

LEEWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

HEARING TRANSCRIPT
APRIL 17, 2025

A regularly advertised hearing on **PLANNING DIRECTOR'S REPORT** was heard at 11:49 a.m. in the West Hawai'i Civic Center, Council Chambers, Building A, 74-5044 Ane Keohokālole Highway, Kailua-Kona, Hawai'i, with Chair Dean Au presiding.

COMMISSIONERS PRESENT: Dean Au (Chair), Donna "Kinuko" Noborikawa (Vice Chair), Barbara DeFranco, Michael Dela Cruz, and Armando Rodriguez.

COMMISSIONERS ABSENT AND EXCUSED: Clement "CJ" Kanuha III.

ALSO IN ATTENDANCE: Suzanna Tiapula, Esq. (Deputy Corporation Counsel to the Commission), Jeffrey Darrow (Planning Director), and Kelsie Chang (Commission Secretary).

And approximately 2 public members in the audience.

PLANNING DIRECTOR'S REPORT

Report on Special Management Area (SMA) determinations and minor permits issued by the Planning Director for December 2024, January 2025, February 2025, and March 2025.

Secretary's Note: [indecipherable] indicates that there were technical and/or internet difficulties, which made the conversation inaudible.

The following is when the agenda item was called at the Leeward Planning Commission hearing on April 17, 2025. [SEE YOUTUBE TIMESTAMP 02:16:44]

YouTube: https://www.youtube.com/live/jzqGm7AxZyY?si=-edHY_yqtmhMser&t=8204

AU: We have planning director reports. Report on special management area determinations and minor permits issued by the planning director for December 2024, January 2025, February 2025, and March 2025. The SMA report for December, January, February, and March was distributed via email. Commissioner's, do you have any questions on the SMA report for staff? Please just take your time and go through them and and just uh address me if you have any concern.

DEFRANCO: Hello.

AU: Sorry, Commissioner DeFranco.

DEFRANCO: I'm just...I'm glad to see that uh Kona Magic Sands is coming up for repairs. I'm just...is...is that the park is...is that Aloa? What...what...what is that?

AU: Uh, Director Darrow?

DARROW: This is the uh apartment complex that's right next to the uh Kona Magic Sands uh beach park, I mean I'm sorry, Magic Sands Beach Park um they've had uh damage to their um seawall and so they're asking for repairs to the damaged areas.

DEFRANCO: Thank you

AU: Um, do we have any testifiers for this agenda item online or in person?

JACKSON: None in person Chair.

ZOOM HOST: We have one testifier online, Claudia Rohr.

AU: Okay, um I just want to remind the testifier that you need to uh um identify which uh item that you are testifying on and only that item can be testified on. Um, Ms. Rohr.

ROHR: Yes, uh thank you. I'm testifying on PL-SAA-2025 000280. The planning department uh exempted uh construction at a transient uh...uh STVR that I've been complaining about since...

AU: Uh, Ms. Rohr, excuse me, excuse me, can you please restate the number um uh.

ROHR: PL-SAA-2025-000280.

AU: Okay, thank you, Ms. Rohr. Can you just give us a moment to look for it. Um, it is on the March 2025 report.

ROHR: For 331.

AU: And it's in the blue line-item, line-item number two. Thank you, Ms. Rohr...

ROHR: I'm not looking at it.

AU: For clarifying that, we just want to make sure that we're looking at the correct one that you are testifying on. So, please go ahead, you have three minutes. Thank you.

ROHR: The planning department exempted uh construction at this STVR that increases the building envelope and the uh space for um uh gatherings. And this place already has an issue with hosting 12 people without asking if they're a family. And they get so many cars in there they have to back out onto Oeoe Street and it's a big mess. Anyway um after uh this was wrongfully granted under the theory it was a single family residence but, after May

3...May...May 3rd 2024, the effective date of act 17 and the changes to HRS 46-4A, the director and the planning department no longer have the authority to provide the SMA exemption available for single family residences to buildings and premises with transient accommodation uses under strict statutory interpretation. Construction...construction to existing buildings or premises used for transient accommodations that add bedrooms or increase the gathering capacity of the transient accommodation increase that increases the density or intensity of use of the land and are included in the definition of development. The building and premises used for transient accommodations at 14 Oeoe Street, is a wrongfully certified nonconforming use. No family lives there and the owner does not regulate that only a family can rent the premises. I can prove that now Jeff, I signed up to rent the...the transient van...uh vacation rental at 14 Oeoe and the one...

ZOOM HOST: You have 30 seconds left.

ROHR: For 12 of my husband's fraternity brothers, and I said that they were all arriving at different times, and I did also rented the um house next door for 16 of my husband's fraternity brothers and notify them that they'd all be arriving at different times which actually is circumstantial evidence that this owner uses an AI program.

ZOOM HOST: You're three minutes are finished. Thank you for your testimony.

ROHR: I'm okay...Anyway this was...Jeff should meet with me to resolve this.

AU: Okay. Thank you, Ms. Rohr. Thank you for testimony, we have heard you.

ROHR: Thank you.

AU: Thank you, Ms. Rohr, for your testimony. Um, okay at this time we will close public testimony. Uh commissioners, do you have any further questions for the department regarding these four months of SMA reports? No, okay. Um oh sorry, Vice Chair Noborikawa?

NOBORIKAWA: Uh, thank you, Chair Au. So, I have a question regarding this uh project that Ms. Rohr just testified on. Is this something that the Leeward Planning Commission can do anything about since it is in the Windward Planning Commission's purview, area of purview?

AU: Planning Director, would you like to take that question?

DARROW: Sure. Thank you, Chair. Thank you, Vice Chair. This uh any of these particular um permits or...or requests SMA requests can be discussed at...at each of the hearings. In regards to action, this particular if it was to come before the planning commission it would need to go before the Windward Planning Commission. In this particular case the applicant submitted a uh special management area assessment application although they

were located uh well with well uh inland from the shoreline. Um, our rules say that if um you are located along the shoreline and you're doing a single family dwelling you would then submit an assessment. In the past single-family dwellings along the shoreline were exempt um regardless of cost or size. Then at a particular time they ended up saying that they were exempt um as long as they were not over 7,500 square ft the actual dwelling itself. At this time the law has changed again, and it says uh construction or reconstruction of a single-family residence that is less than 7,500 square ft of floor area is not situated on a shoreline parcel or a parcel that is impacted by waves storm surges high tide or shoreline erosion and is not part of a larger development. This section falls under what development is not. And so, if a...um a homeowner comes in and they want to uh construct a dwelling and they're located uh inland away from the shoreline not on a shoreline parcel we they would just go straight to a building permit. When it was our review, we have what's called a short form assessment that we ended up we do it in-house. It's nothing the applicant does, and we will exempt uh it based on this exemption. Additionally, uh under 205 A-22 number two subsection uh F it says repair maintenance or interior alterations to ex existing structures. Um, A, is construction or reconstruction of single-family dwellings. So, basically it covers the dwelling and improvements. Um, it doesn't trigger uh the need for a SMA permit as long as it meets this exemption. I'm not sure what Ms. Rohr is referring to regarding the transient uh accommodations. There was quite a number of dwellings that are in the SMA that are either registered short-term vacation rentals or they have nonconforming use certificates. They didn't require SMA permits So I'm not sure where that information is coming from So again, we look at it uh clearly from 205A in regards to the allowances for exemptions. Thank you.

AU: Vice Chair Noborikawa?

NOBORIKAWA: Uh, thank you, Director Darrow. Um so, I'm...I to understand that the short answer is no, The Leeward Planning Commission would not be looking at this project because it is in a different side of the island.

DARROW: Well, it's...it's not that they wouldn't, I mean this application didn't trigger a permit that would go before the planning commission. If...if it is an exempt action or if it triggers a minor permit, uh which is normally uh something that's not...that is considered development but, the cost or um is under 500,000 or if it does not have a significant um adverse environmental ecological impact, then it would remain the authority has been given from the commission to the department to um take care of those types of actions and that's why we take care of it and we present the logs showing the planning commission what the department has done with the authority that was given to us from the commissions.

NOBORIKAWA: Thank you.

AU: Thank you very much. Do we have any more...uh Commissioner DeFranco?

DEFranco: Yes, this is for Director Darrow. So, I know when we were looking at the STVRs and bed and breakfast and we did we did a lot of research. There was some thought and conversation about creating a body of or a sub a...a group or a position in the planning department that would respond to complaints or look at these things and...and they were going to be funded by some of the money coming in. Is...is that still uh...it is.

DARROW: Chair.

AU: Go ahead Deputy uh Director Darrow.

DARROW: Thank you, uh, Commissioner DeFranco. So, what happened was when um Bill 121...I'm sorry, not Bill 121, Bill 108 passed, um I believe it was in 2019 um it changed the zoning code and put in the whole section of 25-4-16 relating to short-term vacation rentals. As part of that it also includes um the monies that come in create an account for enforcement and for staffing and so that has been utilized the staff of currently seven positions. Some are planners, some are clerks, some are um inspectors, and they work on um STVR types of issues. As I mentioned earlier tonight there's a webinar that's going to be uh launching the next phase of this which is to try to regulate hosted rentals. Um, possibly a new type of registration um and hosting platforms. Uh, so it...it was similar to Bill 121, but they're taking a different approach. Uh, so it should be interesting to see how that plays out. But at that point it probably will relook at staffing again and enforcement because it's going to generate um another whole section of uh short-term vacation rentals that need to be monitored and enforced. Thank you.

AU: Commissioner.... And...DeFranco?

DEFRANCO: Do you know what time the webinar is by chance?

DARROW: I believe it begins at 5:30 and the best way to get the information is to go to www.hawawaiountar.com and should have a link to the webinar as well as any information uh that would be relative to the webinar.

DEFRANCO: Sorry. Hawai'i County.tar or just Hawaii tar.com

DARROW: .com

DEFRANCO: Thank you.

AU: Thank you, Director Darrow, for that information. So, again the webinar is at 5:30 p.m. tonight if you're interested. Do we have any more questions regarding the SMA report for the four months? If no questions or concerns uh, I want to ask the commissioners, do you have any matters that you would like to see a judge for the next meeting.

This hearing item ended at 12:04 p.m.

Respectfully submitted,

Kelsie Chang

Kelsie Chang (May 16, 2025 14:08 HST)

Kelsie Chang

Secretary

ATTEST:

Dean Au

Dean Au (May 20, 2025 14:33 HST)

Dean Au, Chairperson

Leeward Planning Commission