

KAUAI PLANNING COMMISSION
SUBDIVISION COMMITTEE MEETING
January 14, 2025
DRAFT

The regular meeting of the Planning Subdivision Committee of the County of Kaua'i was called to order by Subdivision Committee Chair Francis DeGracia at 8:02 a.m. - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

Mr. Gerald Ako
Mr. Francis DeGracia

Excused or Absent

Mr. Jerry Ornellas

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

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Subdivision Committee Chair Francis DeGracia: Good morning. I'd like to call to order the Subdivision Committee meeting for Tuesday, January 14, 2025. Could we get a roll call, Mr. Clerk?

ROLL CALL

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

Commissioner Gerald Ako: Here.

Mr. Hull: Commissioner Ornellas is excused. Chair DeGracia?

Chair DeGracia: Here.

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

Mr. DeGracia: Thank you.

APPROVAL OF AGENDA

Mr. Hull: The department has no recommended changes to the agenda.

Mr. Ako: Move to approve the agenda.

Chair DeGracia: Motion on the floor is to approve the agenda. Let's do a voice vote. All in favor say aye. Aye (unanimous voice vote). Opposed. Hearing none, motion carries. 2:0.

MINUTES of the meeting(s) of the Subdivision Committee (None)

Mr. Hull: We have no new minutes or Receipt of Items for the Record or Unfinished Business.

RECEIPT OF ITEMS FOR THE RECORD (None)

UNFINISHED BUSINESS (None)

NEW BUSINESS (For Action)

Mr. Hull: Moving on to Agenda Item G.1.

Preliminary Subdivision Map Approval

Subdivision Application No. S-2024-9

Inouye Family Trust, Et. Al.

Proposed 2-Lot Boundary Adjustment

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

Kalaheo, Koloa, Kaua'i

- 1) Subdivision Report pertaining to this matter.

Mr. Hull: We don't have anyone signed up. Are there any members of the public who would like to testify on this agenda item. Seeing none, I'll turn it over to staff (inaudible).

Staff Planner Kenny Estes: Good morning, Commissioner DeGracia and Commissioner Ako. I'll summarize the report for the record.

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

Mr. Estes: Chair, we have received agency comments from the County Department of Public Works Engineering Division, the County Department of Water and the State Department of Health. The department is recommending approval of Part II of Preliminary Subdivision Map Approval for this application.

Chair DeGracia: Okay. Thank you. Any questions for the Planning Department, Commissioner Ako?

Mr. Ako: No.

Chair DeGracia: Okay, no questions. Do we have the applicant or applicants representative here to just give us a brief?

Ms. Maren Arismendez: Good morning, Commission. I am Maren Arismendez from Esaki Surveying, here representing the owners. This is a boundary adjustment between two lots that are owned within different family members. So, it's just adjusting the boundaries between those lots. We would like to thank the planner and Planning Department for their thorough research in resolving the parcel issue and now that they have been established as lots of record, look forward to working with the various departments to get the subdivision finalized.

Chair DeGracia: Thank you. Any questions for...

Mr. Ako: Nope.

Chair DeGracia: If there's no further questions, I'll be seeking a motion.

Mr. Ako: Move to approve Subdivision Application No. S-2024-9, involving a two lot boundary adjustment.

Chair DeGracia: Second. Motion on the floor is for approval of this tentative application. Could we get a roll call vote, Mr. Clerk.

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

Mr. Ako: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes, Mr. Chair. 2:0. I'll just give a small side note to this application...oh I'm sorry. A small side note for the Commissioners for this application, the definition of a lot, hard core and hard fast is a (inaudible) record established as a subdivision action. As Kenny's gone through some of these type of requests and looking in the history of property rights and the establishment of lots, there appear to be some historical cases that prior to the existence of the Planning Commission and this formal subdivision process, individual property units that would essentially equate in this situation like the Board of Supervisors taking action, that created a lot of record but remains somewhat in limbo because of not possibly matching up with the hard and fast definition of a lot of record under the Kaua'i County Code. So, we're looking at to be able to clean that up propose an amendment to the Comprehensive Zoning Ordinance and Subdivision Ordinance whereby a lot of record can also include actions such as like when the Board of Supervisors took action on it, so it should help clear a lot of these property issues up that exist that I don't want to say are a frequent thing across Kennys desk, but occur and some families are kind of left in the lurch because of somewhat nebulous or not quite adequate definitions of a lot of records, so this is one case where Kenny is able to find enough evidence and the support where we could clearly establish this was intended to be a separate property and parcel, but for many other properties, we're probably have to do a cleanup, and we hope to have something at the Planning Commission in the next three, maybe four months (inaudible).

Chair DeGracia: Thank you, Clerk.

Mr. Hull: Next on agenda is Item G. 2.

Preliminary Subdivision Extension Request

Subdivision Application No. S-2024-6
Kukui'ula Parcel HH Subdivision
BBCP Kukui'ula Infrastructure, LLC. /
MP Kaua'i HH Development Fund, LLC.
Proposed 3-Lot Consolidation and Resubdivision into 51-Lots
TMKs: (4) 2-6-019: 026, 029, and 031
Koloa, Kaua'i

- 1) Subdivision Report pertaining to this matter.

Mr. Hull: Is there any public testimony on this agenda item? Seeing none, I'll turn it back over to Kenny.

Chair DeGracia: Clerk, I'd like to make a statement on the floor. In light of my, there's no personal conflict, but there's a possible conflict with my place of employment. Therefore, I will recuse from this agenda item.

Mr. Hull: With the recusal, we have no quorum for this agenda item, so it moves on to the subsequent or later agenda which tentatively, will be in the second Tuesday of March. Moving on to Agenda Item 2.b...moving on to Agenda Item 2.b.

Subdivision Application No. 5-2023-1
Kukui'ula Parcel A2F2F3 Subdivision
BBCP Kukui'ula Development, LLC.
Proposed 31-Lot Subdivision
TMK: (4) 2-6-022: 020
Lawa'i, Koloa, Kona, Kaua'i

- 1) Subdivision Report pertaining to this matter.

Mr. Hull: Is there anybody, well, I don't anybody signed up, is anybody here from the public that would like to testify this agenda item? Seeing none, I'll turn it back over to Kenny for the staff report...the Director's Report pertaining to the matter.

Mr. Estes: I'll summarize the report.

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

Chair DeGracia: Thank you. Commissioner Ako, any questions for the department?

Mr. Ako: No.

Chair DeGracia: I have none. Do we have the applicant or applicants representative here?

Mr. Mauna Kea Trask: Aloha Chair.

Chair DeGracia: Morning.

Mr. Trask: Morning. Mauna Kea Trask for the record, applicant, BBCP. Yeah. So, real brief update, we were able to, so there's two plan approvals that we're waiting for review and approval. We have received the Department of Health Wastewaters approval as of December last year and we're just waiting for SHPD to sign off of the AIS.

Chair DeGracia: Commissioner Ako, any questions for the applicant?

Mr. Ako: No.

Chair DeGracia: I have none. If there's no further questions, I'll be seeking a motion.

Mr. Ako: Move to approve extension request for the Subdivision Application No. S-2023-1 until November 15, 2025.

Chair DeGracia: Motion on the floor is to approve the extension request for Subdivision Application No. S-2023-1 till November 15, 2025. Any discussion before we take a vote?

Mr. Trask: Pardon me, Chair...

Chair DeGracia: Yes.

Mr. Trask: Quick question or a point of clarification.

Chair DeGracia: Sure.

Mr. Trask: The extension request was submitted, I believe, September 19, 24, and the deadline for extension was till November 15, 24, so just...this would relate to, this approval would be retroactive to November 15, 24, correct. And let the record reflect that the distinguished Deputy Ms. Barzilai, said yes.

Ms. Barzilai: That's correct, right?

Mr. Hull: Yes.

Mr. Trask: Yes. Thank you.

Chair DeGracia: Could we get a roll call vote, Mr. Clerk?

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

Mr. Ako: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes, Mr. Chair. 2:0.

Chair DeGracia: Thank you.

Mr. Hull: Next agenda item is.

Subdivision Application No. S-2024-2

Moloa'a Farms, LLC. Et. Al.

Proposed 11-Lot Subdivision

TMK: (4) 4-9-009: 001

Moloa'a and Papa'a, Kawaihau, Kaua'i

- 1) Subdivision Report pertaining to this matter.

Mr. Hull: Is there any members of the public that would like to testify this agenda item? Seeing none, I'll turn it over to Kenny for the report pertaining to this matter.

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

Chair DeGracia: Commissioner Ako, any questions?

Mr. Ako: No, I don't.

Chair DeGracia: Okay. Do we have the applicant or applicants representative here today?

Mr. Hull: We do not.

Chair DeGracia: Okay. There's no representation, no questions. I'll seek a motion.

Mr. Ako: So move to approve request for extension of Subdivision Application No. S-2024-2 Until November 14, 2025.

Chair DeGracia: Motion on the floor is to approve extension request for Subdivision Application No. S-2024-2 to November 14, 2025. Could we get a roll call vote, Mr. Clerk?

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

Mr. Ako: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes. 2:0. Next on the agenda is Agenda Item G.2.d.

Subdivision Application No. S-2024-4
George and Patricia Souza Trust/
Kevin and Monique Souza Living Trust
Proposed 2-Lot Consolidation and Resubdivision into 4-Lots
TMKs: (4) 4-2-010: 012 and 059
Wailua, Kawaihau, Kaua'i

1) Subdivision Report pertaining to this matter.

Mr. Hull: Are there any members of the public that would like to testify on this agenda item? Seeing none, I'll turn it back over to Kenny.

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

Chair DeGracia: Commissioner Ako, any questions?

Commissioner Ako: No.

Chair DeGracia: Okay. Do we have the applicant or applicant's representative here today? Good morning. Could we get a quick update?

Ms. Arismendez: Good morning. Maren from Esaki Surveying here on behalf of the owner. So, they work through various other conditions. The two main conditions are pending right now, is the housing agreement with...now? Do I need to start over...just continue...

Commission Support Clerk Lisa Oyama: You can continue.

Ms. Arismendez: Thank you. The two agreements are pending is, one with housing agencies where they're going to limit their density to ten, and the other is a development restriction agreement with Department of Water, where they are also limiting their development to ten residential units. So, the draft agreements have been accepted by the family, by the owner and reviewed by their attorney, and were sent back to county, so we're just waiting to hear back.

Chair DeGracia: Thank you. Commissioner Ako, questions?

Mr. Ako: No.

Chair DeGracia: Okay. Thank you very much. I'll seek a motion.

Mr. Ako: Move to approve extension request for Subdivision Application S-2024-4 until January 9, 2026.

Chair DeGracia: Motion on the floor is to approve extension request for Subdivision Application No. S-2024-4 till January 9, 2026. Could we get a roll call vote, Mr. Clerk?

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

Mr. Ako: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes, Mr. Chair. 2:0.

Chair DeGracia: Thank you.

Ms. Arismendez: Thank you.

Mr. Hull: On the last extension request.

Subdivision Application No. S-2019-8

Stephanie Fernandes

Proposed 5-Lot Subdivision

TMK: (4) 4-2-005: 044

Wailua, Kawaihau, Kaua'i

1) Subdivision Report pertaining to this matter.

Mr. Hull: Do we have any members of the public that would like to testify this agenda item? Seeing none, I'll turn it back over to Kenny.

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

Chair DeGracia: Thank you. Any questions, Commissioner Ako? Do we have the applicant or applicant's representative here today to give a brief update?

Mr. Jonathan Chun: Yes. Good morning, Mr. Chair. Jonathan Chun, Court Appointed Commissioner, in this matter for the subdivision of this property. We, we are working towards getting final subdivision. We thank the Commissions generosity in allowing us additional time to finish the subdivision. On the water side the preliminary drawings for the subdivision...water improvements are being done by our engineers, hopefully they'll get, they'll be done by this year. The flood study has been, a draft of the flood study has been submitted. We had preliminary comments from the Department of Public Works Engineering Division, and we are addressing that and will probably be submitting a revised plan hopefully this year, also. We hope to get those, the flood study and the final construction drawing for the water improvements done this year. What happens after that is with the applicants, the family members are planning to bond the

water facilities and then once we get the bond then the Water Department will sign off on final subdivision, and hopefully at that time the flood study will be done and Department of Public Works will sign off also. So, that's the status. The main things that need to get done in 2025 will be the flood study and the construction, approval of the construction drawings for the water improvements. But my understanding is Water Department has indicated to us that it'll take about, normally three months because of their backlog right now to get done, worst case scenario maybe six months to finish or to review our drawings so, that's the kind of time (inaudible) we looked at, if that holds true, 2025 is doable and we just, again, thank you for the commissions consideration in this request.

Chair DeGracia: Thank you, Commissioner Ako, questions?

Mr. Ako: Yeah, I think I'll save all my questions for Jonathan this morning.

Mr. Chun: Thank you, Commissioner. That's why I had a good night's sleep, you know.

Mr. Ako: First of all, can you explain what is a Court Appointed...

Mr. Chun: Okay, so...

Mr. Ako: ...yeah, I wasn't...

Mr. Chun: ...what happened in this...particular parcel is owned by multiple members of the Fernandes family. There was a dispute between those family members and I can't remember which one, but one side of the family filed a petition action, in other words, to divide the property. As part of the partition action, the court has two options, they can either sell the property at whole and divide the proceeds by each family members interest, or it can order, what we call a physical division the property. In this case, and I wasn't involved in the initial partition action. In this case, the court, I guess through an agreement with the parties, agreed to order a physical partition of the property, either...and we can do that either through a subdivision as we have right now, or CPR. In this particular case, the court ordered or approved a subdivision of the property, and that was sometime around 2019, 2018, to do that, to oversee the courts order of subdividing or CPR, the court appoints a commissioner to oversee it. Some people call it master, but under this circuit we call on the Commissioner, the original Commissioner in this matter was Lorna Nishimitsu, that's how long it goes back to. When Lorna retired, the court asked her to find a replacement to oversee the subdivision and its property, and Lorna bless her heart, recommended that I take over for the job. So we are, the court appointed myself to finish up the subdivision that happened in two years ago, three years ago.

Mr. Ako: Okay, got it. I think when we look at extension request, we see one, two, maybe three, now we're dealing with six, over here, yeah.

Mr. Chun: Yes.

Mr. Ako: What's holding it up? Or what's the big problem? Is there many things or is...

Mr. Chun: Without being over critical, without being over critical of the whole situation, as Director Hull does understand because I think he was here from the very beginning, one of the

big holdups was, not big, the first holdup was entering into an agreement with the housing department that was resolved early on, I believe when I first came on, I submitted a draft of the housing agreement to the Housing Department, and that was resolved sometime around 2021, 2022, somewhere in the beginning. After that, the major holdup was the Water Department and the water agreement, the departments comments were pretty straightforward, what needed to be done. So, what we did is we asked, we submitted a draft water agreement as the Water Department has had before and then we didn't get any response for a while and that took up, I would say at least two or, at least two extensions. Finally, that roadblock was resolved. I have gotten a signed agreement from the Water Department, thanks to Nani, I know probably some of the members of the Water Department, Water Board was encouraging the department to get it done, and also I got to get kudos to the County Attorney's office, they were very instrumental in getting the roadblock unstuck, to get the water agreement done, so I think...hold on, I have...the agreement was signed and in 2024, the water agreement and (inaudible) restriction was signed by all parties in 2024, last year and now with ready to be recorded, the agreement in, the agreement with the Water Department is that once we get final within certain time period, that agreement will be filed in the Bureau of Conveyances, but I would say the majority of the delay was meeting the requirements of the Water Department, in terms of the agreement we needed to get done with them. Hopefully, I know that is behind us right now. So, most of the requirements, two major requirements now that needs to be done are on our side.

Mr. Ako: And yet I think when you speak, you talk about, you know, you hope that this will be done and we plan to submit that, and I think everybody here, everybody, not only yourself, everybody wants to bring this to an end at some point in time.

Mr. Chun: Yes.

Mr. Ako: I mean, do you see the end coming or at what point in time do you make the decision that maybe there's a different path we need to take to get this done?

Mr. Chun: We are almost there, but that's true, I mean, at one point in time as a Commissioner, I was seriously considering requesting the Court to move from a subdivision to a CPR process, which would be a lot faster and would not...would avoid some of the roadblocks. However, I believe overall for the good of the parties and also for the good of the public going through a subdivision and the more stringent requirements will probably be more beneficial for everyone concerned in the long run. So, I've not made that recommendation to the court yet. I feel that it is doable, the flood study, like I said, the preliminary flood study was done already. We're submitting it for comments. The construction drawing for water improvements, I'm not an engineer, but I think that you know that is well within the realm of possibility of, you know, the engineers know very well what the Water Department requires in terms of their infrastructure and how to design it. So, I don't believe from the engineering side, anything, any other request their outstanding are impossible. The only unknown is how long will it take for the departments to review that. I can't make any guarantees, but like I said, as we represented before the discussion with the Water Department was three months, maybe six months. I did not get in contact with engineering, they're kind of busy right now, but I would hope that their review period would be within the 2025 period, but like I said, those things are doable. It's not like, you know, that from the physical point of view or the engineering point of view, it needs a stretch of design. I think there's well within the realm of standard design parameters that can be done.

Mr. Ako: Well, I thank you and I wish you the best of luck.

Mr. Chun: Thank you. We would really like your luck.

Chair DeGracia: I believe Commissioner Ako kind of covered a lot of my concerns, but if we have no further questions. I'll seek a motion.

Mr. Ako: Move to approve the request for extension regarding Subdivision Application S-2019-8 until January 22, 2026.

Chair DeGracia: Motion on the floor, oh, second. On the floor is to approve subdivision extension request for Subdivision Application No. S-2019-8 till January 22, 2026. Any further discussion before we go to vote? No further discussion. We'll take a roll call vote, Mr. Clerk.

Mr. Hull: Roll call. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes, Chair. 2:0. And lastly on the agenda we have Agenda Item G.3.

Recertification of Final Subdivision Map Approval

Subdivision Application No. S-97-45

Joseph H. Chu (Formerly Grove Farm Properties, Inc.)

Proposed 2-Lot Consolidation

TMKs: (4) 3-3-016: 062 and 063

Lihu'e, Puna, Kaua'i

- 1) Subdivision Report pertaining to this matter.

Mr. Hull: Are there any members of the public that would like to testify on this agenda item? Seeing none, I'll turn it over to Kenny for a very, very, very brief report.

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

Chair DeGracia: Thank you, Kenny. Before we move forward with questions. Mr. Clerk, did we ask for public testimony? Okay, sorry, I missed that. Okay, Commissioner Ako, any questions for the department?

Mr. Ako: No, I don't.

Chair DeGracia: I have no questions with that. I'll seek a motion.

Mr. Ako: I moved to approve Subdivision Application No. S-97-45, regarding the Recertification of Final Subdivision Map.

Chair DeGracia: Okay. Second. Motion on the floor is to approve the recertification of Subdivision Application No. S-97-45. Any further discussion?

Mr. Ako: No.

Chair DeGracia: Okay, if not, we'll take a roll call vote, Mr. Clerk.

Mr. Hull: Roll call. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes, Mr. Chair. 2:0

Chair DeGracia: Thank you.

EXECUTIVE SESSION (None)

Mr. Hull: There are no further agenda items. On a side note, the last agenda item, that was a residential subdivision, the previous two extension requests were also residential subdivisions, as the Commissioners might be aware, the residential subdivision administrative rules passed its public hearing with you folks a few months ago, and so Kenny, myself and staff are putting the last few touches on the implementation of ministerial residential subdivisions. So, hopefully in the next month or two we should have process whereby at least in this situation, those last three applications would have been done ministerially wouldn't necessary have been acted on by the Commission, but we'll keep folks posted on the implementation of those rules as soon as we start it, but we anticipate in the next month or two.

Chair DeGracia: Thank you.

Mr. Hull: With that we're all closed up.

ADJOURNMENT

Chair DeGracia: Okay. I'll seek a motion to adjourn.

Mr. Ako: If not, I move for adjournment.

Chair DeGracia: Motion on the floor is to adjourn. We'll take a voice vote. Oh, I'll second first. We'll take a voice vote. All in favor say aye. Aye (unanimous voice vote). Motion carries. 2:0.

Committee Chair DeGracia adjourned the meeting at 8:37 a.m.

Respectfully submitted by:

Lisa Oyama

Lisa Oyama,
Commission Support Clerk

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

() Approved as amended. See minutes of _____ meeting.