

KAUAI PLANNING COMMISSION
REGULAR MEETING

Tuesday, September 8, 2009

9:00 A.M.

**Lihue Civic Center, Moikeha Building
Meeting Room 2A-2B
4444 Rice Street, Lihue, Kauai, Hawaii**

AGENDA

Call to Order

Approval of the Agenda

Minutes – Executive Session of July 28, 2009
Regular Meeting of August 11, 2009 and August 25, 2009

A. GENERAL BUSINESS MATTERS (For Action) NONE

B. COMMUNICATION (For Action)

1. Memorandum (9/2/09) from Director Ian K. Costa to James Nishida, Chair, Kaua'i Planning Commission, recommending the Commission consent to the issuance on Non-Conforming Use Certificates pertaining to Transient Vacation Rentals (see Agenda Attachment "A.")
2. Memorandum (9/2/09) from Director Ian K. Costa to James Nishida, Chair, Kaua'i Planning Commission, recommending the Commission reject appeal by Hempey & Meyers LLC for TVNC – 1286, TMK 4-9-013:023 pursuant to Chapter 9 of the Rules and Practice of the Planning Commission that the appeal was not filed in a timely manner.

C. SUBDIVISION – NONE

D. UNFINISHED BUSINESS (For Action)

1. Informational update on Planning Department long range projects and activities. [Deferred 8/25/09.]
2. Executive Session:

Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with the County's legal counsel on questions, issues, status and procedural matters pertaining to:

D. UNFINISHED BUSINESS (For Action) (Cont'd)

- a. Civil No. 09-1-0069, Fifth Judicial Circuit (Declaratory and Injunctive Action), Theodore K. Blake v. County of Kauai Planning Commission; County of Kauai Planning Department; Ian Costa, in his official capacity as Planning Director; Department of Land and Natural Resources; Laura Thielen, in her capacity as Chair of the Department of Land and Natural Resources; and Eric A. Knudsen Trust. (Subdivision No. S-2003-48)
- b. Civil No. 09-1-0214, Fifth Judicial Circuit (Agency Appeal), Barbara Robeson and Caren Diamond, Members of Protect Our Neighborhood Ohana v. Planning Commission and Planning Department, County of Kauai; and County of Kauai.

This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to these agenda items. [Deferred 8/25/09.]

- c. Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(2 & 4), the purpose of this executive session is to discuss matters pertaining to the Planning Director and, if necessary, to consult with the County's legal counsel. This session pertains to the evaluation of the Planning Director where consideration of matters affecting privacy will be involved and, if necessary, to consult with legal counsel regarding the powers, duties, privileges, immunities, and/or liabilities of the Planning Commission as it relates to this agenda item. [Continued, 8/25/09.]

E. PUBLIC HEARING (1:30 P.M. OR SHORTLY THEREAFTER)

1. Continued Public Hearing: NONE

2. New Public Hearing:

- a. The adoption and amendment of administrative rules pertaining to the Rules of Practice and Procedure of the Kauai County Planning Commission. The proposed adoption and amendments include the following:
 - Amendments to Chapter 6 pertaining to various deadlines during contested case proceedings;
 - Amendments to Chapter 9 pertaining to commission action on an appeal; and
 - Amendments to Chapter 12 relating to Applicability, Revocation of Permits and Hearings on Orders to Show Cause.

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- b. Zoning Amendment ZA-2010-3: A proposed bill for an ordinance amending Sections 8-1.4 and 8-8.5 of the Kauai County Code, respectively,
 - by requiring that parcels with multiple zoning designations be considered individually in applying development standards with the exception that parcels containing 50 acres or more situated within the State Agricultural Land Use District and zoned Open District (O) be considered cumulatively with the remaining portion of the parcel zoned Agriculture District (A) for the purpose of subdivision; and
 - by imposing standards for density, subdivision of land, and limitations on subdivisions currently applied on lands zoned Agriculture District (A) to lands zoned Open District (O) also situated within the State Agricultural Land Use District.

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- 1. Staff Findings pertaining to this agenda item.

F. NEW BUSINESS

1. **For Action – See Agenda E for Project Descriptions.**
 - a. Adoption and amendment of administrative rules pertaining to Chapters 6, 9 and 12 of the Rules of Practice and Procedure of the Kauai County Planning Commission. = *County of Kauai Planning Commission.*
 - b. Zoning Amendment ZA-2010-3 = *County of Kauai Planning Commission.*
2. **For Acceptance into Record – Director’s Reports for Projects Scheduled for Public Hearing for 9/22/09 Public Hearing.** NONE
3. **For Acceptance and Finalization – Director’s Report for Shoreline Determination.** NONE

G. ADJOURNMENT

EXECUTIVE SESSION: The Commission may go into an executive session on an agenda item for one of the permitted purposes listed in Section 92-5(a) Hawaii Revised Statutes (“H.R.S.”), without noticing the executive session on the agenda where the executive session was not anticipated in advance. HRS Section 92-7(a). The executive session may only be held, however, upon an affirmative vote of two-thirds of the members present, which must also be the majority of the members to which the board is entitled. HRS Section 92-4. The reason for holding the executive session shall be publicly announced.

NOTE: Special accommodations and sign language interpreters are available upon request five (5) days prior to the meeting date, to the County Planning Department, 4444 Rice Street, Lihue, Hawaii 96766. Telephone: 241-6677.

1. **Ian B. Cronshaw**
TMK 1-3-001:094
TVNC-1357
2. **Peter Whiting**
TMK 1-3-002-028
TVNC-1379
3. **Kekaha Sunset 14**
TMK 1-3-003:073:0001
TVNC-1075
4. **Kendall Koetje - Agent**
TMK 1-3-005:045
TV-2834-NCU
5. **Phoenix Family**
TMK 2-3-015:107
TVNC-1253
6. **Scott Coffman**
TMK 2-5-008:032
TVNC-1353
7. **Amstutz Family Trust**
TMK 2-6-003:018
TVNC-1033
8. **Stephen L. Knox**
TMK 2-6-006:040
TVNC-1194
9. **Marshall MacCready**
TMK 2-6-007:007:0002
TV-1109-NCU
10. **Richard M. & Susan L. Travers**
TMK 2-6-007:009
TVNC-1255
11. **Stan Caplan**
TMK 2-6-007:016
TV-2688-NCU
12. **Stan Caplan**
TMK 2-6-007:039
TV-2685-NCU
13. **Stan Caplan**
TMK 2-6-007:039
TV-2686-NCU
14. **Ritchey Family Trust**
TMK 2-6-011:009
TVNC-1285
15. **Tyler K. Yates**
TMK 2-7-005:022
TVNC-1340
16. **John Lowe**
TMK: 2-8-023:029
TV-3243-NCU
17. **Nakamura Lanae Trust**
TMK 2-8-024:016
TV-2469-NCU
18. **Edward Vallejos**
TMK 3-2-003:035
TV-1096-NCU
19. **Paul Juma**
TMK 4-1-004:023
TVNC-1070
20. **Gary P. Siracusa**
TMK 4-2-013:133
TVNC-1165
21. **Richard W. Wanek**
TMK 4-4-011:009:0002
TVNC-1244
22. **Cynthia P. Bloom**
TMK 4-5-002:004
TVNC-1345
23. **James L. Dornfeld**
TMK 4-5-003:001:0002
TV-1781-NCU
24. **Michael H. Lorscheider**
TMK 4-9-004:007
TV-1073-NCU

25. Gregory Fowler Trust

TMK 4-9-004:017

TVNC-1128

26. Hanchett Family

TMK 5-3-003:008:0001

TVNC-1371

27. Rolfe M. Schiffer

TMK 5-5-002:118

TVNC-1131

28. Devaki Holman

TMK 5-5-010:024

TVNC 1280

29. Hanalei Buddies LLC

TMK 5-5-010:037

TV-1070-NCU

30. Thomas J. Brooks

TMK 5-8-008:021

TV-1914-NCU

31. Dennis Smith

TMK 5-8-011:007

TV-1014-NCU

32. Enrico F Santelli Jr. Trust

TMK 2-5-001:001

TV-3005-NCU

Recommendation: The Director recommends that the Commission consent to the issuance of Non Conforming Use Certificates regarding Transient Vacation Rentals to the foregoing applications, with the conditions outlined in the action memorandum.