

WINDWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

MINUTES
SEPTEMBER 5, 2024

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The Windward Planning Commission met in regular session on Thursday, September 5, 2024, at 9:00 a.m., in the County of Hawai'i, Council Chambers, 25 Aupuni Street, Hilo, Hawai'i, with Chairman Dennis Lin presiding. This meeting was streamed live on YouTube.

COMMISSIONERS PRESENT: Louis Daniele III (Vice-Chair), Wayne De Luz, Matthias Kusch, Lauren Balog (from 9:01 a.m.), and Dennis Lin (Chair).

COMMISSIONER ABSENT: Chantel Perrin.

ALSO PRESENT: Suzanna Tiapula, Esq. (Counsel to the Commission), Jean Campbell, Esq. (Counsel to the Planning Department), Zendo Kern (Planning Director from 9:00 a.m. to 11:54 a.m. and 2:29 p.m. to 3:42 p.m.), Jeffrey Darrow (Deputy Planning Director from 11:54 a.m. to 2:20 p.m.), and Planning Department staff.

Approximately nineteen members of the public were in the audience.

A quorum was present. Chairman Lin called the meeting to order and introduced the Commissioners. *[SEE YOUTUBE TIMESTAMP 0:46]* Staff introductions were made.

Chair Lin called a recess at 9:01 a.m. to allow the Commissioners to review additional materials provided at the start of the meeting and reconvened at 9:05 a.m. *[SEE YOUTUBE TIMESTAMP 2:31]*

Chair Lin asked each Commissioner to confirm they had reviewed all materials, including written public testimony related to the applications being reviewed today. Each Commissioner verbally confirmed they had done so. *[SEE YOUTUBE TIMESTAMP 6:57]*

APPROVAL OF MINUTES

At 9:06 a.m. the Commission addressed the minutes of the July 1, 2024, Windward Planning Commission meeting. No corrections were proposed. Commissioner Kusch moved and Vice

Chair Daniele seconded, to approve the minutes as submitted. A voice vote was taken, and the motion passed unanimously. *[SEE YOUTUBE TIMESTAMP 7:54]*

RECORD OF ORAL TESTIMONY

At 9:07 a.m., the Commission addressed this agenda item. Chair Lin explained that due to a lack of quorum at the August 1, 2024 meeting, no action was taken on the agenda items. He summarized that four individuals provided in-person testimony on Item #1, Association of Apartment Owners of Colony 1 at Sea Mountain (PL-CCH-2024-000022), and two individuals gave in-person testimony on Item #3 for Graphic Images, Hawai'i, Inc. No public testimony was received via Zoom. *[SEE YOUTUBE TIMESTAMP 8:23]*

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

At 9:07 a.m. the Commission took up this item with approximately twenty public members present in the Council Chambers. Chair Lin explained the procedure for testifying and referenced Planning Commission Rule 1-5 regarding decorum. Testifiers were given the option to speak at this time or later when the specific agenda item was called to order. *[SEE YOUTUBE TIMESTAMP 8:58]*

Six individuals provided testimony on Zoom:

1. Cindy Evans on Item #8 *[SEE YOUTUBE TIMESTAMP 11:04]*
2. Rebecca Melendez on Items #1 and #8 *[SEE YOUTUBE TIMESTAMP 14:51]*
3. Debra Greene on Item #8 *[SEE YOUTUBE TIMESTAMP 24:54]*
4. April Lee on Item #8 *[SEE YOUTUBE TIMESTAMP 28:42]*
5. Naomi Melamed on Item #8 *[SEE YOUTUBE TIMESTAMP 32:50]*
6. Ainaaloha Ioane on Items #4 and #5 *[SEE YOUTUBE TIMESTAMP 36:34]*

There were no in-person testifiers and with no further public testimony, this agenda item concluded at 9:39 a.m.

UNFINISHED BUSINESS

1. PETITIONER: ASSOCIATION OF APARTMENT OWNERS OF COLONY 1 AT SEA MOUNTAIN (PL-CCH-2024-000022)

Consideration and action on a Petition for Standing in a Contested Case Hearing filed by Association of Apartment Owners of Colony 1 at Sea Mountain to contest a Special Management Area Use Permit application submitted by Black Sand Beach LLC to allow for the development of a residential and commercial community consisting of approximately 225 residential and short stay units, village and wellness center, retail uses, rehabilitation and use of golf courses, and dedication of a portion of coastline as a conservation area on an approximately 147 acres portion of a larger 434-acre project site within the Special Management Area. The subject properties are located within the extent of the former Sea Mountain at Punalu'u resort area, east (makai) of Hawai'i Belt Road in the vicinity of Nīnole Loop Road, Nīnole, Wailau, Punalu'u, Ka'ū, Hawai'i, TMKs: (3) 9-5-019: 011, 015, 024, 026, 030, 031, 033, 035; 9-6-001: 001-003, 006, 011-013; 9-6-002: 008, 037, 038, 041, and 053.

This hearing item began at 9:36 a.m. with approximately thirty-six public members in the audience. *[SEE YOUTUBE TIMESTAMP 40:52]*

At 9:41 a.m. Deputy Corporation Counsel Suzanna Tiapula provided an update on developments since the last meeting on May 6, 2024, regarding this agenda item. *[SEE YOUTUBE TIMESTAMP 42:54]*

One individual provided testimony on Zoom:

1. Tara Rojas *[SEE YOUTUBE TIMESTAMP 46:09]*

There were no in-person testifiers and public testimony for this agenda item was closed. *[SEE YOUTUBE TIMESTAMP 49:00]*

Chair Lin called a recess at 9:48 a.m. and reconvened the meeting at 9:58 a.m.

PETITION OF ASSOCIATION OF APARTMENT OWNERS OF COLONY 1 AT SEA MOUNTAIN (PL-CCH-2024-000022) *[SEE YOUTUBE TIMESTAMP 1:00:07]*

The Commission took up this item at 9:58 a.m., with approximately thirty-four public members present. Jeff Silva, a representative of the Petitioner, the Association of Apartment Owners (AOAO) of Colony 1 at Sea Mountain was at the testifier table. Mr. Silva provided additional comments, stating that the owners of Colony 1 are directly affected, as they are within 300 feet of the proposed development and rely on water, wastewater, and fire suppression infrastructure provided by the applicant, Black Sand Beach, LLC. *[SEE YOUTUBE TIMESTAMP 1:00:31]*

Chair Lin opened the floor for the Commission to ask questions of the Petitioner. Commissioner Kusch inquired for clarification regarding Mr. Silva's role in representing the Petitioner in the contested case proceedings. Chair Lin confirmed that the Commission had received approved minutes documenting the authorization of Mr. Gand to file the petition on behalf of the AOAO of Colony 1 at Sea Mountain, with Mr. Silva serving as their representative. *[SEE YOUTUBE TIMESTAMP 1:01:31]*

Chair Lin called the applicant and/or representative to the testifier table. At the table were Daryn Arai, Land Use Planning Consultant for the Applicant, Black Sand Beach and Lincoln S.T. Ashida of Torkildson Katz, Counsel for the Applicant, Black Sand Beach, LLC. *[SEE YOUTUBE TIMESTAMP 1:04:19]* Mr. Ashida stated they have no objection to the intervention by AOAO of Colony 1 and referenced and read part of the minutes of May 6, 2024, on Page 5 for the record. Chair Lin opened the floor for the Commission to ask questions of the Applicant, and no questions were posed. Chair Lin called the Planning Director Zendo Kern to the testifier table and asked if there were any objections to the petition for standing. *[SEE YOUTUBE TIMESTAMP 1:07:45]* Director Kern replied that there was no opposition to granting standing to the petitioner, as the petitioner met the criteria for standing. *[SEE YOUTUBE TIMESTAMP 1:07:54]* The Commission had no questions for Director Kern.

Action on Petition of Association of Apartment Owners of Colony 1 at Sea Mountain (PL-CCH-2024-000022):

Vice Chair Daniele moved to grant standing to the Association of Apartment Owners of Colony 1 at Sea Mountain based on criteria A, C, D, and E. For clarification, Chair Lin recited each of the criteria referenced in the motion in detail. Commissioner Kusch seconded the motion. *[SEE YOUTUBE TIMESTAMP 1:08:44]* During the discussion Vice Chair Daniele explained the reasoning behind the motion. Chair Lin further clarified for the record that the petitioner had checked off criteria “A” and not “C” on the petition. Commissioner Kusch asked the Planning Commission Counsel if the motion needed to be rectified. In response, Deputy Corporation Counsel Suzanna Tiapula advised the Commission should clarify the basis for their motion in either approving or denying it. She reiterated the petitioner had only selected criteria “A” which indicated their interest as a neighbor was generally distinguishable from that of the general public. *[SEE YOUTUBE TIMESTAMP 1:13:50]*

Vice Chair Daniele moved to amend his previous motion to grant the petition, including only criteria “A” and Commissioner Kusch seconded the amended motion. *[SEE YOUTUBE TIMESTAMP 1:14:46]* During discussion, Commissioner De Luz requested the petitioner representative, Jeff Silva to return to the testifier table and asked if he opposed consolidating with the other parties for mediation. In response, Mr. Silva explained that, to his understanding, mediation for the other petitions already begun, making it difficult to combine at this point. He reiterated that the Boards concerns are unique to their location and position, and it may be more productive to pursue a separate mediation. *[SEE YOUTUBE TIMESTAMP 1:16:16]* Chair Lin requested an update from the Planning Department staff on the mediation for the two other petitions previously granted standing by the Commission, as it would assist the Commissioners. Program Planning Manager Maija Jackson reported that the other parties met with the applicant and the Planning Department in a mediation session, which was unsuccessful. Ms. Jackson also mentioned that the Planning Department is currently in the process of selecting a hearings officer for the contested case proceedings. *[SEE YOUTUBE TIMESTAMP 1:17:48]*

With no further discussion, a roll call vote was taken on the amended motion to grant standing to the AOA of Colony 1, including only criteria “A.” The motion carried with five ayes (Daniele, Kusch, Balog, De Luz, and Lin), no noes, and one excused (Perrin). *[SEE YOUTUBE TIMESTAMP 1:20:53]*

Mediation:

Chair Lin read Planning Commission Rule 4-6 regarding mediation and reiterated that the two other parties completed one session of mediation, which was unsuccessful. It was mentioned to the petitioner’s representative Jeff Silva, that he could decide whether to proceed with mediation once contacted by Ms. Jackson or make the decision now. In response, Mr. Silva stated the Board discussed this matter at some length and will proceed with mediation. *[SEE YOUTUBE TIMESTAMP 1:21:46]*

Mr. Ashida and Mr. Arai returned to the testifiers table to provide comments on mediation. Mr. Ashida cited Planning Commission Rule 4-6 (i) which grants the right for mediation. He explained that parties have the option to waive mediation, and it is typically meant for parties

with opposing positions to work out differences voluntarily. While AOA of Colony 1 has standing and expressed interest in participating, they are not acting as advocates against the applicant or other intervenors. He questioned whether mediation is the best use of resources and on behalf of the applicant, waived their right to mediation. Mr. Ashida also requested a consolidation with the two existing intervenors for the sake of judicial economy and to protect the applicant's due process rights. *[SEE YOUTUBE TIMESTAMP 1:23:00]*

Chair Lin asked the petitioner's representative Jeff Silva, if there are any objection to Mr. Ashida's statement to consolidation. Mr. Silva responded, noting a misunderstanding regarding the statement about not opposing or supporting the development at Punalu'u. He explained that the AOA of Colony 1 has a direct interest and will be directly affected, which is why standing was requested. Mr. Silva expressed that mediation could be an effective means to help the applicant understand the petitioner's position and would be productive, and he wished to proceed with mediation. *[SEE YOUTUBE TIMESTAMP 1:25:50]* Chair Lin advised Mr. Silva the Planning Department would contact both the petitioner and applicant to begin the mediation process.

SELECTION OF HEARINGS OFFICER *[SEE YOUTUBE TIMESTAMP 1:28:18]*

Chair Lin moved that the Commission hire a hearings officer to conduct the contested case hearing and Vice Chair Daniele seconded the motion. A roll call vote was taken, and the motion carried with five ayes (Lin, Daniele, Balog, De Luz, and Kusch), no noes, and one excused (Perrin). *[SEE YOUTUBE TIMESTAMP 1:29:07]*

CONSOLIDATION OF CONTESTED CASES *[SEE YOUTUBE TIMESTAMP 1:30:36]*

Since mediation had failed for the two previous petitions, they are now contested cases. Chair Lin stated that, to expedite the process, he believed it would be prudent to consolidate both petitions. Chair Lin moved, and Commissioner De Luz seconded, to consolidate both petitions into one contested case proceeding. *[SEE YOUTUBE TIMESTAMP 1:31:07]* During the discussion, Planning Program Manager Maija Jackson clarified that the Commission had decided to consolidate the two petitions at the May 6, 2024, meeting. Chair Lin amended his motion to state that if mediation fails for the petitioner, the Association of Apartment Owners of Colony 1 at Sea Mountain, the petition would be consolidated with the other contested case. The motion was seconded by Commissioner Kusch. *[SEE YOUTUBE TIMESTAMP 1:32:48]* The floor was then opened for discussion. A roll call vote was taken, and the motion carried with five ayes (Lin, Daniele, Kusch, Balog, and De Luz), no noes, and one excused (Perrin). *[SEE YOUTUBE TIMESTAMP 1:42:19]*

There was discussion and clarification on the mediation process between the Planning Department and the applicant's counsel, Mr. Ashida, regarding an earlier statement waiving mediation rights. *[SEE YOUTUBE TIMESTAMP 1:43:13]* Mr. Ashida agreed to proceed with whichever process the Department chose for mediation. Chair Lin asked Deputy Corporation Counsels Suzanna Tiapula or Jean Campbell whether the Planning Department is required to be a party under the mediation rule. Ms. Tiapula responded that there were no objections from the applicant's representative regarding the Planning Department's participation, and that the mediation process would move forward without anticipated delays from either the petitioner or

the applicant. Regarding the contested case proceedings for the other two petitioners, Ms. Tiapula stated that there should be no delay, as the Planning Department has not yet hired a hearings officer. She added that while the hearings officer can be hired and the mediation concluded, if the mediation fails, the petitions will be consolidated. *[SEE YOUTUBE TIMESTAMP 1:45:11]* Mr. Ashida asked whether they would be following the Planning Department's mediation process, where they wait to be contacted, as was done previously. Planning Program Manager Ms. Jackson confirmed, "yes, you will receive an email within a week." *[SEE YOUTUBE TIMESTAMP 1:45:11]*

Mr. Ashida made a request for the record. He referenced his July 22, 2024, letter to the Commission, in which he made two specific requests: that the Commission make findings on the process of the failed motions and that a finding be made that the applicant, Black Sand Beach, LLC's, due process rights have not been violated. *[SEE YOUTUBE TIMESTAMP 1:46:21]*

This hearing item ended at 10:46 a.m.

A change was made to the order of the agenda items.

NEW BUSINESS

3. **APPLICANT: GRAPHIC IMAGES HAWAII, INC. (PL-REZ-2024-000057)**
Application for a Change of Zone from an Agricultural-20 acres (A-20a) zoning district to a Family Agricultural-1 acre (FA-1a) zoning district for 26.762 acres of land. The subject properties are located at 16-790 Kea'au-Pāhoa Road, approximately 125 feet southeast of its intersection with Mamaka Street, Kea'au, Puna, Hawai'i, TMKs: (3) 1-6-003:081 & :129.

The Commission took up this item at 10:46 a.m., with approximately thirty public members in the audience. *[SEE YOUTUBE TIMESTAMP 1:47:31]*

Mr. Kay gave the staff presentation. *[SEE YOUTUBE TIMESTAMP 1:48:56]* The floor was then opened to allow the Commission to ask questions of the Planning Department staff.

Applicant Representative Daryn Arai, Land Use Planning Consultant, and the applicant, Laurie Higashi of Graphic Images Hawai'i, Inc., gave a presentation. *[SEE YOUTUBE TIMESTAMP 2:05:44]*

Chair Lin opened the floor for the Commission to ask questions of the applicant representative and the applicant. *[SEE YOUTUBE TIMESTAMP 2:10:18]*

There were no in-person testifiers, but two individuals provided testimony via Zoom for this agenda item.

1. Solette Perry *[SEE YOUTUBE TIMESTAMP 2:14:09]*
2. Tara Rojas *[SEE YOUTUBE TIMESTAMP 2:17:28]*

Public testimony was closed for this agenda item. *[SEE YOUTUBE TIMESTAMP 2:20:47]*

Daryn Arai, the applicant's representative, provided comments in response to the testimony given by the testifier. *[SEE YOUTUBE TIMESTAMP 2:21:09]*

Action: Commissioner De Luz moved to approve the application with the amendment to the water condition as proposed by the Planning Department, seconded by Commissioner Kusch. *[SEE YOUTUBE TIMESTAMP 2:27:55]* Planning Department staff member Mr. Kay asked Commissioner De Luz for clarification, confirming that the motion was for a favorable recommendation and not for approval. Commissioner De Luz confirmed this. *[SEE YOUTUBE TIMESTAMP 2:28:32]* A roll call vote was taken, and the motion carried with five ayes (De Luz, Kusch, Balog, Daniele, and Lin), no noes, and one excused (Perrin) *[SEE YOUTUBE TIMESTAMP 2:28:46]*

This hearing item ended at 11:28 a.m.

Chair Lin called a recess at 11:28 a.m. and the meeting was reconvened at 11:38 a.m. *[SEE YOUTUBE TIMESTAMP 2:29:09]*

4. APPLICANT: TIELI WANG (PL-SMA-2024-000058)

Application for a Special Management Area Use Permit to construct three (3), three-story, single-family dwellings and related improvements; one single-family dwelling will be constructed on each parcel. The three (3) parcels total 24,250 square feet and are located within the Special Management Area. The subject properties are located at the end of Machida Lane, approximately 300 feet east of Onekahakaha Road, Keaukaha, South Hilo, Hawai'i, TMKs: (3) 2-1-014:044, 045 and 046.

The Commission took up this item at 11:38 a.m., with approximately twenty-six public members in the audience. *[SEE YOUTUBE TIMESTAMP 2:39:11]* Chair Lin noted for the record there is quorum, and Commissioner De Luz is currently absent. *[SEE YOUTUBE TIMESTAMP 2:40:08]*

Mr. Roy gave the staff presentation. *[SEE YOUTUBE TIMESTAMP 2:40:31]* Chair Lin noted for the record that Commissioner De Luz was now present. *[SEE YOUTUBE TIMESTAMP 2:40:36]* Chair Lin then opened the floor for the Commission to ask questions of the Planning Department staff. *[SEE YOUTUBE TIMESTAMP 2:50:15]*

Applicant Representative Val Colter gave a presentation. *[SEE YOUTUBE TIMESTAMP 2:52:07]*

Chair Lin opened the floor for the Commission to ask questions of the applicant's representative. *[SEE YOUTUBE TIMESTAMP 2:52:34]*

At 11:54 a.m. Director Kern left the meeting, and Deputy Director Jeffrey Darrow joined. *[SEE YOUTUBE TIMESTAMP 2:54:13]*

Seven individuals provided testimony in-person:

1. Skye Czember *[SEE YOUTUBE TIMESTAMP 2:55:17]*
2. Louisa Lee on Items #4 and #5 *[SEE YOUTUBE TIMESTAMP 2:57:48]*
3. Mapuana Waipa on Items #4 and #5 *[SEE YOUTUBE TIMESTAMP 3:03:10]*

4. David Owens *[SEE YOUTUBE TIMESTAMP 3:04:57]*
5. Denise Colgrove *[SEE YOUTUBE TIMESTAMP 3:07:29]*
6. Patrick Kahawaiolaa on Items #4 and #5 *[SEE YOUTUBE TIMESTAMP 3:09:40]*
7. Laura Acasio on Items #4 and #5 *[SEE YOUTUBE TIMESTAMP 3:17:44]*

One individual provided testimony on Zoom:

1. Tara Rojas on Items #4 and #5 *[SEE YOUTUBE TIMESTAMP 3:22:16]*

Public Testimony was closed for this agenda item. *[SEE YOUTUBE TIMESTAMP 3:25:56]* Val Colter, the applicant's representative, provided comments in response to the testifier's testimony. *[SEE YOUTUBE TIMESTAMP 3:26:10]* The Commission then asked additional questions to the applicant's representative. *[SEE YOUTUBE TIMESTAMP 3:29:27]*

Action: Commissioner Kusch moved that the application for Special Management Area Use Permit PL-SMA-2024-000058 be approved based on the Planning Director's recommendation, with the proposed amendments regarding the sewer connection to Onekahakaha to service the three lots. *[SEE YOUTUBE TIMESTAMP 3:38:48]* Deputy Director Darrow requested to include the additional request by State Historic Preservation Division (SHPD), as mentioned in the Planning Department's presentation. *[SEE YOUTUBE TIMESTAMP 3:39:29]* Commissioner Kusch amended his original motion to include the request by SHPD's for an archaeological field inspection. *[SEE YOUTUBE TIMESTAMP 3:39:48]* However, there was no second to the motion, so it failed. *[SEE YOUTUBE TIMESTAMP 3:40:22]*

Vice Chair Daniele moved that the application for a Special Management Area (SMA) Use Permit PL-SMA-2024-000058, be denied for the following reasons: *[SEE YOUTUBE TIMESTAMP 3:40:32]*

1. Septic issues
2. Importance of tidepools
3. Anchialine pools are fragile
4. Dire road situations to the properties

The motion was seconded by Commissioner DeLuz. *[SEE YOUTUBE TIMESTAMP 3:41:40]*

Chair Lin opened the floor for the discussion among the Commission. *[SEE YOUTUBE TIMESTAMP 3:41:58]* Commissioner De Luz stated that, after listening to the community and their concerns, they are not opposed to building a house but are against the construction of a hotel. While he understands the zoning allows for it, he acknowledges that some decisions made years ago may no longer reflect the current understanding of the area. *[SEE YOUTUBE TIMESTAMP 3:42:07]* Commissioner Kusch commented that the overall message is that this project is too large for the community to support, given the model. Proper access is needed, and it's unfortunate that the recommendations were not followed. *[SEE YOUTUBE TIMESTAMP 3:43:06]* Chair Lin remarked that this is not Oahu, and building large homes is not a good fit for the area. Access is a concern, if there were a tsunami, for instance, how would the people evacuate? It is difficult to imagine a fire truck being able to enter and exit the area. *[SEE YOUTUBE TIMESTAMP 3:44:00]*

Planning Department staff Mr. Roy repeated the motion. It was moved by Vice Chair Daniele, seconded by Commissioner De Luz to deny PL-SMA-2024-000058 for reasons being septic system impacts, road issues and other environmental concerns. *[SEE YOUTUBE TIMESTAMP 3:45:15]* A roll call vote was taken, and the motion carried with five ayes (Daniele, De Luz, Balog, Kusch, and Lin), no noes and one excused (Perrin). *[SEE YOUTUBE TIMESTAMP 3:45:35]*

Vice Chair Daniele moved that the adoption of written findings of fact, conclusions of law, and decision and order be continued to the next scheduled meeting for the denial of the application for Special Permit Management Area SMA Use permit PL-SMA-2024-000058. The motion was seconded by Commissioner Balog. A voice vote was taken, and the motion passed unanimously. *[SEE YOUTUBE TIMESTAMP 3:46:19]* Chair Lin asked Val Colter, the applicant's representative if she had any questions. Ms. Colter responded that she was questioning the process with respect to the advisement given by the Planning Department. Chair Lin advised Ms. Colter to discuss the matter with the Planning Department. *[SEE YOUTUBE TIMESTAMP 3:47:04]*

This hearing item ended at 12:48 p.m.

Chair Lin called a lunch recess from 12:48 p.m. to 1:05 p.m.

At 1:05 p.m. Chair Lin announced that there were some school students present who would like to testify, with approximately twenty public members in the audience, including about twelve students from Ke Ana La'ahana Public Charter School.

Two individuals provided testimony in-person for **Item #5 Niel Jayasinghe (PL-SMA-2024-000060):**

1. Giovanni Kekaaoha (student) *[SEE YOUTUBE TIMESTAMP 4:09:17]*
2. Lehuanani Waipā AhNee *[SEE YOUTUBE TIMESTAMP 4:12:12]*

Chair Lin stated that testimony was allowed to accommodate the students so they could return to school, and the next agenda item was taken out of order.

6. **APPLICANT: SANDMAN PROPERTIES, LLC (PL-SMA-2024-000061)**
Application for a Special Management Area Use Permit to construct a single-family dwelling and accessory improvements on a 3.355-acre shoreline parcel within the Special Management Area. The subject property is located at 32-1018 Hawai'i Belt Road approximately 4 miles north of Hakalau Bay, North Hilo, Hawai'i, TMK: (3) 3-2-003:017.

The Commission took up this item at 1:15 p.m. with approximately eight public members in the audience. *[SEE YOUTUBE TIMESTAMP 4:15:55]*

Mr. Harbaugh gave the staff presentation. *[SEE YOUTUBE TIMESTAMP 4:16:42]*

Applicant Representative John Pipan, Land Planning Hawai'i, LLC along with Applicants Sandy Gongalez and Manny Lopez, gave a presentation. *[SEE YOUTUBE TIMESTAMP 4:24:42]*

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

Action: It was moved by Commissioner Kusch and seconded by Vice Chair Daniele that the application for Special Management Area Use Permit PL-SMA-2024-000061 be approved based on the Planning Director's recommendation. *[SEE YOUTUBE TIMESTAMP 4:26:06]* A roll call vote was taken, and the motion carried with five ayes (Kusch, Daniele, Balog, De Luz, and Lin), no noes and one excused (Perrin). *[SEE YOUTUBE TIMESTAMP 4:26:59]*

This hearing item ended at 1:26 p.m.

2. **APPLICANTS: SCOTT AND REBECCA MCINTYRE (PL-SMA-2024-000049)**
Application for a Special Management Area Use Permit to construct a one-story 2,204 square foot single-family residence and related improvements on a 2.56-acre shoreline parcel within the Special Management Area. The subject property is located at 35-2084 Hula'ana Place approximately 550 feet northwest of the Hula'ana Place and Old Māmalahoa Highway intersection, Kihalani, North Hilo, Hawai'i, TMK: (3) 3-5-010:005.

The Commission took up this item at 1:26 p.m. with approximately eight public members in the audience. *[SEE YOUTUBE TIMESTAMP 4:27:51]*

Mr. Roy gave the staff presentation. *[SEE YOUTUBE TIMESTAMP 4:28:32]*

Applicant Representative John Pipan, Land Planning Hawai'i, LLC, along with Applicants Scott and Rebecca McIntyre (via Zoom) gave a presentation. *[SEE YOUTUBE TIMESTAMP 4:37:03]* Chair Lin opened the floor for the Commission to ask questions of the applicant's representative and the applicants. *[SEE YOUTUBE TIMESTAMP 4:38:34]*

There were no in-person testifiers, and one individual testified via Zoom:

1. Tara Rojas *[SEE YOUTUBE TIMESTAMP 4:40:13]*

Public testimony was closed for this agenda item. *[SEE YOUTUBE TIMESTAMP 4:43:48]*

John Pipan, the applicant's representative, responded to the testifier's comments. *[SEE YOUTUBE TIMESTAMP 4:43:55]*

Action: It was moved by Commissioner Kusch and seconded by Commissioner Balog that the application for Special Management Area Use Permit No. PL-SMA-2024-000049, be approved based on the Planning Director's recommendation and including the additional language. *[SEE YOUTUBE TIMESTAMP 4:45:06]* In discussion, Chair Lin stated what the applicants are doing with SHPD is admirable. *[SEE YOUTUBE TIMESTAMP 4:45:43]* A roll call vote was taken, and the motion carried with five ayes (Kusch, Balog, Daniele, De Luz, and Lin), no noes and one excused (Perrin). *[SEE YOUTUBE TIMESTAMP 4:46:02]*

This hearing item ended at 1:45 p.m.

5. **APPLICANT: NIEL JAYASINGHE (PL-SMA-2024-000060)**

Application for a Special Management Area Use Permit to construct a four-story, 41,600 square-foot apartment building containing seventeen rental units and related improvements on a 0.445-acre parcel within the Special Management Area. The subject property is located on the north side of Kalanianaʻole Street, approximately 350 feet southwest from its intersection with Onekahakaha Road, Keaukaha, South Hilo, Hawaiʻi, TMK: (3) 2-1-014:002.

The Commission took up this item at 1:45 p.m. with approximately ten public members in the audience. *[SEE YOUTUBE TIMESTAMP 4:46:42]*

Mr. Roy gave the staff presentation. *[SEE YOUTUBE TIMESTAMP 4:47:40]* Chair Lin opened the floor for the Commission to ask questions of the Planning Department staff. *[SEE YOUTUBE TIMESTAMP 4:55:08]*

Applicant Representative John Pipan, Land Planning Hawaiʻi, LLC gave a presentation. *[SEE YOUTUBE TIMESTAMP 4:57:13]* Chair Lin opened the floor for the Commission to ask questions of the applicant's representative. *[SEE YOUTUBE TIMESTAMP 5:01:19]*

There were no other in-person testifiers, and one individual provided testimony on Zoom:

1. Tara Rojas *[SEE YOUTUBE TIMESTAMP 5:03:40]*

Public testimony was closed for this agenda item. *[SEE YOUTUBE TIMESTAMP 5:06:36]*

John Pipan, the applicant's representative, responded to the testifier's comments. *[SEE YOUTUBE TIMESTAMP 5:06:48]* The Commission then asked additional questions of the applicant's representative. *[SEE YOUTUBE TIMESTAMP 5:08:59]* Prior to the motion, there was an outburst by a public member.

Action: Vice Chair Daniele moved that the application for a Special Management Area (SMA) Use Permit PL-SMA-2024-000060, be denied for the following reasons: *[SEE YOUTUBE TIMESTAMP 5:13:57]*

1. Community does not want this in their community
2. Forcing it on the community will not help
3. It is an eyesore
4. Community wants the community a certain way

The motion was seconded by Commissioner DeLuz. *[SEE YOUTUBE TIMESTAMP 5:15:19]* Deputy Corporation Counsel Suzanna Tiapula requested clarification for the record on the specific reasons for the denial. *[SEE YOUTUBE TIMESTAMP 5:15:21]* Vice Chair Daniele stated the basis for the denial was the project's density, including concerns about the number of people, traffic, and infrastructure requirements like sewer and water. *[SEE YOUTUBE TIMESTAMP 5:15:29]* Commissioner De Luz added that part of the denial is based on a remark by the Planning Director, noting that resort developments should meet the needs of both visitors and residents. Such areas should have basic amenities to support visitor accommodations and related facilities. The basis for the denial is largely in line with what Commissioner Daniele

mentioned: the development needs to support both residents and visitors, and both must agree it is suitable for the area. *[SEE YOUTUBE TIMESTAMP 5:16:05]*

Chair opened the floor for the discussion among the Commission. *[SEE YOUTUBE TIMESTAMP 5:17:00]* Commissioner Balog noted that a local testifier couldn't afford the proposed affordable housing project. This resonated with her, and she believes it may explain why the community doesn't see the need for it. They can't afford it and don't feel it would benefit them. *[SEE YOUTUBE TIMESTAMP 5:17:03]* Chair Lin expressed similar concerns about affordability. He questioned whether the future development, if the SMA is approved today, would truly benefit the community. Referring to the proposed rent amounts provided by the applicant, he believes those rents amounts are not considered affordable for that community. *[SEE YOUTUBE TIMESTAMP 5:17:36]* A roll call vote was taken, and the motion carried with four ayes (Daniele, De Luz, Balog, and Lin), one no (Kusch), and one excused (Perrin). *[SEE YOUTUBE TIMESTAMP 4:46:02]*

Vice Chair Daniele moved that the adoption of written findings of fact, conclusions of law, and decision and order be continued to the next schedule meeting for the denial of the application for Special Permit Management Area SMA Use permit PL-SMA-2024-000060 and the motion was seconded by Commissioner Balog. A voice vote was taken, and the motion passed with four ayes (De Luz, Balog, Daniele, and Lin) and one no (Kusch), and one excused (Perrin). *[SEE YOUTUBE TIMESTAMP 5:20:36]*

This hearing item ended at 2:20 p.m.

Chair Lin called a recess at 2:20 p.m. and the meeting was reconvened at 2:29 p.m. *[SEE YOUTUBE TIMESTAMP 5:21:21]*

7. APPLICANT: LAMB OF GOD BAPTIST CHURCH (PL-SPP-2024-000071)

Application for a Special Permit to establish a church and related improvements on a 3-acre property within the State Land Use Agricultural District. The subject property is located at 92-8561 Māmalahoa Highway approximately 0.6 miles west of the junction with Kohala Boulevard in Kahuku, Ka'ū, Hawai'i, TMK: (3) 9-2-189:051.

The Commission took up this item at 2:29 p.m. with approximately eight public members in the audience and Director Kern had rejoined the meeting. Chair Lin noted for the record there was quorum, although Commissioner Balog was currently absent. *[SEE YOUTUBE TIMESTAMP 5:30:41]*

Mr. Kala gave the staff presentation. *[SEE YOUTUBE TIMESTAMP 5:31:28]* Commissioner Balog returned to the meeting at 2:30 p.m. Chair Lin opened the floor for the Commission to ask questions of the Planning Department staff. *[SEE YOUTUBE TIMESTAMP 5:37:45]*

Pastor and Applicant Representative Travis Chace, along with the Applicants Design Representative Mark Krzyzanowski, addressed Commissioner Kusch's question regarding the parking issue. *[SEE YOUTUBE TIMESTAMP 5:39:38]* The floor was opened for the Commission to ask further questions of the applicant's representatives. *[SEE YOUTUBE TIMESTAMP 5:41:11]*

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

Public testimony was closed for this agenda item. *[SEE YOUTUBE TIMESTAMP 5:42:46]*

Action: It was moved by Vice Chair Daniele and seconded by Commissioner Kusch that the application for Special Permit No. PL-SPP-2024-000071 be approved based on the Planning Director's recommendation. *[SEE YOUTUBE TIMESTAMP 5:43:02]* A roll call vote was taken, and the motion carried with five ayes (Daniele, Kusch, Balog, De Luz, and Lin), no noes and one excused (Perrin). *[SEE YOUTUBE TIMESTAMP 5:44:08]*

This hearing item ended at 2:43 p.m.

8. **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 to establish telecommunication antennas and towers in certain zoning districts, add application requirements, and amend standards for the establishment of telecommunication antennas and towers.

The Commission took up this item at 2:43 p.m. with three public members in the audience. *[SEE YOUTUBE TIMESTAMP 5:44:52]*

Ms. Camero gave the staff presentation. *[SEE YOUTUBE TIMESTAMP 5:46:24]* Chair Lin opened the floor for the Commission to ask questions of the Planning Department staff. *[SEE YOUTUBE TIMESTAMP 6:05:43]*

Two individuals provided testimony in-person:

1. Chris Hirose *[SEE YOUTUBE TIMESTAMP 6:12:56]*
2. Kalei Kailikini *[SEE YOUTUBE TIMESTAMP 6:16:27]*

Two individuals provided testimony on Zoom:

1. Lelah Vega *[SEE YOUTUBE TIMESTAMP 6:21:56]*
2. Tara Rojas *[SEE YOUTUBE TIMESTAMP 6:24:19]*

Public testimony was closed for this agenda item. *[SEE YOUTUBE TIMESTAMP 6:28:19]*

Director Kern responded to the public testimony and explained the bill's intention. *[SEE YOUTUBE TIMESTAMP 6:28:25]* Chair Lin asked for information on Councilmember Evans' proposed bill and how it aligns with this bill and its amendments. Director Kern noted that Evans' bill was heard two weeks ago by the County Council's Planning Committee and will be referred to the Planning Department. He hasn't fully reviewed the bill yet, he mentioned there are some similarities between it and the Department's bill. *[SEE YOUTUBE TIMESTAMP 6:30:35]*

Action: Commissioner Kusch moved to forward a favorable recommendation to the County Council on the proposed amendments to Chapter 25, Articles 2, 4, 5, and 7 of the Hawai'i

County Code (2016 Edition, as amended) Docket No. PL-PDI-2024-000008. Chair Lin seconded the motion, with the intention of including items discussed earlier, such as the coverage area map and the public agencies exemption for telecommunication towers. *[SEE YOUTUBE TIMESTAMP 6:33:39]* Commissioner Kusch accepted the inclusion of the coverage area map. The Director noted that the area coverage map would be required as a condition within the Plan Approval and sought clarification on the public agency exemption. In response, Chair Lin asked about the process for emergency services in relation to radio or telecommunication towers, as they are exempt from this bill. It was clarified that emergency services would provide information on their process. Further discussion led to the suggestion to defer the matter and invite emergency services personnel to the next Commission meeting to provide the necessary information.

Commissioner Kusch moved to amend his motion to defer to the October 3rd Commission meeting for information and discussion with emergency services personnel. *[SEE YOUTUBE TIMESTAMP 6:37:32]* Deputy Corporation Counsel inquired whether the October agenda had been published and if this item could be added. Planning Department staff Ms. Jackson confirmed that while the October agenda had been published, it can be amended. Chair Lin reiterated the motion on the floor; a favorable recommendation with the proposed condition of a coverage map and deferring the discussion with emergency services to the October meeting. *[SEE YOUTUBE TIMESTAMP 6:38:11]*

Commissioner Kusch moved to defer Agenda Item #8 to the October 3, 2024, Commission meeting to allow emergency services representatives to explain their process. Chair Lin seconded the motion. *[SEE YOUTUBE TIMESTAMP 6:38:40]* Ms. Jackson suggested that the Commission consider continuing the meeting rather than reopening it, to keep the focus on gathering the necessary feedback along with the Commission's deliberation and decision.

Commissioner Kusch amended the motion to defer Item #8 to a continuance for the October 3rd meeting, and Chair Lin seconded the motion. *[SEE YOUTUBE TIMESTAMP 6:39:40]* Planning staff Ms. Camero reiterated the motion on the floor is to continue the Planning Director Initiated PL-PDI-2024-000008 to allow discussion with emergency personnel at the October 3, 2024, Windward Planning Commission meeting. A roll call vote was taken, and the motion carried with six ayes (Kusch, Lin, Balog, Daniele, and Deluz), no noes and one excused (Perrin). *[SEE YOUTUBE TIMESTAMP 6:40:20]*

This hearing item ended at 3:39 p.m.

PLANNING DIRECTOR'S REPORT *[SEE YOUTUBE TIMESTAMP 6:40:44]*

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

At 3:39 p.m. Chair Lin introduced this item and stated the Special Management Area (SMA) determination and minor permits issued by the Planning Director for the months of July and August 2024 report were emailed to the Commissioners. There were no questions about the report from Commissioners.

ANNOUNCEMENTS [SEE YOUTUBE TIMESTAMP 6:40:58]

Chair Lin asked Planning Department staff if there are any other items on the October agenda. Planning Program Manager, Maija Jackson stated that there would be a Special Management Area Coastal Zone Management Training for two hours in the morning, followed by four other items, including the Director's Initiated telecom bill. Chair Lin announced that the Windward Planning Commission's next monthly meeting is scheduled for Thursday, October 3, 2024.

ADJOURNMENT [SEE YOUTUBE TIMESTAMP 6:42:12]

There being no further business, it was moved by Vice Chair Daniele and seconded by Commissioner Kusch that the meeting be adjourned. A voice vote was taken, and the motion carried unanimously. Chair Lin adjourned the meeting at 3:42 p.m.

Respectfully submitted,

Melissa Dacayanan-Salvador
Melissa Dacayanan-Salvador (Nov 2, 2024 13:45 HST)

Melissa Dacayanan-Salvador
Secretary

ATTEST:



November 03,, 2024 07:11 PM

Dennis Lin, Chairman
Windward Planning Commission