

LEEWARD PLANNING COMMISSION
COUNTY OF HAWAI‘I

MINUTES
AUGUST 15, 2024

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The Leeward Planning Commission met in regular session on Thursday, August 15, 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: Clement “CJ” Kanuha, Dean Au, Michael Dela Cruz, Donna “Kinuko” Noborikawa, Armando Rodriguez, and Barbara DeFranco (Chairperson).

COMMISSIONERS ABSENT AND EXCUSED: Vice Chair Mahina Paishon-Duarte.

ALSO PRESENT: Diana Mellon-Lacey, Esq. (Back Up Deputy Corp Counsel Section Chief to the Commission) Jean Campbell, Esq. (Deputy Corp Counsel to the Planning Department), and Jeffrey Darrow (Deputy 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 the Commissioners. [SEE YOUTUBE TIMESTAMP 01:57] Staff introductions were made.

Chair DeFranco asked each Commissioner to confirm they had the opportunity to review all materials, including written public testimony, related to the applications being reviewed today. Commissioners confirmed that they had reviewed the application materials. [SEE YOUTUBE TIMESTAMP 03:07]

APPROVAL OF MINUTES

At 9:32 a.m. the Commission took up the minutes of the June 20, 2024, and July 18, 2024, Leeward Planning Commission meeting. No corrections were offered. Commissioner Kanuha moved and Commissioner Dela Cruz seconded that the minutes be approved as submitted. A voice vote was taken, and the motion carried. [SEE YOUTUBE TIMESTAMP 04:16]

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

At 9:34 a.m. the Commission took up this item with approximately eleven public members in the audience in the Council Chambers. Chairperson DeFranco stated she will be limiting testimony to 3 minutes per testifier for each agenda item. Chairperson DeFranco explained the procedure for testifying and Planning Commission Rule 1-5 regarding decorum. *[SEE YOUTUBE TIMESTAMP 05:23]*

One individual provided testimony on Zoom at 9:35 a.m.:

- 1) Chuck Flaherty - speaking on other items for the next meeting. *[SEE YOUTUBE TIMESTAMP 07:11]*

Chair DeFranco interrupted the Zoom testimony to clarify that the Commission was only discussing items on the August 15, 2024, agenda. Chuck Flaherty was addressing an issue for the next meeting, asking for it to be included because he believed an April-approved item had breached a settlement agreement and violated the General Plan. *[SEE YOUTUBE TIMESTAMP 07:50]*

There being no further public testimony, item ended at 09:36 a.m.

NEW BUSINESS

1. APPLICANT: WATTIE ELIZABETH KAIOKALANI GREEN (PL-REZ-2024-000058)

Application for a Change of Zone from an Agricultural-20 acre (A-20a) to a Family Agricultural-1 acre (FA-1a) zoning district for 4.985 acres of land. The subject property is located mauka of Kaiminani Drive on Old Government Mauka Road, approximately 800 feet south of its intersection with Hawai'i Belt Road at Kalaoa 5th, North Kona, Hawai'i, TMK: (3) 7-3-004:011.

This hearing item began at 9:37 a.m. there were eleven members of the public in the audience. *[SEE YOUTUBE TIMESTAMP 09:15]*

Staff presentation by Tracie-Lee Camero. *[SEE YOUTUBE TIMESTAMP 10:28]*

Chair DeFranco opened the floor to allow the Commission to ask questions of the Applicant and Planning Department Staff. *[SEE YOUTUBE TIMESTAMP 16:15]*

Commissioner Noborikawa commented about Exhibit #7 in the background report. There was a letter that was from the State Department of Transportation (DOT) that requires the proposed development does not provide landscape and vegetation that will create a wildlife attractant. It was not in the conditions for this permit. She questioned whether Hawai'i County needed to include this requirement in the permit conditions. Ms. Camero responded that Condition O of the permit would ensure compliance with any DOT requirements. *[SEE YOUTUBE TIMESTAMP 16:21]*

Applicant Representative John Pipan and Applicant Elizabeth Wattie Green agreed with the recommendations and addition of the condition. John Pipan further commented that the condition now allows for the applicant to provide a tank and a pump for each of the new lots and would increase the water pressure to standard levels. *[SEE YOUTUBE TIMESTAMP 18:18]*

There were no in-person or zoom testifiers for this agenda item. *[SEE YOUTUBE TIMESTAMP 22:17]*

Action: Commissioner Kanuha moved that a favorable recommendation be forwarded to County Council on application PL-REZ-2024-000058 based on the Planning Director's recommendation which shall be adopted. Commissioner Dela Cruz seconded. In discussion, Commissioner Noborikawa questioned if the recommendation included the amended condition. Chair DeFranco confirmed that it did. *[SEE YOUTUBE TIMESTAMP 22:31]* A roll call vote was taken, and the motion carried with six ayes (Kanuha, Dela Cruz, Au, Noborikawa, Rodriguez, and DeFranco), and one Commissioner absent (Paishon-Durate). *[SEE YOUTUBE TIMESTAMP 23:29]*

This hearing item ended at 9:52 a.m.

2. APPLICANT: ROGER JENSEN (PL-USE-2024-000025)

Application for a Use Permit to operate a four (4)-bedroom bed and breakfast establishment within an existing five (5)-bedroom dwelling situated on approximately 7,501 square feet of land within the Agricultural - 5 acres (A-5a) zoning district. The subject property is located at 75-241 Aloha Kona Drive, approximately 800 feet west of the intersection of Aloha Kona Drive and Queen Ka'ahumanu Highway, Aloha Kona Subdivision, Kailua-Kona, Hawai'i TMK: (3) 7-5-023:055.

The Commission took up this item at 9:54 a.m. with seven public members in the audience. *[SEE YOUTUBE TIMESTAMP 24:33]*

Staff presentation by Alukahe Kala. *[SEE YOUTUBE TIMESTAMP 25:37]*

Chair DeFranco opened the floor to allow the Commission to ask questions of the Applicant and Planning Department Staff. No questions asked. *[SEE YOUTUBE TIMESTAMP 30:17]*

Applicant Representative John Pipan and Applicant Roger Jensen agreed to the proposed conditions. *[SEE YOUTUBE TIMESTAMP 30:58]* Chair DeFranco raised a concern about parking stalls, but Pipan clarified that, per code, Bed and Breakfast's must provide one parking spot per room and that street parking is not permitted. *[SEE YOUTUBE TIMESTAMP 32:08]* Commissioner Dela Cruz inquired about staffing, and Pipan confirmed there would be one full-time live-in caretaker. *[SEE YOUTUBE TIMESTAMP 33:05]*

One individual provided testimony in-person at 10:02 a.m.:

- 1) Paul Abaire *[SEE YOUTUBE TIMESTAMP 34:12]*

Chair DeFranco allowed the Applicant's Representative, John Pipan, to respond to objections raised by Mr. Abaire. Pipan noted that this was the first time they were aware of Abaire's concerns. He mentioned that there are standard conditions that exist within planning and permits

like this to account for good neighbor policies, and it would be appropriate although he doesn't see that included in the seven proposed conditions, but he thinks that a good neighbor policy has been standard for other short-term vacation rental uses would help to ameliorate any of these concerns going forward with the neighbors. *[SEE YOUTUBE TIMESTAMP 37:43]*

Chair DeFranco inquired whether a good neighbor policy should be included as a condition. Applicant Roger Jensen responded that he aims for his property to achieve a five-star rating. *[SEE YOUTUBE TIMESTAMP 38:47]* Commissioner Rodriguez asked about the lot size, while Commissioner Noborikawa questioned the applicant regarding past issues with tenants, the maximum stay duration, and willingness to evict problematic tenants. John Pipan noted that it is standard for the planning department to handle public complaints about permits and investigate them, which could lead to the permit's termination. *[SEE YOUTUBE TIMESTAMP 39:40]*

Public Testimony closed for this agenda item. *[SEE YOUTUBE TIMESTAMP 42:30]*

Action: Commissioner Au moved that PL-USE-2024-000025 be approved based on the planning director's recommendation which shall be adopted. Seconded by Commissioner Noborikawa. *[SEE YOUTUBE TIMESTAMP 42:43]* During the discussion, Commissioner Au expressed appreciation for Mr. Abaire's input, valuing past experiences, and praised Mr. Jensen for improving the property. Commissioner Noborikawa supported this view. Commissioner Rodriguez raised concerns about the impact on neighbors and suggested reducing the number of guests. *[SEE YOUTUBE TIMESTAMP 43:17]* Deputy Planning Director Jeffrey Darrow highlighted that ongoing bills could significantly alter the permitting process for bed and breakfast operations, potentially replacing the current ordinance with one that includes a good neighbor policy. This policy would address issues like quiet hours and event restrictions, unlike the current ordinance which lacks these details. *[SEE YOUTUBE TIMESTAMP 45:11]* Chair DeFranco asked if a good neighbor policy should be added as a condition. Darrow recommended against it, suggesting instead that the applicant provide a contact number for neighbors. Deputy Corporation Counsel Diana Mellon-Lacey noted that enforcing such a condition could be problematic, as the commission cannot create new laws. Consequently, Commissioner Au decided not to add the condition, maintaining his original motion. Commissioner Noborikawa inquired about specific quiet hour requirements, and Darrow confirmed that the current ordinance does not specify quiet hours but outlines general bed and breakfast functions. No further discussion followed. *[SEE YOUTUBE TIMESTAMP 48:18]* A roll call vote was taken, and the motion carried with six ayes (Au, Noborikawa, Dela Cruz, Kanuha, Rodriguez, and Chair DeFranco), no nays, and one Commissioner excused and absent (Vice Chair Paishon-Duarte). *[SEE YOUTUBE TIMESTAMP 54:04]*

This hearing item ended at 10:23 a.m.

RECESS at 10:23 a.m. to 10:40 a.m. *[SEE YOUTUBE TIMESTAMP 55:14]*

Meeting Reconvened at 10:40 a.m. *[SEE YOUTUBE TIMESTAMP 1:11:14]*

3. **APPLICANT: KELVIN P. JARNESKI (PL-SLU-2024-000009)**

Application for a State Land Use Boundary Amendment from an Agricultural to a Rural State Land Use Boundary designation for 1.977 acres of land. The subject property is located at 64-5208 Alanui Ohana Place, at the northeast corner of its intersection with Māmalahoa Highway, Por. Pu'ukapu Homesteads, 2nd Series, South Kohala, Hawai'i, TMK: (3) 6-4-017:001.

4. **APPLICANT: KELVIN P. JARNESKI (PL-REZ-2024-000060)**

Application for a Change of Zone State from an Agricultural-40 acres (A-40a) zoning district to a Residential Agricultural-0.5 acre (RA-.5a) zoning district for 1.997 acres of land. The subject property is located at 64-5208 Alanui Ohana Place, at the northeast corner of its intersection with Māmalahoa Highway, Por. Pu'ukapu Homesteads, 2nd Series, South Kohala, Hawai'i, TMK: (3) 6-4-017:001.

The Commission took up both agenda items at 10:40 a.m. but indicated each would be associated with separate actions. There were Four members of the public in the audience. *[SEE YOUTUBE TIMESTAMP 1:11:23]*

Staff presentation by Jessica Andrews. *[SEE YOUTUBE TIMESTAMP 1:13:27]*

Chair DeFranco opened the floor to allow the Commission to ask questions of the Applicant and Planning Department Staff. *[SEE YOUTUBE TIMESTAMP 1:18:27]*

Sidney Fuke, the Applicant Representative, stated that he and Kelvin Jarneski, the Applicant, have reviewed and found acceptable the staff's report, the background recommendation for both the Special Land Use (SLU) and Rezoning (REZ), as well as the conditions. There were no questions for the Applicant or the Applicant Representative. *[SEE YOUTUBE TIMESTAMP 1:19:03]*

There were no in-person or zoom testifiers for this agenda item. Public testimony is closed for these agenda items. *[SEE YOUTUBE TIMESTAMP 1:22:07]*

Action on PL-SLU-2024-000009: Commissioner Au moved that a favorable recommendation be forwarded to the County Council and the application for a State Land Use Boundary Amendment Docket No. PL-SLU-2024-000009 based on the Planning Director's recommendation which shall be adopted. Commissioner Kanuha seconded. *[SEE YOUTUBE TIMESTAMP 1:22:25]* Chair DeFranco opened the floor to discussion. No discussion or questions. *[SEE YOUTUBE TIMESTAMP 1:22:51]* A roll call vote was taken, and the motion carried with six ayes (Au, Kanuha, Dela Cruz, Noborikawa, Rodriguez, and Chair DeFranco), no nays, and one Commissioner excused and absent (Vice Chair Paishon-Duarte). *[SEE YOUTUBE TIMESTAMP 1:23:00]*

Action on PL-REZ-2024-000060: Commissioner Au moved that a favorable recommendation be forwarded to the County Council and the application for Change of Zone Docket No. PL-REZ-2024-000060 based on the Planning Director's recommendation which shall be adopted. Commissioner Kanuha seconded. *[SEE YOUTUBE TIMESTAMP 1:23:33]* Chair DeFranco opened the floor to discussion. Commissioner Au commented that he appreciates the applicant

coming forward and trying to keep our keiki here on the island. *[SEE YOUTUBE TIMESTAMP 1:22:51]* A roll call vote was taken, and the motion carried with six ayes (Au, Kanuha, Dela Cruz, Noborikawa, Rodriguez, and Chair DeFranco), no nays, and one Commissioner excused and absent (Vice Chair Paishon-Duarte). *[SEE YOUTUBE TIMESTAMP 1:24:35]*

These hearing items ended at 10:52 a.m.

5. APPLICANT: JIAN ZHONG (PL-SPP-2024-000068)

Application for a Special Permit to establish a two (2)-bedroom bed and breakfast establishment within an existing single-family dwelling on a 1,547-square foot portion of an approximately 5.287-acre parcel of land in the State Land Use Agricultural District. The subject property is located at 73-1955 Hao Street Unit A, approximately 3,376 feet east of its intersection with Kaloko Drive, Portion Kaloko-Mauka Subdivision Increment 2, Kaloko, North Kona, Hawai'i, TMK: (3) 7-3-026:023-0001.

The Commission took up this item at 10:53 a.m. with zero public members in the audience. *[SEE YOUTUBE TIMESTAMP 1:25:06]*

Staff presentation by Alukahe Kala. *[SEE YOUTUBE TIMESTAMP 1:26:37]*

No questions for staff. *[SEE YOUTUBE TIMESTAMP 1:31:37]*

Applicant Jian Zhong, who is representing herself, agrees with the recommendations and proposed conditions. She expressed a desire to be a good neighbor and citizen, noting that her home is approximately 200 feet from the nearest neighbors and is equipped with external security cameras. Additionally, she plans to include quiet hours in her future listings. *[SEE YOUTUBE TIMESTAMP 1:32:05]*

Commissioner Kanuha inquired whether the approval of the application would address an unpermitted basement mentioned in the report. Deputy Planning Director Jeffrey Darrow suggested adding a condition requiring the applicant to obtain a permit for the basement within a year, a practice used to ensure compliance. Darrow also commended Ms. Zhong for handling the process independently. *[SEE YOUTUBE TIMESTAMP 1:35:00]* Commissioner Kanuha then asked Ms. Zhong if she would accept a two-year timeline to resolve the basement issue, to which she agreed, citing significant costs as a reason for the extended period. Lastly, Commissioner Au confirmed that Ms. Zhong was aware of the need to convert her wastewater system from a cesspool to a septic tank, and she acknowledged this requirement. *[SEE YOUTUBE TIMESTAMP 1:41:01]*

Action: Commissioner Au moved that the Application of Special Permit Docket No. PL-SPP-2024-000068 be approved based on the Planning Director's recommendation which shall be adopted. Commissioner Noborikawa seconded. *[SEE YOUTUBE TIMESTAMP 1:45:33]* Commissioner Au and Chair DeFranco both supported the application, with Au acknowledging the applicant's effort and DeFranco expressing some concerns about the conversion year. Deputy Planning Director Jeffrey Darrow suggested a three-year timeframe for finalizing the permit for an unfinished basement, with an option for an administrative extension if needed. Commissioner Kanuha agreed that this timeframe would be sufficient. *[SEE YOUTUBE TIMESTAMP 1:45:56]*

Planning Staff Christian Kay confirmed that the condition would require finalizing the basement permit within three years, with an added administrative extension if necessary. Commissioner Au was open to amending his motion to include this condition. Chair DeFranco instructed Planning Staff to clarify the new condition, which was then agreed upon by the applicant. *[SEE YOUTUBE TIMESTAMP 1:49:22]* Seconded by Commissioner Noborikawa *[SEE YOUTUBE TIMESTAMP 1:50:33]* A roll call vote was taken, and the motion carried with six ayes (Au, Noborikawa, Dela Cruz, Kanuha, Rodriguez, and Chair DeFranco), no nays, and one Commissioner excused and absent (Vice Chair Paishon-Duarte). *[SEE YOUTUBE TIMESTAMP 1:52:10]*

This hearing item ended at 11:21 a.m.

6. **INITIATOR: PLANNING DIRECTOR (PL-PDI-2024-000008)**

The Planning Director has initiated an ordinance to amend Chapter 25 (Zoning), Article 2, Article 4, Article 5, and Article 7 of the Hawai‘i County Code 1983 (2016 Edition, as amended) relating to telecommunication antennas and towers. The purpose is to remove the requirement for a use permit and special permit to establish telecommunication antennas and towers in certain zoning districts, add application requirements, amend standards for the establishment of telecommunication antennas and towers.

The Commission took up this item at 11:21 a.m. with zero public members in the audience. *[SEE YOUTUBE TIMESTAMP 1:52:55]*

Chair DeFranco announced that the Planning Director requested to defer agenda item six to a future meeting. Although public testimony was open, no one testified in person or via Zoom. Public testimony for this item is now closed. *[SEE YOUTUBE TIMESTAMP 1:53:34]*

The Commission took up this item at 11:23 a.m. with zero public members in the audience. *[SEE YOUTUBE TIMESTAMP 1:54:27]*

7. **PLANNING COMMISSION TRAINING**

Training for the Leeward Planning Commission’s members by Commission’s Attorney regarding the Commission’s powers, duties, privileges, immunities, and liabilities as it relates to Sunshine Law (Chapter 92, Hawai‘i Revised Statutes), Robert’s Rules of Order, and Planning Commission Rules of Practice and Procedure. This training is expected to occur in executive session in accordance with Chapter 92-5(a)(4), Hawai‘i Revised Statutes, as amended, and is being delivered in response to requests for legal guidance from Commissioners.

Chair DeFranco announced that the Deputy Corporation Counsel for the Leeward Planning Commission requested to remove agenda item seven from the agenda. *[SEE YOUTUBE TIMESTAMP 154:30]*

PLANNING DIRECTOR'S REPORT

Report on Special Management Area (SMA) determinations and minor permits issued by the Planning Director for July 2024. No questions or comments. *[SEE YOUTUBE TIMESTAMP 1:54:41]*

AGENDA ITEMS FOR NEXT MEETING

The Commissioners did not provide any input on agenda items for the next meeting. Commissioner Kanuha asked about the topic of the first testifier's remarks. Chair DeFranco responded that the commission would address this later, as they had not yet reviewed the testifier's comments. *[SEE YOUTUBE TIMESTAMP 1:55:05]*

ANNOUNCEMENTS

The Leeward Planning Commission's next regular meeting is scheduled for Thursday, September 19, 2024, at the County Council Chambers in Kona and the public can also testify via Zoom. The date and venue of the meeting are subject to change. *[SEE YOUTUBE TIMESTAMP 1:55:31]* Planning Staff Chrisitan Kay noted that the Planning Department has tentatively scheduled the telecommunications bill for the next hearing along with three other items. *[SEE YOUTUBE TIMESTAMP 1:55:51]*

ADJOURNMENT

There being no further business, it was moved by Commissioner Kanuha and seconded by Commissioner Noborikawa that the meeting be adjourned. A voice vote was taken, and the motion was carried with six in favor with one Commissioner absent and excused (Vice Chair Paishon-Duarte). *[SEE YOUTUBE TIMESTAMP 3:50:39]*

Chairperson DeFranco adjourned the meeting at 11:25 a.m.

Respectfully submitted,

Kelsie Chang

Kelsie Chang (Sep 26, 2024 10:23 HST)

Kelsie Chang
Secretary

ATTEST:

Barbara DeFranco

Barbara DeFranco (Sep 30, 2024 11:59 HST)

Barbara DeFranco, Chairperson
Leeward Planning Commission