LEEWARD PLANNING COMMISSION
COUNTY OF HAWAIʻI

DRAFT MINUTES
APRIL 23, 2026

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The Leeward Planning Commission met in regular session on April 23, 2026, at 9:30 a.m. in the West Hawaiʻi Civic Center, Council Chambers, Building A, 74-5044 Ane Keohokālole Highway, Kailua-Kona, Hawaiʻi, with Chair Dean Au presiding. This meeting was streamed live on YouTube.

COMMISSIONERS PRESENT: Dean Au (Chair), Donna "Kinuko" Noborikawa (Vice Chair), Rebecca "Kawehi" Inaba, Alexandria "Lexie" Ayers (left at 1:28 p.m.), and Shawn "Kele" Makaiau.

COMMISSIONERS ABSENT AND EXCUSED: Armando Rodriguez.

ALSO PRESENT: William "Bill" Jarrett, Esq. (Deputy Corporation Counsel to the Commission), Jeffrey Darrow (Planning Director), and Planning Department staff.

Approximately fourteen members of the public were in the audience.

At 9:34 a.m. Chair Au called for a recess due to YouTube and Zoom difficulties and the hearing reconvened at 9:38 a.m. *[SEE YOUTUBE TIMESTAMP 01:15]*

<u>STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS</u> *[SEE YOUTUBE TIMESTAMP 01:38]*

At 9:38 a.m. the Commission took up item number one with approximately one member of the public providing testimony via zoom in the Council Chambers. The speaker testified in opposition to the request to remove the Kuakini wall in order to rezone the easement area. The speaker expressed concerns regarding the cultural preservation of the existing wall, the sacred bones imbedded in the wall, the neighborhood character, and the potential impacts the rezoning may have on the surrounding community and properties.

APPROVAL OF MINUTES *[SEE YOUTUBE TIMESTAMP 07:32]*

Vice Chair Noborikawa moved to approve the minutes of the December 18, 2025, meeting, and seconded by Commissioner Inaba. A roll call vote was taken, and the motion was approved with five ayes (Noborikawa, Inaba, Au, Ayers, Makaiau), no noes, and one absent and excused (Rodriguez).

NEW BUSINESS

1. APPLICANT: PLANNING DIRECTOR (ANDY/KERRY XIE TRUST, WEI LIN ZHAO, EULIX CHIU; FANG/HAN TR, FRED MING LI- FORMERLY T&M PROPERTIES) (PL-PDI-2026-000015/ REZ 17-000220) (PL-PDI-2026-000015)
[SEE YOUTUBE TIMESTAMP 08:45]
The Planning Director has initiated the repeal of Change of Zone Ordinance Nos. 19-38, 09-50, 09-49, 06-138, 06-137, 95-118, 92-36, 90-10, 86-49, 533 (1980), and 594 (1973), amendment to Section 25-8-3 (North Kona Zone Map) and 25-8 5 (Kailua Urban Zone Map), Chapter 25, Article 8, of the Hawaiʻi County Code 1983 (2016 edition, as amended), which will revert the current zoning of 3.331 acres from Village Commercial-7,500 square feet (CV-7.5) to its original Double Family Residential-3,750 square feet (RD-3.75) and 3.227 acres from Multiple Family Residential-2,500 square feet (RM-2.5) to its original Unplanned (Agricultural-5 acres) zoning district. The subject parcel is located on the north side of Hualālai Road, approximately 1,000 feet east of its intersection with Kuakini Highway, Hienaloli 4th & 5th, North Kona, Hawaiʻi, TMK: 7-5-010:013.

The Commission considered this item at 9:46 a.m. with approximately fourteen members of the public in attendance.

Staff presentation was given by Jessica Andrews of the Planning Department.

Chair Au opened the floor to allow the Commission to ask staff questions.

Vice Chair Noborikawa asked Ms. Andrews representing the Planning Department if the request is for a down zone to reduce the residential units currently allowed from 172 units to 76 with ADUs. Ms. Andrews confirmed the request is a down zone to the original zoning. Vice Chair Noborikawa asked if there will be future time for testifiers and the State Historic Preservation Division to address their concerns regarding the potential proposal for 38 double family residential units that was mentioned in the presentation. Ms Andrews confirmed testifiers will have the opportunity when they apply for a building project as long as it's permitted use within the zoning, and if the older zoning is established. When they submit the grading permit the State Historic Preservation Division gets involved.

Mr. Richard Weelock, the applicant's representative, and Andy Xie the applicant, provided a brief presentation and were present to answer questions. The proposed units were going to be affordable housing if granted in the down zone. Mr. Weelock stated there are no units being proposed at this time, with no luxury or affordable requirement because it's a down zone. Nor will the surrounding neighborhood support luxury units.

Chair Au opened the floor for public testimony.

There individuals provided testimony via Zoom:

1. Simi McMichael

Action: Vice Chair Noborikawa moved a favorable recommendation on PL-PDI-2026-000015, Rez 17-000220 be forwarded to the County Council on the Planning Director's request to repeal change of zone ordinances number 19-38, 09-50, 09-49, 06-138, 06-137, 95-1118, 92-36, 90-10, 86-49, 533 (1980), and 594 (1973) which will revert the current zoning of 3.31 acres from Village Commercial-7,500 square feet (CV 7.5) to its original Double-Family Residential-3,750 square feet (RD 3.75) and 3.227 acres from Multiple-Family Residential 2,500 square feet (RM 2.5) to its original Unplanned (Agricultural-5 acres) zoning district based on the Planning Director's recommendation and conditions of approval which shall be adopted. Commissioner Inaba seconded the motion. *[SEE YOUTUBE TIMESTAMP 29:38]*

Vice Chair Noborikawa pointed out she voted in favor of the repeal because of the change of ordinances. Although, testimony has been heard about cultural concerns that have to do with the Kuakini wall. She asked Ms. Andrews if the reversion goes through, and the landowner wants to submit an application for a project that is a permitted use under the existing zoning, does that mean it will not return to the planning commission for a hearing, and will go through the standard process of a grading permit, building permits, plan approval and so forth. Ms. Andrews confirmed it will not be returned to the planning commission for a hearing. Also, she stated the grading permit process requires the State Historic Preservation Division to be involved.

Chair Au asked the applicant and its representative if their client reached out to the community and any associations in the area for feedback. The current client did not, but the applicant and representative said the previous landowner made attempts to get support for a 104-unit elderly care unit facility which was previously approved in which there was community support, and some opposing. Due to COVID and the passing of the project sponsor there was no interest in the project. As a result, the property was sold to the new landowner, however they don't do elderly care facilities just housing. In goal is to have the zoning and get a permit, then reach to the community to get a consensus whether to offer an elderly care facility on the upper on the 7,500-foot lots up above, and the vacant lots across the street with 38–39-unit middle class incoming housing. Chair Au expressed his concern about the dangers of driving in that area due to the winding road, it's an inappropriate development for the area and does support the motion.

Commissioner Inaba supports the motion as well due to the large concern from the State Historical Preservation Division and the cultural aspects. The entire scope will be reviewed by the appropriate departments when submissions are received for development.

Ms. Andrews initiated taking a vote on the motion moved by Vice Chair Noborikawa and seconded by Commissioner Inaba. A roll call vote was taken, and the motion was passed with five ayes (Noborikawa, Inaba, Ayers, Makaiau, Au), no noes, and one absent and excused (Rodriguez). *[SEE YOUTUBE TIMESTAMP 37:47]*

Chair Au informed Ms. Andrews of the Planning Department that she will be notified in writing to be present at the County Council meeting.

The hearing on this item concluded at 10:15 a.m.

Chairperson Au recused himself from the number two item of the agenda since comments were received from his employer, Hawaii Regional Council of Carpenters. Vice Chair Noborikawa will be acting Chair. *[SEE YOUTUBE TIMESTAMP 37:47]*

2. **APPLICANT: DHL MAHI SITE M LLC and DHL MAHI PROPCO LLC (PL-SMA-2026-000087/AMEND SMA 07-019)** *[SEE YOUTUBE TIMESTAMP 40:23]*
Application to amend Special Management Area (SMA) Use Permit No. 07-019 for a 10-year time extension to Condition No. 2 (Complete Construction); reduce the 2 density of the Mauna Lani Site M master planned development from 1,207 Units (691 Residential & 516 Hotel) to 925 Units (551 Residential & 374 Hotel); remove proposed golf course and conference center use; increase preserved open space; and construct an emergency evacuation road. The project is situated within the Special Management Area and is located approximately 0.75 miles west of Queen Ka‘ahumanu Highway, approximately 0.4 miles north of Mauna Lani Drive, Mauna Lani Resort, South Kohala, Hawai'i, TMKs: (3) 6-8-001:050; 052-055, (3) 6-8 022:010.

The commission considered this item at 10:17 a.m., with approximately twelve members of the public present.

Commissioner Inaba moves the commission enter into executive session to consult with the attorney regarding questions and issues pertaining to the commission's powers, duties, privileges, immunities, and liabilities pursuant to Hawai‘i Revised Statute §92-5 specifically legal issues concerning the criteria to establish standing to intervene in this matter. *[SEE YOUTUBE TIMESTAMP 42:19]* Commissioner Ayers seconded the request. A roll call vote was taken, and the motion was passed with four ayes (Inaba, Ayers, Makaiau, Noborikawa), no noes, one recused (Au) and one absent and excused (Rodriguez). *[SEE YOUTUBE TIMESTAMP 43:11]*

The Commission entered executive session at 10:24 a.m.

Acting Chair Noborikawa brought the Leeward Planning Commission back from executive session at 11:11 a.m. She explained how the commission will proceed with this agenda item. First, to hear public testimony on the application. Second, ask two petitioners to explain what they believe meets the criteria to have standing in a contested case hearing. Third, the applicant and planning director will state any objections regarding the petitions for standing. Then the commission will decide to grant or deny standing. If standing is denied the commission will determine whether to hear this agenda today or at a future meeting. If standing is granted, the agenda item will be postponed allowing time for mediation between partners. If an agreement is reached the permit application will return to the commission for a decision and the public will again have the opportunity to testify at that time. If no agreement is reached during mediation a contested case hearing will occur. This is a trial-like process overseen by the presiding officer who will review the case and provide a recommendation to the commission based on the information presented and arguments made by the parties. Once a recommendation is presented the public will again have a chance to testify before the commission, and the commission makes the final decision.

Acting Chair Noborikawa opened the floor to allow the Commission to ask staff questions.

One individual provided in-person testimony and three via Zoom
1. Katherine Graves
2. Stephen Stimac
3. Michael Kleckner
4. Gregory Keller

Acting Chair Noborikawa closed the public testimony on this item.

Acting Chair Noborikawa states that the commission received two petitions for standing in the contested case hearing asked the Planning Department staff if both petitions filed by Villages at Mauna Lani AOAO and Pacific Resource Partnership were received in a timely manner. Planning staff confirmed both petitions were timely filed and provided to the commission. Acting Chair Noborikawa reminded the commission that the focus should be on why standing should not be granted, not on the merits of the application.

Mr. Jarrett William, County of Hawaii Corporation Counsel provides a brief presentation explaining he does not have a position or opinion either way regarding

Rule 4-5B that states in relevant part that if a timely request is filed, standing shall be granted. He does not know why it exists but explains it's just part of the procedure which is unique to the planning commission as it pertains to this item on the agenda.

PETITION OF VILLAGES AT MAUNA LANI ASSOCIATION OF APARTMENT OWNERS ("VILLAGES") *[SEE YOUTUBE TIMESTAMP 01:55:11]*

Mr. Tim Irons, the applicant's representative with Denton's US LLP representing the Villages at Mauna Lani Homeowners Association did a brief presentation.

Acting Chair Noborikawa opened the floor for questions from the Commissioners to the Applicant.

Commissioner Ayers asked Mr. Irons if there was a breach in contract in the original settlement between the developer and Villages at Mauna Lani AOAO. Mr. Irons responded, stating the original settlement agreement defined the project is and tied it into the Special Management Agreement application. What was agreed upon at that time was a specific project for that application, not a perpetual agreement for changes that occur in the future for different projects. Mr. Irons confirms the original settlement agreement was tied to the Special Management Agreement for the original project.

Commissioner Inaba asked Mr. Irons to state the items that have changed since the original agreement. Mr. Irons responded, stating the time period is a significant change. In addition, converting 100 bungalows into a four-story hotel increases the height restriction that was originally stated in the agreement. To add, eliminating facilities which include the conference center and golf course. Also, increasing the density on parcel 3A by use. Moreover, reducing the density on parcel 3B as a result increases the height restriction that was originally stated in the agreement. Mr. Irons is not sure what will replace the golf course, the landscape plan, nor was there information about the 1800 plus-on-site parking stalls.

Commissioner Ayers asked Mr. Irons to clarify the term" covered claims" due to its broad meaning that is stated in the settlement. Mr. Irons responded stating the term "covered claims" is defined and is tied in the original settlement and the SMA application that was under review. There is language at the bottom in the last paragraph which elaborates the "covered claims" meaning while specifying that time period when the settlement agreement was created. Mr. Irons pointed out that agreements use very broad language in terms of the release to start, then moves on to narrow down the release which is the topic at hand. The settlement agreement specifically identified what the project was at that time, and the tied SMA application. There are significant changes when comparing the original settlement agreement with the SMA application tied to the amendment application.

Commissioner Makaiau asked Mr. Irons if he is objecting to the amendment and how it will affect his client, the Villages of Mauna Lani AOAO. He confirmed objecting to the amendment because the construction must end by 2028. Mr. Irons cited in his petition whether it's reducing or modifying a project, the change in time creates a change in circumstances and in some respects, a new project.

Acting Chair Noborikawa asked Mr. Irons how are the interests of the Villages of Mauna Lani AOAO distinguishable from that of the general public. Mr. Irons responded, stating his clients would primarily be affected if they used the same infrastructure that included roadways, ingress and egress points, as well as water and sewer services impacted. Also, his client pays fees to the same organization that manages Mauna Lani Resort. In terms of the general public, they will not be taxed on higher fees nor suffer from increased traffic right at their door. Mr. Iron points out if another 1,500 to 2,000 people are added to the area significant impacts are going to happen for the surrounding community as opposed to the general public.

Acting Chair Noborikawa asked Mr. Irons how the impact would be different from the proposed amendment for the Villages at Mauna Lani AOAO as opposed to the original settlement agreement with the tied SMA application. Mr. Irons responded, stating that since the completion of the original project, new communities have been built within the resort since the last permit, each development has had greater impact on use of services. Changes in the visual impact going from bungalows to a hotel, a golf course look with open space to structure that is unknown at this time. Mr. Irons points out an extensive review must be done with the SMA application and/or amendment. The community has grown over time, the demand for services increased over time, the landscape has changed over time, that didn't exist originally.

Acting Chair Noborikawa asked Mr. Irons is the goal for the Villages of Mauna Lani AOAO to avoid the underlying permit or to block these amendments that are being proposed. Mr. Irons responded stating his client is not trying to do either, but merely to protect the Villages at Mauna Lani AOAO's interest with regards to this development. He pointed out if his client did nothing and the commission approved of the SMA amendment; one could argue that the settlement no longer applies.

Applicant Katherine Garson Representing Carlsmith Ball, along with Pat Fitzgerald representing the applicant to provide a brief presentation.

Acting Chair Noborikawa opened the floor for questions from the Commissioners to the Applicant.

Commissioner Inaba asked by way of your amendment, are you changing the underlying SMA permit. Ms. Garson responded, first, to ask for a 10-year extension and to build the emergency evacuation road, which is a condition of the original agreement. Second, the time frame to reduce the density, eliminate the golf courses, and conference center. Commissioner Inaba asked if circumstances changed though from the first permit and the agreement. Ms. Garson responded, "to the extent we have updated all of the studies which were included in the original study." For example, the TIR analyzed the resort at a full build out and covered this build out and this project.

Commissioner Ayer asked you believe the Villages at Mauna Lani AOAO do not have grounds to be standing in this hearing because you believe that you are not in breach of the original settlement. Ms. Gason responded, saying that is correct. The Villages at Mauna Lani AOAO waived their right to request standing in that settlement agreement. They released all of the claims, so there's no injury that they can point to. They can't distinguish themselves from the general public because they no longer have those claims.

Commissioner Inaba asked does the agreement changed with the amendment. Ms. Garson responded stating that there is no time limit with the agreement. She states that Mr. Fitzgerald is willing to comply with all of the terms in the settlement agreement, including building some road infrastructure that wouldn't be required today, and will comply with the settlement agreement.

Acting Chair Noborikawa opened the floor for questions from the Commissioners to the Planning Director.

Acting Chair Noborikawa asked Jeffery Darrow, Planning Director does the Planning Department oppose the petition and if so, why. Director Darrow responded, stating this is a unique situation involving an application and an association that's part of the area that involves the project. In terms of criteria for granting standing, it's very broad. From the perspective of the Planning Department, the one that we are looking at is the entrance of the AOAO clearly distinguishable from that of the general public, and the answer is yes. It is clearly distinguished from that of the general public, because they live in the area, they are part of Mauna Lani and will somehow be affected by this project. The Planning Commission and the Planning Department do not get involved in settlement agreements nor enforce it, which is something that is separate from this particular hearing. From the Planning Department perspective, if standing is granted, we go to mediation then a hearing. When Director Darrow met with both parties there was discussion making sure that there was communication to see if that was going to be an issue moving forward. The applicant did reach out and communicated, apparently there is still disconnect as far as an agreement. At this time, the Planning Department does not oppose granting standing. In this case, continued communication with both parties to resolve whatever issue there is with this agreement.

Acting Chair Noborikawa asked Director Darrow since the association was already granted standing in the prior underlying application, does that carry over to the amendment. Director Darrow responded, stating that is a separate hearing, and they had the ability to participate in a previously contested case, but there were an agreement and resolution. It seems like that may be what needs to happen at this point.

Action on Petition of Villages at Mauna Lani Association of Apartment Owners ("Villages"): Commissioner Inaba moved that the Villages at Mauna Lani Association Apartment Owners petition to intervene be granted based on the following criteria within the rules, which is number four, that even though they don't have an interest different than that of the public generally, that the proposed action will cause them actual or threatened injury in fact and Commissioner Ayers seconded the motion. *[SEE YOUTUBE TIMESTAMP 02:29:75]*

Acting Chair Noborikawa opened the floor for discussion and comments.

Commissioner Ayers states the contract language is broad, but there is clear language in the settlement.

A roll call vote was taken to grant standing to Villages at Mauna Lani Association of Apartment Owners. The motion carried with four ayes (Inaba, Ayers, Makaiau, Noborikawa), no noes, one recused (Au), and one absent and excused (Rodriguez). *[SEE YOUTUBE TIMESTAMP 02:31:34]*

Commissioner Makaiau moved a motion to defer to a contested case hearing, including mandatory mediation and seconded by Commissioner Ayers. *[SEE YOUTUBE TIMESTAMP 02:32:55]*

A roll call vote was taken for a motion to defer to a contested case hearing including mandatory mediation to Villages of Mauna Lani AOAO carried with four ayes (Makaiau, Ayers, Inaba, Noborikawa), no noes, one recused (Au) and one absence and excused (Rodriguez). *[SEE YOUTUBE TIMESTAMP 02:33:33]*

The hearing on this item concluded at 12:11 p.m. *[SEE YOUTUBE TIMESTAMP 02:33:47]*

At 12:11 p.m. Acting Chair Noborikawa called for a recess *[SEE YOUTUBE TIMESTAMP 02:33:52]* and the hearing convened at 12:16 p.m.*[SEE YOUTUBE TIMESTAMP 02:38:20]*.

<u>**PETITION OF PACIFIC RESOURCE PARTNERSHIP**</u> *[SEE YOUTUBE TIMESTAMP 02:39:22]*

Petitioner Abbey Holden, attorney for Pacific Resource Partnership via Zoom provided a presentation.

Acting Chari Noborikawa opened the floor for questions for questions from the Commissioners to the petitioner.

Acting Chair Noborikawa asked Ms. Holden what the impact would be on your members if the applicant was unable to mee the 2028 considering the size and financing of the project. Ms. Holden responded, stating potential increase/decrease in the jobs available and living wages. Impacts would determine if the project went forward or not. Currently, the issue is making sure the appropriate studies are done in a timely manner. Either way, there will be some form of impact, but it is unknown if it would be positive or negative.

Acting Chair Noborikawa asked Ms. Holden what the current relations are between Pacific Resource Partnership and the Hawaii Regional Council of Carpenters. Ms. Holden responded, stating PRP is a market recovery fund and represents the interest of union carpenters as well as contractors.

Acting Chair Noborikawa called Katherine Garson and Mr. Fitzgerald to the testifying table to answer questions.

Acting Chair Noborikawa asked Ms. Garson if she opposes the petition and if so, why. Ms. Garson responded, saying, yes, we do oppose the petition. PRP does not have standing because she could not identify the impact. The injury needs to be sufficiently described, and there is nothing which describes PRP from the general public. Without identifying what the impact is she can’t allege what injury PRP would have because of this action, and that’s fatal to the standing question.

Acting Chair Noborikawa called Director Darrow and Ms. Campbell to the testifying table to answer questions from the Commission.

Acting Chair Noborikawa asked Director Darrow if the Planning Department opposes the petition and if so, why. Director Darrow responded, stating he does recall one having to do with unions opposing a project or representatives of unions. However, in this case we look at the broad criteria, and the Planning Department is having a hard time finding nexus. If there was an agreed contract with this particular organization to get the project done by 2028 and now pushing it to 2038, we see something but that has not occurred. At this point, the Planning Department does not support this particular petition for standing.

Action on Petition of Pacific Resource Partnership: Commissioner Inaba moved that the Pacific Resource Partnership petition to intervene be denied for failing to meet the criteria for standing and seconded by Commissioner Ayers. *[SEE YOUTUBE TIMESTAMP 02:49:56]*

Acting Chair Noborikawa opened the floor for the Commission to have a discussion.

Commissioner Inaba agrees with the Planning Director's comments that PRP's testimony was lacking strength and nexus.

Commissioner Makaiau agrees with the Planning Director as well due to PRP's lack of standing. At the same time, having empathy for the trade union having immediate family members of contractors and a plumber. However, there is nothing to define how this group is individualized from the general public.

Acting Chair Noborikawa considers denying this. She addresses the answer that was given to the question, "what would the impact be?". The answer lacked logical support or distinct injury. In addition, the Hawaii Council of Carpenters are in support of this.

A roll call vote was taken for a motion to deny standing for failing to meet the criteria to Pacific Resource Partnership with four ayes (Inaba, Ayers, Makaiau, Noborikawa), no noes, one recused (Au) and one absence and excused (Rodriguez). The motion was carried unanimously *[SEE YOUTUBE TIMESTAMP 02:52:52]*

Acting Chair Noborikawa informs the petitioner they can appeal the Commissioner's decision since standing has been denied pursuant to Hawaiʻi Revised Statutes, Chapter 91-14. Since the Commission granted standing to the Villages of Mauna Lani AOAO, the Planning Commission Rule 4-6 requires all parties for this contested case to proceed to participate in good faith in mediation first before any contested case is heard. A mediator shall be selected jointly by the parties or appointed by the Commission if the parties fail to agree. The parties will be contacted by email from the Planning Department within one week to select a mediator and start the mediation process. The Planning Commission will determine who will conduct the contested hearing with the following options. (1) the Commission as a whole hears the contested hearing, for (2) the Commission designates one or more members to act as a hearing officer to conduct the hearing, or (3) Commission hires a hearing officer to conduct the hearing. Even if the hearing is conducted by a hearings officer and not by the Commission as a whole, the final decision on the application will be made by the public at the public hearing based on the case record and the hearing officer's recommendations.

At 12:33 p.m. Commissioner Inaba asked for a motion to go to executive session and seconded by Commissioner Ayers. *[SEE YOUTUBE TIMESTAMP 02:56:11]*

Corporation Counsel Jarret Williams asked to move on to add to the general public why the Planning Commission is going into executive session and what needs to be discussed. Commissioner Inaba responds, stating I move the Leeward Planning Commission as a whole move over to the executive session to discuss the actions that are in front of us to include whether the Planning Commission will take on the contested case or whether we'll name a hearing officer or defer it to a hearing office.

A roll call vote was taken for a motion to go into executive session and seconded by Commissioner Ayers with four ayes (Inaba, Ayers, Makaiau, Noborikawa), no noes, one recused (Au), and one absence and excused (Rodriguez). The motion was carried unanimously. *[SEE YOUTUBE TIMESTAMP 02:57:37]*

The Commission entered executive session at 12:35 p.m.

At 12:47 p.m. Acting Chair Noborikawa reconvened the hearing and noted that the Commission consulted with the corporation counsel regarding issues pertaining to the Commissioner's powers, duties, privileges, immunities and liabilities pursuant to Hawaii Revised Statutes 92-5 specifically regarding legal issues concerning the options available for resolution of the contested case hearing. Also, determine who will conduct the contested hearing with the following options.

Selection of Hearings Officer: *[SEE YOUTUBE TIMESTAMP 03:10:32]*
Commissioner Inaba moved a motion to move the contested case to be deferred to a hearings officer seconded by Commissioner Makaiau. A roll call vote was taken for a motion to move the contested case to be deferred to a hearing officer seconded by Commissioner Makaiau with four ayes (Inaba, Makaiau, Ayers, Noborikawa), no noes, one recused(Au), and one absence and excused (Rodriguez). The motion was carried unanimously. *[SEE YOUTUBE TIMESTAMP 03:11:02]*

At 12:51 Acting Chair Noborikawa called for a recess for lunch [SEE YOUTUBE TIMESTAMP 03:13:45] and the hearing reconvened at 1:28 p.m. with Chair Au presiding. [SEE YOUTUBE TIMESTAMP 03:51:01]

At 1:28 p.m. Chair Au called the meeting back to order and noted Commissioner Ayers was excused and left the meeting and quorum is still established. *[SEE YOUTUBE TIMESTAMP 03:50:58]*

3. Discussion of proposed amendment to Planning Commission's Rules of Practice and Procedure, Rule 1 regarding General Rules of the Commission. The Commission will discuss adding commissioner attendance standards to Rule 1. *[SEE YOUTUBE TIMESTAMP 03:51:46]*

At 1:29 p.m. the Commission addressed Item No. 3 with no members of the public present in the Council Chambers.

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

Planning Department Program Manager Maija Jackson provided a brief presentation on history at the joint meeting held in December 2025 to discuss adding the commissioner's attendance standards to rule (1).

Chair Au opened the floor to the Commission for question to the Planning Department.

Commissioner Inaba asked Ms. Jackson if both Leeward and Windward Planning Commission have to both agree to the adoption of rule (1) standards. Ms. Jackson responded and stated if Leeward wants to suggest an amendment, then that can be presented at the joint meeting. At the last meeting Windward decided not to adopt rule (1) standards, however if they were to adopt rule(1), they preferred the Maui County example.

Chair Au agrees with Windward's preference of the Maui County example that could benefit Leeward as well. Consideration of the Maui County example would provide verbiage to hold the Commission accountable if there are potential quorum issues. He noted that the Commission is a volunteer position and when things occur one may have to step aside from the volunteer position but are committed to the Commission. Chair Au adds that staff from Hilo come to Leeward meetings, and applicants and testifiers travel from in and out of state to attend hearings. When quorum is not met it wastes everyone's time.

Vice Chair Noborikawa feels that as volunteers of the Leeward Planning Commission guidelines are needed to state the importance and commitment the position requires. If the Maui County example is adopted and an individual is unable to make over 50% of the meetings over the 120-day period they can decide that the volunteer position is not a good fit. She supports adopting the Maui County example.

Commissioner Inaba noted that the Leeward Planning Commission is a great team of committed members who share strong rapport, communicate well, and consistently make every effort to attend all meetings. In addition, the planning staff that consistently hold the commission accountable with coordinating meetings, confirming attendance, and sharing constant updates if changes occur. She emphasizes how crucial this is among the commission, the planning staff, and most importantly the community we serve to ensure a successful meeting.

Chair Au recognized the County of Hawaii staff and all that they do to support the Leeward Planning Commission. Their preparation, coordination, communication, and attention to detail are essential to ensure that our meetings run smoothly and successfully. He appreciates their hard work, professionalism, and continued dedication. In addition, he credits the current administration by nominating individuals that are a good fit for the commission position.

Commissioner Makaiau shared as a newest member to the Commission, she agrees with adopting the Maui County example, because she would not have agreed to accept the position if she wasn't willing to attend more than 50% of the time. The dedication time to attend meetings is very minimal.

Chair Au asked Ms. Jackson how we proceed to adopt the Maui standard. Ms. Jackson responded, stating she can add the Maui standard in the final draft rule for the Leeward and Winward Planning Commissions to review before meeting jointly. Then, the Joint Commission can discuss how to proceed with the adoption of the Maui standard.

Ms. Jackson asks Corporation Council, Jarret William, if a motion needs to occur to add the adoption to the proposed rule. Jarret responds, stating yes and defer it to further discussion to the next joint planning commission meeting on rule making.

Chair Au opens the floor to discuss the language of the Maui County Planning Commission rule 12-201-28. He asks the commission if all of the verbiage of the rule suffices the commission, and if so, can we adopt the same language except for changing the word Maui to Hawaii.

Vice Chair Noborikawa agrees with all of the verbiage and the revision of the County name to Hawaii.

Chair Au informs Ms. Jackson that changing the second sentence of the Maui County standard to say, "in accordance with Hawaii County's subsection.

Action: Vice Chair Noborikawa requests a motion to defer the decision on Rule 1 regarding General Rules of the Commission to the joint meeting with the Windward Planning Commission. Also, she will add that information regarding the revisions that were made to the Maui County Planning Commission rules. The motion was seconded by Commissioner Makaiau. *[SEE YOUTUBE TIMESTAMP 04:03:18]*

A roll call vote was taken for a motion to defer the item to the next joint meeting and to add the Maui example to the proposed Planning Commission Rules seconded by Commissioner Makaiau with four ayes (Noborikawa, Makaiau, Inaba, Au), no noes, and one absence and excused (Rodriguez). The motion was carried unanimously. *[SEE YOUTUBE TIMESTAMP 04:04:47]*

The hearing on this item concluded at 1:42 p.m.

4. Discussion of Planning Commissioners' suggestions for future amendments to the Planning Commission Rules of Practice and Procedure. *[SEE YOUTUBE TIMESTAMP 04:05:04]*

At 1:42 p.m. the Commission addressed Item No. 4 with no members of the public present in the Council Chambers.

Chair Au opens the discussion to item four on the agenda of the Planning Commissioner's suggestions for future amendments to the planning commission rules of practice and procedure.

Ms. Jackson with the Planning Department provided a presentation.

Chair Au asked Ms. Jackson if item number three (commissioner attendance list) that was previously discussed can be added to the "to do" list that both commissions work from. Ms. Jackson responded, yes, it can be added to the "to do" list for both commissions. He asked Ms. Jackson what will be discussed on the agenda at the next Leeward Planning Meeting. Ms. Jackson responded, stating the discussion will be the rule amendments. That way when the joint meeting occurs the commission will be ready to adopt the rules and the Planning Department will provide a complete draft of all the changes to all of the rules a month before the joint meeting. Chair Au asks Ms. Jackson to share what Winward's thoughts about the items on the "to do" list in order to expedite the process. Ms. Jackson responds, stating she discussed all items with Windward, and they are in agreement with all of the changes. She also stated the to do list is the Planning Department suggestions which does require feedback from the commission. If there are ideas on how to improve commission rules contact me at the Planning Department or Jarret at the Corporation Council and we'd be happy to talk about suggested changes.

Vice Chair Noborikawa asks Ms. Jackson if problems with decorum occurred in the past or are we looking at putting this in so future problems can be avoided. Ms. Jackson responds stating Currently, there is nothing in the Planning Commission Rules that speak to decorum standards to prevent further issues. Suggestions such as this came from prior commissioners, and the last revision of the rules was in 2010. The working suggestions list that came from past commissioners. Per Planning Commission Rule 2 for adopting rule amendments, the Planning Commission can initiate rulemaking or a member of the public through petition, however it does not speak to the planning director initiating or the department. Since the Planning Department assists the commission, we suggest that be added to the rule to give the department the ability to initiate rulemaking. In addition, Ms. Jackson states part of rule 2 that talks about the public initiating rulemaking by submitting a petition makes it sound like the commission can deny the petition before holding the public hearing. To clarify, the commission can only take action or make decisions in a public hearing. Due to this inconsistency of the language that is what planning wants to correct. Ms. Jackson states that rule 3 on declaratory ruling is rare to receive these requests. If they do happen planning wants to clarify the purpose and the authority section so that the verbiage is clear to the public when they would use this rule to petition the Planning Commission for a declaratory ruling and will be heard at a public hearing. Ms. Jackson adds that amending rule 3.2 to remove the petitioner must request a public hearing because all decisions of the Planning Commission must be held at a public hearing. Ms. Jackson adds rule 4 on contested case procedure the Planning Department suggests creating clear language and distinct procedures between regular Planning Commission meeting and a contested case hearing and ensure that a contested case procedure is consistent with state law related to administrative hearings. Ms. Jackson adds rule 46-I regarding mediation would like to eliminate or revise the 30-day requirement, because it takes several weeks for parties to agree on a mediator, then schedule a mediation session which cannot be coordinated within 30-days. In addition, removing the verbiage to one or more members to act as a hearing officer from the Planning Commission. There should only be one chairperson at that contested case hearing and the rules are not clear. To add, Ms. Jackson the Planning Department wants to determine whether verbatim transcripts or recording is sufficient, and who bears the cost of verbatim transcripts. In the past, the county hired a court reporter for contested case hearings which are costly. We want to determine if hiring a court reporter is necessary for verbatim transcripts or looking at best practices programs like Zoom, Vint or other transcription software that can convert recordings to verbatim transcripts. Ms. Jackson discussed rule 3 about adding language in a contested case hearing once the officer's report is received. The Planning Department wants to provide examples of when that would be appropriate to do that. For example, if there are clear errors in the record or errors in law, or if there's new information that was not available at the time of the contested case hearing.

Chair Au opened the floor to the Commission for questions to Ms. Jackson on the rule8suggestions that she discussed. No questions were asked at this time.

Ms. Jackson proceeded with her presentation.

Chair Au asked Ms. Jackson how rule 12 would apply if there was a geothermal developer applying to do geothermal in Kona. Ms. Jackson responded, stating the county does not have jurisdiction over issuing geothermal exploration or development permits, but with the State Department of Land and Natural Resources which they would apply with the state. Chair Au asked Ms. Jackson if an application to develop geothermal in West Hawaii is submitted to the state and DLNR approves it and Windward Rule 12 is in place for Windward. Ms. Jackson responded, stating authority to approve and condition geothermal development lies with the state they would have to give the county that ability to assess royalties on new developers. The two rules were created based on the geothermal venture which permits specifically condition that an asset fund be created and that the geothermal relocation fund be created. Now that we don't have jurisdiction on geothermal permits that is why the two rules were added and the fund was created.

Chair Au opened the floor to the Commission for questions.

Commissioner Inaba asked Ms. Jackson if the General Plan under All Rules will be converted to plain language for easy understanding since a lot of it needs revision to simplify the language. Ms. Jackson responded, stating the general plan at the County Council is being reviewed, and the County would need to initiate that. If they do send amendments to the draft it returns to the Planning Commission, then it could be a recommendation that the Commission makes at that time to convert the entire General Plan into plain English. Ms. Jackson offers to speak to Director Darrow how to address the procedures for review of the general plan and where the most appropriate place would be for that type of language.

Chair Au agrees with Commissioner Inaba with wanting to streamline the language that is easy to read and understandable for the commission.

Action: Vice Chair Noborikawa moved a motion to defer further discussion to the draft on the future amendments to the Planning Commission Rules of Practice and Procedure. The motion was seconded by Commissioner Makaiau. *[SEE YOUTUBE TIMESTAMP 04:50:51]*

A roll call vote was taken for a motion to defer further discussion to the draft on the future amendments to the Planning Commission Rules of Practice and Procedure Commissioner Makaiau with four ayes (Noborikawa, Makaiau, Inaba, Au), no noes with one absence and excused (Rodriguez). The motion was carried unanimously. *[SEE YOUTUBE TIMESTAMP 04:53:54]*

The hearing on this item concluded at 2:31 p.m.

PLANNING DIRECTOR'S REPORT *[SEE YOUTUBE TIMESTAMP 04:54:14]*

Report on Special Management Area (SMA) determinations and minor permits issued by the Planning Director for December 2025, January, February, and March of 2026.

Chair Au opened the floor to the Commission for discussion or questions. No question from the Commission or Ms. Jackson at this time.

AGENDA ITEMS FOR THE NEXT MEETING *[SEE YOUTUBE TIMESTAMP 04:55:06]*

Chair asked Ms. Jackson how many items are on the agenda for the next meeting. Ms. Jackson responded, stating there are three items scheduled on the agenda. Chair Au noted that he and Commissioner Inaba would not be present at that meeting, but quorum would be met.

ANNOUNCEMENTS

Ms. Jackson has no announcements.

ADJOURNMENT *[SEE YOUTUBE TIMESTAMP 04:57:43]*

Commissioner Inaba moved to adjourn the meeting. Vice Chair Noborikawa seconded the motion. A voice vote was taken, and the motion carried with four ayes (Inaba, Noborikawa, Makaiau Au), no noes, and two absent and excused (Ayers, Rodriguez). Chair Au adjourned the meeting at 2:35 p.m.

Respectfully submitted,

Kareen Medeiros
Secretary

ATTEST:

Dean Au, Chairperson
Leeward Planning Commission