

LEEWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

MINUTES
MAY 22, 2024

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The Leeward Planning Commission met in regular session on Thursday, May 22, 2024, at 9:30 a.m. in the West Hawai'i Civic Center, Council Chambers, Building A, 74-5044 Ane Keohokālole Highway, Kailua-Kona, Hawai'i, with Chairperson Barbara DeFranco presiding. This meeting was streamed live on YouTube.

COMMISSIONERS PRESENT: Dean Au, Michael Dela Cruz, Clement "CJ" Kanuha, Mahina Paishon Duarte, and Barbara DeFranco.

ALSO PRESENT: Suzanna Tiapula, Esq. (Counsel to the Commission), Jean Campbell, Esq. (Counsel to the Planning Department), Zendo Kern (Planning Director) and Planning Department staff.

Approximately eleven public members were in the audience.

A quorum was present. Chairperson DeFranco called the meeting to order and introduced Commissioners. [SEE YOUTUBE TIMESTAMP 0:17] She mentioned that the Commission is holding two meetings today. The first is the regular monthly meeting at 9:30 a.m., and the second is a continuation of the April 18, 2024, meeting starting at 12:00 p.m. She indicated public testimony will be heard for Bill 122 and 123, and the Commission will discuss and act on Bill 121 at the Continued meeting. Chairperson DeFranco asked the Commissioners to confirm they had reviewed all materials related to the applications being reviewed today and also introduced the staff. [SEE YOUTUBE TIMESTAMP 2:04]

APPROVAL OF MINUTES

At 9:32 a.m. Chair DeFranco stated the approval of the April 18, 2024, meeting minutes is continued to the next scheduled meeting. [SEE YOUTUBE TIMESTAMP 2:34]

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

At 9:33 a.m. the Commission took up this item with approximately eleven public members in the audience in the Council Chambers. Testifiers were given the option of speaking at this time or later when the specific agenda items was called to order. Chairperson DeFranco explained the

procedure for testifying and Planning Commission Rule 1-5 regarding decorum. *[SEE YOUTUBE TIMESTAMP 2:45]*

Amedeo Markoff provided testimony on Zoom regarding **Item #3 Initiator: County Council (PL-CCI-2024-000006)**. *[SEE YOUTUBE TIMESTAMP 4:18]*

With no further public testimony, this agenda item ended at 9:35 a.m.

NEW BUSINESS

1. **APPLICANT: WAIKOLOA BAPTIST CHURCH (PL-USE-2024-000024/AMEND USE PERMIT NO. 99)**

Request to amend Use Permit No. 99 by removing TMK 6-8-002:056, consisting of 1.056 acres of land from the original, 12.381-acre permit area. Use Permit No. 99 allowed the establishment of a church, day care facilities, mission residences, recreational area and related improvements on 12.381 acres of land situated within the Single-Family Residential- 10,000 square foot (RS- 10) zoning district. The project site is situated within Waikoloa Village at the northwest corner of the Paniolo Drive and Pu‘u-Nui Street intersection, Waikoloa, South Kohala, Hawai‘i, TMKs: (3) 6-8-002:031 & :056.

The Commission took up this item at 9:35 a.m., with approximately twelve public members in the audience. *[SEE YOUTUBE TIMESTAMP 6:06]*

Staff presentation by Christian Kay. *[SEE YOUTUBE TIMESTAMP 7:24]*

Applicant presentation by Representative Christian Renz, Pacific ‘Āina Design via Zoom *[SEE YOUTUBE TIMESTAMP 13:38]*

There were no in-person or Zoom testifiers for this agenda item.

Action: It was moved by Commissioner Paishon-Duarte and seconded by Commissioner Dela Cruz that the application for Use Permit No. PL-USE-2024-000024 amending Use Permit No. 99 be approved based on the Planning Director’s recommendation. *[SEE YOUTUBE TIMESTAMP 14:30]* A roll call vote was taken, and the motion carried with five ayes (Paishon-Duarte, Dela Cruz, Au, Kanuha, and DeFranco), and no noes. *[SEE YOUTUBE TIMESTAMP 15:09]*

This hearing ended at 9:45 a.m.

2. **APPLICANT: WAIKOLOA LUTHERAN CHURCH/ ERICK JACOBSON (PL-USE-2023-000018)**

Application to establish a church and related improvements on 1.056 acres of land situated within the Single-Family Residential- 10,000 square foot (RS- 10) zoning district. The subject parcel is situated at 68-3670 Paniolo Avenue, approximately 180 feet northeast of its intersection with Pu‘u-Nui Street, Waikoloa, South Kohala, Hawai‘i, TMKs: (3) 6-8-002:056.

The Commission took up this item at 9:46 a.m. with approximately thirteen public members in the audience. *[SEE YOUTUBE TIMESTAMP 15:35]* Commissioner Au made a disclosure about his role on the Waikōloa Village Association Board and the Board's review of the subject application. The Commission did not object to Commissioner Au's disclosure and allowed him to participate in the meeting for this agenda item. *[SEE YOUTUBE TIMESTAMP 15:40]*

Staff presentation by Christian Kay. *[SEE YOUTUBE TIMESTAMP 17:16]*

Applicant presentation by Representative Christian Renz, Pacific 'Āina Design via Zoom *[SEE YOUTUBE TIMESTAMP 24:25]* and Applicant Erick Jacobson was present in-person. *[SEE YOUTUBE TIMESTAMP 26:40]* Commissioners posed questions to the applicant and the representative. *[SEE YOUTUBE TIMESTAMP 25:45]*

There were no in-person or Zoom testifiers for this agenda item.

Action: It was moved by Commissioner Dela Cruz and seconded by Commissioner Kanuha that the application for Use Permit No. PL-USE-2023-000018 be approved based on the Planning Director's recommendation. *[SEE YOUTUBE TIMESTAMP 30:51]* A roll call vote was taken, and the motion carried with five ayes (Dela Cruz, Kanuha, Au, Paishon-Duarte, and DeFranco), and no noes. *[SEE YOUTUBE TIMESTAMP 31:35]*

This hearing ended at 10:01 a.m.

3. **INITIATOR: COUNTY COUNCIL (PL-CCI-2024-000006)**

Bill 127, an ordinance amending Chapter 25 (Zoning), Article 2, Division 4 of the Hawai'i County Code 1983 (2016 Edition, as Amended), Relating to Conditions in Change of Zone. Establishes a requirement for the Planning Director to specify a time by which performance conditions must be complete in a recommendation for a Change of Zone.

The Commission took up this item at 10:01 a.m. with three public members in the audience. *[SEE YOUTUBE TIMESTAMP 31:55]*

Staff presentation by Christian Kay. *[SEE YOUTUBE TIMESTAMP 32:49]*

County Councilmember Holeka Inaba, who was the introducer of Bill 127 did a presentation. *[SEE YOUTUBE TIMESTAMP 42:43]*

One individual in-person provided testimony (Mark Van Pernis) *[SEE YOUTUBE TIMESTAMP 59:07]* and there were no Zoom testifiers for this agenda item.

Action: It was moved by Commissioner Kanuha and seconded by Commissioner Au that an unfavorable recommendation be forwarded to the County Council on Bill 127, PL-CCI-2024-000006. *[SEE YOUTUBE TIMESTAMP 1:13:09]* During discussion, the Commissioners expressed their concerns and posed several questions to Councilmember Inaba and Director Kern. *[SEE YOUTUBE TIMESTAMP 1:13:49]*

At 11:06 a.m. it was moved by Commissioner Kanuha and seconded by Commissioner Au that the Commission go into executive session to consult with its attorney regarding questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities pursuant to HRS 92-5. A voice vote was taken, and the motion carried with all in favor and the room was cleared. [SEE YOUTUBE TIMESTAMP 1:36:25] The Commission went into executive session at 11:07 a.m. At 11:17 a.m. it was moved by Commissioner Kanuha and seconded by Commissioner Paishon-Duarte that the Commission go out of executive session. A voice vote was taken, and the motion carried with all in favor.

Chairperson DeFranco called the open hearing back to order at 11:19 a.m. [SEE YOUTUBE TIMESTAMP 1:49:59] She stated the Commission went into executive session where Counsel answered legal questions. Commissioner Kanuha moved to withdraw the current motion for an unfavorable recommendation. [SEE YOUTUBE TIMESTAMP 1:50:13] He made a new motion was made to forward a favorable recommendation to the County Council on Bill 127, PL-CCI-2024-000006 based on the Planning Director's recommendations with added conditions, including strengthened standard performance conditions, a tolling condition, a sunset clause condition, and land reversion to its previous zoning designation when a timed condition expires. [SEE YOUTUBE TIMESTAMP 1:50:23] Chair DeFranco asked how a sunset clause condition would be phrased. Deputy Corporation Counsel Tiapula suggested the Planning Department could assist with proper application of the sunset clause condition. Director Kern explained how it would work and stated concern with how it would be applied. Planner Kay further clarified how the sunset clause would be applied. [SEE YOUTUBE TIMESTAMP 1:52:37] During further discussion, Commissioner Kanuha removed the sunset clause condition. Commissioner Paishon-Duarte seconded the motion. A roll call vote was taken, and the motion carried with five ayes (Kanuha, Paishon-Duarte, Au, Dela Cruz, and DeFranco), and no noes. [SEE YOUTUBE TIMESTAMP 1:55:43]

This hearing ended at 11:25 a.m.

PLANNING DIRECTOR'S REPORT [SEE YOUTUBE TIMESTAMP 1:57:03]

Report on Special Management Area (SMA) determinations, minor permits action issued by the Planning Director.

At 11:26 a.m. Chairperson DeFranco introduced this item and stated the report of Special Management Area (SMA) determination and minor permits issued by the Planning Director for the months of February, March, and April 2024 were emailed to the Commissioners. There were no questions about the reports from Commissioners.

AGENDA ITEMS FOR NEXT MEETING [SEE YOUTUBE TIMESTAMP 1:57:18]

There were no matters for consideration by the Commissioners.

ANNOUNCEMENTS [SEE YOUTUBE TIMESTAMP 1:57:27]

Chairperson DeFranco announced the Leeward Planning Commission's next monthly meeting is tentatively scheduled for Thursday, June 20, 2024 in the Hawai'i County Council Chambers and

the public may provide verbal testimony by interactive video conference via Zoom or at the physical location. The Planning Department staff did not provide any announcements.

ADJOURNMENT *[SEE YOUTUBE TIMESTAMP 1:58:00]*

There being no further business, it was moved by Commissioner Dela Cruz and seconded by Commissioner Au that the meeting be adjourned. Chairperson DeFranco adjourned the meeting at 11:27 a.m.

Respectfully submitted,

Melissa Dacayanan-Salvador

Melissa Dacayanan-Salvador (Jun 21, 2024 13:29 HST)

Melissa Dacayanan-Salvador
Secretary

ATTEST:


Barbara DeFranco (Jun 21, 2024 17:14 HST)

Barbara DeFranco, Chairperson
Leeward Planning Commission