

LEEWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

MINUTES
FEBRUARY 29, 2024

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The Leeward Planning Commission met in regular session on Thursday, February 29, 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: Barbara DeFranco, Dean Au, Michael Dela Cruz (left at 3:12 p.m.), Clement "CJ" Kanuha, and Mahina Paishon Duarte.

ALSO PRESENT: Suzanna Tiapula, Esq. (Counsel to the Commission), Jean Campbell, Esq. (Counsel to the Planning Department), Zendo Kern (Planning Director), Jessica Andrews (Planner), Alex Roy (Planner), Alu Kala (Planner), Tracie-Lee Camero (Zoom Host), Maija Jackson (Planning Program Manager), and Melissa Dacayanan-Salvador (Commission Secretary).

Approximately twenty-three public members were in the audience.

A quorum was present. Chairperson DeFranco called the meeting to order and introduced Commissioners. [SEE YOUTUBE TIMESTAMP 0:01]. Chairperson DeFranco stated each Commissioner will be asked to confirm they have reviewed all materials and testimonies related to the applications being reviewed.

Chairperson DeFranco called a recess at 9:31 a.m. to allow the Commissioners to read and review new additional materials (letters and testimonies) received at the meeting [SEE YOUTUBE TIMESTAMP 1:39], and she called the meeting back to order at 9:49 a.m. [SEE YOUTUBE TIMESTAMP 18:57] and also introduced the staff. [SEE YOUTUBE TIMESTAMP 19:13]

Deputy Corporation Counsel Suzanna Tiapula, Deputy Corporation Counsel (Counsel for the Commission) relayed concerns by members of the public in regard to public testimony. She stated all public testimony provided to the Planning Department has been printed and provided to the Commissioners this morning. A reason for the delay was that there was a voluminous amount of testimony received within the last 48 hours. It was mentioned there were phone calls and concerns expressed that the Commissioners had not received the material and stated as of this morning everything was printed out and distributed. She also stated it is asked the public

submit materials at least 48 hours prior to the meeting and reiterated all testimonies have been printed out and given to the Commissioners. *[SEE YOUTUBE TIMESTAMP 19:28]*

APPROVAL OF MINUTES

At 9:51 a.m. the Commission took up the minutes of the August 9, 2023 and August 17, 2023, Leeward Planning Commission meeting. No corrections were offered. It was moved by Commissioner Dela Cruz and seconded by Commissioner Paishon-Duarte that the minutes be approved as submitted. A voice vote was taken, and the motion carried with all in favor. *[SEE YOUTUBE TIMESTAMP 21:28]*

ELECTION OF OFFICERS

Chairperson DeFranco stated the Election of Officers will be moved at the end of the meeting. *[SEE YOUTUBE TIMESTAMP 22:31]*

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

At 9:52 a.m. Chairperson DeFranco explained the procedure for testifying and Planning Commission Rule 1-5 regarding decorum. Testifiers were given the options of speaking at this time or later at the time the specific agenda item was called to order. *[SEE YOUTUBE TIMESTAMP 22:39]*

Two individuals provided testimony in-person:

- 1) Simmy McMichael on Items #3 & #4 *[SEE YOUTUBE TIMESTAMP 25:55]*
- 2) Steve Holmes on Item #4 *[SEE YOUTUBE TIMESTAMP 33:35]*.

Seven individuals provided testimony on Zoom:

- 1) Monicaq Stone on Items #3 & #4 *[SEE YOUTUBE TIMESTAMP 38:19]*
- 2) Janice Palma-Glennie on Items #3 & #4 *[SEE YOUTUBE TIMESTAMP 44:49]*
- 3) Clare Loprinzi on Items #2, #3, & #4 *[SEE YOUTUBE TIMESTAMP 51:22]*
- 4) Fred Herber on Item #4 *[SEE YOUTUBE TIMESTAMP 1:02:01]*
- 5) Randy Rogers on Item #4 *[SEE YOUTUBE TIMESTAMP 1:06:04]*
- 6) Kilihea Inaba on Items #3 & #4 *[SEE YOUTUBE TIMESTAMP 1:09:57]*
- 7) Maki Morinoue on Items #3 & #4 *[SEE YOUTUBE TIMESTAMP 1:17:40]*

There being no further public testimony, this agenda item ended at 10:50 a.m.

Chairperson DeFranco called a short recess at 10:50 a.m. and reconvened the hearing at 10:59 a.m.

NEW BUSINESS

1. **APPLICANT: WAIKŌLOA VILLAGE CENTER, LLC (PL-REZ-2023-000052)**
Application for a Change of Zone from an Open (O) zoning district to an Industrial-Commercial Mixed-20,000 square feet (MCX-20) zoning district for a 26.052-acre portion of a larger 29.610-acre property . The subject property is located on the south side

of Pua Melia Street, approximately 0.2 miles southeast of its intersection with Waikōloa Road, Waikōloa, South Kohala, Hawai‘i, TMK: (3) 6-8-003:041 (por.)

The Commission took up this item at 11:00 a.m., with approximately twenty-four public members in the audience. *[SEE YOUTUBE TIMESTAMP 1:29:52]*

Commissioner Au recused himself due to personal reasons on this agenda item and sat with the audience. *[SEE YOUTUBE TIMESTAMP 1:29:58]*

Staff presentation by Jessica Andrews *[SEE YOUTUBE TIMESTAMP 1:31:25]*

Applicant presentation by Greg Brown and Tom Schnell *[SEE YOUTUBE TIMESTAMP 1:45:04]*

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

Action: It was moved by Commissioner Paishon-Duarte and seconded by Commissioner Kanuha that a favorable recommendation be forwarded to the County Council on the application for Change of Zone No. PL-REZ-2023-000052 based on the Planning Director’s recommendation. *[SEE YOUTUBE TIMESTAMP 1:46:55]* A roll call vote was taken, and the motion carried with four ayes (Paishon-Duarte, Kanuha, Dela Cruz, and DeFranco), no noes, and one recused (Au). *[SEE YOUTUBE TIMESTAMP 1:47:47]*

This hearing ended at 11:18 a.m. and Commissioner Au rejoined the Commission.

2. APPLICANT: LILI‘UOKALANI TRUST (PL-REZ-2023-000051)

Application to amend Change of Zone Ordinance 00 90 by deleting Condition B (time to submit and secure Final Plan Approval), Condition C (time to commence construction), Condition D (Eho Street extension improvements), Condition F (Eho Street/Queen Kaahumanu Highway intersection improvements), and Condition K (Administrative Time Extension) . If deletion of Conditions B and C is not possible, the applicant is requesting a 10-year time extension to Condition B to Secure Final Plan Approval and to amend Condition C to allow construction to commence within 2 years of receipt of Final Plan Approval and be completed within 5 years thereafter. Ordinance No. 00 90 was a successor ordinance to Ordinance No. 91 27, which reclassified approximately 0.874 acres of land from an Open (O) to a Village Commercial-10,000 square feet (CV-10) zoning district. The subject property is located along the makai side of Queen Ka‘ahumanu Highway between Eho Street and the Kona Coast Shopping Center, Keahuolu, North Kona, Hawai‘i, TMK: (3) 7-4-015:015 (portion).

The Commission took up this item at 11:18 a.m., with approximately nineteen public members in the audience. *[SEE YOUTUBE TIMESTAMP 1:48:36]*

Staff presentation by Maija Jackson *[SEE YOUTUBE TIMESTAMP 1:50:40]*

Applicant presentation by Alan Arakawa, Vice President of Real Estate and Bryan Esmeralda, Manager of Land Planning for the Trust *[SEE YOUTUBE TIMESTAMP 2:04:19]*

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

Action: It was moved by Commissioner Au and seconded by Commissioner Dela Cruz that a favorable recommendation be forwarded to the County Council on the application for Change of Zone No. PL-REZ-2023-000051 based on the Planning Director's recommendation. *[SEE YOUTUBE TIMESTAMP 2:11:08]* A roll call vote was taken, and the motion carried with five ayes (Au, Dela Cruz, Kanuha, Paishon-Duarte, and DeFranco) and no noes. *[SEE YOUTUBE TIMESTAMP 2:13:20]*

This hearing ended at 11:45 a.m.

Chairperson DeFranco called a lunch recess at 11:45 a.m. and reconvened the hearing at 12:26 p.m.

3. **APPLICANT: PHIL TINGUELY, MANAGING MEMBER OF WALUA PARTNERS, LLC (PL-SMA-2023-000036)**

Application for a Special Management Area Use Permit to develop eighteen (18) multiple-family residential units in two (2) two-story townhouse buildings, and three (3) one-story duplex buildings, and includes three (3) private pools, an office building, and related development on a 3.0-acre parcel situated in the Special Management Area. The subject parcel is located at 75-5885 Walua Road, approximately 600 feet southeast of its intersection with Ali'i Drive, Portion of Pua'a 3rd – Wai'aha 2nd, North Kona, Hawai'i, TMK: (3) 7-5-018:095.

The Commission took up this item at 12:26 p.m. with approximately eighteen public members in the audience. *[SEE YOUTUBE TIMESTAMP 2:58:02]*

Staff presentation by Alex Roy *[SEE YOUTUBE TIMESTAMP 2:59:10]*

One individual Teresa Urekew provided testimony in-person *[SEE YOUTUBE TIMESTAMP 3:20:56]* and no Zoom testifiers for this agenda item.

Applicant presentation by Phil Tinguely, Walua Partners LLC *[SEE YOUTUBE TIMESTAMP 3:22:39]*

Action: It was moved by Commissioner Au and seconded by Commissioner Kanuha that the application for Special Management Area Use Permit No. PL-SMA-2023-000038 be approved based on the Planning Director's recommendation. *[SEE YOUTUBE TIMESTAMP 3:42:52]* A roll call vote was taken, and the motion carried with four ayes (Au, Kanuha, Dela Cruz, and DeFranco) and one no (Paishon-Duarte). *[SEE YOUTUBE TIMESTAMP 3:59:38]*

This hearing ended at 1:30 p.m.

Chairperson DeFranco called a short recess at 1:30 p.m. and reconvened the hearing at 1:38 p.m.

4. **APPLICANT: KONA HAWAI'I DEVELOPMENT, LLC (PL-SMA-2023-000038)**
Application for a Special Management Area Use Permit to develop a 100-room hotel and related improvements using a partially completed foundation structure on a 1.76-acre parcel situated in the Special Management Area. The subject parcel is located at 75-5868 Ali'i Drive, approximately 370 feet southwest of its intersection with Walua Road, Portion of Pua'a 3rd – Wai'aha 2nd, North Kona, Hawai'i, TMK: (3) 7-5-018:011.

The Commission took up this item at 1:38 p.m. with approximately fifteen public members in the audience. *[SEE YOUTUBE TIMESTAMP 4:09:03]*

Chairperson stated that the Commission had received three petitions for standing in a contested case hearing and opened the floor to public testimony before considering the petitions.

Three individuals provided testimony in-person:

1. June Gravitte *[SEE YOUTUBE TIMESTAMP 4:11:57]*
2. Teresa Urekew *[SEE YOUTUBE TIMESTAMP 4:15:30]*
3. Mark Van Pernis *[SEE YOUTUBE TIMESTAMP 4:17:15]*

Chairperson DeFranco stopped the meeting to maintain decorum *[SEE YOUTUBE TIMESTAMP 4:21:23]* and reconvened *[SEE YOUTUBE TIMESTAMP 4:21:51]*

Two individuals provided testimony on Zoom:

1. Eric Schindwolf and Heidi Ruffner *[SEE YOUTUBE TIMESTAMP 4:22:28]*
2. Jana Cook *[SEE YOUTUBE TIMESTAMP 4:26:39]*

There being no further public testimony, Chairperson DeFranco reiterated the Commission received three petitions for a standing in a contested case hearing from Jana Cook, June Gravitte and Judith Ruffner and Eric Schindwolf and the next order business is the determination of standing on the petitions. *[SEE YOUTUBE TIME STAMP 4:31:25]* Petitioners June Gravitte in attendance in-person at the testifiers table, Jana Cook via Zoom, and June Gravitte and Eric Schindwolf also via Zoom. In reference to Rule 4-6 (a) it was confirmed by Planning Program Manager, Maija Jackson that all three petitions were properly filed with a filing fee, notarized, met the deadline, and forwarded to the applicant in a timely manner. *[SEE YOUTUBE TIME STAMP 4:33:14]*

Chairperson reminded the Commission their focus should be on why standing should or should not be granted, not on the merits of the application and read the criteria as stated in Rule 4-6(b) and if timely request is filed, standing shall be granted if the criteria can be met. *[SEE YOUTUBE TIME STAMP 4:33:28]*

PETITION OF JUNE GRAVITTE (PL-CCH-2023-000020)

The Commission took up this item at 2:05 p.m. with approximately ten public members in the audience. At the testifier table, Petitioner Judith Gravitte, Planning Director Zendo Kern, and Randy Vitousek, Counsel for the Applicant and BJ Patel the Applicant. Petitioner Gravitte explained her standing should be granted for the reason that she co-owns a condo at Hale Kona Kai. Planning Director Kern, in response to the Ms. Gravette's statement, stated he did not

believe the petitioner should be granted standing her interest is not distinguished from those of the general public. Chairperson DeFranco asked the applicant if they had any objections to the petition. Randy Vitousek answered that in recognition of the very liberal standing provisions of the Hawai'i Supreme Court in Contested Case Hearings, the applicant is not opposing the request for standing in a contested case hearing. *[SEE YOUTUBE TIME STAMP 4:36:20]*

Action on Petition of June Gravitte (PL-CCH-2023-000020): It was moved by Commissioner Au to deny standing to June Gravitte because her position is not clearly distinguishable from that of the general public. Commissioner Paishon-Duarte seconded the motion. *[SEE YOUTUBE TIMESTAMP 4::45:43]* In discussion Commissioner Au stated he owns a condo and lives there full-time and stated the petitioner does not live in the condo and rents it out to visitors and believes standing in a contested case hearing should not be granted. Director Kern explained the process of mediation and the commission hiring a hearing's officer should standing be granted. The applicant's attorney Mr. Vitousek mentioned about the PASH case where there was a hearing before the Planning Commission and standing was denied and the SMA permit was approved. The commissions denial for standing was appealed to the Hawai'i Supreme Court and six (6) years later the Supreme Court decided that standing should had been granted and was sent back to hearing before the Planning Commission as it was ruled improper. *[SEE YOUTUBE TIMESTAMP 4:47:58]* Deputy Corporation Counsel Suzanne Tiapula offered the petitioner is required, in order to establish standing, to convince the Commission that their interest is different from the general public and stated the question to consider is whether she is different than a member of the general public. Commissioner Paishon-Duarte asked the petitioner how is her standing different from the general public. *[SEE YOUTUBE TIMESTAMP 4:49:59]* The petitioner, Ms. Gravitte answered she owns a condo at Hale Kona Kai with approximately 39-40 units and she is part of that community and also has one parking space that she can access.

A roll call vote was taken on the motion to deny standing for June Gravitte but it did not carry with three ayes (Au, Paishon-Duarte, and Dela Cruz) and two noes (Kanuha and DeFranco). *[SEE YOUTUBE TIMESTAMP 4:54:53]*

It was moved by Commissioner Kanuha to grant standing to petitioner June Gravitte as her interest is clearly distinguishable from that of the general public and seconded by Commissioner Dela Cruz. *[SEE YOUTUBE TIMESTAMP 4:55:44]* A roll call vote was taken, and the motion carried with four ayes (Kanuha, Dela Cruz, Paishon-Duarte, and DeFranco) and one no (Au) and standing was granted to petitioner, June Gravitte. *[SEE YOUTUBE TIMESTAMP 4:56:15]*

PETITION OF JANA COOK (PL-CCH-2023-000019)

The Commission took up this item at 2:27 p.m. with approximately twelve public members in the audience. The petitioner, Jana Cook was representing herself on Zoom, the Planning Director Zendo Kern, and Randy Vitousek, Counsel for the Applicant and BJ Patel the Applicant were at the testifier table. Petitioner Jana Cook was asked to explain why standing should be granted according to the criteria in Rule 4-6 (b). Ms. Cook stated her interest is clearly distinguishable from that of the general public as there are thirty-nine (39) people who own property at Hale Kona Kai Condominium Complex and nine (9) of those owners have a north-facing condominium which she is one of the nine. She mentioned the only sunlight she receives comes on her lanai from the east in the morning and her interest is not limited to where she live

or how many days she spends there and there is no restriction on her financial interest at her property. Counsel for the applicant, Randy Vitousek and applicant BJ Patel had no objections to the petition for standing. Planning Director Kern asked Ms. Cook how many days a year she resides on her property and Ms. Cook asked how that question was relevant. Mr. Kern stated he was trying to determine if her interest is distinguishable from the general public, and he reminded her that she is under oath. Ms. Cook responded that she spends 20-30 days at the property. Director Kern stated his objection was limited and took objection with those that do not live here intervening and stated that with reservations he will be silent. Ms. Cook responded that Director Kern's personal belief is not the law, and the law says, "the interest is clearly distinguishable from that of the general public". She stated that if he thinks her interest is not distinguishable from that of the general public because she does not live there, then he is in error. *[SEE YOUTUBE TIME STAMP 4:57:51]* Commissioner Au asked clarification from Ms. Cook about whether she rents her property and she clarified that she offers her unit for short-term rental and that the law does not limit her interest to personal or residential and that it can be financial. *[5:01:40]*

Action on Petition of Jana Cook (PL-CCH-2023-000019):

It was moved by Commissioner Kanuha to grant standing to petitioner Jana Cook as her interest is clearly distinguishable from that of the general public and seconded by Commissioner Au. *[SEE YOUTUBE TIMESTAMP 5:02:32]* In discussion Commissioner Au stated he opposed the motion he seconded. A roll call vote was taken, and the motion did not carry with two ayes (Kanuha and DeFranco) and three noes (Au, Dela Cruz, and Paishon-Duarte) to grant standing to petitioner Jana Cook. Ms. Cook commented that she will see the commission in court. *[SEE YOUTUBE TIMESTAMP 5:03:17]*

It was subsequently moved by Commissioner Au to deny standing to petitioner Jana Cook as her interest is clearly not distinguishable from that of the general public and seconded by Commissioner Dela Cruz. *[SEE YOUTUBE TIMESTAMP 5:04:54]* In discussion Commissioner Kanuha stated she does not live here full-time, but she is a homeowner adjacent to the property and standing should be granted. Chairperson DeFranco concurred as the previous petitioner was granted standing.

At 2:38 p.m. it was moved by Commissioner Au and seconded by Commissioner Paishon-Duarte 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 5:07:39]* The Commission went into executive session at 2:40 p.m. At 2:48 p.m. it was moved by Chairperson DeFranco and seconded by Commissioner Au that the Commission go out of executive session. A voice vote was taken, and the motion carried all in favor.

Chairperson DeFranco called the open hearing back to order at 2:53 p.m. *[SEE YOUTUBE TIMESTAMP 5:23:07]* She stated the Commission went into executive session to seek legal advice from Counsel and had the applicant restate their names for the record. Randy Vitousek, attorney for the applicant and BJ Patel, the applicant. Commissioner Au withdrew his motion to deny standing for petitioner, Jana Cook and seconded by Commissioner Dela Cruz. *[SEE YOUTUBE TIMESTAMP 5:24:13]*

It was then moved by Commissioner Kanuha to grant standing for petitioner, Jana Cook and seconded by Commissioner Paishon-Duarte. *[SEE YOUTUBE TIMESTAMP 5:24:45]* In discussion Commissioner Au stated he still does not believe the petitioner has standing and will be voting no. Commissioner Paishon-Duarte stated after further discussion and clarification by Counsel she understands the petitioner does have standing. Commissioner Dela Cruz also concurred with Commissioner Paishon-Duarte's comments and thanked counsel for the legal expertise. A roll call vote was taken, and the motion carried with four ayes (Kanuha, Paishon-Duarte, Dela Cruz, and DeFranco) and one no (Au) and standing was granted to petitioner, Jana Cook. *[SEE YOUTUBE TIMESTAMP 5:25:57]*

PETITION OF JUDITH RUFFNER & ERIC SCHINDWOLF (PL-CCH-2024-000021)

The Commission took up this item at 2:57 p.m. with approximately nine public members in the audience. *[SEE YOUTUBE TIME STAMP 5:26:35]* The petitioners, Judith Ruffner and Eric Schindwolf were on Zoom, the Planning Director Zendo Kern, and Randy Vitousek, Counsel for the Applicant and BJ Patel the Applicant were at the testifier table. The petitioners were asked to explain why standing should be granted according to the criteria in Rule 4-6(b). Mr. Schindwolf stated they are uniquely impacted both in terms of quality of life and value of property in terms on the resale value or rental value as a Short-Term Vacation Rental (STVR). Their property is on the ground floor right across the street of the proposed project. On behalf of the applicant, Randy Vitousek stated with reservations there is no opposition to the petition. Planning Director Kern asked the petitioners if they short-term vacation rental the property when they are not using it. They responded that they do rent it on a short-term basis. Director Kern did not object to grant standing with reservations. Commissioner Au asked the petitioners how many parking stalls they have, and the petitioners responded that they have no assigned parking spaces. The petitioner stated concerns with the height of the structure and its effect on the value of their property. *[SEE YOUTUBE TIMESTAMP 5:27:12]*

Action on Petition of Judith Ruffner & Eric Schindwolf:

It was moved by Commissioner Paishon Duarte to grant standing to petitioner Judith Ruffner and Eric Schindwolf based on the record they had established and seconded by Commissioner Dela Cruz. *[SEE YOUTUBE TIMESTAMP 5:31:37]* A roll call vote was taken, and the motion carried with four ayes (Paishon-Duarte, Dela Cruz, Kanuha, and DeFranco) and one no (Au) to grant standing to petitioners Judith Ruffner and Eric Schindwolf. *[SEE YOUTUBE TIMESTAMP 5:32:04]*

It was moved by Commissioner Au that the Commission hire a hearing's officer to conduct the contested hearings on the application and to continue the hearing for the parties to complete mediation and it was seconded by Commissioner Kanuha. *[SEE YOUTUBE TIMESTAMP 5:33:32]*

Commissioner Au amended his motion for the Commission to hire a hearing's officer to conduct the contested case hearings for the three (3) petitioners. *[SEE YOUTUBE TIMESTAMP 5:35:06]* A roll call vote was taken, and the motion carried with five ayes (Au, Kanuha, Dela Cruz, Paishon-Duarte, and DeFranco), and no noes. *[SEE YOUTUBE TIMESTAMP 5:35:23]*

It was moved by Commissioner Au and seconded by Commissioner Paishon-Duarte for the parties to participate in mediation. *[SEE YOUTUBE TIMESTAMP 5:35:54]* Commissioner Au inquired on the cost and the average time it will take for mediation. Deputy Corporation Counsel Tiapula stated the process for mediation. Ms. Jackson further clarified an email will be sent to all parties, the three intervenors, the applicant, and the Planning Department and their representative and within the email a list of mediators will be provided. All parties will then work together to agree on a selection of one mediator and if an agreement is not made it will then return to the Planning Commission to select a mediator. Ms. Jackson also mentioned the County bears the cost for mediation and the cost varies from \$3,000.00 up to \$15,000.00 depending on the complexity of the case and does not include the contested case hearing. She stated money is budgeted for a hearings officer and contested case hearings are more expensive than mediation at a cost from \$15,000.00 up to \$40,000.00. If mediation is successful, typically the intervenors would withdraw the petition for standing in a contested case hearing and the matter will then return back to the Planning Commission. But if mediation fails then it would go into a contested case hearing with the hearings officer who makes a recommendation report to the Planning Commission and the matter is heard with the hearings officer's recommendation, listen to testimony, and make the decision to approve or deny the permit. In response to duration of time for mediation it was mentioned it could take at least 6 months to up to 2 years and contested case hearing could take longer. *[SEE YOUTUBE TIMESTAMP 5:36:22]*

Ms. Jackson requested clarification on the motion as mediation is a given and a motion was made to defer the hearing to allow the parties time to participate in mediation. *[SEE YOUTUBE TIMESTAMP 5:39:46]* Commissioner Au confirmed that was his motion and it was a motion to continue so the parties will be able to participate in mediation. A roll call vote was taken, and the motion carried with five ayes (Au, Kanuha, Dela Cruz, Paishon-Duarte, and DeFranco), and no noes. *[SEE YOUTUBE TIMESTAMP 5:40:41]*

Commissioner Dela Cruz requested to be excused at 3:11 p.m. and it was granted by Chairperson DeFranco. *[SEE YOUTUBE TIMESTAMP 5:41:46]*

5. APPLICANT: HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION (PL-REZ-2023-000054/AMEND REZ 2009-000112)

Application for a 5-year time extension to Condition C (Final Subdivision Approval) of Ordinance No. 10-101, which reclassified approximately 18.38 acres of land from an Agricultural 20-acre (A-20a) to a Single Family Residential-15,000 square foot (RS-15), Single Family Residential-10,000 square foot (RS-10), Single Family Residential-7,500 square foot (RS-7.5) and Open zoning districts. The property is situated along the north (makai) side of the Akoni Pule Highway approximately 600 feet west of the Kohala High and Elementary School complex, Pāhoa, North Kohala, Hawai'i, TMK: (3) 5-5-019: 025 and 027.

The Commission took up this item at 3:12 p.m. with four public members in the audience. *[SEE YOUTUBE TIMESTAMP 5:44:46]*

Staff presentation by Jessica Andrews *[SEE YOUTUBE TIMESTAMP 5:43:42]*

Applicant presentation Keith Kato *[SEE YOUTUBE TIMESTAMP 5:49:37]*

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

Action: It was moved by Commissioner Kanuha and seconded by Commissioner Paishon-Duarte that a favorable recommendation be forwarded to the County Council on the application for Change of Zone No. PL-REZ-2023-000054 based on the Planning Director's recommendation. *[SEE YOUTUBE TIMESTAMP 5:52:27]* A roll call vote was taken, and the motion carried with five ayes (Kanuha, Paishon-Duarte, Au, and DeFranco), no noes and one excused (Dela Cruz). *[SEE YOUTUBE TIMESTAMP 5:53:32]*

This hearing ended at 3:24 p.m.

PLANNING DIRECTOR'S REPORT *[SEE YOUTUBE TIMESTAMP 5:54:08]*.

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

At 3:24 p.m. Chairperson DeFranco introduced this item and stated the Short-Form Assessment Log and the SMA Assessment Log were emailed to the Commissioners. Commissioner Au asked for clarification on a particular SMA project listed in the October log for \$150 million value and then two months later it is at \$350 million for Black Sand Beach. Planner Alex Roy answered the project estimate had changed based on the applicant's meeting with the community. The applicant had an idea, and the idea was modified. *[SEE YOUTUBE TIMESTAMP 5:59:25]*

ELECTION OF OFFICERS FOR 2024

At 3:31 p.m. Chairperson DeFranco opened the floor for nomination for chairperson for 2024. Commissioner Paishon-Duarte made a motion to nominate Chairperson DeFranco to continue as Chairperson and the motion was seconded by Commissioner Kanuha. There were no other nominations, and a voice vote was taken, and it was approved unanimously for Chairperson DeFranco to continue as Chairperson. *[SEE YOUTUBE TIMESTAMP 6:00:49]*

Chairperson DeFranco made a motion to nominate Commissioner Paishon-Duarte for Vice-Chair and seconded by Commissioner Kanuha. There were no other nominations, and a voice vote was taken, and it was approved unanimously for Commissioner Paishon-Duarte to continue as Vice-Chairperson. *[SEE YOUTUBE TIMESTAMP 6:01:33]*

AGENDA ITEMS FOR NEXT MEETING *[SEE YOUTUBE TIMESTAMP 6:01:52]*

At 3:32 p.m. Chairperson DeFranco introduced this item. Chairperson DeFranco suggested a refresher course regarding the Special Management Area (SMA) criteria for the new and old Commissioners. Planning Program Manager Maija Jackson answered a SMA training with the County and State is done every two years and the last one was done back in 2022 and an updated SMA training can be done at a near future hearing. She asked to defer the request for the training to June. Commissioner Kanuha made a suggestion to have the SMA literature readily

available for the public, so they are aware of the criteria for upcoming SMA applications. Ms. Jackson mentioned that the Planning Department website has a web page related to the SMA rules and regulations where the public has access to with additional information provided by the State Office of Planning and Sustainability guidebook.

ANNOUNCEMENTS *[SEE YOUTUBE TIMESTAMP 6:08:57]*

Planning Program Manager, Maija Jackson stated there are four (4) items tentatively scheduled for the March 21st meeting and anticipates the meeting to go all day. Ms. Jackson gave an update on prospective Commissioners nominated by Mayor Roth. The mayor had submitted two (2) nominations. The first, Roger Kaiwi who has a career in coffee farming and received a favorable recommendation at the Planning Committee and will be heard in March by the full Council. She stated if he is confirmed he would fill the At-Large South Kona seat that Michael Vitousek vacated. The second nomination is Brian Kangas who is the owner of Kind Homes, a General Contractor in North Kohala and his nomination will be heard at Planning Committee on March 5th. Then he would need to be heard by full Council. Ms. Jackson mentioned should these 2 nominations be confirmed they will likely be able to participate in April.

Lastly, Ms. Jackson stated the County Council has forwarded to the Planning Commission's three (3) bills to amend the County Code. One bill relating to the Transient Accommodation Rental (TAR) which is the next step onto the Short-Term Vacation Rental (STVR) bill which occurred a few years ago. The two (2) additional bills relates to Bed and Breakfast Establishments and 'Ohana Dwelling or Accessory Dwelling Units. She stated that the Background and Recommendation reports will be provided prior to the hearing and links to review the bills in advance. It was mentioned the bills are tentatively scheduled on April 4th for the Windward Planning Commission and April 18th for the Leeward Planning Commission. Commissioner Kanuha requested for the materials on the bills sooner than later and Ms. Jackson confirmed the links will be provided. *[SEE YOUTUBE TIMESTAMP 6:10:42]*

Commissioner Au requested an update on the General Plan. Planning Director Kern answered the public comment period has been extended to April 1st and a document on the rationale and justification for each of the policies is on the Planning Department website. He stated once the public comment period ends, all the comments will be reviewed and adjustments will be made if it is needed to the plan and then it will go to both Commissions, possibly later in the year. Chairperson DeFranco showed her appreciation to all the Commissioners being present at the hearing today and stated to provide advance notice if you are unable to attend the hearing. Ms. Jackson also showed her appreciation for the Commissioners attending the special hearing today. *[SEE YOUTUBE TIMESTAMP 6:12:10]*

ADJOURNMENT *[SEE YOUTUBE TIMESTAMP 6:14:05]*

There being no further business, it was moved by Commissioner Au and seconded by Commissioner Paishon-Duarte that the meeting be adjourned. Chairperson DeFranco adjourned the meeting at 3:44 p.m.

Respectfully submitted,

Melissa Dacayanan-Salvador
Melissa Dacayanan-Salvador (Jun 21, 2024 20:10 HST)

Melissa Dacayanan-Salvador
Secretary

ATTEST:

Barbara DeFranco
Barbara DeFranco (Jun 22, 2024 18:59 HST)

Barbara DeFranco, Chairperson
Leeward Planning Commission