

KAUA'I PLANNING COMMISSION
REGULAR MEETING
May 09, 2023

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair DeGracia at 9:07 a.m. - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

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

Excused or Absent

Ms. Donna Apisa

The following staff members were present: Planning Department – Director Ka'aina Hull, Deputy Director Jodi Higuchi Sayegusa, Staff Planner Dale Cua, Romio Idica, Kenny Estes, and Planning Commission Support Clerk Duke Nakamatsu; Office of the County Attorney – Deputy County Attorney Chris Donahoe, Office of Boards and Commissions – Support Clerk Lisa Oyama.

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Chair Francis DeGracia: The time is 9:07, I'd like to call to order the Planning Commission meeting for Tuesday, May 09, 2023. Could I get a roll call please, Mr. Clerk?

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

Commissioner Ako: Here.

Mr. Hull: Commissioner Apisa is excused. Commissioner Cox?

Commissioner Cox: Here.

Mr. Hull: Commissioner Ornellas?

Commissioner Ornellas: Here.

Mr. Hull: Commissioners Otsuka?

Commissioner Otsuka: Here.

Mr. Hull: Commissioner Streufert?

Commissioner Streufert: Here.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Here.

Mr. Hull: You have a quorum, Mr. Chair. Next would be the approval of the agenda.

APPROVAL OF AGENDA

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

Chair DeGracia: Okay. Could I get a motion to approve the agenda?

Ms. Streufert: I move to approve the agenda.

Ms. Otsuka: Second.

Chair DeGracia: Let's take a voice vote. All in favor say aye. Aye (unanimous voice vote). Oppose? Hearing none, motion carries. 6:0.

MINUTES of the meeting(s) of the Planning Commission

Mr. Hull: We have no minutes for review in this meeting.

RECEIPT OF ITEMS FOR THE RECORD

Mr. Hull: We move on to Receipt of Items for the Record. We did not receive any additional items prior to publication of the agenda on May 3, 2023. However, we did receive some testimony, as well as agency comments, and a submittal from a party that is on the agenda, after the May 3rd publication of the agenda, as such these documents have been made only available only to you folks this morning. You have not reviewed them, it also has been made available for the public, here in the Planning Commission room as well as at the Planning Department. Chair, I don't know if you want to take a recess to afford the Commissioners time to review these documents.

Chair DeGracia: Yes, the Commission would like to take a 15-minute recess to review this current item, so we'll reconvene in about 15-minutes, at 9:25.

Commission went into recess at 9:09 a.m.
Commission reconvened from recess at 9:25 a.m.

Chair DeGracia: The time is 9:25, I'd like to call back to order the Planning Commission meeting.

HEARINGS AND PUBLIC COMMENT

Mr. Hull: Next on the agenda we have Hearings and Public Comment.

New Agency Hearing

Mr. Hull: We have a New Agency Hearing. For members of the public viewing virtually, we're back in session. We are on New Agency Hearing.

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-10), CLASS IV ZONING PERMIT (Z-IV-2023-10), USE PERMIT (U-2023-7) to allow construction of public shared use path extending from Nawiliwili Park to Ahukini Landing and associated improvements involving a new comfort station, drainage ways, protective fencing and paved parking area, and SHORELINE SETBACK VARIANCE PERMIT (SSV-2023-1) to deviate from the shoreline setback requirement involving properties along makai side of the Līhu'e Airport, further identified as Tax Map Keys: 3-5-001:004, 005, 008, 009, 085, 092, 102, 128, 158 & 160; 3-7-002:001 (Por.) and affecting a total area of approx. 9.2 acres = **County of Kaua'i, Department of Public Works.**

Mr. Hull: We don't have any members of the public signed up to testify. Is there anyone in the audience that has shown up that would like to testify as a member of the public, if so, please approach the microphone. Seeing none, the Department would recommend closing the agency hearing.

Unknown Male: Sorry, I (inaudible) represent the County, I'm the consultant.

Mr. Hull: We're going to go...sorry, Sir. This is just the agency hearing portion, so this is for public testimony, but we'll move into your portion very shortly here.

Unknown Male: Sorry. Okay. Thank you.

Ms. Streufert: I move to close the New Agency Hearing on SMA 2023-10, Class IV Zoning Permit Z-IV-2023-10 and Use Permit U-2023-7.

Ms. Cox: Second.

Chair DeGracia: Commissioners, motion on the floor is to close the new agency hearing for this agenda item. We'll take a voice vote on this one. All in favor say aye. Aye (unanimous voice vote). Oppose? Hearing none, motion carries. 6:0.

Mr. Hull: Moving on, we have no further items on Consent Calendar or General Business, so, we move into the Subdivision Committee.

COMMITTEE REPORTS

Subdivision Committee

Final Subdivision Map Approval

Subdivision Application No. 5-2005-41
Visionary LLC. DBA Lihu'e Land Company
Ahukini Makai Subdivision
Proposed 49-lot Subdivision
TMK: (4) 3-7-002: 001 (por.)
Hanama'ulu, Lihu'e, Kaua'i

Mr. Hull: Before going into the report on this, it is a separate agenda item on the full Planning Commission Agenda. We don't have anybody signed up to testify but is there any member of the public

here that would like to testify on this agenda item? You may approach. Please approach, you have three-minutes for testimony. Can you state your name for the record, and you have three-minutes for testimony.

Mr. Kaniela Matsushima: Aloha, my name is Kaniela Kaleikaumaka Matsushima, o' Hanamā'ulu mai au, I'm from Hanamā'ulu Valley. I spent my entire life in this valley with my kūpuna, swimming in the streams, planting kalo, and fishing in the bay. Today I cannot swim in that river because of the pollution. A little of my history and my ties to this valley, my dad is Kimo, who has been leasing these lands from Hanamā'ulu for over 30-years, why because we come from Roslyn Kaimi, we come from Maui Keo, we come from Benjamin Wahinealoha Keo, and Keo himself. Keo Konohiki of the entire Hanamā'ulu Valley, and our ohana bloodline has been there carrying on the Konohiki kuleana since the time of Kaikio'ewa, regardless of the plantation history, and with multiple land commission awards throughout this valley that are ohana to me, and the entire Puna District being under great-great grandaunt, Princess Kamamalu, I'm here to stand to oppose these proposed developments. While most of our ohana was kicked off their lands, I stand here in gratitude today, to say that we, the descendants of Keo lineage are still here. Once again, I do not approve, I oppose these developments of coming, the Ahukini Makai, the Wailani, and the Ahukini Mauka. The only way my dad saw fitting was to keep our family in this lands, was through a lease and over the years, due to changes of the land from ag to development, we've seen the drainage, we've seen the 3 culverts that come down into Hanamā'ulu Valley, the rubbish that you see, if you guys ever saw the culvert and what comes down that valley, you would think that is the Līhu'e Refuse Station, which is the Kaua'i Dump. Questions we ask is, water, where the water going come from? From my understanding, the farmers that are on that land, that Grove Farm wants to develop, those farmers don't even have water, enough water to water their crops, so how are they going to supply water for that development, that's a question I ask. Sewage, the Hanamā'ulu sewage is one of the worst on the island, that sewage is already maxed out, it has been maxed out prior to Ho'oluana, the development if you're not familiar with it, on the Wailua side of Hanamā'ulu Valley, and that pump station down in Kapaia, that pump station supplies all Hanamā'ulu, down that Kapaia Hill, and that pump has malfunctioned so many times and thousands of gallons of raw sewage has spilled into that stream where we get kalo growing, we get animals that drink that water, and Hanamā'ulu Stream and the bay, is the dirtiest, most bacteria filled on this island. You can look on the Surfriider Foundation for the reports. Traffic and evacuation, these developments, the Ahukini Makai, and the Ahukini Mauka, and the Wailani will create the worse traffic Kaua'i will ever see in its lifetime, worse than the Kapa'a traffic, I don't know about you guys, but I don't like sitting in that traffic.

Mr. Hull: Three minutes, sir. If you could wrap up your testimony.

Mr. Matsushima: Okay, I'll wrap it up. Thank you. And then drainage, I talked about the drainage already, so I ask you, to please rethink these developments. Keep Hanamā'ulu agricultural, the way supposed to be, and let's all work together to restore the damages done over the last hundred years, and a place where we all, all of us in this room can proudly say, this is Hanamā'ulu Valley and we helped restore this place for our kids and our future because the choices that we make today affects not only me, but your kids and your keiki, your mo'opunas, your grandkids forever, and this three developments that is coming up we cannot go back on it. Mahalo. Thank you.

Chair DeGracia: Thank you for your testimony.

Mr. Hull: Is there anyone else who would like to testify on this agenda item? Please approach. If you could state your name for the record and you have three minutes for testimony.

Ms. Kayla Matsushima: Aloha, my name is Kayla Matsushima, on the record I'm speaking today to oppose the three upcoming developments, the subdivisions most, especially. I oppose all three projects being opposed by Visionary LLC, and Hailimoi LLC, also known as Grove Farm. Why are we still considering more subdivisions on Kaua'i? Have we all not come to the conclusion yet, that we don't have

a housing crisis, we have a failure and lack of regulations on housing. Have we not learned from other subdivision proposals that we cannot add any more housing like this, if we are first able to address the problems that already exist. It wasn't that long ago that the Kapa'a subdivision project got stopped and now this...all the issues that were brought forward with that project remain the same here, if not worse. Whether you come at it from the angle of wastewater treatment, drainage, traffic, emergency evacuation, lack of housing regulations, paving over ag land, I see problems from every angle. And when I zoom out further and deeper into the kānaka maoli lands, I feel into wai, water usage, how this process will require a lot of water which lead to more water diversions. I feel into all the land commission awards and royal patents that remain in these areas and the ohana that will be affected by a project like this. I feel into iwi kūpuna, native Hawaiian ancestral burials, the cemeteries, and ancestral bones of my husbands' ohana and many ohana laid to rest in the valley, and even how this project could potentially affect cultural gathering practices downstream, all of it matters and all of it from the way I see it will be negatively impacted by additional development, there's no way around that. Hanamā'ulu River is inundated with the negative effects of over development from every angle and to add an additional burden by permitting subdivisions in the surrounding areas is a burden the families of Hanamā'ulu Valley do not deserve to carry any longer, they've dealt with enough. It is your department that truly can make or break the future of Kaua'i and in the last two years alone many of the decisions, not all but many, had been made by the Planning Department that will have lasting negative impacts for generations to come. Our generation and the seven to twenty-one generations that come after ours do not approve of projects like this that add burden. We don't want to have to clean up the mess that's being because the people that have the opportunity to protect Kaua'i are not. We are coming forward to provide the foresight that is sometimes lacking, and we all have the opportunity to say enough is enough. If we continue down this path of over development, I'm afraid Kaua'i will never be the same. Please don't add to the list of mistakes that we can't go back on, and they cannot be undone. Mahalo for your time and aloha.

Chair DeGracia: Thank you.

Mr. Hull: Is there anyone else that would like to testify on this agenda item? If you could state your name for the record and you have three minutes for testimony.

Ms. Nakai'elua Villatora: Aloha mai kakou, o' Nakai'elua Villatora, ko'u inoa on the record. (Speaking Hawaiian). So, I wanted you folks, I wanted to address my testimony on the Special Management Area Use Permit for the zoning of the Nāwiliwili area to Hanamā'ulu area, and I wanted to talk on behalf of my ancestors that are from the ahupua'a of Kalapakī and the 'ili 'āina of ki'o lepo, so I wanted to just give you a back story about my ancestry and my ohana that have struggled through the idea of development and progress here in Hawai'i on Kaua'i, so my ohana, the (inaudible) ohana that originated in Kalapakī and was there prior to the hotel being built lived on the 'aina and thrived for many generations before the coming of the kānaka ke'oke'o, the missionaries who have been there, who had decided to change that landscape to become one of the many places to inhabit this island style, this tourist attraction, and it was my family who had the last house, last building there when the hotel was constructed. And I wasn't really going to speak on this but my kūpunas really urging me for you guys to understand the decisions that this Department makes affects everyone and I wanted you folks to see, look at my children's face, that this is the lives that you will be affecting for the future and decisions that you make today and the days coming will continuously, either benefit you folks or disadvantage us, and that's how we see it as kānaka, is that we are not able to practice our culture and traditional rites of fishing, and my family, especially in Kalapakī area and the Hanamā'ulu ahupua'a were keen fisherman and fisherwomen, and we would collect it and gather it from many places in the streams and the mountains there and it was such a diverse area in those ahupua'as, and it was so bountiful in the ages of my kūpuna and there's many, many records in newspaper articles about that stories and nowadays, how many times you seen people fish in the waters of Kalapakī, fish or swam in the waters of Hanamā'ulu, we all know it's polluted. There's no gathering there, if you want to stay healthy, and that's what I'm trying to understand and make other people understand

that development doesn't always mean progress and thank you so much for your time and I hope that you folks really make a good decision on whether or to continue development in these particular areas that are heavily affected by that. Mahalo nui.

Chair DeGracia: Thank you.

Ms. Villatora: Would you like to say something? What would you like to say? Bubs, come up. A prayer? Well, my son would like to...for us to have a prayer, and our prayer coming here was for us to really have folks be convicted by 'To our supreme god to have you folks understand and realize, let the truth be spoken and continue to make good decisions for the benefit of everyone not just a select few. Mahalo.

Chair DeGracia: Thank you.

Mr. Hull: Is there anyone else that would like to testify on this agenda item?

Ms. Kanani Kagawa Fu: Aloha and good morning, Commissioners and Chair DeGracia. Kanani Kagawa Fu, those that weren't in the previous testimony, excuse me, in the previous Subdivision Committee. Born and raised in Anahola, grew up there and then located to Hanamā'ulu, where my family home is, raised my children, and now working between Hanamā'ulu and Koloa area. Today I provide my testimony in the capacity of a resident, in the capacity of a kānaka maoli, as a resident, both of Anahola and of Hanamā'ulu. The concern that I have with this subdivision before you and this process, is just that it lacked one criteria, which is a completion and analysis of the Ka Pa'akai Analysis, which as you've seen today in the (inaudible) hour we've had testimony come forward that is significant to this area. I too, have received information of my ohana and our ties here, which then created this nexus into this meeting today. It is always okay. My father had this saying, when in doubt, just say no, and if there's any doubt in your guys' capacity to do your fiduciary duty to grant this subdivision with the lack of the Ka Pa'akai Analysis completed and before you, I would ask that you take that into consideration today. The analysis does provide the framework for the Commission to do the right thing. It does provide you guys with the framework to hear in a written way. All developers before us had to do it, I wear both hats (inaudible) do it, so that's what I believe for me as a resident would satisfy and put that at ease. I sit here representing myself, but also other family members who did not want to come forward to testify on this matter. Before I leave, again I reiterate to the Planning Commission and to the Commissioners that we defer this until we can really, really, if you have any doubt, you should defer it, and I leave you with that. Thank you.

Chair DeGracia: Thank you.

Mr. Hull: Calling, is there anyone in the audience that would like to testify on this agenda item as a member of the public? Seeing none.

Mr. Ako: Mr. Chair, before we get into the Committee Reports, regarding the subdivisions, is it possible for us to enter into executive session on this issue?

Chair DeGracia: Sure. I'll entertain a motion to go into executive session.

Ms. Streufert: I move to go into executive session.

Ms. Cox: I second.

EXECUTIVE SESSION

Chair DeGracia: Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(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:

Subdivision Application No. S-2005-41
Visionary LLC. DBA Lihu'e Land Company
Ahukini Makai Subdivision
Proposed 49-lot Subdivision
TMK: (4) 3-7-002: 001 (por.)
Hanama'ulu, Lihu'e, Kaua'i

Chair DeGracia: Motion on the floor is to go into executive session. We'll take a voice vote. All in favor say aye. Aye (unanimous voice vote). Oppose? Hearing none, before we go in, how much time? 15 minutes?

Mr. Hull: Probably.

Chair DeGracia: Okay, so we'll go into executive session to reconvene in approximately 15 minutes.

Commission went into Executive Session at 9:45 a.m.
Commission returned to Open Session at 10:36 a.m.

Chair DeGracia: Okay, time is 10:36, I'd like to call the commission meeting back to order, and to the public, thank you very much for your patience, there's a lot to discuss. At this time, Commissioners, before we take any actions and motions on accepting this Subdivision Committee Report, do we have any discussions? Or would you like to have any discussion on this agenda item? Being that there's been a whole bunch of information and testimonies from...

Mr. Ako: If I can, Mr. Chair. Sitting in as the Chair for the Subdivision Committee meeting, we did go ahead and have discussions regarding the permit, in the Ahukini area regarding the industrial area, and we think we had some discussion on that and yet as we come to this portion of the meeting here, where it referred to the entire Commission itself having had new testimony on it, I think there's been new information that has been passed on to hear that I think we'd like to consider. I know a lot of times going back into some of the testimonies that come out, I know part of the criticism has always been, we come up here for what, and it's a matter of, we come up here, we spill our guts out and then come 30 seconds later it's done like that without any real major consideration on it, so I think this one because of what has been testified to the entire Commission here, new information, I think I will have a different view and approach on this issue at this time.

Chair DeGracia: Thank you, Commissioner Ako, and then for myself, in addition to new information and testimony, there's also, I personally felt that there's some requirements in this application concerning the Ka Pa`akai O Ka`Aina Analysis that I'd feel a lot more comfortable if it was completed before taking action on it.

Ms. Cox: I think it was also helpful to have the executive session, so we had learned from the attorney what our job as a full commission at this point is, what our options were, so that was helpful to know since we heard additional testimony.

Chair DeGracia: Commissioners, before I move forward, I'd like to invite the applicant back up.

Mr. David Hinazumi: Good morning, David Hinazumi on behalf of Visionary.

Chair DeGracia: Good morning, David. Commissioners, any questions? I have, I'd like to reserve it, unless you guys have any at the moment. Just to clear the air, I believe I sat in the Subdivision Committee, and I overheard, I guess a commitment towards completing a Ka Pa`akai O Ka`Aina Analysis moving forward. Just a question, you guys have a time frame or has that been set in motion already?

Mr. Hinazumi: Yes, so just a little bit of history, again, this is an old subdivision, unfortunately from 2005, at the time of subdivision there was no requirement to do the Ka Pa`akai, of course recently there's a much larger focus on finishing the Ka Pa`akai, so even though it wasn't a requirement we still went ahead and ordered a Ka Pa`akai to be done, so it's in progress right now, there's been two rounds of outreach, there has been some input coming in, I believe some of the input is kind of been in relation to some of the testimony that you've heard today. Throughout today, yes, we've been given new information as well and our commitment is to finish that Ka Pa`akai Analysis. We've got additional people that we've been made aware of that should also be consulted throughout the process. The consultant did have a fairly lengthy list of people that they already did the outreach to and as we get more information there's outreach that we will do, so we are committed to finish the Ka Pa`akai Analysis for this project.

Chair DeGracia: Okay, thank you. Commissioners, any questions, comments for the applicant, anything further?

Ms. Streufert: If this is already in progress, when do you anticipate that this would be completed?

Mr. Hinazumi: Unfortunately, we're not quite sure yet, of course, what I mentioned as for new information of additional people to speak to, we'll get that process going as soon as possible, (inaudible) right after this meeting or by tomorrow, start working on getting those additional contacts, hopefully we can get the input in a reasonable time, I couldn't tell you what that is but as soon as can, yes we want to complete it because this analysis we're doing it for other subdivisions as well, that we want to get them finished.

Ms. Streufert: One final question from me, if we were to approve this subdivision application, and you're continuing this Ka Pa`akai Analysis, during the time between now and when you complete it, what kind of work would you do on the land? Would all work stop until it's been completed?

Mr. Hinazumi: There's no work to be done immediately after subdivision approval is granted, it will take some time before any construction could occur as there's steps that need to be taken, and yes, we want to complete this Ka Pa`akai to make sure there's, within the industrial area where construction will occur and there will be disturbances to the ground, we want to make sure we're going to be clear. We've gone through SHPD, there was an inventory study done, we want to get the additional information from this Ka Pa`akai Analysis in those areas. There is a remainder parcel that is created out of this subdivision, that is the cliff side, overlooking Hanamā'ulu Bay, and that area we know, we've been aware that that is an area of definite interest, we want to make sure that we take a look at that area and see what can be done to preserve that.

Chair DeGracia: Commissioners, anything further for the applicant? Okay, David any last comments for this Commission?

Mr. Hinazumi: No.

Chair DeGracia: Okay, thank you.

Ms. Streufert: Okay, I think then that I'm ready to propose a motion.

Ms. Otsuka: Thank you.

Ms. Streufert: Based on the information that we have received today and the testimonies that we have received, I move that we refer this application back to the Subdivision Committee until there is a completed Ka Pa`akai Analysis and based upon what I heard just now it may have any impact upon the time frame because they were not going to do anything until it was completed anyway.

Ms. Cox: I will the second the motion.

Chair DeGracia: Okay, Commissioners, motion we have on the floor is to refer it back to the Subdivision Committee to address the Ka Pa`akai O Ka`Aina Analysis. Could we get a roll call vote, Mr. Clerk? Actually, any further discussion before we take a vote?

Ms. Cox: Is it important that we put in the motion that they are waiting for a completed Ka Pa`akai Analysis? You said that...

Chair DeGracia: Yeah, I believe...

Ms. Cox: ...but Francis (inaudible) restated it, so I just wanted to make sure that it is, that the sub committee going to waiting for a completed Ka Pa`akai Analysis and then...

Mr. Hull: It will be reflected by the motion maker.

Ms. Cox: Okay, thank you.

Mr. Ako: If anything, Mr. Chair, I'd just like to thank those that came out to testify on this issue over here and hopefully it makes a difference in terms of why people come out and hopefully this will encourage other people to come out also.

Chair DeGracia: Good point, Commissioner. Nothing further. Mr. Clerk?

Mr. Hull: Roll call. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioners Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0.

UNFINISHED BUSINESS (For Action)

In the Matter of Planning Director Kaaina S. Hull's Petition to revoke Applicant Bula Tree House LLC Use Permit U-90-38 and Class IV Zoning Permit Z-IV-90-51 (former Mark Daniells art gallery approved in 1990), and Use Permit U-19-78 and Class IV Zoning Permit Z-IV-78-28 (former Diane Daniells pre-school approved in 1978) for failure to comply with conditions of approval by the Planning Commission and Issue an Order to Show Cause and Set Hearing; Memorandum in Support of Petition; Declaration of Kaaina S. Hull; Notice of Meeting; Certificate of Service, TMK (4) 5-5-004: 23, Hanalei, Kaua'i. [Deferred 2/14/2023, Deferred 4/11/2023.]

Mr. Hull: This is petition for revocation that you folks received from myself several months ago. It was not received in time to place it on the agenda and transmit it to you ahead of time of the meeting, but you folks are all in possession of a stipulated revocation of the subject permits from the applicant's representative, Ian Jung. The Department has reviewed the stipulated agreement and are fine with the stipulated agreement. Being that you folks have just received it, I know you folks read it, ultimately the Department is asking for a deferral until the next Planning Commission meeting for you folks to review it if necessary and if there's any proposed amendments, if not, I'm getting quizzical looks, that some of you folks are maybe willing to take action today, I have no problem taking action today, we are in agreement with the stipulated agreement draft. You may want to ask the attorney representing the applicant if he's okay with action today, otherwise if any individual wants deferral on this item, to further review, the Department has no objections to that as well.

Mr. Ian Jung: Good morning, Commission, Ian Jung on behalf of Bula Tree LLC. I actually drafted the proposed stipulation, so if you want to sign it today that's fine with us, and I've been in contact with the, one of the complainants and I gave them an opportunity to review it and I got an email saying that they're fine with the approach and the terminology. Essentially there's two older entitlements that were associated with this property, one with a regard to a pre-school operation that is no longer in use and there other one for a small 288 square foot little commercial space that's been used for an art gallery, which we worked with the Planning Department and the complainant to try and cease the use by December 31st of year, 2023, and based on those terms of the stipulated revocation, the operation would cease by that date, on or before that date, so they had a new tenant come in and they want to just give them time to wrap up operations. So, I did speak with the Deputy County Attorney if they want time, it's fine with us but if you guys are fine with the draft now, once it's signed by the Planning Director, we will sign it and the Commission, I believe signs it thereafter. And it basically functions like a stipulated finding of fact, conclusions of law, decision and order, so just a formal mechanism to terminate the permit on the records.

Mr. Hull: Just a little further background, if you recall, this is an art studio that was supposed to be temporary in nature has been operating for years, and without the associated school use that was occurring there previously that was considered an accessory too, so the Department did finally make a move this past year to look at revocation of those permits, and quite honestly, in a contested case hearing, revocation proceedings would take a minimum of a year and a half to possibly two years, with the applicants right, should they choose to do so to appeal on up to the further court system, so Mr. Jung coming in here with a proposed stipulated agreement to end that within this calendar year is a much quicker resolution than what could get to contested case, which is why the Departments amendable to it.

Ms. Otsuka: It's nice for me to be able to see, so on page 5, it does state, tenant to cease the art gallery use on or before December 31st. 2023. So, it's nice for me to see, visually.

Chair DeGracia: Commissioners, any questions? Comments?

Ms. Streufert: So, the Department is in agreement with the stipulated?

Mr. Hull: Yes. I guess if there are no further questions for the owner's representative or the Department, it is an agenda item, we should ask for public testimony.

Chair DeGracia: Thank you, Ian.

Mr. Jung: Thank you.

Chair DeGracia: Is there anybody in the public who wishes to testify on this agenda item?

Mr. Hull: Sorry, we've been dinged enough by OIP.

Chair DeGracia: Hearing none. Commissioners, I'm willing to receive a motion for this agenda item, whether to defer it or to approve the stipulated revocation of use permit.

Ms. Otsuka: So, it's approve not accept? Approve?

Mr. Hull: Approve.

Ms. Cox: I'll make a motion to approve the stipulated revocation of Use Permit U-90-38 and Class IV Zoning Permit Z-IV-90-51 and Use Permit U-19-78 and Class IV Zoning Permit Z-IV-78-28, that was brought to us today.

Ms. Otsuka: Second.

Ms. Cox: Or do I have to say something else?

Deputy County Attorney Chris Donahoe: Just also the findings and facts.

Ms. Cox: Findings that support conclusions of law and decision and order Exhibits A through D.

Ms. Otsuka: Second.

Chair DeGracia: Okay, Commissioners motion is on the floor to approve the stipulated revocation of Use Permit and other stuff. We'll take a roll call vote, Mr. Clerk.

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

Mr. Ako: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioners Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0.

NEW BUSINESS (For Action)

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-10), CLASS IV ZONING PERMIT (Z-IV-2023-10), USE PERMIT (U-2023-7) to allow construction of public shared use path extending from Nawiliwili Park to Ahukini Landing and associated improvements involving a new comfort station, drainage ways, protective fencing and paved parking area, and SHORELINE SETBACK VARIANCE PERMIT (SSV-2023-1) to deviate from the shoreline setback requirement involving properties along makai side of the Lihue Airport, further identified as Tax Map Keys: 3-5-001:004, 005, 008, 009, 085, 092, 102, 128, 158 & 160; 3-7-002:001 (Por.) and affecting a total area of approx. 9.2 acres = **County of Kaua'i, Department of Public Works.** [Director's Report Received 4/25/2023.]

Mr. Hull: Before turning it over to Romio. We don't have anybody signed up; we closed the agency hearing but it is a separate agenda item. Is there any member of the public that would like to testify on this agenda item? Seeing none, I'll turn it over to Romio for the Directors Report pertaining to this matter.

Staff Planner Romio Idica: Aloha, Chair and Commissioners.

Mr. Idica 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. Idica: That concludes my brief summary of the Director's Report. Before I read the recommendations are there any questions from the Chair or Commissioners?

Ms. Streufert: I do have a couple of questions. This bike path which is something that we all would like to see completed, goes over very sensitive areas, pass very close to the airport, pass a radar surveillance, there's radar ESR, it's on page 24, and they have worked with the DOT, the FAA, as well as the TSA and air traffic control but is there any specific written document that says that all of these entities have agreed to this and that have agreed that this is not a safety issue.

Mr. Idica: We have not received any formal documentation from Dot Airports, TSA, or FAA. We haven't received any formal letters or comments. The applicant did however complete some meeting with DOT Airports and TSA, and they have some written comments from those agencies, but nothing formally written to the Department or the applicant.

Ms. Streufert: Because the radar station is apparently outside the perimeter of the airport, so it's not protected in any way, but the pull boxes are, or they will be modified so that they can be locked against vandalism and theft but there's nothing about the radar station that's out there, which I think is a pretty important piece of our safety, and while I don't think that...this is one of those issues where there's, I think a low risk right now, but a high consequence if something were to happen, but once this goes on to the internet and it will, once it becomes a bike path, there will be lots of people out there and there's no, I think protection right now for that radar station which is outside of that. Who has control of that when it is outside of the perimeter of the airport?

Mr. Idica: That I'm not sure. I would have to do some research and probably get back to you and the Commissioners.

Mr. Hull: We can also ask the applicant, if they can provide any further insight into that particular concern.

Ms. Cox: I have two questions. One of them is because we just got the Department of Waters comments this morning. I haven't seen them before and they did mention that there is no water out to the parcel and isn't going to be a comfort station at Ninini Point, can you just speak to that.

Mr. Idica: I would like to defer to the applicant regarding that and what source of infrastructure there is out there right now.

Ms. Cox: Okay, and then this one I think you can answer but I'm not sure, and that is the drainage 3 that's going to have the long bridge that is 25-foot deviation from what it should be. Is there any danger...I can't picture exactly where it is, but could you speak to the danger of coastal erosion.

Mr. Idica: Right now, the existing shoreline is a rocky shore, it's about a 50-foot-high cliff bluff, so, there is erosion, rocky shores are not indestructible. There is erosion but it's very, very minimum, unless there is a catastrophic event that would pull the whole cliff down to the ocean the Department feels because this is a public access area and yes, we do not take a deviation from our shoreline setbacks to kindly or easily, but we feel that it is necessary to place that bridge in that particular area because of the topography and the existing landscape to avoid any extra grating or excavation.

Ms. Cox: Okay, thank you, Romio.

Mr. Hull: I'll just add to that too because it's a good question, Commissioner and as the path gets expanded it's continuously one of our points of concern. When the original paths in Wailua and Kapa'a were built or even designed, the State of Hawai'i and definitely (inaudible) the County of Kaua'i did not have the studies concerning coastal erosion and sea-level rise at that time. Now having those studies, that path has been put in places that are extremely susceptible to coastal hazards, and there's definitely a good discussion and debate and dialogue that needs to occur around public facilities, proximity to the coastline versus private structures. Private structures close proximity to erodible shoreline that's just bad idea because they're going to have to seawall it and that will make a coastal beach access gone, but from a public facilities park aspect, the park itself, park facilities are intended to create close proximity access to what are sometimes, hazardous areas. Having said that though, your general park, you need to get those restrooms and park facilities close to the beach because that's why the people are going to go to that park, that's the purpose of the park. When you're looking at a bike path or multi-mobile path I should say, I think we definitely in reviewing these new applications, have learned our lesson from the original path, saying, yes, the path can serve a very wonderful public purpose, but having a path next to an erodible shoreline, a sandy erodible shoreline, you need to consider moving that path away so can address and accommodate that coastal erosion, so pretty much in the past five years that has been one of our key

focus. Luckily for this proposal there are not many sandy areas, really it's mostly all rocky shorelines, and like I said, those areas that the path is being proposed, like the previous one you folks reviewed last year as well as this one, our position has been, if it's going to be near a sandy shoreline, you need to be located at a distance that can accommodate for erosion without having to necessarily either remove the path and certainly not create a seawall to erase that beach.

Ms. Cox: Thank you.

Chair DeGracia: Commissioners, any further questions for the Department? No?

Mr. Hull: I'm not sure if you guys wanted to bring the applicant up for...

Chair DeGracia: Yes. We can have the applicant's representative.

Mr. Jim Niermann: Good morning, Commissioners. I'm Jim Niermann with R.M. Towill Corporation on behalf of the Department of Public Works. Should I launch in?

Chair DeGracia: Yes, please.

Mr. Niermann: Okay, didn't know if you wanted me to (inaudible) questions. Okay, see if I can share screen here and get this going. Fortunately, I get to spare you a lot of the presentation because Romio covered it. Here we go. So, as he mentioned, I'll kind of go through quickly through the first half of this then we can get to the need of the questions that we've been discussing. As he mentioned, we're Segment 6 of Ke Ala Hele Makālae and these are all of the segments, we're down here and our original scope of work, so we're focused in right now on Phase A of Segment 6. The original scope of work for Segment 6 is Ahukini to Nawiliwili Harbor to Līhu'e and the project purpose, obviously there are multi-fold to develop a multimodal path system to connect both regionally as well locally alternatives to internal combustion of automobile transportation, create a nice recreation amenity for both the residents and the visitors to Kaua'i to promote healthy lifestyles, to build island resiliency by providing this alternative mode of transportation or a infrastructure to support alternative modes of transportation and this speaks to the, right now as far as connecting these communities the highway doesn't have facility other than for internal combustion vehicle other than automobiles, so if you want to get from point A to point B, you're taking your chances or you're either brave, stupid, or skilled or a little combination of all three to navigate the highway to get through this particular 16-mile area. Then in addition on the subject of resiliency this may sound far fetched in some circles but in the potential future where we may have a more volatile energy markets where gas prices may compel more and more people who have already seen it quite a bit to get out of their cars or to make hard choices about transportation and having an alternative mode of transportation would support the resiliency to be able get from point A to point B without having to rely on an automobile or a gas powered automobile. This is our overall Segment 6, kind of our initial objectives. I'll kind of go through this. As you can see all the dash lines in there, that was a total scope of Segment 6 and we're focused in on Phase A, which this we might need to clarify a little bit because Segment E and F, I think, are not part of this application. That's why you don't see them on the screen here, I think, E and F we were initially considering including them, but those would have connected the back of the Kaua'i Marriott down to Nawiliwili Park, two separate sections here. So, everything in yellow here is what's being proposed to be developed by the county. The blue, that's Segment B and D, those will be developed by Timbers Resorts, so separate. And (inaudible) should be looking down here, hopefully the colors are coming through, but the blue highlight is the SMA area of the 17,000 linear feet of path that's within the SMA, about 8,000 of that is within the conservation district as well, and that's essentially stretching from right here at this point, which is the drainageway 3, where the new bridge is proposed, that prefabricated bridge. You can see the cursor here, so right here all the way to right here this is all the conservation segment. There are few places like in drainageway 4, it dips out a little bit, and I

think there's one or two others where the conservation line and the SMA line don't exactly align. Zoning, I know Romio mentioned, but we have a little bit of the blue down here is the Ag, Conservation is the yellow, we're actually all on the makai of Ahukini Road, down at Ahukini Point. We go into the IG STP zoning in the gray around the airport, conservation when we drop, dip back down into this parcel, which is county owned, and then once we leave the SMA, here, we're into open zoning. The SMA does not include, I just want to point out, doesn't include the very end of Ninini Point. That is outside of the SMA, and that's where it's the comfort station is proposed, but we will speak of that, we'll provide some more description of that. State Land Use Districts, so we're in urban, industrial, and Ag, there's a little bit of Ag down here, in the red, urban is the orange, I'm sorry red is conservation, urban orange, and then the green is Ag. Okay, back to this but we're gonna come back and rephrase this, I can come back to this if the Commission is interested. This is basically a timeline of the project, but I don't wanna get lost in the weeds of this, it's been a long process, we started in 2007. We have quite a few delays that we're mostly related waiting for the Federal (inaudible) agencies and State to work through the NHPA 106 process. Okay, moving down, so path improvements as you mentioned, we're proposing a 10-to-12-foot path wherever feasible and 8 feet where we're constrained, including across that prefabricated bridge. Some of the statistics up there that 17,000 linear feet within the SMA for Segment A, so the only two segments, I'll go back to this drawing, that are in the SMA, is Segment A, from Ahukini Point or Ahukini Landing up to Ninini Point and then a short portion, about 1200 linear feet is Ahukini Road, Segment G. The rest of Segment C, and the others are outside of the SMA. These are just some examples from the Lydgate Project of the type of improvements that are being proposed. The most substantial, probably improvements between Ahukini Landing and Ninini Point, setting aside the comfort station, would be interpretive signage, you know, the more kiosk type of signage, otherwise it's all either just path or more informational signage on poles, kind of like more utility signage. Bollards, so at four locations, actually, I think, might've had five locations, I apologize, confusing with drainageways. One of the issues that came up from day 1 of the project was access to the fishing sites along the shoreline, which are currently accessed by the dirt road, that public access dirt road that circles the airport, they're numerous roads, or just little turn offs that provide vehicle access almost down to the shoreline where people fish, so we're preserving five of those access points for motor vehicle access. All segments to the shoreline would remain open, and for the most part the path will be or actually entirely would be on the side of the makai side of that existing dirt road providing access so where are the driveways have to come across, we're proposing some type of bollard just to protect, prevent vehicles from getting onto the paved pathway, and just to protect the users of the path from motor vehicle traffic across the pathway and these are just some examples we understand those had to be designed to prevent easy (inaudible) I know those could get moved pretty. These are just a focus on the four drainageways, two of which are outside of the SMA, that's drainageway 1 and 2, starting on the north end. What we're proposing is to come up to the existing airport perimeter road and use the existing culverts. We've only done the preliminary alignment and the basis of design, right now we don't anticipate needing to widen those two culverts, but that's still a possibility that they would have to be widened to accommodate the path, looks like there's enough room in those two, and then once we're across them, we're diving up and down, basically getting right back to the shoreline as quickly as we can, and I'll come back to drainageway 2 and runway 21 in a sec. Drainageway 3 is where the bridge is proposed, a 140 foot bridge, so a couple of things that we're setting the location of that bridge, one, as Romio said, the primary reason is, where the topography, where the path wants to go or should go to minimizing the amount of grating, we are also aligning the path, one to get it as close to the shoreline as we could, so part of that was to move it as far away from the airport as we could, and this was in response to the comments from both the Federal Airport or Federal Aviation Authorities, as well as the State, and then also to, it kind of push down by the shoreline and then we pushed it back outside of the shoreline setback. Initially we had an alignment that was even closer to the shorelines, we moved that out of the setback. I think that the bridge was in the same place just because of the topography, but that's what you're seeing in the approximate location here. Of the bridge crossing, the existing dirt road access, there's another access road right here that's also used, so we're trying to stay away from that road as well, and then drainageway 4, we come up again outside of the 60-foot shoreline

setback and intersect with the existing dirt road, and the plan at this location, which is within the SMA, is to expand that road on the mauka side, either through a retaining wall or through embankment and then shift the road mauka and keep the pathway along the existing road alignment, and then drop back down closer to the shoreline as we proceed. These are just photos of drainageway 1 and 2, the crossings there, so it looks like there's plenty of room to accommodate both the path as well as the roadway. Just a preliminary schematic of the bridge abutments just showing a 140-foot range across, so as Romio said, about 75 feet setback from the certified shoreline, and we're at an elevation of about 55 feet above sea level with the abutments, so we're staying outside of the VE inundation and set pretty far back in terms of potential for effect from erosion. And drainageway crossing 4, this is what it looks like. This is the closest we get to the sand, and probably the biggest concern for erosion along this stretch of coastline. In the analysis that we did, and in talking to the folks at (inaudible) Chip Fletcher's crew, they didn't do an analysis of this segment of shoreline, it's generally considered to be stable as stable as shorelines come in the State. And then the sketch below in that drawing makai is on the top, mauka is on the bottom. The gray one here is the path, and that's following the edge of...so right at this point you can see the cursor there, that's where the existing culvert comes out, so be holding that line, not going any further makai of the exiting improvements and then shifting everything on the mauka side. And then just wanted to point out at Ninini Point, the lighthouse was proposed out there, this again, is a concept drawing, the design might look something different, but the comfort station is proposed to be located on a former site of the caretaker's house, where that existing foundation was, and then having some type of pave or gravel parking area and a turnaround. Everything in the light green there, is outside of the SMA, so most of that those improvements would be outside of the SMA, but that's what's conceived. The sketch below I think has been used in a couple of other segments. We know that this is one of the conditions, it was part of the NHPA 106 and the (inaudible) mitigation commitments by the county, was when it comes time to design a comfort station and develop the interpretative programming for that area, additional consultation will have to occur both with SHPD, Historic Kaua'i Foundation, Kaua'i Historic Preservation Review Committee, as well as the native Hawaiian organizations who expressed interest in participating, so that will be the outcome of another consultation process. And just for the record, also the mitigation commitments, both on that particular part of the development as well as an overall interpretive programming also require a consultation with those groups. Let's see, environment, I'll kind of go through this more quickly than it deserves, but we have, this is just an example of some of the fishing access that I mentioned here on the left. We do have the path crossing the stabilized slope, that portion that used to be a dump, that was then stabilized with geofiber/geotextile, and the path that's crossing that stabilized portion in this area, and then just an image of the rocky shoreline, this is pretty characteristic of the shoreline there. From this vantage, the path would be up above the top of the bluff here, this is more of a kind of a visual of the environment. Flora and fauna in the area there are numerous protected species, primarily (inaudible) fauna, but others as well. So, there are four that are in danger, the Nēnē, Koloa, 'Alae 'ula, 'Alae ke'oke'o, 'ua'u kani, oh no, I'm sorry, the 'ua'u kani is not. Those are all listed species, or they're not endangered, but they are listed and protected, and that's the wedge-tailed shearwater, the petrel, Newell Shearwater, also the Hawaiian hoary bat as possible, monk seals, we know pull up on the sand pocket beaches, green sea turtles and hawksbill turtles as well. There was no endangered flora found in the area and there's no critical habitat identified according to both DLNR and Fish and Wildlife Service and no (inaudible). So, the mitigation, though, is essentially for the Nēnē and the shearwater nesting that's at the south end of the runway, kind of between Ninini Point and the Timbers Resort, is to fence that area off to prevent dogs on the trail from accessing the ground nests, and then also there would be no lighting other than at the comfort station and any lighting would be shielded and angled downwards, so the normal mitigation for shielding, lighting, and other than that, it's limited to informational and interpretive signage for the echo environmental resources and ecosystem function there. Historic and cultural resources, there's quite a bit on this coastline. So, there are approximately, depending on how you break them up, from the clusters, but there are approximately 25 total in the area. Within our Phase A area. Nine of those were considered significant and five were recommended for particular mitigation, the remainder where it was mostly the significance was for data recovery, but the highlighted ones here, which are identified

here, consisted of a (inaudible) in placement, there were two terraces, habitation, identified as habitation areas, there are rock terraces, and there was one potential burial site, and the background in the burial site was it was a mounds of stones, `ili`ili stones, the initial interpretation by the field archaeologists was either a push pile or potential burial, and it was treated as potential burial and the mitigation commitments follow through on that. The subsequent interpretation right now is that that might have been an overzealous interpretation, but nobody knows, but the recommendation was to pull the recommendation for a burial treatment plan and preservation, not make it a requirement, and to avoid that site altogether, but these are specifically identified in the mitigation commitments to avoid these by some distance between 20 and 50 feet, and that's what's showing in the path of alignment here. Let's see, Maintenance a Monitoring, probably well known to you, but Public Works and Parks and Rec would be responsible for maintenance of the path and then security the DPR Park Rangers, and then HPD would be called in if necessary, and then DLNR in and around the airport, the Federal agencies as necessary, and then overall construction costs within the SMA it's about, I'm gonna say, 6 million. I'm squinting, yes, and just shy of 13 million outside of the SMA, for a total just of 19 million is the estimated construction costs for this Phase A. I already talked about path benefits. So, I want to go back and just talk quickly, well not quickly, but speak about the airport, the airport concerns. Okay, so early in the process, we had, we did have meetings with TSA, FAA, Air Traffic Control, DOT Airports, Homeland Security, they were all part of the consultation for this is as we were preparing EA. The concern that they had was, of course, proximity to the airport and proximity to the navigational aids. Their request was to stay as far away from those as possible, for the navigational aids, he said, 200 feet if you can, which is what we tried to do by moving the pathway in certain locations. There was also, I think, DOT Air initially the state DOT Airports, initially said, avoid using the airport perimeter road, and it was avoid it, if you can, stay away from it, if you can. They prefer that, for us to stay off of it. They subsequently, just recently, the alignment you see here, they approved in the form of a right of entry agreement, so that is an executed document that has this path alignment where we touch on those two drainageways, 1 and 2. Come back up, so they're good with this alignment. Generally, those agencies, not just generally, but specifically and generally they were supportive of the project, TSA in particular, their opinion was, if you put the path there, you're gonna have more good people in the area with smartphones, keeping an eye on things, so that was the response that they had. We have the meetings notes documented in our correspondence back to them we did get a response from FAA and the ATC, the Air Traffic Control saying no further comment. We didn't receive any final comment from the TSA Homeland Security or, actually DOT we've been working with them continuously through this, so as far as the impact, I think the main concern was out at Ninini Point, here I think the...sorry it's not showing too well on here but this is actually the path, so somewhere back up in here, I think we're closer, we maybe a little closer than 200 feet to the radar at the end of Ninini Point, but that was also part of the discussions with the DOT Air and with Air Traffic Control, and FAA, that this is where the path has to go because we have a pinch point in this location, and they understood that, they just said, stay as far away from those features as you can. With that I'll just save a breath, pause and happy to answer any questions.

Ms. Cox: What about the water at the comfort station?

Mr. Niermann: Oh, yeah, you're correct, there is no water system out to the comfort station, so the comfort station, the furthest we got in concept was either, it would at least be composting toilets, or a new water line would have to be brought in from Ninini Point Street, so that would be determined during design.

Ms. Streufert: I have a question about security, you were saying, with the ASR. You have a security that's around the pull-boxes.

Mr. Niermann: Yeah.

Ms. Streufert: But nothing around the ASR, which is the Airport Surveillance Radar, and you said you're about 200 feet away from it, is that correct?

Mr. Niermann: Yes, that was the distance that they were desiring that we be from that.

Ms. Streufert: You've talked to all of these agencies in consultation, but do you have anything in writing from them that says that they agree with this, or they approve of it?

Mr. Niermann: We don't have a...only from the FAA and ATT and ATC, so from the Federal...DOT Air only...let's see...we don't have something that says like, we agreed with this precise alignment. We do have the letter from them that was in their comments on the EA, and then we have the executed right of entry for this path alignment.

Ms. Streufert: How long would it take to get a written agreement from them or a written approval?

Mr. Niermann: From DOT Air?

Ms. Streufert: From all of these people and to include Homeland Security and KEMA, for instance, I would think would have an impact on this too, and the reason for saying is because in the State of Hawai'i there are very few airports that are above sea level, Kaua'i is one of the only ones in the whole state, so if anything were to happen, Kaua'i would be the entry point, and yet we're not securing this to the point where the surveillance radar is protected. I understand that more eyes in this area are good, I kind of get that, but the problem with it, is that once this is identified on the internet, and it will be because it's very beautiful and you have done a really good job of presenting all of the good points about or the scenic points about it, it will be on the internet, and there will be a lot more people there who we would not know, who they are or anything like that. Right now, it's primarily for locals that go through there, but when it gets opened up we have no clue, and frankly, I'm a little concerned only because of what I've read about people having all of these TikTok challenges and everything else, and maybe it's overblown, I'm not sure because I'm really not on to the social media, but even one, it's called a low risk. Sorry about that, but even one, all it takes is one right, when you're on the other side of it, when you're on the protective side of it, you have to be vigilant all the time for anyone who wants to create havoc, it only takes one time. So, it's a low risk, but a high consequence of anything where it happened to that radar station or anything else. Is there any mitigation plan for that radar station, or even for the lighthouse for example, has been thought of, like you've done it for the pull-boxes, and how long would it take to get a written approval from all of these agencies to approve the pathway? And the reason for asking this is because I really don't know enough about this, but I do know that there could be security risks and I would like to make sure that everyone who is involved in this has approved it before we get to the point where we are approving it because we're not the experts on this.

Mr. Niermann: So, to answer your question directly about how long, I don't know because...

Mr. Hull: Sorry, if I could just briefly interrupt...if you wouldn't mind stopping share screen and we can turn on our video, sorry. Go ahead, sorry.

Mr. Niermann: I was gonna say, I don't know how long that would take, because all the agencies, even in any given season, they have different speeds with which they respond. DOT Airports has been excellent in this past year in working through the right of entry, and then signing off on the application form which they have to do as the landowner or the authority with control over those lands. So, we and as far as getting an official approval letter we kind of assume we have that by the no objection, by the no further comment from FAA and ATC, as well as the right of entry that the airports approved, that DOT Air approved because they go through their internal review as well for issues of security and the fact that it's a

public access now so we were improving the security of that. I know, your point is well taken though, it'll be on the internet, there's good to be much increased traffic that won't just be, you know, the people who can access the bumpy dirt road, you know, and handle that, so if yeah, so, that I guess the response is I don't know how long it would take, it definitely would take some time, it might go very quickly, or it might get, you know, bogged down. I know when we did the initial consultation with those agencies we started at the Summer of 2008 and concluded in May of 2009, so it was a little less than, it was about eight months maybe getting them all together.

Ms. Streufert: 2008 to 2009 is what, 15 years ago.

Mr. Niermann: Yeah.

Ms. Streufert: Conditions have changed since then in terms of the internet and what kinds of risks that we take. Is there any plan to get the approval from these agencies? It's different to have a consultation, because you have different kinds of people at table, and then when you have to have approval and a written document, you've got an official seal that says we have seen this and we approve it, and that's very different from saying in a meeting, yeah, sounds like a good idea.

Mr. Hull: I'll just interject real quickly to Commissioner. I definitely hear the concerns being raised, but also to raise that, they may not legally be able to get approval from some of these agencies in that, say the Department is consulted on an array of different issues, if it's not an actual application and it's a property owner, the Planning Department could never say, we hereby approve of this project, and so, some of these agencies that are being listed may have internal mechanisms that say they can't use the phrase approval, but I think to your point, though, that if there's a desire to specifically list this concern about public access or proximity to sensitive assets that that could possibly be highlighted and transmitted to these agencies. But I just wanted to raise that, he may not be able to get an actual approval letter.

Mr. Niermann: I also just wanted to add on to make the point, that it wasn't just a simple, informal consultation sounds good, and nobody disagreed, and the donuts were delicious. It was more formal than that, and those consultations, this was the consult early and often. That was a very diligent effort to, as a foundation for our EA, our 343 EA, so as we went through that process, it was long time ago, 2008, 2009, the final EA didn't get published till 2017, and I hope I'm not digging myself a hole about these timelines, we can go back to that to that one. When the final EA was published, it was also, of course, distributed to those agencies specifically because of their involvement in the development of the plans and the plans responded to their comments and their input by shifting the path by adding certain features, so there's a lot of diligence involved in that through the final EA. The final EA didn't document any objections or concerns, and it was consistent with the concerns that they initially raised, and our responses to those concerns.

Ms. Streufert: So, who owns the ASR?

Mr. Niermann: Actually, I don't know. It's either FAA or ATC, but I think the land it's on, it's under DOT's jurisdiction.

Ms. Streufert: I'm not really concerned about the land so much as I'm concerned the safety and security because it is a radar station for the airport.

Mr. Niermann: Yeah, then it's FAA and Air Traffic Control are the two that...

Ms. Streufert: If we were to defer this until you had some, at least a written either agreement, doesn't have to be approval, but agreement or something like that, would that set you back?

Mr. Niermann: It would, yes. Right now, the project is Federally funded, and the Federal Highways Administration is carefully watching the schedule. The project was delayed for quite a while as, and I can go back to that, to that timeline slide, if anybody wants to, and a lot of that had to do with just the coordination among the agencies to get through, the first hold up was NHP issues, back in 2012, related to Wailua and other areas that required Federal level guidance to trickle down to Federal Highways to then to come down to the State and the County, and then there were other delays that related to that same process they were procedural, at any rate because of those delays Federal Highways was very concerned about further delays to the project. I know DPW was concerned about Federal Highways saying this project is gonna forever be stuck and they would then ask for the funds that they've contributed to the project back and the County would on the hook for reimbursing the Federal government, Federal Highways Administration. I know that's not a sound basis for doing planning to say we're just a we're not gonna fulfill something, if we were to delay by six months or eight months, I know it would be a tremendous concern, and would cause ripples back to the Federal Highway folks that are overseeing this, and the State folks that are overseeing the, that their funds are being channeled through, so I don't know if there's a way to crafted it as a condition that would be my first, you know, hope or plea, that is was a condition of the SMA, but then that goes back to the Director's concern that what is it that we can expect to get from those agencies, is it just, no objection? You know kind of...is something more formal of a no objection versus a, we approve or some type of design review. Ordinarily projects around the airports, if you have vertical structures, there's a preconstruction evaluation form that you have to submit to the FAA, and then they take into account all of the aspects of impacts and navigation. It's mostly on navigation, I'm not so sure about security actually (inaudible). Anyways, so that'd be, my plea would be to try to advance it and maybe craft a condition if that's at all possible.

Ms. Streufert: If one were to voice this concern would that, would the Departments preference be for a condition or a deferral. Until there's not approval necessarily but at least an agreement from these different agencies.

Mr. Hull: You know the Department would have no problem with, say a deferral for, say, a month or two, I'm not sure that addresses the applicant's timeline. I know, 6 to 8 months is very concerning to them. The other option that I just quickly jotted it down, a possible condition, of course I'm not sure if it gets to Commissioner Streufert's concerns or might be overly burdensome to the applicant's process, but I can read it out for discussion purposes.

Ms. Cox: Let's hear it.

Mr. Hull: Prior to building permit approval, the applicants shall secure affirmation from the FAA and the ATC, otherwise Air Traffic Control, that security of the radar site will not become compromised by the proposed project.

Ms. Streufert: Could we include DOT as well as Homeland Security? And whatever, I think those are the only agencies, correct? DOT, TSA, FAA, Air Traffic Control those are the ones that were listed in your application. This is not to say that I disagree with this, I do agree with this whole concept, I like the idea of a bike path, just not really sure about security and for me that's one of the primary concerns because we are part of public safety as well as building and zoning permits.

Mr. Niermann: I don't mean to treat your comments lightly at all, either or to, of course I've got a (inaudible) that's wishing things for, of course, but also, you know, our ethic on this has been diligence all the way. One of the things we're trying to good to hear to, and I know that's been a little bit, I won't say tattered, but the amount of time it's taken to get through is, you know, time marches on, so we do want to do the right thing to do this correctly. While you were in the executive session, I was speaking to the young family from Hanamā'ulu, who testified earlier, about well, are you here to oppose the bike path, or

the subdivision, and they raised their concerns about bike paths, in general, you know it's all kind of part of the same parcel, and I was like, okay, how do I soothe my conscience tonight, this particular project, at least we're somewhat fortunate in that location, and that we don't have the same level, there's a lot of history there's a lot of archaeology, but we don't have the same level of sensitivity as other segments of the path. The land that the path goes through is either State owned or it's County owned, and that County parcel along the shoreline was fortunately the county saw the value of that when we started the project that was owned by product developer and the county was able to trade, and transfer that land and acquire it to keep it as undeveloped park land, so we don't have that kind of development pressure. The concern that they raised was, first come the paths, then come the hotels, and that comes all the stuff that builds up alongside of it, and then pretty soon you don't recognize your neighbor anymore, so there's still concerns that they raised about the path, some of which we heard through the process about access to fishing, over burdening of resource in the area. Security didn't come up for the airport, but that was one that it's most definitely a valid concern. So, that's balanced against the opportunity to create, you know, a beneficial public infrastructure, public resource, and that, you know those decisions are always fraught (inaudible).

Ms. Streufert: There's no perfect decision on this thing. It's just, but there are alternate paths I think that could be taken, that would be going through that area behind the Marriott or Sonesta or whatever it's called now, (inaudible) that way, so I'm not sure it has to stop, it's just a question of, from my perspective, it's just a question of security.

Mr. Niermann: Okay.

Ms. Cox: Was that condition that Ka'aina just read. Was that something that you would be able to live with or not?

Mr. Niermann: As far as getting affirmation from those agencies, I think we can go back and see what they're able. Yeah, my only concern would be, can we over promise something that they can deliver, but as far as going back and getting confirmation of those agency (inaudible).

Mr. Hull: Yeah, I jotted down a few more and I'm not sure if it's amenable to Commissioner Streufert's concerns, but I jotted a little bit more down, so I can read it further. And the only reason I jotted down when we were going through this, no objection interpretation is as a county agency, our Department gets queried a far amount to make determinations above and beyond what we legally or even policy wise are comfortable affirming and so, we do get requests ad nauseam to go beyond no objection and my statement in a lot of these projects to the staff is, that's all this applicant is getting, we're aware of the project, if we had objections we would object, they're not getting a letter of support from us, they're not getting a letter of robust recommendations or acceptance of it, we have to take in to aspect, among other things, various liabilities that our statements can make, and so sometimes I'm just trying to put myself in, can he get what's being asked of, there are many times our Department is like, no all you're getting is no objection, sorry, take it or leave it, and so anyways, I've crafted up what may be amenable, I'm not saying that it is necessarily what we're recommending, but as a possible path forward. Prior to building permit approval, the applicant shall secure affirmations from the FAA, the ATC, DOT Airports, TSA, and Homeland Security that security of the radar will not be compromised by the proposed project. Followed up with, no communication received from any of these agencies within 60 days, shall be consider a no objection, and the permit may proceed, and the applicant may proceed to building permit review.

Ms. Streufert: Could we include in that not just the ARS, but the airport security? In there, that they are...

Mr. Hull: DOT Airports. So, I have FAA, ATC, DOT Airports, TSA, and Homeland Security.

Ms. Streufert: No, I meant to...you're talking about protecting the ASR.

Mr. Hull: Oh, sorry.

Ms. Streufert: ASR and airport security.

Mr. Hull: The security of the radar and the ASR?

Ms. Streufert: Yes, and also could this be a written affirmation as opposed to a telephonic affirmation or email whatever...

Mr. Niermann: Email is...

Ms. Streufert: Whatever is written, there's a signature on that that says, we have seen this, and we've approved it.

Mr. Niermann: Okay.

Ms. Streufert: We've noticed it, we've looked at it, and on the basis of the security.

Mr. Hull: Prior to building permit approval, the applicants shall secure written affirmation from the FAA, the ATC, the DOT Airports, the TSA, Homeland Security, that security of the radar and ASR will not be compromised by the proposed project. No communication received by any of these agencies within 60 days, shall be consider no objection, and the applicant may proceed to building permit review.

Mr. Ornellas: Yeah, I think it's encouraging that none of these agencies have objected. They're well aware of what's happening.

Mr. Niermann: Yeah.

Mr. Ornellas: I think, and I think in a climate of heightened security, they would simply close the path.

Ms. Cox: Yes.

Mr. Ornellas: That's my own opinion. I mean, that whole coastline, I recall when they were lined with pillboxes, left over from World War II, that entire stretch, so, it is a sensitive area, no question about it. But I think the fact that none of these agencies objected is indicative of their level of concern.

Mr. Niermann: They certainly wanted to make sure that in the event of an incident and then in just case they were talking about a malicious incident, that we have the ability to lock down the path or to gate the path, and so at those points of connection with the roadway, that was where they identified the gates to be placed, so that was part of it. But yeah, that's reactive. I know you're suggesting proactive.

Ms. Streufert: Proactive.

Mr. Niermann: But yeah, they're aware of it. We may have had just half leverage that, you know represented on the folks, it's a pretty extensive number of people that were in those meetings, and there was that general sense, I don't know overstate it, but it was a real general sense that pretty more good people in the area was the benefit, the security.

Mr. Ornellas: My concern when the stretch from Kapa'a heading out to Kuna Bay, my concern was one of security, see you gonna have people walking on this path there's no where around it, there's some lonely stretches, which I use the path, and I was presently surprised that there were no incidences. I think the good drives out the bad in this case.

Mr. Niermann: I will say, outside of Phase A, sorry to prolong the meeting, initially when we were looking at the entirety of Segment 6, we were looking at an alternative to go up Nawiliwili Stream all the way to here, and so we basically trespassed our way up the stream and then we have one meeting, we had a public meeting where we heard a little bit of feedback, that we contacted all the owners on that stream, and we tried the idea of, well you're worried about bad things happening, you know, more good people on the path, they weren't buying it in that case, and we abandoned that approach, but I'm a believer that probably in certain contexts, maybe going through jungle and forest not as much security benefit, but I think in these wide open spaces there's stuff that I know TSA wasn't happy that was happening down there right (inaudible) time we were meeting with them anyways around the airport. So yeah, that condition would be acceptable. I mean, I'm sure that would be alright.

Mr. Hull: Without any (inaudible), I know Romio has proposed conditions of approval, it's been a long day, if you'd like him to read each and every single one of them or have them accept it as part of the report, I think we have just for the record the last condition of approval be added as I read on to the record, as a recommendation to this body.

Ms. Streufert: (Inaudible, microphone not on). I move that we accept the planning Department's recommendations, with the additional condition.

Chair DeGracia: Before I move forward, is there anybody in the audience that would like to testify on this agenda item before we make a motion?

Mr. Ako: Mr. Chair, can I ask one question of the applicant? I'm so sorry. This is not a sensitive topic at all, and not technical in anything, but the vision is to create this to connect with the existing path that's there right now.

Mr. Niermann: Yes, yes, and it's also like each of the segments, I think, and this one probably more so than the others are also envisioned as stand-alone segments, if that makes sense. But yes, the envision was that it creates regional corridor all the way up to Anahola.

Mr. Ako: So, this will eventually connect up to, down by Lydgate Park, that walkway there.

Mr. Niermann: Yeah, exactly.

Mr. Ako: My question is, what is that theory about starting from, I don't want to tell you my age and all of that but (inaudible) the Honolulu viaduct, as they're doing. They're starting from two different ends and then they meet six feet apart at the top. What is the theory about starting, effect rather than expanding from what we have, that's starting from one end and trying to eventually connect up at the other end.

Mr. Niermann: Various series, but sorry, there's a really good book called The Power Broker, that it's like all the dirty tricks of planning, but this is not necessarily a dirty trick, I shouldn't characterize it that way. It's a great book, not to learn dirty tricks, but just to see how things get, anyways I'll shut-up. The theory is that you start with the least critical segment, and then you work towards the most critical, because as the project goes it builds momentum, and then you can't but built that last segment because you needed it to make all the rest of it activated. That's the theory. The stock gap on that, a lot of it has to do with Federal Highways and DOT and the concept of segmentation, and that's embedded also in the 343 block you know, you can't segment a project to seek it through, you have to look at the totality of environmental impact. But if that project has the kind of language we use, is it has its own utility, has its standalone function, it has a logical terminus, so if you build it in isolation of all the other stuff, it still has value, it still has, it still has its own utility and that's essentially how these larger regional kind of projects are, they have to be conceptualized or conceptualized both for funding for both (inaudible) getting through the

(inaudible) getting through the 343, but from the from the dirty tricks perspective, it's okay, you start with the one that is going to the least controversial, that it kind of builds a...

Ms. Streufert: Least resistance.

Mr. Niermann: Yeah.

Mr. Ako: So, that window you talk about the six-to-eight-month period regarding the putting the Federal funds in jeopardy at that point.

Mr. Niermann: So, I don't want that to be considered a hard, fast date. The concern has been so, we were delayed in getting the EA published, and that was held up that for the NHPA 106, getting through that. It wasn't that the conditions changed, it wasn't that the consultations, you know, were controversial and mired in any issue, it was just the bureaucratic process of going between State agency, the Federal agency, and every time we get to a point where one of the agencies is ready to move on the action, there were personnel changes, and so a new set of eyes wanted to revisit it and so that was just dragged out ad nauseum, and Federal Highways even though they were a party to some extent, they were also looking at it saying, hey we're funding this thing, you had a schedule, could the county commits in the schedule and in the contract. You said it was going to be done here then it gets delayed, and there's good rationale, and so they improve that they approve it, so, it's just that, since when you look at that timeline from 2007 to now, and what are the things that are holding it up? What can we control to move forward? We know that just in general, not on this particular subject of six to eight months, but they really been holding the DPWs feet to the fire on the schedule and we're living and dying by the schedule now, so there are monthly reports, back to Federal Highways, how's it going? How are we moving forward? And that the concern like right now the county is requesting an extension of that schedule, and every time that, you can't take it for granted that there's gonna be another extension, at any time they could, you know the forces that be at the Federal level, in Washington, or wherever could pull the plug on the project so, we're just being very sensitive to the amount of time, you know, we're up against right now to complete the project, to commit the funds under the current commitment that the County has to Federal Highways, so six to eight months because I was just fine tuning the schedule, and they're saying, we want you to try to squeeze another three months out of it, we want you to shorten it, try to finish this and get the commitment by the end of 2024. They're still trying to squeeze blood from a stone, so to speak, in compressing processes that I just from experience, I know they take a lot of time, and on paper, yes you could compress it, but your practice doesn't always work that way right, so if they're asking me to compress four months and now, if I say it's gonna be another eight months or we're gonna push out six months or eight months then I know that that's going to translate up to with some concern from the County, and I'm not the one communicating directly with Federal Highways, this is the County, the County reps and the State reps. I hope that answers, I hope I didn't say too much to get myself in trouble.

Chair DeGracia: Any further questions for the applicant? Thank you. Please state your name and you have three minutes.

Mr. Kaniela Matsushima: Aloha, my name is Kaniela Kaleikaumaka Matsushima. Thank you for having me to speak on this issue. I didn't know in depth to what this bike path was until, and I'm just hearing his side of it, and what's gonna to come about it, and his. I have a few concerns, I think we should just make aware of, is I grew up on that coastline, I fished my entire life on that coastline. That's probably one of the most dangerous coastlines, I think, on the island, beside the Nāpali, just mainly because that's eastside always catch that, it's always rough and we always like pick opihi on that side and there's a lot of opihi because, I just gave away the spot, but a lot of opihi because only the experienced people that know the area or can go there, because it's very dangerous and I think just having that bike path there would access, the public have access to now would have access to, and majority of the people that use that bike path are

visitors, tourists that come here, and they may not know how dangerous it is, and then you know they might go down there to some selfies at the last rock on the bottom and they get swept away and that's just a liability and more, just dangerous to people in general. So, it is open to fishing and gathering rights, but there's only a select few people that actually go there because it's dangerous, but this bike path would actually change the subsequent part of the traditional, native Hawaiian practices if this bike path does go through there is also a lot of houses and people that live there that actually some of them are my ohana and they were displaced from other areas that they were from and they just kept moving around, and I think, just kicking them out of some place, and then they having to find somewhere else not really a solution to it, so I think you have to take that into account. I'm not sure if any of you ever been on that coastline before, but it's like it's really dangerous, and there's like maybe two beaches there and those beaches are rarely open like, sandy area, they're normally underwater. There's a lot of big boulders that are loose and I just foreseeing this, I can just imagine people like tourists come here and want to come and enjoy that place, or just local people that never in the area want to go out on the rocks and get hurt, or worse. There's a lot of iwi kupuna in the area, regardless of the plantation area, they're a little deeper. So, that is a main concern. There's the beach line that he's talking about, Nukoli'i area, there's like numerous articles and research on it, that there's burials all throughout that area. I've been on burial sites of desecration, I just don't want to see anymore, so I think there, kind of need to thread lightly on it, but at the same time, know what's at play before we actually make decisions on going forward with this, so I think just the demographic of who you (inaudible) actually use the bike path. I know he mentioned that he used the bike path, but I never used the bike path in my life.

Mr. Hull: Three minutes.

Mr. Matsushima: And I don't see myself using it. Oh, three minutes, okay. But I think we just need a look at the demographic of who uses the bike path, and we'll see, I'm just gonna put out there, probably about 80% is not from here and we can see all the tourists that go to the companies that rent those bicycles out, so they will actually make their way to those spots which is actually dangerous. Mahalo for your time and thank you.

Mr. Hull: Thank you.

Chair DeGracia: Thank you. Any further testimony? Hearing none, recommendation?

Mr. Hull: Well, we gave the recommendation, and we stand by it, I'm not sure if you wanted to bring the applicant up to address any issues that was raised by testimony (inaudible).

Chair DeGracia: Okay.

Mr. Niermann: As far as response is known, (inaudible) I didn't wanna speak for you up here with the other concerns that you raised, and I don't have a probably satisfactory answers that will satisfy the main concern. Our approach then for issues of danger along the shoreline would be essentially information, signage, warning signs, but we wouldn't seek to block people from accessing off of the bike path, it would make it more accessible, certainly, so I think the, there's no curing stupid and it's that, sorry that was really glit making it glib an issue, but I'm just thinking about the blowhole on Oahu, and the guy from California who though it'd be great to straddle it and get a picture and he ended up inside of it, and dead and then the family wanted to put a grade over it, you know, so there's a certain amount of personal responsibility that's required and certainly signage the only tool in our toolbox along the shoreline there, possibly with the addition of (inaudible) there was, and this is outside of what we're proposing, but (inaudible) or konohiki system of lining people on the path and their behaviors on the path, so that's one thing. The houseless in the area, that is, that is a concern. It was a concern from day one of the project that was brought up and I recall, saying, in the first public meeting is, that's an issue that's much larger than

the bike path to solve, and then just an encouragement to solve it with compassion, and not just treat it as what it is in our process is a nonconforming land use, and when we get to the conservation district use permit process which would be the next step after this, it's going to be an issue right? So, they're looking at it as nonconforming use, clean it up. What are you going to do to take care of that? And then all the other agencies that have a role in that, from DOH, HPD, Health and Human Services, take a part in that that's outside of DPW's kind of mandate, so, I don't have an answer for that other than the use down there is one of things that puts more of a face on it is, the idea that if these families are displaced from Hanamā'ulu and now they're getting pushed over there it's not just an assemblage of the homeless kind of faceless down there family members, so there really needs to be a community response, and I don't mean to wash my hands with it's lighter than this project, because this project is going to shine a light on it, and I think that the resolution of that will, it will have to come up or it will come up at some point before project construction and ground breaking. It will probably be, or maybe continued, as a condition of some, or a way to address it as a condition in the CDUP, but that's something that we'll have to collectively look at. Iwi kupuna in the area, very good point, and there's the stuff we know and there's the things that we don't know, you know we've done the AIS, we did find that one rock mound that appeared to be, or potentially could be, a burial, and so we avoided it. There was some view by the archaeological consultants, that that rocky shoreline is not, certainly not, as it's nice as the (inaudible) sands or I shouldn't say as nice but as typical of burial sites, as the (inaudible) sand deposits that are really prevalent along other segments, so we have the usual conditions of, if anything is discovered, if any artifacts, or iwi kupuna are encountered during construction then everything stops and the perfect consultations take place. What we do know about through that area, were mitigating through avoidance and through signage or through and interpretive program. I think one of the other differences is all of these mitigation measures, are evolving from a planning perspective, from a community perspective, generationally becoming more aware of the language I was using when we were discussing a little bit of this earlier was treating historic properties and sites as something of an artifact or more than artifact, and the way that you do that then is you bring in the community, that knows that the practice is as part of the program, in that conversation that we were having there's (inaudible), yeah there's a whole lot of models, there's a whole lot of personality driven ideas about it, but there isn't a simple solution on how to make it more than the interpretive programming that and are familiar with, signage maybe (inaudible), and then encouraging more practices in those locations. And then on the demographics, as a planner, kind of, I think, professionally obligated to like every bike path I see, and that's true to some extent, so in this case it is. I'm not from Kaua'i and I would use it as a visitor, but I also view it as for those issues of resiliency of providing an alternative to the automobile for people who either can't afford it or in the future may not be able to afford it or in the event that there is destruction to the roadways from natural or manmade events, there's redundancy, I think those are all valid reasons from that broader planning horizon or planning perspective, so the demographics it's probably very true that it's mostly visitors coming right now, for people recreating on it, locals recreating in there. But, going back to, if you build it, they will come, and you know, hopefully, it will become the beneficial infrastructure that the community, to the community that it was originally to be. My sermons over.

Ms. Cox: I have a question, but I think I already know the answer to it, and I guess for both of you, Romio as well. So, no one's ever done a study on who's using that bike path because from my...I use it, and I see an awful lot of local families using it. I'm not saying there aren't tourists out there, too, but I see a lot of local people using it, so your statement of yeah, it's probably mostly tourist, I don't know if that's true, and I don't know if we're not keeping track of it, we don't know that.

Mr. Niermann: Thank you for challenging me on that because I don't know what I'm talking about on that.

Mr. Hull: Yeah, I would say, I agree with this team as well. Once that connection is made, and it is primarily a recreation (inaudible) right now, it is, hands down. One of the concerns, when we were

watching it and understand that Public Works and Parks are going to have to figure out is once that connection is made to Līhu'e, there is no cure to the Kapa'a crawl coming. There isn't. It is anticipated that, either slightly or drastically the amount of traffic that will not be commuter traffic on that asset will change. How you navigate that with the advent of ebikes, and the speeds that they can go, and co-existing with recreational purposes is something that's gonna to have to be navigated. But yeah, that is something that's being anticipated with the connection between essentially two residential/work areas.

Mr. Niermann: Just want to say, Kaua'i it seems more than most places to have the ability to integrate that infrastructure, integrate that facility with the community more, and what I mean by that is these concerns that were raised, there's no perfect project, there's no satisfying everybody, but some of the concerns could be mitigated, certainly with, and I was thinking about Lydgate when we started this, that segment of Lydgate with the park and everything that was grassroots all the way, that was taking ownership of the project in that area, and the vision was very much alive, is we can do this rather than this is being imposed from the outside and this is something disrupt what we've, what's familiar and the things we cherish, so making it an asset through not just building it, and then, you know, letting it go, but trying to program it in addition to building it and programming with, you know, the voices of the residents in guiding the programming. Words are cheap, words are easy, I can sit up here and (inaudible), but that's just more of a, there's an extra need to make a facility like that function for a community by...I'll just use the word programming it again, there's whether it's adopting a segment, whether it's, you know, having, yeah, I mean, I like the idea of a konohiki system in there. My only concern was, when we had that discussion, I don't know if you could get the folks in that particular moment to agree on who would be at the top of the heap.

Ms. Streufert: There is a condition in this application, recommendation no.2, which is about archaeological findings and, so I think hopefully that will mitigate some of the concerns that have been expressed because you may other things, you may not.

Mr. Niermann: Sure.

Ms. Streufert: If something is found then it will be protected.

Mr. Niermann: And to the other point that was raised earlier outside the hearing here, was that there are two heiau now along that segment, there's Ninini Point and there's Ahukini. I don't think anybody's even sure where Ahukini Heiau is, some people maybe sure but I know on the archeological inventory survey it was either somewhere in the middle between Ahukini Landing and Ninini Point or it was up above Ahukini Landing where the refinery and the train rails were in. So, but the absence of the material remains of those sites doesn't diminish the significance of the site to the kānaka maoli community and people understand it, so again, going back to how do you create something that's not just an artifact and a sign saying, here once stood "X" and it's like, wow try to envision it, that's valuable in its own right, but, I'm getting into some kind of...the people that know and having a voice in the programming of the use of the facility. Gotta get creative. I don't have any answers. We're processing permits and coming up with designs and things, but I think, speaking of those values, we have not (inaudible) to use is important.

Chair DeGracia: Thank you, Commissioners. Anything further? Any questions for the Department or applicant? If not, I'll entertain a motion.

Ms. Streufert: I put a motion; I think on the table (inaudible).

Chair DeGracia: Oh okay. Motions on the floor.

Ms. Streufert: To approve, or to accept the proposal recommendations of the Department. To include as amended with the additional condition.

Chair DeGracia: Okay.

Ms. Cox: And it was seconded.

Chair DeGracia: Okay. Motion on the floor is to approve with the amended conditions. We'll take a roll call vote, Mr. Clerk.

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

Mr. Ako: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioners Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0. Moving on into, we have no further executive session. Agenda Item N.

ANNOUNCEMENTS

Mr. Hull: Topics for Future Meetings. We are anticipating the next meeting actually not being as listed June 13th, but actually on June 27th. We actually have a fairly light, I really shouldn't use that phrase. We have a limited number of agenda items, I think, one of them, which is going to be a subdivision, also a meet the condition of approval of one of the Class IV in south Kaua'i, Class IV Zoning Permits, and then today was tentatively scheduled for the Housing Directors briefing before the Planning Commission, ultimately with the calendars of various State and county officials, including but not the limited to the Mayor, Governor, the Lima Ola groundbreaking was scheduled for today, so the Housing Director, wanted to apologize for not being about to make that briefing but he is set tentatively to appear before us on June 27th to give his housing briefing. And that's what we got a nutshell coming up, if anything you folks want to schedule, by all means let us know or the Chair, or the attorney's office.

Ms. Otsuka: So, confirming, no meeting on June 13th.

Mr. Hull: Right now, we say tentatively, unless we receive something in the next week or two that necessitates from a timeline standpoint, we have to schedule that meeting. Right now, tentatively there's not anticipated to be a meeting.

Ms. Otsuka: Okay, how will we be informed? Shan will email.

Mr. Hull: We'll let you know within a week whether or not (inaudible). I don't want to say the likelihood given the way today's meeting went, so just...but that's all we have.

Chair DeGracia: With that, I'll entertain a motion to adjourn.

Mr. Ornellas: So, moved.

Ms. Streufert: Second.

Chair DeGracia: We'll take a voice vote. All in favor say aye. Aye (unanimous voice vote). Oppose? Hearing none, motion carries. 6:0.

Chair DeGracia adjourned the meeting at 12:22 p.m.

Respectfully submitted by:

Lisa Oyama

Lisa Oyama,
Commission Support Clerk

(X) Approved as circulated (August 08, 2023).

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