

KAUA'I PLANNING COMMISSION  
REGULAR MEETING  
January 24, 2023

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair DeGracia at 9:03 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  
Mr. Jerry Ornellas  
Ms. Lori Otsuka  
Ms. Glenda Nogami-Streufert

Excused or Absent

The following staff members were present: Planning Department – Director Ka'aina Hull, Deputy Director Jodi Higuchi Sayegusa, Staff Planner Dale Cua, Kenny Estes, and Planning Commission Secretary Shanlee Jimenez; Office of the County Attorney – 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 DeGracia: The time is now 9:03 a.m., I'd to call to order the Planning Commission meeting for Tuesday January 24, 2023. Roll call please, Mr. Clerk.

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

Commissioner Ako: Here.

Mr. Hull: Commissioner Apisa?

Commissioner Apisa: Here.

Mr. Hull: Commissioner Cox?

Commissioner Cox: Here.

Mr. Hull: Commissioner Ornellas?

Commissioner Ornellas: Here.

Mr. Hull: Commissioner Otsuka?

Commissioner Otsuka: Here.

Mr. Hull: Commissioner Streufert?

Commissioner Nogami-Streufert: Here.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Here.

Mr. Hull: You have a quorum, Mr. Chair. Next up is:

### **APPROVAL OF AGENDA**

Mr. Hull: The department doesn't have any recommended changes to the agenda.

Chair DeGracia: Motion to approve the agenda.

Ms. Nogami-Streufert: I move to approve the agenda.

Ms. Cox: Second.

Chair DeGracia: Motion is to approve the agenda. We'll take a voice vote. All in favor say aye. Aye (unanimous voice vote). Opposed? Hearing none. Motion passes. 7:0.

Mr. Hull: We don't have any minutes; we don't have any Receipt of Items for the Record or Hearings and Public Comment. Next would be the Consent Calendar which was approved via the agenda. So, we move into:

### **COMMITTEE REPORTS**

#### **Subdivision Reports**

Mr. Ako: Mr. Chair, the Subdivision Committee did meet this morning, present were Commissioner Apisa, as well as Commissioner Ornellas, and myself. On the agenda was an application for the Department of Hawaiian Home Lands for a 136 subdivision up in Hanapēpē, however a request was made to defer that meeting until February 14, taking no action, just a report from the Subdivision Committee.

Chair DeGracia: Could I get a motion to approve the report?

Ms. Otsuka: Motion to approve.

Ms. Cox: Second.

Chair DeGracia: Motion is to approve the Subdivision Committee report. We'll take a voice vote. All in favor say aye. Aye (unanimous voice vote). Opposed? Hearing none. Motion passes. 7:0.

Mr. Hull: Next we have Agenda Item K:

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

Commission consideration of Petition for Declaratory Order Regarding Special [sic] Area Use Permit SMA (U)-2015-6; Project Development Use Permit U-2015-7; Variance Permit V-2015-1; Class IV Zoning Permit ZA-IV-2015-8 for **Coco Palms Hui, LLC.**

Mr. Hull: Probably be appropriate to take public testimony at this time, Mr. Chair?

Chair DeGracia: Yes, please.

Mr. Hull: So far, we have twelve individuals signed up. I'd like to make a statement, for the sign-up list, this is for members of the public. If you are a party to the petition or to the applicant there will time for that presentation before the Commissioners, so this is just for public testimony. First up we have is, Roslyn Cummings. When you testify, if you could state your name for the record, and you'll have three minutes for testimony. Thank you.

Ms. Roslyn Cummings: Aloha.

Mr. Ako: Morning.

Ms. Cummings: On the record, inoa Roslyn Nicole Manawai`akeamalama (inaudible) Cummings. Can I have the legal representative in attendance introduce yourself?

Deputy County Attorney Laura Barzilai: Deputy County Attorney, Laura Barzilai.

Ms. Cummings: Aloha, thank you. I am not in support of the Coco Palms Hui permits; development is not at the progress of kānaka or kānaka maoli. It is detrimental to `aina, our natural resources and what is natural. All it does is line the pockets of the one percent at an advancement. While the 99% suffer, furthering the divide amongst our people. I'd like to make a statement about Mauna Kea Trask who badly spoke as a bar member, claiming that what I've shared in testimony is foreign laws, and by making this statement, he is claiming that the County of Kaua`i is not part of the jurisdiction superiority of the United States of America as a nation, it's government, governing parties, and government branch, which would further the notion that we are dealing with corporate entities doing business in Ko Hawai'i Pae 'Aina under the crown, what crown, and under whose superiority and authority, and also Wailua ahupua'a is crown lands, with the native tenants rights vested inherit interest upon heirs kindred of LCA, royal patent claims, under its legitimacy through mo'oku'auhau and koko kuleana, he `aina Kaua`i, I am of Kaua`i, in protection of na iwi kūpuna, waiola, Wai'ale'ale, Waiwai of Manawa, once `aina, wai is altered, it causes tremendous damage to our kino, our `uhane, our `aumakua, our 'unihipili, the pillars of our creator in creation, I ask all who took oath of office to uphold your oath and investigate the past damages to cultural sites, na iwi kūpuna on record, not all iwi is being or has been documented from previous projects, that may or may not have been documented and take into account the living kūpuna kānaka has witnessed to these damages, so no more harm can be made (Hawaiian language), the law stems from then until now. I respect everyone in this room and do not envy, nor do I wish to be the position where you are, one must question the validity and integrity of those around them and in hopes that your position will help huli this systematic failure for the people, not private corporations, and interests. A hui hou, mālama pono.

Chair DeGracia: Mahalo.

Mr. Hull: Thank you for your testimony. Next, we have signed up is Charles Hepa.

Mr. Charles Hepa: Aloha. Good morning, everybody. Just to be clear without starting my time now, how much time I got?

Mr. Hull: You have three minutes of testimony.

Mr. Hepa: Three minutes! That's all I got?

Mr. Hull: Yes, sir.

Mr. Hepa: Alright guys. First of all, good morning. My name is Charles D. Hepa, I am the great-great heir grandson of Isaac Kaiu, which a lot of people don't like to hear that name. Isaac Kaiu is the great grandson, the son of actually of Ali'i Isaac Kaiu, which is the son of Queen Deborah Kapule Kekaiha'akūlou and King Kaumuali'i, therefore guys, as an heir of these monarchies and people, highly respected people, that you guys' respect and put statues of upon our island. I have my affidavit of heirship, notarized, and certified in the land courts already recognized. This happened October 20, 2017, 10:45 a.m., and no one came to my attention and my authority of knowing what's going on, or even having my family's okay. So, I say no to all permitting because my family own and is the rightful owners with land titles and the royal patents to these lands that nobody possess today, that's clear title. I have copies I brought with me, this is the original that you guys can see, and I have copies that I made for you folks last night to pass out to you folks right here, this is all for you guys. I'm putting each and every one of you on notice right now, and if there's any illegal movement from today that's happening, you guys will be seeing my family in court, and this will be a legal matter. Thank you guys for a short period of time of my breath and I respect, and I love each and every one of you. Thank you. It's a beautiful day, a beautiful morning and aloha. Mahalo.

Chair DeGracia: Aloha, thank you.

Mr. Hepa: On record.

Mr. Hull: Next we have signed up, Dan Mortimer.

Mr. Dan Mortimer: Good morning and thank you for the time. It has been thirty years since Hurricane Iniki severely damaged Coco Palms, that is adequate time to raise the funds to create a park or cultural center. To date there is not a viable plan to purchase, build, and maintain the property. The graffiti covered structures of what was once a thriving hub, is now an embarrassment and an eye sore for everyone who drives by it. Archeological supervision will protect the historical significance of this site. The cultural aspects of the property can also be collaboratively highlighted through reasonable dialogue. Once renovated, Coco Palms will once again be a contributor to the tax base, jobs, cultural significance, and be a place of beauty. Please honor the issuance of building permits and allow this project to move forward. Mahalo.

Chair DeGracia: Thank you.

Mr. Hull: Next we have signed up, Gary Hooser.

Mr. Gary Hooser: Aloha Commissioners. My name is Gary Hooser, and I'm speaking today on my own behalf, and don't represent any organization. I strongly urge the commission to support the Petition for Declaratory Order and acknowledge what is so obvious to most residents in the community. Since receiving their permits in 2015, the owners of the Coco Palms property have not made substantial progress, that is the question here today. While the commission is advised by both county staff and attorneys, I encourage the commissioners to come to a decision on your own, you were appointed to represent the community and no one else. The fear of legal action against the county should not be the driving factor. The permits granted under the Iniki Ordinance in 2015 allowed the owners and developers to ignore important county building rules and regulations. These permits (inaudible) amended in 2018,

after the Iniki Ordinance had already expired. The Iniki Ordinance itself is legally flawed special legislation, it violates the State Constitution, and it certainly doesn't allow the county to exempt projects from state laws, like Chapter 343, pertaining to environmental impacts statements. The commission is encouraged to require an EIS, or (inaudible) the determination by the courts, which are now proceeding prior to allowing further development to occur. In August of 2022, Parker Enlow, the owner's representative at the time, assured the Planning Commission they would hold public meetings to hear public concerns and respond appropriately, no such public meetings have been held. Parker Enlow apparently no longer represents the owners, and a public information search reveals a Parker Enlow previously was convicted of fraud, The commission is encouraged to ask this question directly to the present owners, was there prior representative convicted of fraud? In conclusion there are two questions the Planning Commission should put directly and promptly before the Kaua'i Ethics Commission. The County Attorney can advise on this matter, but it's the Ethics Commission who makes the final determination. This should not require a complaint filed by a member of the public but rather be requested by this Planning Commission. The chair of this body is also the Kaua'i representative for the Hawai'i Carpenters Union, the union and its members will clearly receive a direct financial benefit should a Coco Palms development move forward. The vice chair prior to being appointed, had a real estate listing agreement to sell Coco Palms, resort condominiums units being proposed by previous unsuccessful developer. It's unclear whether that previous developer retains a financial interest in the property, and it's unclear whether this matter was previously disclosed. To be clear these questions are not about personal integrity, they're about ensuring legal compliance with the ethics and rules. I encourage the commission to support the Petition for Declaratory Order, and to immediately seek a ruling by the Ethics Commission prior to any formal vote. Thank you. I'll be available for questions if needed. Thank you.

Chair DeGracia: Thank you.

Mr. Hull: Next, we have signed up John Gibb.

Mr. John Gibb: Good morning, Council, my name is John Gibb. I was fortunate enough to grow up here on the eastside, and I just want to speak on behalf of our interactions so far with the ownership. I know a lot of people aren't here and aren't present who have had positive experiences with the ownership. Me, specifically every time we've ever had either asked or recommendations from them in regards to derelict vehicles that have been dumped there, now at this point there was over ninety vehicles that were removed, thirty plus tons of trash, however much drug interaction and stolen items that were back there, as progress is being made, we're seeing less and less, and less of that, and I know KPD, for example could very earnestly speak on behalf of that as well, so I think just a lot of that is glanced over, unfortunately in a lot of these kinds testimonies because people don't want to come up and speak on that sense, but for my personal experience with neighbors around Koki Road, Haleilio road, and Kuamo'o Road, I know I can testify to that. Just want to come up here and speak from that point, as best as possible. If anybody has questions after, I'd be more than happy to catch up with anybody, either on this side or that side. So, that's it. Thank you.

Chair DeGracia: Thank you for your testimony.

Mr. Hull: Next we have signed up, Pua Rossi-Fukino.

Ms. Pua Rossi-Fukino: Aloha, good morning. My name is Puali'ili'imaikalani Rossi-Fukino, and I'm here speaking on behalf of myself and my ohana. I was raised in the moku o puna in the ahupua'a of Wailua, and I'm able to trace my mo'oku'auhau to Wailua through my great, great grandmother who was born and raised there. I'm here to request that you rule that the permits for this proposed hotel are lapsed and no longer valid, and since 2015 we have seen no substantial progress in development, if anything the site has gone into further disarray and looks even worse than ever before. And I have an eight-year-old

son who asks me every day, why no one is taking care of this site. Again, I'm asking that you vote against the validity of these permits. We need to honor the Kaua'i community by creating a space for us to come together, a place for education and training, and a place where the legacy of our kūpuna may continue. What I'm asking is that you put community and culture before all else and treat this place with the respect that it deserves. This is our opportunity to show aloha for this `aina. Mahalo for your time.

Chair DeGracia: Thank you for your testimony.

Mr. Hull: Next we have signed up, Puanani Rogers.

Ms. Puanani Rogers: Is there anywhere I can hook up my computer? What is the wi-fi password?

Mr. Hull: There should be a County of Kaua'i wi-fi that's accessible without a password.

Ms. Rogers: Hmmm... Aloha and good morning, welina mai kākou. It's interesting to be sitting in front of you. I don't know any of you, as a matter of fact, I don't see any kānaka maoli sitting here at this table, which is of most important to me because this is Kaua'i, this is Hawai'i and you folks have to start thinking Hawai'i and culture. There has been no benefit to our people since these developers came to Coco Palms. You have to understand, why we feel the way we do about that place. I sit here and invoke the presence of my ancestors to be here because it's because of them is why I'm here. Their voices are not being heard right now, so we have to speak for them, and I'm speaking for the spirits that dwell at Coco Palms, they are there, there are burials there. There is significant cultural, spiritual wahi pana, the whole Wailua ahupua'a, Wailuanuiaho`āno, which means Wailua the sacred, in the name itself, you should understand. Please, no more benefits to these developers that have failed their duty to comply to the laws, and the courts that you folks have implied upon them, and you keep letting them get away with it for all these years, eighteen years, thirty years, eight years ago, when you made the amendments, come on, wake up. This is Hawai'i, this is Kaua'i. Think native, think culture, think ke akua, think spiritual, that's how we feel about this place. It's not a political issue, it's a spiritual and cultural issue for us. I support the petition that has been brought forth to you, the declaratory order. Please if you have any good sense, and a brain and a heart, you must vote to support this petition. The failure of these developers is shameful. You letting them get away with this for many, many years. You should be ashamed for letting this go on. We're tired of it; we've been looking at this place for the past thirty years and it hurts us every time we pass by. We been there, we've done vigils to try to protect it, many, many years ago we done this. But you not listening, you not listening with your pu'uwai. I ask you to go and search your ancestors and see what they might say about this, but they are here, I invoke my ancestors, they're here, and they're witnessing this, and I want this to go on record...

Mr. Hull: Three minutes, Mr. Chair.

Ms. Rogers: ...my name is Puanani Rogers, and this is for the record, and this is because in the future, if my children or grandchildren should read this document, they will see what you folks have been doing to our `aina. And I hope that they don't have to go through the same thing that we are going through. We are doing this for our future generations, yet unborn, they have to live here, so make it nice, make it healthy, make it happy for their futures here on Kaua'i, and stop this Coco Palms development, it is not a resort area anymore, it's going to be inundated by climate change in a few years, it'll be under water, so this whole thing is a foley. Just give the lands back to us, to the kānaka maoli that can take care of it properly.

Mr. Hull: Four minutes, Mr. Chair.

Ms. Rogers: Okay, goodbye. Thank you.

Chair DeGracia: Thank you for your testimony.

Ms. Rogers: It's a pleasure being here.

Mr. Hull: Next we have signed up, Malia Chun.

Ms. Malia Chun: Welina mai, me ke aloha. My name is Malia Kahaleinia Chun, and everything Aunty just said is basically what I want to evoke today. I've written many, many testimonies in opposition of this development and in opposition of granting permitting to this developer. Time and time again, I feel like it's probably been lost deaf ears. I am a kama'āina of the area that is proposed for development, and when I say kama'āina I don't mean I qualify for a maika'i card, I mean I grew up across the street from the Coco Palms development, right next to Holoholoku Heiau. My father was once the sous chef there, and I know firsthand and I've experienced first the mana and the cultural significance of this site. This young man spoke about Koki Road, my great grandparents raised my grandmothers eight siblings on that road, so yes, it hurts to know that it's been left dilapidated and in disarray. I don't come here with any formal testimony, I'm just here to speak from my na'au, in that I believe if the Planning Commission knew back in the 60's in the significance of this area and what it means to our ancestors, the development of the original Coco Palms would've never been built, and so you sit here today with much more knowledge than what the Planning Commission held back then. You sit here understanding, hopefully the cultural significance of the area of this development. There is good reason why, for the last thirty years this area has sat in disarray and development, and has not been developed any further, there's a good reason and we need to start paying attention to that reason. There is a good reason why, for the past eight years this developer has sat on this, and if you pay attention to the environment this land will speak to you and will tell you that a resort is the last thing that should be developed on this land. If there's any development that happens on this land, it should honor the history and the heritage of the kiko wai'na, the capital that once subsided there. There is iwi kūpuna there, we know that. That entire area is sacred and it's surrounded by our ancestors still.

Mr. Hull: Three minutes, Mr. Chair.

Ms. Chun: So, mahalo nui for your time, and I have faith that will all do the right thing for Kaua'i, and for our future generations who can no longer afford to live here and call this place home. Mahalo nui.

Chair DeGracia: Thank you.

Mr. Hull: Next we have signed up, Megan Wong.

Ms. Megan Wong: Aloha, my name is Megan Wong, I did not prepare a formal testimony, but I have one of my dads which I will read for him later. So, I come speaking from my na'au in the three minutes that I am given. I am born and raised here on Kaua'i, our genealogy traces also back to that place, and it hurts me that we continue to choose development, development over culture, development over sacred spaces. We choose money, we have to stop that, because our kūpuna taught us to think of seven generations to come, not for today, not for right now, and I feel like I bring with me the kūpuna that have passed and those who can't be with me here today. It is worth more to us than fifty million dollars, fifty million dollars without a building, this place is rich history, and please do right by Kaua'i, by our lāhui, by our community, and of the sacred space. Please don't choose to be threatened by big money and development. We have your back and we back you up, we back you up with our affidavits to this place, and if this cannot be heard here, and the next level they push forward, we will be there, like Super Ferry and stand in the way with our bodies, because sometimes that's the only way we can be heard. So, I support this petition and I beg of you to make the right decision, and not listen to big money. Mahalo.

Chair DeGracia: Thank you.

Mr. Hull: Next we have, Kona Wong.

Mr. Kona Wong: Aloha, and good morning. My name is Kona Wong, I too am a lineal descendent of Deborah Kapule, and I'm against this development, and I highly suggest that you guys go and seek out more of these heirs and see who has the interest of this property, the legal documents, and provide us with who is the owner of this place, and I'm putting you on notice now. Thank you.

Chair DeGracia: Thank you.

Mr. Hull: Next signed up we have, William Wong.

Ms. Megan Wong for Mr. William Wong: I'm reading a testimony for my dad who sits in the back. We are writing about the intended hotel plans for Coco Palms, with a strong appeal to stop development. My husband and I live above Coco Palms in Wailua Homesteads and had been looking that blight for decades, with a hope that it could be repurposed for the community, putting aside that it is a sacred and precious site that should be preserved, which doesn't seem to factor into the planning commissions decisions. The impact on traffic alone would be disastrous. Our small island is choked with gridlock. At that very intersection with years of improvement, construction is still not completed. An up to date environmentally impact study must be required as their 2015 permits have lapsed due to the lack of substantial progress. With hope for resolution that benefits the people of Kaua'i, not one that lines the pockets of mainland investors at our expense. Thank you, William Wong.

Chair DeGracia: Thank you.

Mr. Hull: Next we have signed up, Belle Kaiwi.

Ms. Belle Kaiwi: Good morning, Commissioners. My name is Belle Kaiwi for the record, and I'm here on behalf of my kūpuna from the Wailua area. This past weekend I was fortunate to attend a two-day seminar, the first one held Saturday, here in Līhu'e and the second in Anahola, my hometown right now. As we introduced ourselves and what we brought for the seminar on Saturday, I said that I brought my 'ohana from Līhu'e, not only Līhu'e, Kaua'i, but Līhu'e, O'ahu. That's where the name Līhu'e originated from, and the family came from O'ahu, Waialua area where presently there's Schofield Barracks is, that's Līhu'e, and when the family left O'ahu, they came here and they stayed with their other family that lived here in Wailua, over at the Holoholoku Heiau, that was mentioned, and also when the present hotel is built on. I already submitted testimony prior to this hearing, so this is just a continue for me. And it was interesting on Saturday because we learned how to go back and claim our kuleana lands. We have here, land court documents that we can submit to the Bureau of Conveyance as we complete our land claims and we also have descendancy claim applications for the State Department of Land and Natural Resources State Historic Preservation, and we also have for the State Historic Preservation Division, burial registration form, which we haven't even spoken about, the only burial I know in that area that was ever reinterred was those found at the opposite end at Kaumuali'i Park, and where did the burial council put that iwi kūpuna, next to the hale kukai. So, my claims go back to Holoholoku Heiau, where...

Mr. Hull: Three minutes, Mr. Chair.

Chair DeGracia: Excuse me, could you please conclude your testimony. Mahalo.

Ms. Kaiwi: Yes, sir, I will. When my 'ohana, Esther Lehia Holi was born, she was the last one born there, and she still has descendants here on Kaua'i, but I come from her brother, Frank Kahalau Holi, and they

were raised by their uncle, F.W. Malaihi who has a kuleana land right there next to Deborah Kapule with his father-in-law, Oliver Chapin. He was married to Oliver's daughter, Kaluaipihana.

Mr. Hull: Four minutes, Mr. Chair.

Ms. Kaiwi: So those are the kuleana lands that I intend to claim. Thank you.

Chair DeGracia: Thank you.

Ms. Kaiwi: Oh, and another thing, I have it here on my thing, if you have someone who could also download it from my phone, the genealogy, the history of that area, it's here. Thank you.

Chair DeGracia: Thank you.

Mr. Hull: Next...having a problem reading the handwriting but, Keahi (inaudible), I think the last name. Keahi?

Mr. Keahi (inaudible): Aloha kakahiaka, Commissioners, Mr. Chair, Planning Director Hull, mahalo for allowing me time to speak. So, I'm a kānaka maoli, I consider myself belonging to the people of Kaua'i as well, and I'm nobody so I don't want to make a big deal about myself, but for those of you that it matters just for putting it on the record for anybody that might be reading this, my grandmother was a founder of OHA before Office of Hawaiian Affairs was nationalized by the State of Hawaii, you can look in the Congressional Record for that, as in the State archives, but other than that I'm just a person that's concerned and I was asked to come and speak today, ironically by a haole person, but one thing I just want to kind of bring some awareness to some things about this island, and again I'm not making any legal arguments. For those you that know me, I love the law, I respect the law, I practically live in the courtroom, so if I wanted to make a legal argument, I could but for me this is not about that, it's really a political, I'm here to make a political argument which is beyond the law, at least within the scope and purvey of this body within their discretion. On this island things are a little bit different the way things run. On this island you have, and again, this is not to personally embarrass any of the Council members as many of the commissioners as I'm sure I will see you again for other reasons, so with due respect. On this island we've elected a council member that was a dealer of methamphetamines, that is kind of a, it's an embarrassment to the island and it's not, you know this all of the people of Kaua'i's responsibility that we make this kind of decisions, we go and we vote and that's the kind of people we vote for, and we have a better relationship with Russia at this point than with the host culture, which is the kānaka maoli. I just want to put it out there that we have bigger problems on other islands that we can see kind of the result of just letting things go. On O'ahu they're risking not even having clean water in the future for future generations. This just an opportunity for us to kind of look at the consequences of our actions and I'm not picking sides in this particular argument, just bringing some awareness. As far as the political argument...

Mr. Hull: Three minutes, Mr. Chair.

Mr. Keahi: Mahalo, may I just conclude?

Chair DeGracia: Yes, please conclude.

Mr. Keahi: Mahalo. Politically, one thing I know for sure is that kānaka maoli also known as native Hawaiians by some, are kind of fed up that their, and it's not about Hawaiian rights in my opinion, it's about responsibilities and many Hawaiians that I'm aware of have a responsibility to continue to push for the things that they have a responsibility and kuleana for, and so, this going to keep going and going until Hawaiians have fulfilled their responsibility, it's not about rights, it's about fulfilling their responsibility,

and I personally, as a political opportunity, I would like to see this go, to continue, to continue on to go to higher levels of court...

Mr. Hull: Four minutes, Mr. Chair.

Mr. Keahi: ...and go through the whole process because that's the only that this community and the world is going to understand kind of the seriousness of the issue so that we can use this as a platform to get as much information out into the community and into the world that the message can finally be heard. So, thank you for the opportunity. I'm actually glad for the conflict and I hope that the conflict continues so that we can continue to get information out there.

Chair DeGracia: Thank you.

Mr. Hull: Next we have signed up, I apologize, I can't quite read the last name but, Linda Piztola, I believe, my apologies.

Ms. Linda Pizzitola: Good morning, Linda Pizzitola, I'm a resident of Wailua Houselots, I drive by the Coco Palms property every day and just shake my head in disbelief every day. Maybe eight or ten years ago I was part of the organization, Friends of Coco Palms, and we had a vision for a cultural center, a community center, and the seeds were planted for what is now, Wailuanui, which looks like a fabulous thing to me, I was up in the night on the webpage looking at all the high caliber people involved, and the goals for the property and the vision for the property, I would love to see that come to fruition. As we all know the permits have lapsed. There's a petition out there that I urge you to support for the good of the island, the good of the `aina, the community and the culture, the local culture. So, please do the right thing, you know what the right thing is, and again as somebody said earlier, don't cave to big money. Thank you.

Chair DeGracia: Thank you.

Mr. Hull: Next we have signed up, Ron, I believe Agor, but I can't read the last name, but I believe Ron Agor. No? Okay. Next, we have signed up, Mia Checkley.

Ms. Mia Checkley: Aloha and good morning, my name is Mia Checkley, I'm a resident of Kaua'i and a homeowner in the Wailua Houselots. My extended 'ohana here on Kaua'i is comprised of about twenty people and we all live in the Wailua or nearby in Kapa'a area. The Coco Palms corridor of Wailua is an eyesore, it's a blight, it's a proverbial tattered welcome mat for Wailua, which is my home. And while I have deep respect and reverence for the historical and cultural aspects of the site, I don't think it's beneficial for anyone to allow it to sit for another thirty years. Coco Palms was a beautiful place for the community to enjoy before and it can be again. Wailuanui guys want to make it a cultural gathering and I'm all for that, however I don't have any faith that they will ever get the fifty-million dollars that they need to make that happen, and so in thirty years we're going to be looking at the same exact site. And so, I support the redevelopment of the site. In terms of the supposed lapsed permits, the County of Kaua'i issued permits only weeks ago to the new developer and they should in good faith, honor those permits, allow the brand new developer an opportunity to finally restore Coco Palms to her former glory. People say that they're rushing to get a dust fence up to prove substantial progress but apparently they don't understand how these things work. Permitting, planning, getting contracts in place, getting insurance in place, soliciting bids from multiple subs and contractors, procuring materials, hiring an archeological monitor, how all these things work, it takes time. It sat for thirty years, what's a few more months to allow the new developer an opportunity to do because otherwise, again I don't see that anything's going to change in thirty more years. If they money to buy the site and develop it, but they've had all time and we hear people talk about how the terrible status of the site right now, where's the community, were they

picking up the trash, were they removing the ninety cars, they're not. It's going to just keep going, so I'm in support of redevelopment. Thank you.

Chair DeGracia: Thank you.

Mr. Hull: Last, we have signed up, Rupert Rowe.

Mr. Rupert Rowe: Aloha, my name is Rupert Rowe. I want to start off with a short story. In 1949 my kūpuna sent me to Honolulu to learn the western way because we knew what was going to happen in the future. So, by moving to Honolulu, I got to play in the palace, it was not the way it is now. I seen the changes, came back in the late 50's, watched my kūpuna cry because Coco Palms was going to build. Watching the iwi that were dug out over there, there was eighteen hundred that were dug up, there was eighty seven footers that were dug up, sitting in a position facing towards the east because power of all cultures come from the east. When the sun rises the energy flows. I want to get right to the point, the pain that my kūpunas suffered, they were the ali'i of this area. Right now this decision that you folks make will alter our identity as a third-class citizen in this island, that is totally wrong. I look at each one of you, Commissioners, you folks are all malihinis, you are the foreigners here making a decision that will alter our destiny. Who gives you folks the right as a malihini? Only the kānaka can stand up and say what he needs to say. Honestly this project should've been dumped a long time ago, but we still pushing it because the kālā, you know the kālā that is the money, we don't need money, we need `aina. `Aina gives us identity. We're the strangers, you guys should stop this project. How embarrassing. I am the po'o of Kānei'olouma Heiau, I got involved with that so that our people have a place to go and enjoy in their past and understand their future. That's why I said, I went to Honolulu, I seen the changes throughout Hawai'i. It's sad, I cannot change that. I'm eighty-one years old. It is very sad when I look at my mo'opunas, I have to tell them, there's nothing for you in the future because the malihini has altered your destiny.

Mr. Hull: Three minutes.

Mr. Rowe: They all moved out of Hawai'i. What can I say? How can I say what I need to say? This project should stop. The kālā cannot make us happy. All these projects that we planned in the future, where you going put the 'ōpala? That was the problem when Hawai'i became a state. The kūpuna said the problem will come. This is seventy-four years, and we didn't finish the problem. Where you going put the rubbish? Where you going put the kukai? All of those things are important, that's how you mālama the 'āina Hawai'i. When you pass development, do you folks ever look along the shoreline of the blue tarps that go up?

Mr. Hull: Four minutes, Mr. Chair.

Chair DeGracia: Excuse me.

Mr. Rowe: They're the kānakas. They're the homeless person.

Chair DeGracia: Excuse me, please conclude your testimony. Thank you.

Mr. Rowe: So, anyway I'm going to step back. I hope you folks all make the right decision. As an Ali'i, I tell you, do it right. Correct the problem, so that there is a future. Aloha.

Chair DeGracia: Thank you.

Mr. Hull: That's all we have signed up for public testimony. If there's anybody who would like to testify, who has not previously testified you can do so by approaching the microphone. Please state your name for the record, and you have three minutes for testimony.

Ms. Fern Holland: Aloha Commissioners, Fern Holland for the record. Yes, the property is an eye sore, we all know that it's an eye sore because no substantial progress was completed over the last eight years. There is a plan, there's a fabulous plan, like somebody mentioned, we've only had about two years to work on that plan, for the last two and a half years, I've poured my heart and soul into developing that plan and we've spoke with every legislator that has been supportive from the county level to the federal level of government that is supportive of helping us find the funds that we need. We've gone out over the last month and a bit since we met with you, we've acquired substantial amounts of pledges to move forward, we've worked with financial to come up with funding, we've only had about a month of that effort over the holidays and we've made incredible progress, we haven't been doing this for thirty years, it's been a pretty short run and we've made a huge progress and we have an incredible plan, that I haven't heard anybody really oppose. The cultural aspects of the property are really important, I'm not going to go into that, you've been told multiple times by kānaka just how important. We don't need to cave, I know that the largest attorneys that money can buy are intimidating but the truth is, there's much more value in standing up for what's right and standing up for this place and standing up for generations. We look at this exemption for them to rebuild under standards of the Iniki Ordinance that is a thirty-year-old hurricane but really, they're rebuilding on fifty year old ideals, fifty year old culture and environmental stuff and maybe in the last couple of weeks they've pushed forward in trying to make progress by clearing habitat for the 'alae 'ula, habitat for wetland endangered species that we know were nesting in that area that have now been cleared, where is the federal and state environmental monitors, where are the people that are charged in ensuring that those wetlands nesting sites were removed. There are no community outreach, there's been no public, we've tried to meet with them, the developers are very confident that they can make many, many hundred million dollars of this property outside of what the actual cost of purchasing the property is, which is valued closer to 12 million, then it is this huge inflated amount that they would like to make off this property. The truth is is that this property is priceless, it is priceless for our history, it is the birthplace of Hawaiian culture, it is the birthplace of many, many important things that go far beyond any monetary value, and I plead for you to make these developers follow the law and treat them today like they don't have the largest attorneys and the biggest most funded attorneys behind them. Treat them like they're me, that has nothing, no money to sue you just a person, and if you take the fear of being sued out by these huge attorneys and (inaudible) that they bring to the table, I ask you to consider them like everybody else, like the little guys that have to follow the law and they have to make substantial progress into eight years before their permits are expired. The progress of development on sacred grounds is what...

Mr. Hull: Three minutes, Mr. Chair.

Ms. Holland: ...brings our people to being houseless, so when the gentleman speaks about the removal of these cars and the removal of these things, I just remind you that the building of hotels on sacred Hawaiian sites, the building of hotels on our food production infrastructure on the most historic and special sites, on a royal graveyard, on a royal cemetery that's mapped as a cemetery, is what disconnects our people from their culture, is what takes away their identity and is what leads people to being houseless, it's what leads our people to the drug problems that you see in that property, this will in fact only perpetuate and exasperate the problems that our people face. It is not the answer to healing it, the answer to healing it, is to return these lands, the most sacred of Hawaiian lands to Hawaiian people that can feed our people, that can restore this fish pond, it's not a lagoon from Elvis, it is a fish pond, that is an eight-hundred plus year old fish pond that fed our people in a time where we've never been more concerned about our food security, never been more concerned about our future, we must return to the indigenous ideas and knowledge that allowed us to perpetuate...

Mr. Hull: Four minutes, Mr. Chair.

Ms. Holland: ...and I just ask you to please, please put that above the fear of being sued, I ask you to please put that above money, and do what is right today. Mahalo.

Chair DeGracia: Thank you.

Mr. Hull: Is there anyone else that would like to testify, that hasn't previously testified? You can approach the microphone. Please state your name for the record and you have three minutes for testimony.

Ms. Felicia Cowden: Aloha, I'm Felicia Cowden, Councilmember. I am speaking as a Councilmember but individually as a Councilmember. I appreciate the very challenging position that you all have. There are rules that are set out that are guided to assist really where money commitments are placed. On a regular basis, I try so hard to help the displacement of the people, all people certainly the Hawaiian people you know, bullseye to target, but so many people are being displaced, including those right now being taxed out of their homes there were so many challenges and always it's no, no, no there's so many barriers for us to be able to do the right thing, and I have sat here as a citizen when I came before it, when it was the entitlement resort entitlement was going to be taken away, I testified on that before so I don't gonna go too deep but even the attorney for the lender was shocked, and they wanted it taken away, because it's a lot of money to clean up the mess, and I have sent in testimony that had an interview with Uncle Val Ako, who was the one who dug up those 86 bodies that were in fetal positions facing east, I sent that with the testimony of him of what was so special to the Board of Land and Natural Resources Committee meeting, and they never even looked at it, they never saw it, they never opened it up. It was just an open and shut case to approval to continue to take that fourteen additional Department of Land and Natural Resources land that ties it to this really very small private property. You know, over and over again the property has gotten the benefits of doubt, because honestly nobody wants the liability, how do you clean all that up? I get it. But I don't want to hurt these people who are, who are have their money at stake, but way more important is that that's not the right place for hotel any longer, it is a cultural spot, it is a wetland, it's right in the inundation zone, and somewhere we have to stand up and just go with this petition, here it is thirty years beyond Iniki. It is crazy that we're allowing an Iniki rebuilt when it was in the eye of the storm, literally and it's in the flood plain and inundation plane, and here we've done our sea level rise constraint district we just had big waves took twenty feet of shoreline out of my friend's yard just this last weekend. It doesn't make sense that we're saying yes to building on a sacred land in an inundation zone, thirty years beyond. Somebody testified that said...

Mr. Hull: Three minutes, Mr. Chair.

Ms. Cowden: ...they're not going to be able to, the communities might be able to clean it up, well, investor after investor after investor hasn't been able to clean it up, but I do appreciate the hard work that you guys are paying for, right now is cleaning it up for whoever is next. So, I ask you to really consider the petition. Thank you.

Chair DeGracia: Thank you.

Mr. Hull: Is there anyone else who would like to testify? If so, please approach the microphone, state your name for the record and you have three minutes for testimony.

Ms. Vivian Davenport: Aloha, my name is Vivian Davenport, and my first question to each and every one of you is, who are you working for? Are you working for the County? Who is the County? The County, the people, the people who live here, or are you working for developers? Yeah, are you getting bribes for

working for wealthy developers? We can't figure out why you keep choosing them. Is it because you're getting paid? Is it because you're afraid of their lawyers? I just wanna know why you are not working for the people of Hawaii. The second thing, I'd like to do is invite you all to see the UH inundation map for 2030, it's all going to be underwater. It's an app you can download from UH. Take a look at the inundation zone. Do you know that recently it was 80 below 0 in Russia? Okay, there's California is flooding. There was a snowpocalypse, where snow is 10 stories high or something in Alaska. The world is changing, global warming is here, work for the people, we need to come together and survive. We don't need any more hotels. Thank you.

Chair DeGracia: Thank you. At this time I'd like to call a ten minute recess.

Commission went into recess at 10:01 a.m.

Commission reconvened from recess at 10:14 a.m.

Chair DeGracia: I'd like to call the meeting back into session.

Mr. Hull: Okay, we're back in session folks. We have finished with all those that signed up to testify. Are there any other individual members of the public that did not previously testify, and did not sign up but would like to testify on this agenda item? If so, please approach the microphone, please state your name for the record, and you have three minutes for testimony.

Ms. Flora Rubio: My name is Flora Rubio, I am here to testify simply because enough is enough, we've seen Coco Palms deteriorating, we've seen what used to be sacred land that has all the iwi kupuna buried there. I've seen the mound where their bones were just thrown, and we need to have it come back and stop letting hotels be built there for tourists, there's enough tourists on this island. We need a place for our people, we need a place for the people who live here, and their children, and their children's children, we need a gathering place, it is a beautiful place that has the beautiful fish ponds, it was our kings and queens home, and we need to have to returned to our people, our people who live on Kaua'i and are raising our families on Kaua'i, and I just ask that it never, never, never return to being a hotel and over run by people from other places who don't respect our island, who don't respect our people. That's all I have to say. I live in Kapa'a and I've in lived in Kapa'a many years, raising my children and my grand children there, and I just ask you to please, please consider the long term results of allowing any outsiders to come and build on Coco Palms land. Thank you.

Chair DeGracia: Thank you.

Mr. Hull: Do we have anyone else who has not previously testified but would like to testify on this agenda item? Please approach the microphone, state your name for the record, and you have three minutes for testimony.

Mr. Larry Parker: My name is Larry Parker, and just real quickly, let people know I understand that I am an off island new resident who has gone from being a user of Hawai'i to resort to being a person who understands that I'm an intruder here and that I need to give back and that I'm seeing as I learn that we have a huge opportunity here to start recreating the balance that needs to be recreated here, and that my understanding from everything I read is that there's a lot of compelling reasons, legal, environmental and just moral reasons, to not go ahead with the project. So, this is a really good chance to kind of put the hand on the wheel, slow things down and start putting things back into a balance that's going to be sustainable into the future. So, thank you.

Chair DeGracia: Thank you.

Mr. Hull: Is there anyone else who has not previously testified, that would like to testify on this agenda item? Seeing none, Chair?

Chair DeGracia: Okay. Commissioners, it looks like we have a bunch of written testimony which we have not been able to read through which we just received this morning. I will call it recess sometime, so that we can thoroughly go through some of this testimony, because I think it's important. People put a lot of time and energy into writing these testimonies. So, Commissioners does anybody have a suggestion on a time frame in which you guys would like for me to call recess?

Ms. Apisa: Thirty minutes?

Chair DeGracia: Thirty minutes.

Mr. Hull: For the members of the public, what the Chair is bringing up is that the commission has been recently notified via the Office of Information Practices that transmittal of any communications after the agenda has been publicized, including but not limited to public testimony is not appropriate, so previously the commissioners would receive all the written testimony and be able to go through it, digest it, prior to the actual meeting, because that communication has been, we've been put on notice of this issue and concern, the commissioners now can't receive any testimony received after the agenda's been publicized until the day of the meeting, so they have the communications that were sent by many of you in this room, as well as others, but because they haven't been able to view it, they're now looking at time to actually go through and review the testimony that was submitted. It's a bit of a (inaudible) they've been put in but that is essentially the way that they'll be operating from here on out, so it looks like there's a request to recess for thirty minutes.

Chair DeGracia: Yes. Okay, I'd like to call a recess for thirty minutes, we'll reconvene at 10:50.

Commission went into recess at 10:20 a.m.

Commission reconvened from recess at 10:55 a.m.

Chair DeGracia: I'd like to call the meeting back into session. Mr. Clerk, can we commence by asking if there is any additional public testimonies?

Mr. Hull: Yes. Folks we're back in session. Before we turn it back over to the commission, we do have two more members of the public that did sign up to testify that didn't previously testify, so it may be appropriate to call their testimony now.

Chair DeGracia: Please.

Mr. Hull: So, we have signed up, Joell Edwards for public testimony. So, if you can approach one of the microphones, state your name for the record and you have three minutes for testimony.

Ms. Joell Edwards: Good morning, my name is Joell Edwards, I'm from Wainiha, a small business owner and community member of Wainiha. I'm asking the commission to support the Petition of Declaratory order today and determine that the permits have lapsed because of a lack of substantial progress over the last eight years since they were initially granted. Just to note that most projects with a lapse of just even two years of progress show, either a lack of funding, support from the community or simply good planning execution or company leadership, having these permits now at eight years proves all of the above and more. It's also very interesting to note that the placement of a dust screen just weeks before this meeting is how the developer defines significant progress. The permits granted in 2015, allowing the developer to ignore important existing county building rules and regulations were amended in 2018, after

the Iniki Ordinance had already expired. It is time for this historical site to be given the protection, restoration and respect it deserves for the benefit of future generations of Kaua‘i. With the incredible cultural and environmental significance, the site has so much more to offer than accommodation for transient guests. Please review and follow the guidance of the law and thank you for your time this morning.

Chair DeGracia: Thank you.

Mr. Hull: Next we have Mahana Danu.

Ms. Mahana Danu: Aloha everyone, my name is Mahana Danu of Kilauea. I have lived on this beautiful island for over half my life since I was 18. Looking around today, I am not of k naka ‘o wi, I do not have a drop of Hawaiian blood and I don’t see that many people in this room that do. And what we're speaking of today is the property, the land of Coco Palms which does not belong to any person. It belongs to Ke Akua, God the Creator, and any of us are just the caretakers of this earth. I’m Native American, and my ancestors, say, how can we buy or sell the earth? We are only here to take care of it. Each of us, no matter what our ancestry is, know this is the truth. So as we're fighting over a plot of land in order to develop it, to make more money for the elite few, we need to understand that this very powerful place with huge cultural significance before the Great Mahele, was a cultural, such a cultural significant place it was a city of refuge to protect women and children in times of war and in types of peace and there's plenty of history that anyone can look into that, and I'm not one to educate anyone on this, but this is such an important place, and there are people that have testified today that do have the k naka ‘o wi, the koko, the bloodlines that goes beyond the Great Mahele, that goes beyond any title that anybody can claim, oh, we’re going to sell this land for this amount of money, no, this belongs to the people of Kaua‘i, this belongs to the people of Hawai‘i Nei. This should be a cultural center protecting the ancient Hawai‘i ways, the ancient Hawai‘i history, that of the k puna of the past, and that for the keiki of the future. This is not to be yet another hotel. How are you going to deal with the septic and the waste when we have hundreds of thousands of gallons that waste water that goes (inaudible) hotel there that goes into the Wailua River. How can you justify that in an environmental impact statement, you cannot? How can you justify any of this? There's so many hotels here, we don't even have room for the housing, for another, for the employees, we don’t have housing for our own k naka. How are we gonna have housing for yet another hotel? It's not justifiable, it's not economically feasible. What we need to do is put people over profits. We need to look to the past in order to go to the future. This historical place is meant to be a city of refuge. Let us look to the past and to make this a historically cultural place, that goes beyond money and to the developers, think not just with your pockets, think with your hearts, think about the people. Kaua‘i is not just a piece of land to develop, to make money and profit, this place is most sacred place in the whole planet for us to protect, and those of us that do not have the koko, we are the kia‘i, the protectors standing...

Mr. Hull: Three minutes, Mr. Chair.

Chair DeGracia: Excuse me could you please conclude, thank you.

Ms. Danu: ...and my conclusion is that we're not going anywhere, we will always protect this island, and if I die, my spirit will protect this island, forever and ever. Aloha, mahalo.

Chair DeGracia: Thank you.

Mr. Hull: We have no additional members of the public signed up to testify, but if there are any members of the public that didn’t previously testify and would like to testify now, you may do so by approaching the microphone. Seeing none, Mr. Chair, I turn the meeting back over to you.

Chair DeGracia: Thank you, Mr. Clerk. Mahalo to the public, the petitioners, and the applicant for being present today to discuss this item. Right now, we'll discuss preliminary issues followed by a short status report from both sides, then brief argument on the Petition for Declaratory Order followed by questions from the Commissioners. As a preliminary matter, it's been raised to my attention that there is a question of potential conflict of interest affecting myself, and Vice Chair Apisa. I will now read a statement into the record, Pursuant to Section 20.04(B), and the Kaua'i County Charter, Section 3-1.7 of the Kaua'i County Code and Rule 1-2-15 of the Kaua'i County Planning Commission, I hereby provide written disclosure on the record of what has been raised as a potential conflict of interest by parties who have filed a Petition for Declaratory Order for Commission decision on January 24, 2023. I do not agree that there is a conflict of interest and I do not wish to recuse from a vote on the matter, however, in the interest of full disclosure and thorough compliance with relevant rules and law, I hereby submit the following statement: In my private professional employment, I am the Kauai Field Representative for the Hawai'i Regional Council of Carpenters. In my job, I monitor and enforce the collective bargaining agreement with our signatory contractors. The Council represents its members and signatory contractors. Agenda Item K.1. for the Planning Commission's January 24, 2023, Meeting is an action item for the Commission to decide upon a Petition for Declaratory Order regarding the development permits for the Coco Palms Resort Development. Petitioner alleges that I have a conflict of interest based upon my professional position and alleges direct financial gain to my myself or my employer and its members. Layton Construction ("Layton") allegedly is retained by the Developer as the general contractor for this resort project. Layton is a signatory to The Master Agreement covering Carpenters in the State of Hawai'i. Dependent upon certain circumstances, Layton Construction may or may not be required to use subcontractors who are signatory to the Council. At this time, I am not aware of any subcontract bid, or subcontract, offered to any Council member, nor is there a guarantee that there will be one. The decision before the Commission does not involve direct or substantial personal financial interest to me, nor does my decision directly affect the Council. Commissioners, Pursuant to Rule 1-2-15, I am asking whether any Commissioner deems a conflict of interest, if so please indicate by saying, aye or making comments on the record. Hearing none, I will proceed with this matter. I will now ask Vice Chair Apisa to discuss a potential conflict of interest.

Ms. Apisa: Thank you. Pursuant to Section 20...

Mr. Ako: I'm sorry, Mr. Chair, can I take a step back?

Chair DeGracia: Sure.

Mr. Ako: I was just a little too slow, I guess to jump on the gun on this one, but I just wanted to say on the record, I see no conflict in your matter and in this issue here, and I just wanted to applaud you for stepping up and being part of this commission here, because part of this commission we have people that represent business, we have people that represent agriculture, we have people that labor over here, and obviously, if this project was to move forward there is going to have labor that's involved in the project here, there's going to have to be from the masons to the carpenters to everybody in here, so, I see no conflict in your participation in this matter here for the record.

Chair DeGracia: Thank you, Commissioner.

Ms. Apisa: Thank you. Pursuant to Section 20.04(B) of the Kaua'i County Charter, Section 3-1.7 of the Kaua'i County Code and Rule 1-2-15 of the Kaua'i County Planning Commission, I hereby provide disclosure on the record of what has been raised as a potential conflict of interest by parties who have filed a Petition for Declaratory Order for Commission decision on January 24, 2023. I do not deem that a conflict exists, and I do not elect to recuse from a vote on the matter, however, in the interest of full disclosure and thorough compliance with the relevant rules and law, I hereby submit the following

statement: My statement is that, in approximately 2005 to 2008, I was associated with a group of investors led by Mr. Richard Weiser who attempted to develop the Coco Palms resort. The extent of my involvement was to attend several meetings which may have resulted in my real estate brokerage being retained to sell condominium units at the resort, but the units were never built, and my brokerage was not retained. During this period, the corporation holding the development permits was Coco Palms Ventures, which held permits on the property until 2013 when these permits were revoked. Coco Palms Ventures is unrelated to Coco Palms Hui, the applicant for the currently active 2015 permits, and is further unrelated to RP21 Coco Palms, the current property owner and permit holder. I have not communicated with the Coco Palms Ventures entity since 2008, 15 years ago. I have no direct or substantial financial interest in the Coco Palms development, nor did I, or my real estate office, ever realize any direct or substantial financial gain from this development. Since 2008, myself or my real estate brokerage have not had any involvement with any owner, investor or potential investor of Coco Palms. I therefore believe that I have no conflict of interest which prevents me from voting on the Petition for Declaratory Order. Thank you.

Chair DeGracia: Thank you, Vice Chair Apisa. Pursuant to Rule 1-2-15, I'm asking whether any Commissioner deems a conflict of interest for Vice Chair Apisa. Hearing none, we will proceed for the record. Both matters have been referred to the County Board of Ethics for consideration on their February agenda. At this time parties may approach to be seated at the tables. The Commission would like to hear a 5-minute Status Report from the petitioners as a follow up to the last meeting regarding efforts for parties to meet to discuss the purchase of the resort parcel. This will be followed by a 5-minute Status Report on the same matter from the applicant. Commissioners will reserve all their questions until after the status updates and arguments on the petition. Okay, petitioner.

Ms. Teresa Tico: Thank you, Chair. I don't know if this is on. Can you hear me?

Chair DeGracia: Yes.

Ms. Tico: Alright. Thank you, Commissioners. Thank you, Mr. Chair. We did have several meetings with the developers' representatives. I felt that they were productive, you know, in the sense that at least we were cordial, we talked about the potential of our purchasing the Coco Palms properties from them. They were not adverse to that, but of course they wanted some showing that we could actually raise the funding and as you know, it's very difficult to raise millions of dollars in a very short period of time, Commissioner Apisa knew that was going to be at the last commissioners meeting when we discussed the potential of buying out the developers. And we have continued to form a nonprofit, we're in the process forming a nonprofit to hold title to the land should it be acquired. We have been meeting with financial institutions insofar as low interest loans that we could obtain, assuming we are able to raise enough funds, could make a down payment, and I don't think I'm at liberty to tell you what other entities we've met with, but I will say that we're encouraged, it's just that we need time, we can't raise these funds overnight. This process takes a very long period of time. I recently applied for a grant which I had to withdraw from the State, just simply because we weren't ready and we hadn't gotten our nonprofit status at that point, so you know, insofar as the grant, even if we had our tax-exempt status, we wouldn't be seeing the money for another year anyway. These things take a very long time. I just, I have to be candid with you, there is no way that we can buy out the developers interest at this time, although we were encouraged with the discussions that we have with them. I'm sorry I don't have anything other to report anything else, but we are continuing in our efforts.

Chair DeGracia: Thank you.

Mr. William Yuen: Mr. Chairman, William Yuen, and Richard Crum on behalf of the applicants. Ms. Tico is correct that several discussions were held, there was never any formal offer to purchase made on

behalf of the petitioners, so there's no discussion that we can say conclude anything concrete as far as a purchase.

Chair DeGracia: Thank you. As I mentioned, Commissioners questions are reserved, parties are now given the opportunity for 5-minutes each of argument, regarding the petition for declaratory order. Followed by 2-minutes each for rebuttal. Ms. Tico.

Ms. Tico: Thank you, Chair. Before I get into our argument in support of the petition, I just wanted to bring to the Commissioner's attention that, you know there is this DLNR issue, about half of the lands that are proposed for this development, are leased from the State, and they're leased from Coco Palm's Ventures, LLC., and as I believe we mentioned this at the last hearing, Coco Palms Ventures is not registered in the State of Hawai'i, we don't even know if they exist. Commissioner Apisa in addressing her potential conflict of interest, said that Coco Palms Ventures is unrelated to the Coco Palms Hui, and I think I have an email from Bill Yuen, who is one of the attorneys for the developers that RP21 Coco Palms is in related to Coco Palms Ventures, but the State of Hawai'i has leased these lands to Coco Palms Ventures, and we don't understand how this resort can be developed when half of those lands are leased to an entity that's not even registered to do business in the State of Hawai'i, and according to the representations made today and made from Mr. Yuen has nothing to do with RP21 Coco Palms. It's just inexplicable. I don't know how that can be. It's one of the reasons that we're going to be asking for a continuance of this hearing, because the Land Board deferred or they didn't defer, they went ahead and renewed the leases, the Coco Palms Ventures, this nonexistent entity, but they said that they wanted to review the issue in 3 months, and that's coming up very soon. Their staff admitted that they hadn't read any of the letters that had come in about these leases. They said they hadn't really studied it, they haven't had time, and so their staff is undertaking an investigation of this issue right now, and they will be resuming discussions when they at their next meeting I believe, and they will determine then whether the leases are valid. So, this is still up in the air, and we believe that this body should wait until the DLNR meets, and determines, you know, who really has these leases. How can the state renew leases to a nonexistent entity? And that's one of the reasons we're asking for continuous at this time, until that hearing can take place and the State can get its act together and decide who really has those leases, because that's half the land that this project is going to be developed on, if it goes forward. The other reason we're asking for continuance is because obviously, you know, if the Ethics Commission determines that there is the conflict of interest in, our group, you know we don't really believe there is a conflict of interest with Commissioner Apisa, we never made that accusation, we simply disclosed the fact that she had worked for the prior developer as well as my disclosure of the fact that Commissioner Apisa's Real Estate Company had represented one of my properties when I was living off island, so we made full disclosure, we didn't accuse her of a conflict, we just asked the county attorney if there was a possibility of a conflict, and left it at that. We're fine with the Deputy County Attorney's opinion, however, Commissioner DeGracia, we really need to know more about this, because we do feel that there would be bias potential for bias, you know, assuming that the carpenters union, though their workers are hired to work on this project, this is a big multimillion dollar project, so all of you, like all of you, in the carpenters union stand to gain financially, and so the second reason we would ask for a continuance of this hearing today, and the continuance of your vote is to give the Ethics Commission the time to make a ruling on this issue with respect to Chair DeGracia.

Chair DeGracia: Thank you.

Ms. Tico: I think I spoke too long. I just wanted to, as far as you know, our position, we still take the same position that these permits lapsed back in 2017. They were, you know, revisited by the Planning Director in 2018, and they were, the developers were allowed to continue under the same conditions. I think the conditions in 2018 are a little more lax than the initial conditions insofar, as, for example, 2018 conditions don't require the developer to apply for permits to get the dust control fence up, yet in the

original conditions they were required to get permits to go through the permitting process to get a dust control fence. But, in any event we feel that because Iniki Ordinance was repealed...

Ms. Barzilai: Five minutes, Mr. Chair.

Ms. Tico: ...before the 2018 conditions were renewed that the permits have already lapsed, and the Planning Director did not have the right to even file a petition to revoke, they were lapsed, once their lapsed, it's a mandatory lapse, it's an automatic lapse, and they remain lapsed at this day. Thank you.

Chair DeGracia: Thank you. Coco Palms Hui.

Mr. Richard Crum: Good morning, Commissioners. Can you hear me? My name is Richard Crum, and I'm here on behalf of RP21 Coco Palms, LLC., I'm with the law firm, Dentons US, LLP. We're gonna ask the Planning Commission to deny the Petition for Declaratory Order for the following reasons, and I'll try to be brief. First, the Planning Commission does not have authority to make determinations of substantial progress under the SMS Rules. That duty is for the director, not the Commission. Second, the former Planning Director, Michael Dahilig, made a determination of substantial progress at a November 13th, 2018 commission meeting. This is an affirmative determination, of substantial progress on the record and Director Dahilig said, "we feel comfortable that there are enough safeguards here to help them, meaning the former property owners, maintain forward progress." Third, the sitting Director, Hull, stated that in August 23rd of 2022 meeting, that the time to demonstrate progress under these specific permits has been effectively extended beyond the two-year window outlined in SMA Rule 10, so the Director stated, and I'm quoting again, "unless otherwise stated in the permits, when you look at these specific permits that were granted in 2015, there were specific deadlines for actions to occur that go beyond the two-year window, from 2015 to 2017, in particular building permits to be applied for in 2019, demolition actions to occur, I'm done quoting now. And this statement by the Director, directly contradicts the petitioners reading of the SMS Rules, and we support the interpretation advance by the Director. Fourth, and I think this is the most significant point, substantial progress has been made. If you look at the declaration of Benjamin (inaudible), there photographs attached on exhibits A & B, and they show substantial progress, renovating the Coco Palms hotel. The SMA Rules say things like placement of solid material, construct and demolition constitute development. If you review the photos and the declarations, substantial progress occurred as early as 2016, September of 2016. Another reason to deny the petition is that the theory of automatic lapse advanced by the petitioners is not supported by the law. The Kaua'i Rules of Practice and Procedure. Rule 1-10-7 states, and I quote, "an order disposing of a petition for Declaratory Order, shall be applicable only and strictly to the limited factual situation described in the petition, and set forth in the order." So, the petitioners want to say that these permits are invalid, because a Circuit Judge in another case called West Sunset 32, reversed the decision of this Commission with respect to other permits, but the Commission rules require that the decision to be made about these permits other circumstances in another case, on other property dealing with different circumstances cannot be a basis for a decision here. We'd also like to say that even if there was no substantial progress, the director can and has considered other things when determining whether progress, like taking and filing the development condition status reports that our clients have filed, and since they have been filed and taken in, these shows continued compliance with all developing conditions. I'd also like to note that in the West Sunset 32 case, council for the petitioners affectedly agrees with our position. Ms. Tico represents Michael Kaplan, in a West Sunset 32 appeal, and has presented similar argument, basically saying that automatic lapse of permits under the same SMA Rule 10, eliminates vested property rights without due process of law. Ms. Tico also argued, and this is a quote, "any lapse of a permit under SMA Rule 10 is not automatic, a permit may be deemed lapsed only if the Director in his discretion determines that substantial progress has not occur. Finally, the petitioners are asking the Commission to do things that it doesn't have the authority to do, and they've admitted that before the Commission, they don't have a jurisdiction or authority to make rulings on the legitimacy or the passage of Kaua'i ordinances, because the Commission lacks that jurisdiction, the

Commission need not rule on that issue and the relief requested should be denied. We thank the Commission for their time this morning, and I believe our clients have a few things they'd like to share with the Commission if we have time.

Chair DeGracia: Ms. Tico, do you have a rebuttal?

Ms. Tico: Yes, I'd like to say, when I represented Mr. Kaplan it was at the administrative level, and Circuit Court level, and we did make those arguments. We lost. We are now following Judge Watanabe's rule of law, the decision that she made, so to argue that you know we made arguments that support their theory is unfounded. That was before the Watanabe decision was issued, once her decision was issued, we accepted it and we're now using it in this particular case. What was fair in that case should be fair in this case, and Judge Watanabe said that a lapse, once a lapse occurs it's a mandatory lapse, it's not up to the discretion of the Planning Director. To say that the Planning Director in 2022 stated that the permits were effectively extended beyond the two-year window, To say that in 2022, that's years after the permits lapsed, that's far too long, I mean, the permits lapsed in 2017, and now to claim 5 years later, oh but we're extending the two-year window, you can't do it, it's too late. So, we feel that these permits lapsed back in 2017, the Iniki Ordinance was repealed when the developers came before this body in 2018, they should have been required to go through the process that every one of us on this island must go through when we develop anything, they should be required to do for a shoreline certification, for example, you know right now they have the benefit of the Iniki Ordinance, 31 years later, which allows them to have all of these non-conforming structures. I believe that all of you have read the reply that we submitted, and in the reply we outlined, all of the numerous nonconforming structures that they get to build now, 31 years later, with all the changes we've had in our world, on our island, in our society, with our economy, with our environment, with sea level rise, they get to have a commercial building that has no set back from Kuhio Highway.

Ms. Barzilai: Two minutes, Mr. Chair.

Ms. Tico: ... their lot coverage can exceed the 50% lot coverage allowed under the CZO, the first floors of the buildings do not have the required elevations above the base flood, now applicable to the properties, and so on, and so on. We enumerated all of these many nonconforming structures that they get to build now, thirty-one years later because they're still taking advantage of this repealed ordinance. Nonetheless, we do maintain our position that these permits lapsed in 2017 before the renewal in 2018, and therefore this body should declare they are lapsed, and not allow the development to go forward. Thank you.

Chair DeGracia: Thank you. Mr. Yuen, Mr. Crum.

Mr. Crum: Thank you. I just like to briefly say that if you read the West Sunset 32 case, it effectively supports our position, the judge, in that case, Judge Watanabe decided that permits lapse only if the director has made no determination of substantial progress, but as I stated in our opening, there have been 2 directors that have determined progress under these permits. So, that argument, I think that fails. And Mr. Yuen, do you have anything further? I think that's what we'd like to say at this time.

Ms. Tico: If I may, Chair? One sentence.

Chair DeGracia: Very briefly.

Ms. Tico: Very briefly. Thank you. I did ask the Planning Director, Mr. Hull, to provide me with any documentation in the files that showed the Director made a finding of substantial progress in, pre 2018, and Mr. Hull said that he could find nothing, and I did, I think I attached those emails the interaction that we have to our reply brief.

Chair DeGracia: Thank you. Mr. Yuen, Mr. Crum, do you have any last brief statement?

Mr. Yuen: Our clients would like to make a statement about some of the progress that they have made, if that's permissible.

Chair DeGracia: Commissioners? Are we open? Sure.

Ms. Barzilai: Chair, I would prefer that this is done in response to questions, as opposed to allowing additional time, people had time to make statements on the record earlier during testimony.

Chair DeGracia: Okay. So, I'm sorry, I have to retract on that, and we can focus on what we have in order.

Ms. Barzilai: We can take Commissioner questions at this time.

Chair DeGracia: Commissioners, are there any questions for the petitioner?

Ms. Apisa: I would like to hear the substantial progress that they are claiming.

Ms. Barzilai: Would you like to ask a question?

Ms. Apisa: Yes, the question is, what is that substantial progress?

Mr. Yuen: It is appropriate that I have the clients discuss that now, or do you want to continue with questions for the petitioner first?

Chair DeGracia: I believe these questions are directed towards the petitioner. Donna, is that for the...

Ms. Apisa: Correct.

Chair DeGracia: Ms. Tico?

Ms. Apisa: Well, no, it would be directed to the applicant.

Chair DeGracia: Okay. At this time let's clear up any questions we have for the petitioner first, and then we'll move into whether or not we would entertain any additional information from the applicant.

Mr. Ako: Mr. Chair, I have a question.

Chair DeGracia: Sure.

Mr. Ako: Now help me understand this, Ms. Tico. I think we're talking about in 2015, n application was put in by Coco Palms somebody, and then in 2017 is when the claims being made that there was no substantial progress that was made and there was no findings that substantial progress has been made. Right.

Ms. Tico: Correct.

Mr. Ako: From 2017 to 2018, was when there was this question about the revocation from the Director at that time. Then finally in 2018, there was a new set of conditions that have come out in lieu of the revocation process itself, and that is the conditions that we live with today, yeah. I think the obstacle that I have in my mind right now is, the reading of the new conditions in there, which talks about, I think the SMA Rule 10, unless as otherwise stated in the permit, then the two-years shall prevail in there. In my mind is, the 2018 condition have been acted upon and approved by the Commission, and that's what we have in front of us.

I have the problem is, how do we rescind those conditions to go back to the 2015 conditions, and those 2015 conditions, in mind, does not exist anymore.

Ms. Tico: That's correct, and that is our argument. Our argument was at the 2015 conditions were not complied with within 2 years there was no substantial progress, therefore they lapsed, and that everything that occurred since then it shouldn't have happened, because the permits were lapse. This is very similar to the Kaplan case, to the West Sunset case. You know they had nine years earlier been engaged in what they believed constitute a substantial progress but the court disagreed and said there were no findings of substantial progress.

Mr. Ako: But whether or not it should or should not have happened. The 2018 new conditions happened.

Ms. Tico: You know what it...

Mr. Ako: Do we go back and rescind the 2018 conditions?

Ms. Tico: Yes, because they should never have been imposed. The permits have lapsed before that time. That's where everything went wrong. You read it in our reply. That we explain that at that point, that's where everything went wrong.

Mr. Ako: Correct. And do you believe the Commission has the authority to rescind the action that was taken by the 2018 Commission? Because it was the 2018 Commission that approved the new conditions. Do we now need to rescind it and does this body here, do you believe, have the authority to rescind that?

Ms. Tico: We don't even need to get to the authority aspect because once the conditions are lapsed, they are lapsed. Anything that happened beyond that doesn't matter. I'm sorry, but you know we believe that they were lapsed before 2018. I gave the analogy in our reply brief of an expired driver's license. Your driver's license expires, you can't go into the Department of Motor Vehicles and ask them to just stamp it and renew it. No, you have to start all over again and take that written test, and that's what our argument is here. We're asking this body to enter a declaratory order that the permits lapsed in 2017, due to no substantial progress, and anything that happened beyond that is irrelevant.

Mr. Ako: So, to clarify in my mind that 2018 need not be rescinded.

Ms. Tico: No. Shouldn't even have happened. Once the permits lapsed, they're lapsed. You can't be driving around with an expired driver's license.

Mr. Ako: Even if another license was granted after that?

Ms. Tico: Well, it wasn't because they didn't go through the formal proceeding. If they would have had to have gone through the whole permit process again.

Ms. Barzilai: Excuse me Chair, I believe we're getting into legal argument and this is one lawyers opinion and there are other legal opinions that can be provided.

Chair DeGracia: Okay, got it. Thank you. Commissioners, any further questions for the petitioner?

Mr. Ornellas: Yes. Ms. Tico, you brought up the issue of DLNR leases.

Ms. Tico: DLNR leases, yes.

Mr. Ornellas: Can you tell us the relevance of the lease issue in regard to the declaratory ruling.

Ms. Tico: We're asking for a postponement because if they decide not to renew those leases this project development will not go forward.

Mr. Ornellas: I'm assuming those leases are revocable permits. Is that correct?

Ms. Tico: Yes.

Mr. Ornellas: Thank you.

Mr. Ako: I have another...

Chair DeGracia: Sure.

Mr. Ako: Can?

Chair DeGracia: Please Commissioner Ako.

Mr. Ako: The other thing I think that's troubling in my mind is the fact that we're going back to 2017, that's the question in there. What has been, I guess in my mind, the delay from 2017 to today, to being this up as an issue? As quote, "as progress has been made," whether we agree, whether it's been substantial progress or not, progress has been made. I think we're looking at five or six years later, where now we're saying, wait we shouldn't have done that back then.

Ms. Tico: Yes, I understand.

Mr. Ako: Why now, as opposed to then.

Ms. Tico: I understand. What brought this up is that we, then we had the Watanabe decision, and everyone had to rethink everything, and I believe the Planning Director will explain, he had to rethink everything he had to send out letters people with SMA permits, asking them, what have you done? So, yeah, it changed, it changed everything.

Mr. Ako: So, for my education the Watanabe decision in 2020, affects an action that happened in 2017, prior to?

Ms. Tico: I believe so. Because in the Kaplan case, the West Sunset case those permits had been issued more than nine years earlier, and she still said that they had automatically lapsed. And the developers have attached the entire decision, I attached the relevant portions to our petition, but the developers attached the entire decision as one of their exhibits, so it's there for your review, at which might be another reason to consider a continuance. They submitted, I think it's close to 400 pages of argument and exhibit, it's a lot to digest. It took me quite a while to get through everything too, so I would understand if all of you didn't even have a chance to get through the argument.

Chair DeGracia: Commissioners, any further questions for the petitioner?

Ms. Nogami-Streufert: Based upon what has been happening to date, with the leases and the either the renewal or the non-renewal or reconsideration of the leases. How much time do you think it'll take DLNR to actually do this?

Ms. Tico: I believe in the next month or two. Is it alright if I ask, Mr. Hooser who is in the audience? He was actually there, so he would know.

Ms. Nogami-Streufert: If we're asking for a continuance, you'd want to know for how long, because if you have another 2 year continuance that doesn't make any sense.

Ms. Tico: No, it would be. It would be 2 months, no more than 2 months, because of my understanding is the Ethics Commission can rule.

Ms. Nogami-Streufert: No, no, not the Ethics.

Ms. Tico: Okay.

Ms. Nogami-Streufert: We're talking about the leases.

Ms. Tico: Yes, I believe that they are going to be making that decision or they're reviewing these leases in another month or 2. I'm sorry I don't have the exact date, I wasn't present at that hearing, but Mr. Hooser knows.

Ms. Barzilai: Chair, I have to clarify, is Ms. Tico making a motion on the floor for continuance? Because I have to know what's before the Commission.

Ms. Tico: I did, I did, at the onset of my statement.

Ms. Barzilai: You mentioned...

Ms. Tico: I asked for a continuance for two reasons based on the referral of the potential conflict of the interest of the Chairman to the Board of Ethics, and also...

Ms. Barzilai: I heard your reasons. I just want to know if you're actually making a motion because I have to know what's before the Commission.

Ms. Tico: Yes, I did. Thank you.

Ms. Barzilai: Thank you.

Chair DeGracia: Commissioners, anything further? Hearing none, do we have any questions for Mr. Crum or Mr. Yuen?

Ms. Nogami-Streufert: Yes, I do. There's been a lot of, I'm not going to argue what the word substantial means, because I don't think that that's something that we can, that I can decide, is or is not substantial, but if you could go through some of the actions that have taken place that would indicate that there has been progress.

Mr. Yuen: Can I have our clients address that?

Chair DeGracia: I believe a lot of this, the progress had been outlined, I believe in the materials that we were provided. Do we want to hear...

Ms. Nogami-Streufert: The reason for doing this is because there's a lot of people in the audience who do not believe that there has been a substantial or has been any progress, and if we could do a shortened version of what has actually happened, I'm not looking for a whole decertation, I'm just looking at something that would indicate and let people that there has been or has not been progress. If that's acceptable. I have a feeling that there's a lot of misinformation or non-information about what has or has not happened, and I think it might be illuminating for a lot of people to know what has happened in the past.

Chair DeGracia: Okay, I agree Commissioner. If we could have a brief summary.

Mr. Aaron Pacini: Thank you. My name is Aaron Pacini, I'm council with Reef Capital Partners. Reef was a lender to Coco Palms Hui, and then after Coco Palms Hui was unable to pay then we foreclosed on the property. And I appreciate the opportunity to talk about some of that misinformation. One, there's been talk of, it's one developer after another, we're selling this project Reef has decided we want to develop it and we want to do it right. I hope you have an opportunity to talk to Patrick Manning, who's with our team, so you can understand where capacity, capability of how seriously we take this responsibility to properly develop Coco Palms. Particular to the question in our brief, if you would like to take a look at the declaration of Benjamin Schram, and this is probably the fastest way, we can talk about some of the trash removal, the car removal some of those things, but this probably the most substantial, and I'm going to read from paragraph number 9, in Benjamin Schram's declaration, between March 10, 2015, and March 10, 2017, the lenders funded approximately 5 million dollars to Coco Palms Hui, LLC., for the redevelopment of Coco Palms Resort, including approximately 2.9 million dollars paid to Pacific Concrete, Cutting & Coring, Inc., for demolition site preparation and removal of asbestos contained materials prior to March 10, 2017...

Chair DeGracia: Excuse me.

Mr. Pacini: Yes.

Chair DeGracia: I believe it would be more appropriate if you could speak on your behalf and your experience in your capacity as opposed to what you have there.

Mr. Pacini: I'm simply speaking on behalf of our company, and the money that we lent to Coco Palms Hui and how that money was spent, Benjamin Schram is part of our company, is with us, and you can look at his declaration and he's attached pictures that actually, physically show what changes actually occurred with the asbestos removal and development, but if you'd like to take a look at that provision.

Ms. Barzilai: Mr. Chair, I think these papers are already before the Commissioners, and I think the Commissioners have had an opportunity to review them.

Chair DeGracia: Yeah. I mean, I don't mind you outlining it in your own understanding, it's just that a lot of the stuff we have are already beforehand, some of the Commissioners have went through and I assume all, I read it, but I know this is a disclosure out to the public, so this opportunity is given as a status report, brief status report as to, I guess answering a lot of the questions that the public has or clearing up some misinformation that's going around. And I don't mind you continuing but under your own understanding and maybe addressing some of these things briefly.

Mr. Pacini: Wonderful. So substantial progress for that, there's been almost 3 million dollars paid for the demolition, well, now, you can read that declaration, as far as what we're trying to do with that property, there was some misunderstanding, could I invite Patrick Manning to talk about what our plan is, and maybe address them, he's with Reef as well?

Chair DeGracia: Sure.

Mr. Pacini: I think there's kind of two parts to the questions, substantial progress and then what we're trying to actually accomplish.

Chair DeGracia: Okay.

Mr. Pacini: In response to some of the public comment.

Ms. Barzilai: Chair...

Mr. Pacini: Is that appropriate?

Ms. Barzilai: ...I believe that the public representative is Ron Agor, as the party who's supposed to be making comments on technical progress. It's at your discretion.

Chair DeGracia: Okay, I'll leave it up to them. Who is more appropriate to deliver this information to this body.

Mr. Pacini: Would you just repeat the precise question that you want to address, because there's different people that could address different questions.

Chair DeGracia: I believe you cleared up, like you said, there's a two-part, where substantial progress was involved and also there are also items that you guys may want to clear up that may have been miscommunicated...

Mr. Pacini: ...about what the project is and what we're trying to do.

Chair DeGracia: To the public. Exactly.

Mr. Pacini: Okay.

Mr. Yuen: I think Patrick Manning, he's the best one to speak on that. The only other thing I want to clear up is, the state revocable permits are a relatively small part of the property. None of the properties on which the buildings are going to be renovated, the buildings are on private property, owned by RP Coco Palms 21. The state revocable permits cover a parking lot, cover some of the grounds, cover some of the fishponds, and I'll turn it over to Mr. Manning.

Mr. Patrick Manning: Thank you. Commission, Chair. Patrick Manning, I'm a partner with Reef Capital. I really don't get involved in any of the lending arm of what we do. I get involved when we're going to develop a project and I only develop projects that are important, and I mainly wanted to just introduce myself. I know that Planning Director wasn't able to send you a video that was made, and I know it isn't relevant to have you know the mayor, in the town I've been developing in it for 20 years as well as the university in our area, but I'm happy to send everyone a video that basically speaks to our integrity and doing what we say and meeting with the residents, and the mayor lets everybody know that the residents all show up and support us shoulder to shoulder, because we do things right. A project I'm doing right now, we set aside 70% of the land is an ancient lava flow, and we're putting trails in, a nature center, and I just wanted you to know that I came here, walked the land many times, and I have a heavy heart because you can you, from those came way before Coco Palms to the more recent celebrity era, it's an important piece of property, with the Iniki and just building on those same foundations, I just worry that revoking permits would result in, you know, nothing happening, and we are passionate about the project about Coco Palms, and we are capable, experienced, and financed, to do the property, and anxious to get started. So really, just wanted to introduce you to us just a little bit.

Mr. Hull: I'd just like to clarify one thing, and it wasn't Mr. Manning's intention for confusion, but I think when Mr. Manning spoke about the mayor, there might have been some confusion, and I'm part of the reception of that. He's speaking of a mayor of a previous town that Reef Partners has worked, not necessarily Kaua'i's mayor.

Mr. Manning: Yeah, sorry.

Mr. Hull: But there's that something that Reef Partners wanted to provide after the agenda had been published, much in the same manner that the public testimony couldn't be transmitted to you folks earlier. I've informed him that the video itself could not be emailed to you folks so, that maybe part of a packet later that will be part of the public testimony, but just to clear the air on the...

Mr. Manning: Thank you.

Ms. Apisa: Thank you for that background. I think the question on the floor is what substantial progress has been made to date, and then what's the projection?

Mr. Manning: So, as previously stated we have a ton of cleanup, there been about 40 tons of trash removed. There's been about a 100 cars removed, the asbestos, remove all of those things that were discussed, and then we're continually, almost, I think, on a daily basis, having clean up, and yes, the dust mitigation was put it recently, but that's because we're intending to move forward, not I don't think it was because of this meeting, I could be wrong, but that's substantial completion. And then, of course, we think the integrity of the concrete is non-existent, so we'll have demolition started as soon as we're able. And so of course, we just wanna go forward with all of the progress from here, I mean, think there's substantial completion when we have removed biohazard and cleaned the place up a lot is it's just definite progress.

Mr. Yuen: We've obtained 24 of the 25 building permits that we need, so we need one more permit before construction starts.

Chair DeGracia: Follow up on the permit, when do you foresee pulling that last, 25<sup>th</sup> permit?

Mr. Yuen: I think that could come within the next month.

Chair DeGracia: Thank you. Commissioners, any further questions for Mr. Yuen?

Mr. Ako: Yes, I have a question. You know in the brief that was submitted by Coco Palms, there are statements in there that are saying that, as mentioned earlier, progress has been made. There's other statements in there which talks about the continued progress, and there are several statements in there which talks about the type of progress that has been made, or just progress has been made. Do you equate those types of progresses with substantial progress? To you is that the same thing.

Mr. Yuen: Yes, I believe substantial progress has been made. I think when the developer has advanced 5 million dollars to do both demolition and asbestos removal, asbestos removal is a very tedious process, and that kind of work took about a year to complete, and we think that certainly, 5 million dollars is a substantial sum and that reflects substantial completion.

Mr. Ako: So how do you come to this conclusion of what is substantial progress? Because very honestly, in my mind I'm not sure what that means, substantial progress, and I think it's something that can be determined by the director, yeah.

Mr. Yuen: Correct, it's the Director's call...

Mr. Ako: Right.

Mr. Yuen: ...to determine whether substantial progress has been made...

Mr. Ako: Correct.

Mr. Yuen: ...and both Michael Dahilig and Ka`aina Hull have concluded that substantial progress was made.

Mr. Ako: Did they conclude, or did they have...I guess maybe I should just cut through the chase saying, do you have any type of document which would tell me that there is, that a statement was made about substantial progress, because that, I think would help me (inaudible)...

Mr. Yuen: Those statements were made at Planning Commission meetings.

Mr. Ako: That's substantial progress or was it an inference in your mind that substantial progress was made.

Mr. Yuen: I think they made the statement that substantial progress was made at least substantial progress to satisfy the requirements of the Planning Commission rules.

Mr. Ako: Or was it just to move forward or there was progress. I guess in my mind I'm trying to make that distinction because the rules talks about substantial progress, and yet your briefs talks about different types of progress, so I'm trying to figure out whether the inferences that you are making about the different types of progress, in your mind, is that the same as substantial progress.

Mr. Yuen: In my mind progress, the progress, the Director has the discretion to make a determination as to whether the progress made by a developer or an applicant is substantial enough to permit him to go forward, and in this case, the Directors have made that determination.

Mr. Ako: Okay, but you don't have anything in writing that would make it real easy for us to say.

Mr. Yuen: Well, it's the transcript of the Planning Commission meetings, in which the Directors have made that statement.

Mr. Ako: Okay.

Mr. Yuen: And we've attached that as appendices to our argument.

Mr. Ako: Okay. Thank you.

Chair DeGracia: Question?

Ms. Cox: Yes, I have question. In the August meeting, in looking back at the minutes in the August meeting, a couple of statements were made that I just wanted to ask a little bit about, because I think one of the issues we have here is kind of a lack of trust because of all the changes and the length of time, so, one of the statements was made that I think it was Ron Agor, said that there would be community presentations made in the fall. Have any community presentations been made this fall?

Mr. Yuen: The only ones that I'm aware of, were the meetings that took place following the October Planning Commission meeting, there were several calls with Ms. Tico, and some of the petitioners.

Ms. Cox: Okay, but not general community presentations.

Mr. Yuen: Not a general public meeting of that kind, no.

Ms. Cox: And then the other thing is that the building, as you know everybody who drives by Coco Palms complains about what it looks like, no matter which side of this issue they're on, and one of the things we were told in August was again that the building closest to the highway would be demolished and gone

within six months, which would be the end of February. I just want to know is that actually going to take place because it's still there.

Mr. Yuen: I would refer it to Mr. Manning or Mr. Pacini. Ron Agor, okay.

Mr. Ron Agor: My name is Ron Agor. I did make the statement that we were contemplating taking down the structure in front but after seriously looking into it, we found that the structure is a nonconforming structure, and if we were to take it down we wouldn't be able to rebuild it. So, the structure itself is, we did an inspection and it's safe to remain as is until the retrofit of the construction begins.

Ms. Cox: Thank you.

Mr. Agor: And I'd like to address, somebody asked, well how long is it going to take to get the last permit, I'm holding on to that, at my discretion with the developers. The zoning permits timelines start when the last permit is issued and with what's going on, I don't want to pull that last permit, you know, we're making appeals, after appeals, or more challenging and then it would force to probably, I mean if I pull the last permit were going to lose the permit if more challenges extend beyond the one year, but we can proceed with construction, with the permits that we have now, and if we do, in a year or so, if we feel comfortable that we're clear in terms of challenges, then maybe we'll pull the last permit. There's a lot of issues that affect the project, and every time we get into a situation like this, you know, you're putting us in a bad place. So, this is America anybody can challenge anything, but you know, you gotta give too.

Mr. Ako: Mr. Chair, if I can ask. So, I guess what I've just heard is that, until we pull that last permit, the clock really doesn't start ticking, right, and you're very careful when you pull that last permit because of what may happen prior to that. Meaning, you cannot tell us or give us any kind of substantial timeline in terms of when this project may start or may even be completed. Is that a true statement?

Mr. Agor: No, I believe the developer intends to continue their work now and begin construction, because they have permits. They can build...

Mr. Ako: Right, they can.

Mr. Agor: ...structures that permits were issued. And...

Mr. Ako: But you hold off on the last one.

Mr. Agor: What's that?

Mr. Ako: But if you hold off on that last one, then what happens?

Mr. Agor: The zoning permit expiration time period will not begin until we pull the building permit, we pull the last building permit.

Mr. Ako: I understand you very well that one of the, I think one of the big issues here is, this things been standing there for thirty years now.

Mr. Agor: Yeah.

Mr. Ako: Right, and we just, I think we had enough of this view of Coco Palms as it is right now, we need to kind of move forward from it, so without a significant timeline on that, this could go on forever, I mean, not forever but...

Mr. Agor: Logically, the developer wants to complete the project in two years. If we begin construction, continue in what we're doing right now and begin construction, progress is going to be made, and I'm thinking that if we do that, continue construction and come summer, we feel comfortable that we're not going to be faced with more petitions, more challenges, then we'll pull the last permit. I mean, that's only logical.

Mr. Ako: Well, excuse me because I have no idea about how these developments works and all of that. All I see is what is in front of me, and from what I hear, and just for clarification going back to your issue about the nonconformance of the building and why it's not, demolition wasn't taken on that, and that is because, if you take that building down then when you rebuild, you go under the new codes?

Mr. Agor: Yes.

Mr. Ako: That's what it is and not (inaudible).

Mr. Yuen: You cannot rebuild in the same footprint if you demolish that building.

Mr. Agor: We would have to conform to the setbacks.

Ms. Cox: Can I asks a question, Chair? Sorry.

Chair DeGracia: Sure.

Ms. Cox: Sort of a follow up question. Has the developer considered actually trying to live up to the current requirements? I understand that you don't want to demolish that building because then you wouldn't be able to build in the same place, but the reason that you can't building the same place is because of the setback, which is for safety and the coastline erosion. So, I'm wondering has the developer considered making some changes to the plan of the project, based on current information?

Mr. Yuen: Economically it makes more sense to renovate the existing structures rather than knock them down and start from scratch.

Ms. Cox: So, it's an economic decision.

Mr. Yuen: Yes.

Ms. Cox: Thank you.

Chair DeGracia: Commissioners, do we have anymore questions regarding the petition for declaratory order for the applicant or the petitioner at this time? Ms. Tico?

Ms. Tico: If I may, I just want to draw the Commissioners attention to our Exhibit J in our reply, which was my request to Planning Director Hull for documents pertaining to any extensions of time given to Coco Palms Hui to complete the project development, and any findings by the Director of substantial progress regarding the project development within the first two years of the issuance of the permits, and if you go to Exhibit K, he answers me that he was unable to find any of those documents. It's in the reply brief that petitioners filed.

Ms. Nogami-Streufert: So, what would be the time frame that you're looking at that there was no information given?

Ms. Tico: Were still talking about the two years following the issuance of the 2015 (inaudible).

Ms. Nogami-Streufert: To 2018, is that what you're talking about?

Ms. Tico: Yes, yes.

Ms. Nogami-Streufert: Okay.

Mr. Ako: So, Ms. Tico in your interpretation it's a matter of because we could not find, there was none.

Ms. Tico: Well, yes. Thank you. And I might add that I looked, personally, I looked through those boxes and could find nothing.

Chair DeGracia: Thank you Commissioners. Anything further?

Ms. Cox: Yes, I have one question for Ms. Tico, and that is just, you've asked for a continuance.

Ms. Tico: Yes.

Ms. Cox: So, your group would actually prefer continuance then supporting the declaratory order at this point.

Ms. Tico: Yes.

Ms. Cox: Is that correct? Thank you.

Chair DeGracia: Commissioners, are we ready to act or do you wish to enter into the executive session?

Ms. Nogami-Streufert: I would ask for an executive session with the County attorney.

Chair DeGracia: Okay. Is that a motion?

Ms. Nogami-Streufert: Yes, I move to go into executive session.

Chair DeGracia: Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-S(a)(4), the purpose of this executive session is to consult with the County's legal counsel on questions, issues, status, and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to the following matters:

Commission consideration of Petition for Declaratory Order, Memorandum in Opposition, and Petitioner's Reply Regarding Special [sic] Area Use Permit SMA (U)-2015-6; Project Development Use Permit U-2015-7; Variance Permit V-2015-1; Class IV Zoning Permit ZA-IV- 2015-8 for Coco Palms Hui, LLC.

Chair DeGracia: May I get a motion?

Ms. Nogami-Streufert: I so move.

Ms. Cox: Second.

Chair DeGracia: Moved and seconded. Let's take a voice vote. All in favor say, aye. Aye (unanimous voice vote). Oppose. 7:0. Hearing none, we'll be adjourned into executive session, estimated time is one hour. We'll reconvene at, actually Commissioners, how would you like to do lunch? Would you like to have it during the executive session? We'll reconvene at 1:05 p.m.

Commission went into Executive Session at 12:05 p.m.  
Commission reconvened from Executive Session at 1:20 p.m.

Chair DeGracia: Thank you parties and members of the public, the Planning Commission's open meeting is now reconvened. Commissioners, I'll entertain open discussion on this item.

Mr. Yuen: Mr. Chairman, can I just say that we're opposed to the continuance of this matter.

Chair DeGracia: Noted.

Ms. Cox: I would like to have it stated what it is we're actually making a ruling on today because what we're being asked to do in our jobs today is much smaller than the entire issue of Coco Palms, so could we have just a restatement of what we are being asked to decide today.

Ms. Barzilai: So, under your rules, Commissioner Cox, you are being asked to either grant the petition for declaratory order, you are asked to deny the petition for declaratory order, or to refer the matter to a hearings officer for an evidentiary hearing. That's how I view the matter.

Ms. Cox: Thank you.

Ms. Apisa: I will make a motion to deny the request for continuance.

Ms. Nogami-Streufert: Second.

Chair DeGracia: Okay. We have a motion on the floor to deny the petitioners request for continuance. Any discussion?

Ms. Apisa: I guess just to offer an explanation. I think we've heard a lot and read a lot, and I think we need to move forward.

Ms. Nogami-Streufert: I'd like to say a little bit about this. As you can tell, we're all very conflicted about this. There are lots of things that we see as potential not issues but as things that we may not be totally in favor of, there are other things that we may agree with, and it's been very difficult for all of us to make this decision, whatever decisions that we all come up with because we haven't discussed who's going to be voting how, but that's just to let you know that it's not an easy decision for any of us, but we've done all of our readings, we've listened to all of the testimony, we've read every testimony that came in today, we've tried to be as fair as we possibly can, and within the constraints of what we can do, we will come up with our decision today.

Chair DeGracia: Thank you, Commissioner Streufert. Any further discussion concerning the motion on the floor, to deny the petitioners request for continuance? Okay, if we could get a roll call vote.

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

Mr. Ako: Aye.

Mr. Hull: Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Nogami-Streufert: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye. Motion passes. 7:0. Thank you. Commissioners, if we could move forward now with a discussion on the petition for declaratory order, and we'll welcome any of your thoughts, any of your arguments, any of your opinions on the matter, before we entertain a motion.

Ms. Cox: It seems to me that one of the issues is that we have sort of a confusion between 2015 and 17/18 and now, and there may have been decisions made in the past that we would not agree with and very much wish hadn't happened, at least I can say that for myself, but again, what we're looking at now is has there been substantial progress made as declared by the director, so it's a very, very narrow, and I'm gonna cry, so I really believe that I'm working for people of Kaua'i, I want to be working for people of Kaua'i, and I'm finding myself in an impossible situation because what we're being asked to vote on here today is so much smaller than what the issue is. I think there is a true lack of trust. I have to say I'm disappointed in the willingness of the developers to adapt the project, to conform to current standards, and to listen to the people, and to work with the people, I'm terribly disappointed, but that's not what's before us today, what's before us today is, has substantial progress been made on the conditions as determined by the director?

Chair DeGracia: Thank you.

Mr. Ako: If I can add.

Chair DeGracia: Sure.

Mr. Ako: Chair DeGracia. I guess this morning as I was listening to a lot of the concerns and testimonies that were made, I guess several things just hit my heart. You know, how many of you are k̄anaka maoli on this table over here, or how many of you are malihinis, how many of you grew up here, and I guess I'm going to be the first to admit that, call it what it is, I'm kind of like an alien, I'm an intruder, I'm not from here. I was not born and raised on this island here, I came here in 1991, late in 1991, and I was accused of being the one that brought Hurricane Iniki to the island over here in September, and little did I know at that time that today I'd be sitting at this table over here and trying to wrestle with these questions that I have in front of me here. You but, knowing all of that, I think till today I look at Kaua'i as being my home right now, our son grew up over here, and yet, because of whatever reasons he left to go school and this wasn't a place that he felt that he could come back to make a living here, so, yes I do have skin in the game on this here, in terms of the fact that Kaua'i, I consider is my home, and what happens to Coco Palms or what doesn't happen to Coco Palms that situation there does impact my life as well as the life of everybody else on this island. And I know the view on this issue here from out there, whether you're on

the left side of the room or the right side of this room, is a lot different than we see from this side. And decisions have to be made out here, and there's a lot of things that I think I'm looking at, we're talking about the flood lines over there, the coastal rise, and I think that affects both sides of the issue, whether it's a park over there or whether it's a resort that's there, whether there's traffic in there, and there's that issue about the fear of being sued out there, and I think that's going to exist from both sides of the issue no matter which side it goes. So, I think in my mind the only thing I need to do is try to figure out what to do that's right out here, and then you come back to that question, to do the right, for who, who is right. I don't anyone here is going to disagree with the fact that we have to do what is right. The question is, right for who, right for what. So, I think as Commissioner Cox has said, we all struggle with this thing here and we all want to do what's right, and yet when I look at this issue here, I'm not sure whether substantial progress has been made, I don't think I see anything that shows me substantial progress has been made and at the same time, when I look at time I don't see how in my mind I can go back to 2015 when something already has been approved in 2018, so, as torn as it is to be here, and be it at the same time, you know, I guess we're just forced to make a decision, and I think on this case, I will be, if there is a motion against the declaratory ruling, I'm going to be voting no.

Chair DeGracia: Commissioners, further discussion? Please.

Mr. Ornellas: First of all, I'd like to thank all of the people that came out today and helped us make this very difficult decision. And I think testimony points to a lot of the really serious issues involved with this particular project. It's going to be an uphill battle all the way to get this thing built, if it is ever built, with that said, my understanding is that the Planning Director makes the determination of whether or not substantial progress has been made and not the Planning Commission.

Chair DeGracia: Thank you, Commissioner. I believe we are considering the proper authority of the commission under SMA Rule 10, and whether or not this commission, not the director has the authority to rule what is sufficient progress, and I believe there are a lot of issues that have been raised here, a lot of it that we all feel that many of us pass by Coco Palms and have been passing by Coco Palms. Since after Iniki we've seen emotions rise and get excited for something at a certain specific point in time we felt was right and then emotions may have changed throughout time, however with all of these positions on coastal rise and proper usage of the property, entitlements to the property, the clear title, who owns the property, other lawsuits that's in order. What's before the commission is SMA Rule 10, and whether or not we decide that this petition for declaratory order should be approved or denied, and from where I stand and what I've seen through and if I'm just focusing on that one point I do have a position that I feel that this petition should be denied, but I would like to encourage further discussion on this matter and ultimately come to a motion.

Ms. Nogami-Streufert: If the commission is ready, I'll make a motion. I move to deny the Petition for Declaratory Order Regarding Special Area Use Permit SMA (U)-2015-6; Project Development Use Permit U-2015-7; Variance Permit V-2015-1; Class IV Zoning Permit ZA-IV-2015-8 for Coco Palms Hui, LLC.

Ms. Apisa: Second.

Chair DeGracia: Motion on the floor is to deny the petitions request for declaratory order. Do we have any further discussion?

Mr. Hull: I'd like to make a quick statement, Chair, just because I don't want to speak, once the vote is taken there very well could be an action and then no further discussion, so, I want to make a statement that regardless of where this vote goes, and it's completely up to this commission of how it decides to handle this petition, but I think right before executive session there were some statements made by the

applicants representative that I think were just quite honestly glaring. I think members of this commission, members viewing, myself included were shocked by statements made immediately proceeding the executive session. I don't think those statements have any bearing, quite honestly on the petition that's before you folks today, it doesn't, but it does have quite honestly and quite frankly bearing on whether or not the department needs to now assess based off of those statements whether or not a revocation or modification needs to be proposed, that is separate and apart from this petition, but I myself am still processing those statements. I'm not sure where to go with them, I'm going to have to consult with our attorney's office, but at a bare minimum it will necessitate us to assess those statements in context of a proposed modification or revocation of these permits, again, that has no bearing on the petition before you folks today, but I wanted to make that statement hearing what was said prior to any action, because I know no further discussion will be had. Thank you.

Chair DeGracia: Thank you, Mr. Clerk. And just one final thought, the Commissions Rule 10, is improper vehicle to revoke the permits. There is another Rule, that Rule 1-12-5 and that's just a final thought. Commissioners, anything else?

Ms. Cox: I would just like to thank both of you, and Mr. Hull, Director Hull that the vote today is not the end of the issue from what we've heard today. That there are other ways that we can (inaudible).

Mr. Ako: I'd like to pick up from where Helen is coming from, that I don't think this is the end of the issue, I think there's a lot of, I don't know, I'm going to call it trust issues that are out there, that if we really want to be part of this community then we have to part of the community because we here are the same people that you're going to be seeing at your grocery stores, you're going to see them at the soccer fields, you're going to see them at your PTA meetings, and I really hope that discussions can continue so that we can somehow reach someplace in between where a resolution may not be agreeable to everybody but something that we can both live in because I know when you live in this community and you pass that Coco Palms place and you pass it with anger and resentment that is not something that is good for our community. I don't believe in that and because of that, I think for the healing for our community, discussions have to continue on, so someplace in between where we can meet, and with that I thank everybody for your testimonies and for your passion. With that, Mr. Chair, I yield.

Chair DeGracia: Thank you, Commissioner Ako. Any other final? If not, Mr. Clerk, if we could get a roll call vote.

Mr. Hull: Roll call vote. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Nogami-Streufert: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes. 7:0.

Chair DeGracia: The Commission has voted to deny, a written decision and order will be issued. Thank you for appearances today.

Mr. Yuen: Thank you very much.

Ms. Tico: Thank you, Commissioners.

Mr. Hull: Thank you all. Moving on we have no New Business for this agenda.

### **ANNOUNCEMENTS**

Mr. Hull: Upcoming announcements, Topics for future meetings, we do anticipate having meetings for the next February 14<sup>th</sup>, as well as February 28<sup>th</sup>. There will be a proposed series of amendments on the next meeting, as well as one use permit that you guys received today via the consent calendar. And we're working with the various agencies to schedule a briefing on the Office of Economic Development concerning economic planning for the island, that was kind of discussed at the last commission meeting, as well as a briefing by the Housing Director on the housing effects of the County of Kaua'i. And we are of course open other future proposals that any commissioner has to work with the Chair or myself to get on the agenda, but with that we have no further items, and the next meeting is scheduled for February 14<sup>th</sup>, 2023, at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Hawaii 96766. That be it.

Chair DeGracia: Commissioners, I'll entertain a motion for adjournment.

Ms. Cox: I motion we adjourn.

Ms. Otsuka: Second.

Chair DeGracia: Motion on the floor is to adjourn. We'll take a voice vote. All in favor say aye. Aye (unanimous voice vote) Opposed? Motion passes. 7:0. Meeting is adjourned.

Chair DeGracia adjourned the meeting at 1:39 p.m.

Respectfully submitted by:

          *Lisa Oyama*          

Lisa Oyama,  
Commission Support Clerk

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

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