everything, from everything, yeah, I was just curious because there's so much going on up in Hanapēpē Heights.

Mr. Nitta: Yeah, it would be along the Moi Road area, going up the main road, going up on the west end of it. That's all Hawaiian Homes Lands.

Chair Apisa: Okay, I think what's being suggested would be an amendment to the draft bill before the County Council, but I think that's why it's here so that we can hear testimony and make a recommendation to the County Council. And I think the recommendation from the department is to take testimony today and then defer the action.

Mr. Nitta: Yeah.

Ms. Cox: Right.

Mr. Hull: Yeah, I can say that we take Mr. Nitta's comments and feel their appropriate. We're asking for deferral ultimately for the purpose of this mapping issue that we have to resolve and the open-ended deferral that happened the last one, would be warranted in this one because the mapping could take us, you know, we (inaudible) have it done in a week, but I think off of Mr. Nitta's comments, there's, we want to reach out to the Department of Education to see what their positions are with the potential build out, whether, I have no problem doing a community plan amendment to the Westside Community Plan, which this area is a part of, and or at the very minimum, folding something to the effect into the prologue of the draft ordinance, prologue, preamble, I should say. So, yeah, but if you can just let our staff kind of digest that a bit more and like I said, among other agencies, particularly consult with the Department of Education.

Ms. Otsuka: Ka'aina?

Mr. Nitta: (Inaudible) my recommendation, let's say, you feel that the DP should be, to me I think it should run a separate process from this...

Mr. Hull: Yeah.

Mr. Nitta: ...because this is more important I think.

Mr. Hull: Yeah.

Ms. Otsuka: Are there any other areas on Kaua'i that is going through the same thing also, or is it only Wailua and Hanapēpē?

Mr. Hull: The team map roughly 8 or 9 sites that have Special Treatment, Special Treatment Public Overlays on them. Some of them were churches and then the respective properties around

the church, do we're making the analysis of like, is this one, where we want to remove those overlays or not. The church being a quasi-public entity, perhaps not, perhaps we're making that assessment. These were the two slam dunk, like clearly these properties are being affected and are not public facilities at this time, so...

Ms. Otsuka: Okay, thank you.

Mr. Nitta: Can I say one more thing? Most of these, of the 140 affected properties, most of them are 30 years or more in age, for as the houses, they'll be coming in for permits for, Lord, knows what, you know, they have to do. So, I think this is a good amendment right now, very timely.

Chair Apisa: Any other...Gerald?

Mr. Ako: Madam Chair, if I can just say, I just want to thank you, Keith for, you know, sharing the history that you have with you. You know, I for one, I never knew that place was zoned as it is, and far less knowing that it wasn't zoned for a school over there, but I think the one thing that really keeps me in awe about the Planning Department, you guys not one step, you guys like, two, three steps ahead of us ahead of the community out there and a lot of times when we're hearing comments that's coming back, it's always after the fact kinda thing, not knowing very well that you know, all of these things were planned years ago before everything, so to be talking about a developmental, you know, with the Lima Ola, there you go again, you guys are steps ahead of everybody and I just wanted to thank you for sharing with us.

Mr. Nitta: Thank you.

Chair Apisa: And thank you for being involved in the community, even though you're not on the Planning Department anymore. Thank you.

Mr. Nitta: Thank you.

Mr. Hull: He knocks on our door when necessary.

Ms. Otsuka: Motion to defer?

Ms. Cox: We have to (inaudible)...

Chair Apisa: Yeah, yeah, we are, I think we are going to entertain a motion to defer...

Mr. Hull: Sorry, I just want to double check, is there any other member of the public that would like to testify on this agenda item? Okay.

Chair Apisa: Motion, please.

Ms. Otsuka: Motion to defer Zoning Amendment ZA-2024-2.

Ms. Streufert: Second.

Chair Apisa: We have a motion on the floor. Any further discussion? Hearing none. To be consistent, I guess we'll do a roll call vote.

Mr. Hull: Okay. Roll call. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Apisa?

Chair Apisa: Aye. Motion carried. 7:0.

Mr. Hull: Next, we have Zoning Amendment.

ZA-2024-3: A bill (2919) for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to expand the permissiveness of guest houses in zoning districts Residential (R-1 to R-6 and R-10 to R-20), Neighborhood Commercial (C-N), General Commercial (C-G), Agriculture (A), Open (O), and University (UNV), and make other technical edits = **KAUAI COUNTY COUNCIL.**

1. Transmittal of Agency Comments to Planning Commission.
2. Transmittal of Public Testimony to Planning Commission.
3. Director's Report pertaining to this matter.

Mr. Hull: At this time, I ask, is there anyone in the public who would like to testify on this agenda item? I see two, you can approach the microphone, state your name for the record, and you have three minutes for testimony, unless the commission has additional questions.

Ms. Laurie Makaneole: I appreciate your guys' work. Oh, my. Thank you. I'm Laurie Makaneole, and we have some ag zoned land and I'm just, I'm really supporting that 2919, that

would allow for a guest house on ag zoned land, so...And I went to a meeting last night, Department of Agriculture at Kōloa and that, they talked about agriculture workforce, that was one of the huge issues and housing because this would open a door to support farmers, you know, and our situation, our so, our son could live there and he could help us farm, we're not big, I mean we're small kind farmers, but I'm just so thankful that they're opening this door to allow that, but what came up last night too was one other thing, farmers like, I don't know how it works out with Department of Hawaiian Home Lands, but they have ag lots and there's some miscellaneous ag lots some other farmers said, they would love to be able to build just a small home to live on the land, but not have to do the septic system if there could be any, this is something for the future, any variants, for like a, I don't know, I forget, what's the word...

Mr. Ornellas: Composting.

Chair Apisa: Compost.

Ms. Makaneole: Composting. Right. They have a compost option. So, just something to think of for the future just for certain situations, you know, it could take away that barrier. And the other was, I'm very thankful for the guesthouse. I do understand that's 800 square feet, but if, it'd be awesome if we could do an ADU, but I when I read, it was very confusing for me, but I had to call the Planning Department and I think, Alisha helped me understand this. If you had that application accepted for ADU back in 2007, so those people holding on who haven't built, so this opens a door for them to go ahead and build, but it'd be really need if in the future if there could be an option maybe for some folks to have an ADU on ag zoned land, you could have a little bit bigger option than the guest house, but at least the guest house is a huge step, so I'm thankful. So, I'm just here in support of that.

Mr. Hull: Thank you for testimony.

Ms. Otsuka: Thank you.

Mr. Hull: Any questions?

Ms. Makaneole: Any questions? Okay, but that was really, it was so prevalent at the meeting last night, and there was a lot of people there. Workforce housing for farmers is critical.

Chair Apisa: Thank you.

Mr. Hull: Thanks, Laurie. Anybody else that would like to testify on this agenda item, Mr. Kamen?

Mr. Terry Kamen: Thank you, Commissioners, for allowing me to speak. Thank you for Planning Director. I'm supportive...

Mr. Hull: Sorry, if you can...

Mr. Kamen: ...my name is Terry Kamen for those that don't know. I'm supportive of Draft bill 2919, with one change, either amendment or a deletion, and that's the word within and the reason for this is that Section 2, #5, says a guesthouse should not be used for Transit Vacation Rental or

home stay operation within or outside of the VDA, and I would like to have the word within taken out. I live in Po'ipū Beach Estates, I was one of the 36 local investors in the project. I was the project manager, our development gave the mayor \$400,000 for employee housing. We spent \$6 million on a water system, we spent \$4 million on a sewer system, all for the Kōloa, Po'ipū area and we were able to do this because we're going to be in VDA, which raised the value of our properties and also gave us permission to build a guest house or an ADU and a main house on our properties, all that could be rented out. Personally, my children have a piece of land that I've owned for 21 years now, hoping they'd move back here and that they could build a house and a guest house and rent it out so they could be able to afford to pay their mortgage. I believe the rights of the other 107 owners in our subdivision, the money was spent in good faith with the county. You know, we spent almost \$12 million, and I believe it was that we could have vacation rentals in our area, and I would like that one word within taken out of this very good bill, and any questions I'd be glad to answer them.

Chair Apisa: Well, just a minor technical thing, actually it's two words would be within or.

Mr. Kamen: Yes. Yes, so I don't know how this works from an amendment or how you do it, but that would be my recommendation and thank you.

Chair Apisa: Thank you for your testimony. Commissioners, any...

Ms. Streufert: I have a question for the Director.

Mr. Hull: Yeah.

Ms. Streufert: The reason for this bill is to decrease speculation so that there's more affordable housing. Is that correct?

Mr. Hull: To provide, it was one to provide an additional avenue for another structure to be built for habitable purposes and then indeed by restricting the 800 square feet in particular is to try to remove the speculative nature of it, and I believe the introducers in removing it from the VDA ability to have as a vacation rental is also, the intent is to have those guest houses built in the VDA to be used for long term habitation purposes.

Mr. Ornellas: So, I'm going to be speaking in support of the proposal for several reasons, between 2017 and 2022, we lost 10% of our farmers in Hawai'i, I mean that is astounding, I a five-year period, 10% of our farmers disappeared. We have real issues with profitability and some of that is dependent on attracting a workforce. If we can house our workers, or even family members who work on our farms then that's a big step towards profitability, we can pay them a little less if we offer housing. The other point is that the agricultural lands they're holding all of the cards, right, we tried, I know Ka'aina made a tremendous effort in trying to get more houses built in the urban areas, and we all know those lots that were hooked up to county municipal waste systems, they were able to build, but those that require septic systems could not build because there simple was not enough room. The rural areas offers that where you can build, so I'm really in supportive of this, I mean, and the question is always raised, right, well, non-farmers are going to take advantage of this, absolutely they will and it breaks my heart to see that, but that's no reason to punish the honest farmers who are trying to make a living by actually farming. Farmers need housing just like everybody else does.

Unknown Commissioner: Good point.

Ms. Streufert: This is so wide-ranging from R1, R6, R1020, CM, and (inaudible) all of these different zoning categories or districts. Is it possible to carve out some on which it would apply versus others that would not apply? Or does it have to be all or nothing?

Mr. Hull: No, the bill cast a very wide net and I think you know, to Commissioner Ornellas' point is when we came through with the ARU Bill several years ago, that was good planning, you are looking at increasing density, you're looking at doing it within the urban footprint, it is less costly for infrastructure, it is less demand on roads and traffic. All these wonderful planning principles. And while we've had, you know, 30 or 40 applications approved and then that's 30 or 40 families that won't leave the island, 30 or 40 thing though, ARU's approved in seven or eight years and like, Commissioner Ornellas is getting to, is it's, the housing crisis is an infrastructure crisis. And so, I think you know, the individuals that, the councilmembers that introduced this, and I was working very closely with them, are essentially trying to cast as broad a net as possible, recognizing that in many situations you might have property owners, families that want to do it and they just can't. Even though the zoning gives it to them, they just can't because the infrastructure. So, I think the intent was to cast that net as wide as possible, but that's not to say as the Planning Commissions being an advisory body to say, you should consider this district and not that district. You should consider the ag district and not the residential district or the open district or not the University district. To speak very candidly, you know, from a from a pure planning perspective, some of us have a little bit of a hard time swallowing any idea of using our non-urban lands to further accommodate habitable development, residential developments because that is to a certain degree within the realm of suburban sprawl, but having witnessed and the going through the numbers, there's one number in the report that talks about the fact that from 2020 to 2025, a recent housing study was completed in 2019, accounted for a housing deficit as well as internal growth, and between 2020 and 2025, within that five year time period, we need to construct roughly 5000 units. And when we look, well, we're almost done with that window, what did we, not construct, but what (inaudible) give permits for, and it was roughly 450. (Inaudible) we're supposed to have constructed in that time frame, a 1000 units a year for five years and we've issued permits for roughly 110 annually, per year. We are so tragically outside of missing the mark for our housing crisis and for our own internal needs, this isn't accounting for the number, like that 110 or 120, that includes Kukui'ula, right, that is our housing units that aren't going into our local inventory, right, like so not even accounting for the fact that some areas have development rights, there's nothing from stopping that, but we're trying to compel, facilitate, cajole the local housing inventory. While we're constructing 100 a year, we need to construct 1000, I have to take a look at that from a planning perspective and say it's not necessarily within the planning policies we adhere to, to say urban infill, urban infill, urban infill, and so looking, we looked at a whole, the Councilmembers, (inaudible) we're looking at a whole range of things, should we free up the one time ag subdivision, which when we analyzed could be catastrophic because agricultural land has throughout the past years aside from things like farm worker housing and what have you, a lot of it's gone into speculative, you know, purchasing and development and chopping up the one time sub and doing away that was like that would just feed into the speculative market, right, the millionaires aren't buying the beach lots anymore, they're buying agricultural estates. So, the one-time sub, we're like okay, let's go away. And then we pursued, like Lori was talking about the ADU avenues, should we open the ADU avenue back up and there was a little bit, I think from the people engaged in discussion with that's not

chopping up more ag estates, but to the ADU policies, the ADU agriculture policy of the past there were some families that did take advantage of that, absolutely there were some families that take advantage of it. But the vast majority of it was done through (inaudible) estate, because there's no restriction on the square footage, so sometimes they would take care of it, take advantage and a lot with (inaudible) estates. So, when you look at the ADU policy within the urban lands, like only 20% of the ADU's in urban lands have been subjected to CPR, and what that means, and there's roughly like 1000 in our (inaudible), what that means is the ADU's, 80% of the ADU's within our urban district, have never been sold off, they've been kept within the family. So, either a family member staying with their family or they're renting it on the market, those ADU's have met their intent and purpose, that was local inventory. We flip the script, you look at agriculture ADU's, the vast majority of them were put into CPR's. And I'm not saying we're fully backed off of the ADU and ag program, but that (inaudible) gives pause and brought us to this discussion of, well what if they open up the guesthouse entitlement on agriculture land, so each dwelling unit can qualify for one as opposed to one per lot. And, I think like, Commissioner Ornellas was saying, there probably will also be some exploitative speculative pressures on it. They can't buy it, but there may be some that may not be totally used for local inventory, but by restricting the 800 square feet, it's (inaudible) the Councilmembers belief, it is, I would say, it is, my personal belief, and in my professional expertise, that the vast majority of them will stay in local inventory and be will be used for their local supply, but like I said, it rubs against the grain of pure (inaudible) principles of suburban outward development, but it's a nominal amount, and in this housing crisis, where again, 5000 units is a five year time frame, 450, we're looking at 200/300 people exiting this island on an annual basis, some of them may not have originally lived there, but many of them are local descendants of these lands that have no option other than to move off the island, and so that's where I think a lot of guts of this proposal come from.

Ms. Streufert: I think some of my problems with this is that, and I see the benefit of this, this bill a lot, but the rights to it go with the land, not with the person who's currently owning it, and that's where I have to rely on the Planning Department to figure out, you know how what's the best way to do this because it doesn't matter who owns it right now and what the intent of the current owner is, it's really, the rights go with the land.

Mr. Hull: Yeah.

Mr. Ornellas: I think you know where we went off the rails was when we did not enforce the farm dwelling agreement. That was a huge mistake. It was a gem of a piece of legislation, in that you can only build on agricultural land, that's why it's called a farm dwelling unit. If you actually farm, right, so this is a state law. They tasked the counties with enforcing it, it's almost impossible now, it cannot be done, right, you cannot put the toothpaste back in the tube once it's out, it's done. So, had we enforced it, we wouldn't be in the mess we're in today with the speculative nature of real estate on agricultural lands. The other point I want to make is that, we're talking about an 800, one of the one of the issues that has been raised is, well we're going to lose agricultural land to building, right, an 800 square foot house does not take up much room and I'm assuming that it'll share the septic system with the existing farm dwelling if it has the capacity, also a water meter, so in a way this is a pretty good fix for not a lot of money. And I understand, you know, and there's that boogie man waiting out there in the dark, (inaudible) it'll just make these lands all the more desirable because now we got all these extra units that



(inaudible) rented out and, yeah, I mean, basically, the millionaires are being bought out by the billionaires now on the agricultural scene, (inaudible) have it happening around my place, but it's just, like I said, we cannot punish the farmers, you know, for the gentrification of our ag land, they're not the ones doing it.

Mr. Ako: You know, when I first saw this here, it was kind of, kind of hit my brain where it said, wow, now I thought the theory was, right, that we just gonna increase density in the urban area and leave the outside alone. So, when I saw this, it was like, wow, I think we're moving away from policy of what we're trying to do. And yet, when you keep on hearing the news it's about the lack of housing, the lack of housing, and then you talk to the other group, I guess, I guess I'm talking legislators or whatever they talking about all the amount of movement that they've made in terms of having more housing and then you look at the numbers when you look at the numbers, I don't know what numbers Ka'aina just said about 5000 that we needed in from 2020, no, from 2020 to 2025, and we only doing, like 100 hundred a year. You know, then I think it hit my mind where you know what, the current plan is not working. It's not working, and I think even if we do go out and increase more housing in even in ag districts, the increase is not going to be a whole bunch. So, we're talking about, you know reducing pricing of housing, yeah, I think it's only when supply and demand are equal that you get a fair price out there and it's going to take a long time before we even get that supply up to meet the demand up there, but better or not I think you gotta take this bold move, yeah, you gotta make a bold move, and it's a small step, but until you take that first step and yeah, we never going be able to get any closer.

Chair Apisa: I mean my comment, I mean everything that I'm hearing, if I'm hearing it correctly is that there's support for the bill, the question is, is the, and I support the, you know not using it as a vacation rental. The question is when it's in a VDA it's already a visitor destination area, I think that's the question.

Ms. Cox: I actually have a question, I guess for the department along those lines. So, the original for the people who have already built in the VDA and who already have a guest house they not only had permission to have a VDA in their primary dwelling, but in anything else they built, right. So, their guest house...

Mr. Hull: Yeah. Currently if you have...

Ms. Barzilai: They still do (inaudible)...

Mr. Hull: ...you have a property in the Visitor Destination Area, and it has a house and a guest house...

Ms. Cox: Right.

Mr. Hull: ...those both can be used for vacation rental purposes today.

Ms. Cox: Okay. So...

Mr. Hull: And should, say the bill be adopted as drafted with the, you cannot use guest houses within the VDA, those that were operating as vacation rentals in the VDA prior to the date of adoption would still...

Ms. Cox: They'd be grandfathered.

Mr. Hull: ...be able to continue to function as a guest, as a vacation rental guest house. I mentioned, I mentioned this to (inaudible) of the county, and I gotta clarify to try some stuff I said (inaudible), insofar as that guest house is operated as a vacation rental continuously without one year of abandonment. So, there's a non-conforming section in the Comprehensive Zoning Ordinance that says, a non-conforming use can continue insofar as it's occurring, it isn't abandoned for a year or longer. Once that year of abandonment of non-conforming use happens then the use (inaudible).

Ms. Cox: Good, because that's what I was actually thinking that it would make sense to not allow more VDA in guest houses in that area, but to grandfather the ones who are, but it sounds like that's already, it's already...

Mr. Hull: (Inaudible).

Ms. Cox: Yeah, it's already...okay. Thank you.

Chair Apisa: Then the question is, if people have a house in one of these areas and they are allowed a guest house, but it's not yet built, you know then they are losing the same right that people have of a house that's already a guest house that's already built and that that's kind of a question. It's a VDA district and I'm not sure, Terry, if you don't mind getting put on the spot, what is your position on the properties in a VDA that do not yet have the guesthouse built?

Mr. Kamen: Well, personally, my children have a piece of land, that I did 21 years ago with the thought they could build a house and because of cost of housing now, they have, they can't basically afford to build their own house even if the land's free and so they're going to build guest houses, rent the guest house, that was VDA's, which is allowed under the zoning, which we spent almost \$12 million with the county to be able to do that and now they won't have the right that the next door neighbor does have and it's just not fair to the other people that have not built their guest houses yet.

Chair Apisa: I think the vast majority of what we're talking about this is going to be directed to Ka'aina, I think the vast majority of land we're talking about is agricultural that is not in a VDA, I would think it's a very small percentage that is actually in a VDA.

Mr. Kamen: Actually, very small...

Chair Apisa: Very, very small.

Mr. Kamen: ...our subdivision is 107 lots and we're talking about thousands of ag lands. If I could open up a little bit on ag land, I have friends that own ag lands in Kīlauea, and I got called by their children, saying we want to live on our parents land, but how can we build a house, and I said this bill is now before the county, and if this goes through, you can now build a house and you can live on your parents land because there a lot of children like my own children, they live in my house. I don't live in there anymore, you know, so I'd like them to build their own house and be able to afford their own house, and so, I believe a lot of these people who live on these pieces, these CPR pieces that have been over the last, what 40 years, their children are looking

for a place to live. Their parents aren't dead yet, but they like to live on the land and most of these people farm, it's really weird. They have three acres, four acres, but there's avocados and fruit trees and gardens, and was a tremendous amount of food coming off these small pieces, and I think it's nice that the county has decided, let's let the children live there or farm workers live there, it's a great idea because 800 square feet on three acres of land is nothing. So, that's why I'm in favor, I think it's a good idea. I just don't like the word, you know in the VDA area, which affects very few people, it's a very percentage.

Mr. Hull: If I may? The guest house VDA discussion is a, I would say it's a gesture, I will, in the direction of saying guest houses should be used for habitable purposes and let's try and make more of these available for habitable units as opposed to vacation rentals. In the situation of the VDA, why I say it's really just a gesture it's cause any one of these lots qualify for a house and either, and if it's small (inaudible) a house, right, a house and a guest house or it qualifies for a house and an ADU, you take your pick. Which one you want? House or guest house, house or ADU. If somebody has not built yet and their property qualifies for a house and an ADU, or a house and a guest house, five years from now should this bill be adopted tomorrow, five years from now, yeah, if they apply for the guest house, that guest house under this language would not be allowed to be used for vacation rental. So, they would just have to apply for a ADU, right. They could make it an 800 square ADU, they could make it a 4000 square foot ADU. They leave the guest house entitlement on the shelf, and they grab the ADU entitlement, and this bill does not restrict ADU's in the VDA from being used for TVR's, and that's why I'm kind of like, (inaudible), like...

Mr. Kamen: May I?

Chair Apisa: Yes, please.

Mr. Hull: At the Chairs discretion.

Chair Apisa: Oh, yes, please.

Mr. Kamen: The difference in our subdivision and it's just, I don't know about anything else. is that we did a water plan for the county and in there it said, we have VDA district, we're allowed a house and a guest house cottage, and we don't have to pay more than the 6 million we already paid for the water system. If we do an ADA, the Department of Water will charge us \$17,000 just for permission to hook up to the water line, and the difference, so the difference, right away is \$17,000 right off the bat. And for kids, that's a lot of money. The sewer system, our sewer, we have a sewer system with no problem, but I forgot who was bringing it up the septic systems, they're very expensive at 35 to \$40,000 now. So, that is something that has to be looked at also. But our particular thing we are, we got permission to do a guest house in the VDA and this bill by putting in the within or, takes that away, takes that right away that we already paid for, and that's why, that's why I showed up, and that's why I cared a little bit, because I was the developer and project manager. I just, I said this is wrong, we shouldn't be charged and that not be allowed to do, and if the DOW didn't charge another \$17,000, I'd agree with Ka'aina 100%, but they have been hitting people when they apply for ADU, instead of guest houses, it's \$17,000 right off the bat. So, that's why I came in.

Chair Apisa: Well, as I said, I think overall there's general support for the bill to add more housing. The question is, you know, the AD, the VDA portion, and I mean it does seem like that would be a taking and it's a such a minute portion of the total ag land that we're talking about.

Ms. Streufert: Can this be deferred?

Mr. Hull: Oh, I'm sorry, I should have said that up front. We're asking for a deferral. If you haven't recognized it, sorry. I didn't go through in depth, but at the end of the report, we're recommending that these guest house, new entitlements as far as one per dwelling unit, may not be appropriate in the Special Management Area because of the coastal hazards that come with that, as well as possibly important agricultural lands. Because those are really for, you know, agricultural purposes and not so much residential, but we're just putting it out there to see kind of where the commission's temperature is on those two types of proposals. I think we want to hear if you guys had any input right now or if you want to wait till it comes back at the next meeting, but we don't want to put that out there to be like, where do you folks see this? Where, Mr. Ornellas, do you see the important agricultural lands with your expertise? So, that's why we're putting out there, but ultimately, we want to come back after you guys have given any, you know, preliminary comments to that or we can discuss it further, but ultimately, we're asking for a deferral, sorry.

Mr. Ornellas: I think we have to remember, until relatively recently, kitchens are not allowed...

Mr. Hull: In guest houses.

Mr. Ornellas: ...in guest houses, so, this is evolving very quickly. And I think the county has now signaled to people with guest houses that indeed there are residential units and they have been for...

Mr. Hull: A long time.

Mr. Ornellas: ...since they first started, you know, I mean it's unenforceable, right. So, the other point I want to make, and this is my last point, is that we have worked very hard at saving agricultural land and not hard enough at saving the farmers who have to farm that land, so we've got lots of agricultural land, not so many farmers left.

Chair Apisa: So, what though, the question is, is to make an, this ruling, this new bill, an exception would be SMA, which (inaudible) be along here, ocean and whatever high-risk area and important ag land. So, if your zone, if your state zoning is IAL, then you would not be included in this provision to have an extra house.

Mr. Ornellas: Yeah, you have to remember I (inaudible) lots of very, very large lots, one of (inaudible) I sat on a committee that mapped these lands, they are very large, and they were looking for large contiguous acres of agricultural land, there's one of the, and generally speaking, irrigation water goes with this very large acreage, so we don't have in our mapping a small IAL lots. So, I'm not necessarily in favor of restricting guest houses on IAL land, but really, I mean Grove Farm is not interested in a guest house.

Mr. Hull: Yeah, and to that point, it crossed my mind when we're discussing this, what we want to put out there for the discussion is, you know, it's a gesture to say no, no, these are important agricultural lands, they shouldn't be used for guest houses, but to Commissioner Ornellas' point, it's G&R, it's Kauai Coffee, it's large parcels in Grove Farm, in practicality, they won't be proposing guest houses on them anyway so.

Chair Apisa: And still if I am correct, it's a maximum of five houses on, no matter what size the parcel is, so if you have an extra house, it's 10 houses on a huge parcel of land.

Mr. Ornellas: Yeah, so imagine how unfair, right, our family has agricultural land, okay, we're excited with five houses and one guest house. The parcels adjacent or close by that are not in, they get a guest house for every single...

Chair Apisa: House.

Mr. Ornellas: ...unit. So, we going, why is that? For years and years, we ask, why, you know, our families need homes just like everybody else.

Ms. Streufert: I think this is a good bill. As written right now.

Mr. Ornellas: It's painful, as a farmer, it's painful for me because, you know, we know it's going to be taken advantage of, but like I said, like I pointed out earlier, we cannot, we cannot penalize farmers.

Ms. Streufert: How would you get water? How do you get water on agricultural lands for...

Mr. Ornellas: You fight very hard. You form a water co-op, like we did, you fight very hard for your water rights, you do what you have to do. We have irrigation water on our farm, thank God, you know, we don't know how much longer that's going to last. ADC, Agribusiness Development Corporation has taken over the system, but you bring up an interesting point because as these large former plantation lands are broken up, the irrigation system that traverses the land, right, ends, so Grove Farm is faced with this real dilemma, they have a huge water system that they're trying to give to somebody, give away, here you just take it and run it for the benefit of our agricultural lands, which we no longer gonna own, we're gonna sell it all off. It's a real, real problem, but I didn't mean to make this about agriculture, this bill encompasses all these other...

Chair Apisa: No, but I think your viewpoints, I mean, (inaudible) true farmer and your history, it it's very valuable input so, thank you.

Mr. Ornellas: Thank you.

Chair Apisa: And I know farmers have a very hard plight. I grew up on a farm not in Hawai'i, but I know it's not, they work very hard. So, any other discussion, or are we ready for a motion to defer?

Mr. Hull: Just to put on the radar and maybe just for the public, but should this bill pass, one of the potential obstacles we see is that, say, a lot will be possibly embraced by agricultural lands, and the fact that many of these lands have five dwelling units on them and now only one qualifies for guest house and should the bill pass, four more could pass, it's something about from your perspective, Donna, or anybody's really, is that one of possible barriers to this is the fact that within the agricultural lands themselves and even the residential lands that have multiple units, many of them have been subjected to condominium property regimes and would necessitate, should the bill passing the condominium property regime itself being amended with the authorization of all condominium property owners, it's a civil agreement. The county has nothing to do with, but it's a civil agreement and whether or not, how much you know, willingness, that one CPR owner who has the guest house, right, is going to be willing to sign off on his fellow, he or she's fellow CPR owners to now also have guest house, rights. It's going to be a civil discussion, a civil dispute, possibly, but you know, that's one area we see, you know, hopefully there's not too much stumbling blocks. I've talked with a few attorneys within the private sector that manage or run CPR projects, they mentioned that you know, roughly estimation, the last one I spoke with was about 20% of CPR's have some serious disputes going on, about 80% are really, really good and probably will make the adjustments, for those 20% whether disputes that attorney was like, those are going to be problems, and he didn't see (inaudible) in there. But anyways, I just want to, as we lay all the cards on the table before we defer, we hopefully defer and then march forward, I just want to put that out there.

Ms. Streufert: Can I ask another question? This also refers to R10 and R20 that's already...

Mr. Hull: Very dense.

Ms. Streufert: ...must be a multiple, well, it's also (inaudible) a multiple story, and I would think in order to have R20. So, are each one of these residences allowed to have another guest house? So, rather than an R20, we're looking really at R40?

Mr. Hull: You're actually looking at R60, because in R20 they already are allowed to have ARU's.

Ms. Streufert: Do we have an infrastructure to support all of this?

Ms. Hull: It goes back to the whole issue is you can't build it until the infrastructure is there. So, in vast areas, no.

Chair Apisa: I think if it's, what about R10, is it allowed also?

Mr. Hull: Yeah.

Chair Apisa: Yeah, they're all, I mean the, I'm thinking of the condominiums that I know of. I mean, there's no physical land to build more. The only way it would work is if they take an existing unit and maybe halve two units out of it, but it wouldn't create, they would be two smaller units, I don't think there's any physical land space to build additional buildings.

Ms. Streufert: That was my...that was the intent of the question.

Ms. Cox: Right.

Ms. Streufert: ...where would this go?

Chair Apisa: And just those that I'm aware of. Most of them have maxed out their land already. Any other discussion? All great and thank you for bringing up the CPR. Yeah, that would be a simple matter within the CPR that they'd have to duke it out.

Ms. Otsuka: So, if we defer this do we need to mention his concern being that it's being deferred or not when it comes back to us, he has to be present again?

Mr. Hull: No, no, we'll take it into consideration in our analysis of, if we're going to be proposing any amendments. You folks as Commissioners can propose amendments as well, by all means.

Chair Apisa: I think at this point you just defer it as it is.

Ms. Otsuka: As it is. Thank you.

Chair Apisa: Any other discussion or do we have a motion to defer?

Ms. Streufert: I move to defer Zoning Amendment ZA-2024-3.

Ms. Cox: Second.

Chair Apisa: We have a motion on the floor. Any further discussion? Hearing none. I would like to continue with a roll call.

Mr. Hull: Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Apisa?

Chair Apisa: Aye.

Mr. Hull: Motion passes, Madam Chair. 7:0.

Chair Apisa: Motion to defer is passed and getting close.

Mr. Hull: Next on the agenda, we have Agenda Item H. General Business Matters.

### **GENERAL BUSINESS MATTERS**

Clerk of the Commission's Recommendation to Re-number an Appeal of Forfeiture File for Failing to timely renew TVRNCU #1184, Charles Smith and Deani Higashi, approved by the Planning Commission on October 24, 2023, to CC-2024-6.

Mr. Hull: So, this is essentially oh, sorry, is there any public testimony on this agenda item? Seeing none. This was a essentially a clerical error on our part in transmitting the contested case to the Boards and Commissions for referral to contested case, and so we're just requesting that the Planning Commission...

Ms. Otsuka: Approve.

Mr. Hull: ...approve changing the number to Contested Case Hearing 2024-6, so that we can initiate that contested case to the Boards and Commissions.

Ms. Otsuka: So, a motion, yeah? Motion to approve the re-numbering of the Charles Smith and Deani Higashi Appeal from CC-2024-3 to CC-2024-6.

Ms. Streufert: Second.

Chair Apisa: Okay, we have a motion on the floor. Any discussion? I think we can do a voice vote on this one. All in favor? Aye (unanimous voice vote). Motion carried. 7:0.

Mr. Hull: Thank you. Oh, I'm sorry. Actually...

### **COMMUNICATION (None)**

### **COMMITTEE REPORTS**

Ms. Barzilai: We have the Subdivision Report.

Mr. Hull: Sorry about that. I'll turn it over to the Subdivision Committee Chair for the Subdivision Report.



Mr. DeGracia: Okay. Commissioners, Subdivision Committee met today, it was Commissioner Ako, Commissioner Ornellas and myself. There are two items for action, Preliminary Subdivision Map Approval, Item S-2024-9, Inouye Family Trust. This was approved 3:0, also Preliminary Subdivision Extension Request for S-2017-6 for Moloa'a Valley Homeowners, this was also approved 3:0. That concludes my report.

Ms. Streufert: Move to accept the Subdivision Committee Report.

Ms. Cox: Second.

Chair Apisa: We...all in favor of? Aye (unanimous voice vote). Subdivision Report is approved. Thank you. So, our next meeting is July 9<sup>th</sup>.

Mr. Hull: Yeah, our next meeting scheduled July 9<sup>th</sup>, 2024, here at the Moikeha Building to be held at 9:00 a.m. We also, just for Commissioners, radar, I know we've been keeping the agendas to once a month, given the flow of applications and the status reports, and subdivisions. It looks like with July, there's a possibility of having a second meeting on July 25<sup>th</sup>, that's not quite set in stone, but I just want to put that in you folks' radar. The flow of applications still look like for August, September, October and November, we'll just have one meeting, but for July we may have a second meeting. With that we got no further matters.

Chair Apisa: No further, no further. Oh, yeah, motion to adjourn.

Ms. Cox: I move we adjourn.

Ms. Otsuka: Second.

Chair Apisa: All in favor. Aye (unanimous voice vote). Meeting is adjourned. 7:0.

Chair Apisa adjourned the meeting at 12:26 p.m.

Respectfully submitted by:

    *Lisa Oyama*    

Lisa Oyama,  
Commission Support Clerk

Approved as circulated (July 09, 2024, meeting).

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