

WINDWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

MINUTES
APRIL 2, 2026

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The Windward Planning Commission met in regular session on Thursday, April 2, 2026, at 9:06 a.m., in the County of Hawai'i, Council Chambers, located at 25 Aupuni Street, Hilo, Hawai'i, with Chairman Louis Daniele III presiding. This meeting was streamed live on YouTube.

COMMISSIONERS PRESENT: Louis Daniele III (Chairperson), Lauren Balog (present from 9:12 a.m.), Thomas E. Fratinardo, JoNelle Fukushima, Chantel Perrin (Vice Chair), and Kanoe Wilson.

ALSO PRESENT: William Jarrett, Esq. (Counsel to the Commission), Jeffrey Darrow (Planning Director), Jean Campbell, Esq. (Counsel to the Planning Department), and Planning Department staff.

Secretary's Note: *Due to technical difficulties, YouTube timestamps are not available from the start of the meeting up to the statement "Commissioner Wayne De Luz's term and I am Louis Danielle III".*

Approximately five members of the public were in the audience.

Chairman Daniele called the meeting to order at 9:06 a.m., with a quorum present. He made housekeeping announcements, including reminders to silence cell phones, the location of the public restrooms, and the procedure for signing up to provide public testimony. Commissioners and staff were introduced. [SEE YOUTUBE TIMESTAMP 00:06]

MEETING MATERIALS

At 9:07 a.m. Chairman Daniele asked the Commissioners to confirm that they had reviewed all materials, including written public testimony related to the applications. Each Commissioner verbally confirmed. [SEE YOUTUBE TIMESTAMP 00:38]

APPROVAL OF MINUTES

At 9:08 a.m., the Commission addressed the minutes of February 5, 2026, and March 5, 2026, including executive session minutes. *[SEE YOUTUBE TIMESTAMP 01:03]* No corrections were offered. Vice Chair Chantel Perrin moved to approve the minutes as circulated, Commissioner JoNelle Fukushima seconded the motion, and it carried unanimously by voice vote. *[SEE YOUTUBE TIMESTAMP 01:27]*

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

At 9:09 a.m., the Commission addressed this item, with approximately six members of the public present. Chairman Daniele outlined the procedures for public testimony, stating that in-person speakers would be heard first, followed by Zoom participants. He stated that public comments could be provided at that time or when the agenda item was called. Instructions were provided for both in-person and Zoom testifiers, and he noted that Zoom and YouTube access were provided as a courtesy and that the meeting would proceed in the event of technical difficulties. He reminded all testifiers to keep comments respectful, stated that personal attacks and disruptive behavior would not be permitted, and noted that testimony would be limited to three minutes per person. *[SEE YOUTUBE TIMESTAMP 02:02]*

Two individuals provided testimony in-person on **Item #3 County Council Initiated (PL-CCI-2026-000013)**, **Item #4 County Council Initiated (PL-CCI-2026-000014)**, and **Item #5 County Council Initiated (PL-CCI-2026-000015)**:

1. Amedeo Markoff *[SEE YOUTUBE TIMESTAMP 03:44]*
2. Eileen O'hara *[SEE YOUTUBE TIMESTAMP 07:39]*

No Zoom testimony was received for this item.

NEW BUSINESS

1. APPLICANT: MELISSA MARTINEZ (PL-SPP-2025-000095)

Application for a Special Permit to operate a 1-bedroom bed and breakfast operation within a proposed 2-bedroom single-family dwelling on an approximately 1-acre parcel of land in the State Land Use Agricultural District. The subject property is located at 11-1837 Naia Street, approximately 1050 feet east of its intersection with Ohia Avenue, Hawai'i's Eden Rock Estates, Puna, Hawai'i, TMK: (3) 1-1-078:046.

At 9:19 a.m., the Commission considered this item with approximately nine members of the public present. *[SEE YOUTUBE TIMESTAMP 11:41]*

Moses (Moke) Ramos-Kia Tupua provided the staff presentation. *[SEE YOUTUBE TIMESTAMP 12:41]*

The applicant's representative Daryn Arai, Land Use Planning Consultant was present in-person, and the applicant, Melissa Martinez was present via Zoom and provided a presentation. *[SEE YOUTUBE TIMESTAMP 17:58]*

Chairman Daniele opened the floor for questions from the Commissioners to the applicant. *[SEE YOUTUBE TIMESTAMP 22:21]*

Vice Chair Perrin thanked the applicant but raised concerns about safety due to the applicant only being present two months out of the year. She asked about emergency preparedness given recent volcanic activity and severe weather. Mr. Arai said that a host will be on-site to manage the property and assist guests. Vice Chair Perrin asked if the host would be trained for emergencies. Mr. Arai stated the applicant, as a licensed social worker, would ensure guests are provided with safety information and resources. *[SEE YOUTUBE TIMESTAMP 23:07]*

Vice Chair Perrin expressed additional concern about strain on limited community services, emphasizing safety, resource limitations, and impacts on residents and visitors, and emphasized the need for proactive planning given the owner's limited presence. Mr. Arai acknowledged the concerns and reiterated that the operation will be hosted with someone familiar with the area available to assist. *[SEE YOUTUBE TIMESTAMP 25:06]*

Commissioner Fukushima asked about the timeline to complete outstanding work. Mr. Arai stated the home was built about a decade ago with some deficiencies now being addressed (solar panel work, septic certification, BIRD platform permitting). He estimated at least six months for completion and noted conditions of approval require compliance and quarterly reporting. *[SEE YOUTUBE TIMESTAMP 28:45]*

Commissioner Wilson asked the Planning Department staff how prior short-term rental violations were considered in the Department's recommendation. *[SEE YOUTUBE TIMESTAMP 30:30]* Planning Director Jeffrey Darrow explained the responds to complaints, issue violations, and works toward compliance noting applicants may pursue permits to resolve violations. *[SEE YOUTUBE TIMESTAMP 31:14]*

Commissioner Wilson questioned why approval is recommended despite unresolved issues. Director Darrow explained the process is applicant-driven and that obtaining a permit determines whether the applicant proceeds. He noted this situation is common and relatively minor and emphasized that all compliance issues must be resolved prior to operation. *[SEE YOUTUBE TIMESTAMP 32:33]*

Commissioner Wilson asked how ongoing compliance is ensured beyond quarterly reports. Director Darrow explained monitoring varies by project size. Smaller permits like B&Bs typically do not require ongoing reports once compliant, while larger projects with many conditions require continued monitoring. *[SEE YOUTUBE TIMESTAMP 34:10]*

Commissioner Fratinardo asked Mr. Arai to assess the project's difficulty. Mr. Arai responded it is a low-complexity project, rating it between 1 and 2 out of 10. *[SEE YOUTUBE TIMESTAMP 36:56]*

Commissioner Wilson asked about outreach to neighbors. Mr. Arai stated required noticing was completed, including signage and mailed notices within 500 feet. He added the host is from the area and the applicant could speak further. *[SEE YOUTUBE TIMESTAMP 37:40]* Applicant Melissa Martinez stated she maintains a positive relationship with neighbors, including one who assists with yard work and uses the space for activities. She emphasized being respectful and maintaining good communication. *[SEE YOUTUBE TIMESTAMP 38:56]*

Commissioner Wilson raised concerns about conclusions that the project would not impact cultural practices or Native Hawaiian rights, noting no AIS or cultural interviews were conducted. Mr. Arai confirmed no formal studies were conducted due to limited scope, stating the project involves an existing home and driveway with no additional land impact. Commissioner Wilson expressed concern that absence of evidence was being treated as absence of impact and emphasized that natural resources (e.g., 'ōhi'a forest) are also cultural resources and referenced legal frameworks guiding such analysis, urging a more cautious approach. Mr. Arai clarified the project does not restrict access or impact on such resources due to its limited footprint. *[SEE YOUTUBE TIMESTAMP 39:36]*

Commissioner Wilson reiterated concerns that ecosystem and cultural resource impacts should be properly addressed. Mr. Arai acknowledged the concern and stated they will be more thoughtful in addressing these issues. *[SEE YOUTUBE TIMESTAMP 41:40]*

Commissioner Balog asked if any archaeological or cultural studies were conducted. Mr. Arai stated none were done due to the limited scope of the project. Commissioner Balog clarified whether any studies were done prior to current ownership; Mr. Arai stated none were found in Department records. *[SEE YOUTUBE TIMESTAMP 44:24]*

Director Darrow addressed concerns regarding cultural and archaeological review. He explained the Department's review process relies on expert agencies (e.g., SHPD, Nā Ala Hele). He noted that projects without ground disturbance typically do not require studies and that the Department proceeds if agencies do not respond within the review period. He emphasized applicants are discouraged from conducting studies without agency direction and described the application is simple with no additional land impact. Commissioner Wilson acknowledged the explanation but maintained concern regarding conclusiveness of the report language. *[SEE YOUTUBE TIMESTAMP 45:34]*

Director Darrow clarified that Ka Pa'akai and PASH analyses are prepared by the Department, not the applicant, and noted that more complex projects may require extensive and costly studies based on agency direction. *[SEE YOUTUBE TIMESTAMP 49:33]*

Chairman Daniele confirmed the property is in an established subdivision and asked if earlier development would have addressed such issues. Director Darrow responded that older subdivisions were developed under different standards and may not have undergone the same level of review required today. *[SEE YOUTUBE TIMESTAMP 50:53]*

Action: Commissioner Fukushima moved that the application to operate a one-bedroom and breakfast operation within a proposed two-bedroom single-family dwelling on an approximately one-acre parcel of land in the State Land Use Agricultural District, located at 11-1837 Naia Street, approximately 1,050 feet east of its intersection with Ohi'a Avenue, Hawai'i's Eden Rock Estates, Puna, Hawai'i, Special Permit (PL-SPP-2025-000095) be approved based on the Planning Director's findings, recommendations and conditions. Commissioner Thomas Fratinardo seconded the motion. *[SEE YOUTUBE TIMESTAMP 52:12]*

With no comments or discussion, a roll call vote was taken. The motion carried with four ayes (Fukushima, Fratinardo, Balog, and Daniele) and two noes (Perrin and Wilson). *[SEE YOUTUBE TIMESTAMP 53:23]*

The hearing on this item concluded at 10:00 a.m.

2. **APPLICANT: PUNALEI MAKAI LIVING TRUST (PL-SMA-2026-000088)**
Application to Amend Special Management Area Use Permit No. PL-SMA-2023-000026 to increase the size of the first farm dwelling, change the bedroom count from two (2) to four (4), and enlarge the septic system to accommodate the new bedrooms on a 9.513-acre shoreline parcel within the Special Management Area. The subject parcel is located at 36-2676 Old Māmalahoa Highway, approximately 1,000 feet south of Stevens Road/Hawai'i Belt Road intersection on the makai side of the highway, Laupāhoehoe, North Hilo, Hawai'i, TMK: (3) 3-6-005:002.

At 10:01 a.m., with approximately eight members of the public present Chairman Daniele stated that the application for Item #2 had been withdrawn; therefore, no action would be taken. *[SEE YOUTUBE TIMESTAMP 53:58]*

At 10:01 a.m. the Chairman called for a recess [SEE YOUTUBE TIMESTAMP 54:18], and the hearing reconvened at 10:12 a.m.

At 10:12 a.m. Chairman Daniele reconvened the meeting.

Secretary's Note: Due to technical difficulties, the YouTube timestamps are not available for the period from when the hearing was reconvened to when the Chairman introduced Agenda Items #3, #4, and #5.

3. **INITIATOR: COUNTY COUNCIL (PL-CCI-2026-000013)**
Bill 124, an ordinance amending Chapter 25-8-26 (Pāhoa Zone Map), Article 8, Chapter 25, by changing the zoning districts from Village Commercial-10,000 square feet (CV-10) and Single-Family Residential-10,000 square feet (RS-10) to Downtown Pāhoa Commercial (DPC) at Waiakahi'ula, Pāhoa, Puna, Hawai'i. The proposed bill will establish the Downtown Pāhoa Commercial District and change the zoning of various properties in Pāhoa Village.

4. **INITIATOR: COUNTY COUNCIL (PL-CCI-2026-000014)**
Bill 125, an ordinance amending Chapter 25, Article 7, Division 4, of the Hawai'i County Code, relating to the Pāhoa Village Design District. The proposed amendments will update zoning code requirements pertaining to the Pāhoa Village Design District.
5. **INITIATOR: COUNTY COUNCIL (PL-CCI-2026-000015)**
Bill 126, an ordinance amending Chapter 25, Articles 1, 3, 5, and 7 of the Hawai'i County Code, relating to Special Districts. The proposed amendments will establish new zoning code requirements related to permitted uses, building height limit, minimum site area and average width, and minimum yards for the Downtown Pāhoa Commercial District (DPC).

At 10:12 a.m., the Chairman introduced these three items with approximately four members of the public present. *[SEE YOUTUBE TIMESTAMP 01:06:18]*

These agenda items were deferred to the Commission's May meeting at the request of the Planning Department and Councilmember Kierkiewicz.

Chairman Daniele opened the floor for questions from the Commissioners to the Planning Director and Councilmember. *[SEE YOUTUBE TIMESTAMP 01:09:03]*

Planning Director Jeffrey Darrow introduced Councilmember Ashley Kierkiewicz and stated that they were present to request a postponement of the bills. He noted that, while staff typically provide a background, recommendations, and a presentation, there are matters that need to be addressed before proceeding. He then deferred to Councilmember Kierkiewicz to explain the request. *[SEE YOUTUBE TIMESTAMP 01:09:34]*

Councilmember Kierkiewicz (District 4) provided background on the Pāhoa Special District bills, noting efforts began in 2014 with the Pāhoa Master Plan. She explained the bills are intended to expand allowable uses for property owners, clarified that participation is voluntary, and emphasized that no obligations are imposed on those who choose not to opt in. She stated that additional clarifying language is being developed in coordination with Corporation Counsel and the Planning Department and stressed the importance of preserving Pāhoa's historic character while providing opportunities for growth. She further emphasized that the measures will not be rushed and that thorough review and community understanding are priorities. *[SEE YOUTUBE TIMESTAMP 01:10:25]*

Vice Chair Perrin thanked Councilmember Kierkiewicz for the clarification, noting her understanding that the measures are not mandatory, and expressed appreciation for her work in the community. *[SEE YOUTUBE TIMESTAMP 01:13:55]*

Chairman Daniele emphasized that the voluntary nature of the measures should be clearly communicated, noting apparent public misunderstanding in submitted testimony. He encouraged the use of clear, straightforward language rather than legal terminology. Councilmember Kierkiewicz responded that simplified language has been drafted and is

supported by the Planning Director, reiterating that the measures are intended as a voluntary opt-in. *[SEE YOUTUBE TIMESTAMP 01:14:19]*

Commissioner Wilson expressed appreciation for the Councilmember's efforts and noted the need for continued public education and outreach based on testimony received. She highlighted the importance of community engagement, referenced past impacts from storms and volcanic activity, and raised concerns regarding potential risks to future development if property owners opt into the program. She emphasized that public education will be critical moving forward. *[SEE YOUTUBE TIMESTAMP 01:15:23]*

Councilmember Kierkiewicz responded by outlining outreach efforts, including public meetings, mailed notices to over 300 property owners, a dedicated project website, and posted meeting flyers. She emphasized the importance of ensuring community understanding and continued communication. She also shared her personal connection to Pāhoa and expressed her commitment to supporting local residents through economic opportunities, cultural preservation, and community development *[SEE YOUTUBE TIMESTAMP 01:17:24]*

Commissioner Fukushima expressed appreciation for the vision, shared personal ties to the community, and voiced support for progress that benefits future generations. *[SEE YOUTUBE TIMESTAMP 01:19:58]*

Planning Director Jeffrey Darrow requested Commission support for postponement of the bills to allow additional time for refinement and further review before returning to the Commission. *[SEE YOUTUBE TIMESTAMP 01:20:42]*

Action: Commissioner Fratinardo moved to defer the consideration of County Council Bill 124, Bill 125, and Bill 126 to the next meeting of the Windward Planning Commission on May 6, 2026. Vice Chair Perrin seconded the motion. *[SEE YOUTUBE TIMESTAMP 01:21:32]*

With no comments or discussion, a roll call vote was taken. The motion carried with six ayes (Fratinardo, Perrin, Balog, Fukushima, Wilson, and Daniele) and no noes. *[SEE YOUTUBE TIMESTAMP 01:22:21]* Planning staff member Maija Jackson asked for a motion for Bills 125 and 126. Chairman Daniele clarified that the underlying motion to defer was inclusive of all three bills. *[SEE YOUTUBE TIMESTAMP 01:22:50]*

The hearing on this item concluded at 10:30 a.m.

OLD BUSINESS

6. Discussion of Planning Commissioners' suggestions for future amendments to the Planning Commission Rules of Practice and Procedure.

The Commission began consideration of this item at 10:31 a.m., with no members of the public present. *[SEE YOUTUBE TIMESTAMP 01:23:32]*

Planning staff member Maija Jackson provided a presentation on the Planning Department's suggested amendments to the Planning Commission Rules (see Exhibit A). She stated that the Department's goal is to modernize the rules, noting that the last comprehensive update occurred over ten years ago. She explained that while State Sunshine Law changes have already been implemented in practice, the rules themselves have not been formally updated to reflect those changes. She further stated that key objectives include aligning the rules with current practices and legal requirements, converting the language into plain English to reduce legal complexity, and addressing issues identified by staff over time, including clarifying provisions and correcting inconsistencies with current Commission procedures. She then reviewed and provided a brief overview of the proposed changes outlined in Exhibit A. *[SEE YOUTUBE TIMESTAMP 01:24:21]*

Commissioner Fukushima noted that there is no mandatory review cycle within the rules, referencing Rule 2-1, which allows but does not require the joint commission to initiate rulemaking. She suggested that this may explain the lack of updates between 2017 and 2025 and recommended considering a provision requiring periodic review, such as every five years. She also referenced Rule 2-5, stating that while it allows for expedited rulemaking, it lacks a clear definition of what constitutes an emergency. She emphasized that establishing clearer standards and a review schedule would help ensure timely and consistent updates to the rules. *[SEE YOUTUBE TIMESTAMP 01:38:42]*

Commissioner Fratinardo inquired about the process for submitting rule change suggestions in accordance with Sunshine Law. He shared a draft form with the Commission and staff intended to facilitate commissioner's submission of proposed amendments. *[SEE YOUTUBE TIMESTAMP 01:39:59]*

Commissioner Fukushima asked whether Rule 2 should be amended to require a mandatory five-year review to ensure updates are proactive. Planning staff member Maija Jackson agreed that regular updates are beneficial but could not commit to a specific timeframe and deferred that decision to the Planning Director. Commissioner Fukushima also noted that Rule 2-5 does not clearly define what constitutes an emergency. Ms. Jackson explained that the rule allows changes with less than thirty days' notice if there is an imminent threat to public health or safety, while standard rulemaking requires a thirty-day notice period. *[SEE YOUTUBE TIMESTAMP 01:40:43]*

Chairman Daniele asked what would constitute "imminent peril", noting the term seemed unclear. Ms. Jackson stated that Rule 9, relating to the Special Management Area (SMA), includes provisions for issuing emergency permits, which have been used. She noted that, in contrast, she has not encountered a situation where an emergency rule change was necessary. *[SEE YOUTUBE TIMESTAMP 01:42:53]*

Planning Director Jeffrey Darrow discussed the timing of a mandatory rule update, noting that the Department's workload fluctuates and current priorities include updates to the Zoning Code, Subdivision Code, and General Plan. He stated that the zoning code has not been updated since 1996 and the subdivision code since 1983. He agreed that

periodic review of the rules is appropriate but suggested that a ten-year timeframe would be more feasible than a five-year interval. *[SEE YOUTUBE TIMESTAMP 01:45:00]*

Commissioner Fukushima inquired about plans to modernize document submission processes, including the use of secure digital signatures and online portals. Planning staff member Maija Jackson responded that the Department is exploring updates to make application forms more flexible without requiring rule changes, noting that upcoming ADA requirements are a driving factor. She added that applications are currently submitted online through the EPIC system, which creates a database of information. *[SEE YOUTUBE TIMESTAMP 01:48:08]*

Commissioner Wilson asked whether there is consideration of adopting a policy on the use of Artificial Intelligence (AI). Planning Director Jeffrey Darrow responded that there is currently no such rule. He noted that while other departments are exploring AI for processes like building permits, it is unlikely to be used in Planning due to the narrative and complex nature of its applications. *[SEE YOUTUBE TIMESTAMP 01:50:09]*

Commissioner Fratinardo asked how the Department prefers to receive Commission suggestions for rule amendments. Planning staff member Maija Jackson responded that suggestions should be brought forward during monthly Commission meetings. She added that commissioners may also contact staff or Deputy Corporation Counsel for clarification, but any proposed amendments must be presented at a public meeting. *[SEE YOUTUBE TIMESTAMP 01:52:39]*

Commissioner Wilson asked whether the Commission had considered forming a Permitted Interaction Group (PIG) or subcommittee to address rule amendments. Deputy Corporation Counsel William Jarrett responded that a PIG had been considered but not pursued. He noted that a commissioner could still make a motion to establish one, but it would need to be placed on an agenda and discussed in a public meeting. He added that the Joint Commission had opted to work through the Planning Department and Corporation Counsel, and that commissioners may communicate individually in compliance with Sunshine Law.

Planning staff member Maija Jackson added that the Planning Commission structure is unique in having both Windward and Leeward Commissions under the same rules. She explained that both commissions must meet jointly to adopt rule changes, but at the December joint meeting it was agreed that each commission would first meet separately to develop and refine amendments before reconvening jointly for final adoption. She further noted that if a PIG were created, it would likely include members from both commissions. *[SEE YOUTUBE TIMESTAMP 01:53:17]*

Commissioner Fukushima referenced Rule 3 on Declaratory Rulings and noted it allows individuals to petition the Commission for clarification of how a rule applies to specific situations. She asked whether declaratory rulings could be indexed and published on the County website for consistency and reference. Ms. Jackson responded that declaratory rulings are case-specific and do not establish broad precedent. Commissioner Fukushima expressed concern that without publication, similar issues could be repeatedly

reconsidered without institutional memory. Deputy Corporation Counsel William Jarrett stated he was uncertain about publication requirements but acknowledged the issue and indicated it could be further discussed with the Planning Department. *[SEE YOUTUBE TIMESTAMP 01:55:51]*

Deputy Corporation Counsel Jean Campbell, on behalf of the Planning Department, added that declaratory orders apply only to the specific case and, by law, do not establish precedent for other matters; however, she noted that this does not preclude them from being published. *[SEE YOUTUBE TIMESTAMP 01:57:25]*

Commissioner Fratinardo noted that during prior hearings, some testifiers questioned why they are not allowed to ask questions of the Commission and stated the rules do not explicitly prohibit it. He asked whether clarification language could be added. Ms. Jackson responded that she would review the issue. Chairman Daniele stated that testimony is intended to provide an individual's viewpoint and that questioning the Commission during testimony may not be appropriate. Commissioner Balog agreed with Commissioner Fratinardo's comment. Ms. Jackson reiterated that she would verify whether clarifying language could be added to reflect that testimony is intended to provide information to the Commission rather than to question it. *[SEE YOUTUBE TIMESTAMP 01:59:00]*

Chairman Daniele suggested reviewing Rules 1 through 3 and noted general agreement to convert the rules into plain language for clarity. He asked how Commission discussions, agreements, and proposed changes would be documented. *[SEE YOUTUBE TIMESTAMP 02:01:22]* Ms. Jackson responded that, to develop draft amendments within a few months, the Commission could proceed through open discussion and provide input on proposed changes, which staff would compile for a future draft. She also presented an alternative, more formal process in which the Commission would review each item individually and make motions indicating whether staff should proceed with specific amendments. *[SEE YOUTUBE TIMESTAMP 02:03:21]*

Deputy Corporation Counsel William Jarrett recapped the joint rulemaking commission meeting, stating that two motions were made—one to adopt an attendance standard and another for general amendments to the Planning Commission Rules. He noted both items were deferred and it was decided that each commission would first meet separately before reconvening at a future joint meeting. He added that the attendance standard will return to the joint commission, while the general amendments remain under ongoing discussion. Mr. Jarrett stated that the Planning Department report reflects the current status of proposed rule changes and that he is working with Planning staff to address issues raised during meetings. He noted commissioners may contact him or Ms. Jackson individually with questions or suggestions but should not discuss these matters among themselves outside of meetings in compliance with Sunshine Law. Ms. Jackson added that no individual written suggestions have been received from commissioners to date, and therefore none have been incorporated into the proposed amendments, as discussions have occurred only in open forum. *[SEE YOUTUBE TIMESTAMP 02:04:17]*

Vice Chair Perrin suggested handling the rule review process similar to the General Plan by breaking the rules into sections, discussing each section individually, and making motions on proposed changes at the end. She asked if others agreed that this approach would help ensure transparency and compliance with Sunshine Law. *[SEE YOUTUBE TIMESTAMP 02:07:21]*

Commissioner Balog confirmed her understanding that the Department is proceeding with a general schedule and that discussions are occurring in open meetings as information and conclusions are developed. She asked if more defined recommendations would be brought back to future meetings. Ms. Jackson confirmed and noted the Commission had previously suggested reviewing the rules section-by-section. She explained that at the next meeting, the Commission would indicate which items in Rules 1 through 3 they agree with, disagree with, or wish to modify, after which the Department would begin drafting amendments. She added that once all sections are completed, a full draft would be prepared, and a joint meeting would be scheduled in about a month for both Commissions and the Department to review the proposed amendments. *[SEE YOUTUBE TIMESTAMP 02:08:04]*

Commissioner Balog requested a copy of the Kauai Planning Commission Rules for reference, as cited in the Department's suggested changes report. Ms. Jackson responded that a copy would be provided. *[SEE YOUTUBE TIMESTAMP 02:10:32]*

Chairman Daniele initiated discussion on the review process and suggested proceeding item-by-item through the rules, beginning with Rule 1-1, and discussing each provision sequentially. He asked whether the Commission agreed with this approach. *[SEE YOUTUBE TIMESTAMP 02:11:02]*

Commissioner Balog stated that she understood the Department still needs to work through some examples with the Commission, including adding definitions from other sections into Section 1, and she agreed with that approach. She noted that the list of suggestions reflects the Department's current progress rather than a finalized or comprehensive set of recommendations. She confirmed her understanding that the Commission should be able to further refine the items by the next meeting and ask if that was correct. Ms. Jackson confirmed and added that it may be helpful for the Commission to review the list to ensure the Department is on the right track. *[SEE YOUTUBE TIMESTAMP 02:11:56]*

Ms. Jackson, referring to PC Rule 1 (General Rules), clarified procedures for setting agendas and handling deferred items. She explained that applications are scheduled for public hearing based on required timelines, with most permits required to be heard within 90 days of acceptance. She noted that applicants may request deferrals before an agenda is issued, and consent is needed due to the 90-day hearing requirement. She stated the clarification is intended to outline the process for deferring and rescheduling items and to align the rules with current Department practice. *[SEE YOUTUBE TIMESTAMP 02:12:46]*

Chairman Daniele noted that the suggested changes are general and do not include specific rule references such as Section 1-5. Ms. Jackson agreed and read the next item, which concerns clarification of how Joint Planning Commission meeting minutes are approved when meetings occur infrequently. She explained that draft minutes are prepared after meetings but may not be formally approved for years due to the long intervals between joint meetings. She stated the item is intended to address the process for handling approval of minutes under these circumstances. *[SEE YOUTUBE TIMESTAMP 02:14:38]*

Ms. Jackson asked whether the Commission would like her to review and explain each suggested amendment under Rules 1 through 3. Chairman Daniele agreed that this would be helpful. *[SEE YOUTUBE TIMESTAMP 02:15:39]*

Chairman Daniele referenced a prior joint meeting and noted that a vote was required to determine whether the Windward or Leeward Chair would preside and have authority over agenda matters, including approval and motions. Ms. Jackson responded that the issue requires further legal research, as the current rules do not clearly address whether a chair may approve or sign minutes or whether full board approval is required. She stated the intent is to determine the legal requirements and incorporate them into the rules. Chairman Daniele stated his view that minutes should be formally voted on for acceptance into the record. Ms. Jackson added that in other jurisdictions, authority is sometimes delegated to the Chair to sign or approve certain board documents but noted it must first be determined whether this is legally permissible and whether the Commission would want to adopt such a practice. *[SEE YOUTUBE TIMESTAMP 02:16:02]*

Ms. Jackson presented the third item to consider adding the Planning Commission's duties and functions into the rules, noting they are currently only contained in the Hawai'i County Charter. She explained that including this information in the rules would help commissioners and the public better understand the Commission's responsibilities, including review of Subdivision and Zoning Code amendments. Chairman Daniele asked how this would be incorporated, and Ms. Jackson responded that the Charter provisions would be added to Rule 1 to clarify duties for both new commissioners and the public. *[SEE YOUTUBE TIMESTAMP 02:17:51]*

Vice Chair Perrin asked to confirm whether Section 6-7.5 of the County Charter outlining the duties and functions of the Windward and Leeward Planning Commissions would be included in full in Rule 1. Ms. Jackson confirmed that it would be included. *[SEE YOUTUBE TIMESTAMP 02:19:52]*

Vice Chair Perrin asked whether the County Charter and Planning Commission Rules could be combined into one document. Ms. Jackson responded that they cannot be combined, as the County Charter is the County's governing document and may only be amended by voters. She noted that while Charter provisions may be incorporated into the Commission's rules for reference, the Charter itself cannot be changed. *[SEE YOUTUBE TIMESTAMP 02:20:22]*

Chairman Daniele concurred with the next proposed updates, noting they were self-explanatory, including revisions to definitions, testimony procedures, and public records to align with current Sunshine Law requirements. Ms. Jackson added that this could also address Commissioner Fratinardo's concern by clarifying that testimony is intended for the public to provide information to the Commission. Chairman Daniele then moved to clarification of Planning Department support roles, referencing Kaua'i Planning Commission Rule 1-2-8, and requested an example. Ms. Jackson explained that Kaua'i County rules define staff duties such as agenda preparation and public notice, and that similar language could help clarify roles for staff, the Commission, and the public. Chairman Daniele agreed this was important and supported including such language. He then proceeded to the item on adding a decorum section. *[SEE YOUTUBE TIMESTAMP 02:21:07]*

Commissioner Fukushima stated that a decorum provision is important to set expectations for commissioner conduct, including interactions with the public, handling of disruptive behavior, and restrictions on side conversations, phone use, and conduct outside of meetings such as pre-hearing communications. Chairman Daniele agreed, noting that decorum standards would help clarify the Commission's role for the public. Commissioner Fukushima also raised concerns regarding ex parte communication, stating that the current rules lack provisions addressing it. She explained that commissioners may receive private communications from applicants or stakeholders prior to hearings, and noted there are no requirements for disclosure, recusal, or documentation. She emphasized this as a significant gap in the rules. *[SEE YOUTUBE TIMESTAMP 02:23:23]*

Commissioner Fratinardo agreed and asked whether commissioners are expected to avoid such interactions in public. Commissioner Fukushima clarified that her concern was the absence of rules addressing ex parte communications. Chairman Daniele added that there should be clearer guidance on commissioner conduct outside of meetings, and the members concurred. *[SEE YOUTUBE TIMESTAMP 02:25:51]*

Prior to proceeding to PC Rule 2, Chairman Daniele stated that no decisions would be made at this time and that the discussion was intended to gather information on the Planning Department's suggestions, which he found helpful for understanding the proposals. Commissioner Fukushima suggested requiring the Planning Department to maintain a public ex parte communication log for each active application, similar to the Federal Communications Commission model, to improve transparency by documenting communications made outside of hearings. She further stated that if a commissioner receives a substantial ex parte communication and does not disclose it, the appropriate remedy should be mandatory recusal from the proceeding, emphasizing that disclosure requirements must have enforcement to be effective. *[SEE YOUTUBE TIMESTAMP 02:26:41]*

Commissioner Fukushima suggested adopting a Commissioners' Code of Ethics separate from Robert's Rules. In response, Ms. Jackson stated that the Department is considering adding code of conduct language using Kaua'i County rules as a model and

noted that a copy of the language will be provided for the Commission's review. *[SEE YOUTUBE TIMESTAMP 02:28:52]*

Commissioner Balog asked whether Rule 2-1(c) should be revised to specify "at a public hearing" instead of "before any action." Ms. Jackson read the rule and agreed that it does not currently specify this and should be clarified. *[SEE YOUTUBE TIMESTAMP 02:31:58]* Referring to PC Rule 1 (General Rules), Commissioner Fratinardo stated he had been invited to CDP meetings and felt uncomfortable attending due to concerns about being perceived as representing the Planning Commission or speaking out of turn. He requested that the rule be clarified to provide more specific guidance. Vice Chair Perrin responded that commissioners may attend such meetings and that conduct determines whether issues arise. She advised attending in a listening role, being mindful when speaking, and stated commissioners should be able to attend as long as they exercise appropriate caution. *[SEE YOUTUBE TIMESTAMP 02:33:37]*

Commissioner Fukushima referenced Article 14 of the County Charter (Code of Ethics), noting provisions on financial conflicts of interest, disclosure requirements, and fair and impartial treatment. She stated that while the Charter addresses financial conflicts, it does not address informational conflicts such as private communications and suggested considering amendments to include ex parte communication as an ethics violation under the Board of Ethics. Commissioner Fratinardo asked Deputy Corporation Counsel William Jarrett whether "ex parte" refers to situations where a decision is made without all parties present. Mr. Jarrett responded that, in this context, it refers to communications occurring outside of a public hearing. *[SEE YOUTUBE TIMESTAMP 02:35:13]*

Ms. Jackson stated that the Commission does not have authority to amend the County Code of Ethics. She suggested instead adding a reference in the rules requiring compliance with the existing Code of Ethics, noting commissioners are already subject to it and receive training during orientation. She added that Code of Conduct standards used by Kaua'i and other boards are intended to address gaps in areas such as interactions not explicitly covered by law and could be incorporated into the Commission's rules. *[SEE YOUTUBE TIMESTAMP 02:37:44]*

Chairman Daniele moved to PC Rule 3 (Declaratory Rulings) and read the item to clarify the purpose and authority of declaratory rulings. Ms. Jackson explained that individuals often seek clarification from the Department before filing petitions, and that some requests may fall outside the scope of existing rules. She stated the intent of the proposed change is to better define and clarify the purpose of declaratory rulings for public understanding. *[SEE YOUTUBE TIMESTAMP 02:38:41]*

Chairman Daniele read the next suggested amendment to PC Rule 3-1(c), noting clarification is needed that the Commission cannot deny a petition or issue a declaratory order without first holding a public hearing, and he read the rule in its entirety. Ms. Jackson explained that all rulemaking actions must occur at a public hearing, and the current language could be misinterpreted as allowing action before a hearing, which is incorrect. She stated the revision is intended to clarify this procedure. Chairman Daniele thanked her for the explanation. *[SEE YOUTUBE TIMESTAMP 02:40:01]*

Commissioner Fukushima raised concern that “interested person” in Rule 3-1 is undefined and unclear, questioning who qualifies and whether staff discretion effectively determines access to the process. Ms. Jackson responded that the Commission decides on petitions but acknowledged the term is not currently defined and is under review. Commissioner Fukushima suggested defining “interested person” broadly to include those with a reasonable connection to the property or use, and Chairman Daniele agreed the term is too ambiguous. Commissioner Wilson asked whether it should be limited to those with a direct interest, and Commissioners Fukushima and Chairman Daniele agreed this requires clarification. Ms. Jackson stated further research is needed, including review of Hawai‘i Revised Statutes, to determine how “interested person” is defined and who may file a declaratory ruling. *[SEE YOUTUBE TIMESTAMP 02:41:21]*

Commissioner Balog asked whether the Department’s role in determining petition appropriateness relates to clarifying Planning Department responsibilities under Rule 1 and whether staff would be determining applicability. Ms. Jackson responded that the Department does not determine petition appropriateness, as that authority rests with the Commission. Commissioner Balog clarified she was referring to whether the Commission has authority to act on a petition. Ms. Jackson explained the intent is to better define the purpose of declaratory rulings in the rules. She stated the Department will research applicable laws and other jurisdictions, including the definition of “interested person,” and provide that information to the Commission. She added that the Commission ultimately determines whether a petitioner qualifies as an “interested person” based on the adopted definition. *[SEE YOUTUBE TIMESTAMP 02:44:07]*

Commissioner Fratinardo then referred to Rule 3-2 and asked about the use of terms “any petitioner or party in interest,” and how they differ from “interested person.” Ms. Jackson agreed that Rule 3-2 would benefit from plain language revisions and noted it uses multiple similar terms. She stated the intent is to streamline the language into one consistent definition of “interested person.” *[SEE YOUTUBE TIMESTAMP 02:45:52]*

Chairman Daniele moved to the next suggestion under PC Rule 3-1(c) to clarify whether “set the matter for a public hearing” refers to scheduling the hearing or holding it within 60 days of filing a petition. Ms. Jackson stated the intent is to clarify the language, and no Commission comments were made. Chairman Daniele then moved to the final suggestion to amend PC Rule 3-2 by removing the requirement for a petitioner to request a public hearing. Ms. Jackson explained that the current language implies a hearing must be requested, but all Commission actions are required to occur at a public hearing, making the request unnecessary. *[SEE YOUTUBE TIMESTAMP 02:47:14]*

Chairman Daniele thanked Ms. Jackson and stated that reviewing the suggestions under Rules 1 through 3 helped clarify the Department’s approach. Ms. Jackson noted that the Commission appeared generally supportive and stated staff could begin drafting language and conducting further research. Chairman Daniele agreed. Deputy Corporation Counsel William Jarrett stated he was satisfied with the discussion to date and noted he had additional ideas regarding the declaratory ruling rule, which he would discuss with the Planning Department.

Action: Vice Chair Perrin moved, seconded by Commissioner Wilson, to continue further discussion regarding the proposed amendments to the Planning Commission's Rules of Practice and Procedure to the next Windward Planning Commission meeting. *[SEE YOUTUBE TIMESTAMP 02:50:31]* With no comments or discussion, a roll call vote was taken. The motion carried with six ayes (Perrin, Wilson, Balog, Fratinardo, Fukushima, and Daniele) and no noes. *[SEE YOUTUBE TIMESTAMP 02:51:04]*

This hearing item concluded at 11:58 a.m.

PLANNING DIRECTOR'S REPORT

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

At 11:58.m., Chairman Daniele introduced this item, noting that the Special Management Area (SMA) determination and minor permits for March 2026 report had been emailed to the Commissioners. There were no questions regarding the report. *[SEE YOUTUBE TIMESTAMP 02:51:24]*

ANNOUNCEMENTS

Chairman Daniele announced that the next regular meeting of the Windward Planning Commission is tentatively scheduled for Wednesday, May 6, 2026. *[SEE YOUTUBE TIMESTAMP 2:51:38]* Planning staff member Maija Jackson clarified that the meeting will be held on Wednesday, May 6, rather than the usual Thursday. She noted that there are tentatively seven agenda items, including the three Pāhoa Village bills that were postponed. She also stated that a special meeting is being scheduled for May 14 for the Teppy Mountain LLC Special Permit application, with the agenda to be released shortly. Ms. Jackson further informed the Commission that the mayor has nominated Paul Montz for the At-Large Ka'ū seat on the Windward Planning Commission. She noted that the nomination will be heard by the County Council Committee the following Tuesday, and if approved, will proceed to the full County Council for confirmation, with the possibility of his joining the Commission in June. *[SEE YOUTUBE TIMESTAMP 2:51:57]*

ADJOURNMENT

With no further business, Vice Chair Perrin moved, and Commissioner Wilson seconded, to adjourn the meeting. *[SEE YOUTUBE TIMESTAMP 02:53:35]* A voice vote was taken, and the motion carried with six ayes (Perrin, Fratinardo, Balog, Fukushima, Wilson, and Daniele), and no noes *[SEE YOUTUBE TIMESTAMP 02:53:49]*

Chairman Daniele adjourned the meeting at 12:01 p.m.

Respectfully submitted,

Melissa Dacayanan-Salvador
Melissa Dacayanan-Salvador (Jun 8, 2026 17:28:59 HST)

Melissa Dacayanan-Salvador
Secretary

ATTEST:

Louis Daniele III
Louis Daniele III (Jun 8, 2026 19:57:13 HST)

Louis Daniele III, Chairman
Windward Planning Commission

Planning Department Suggestions for Planning Commission Rule Changes 2026

updated 03/31/2026

All Rules

- Modernize and update to be consistent with any recent changes in Hawai‘i Revised Statutes (HRS) and Hawai‘i County Code (HCC).
- Convert to plain language to make rules easier to understand.

PC Rule 1 (General Rules)

- Clarify who sets the agenda. When deferred items are placed back on the agenda.
- Clarify how Joint PC meeting minutes are approved/adopted when Joint PC meetings are held infrequently.
- Consider adding duties and functions of PCs from the Charter.
- Consider granting the PC chair the authority to grant applicant/department requests to defer or postpone an item (application) to a future hearing and sign letters to that effect.
- Update definitions, procedures for testimony, public records to be consistent with current Sunshine Law.
- Clarify role of Planning Department support staff. See Kauai Rule 1-2-8 (Officers and Their Duties)
- Consider adding a decorum section (see Kauai PC rules)
- Consider adding a standards of conduct section (see Kauai PC rules).
- Add exparte communication statement.

PC Rule 2 (Petition for Adoption, Amendment, or Repeal of Rules)

- Consider adding ability for Planning Director to initiate rulemaking (without fee).
- Change PC Rule 2-1(c) since PC cannot deny the petition or initiate public rulemaking without first holding a public hearing.

(EXHIBIT A)

PC Rule 3 (Declaratory Rulings)

- Clarify purpose and authority of declaratory ruling.
- Clarify procedure in PC Rule 3-1(c), since PC cannot deny a petition or issue a declaratory order without holding a public hearing.
- Clarify PC Rule 3-1 (c) whether "set the matter for a public hearing" means schedule the hearing or hold the hearing within 60 days of petition filing.
- Amend PC Rule 3-2 to remove that a petitioner must request a public hearing because all decisions of the PC must occur at a public hearing even if a public hearing is not formally requested.

PC Rule 4 (Contested Case Procedures)

- Create clear and distinct procedures between a regular planning commission meeting and a contested case hearing. Ensure contested case procedure is consistent with HRS 91.
- Amend PC Rule 4-6(i) (Mediation) so that the mediation conference is not required to be held within 30 days of standing being granted. It typically takes longer for selection of a mediator and scheduling of the mediation conference by the mediator.
- Remove reference to "one or more members to act as hearings officer(s), under PC Rule 4-6(h). There should be only one "presiding officer" as listed in PC Rule 4-4(a).
- Determine whether verbatim transcripts or a recording is sufficient, and who bears the cost of a verbatim transcript.
- Add language stating the circumstances for taking new evidence in a contested case hearing after receiving hearing's officers report is transmitted to PC: clear errors; error of law; new information that was not available at time of hearing.

PC Rule 5 (General Plan Amendments)

- None.

PC Rule 6 (Special Permits), PC Rule 7 (Use Permits), PC Rule 8 (Shoreline Setback Variance), PC Rule 9 (Special Management Area), PC Rule 10 (Zoning Amendments), PC Rule 13 (State Land Use District Boundary Amendment), PC Rule 14 (Agricultural Project Districts), PC Rule 15 (Project Districts), PC Rule 16 (Planned Unit Development)

- Create new rules to address the following related to permit applications:
 - Application Content Requirements and Filing Fees. Create minimum application content requirements and filing fee schedule.
 - Public Notice, Surrounding Property Owner Notice, and Sign Posting Requirements
 - Hearing Procedures- order of proceedings, request for continued hearing, testimony, presiding officer, record, findings, commission decision.
 - Permit Modifications and Extensions
 - Enforcement and Revocation- consider a cross reference to the enforcement process in Planning Department rules and/or add procedure for non-compliance.
- Keep authority, purpose, and criteria for granting approval in individual permit rules.

PC Rule 8 (Shoreline Setback Variance)

- Consider moving definitions into PC Rule 1.

PC Rule 9 (Special Management Area)

- Consider moving definitions into PC Rule 1.
- Amend PC Rule 9-4 (x) & (y); 9-10(a), (d), (e), (f); 9-11 (b) to make valuation threshold consistent with HRS 205A-22.
- Amend SMA permit revocation process to be consistent with other permit types.
- Consider removing separate contested case hearing procedures in PC Rule 9-21 and use procedure in PC Rule 4 instead.

PC Rule 10 (Zoning Amendments)

- None.

PC Rule 11 (Geothermal Resource Permits)

- Consider deleting permitting process in this rule but keeping enforcement section to enforce existing permits, since geothermal development and exploration permitting is now done by State DLNR rather than the County.

PC Rule 12 (Geothermal Asset Fund)

- Need to keep this rule; see HCC Chapter 2-176 and WPC duties in Charter.

PC Rule 13 (State Land Use District Boundary Amendment)

- Modernize and ensure that the rule is still consistent with State land use laws, HCC Chapter 28, and Land Use Commission rules for state land use boundary amendments.

PC Rule 14 (Agricultural Project Districts)

- None

PC Rule 15 (Project Districts)

- None

PC Rule 16 (Planned Unit Development)

- Add that all variances from HCC Chapter 23 and HCC Chapter 25, except variances for minimum water requirements, must be comprehensive and

applied for under PUD. No administrative variances can subsequently be issued.

County Charter Amendment Suggestions

- County Charter Sec 6-7.5(a)(4): Remove the requirement for newspaper publication of agendas and public notices and provide notice consistent with current Sunshine Law in HRS.
- County Charter Sec 6-7.5 (affects Sec 13-4 “except as otherwise provided in this charter”): Allow continuous consecutive terms for commissioners so that knowledge is not lost.