

PLANNING COMMISSION
COUNTY OF HAWAII

HEARING TRANSCRIPT
FEBRUARY 22, 2008

A regularly advertised hearing on the PLANNING DIRECTOR'S AMENDMENT TO CHAPTER 2, ARTICLE 7, HAWAII COUNTY CODE 1983 (2005 EDITION, AS AMENDED) REGARDING COMMUNITY DEVELOPMENT PLAN OR AMENDMENT THEREOF was called to order at 9:23 a.m. at the Waikoloa Beach Marriott Hotel, Alii I, 69-275 Waikoloa Beach Drive, Waikoloa, Hawaii, with Chairman Rodney Watanabe presiding.

PRESENT: C. Kimo Alameda
Lani Bowman
Takashi Domingo
Shelly Ogata
Alvin Rho
Rene' Siracusa
Rodney Watanabe
Rell Woodward

ABSENT & EXCUSED: Andrew Iwashita

Ivan Torigoe, Deputy Corporation Counsel
Norman Hayashi, Planning Program Manager
Phyllis Fujimoto, Staff Planner
Jeff Darrow, Staff Planner

Christopher Yuen, Planning Director

And no one from the public in attendance.

INITIATOR: PLANNING DIRECTOR

Amendment to Chapter 2, Article 7, Hawaii County Code 1983 (2005 Edition, as amended) relating to the Planning Commission's review of a draft community development plan or amendment thereof. The purpose of the amendment is to provide a time frame for the Planning Commission's review and recommendation to the County Council on a draft Community Development Plan or amendment.

WATANABE: We are on Agenda Item No. 2 now. This would be Planning Director initiated amendment to Chapter 2, Article 7, Hawaii County Code 1983 (2005 Edition, as amended). I believe this is our second reading on this, so we would be making a decision on this today. Thank you.

YUEN: Yes. Good Morning, Mr. Chairman, Members of the Commission. This is something that we did talk about at the last meeting. We have several Community Development Plan projects going through in the County. Those have been ongoing for the last couple of years in some cases. And they're getting ready to be wrapped up at least on the Steering Committee level.

The process for the enactment of a Community Development Plan is that the draft Plan is prepared – and there is a lot of public interaction and the interaction with the Steering Committee all along with that – and then it goes to the Steering Committee for their recommendation; and if it's recommended for approval by the Steering Committee, then it comes through the Planning Commission for a Planning Commission recommendation, much like a General Plan amendment or a rezoning, but then finally it goes up to the County Council to be enacted by ordinance. If the County Council makes changes, substantive changes, the Steering Committee is supposed to be able to have given a chance to comment on it again. But the County Council, of course, has a final say as a legislative body of the County whether to enact it or not and what to put in it.

So we noted that the Planning Commission didn't have a timeframe for dealing with this. All other matters where the Planning Commission has issues of recommendation have a timeframe; and typically it is 60 days from the time when the Planning Commission gets it. So just to avoid any confusion about what should happen, if we, if the Planning Commission, say, has a 4-4 vote and cannot render a 5-vote recommendation up or down, we thought it would be a good idea to act ahead and to put a timeframe in for the Planning Commission's action and to specify what happens if the Planning Commission doesn't take action within that timeframe. So what you have here is an amendment to the County Code, which would set that at 60 days, which is consistent typically with the timeframe for the Planning Commission to make a recommendation on something, and the statement that if the Planning Commission doesn't take official action within that time, and that would be by five votes one way or the other, then it goes up to the County Council with an unfavorable recommendation from the Planning Commission.

So, and just to, just one more thing about that. We would bring the Community Development Plans to your East and West Hawaii agendas, even though, you know, say, we have a North and South Kona Community Development Plan, they do have island-wide implications; people live on one side of the island, work on the other side of the island, go to beaches on the other side of the island, use County facilities on one or the other side of the island. So we are all on one island. And so we would, just as we bring General Plan amendments to both of your meetings, even an interim amendment that directly affected only one side of the island, we would bring these to both meetings. So you would have, 60 days gives you a number of meetings that you could be looking at the Plan and spending some time with it.

WATANABE: Thank you. Do we have any questions of the Director? Yes, Ms. Siracusa?

SIRACUSA: Well, first of all, I would like to thank you, Chris, for being proactive and jumping the gun and looking at getting this down, so that we have a process and a timeline before we actually have the Community Development Plans and then have to start figuring out after the fact practically.

However, I disagree with some of your points that you would like to put into this, and I'd like to discuss them. For one thing, the 60 days, when we think that our communities have been working for more than a year on these Plans, and a lot of disparate people, you know, they try to bring in all the stakeholders that they could finagle into it, and lots and lots of meetings, lots of public outreach, lots of emails back and forth, you know, in between meetings, and this is so important to the communities. And we know how very often we won't have, you know, a quorum or we'll do 4-4 or want some more information. And I really feel that to show due

respect to all the work that has been put into this for such a long period of time, I would like to see us extend it to 90 days. And that's my first point, but before I go onto anything else, I'd like to get your take on that suggestion.

YUEN: Well, 60 days does give the Commission several, probably three meetings to deal with the Community Development Plans. It's also, remember that the Council -. At each stage of this there is an opportunity for public input. So all the Steering Committee meetings are public and people get to testify. Then you have the Planning Commission, which is public and people get to testify. Then finally the County Council public meetings, people get to testify. So I'm not, I would like to see the process moved along. And there is also a possibility for it to circle back to the Steering Committee. So I would prefer 60 days. It is because there is so much opportunity for public input.

WATANABE: Before we continue, you know, I've been informed that maybe I was in error in allowing questions for this. I've been informed that we really scheduled this to begin at 9:30, and we started actually before 9:30. And just, although there is no one from the public present at this point, maybe we should take a recess just to give the public the benefit of, albeit, in the event that someone wanted to attend this. So may I suggest that we take a five-minute recess, and reconvene after that and then we can continue with the discussions where we left off?

SIRACUSA: Fine.

WATANABE: Okay. So we're starting a recess for five.

RECESSED The Chair called a short recess at 9:29 a.m.

RECONVENED The meeting reconvened at 9:36 a.m.

WATANABE: The Planning Commission come back in order. For the record, it's now nearly 9:40 and there is no one from the public present; so I guess we're in the clear now as far as that goes, the technicality goes. And I guess we can begin where we left off, and I believe you had a follow-up, Ms. Siracusa.

SIRACUSA: Thank you. All right. Some of the other parts of the addition here that I'm having problems with are that one of the options is that the Commission could reject the entire Plan in total, and that also the streamlining of inaction shall be considered an unfavorable recommendation. I find that that's being too broad a brush. I really have some, I can't imagine how come, you know, with all the different parts of it – as many parts as the General Plan has because basically this Community Development Plans are addressing the same types of issues – and, you know, all the thought that's gone into it, just to imagine that the Commission could conceivably just nix the entire thing -. I can see where they might be uncomfortable, you know, with one part or one suggestion and want to tweak it a little bit. But to just downright turn the whole thing down, I think it's such an insult to a whole community in there and all the time they put into the work, that I really have problems with that, and that they could do an unfavorable recommendation to the entire document. That bothers me considerably, Chris.

YUEN: Well, it has to be an option for the Commission. I also, knowing the work that has gone into these, hope that the Planning Commission wouldn't recommend disapproval of

the whole Plan. But in drafting an ordinance like this about what is the range of options that the Commission can have, it has to be one of the options of the Commission. Now also remember the Planning Commission itself doesn't have a veto at all on a Community Development Plan in a sense that even with a completely negative recommendation from the Planning Commission, it does go up to the Council for the Council's final action. But what the proposed ordinance says is that "the commission shall recommend approval in whole or in part, with or without modifications, or rejection of the community development plan or any amendment." So if the Commission recommends approval of, you know, chapters, say there are 9 chapters and you recommend approval of 8 of the 9 chapters and disapproval of 1 chapter, that's also in the range of options here; or even of one paragraph or one sentence or one policy, one map, and approval of the rest, the Planning Commission, that is, those are all in the range of options that the Planning Commission has. If the Planning Commission wants to add a policy, add a statement, that's in the "with or without modifications" clause of this. So all of those options are set out for the Planning Commission. We certainly, we couldn't write something like this that says the Planning Commission does not have the option of saying that the whole thing ought to be reworked and recommending disapproval of it.

WATANABE: Are you comfortable with that? I think what Mr. Yuen is saying is that he is merely indicating what is possible, not necessarily what is probable.

SIRACUSA: I understand that. However, I have seen it in my life things that were improbable come to pass; and so I have to be very, you know, careful. And it's part of doing our job here is to, you know, look at all the possibilities in what could happen and the ramifications for the future. I still have concerns about that even though I know that we are not the ultimate say-so and that it goes up to the Council; because I know that not all the Council people read all the stuff they get from us. And so, even our discussions about the details of something, those messages don't always get through to everybody up there.

WATANABE: Well, okay. Yes, Mr. Alameda.

ALAMEDA: Thank you. I have a question. Mr. Yuen, you know the Community Development Plan, if you push the process further and, say, the County Council adopts it. Then what does it become? Does it become a plan of guidance or a more stringent plan of compliance?

YUEN: Well, it's both, depending how sections of it are worded. There are going to be some things that wind up being mandatory. But then there are things that in any plan are stated as policies and they're stated as objectives and things to work toward; but they may not, you know, have the ultimate control. And let me give you an example of two different ways to word it. Say the Community Development Plan doesn't like bed and breakfasts. If the Community Development Plan says no more bed and breakfasts in North and South Kohala, and this is adopted by ordinance of the County, then we will stop, you know, there will be no more bed and breakfasts; that amends the other sections of the law that will do that. Now if it said that bed and breakfasts shall be discouraged unless – and it gave a bunch of conditions – then that's guidance, and then the Planning Commission is supposed to take the guidance seriously. And if it says, you know, no bed and breakfasts except in resort areas, then – the wording is that the County shall discourage establishment of bed and breakfasts in neighborhoods in Waimea and Waikoloa and encourage it in resort areas like Waikoloa Beach Resort – then that's a guidance,

and the Planning Commission is supposed to take it very seriously and follow that as a guidance, and the Planning Department in its recommendation is also supposed to take that as a guidance; but it's not, it doesn't absolutely prohibit the action from taking place.

So to give another example, take the LUPAG maps in the General Plan, those act like a filter. So if you are not in an urban area in the LUPAG map, you are not supposed to approve an urban development. And that is mandatory. Now it doesn't stop, you can still, you know, take a vote on it, but it is a mandatory aspect of it. Whereas in the General Plan, there are lots of policies that may, in any applications that you have, may be competing types of policies at a particular time, like – and I won't take the exact language – but say the General Plan will have some policies in favor of preserving open space, and then they'll have some policies in favor of producing housing, and then you come up with somebody who wants a rezoning to do a residential subdivision in what is an open area right now. And the people who live next to it may say, well, that's our open space and point to this policy in the General Plan; and the people who want to do the residential development will say, well, look at these policies in favor of housing. So you have to choose then, you find a balance between competing policies; the policies are both there, they are both enacted in law, but they don't tell you what to do in a particular situation. So in that respect the Community Development Plans are the same as the General Plan. What we are trying to do, though, is – and this is sort of one of the final polishing type points – trying to be really explicit about what are the must-dos and what are the should-dos.

ALAMEDA: That's good, very good.

WATANABE: Okay. Any follow-up on that?

ALAMEDA: No. Thank you. Very well articulated, the examples and everything.
Thanks.

DOMINGO: Mr. Chairman.

WATANABE: Yes, Mr. Domingo.

DOMINGO: Mr. Yuen, in the past the Development Plans were adopted as a resolution, by resolution, and now it will be adopted as an ordinance.

YUEN: All right.

DOMINGO: You know, I think that's a fine, a good approach to the Community Development Plan because what it does is give the people within that community an opportunity to really decide the plan for their own community, and they can be explicit as to what their desires are and what their long-term views may be as far as growth is concerned. And what it does, you know, as we've often discussed, the LUPAG map is somewhat in my opinion, you know, it's a wide, it's a broad interpretation of what may be permitted in a certain area and where the line of demarcation would be. I think, I know for sure that the Community Development Plan would be an asset, a big asset in trying to help planners and regulators decide exactly where that line would be because the Development Plan would be more in detail. Now of course, the General Plan as I understand it is, you know, it's a broad, it's a document which projects development, land use development throughout the entire county, and it consists of

policies, and it provides for means to make the decisions as to where those developments could be. But, and as I understand it, the Community Development Plan is a finer or detailed explanation or expression of what is in the General Plan. And I think one of the best things that is happening now is that it's going to be adopted by ordinance and therefore making it a law and that's something that everyone has to adhere to. In the past where you have Community Development Plans, you know, you have the community working very hard on the Plan and then they find out at a later date, you know, what they've actually wanted for a certain area is not actually what the community had actually wanted. And it's only because it's an advisory document, you know, okay, this will be a, it will be a good place that we locate such and such things in this area, but then by the interpretation of the planners, you know, things have changed, things are changed. So I think the most important aspect is what I'm saying is that it is by law, and that it gives the community a sense of ownership to what the Plan really says, and that their time and the efforts that they put in would be not, would be not for not, you know, it would be something that they know will happen and something that they have ownership in. That's the bottom line.

I think, as far as the time element, as Ms. Siracusa indicated, I think it's appropriate as presented at this time because, you know, you find a community has worked very hard and put in a lot of effort in the planning, and once it comes up to the Planning Commission review I think they are just waiting, you know, they are just waiting that it will just pass as they presented it; and that they'd like for that Plan to start moving on, so that it will be adopted by ordinance. You give more time, it gives people with other difference of opinion in the community or other parts of the county more time to organize and put up organized effort in trying to defeat the Plan or parts of the Plan. And I think the community has a final decision to that; and to give it more time for review I think would be just in my case inviting more, inviting problems to it through the process.

WATANABE: Thank you. Do we have any further comments or questions? Yes, Mr. Alameda.

ALAMEDA: One more question. You know with the Plan, is there a specific timeline on when it should be revised? Because my only concern is that communities change over time; and so what might be what the community wanted ten years ago may not be the same community and they might like something different. So if we are going to make this Community Plan become, you know, ordinance, how long does it become ordinance?

YUEN: I don't think, the discussion of the process for a CDP is in the -. Actually it's in the General Plan; the General Plan calls for them. It doesn't have a specific renewal date; but because the General Plan itself has a renewal date of ten years to do a comprehensive review, my expectation is that you would run the same cycle in, after doing the General Plan review.

ALAMEDA: Okay, thank you.

WATANABE: Is that satisfactory?

ALAMEDA: It's good.

WATANABE: Do we have any further questions or discussion on this item? Seeing none, we are expected to act on this. So I would entertain a motion for a recommendation.

ALAMEDA: I have a question.

WATANABE: Mr. Domingo.

DOMINGO: Okay.

ALAMEDA: Sorry, I have one more -.

DOMINGO: He wants to say something.

WATANABE: Oh, I'm sorry, I'm sorry. Okay. Mr. Alameda.

ALAMEDA: I just forgot because – before we make the motion – I don't know if we settled Commissioner Siracusa's 90 days versus 60 days, so -. I don't know. I wanted to check with Commissioner Siracusa. I know that the second part of your question to Mr. Yuen about, you know – I'm okay letting that part go. But the whole 60 or 90 days, I'm just checking with you, Commissioner Siracusa, what -. I mean, are you settled with that or, you know, before we vote?

SIRACUSA: No. I would prefer to see, considering how much time whole communities put into something and how the Commission might need extra time to tweak some of the recommendations, I would like to see us be proactive and move in more support of the community by allowing that time to do that, if we feel it's needed.

WATANABE: Okay. May I -. Mr. Woodward.

WOODWARD: Mr. Chairman, I think we would have to have it made as a motion, and then vote on that first; and then we vote on the entire issue after that.

WATANABE: Yeah, I was about to make the suggestion that a motion be made, and then we can bring that up during discussion of that, you know, before taking the vote on that motion.

ALAMEDA: Okay, cause the reason I asked for that is I think Commissioner Domingo started like, to me it sounded like he was in support of the 90 days, and then towards the end it sounded like he wasn't in support. So I don't know -.

DOMINGO: No, I wasn't.

ALAMEDA: Oh, yeah, okay.

DOMINGO: From the beginning I wasn't.

ALAMEDA: Oh, from the beginning. Okay. So we've got a little bit of difference, that's all.

WATANABE: Okay.

OGATA: I have a -.

WATANABE: Yes, Ms. Ogata.

OGATA: I have a question. As I read it now and as I understand it – so please correct me if I'm wrong – we would receive a draft of the Plan, we would have, the proposal is to have 60 days to turn that around; however, if the Commission saw the need for an amendment or a revision, would that restart the 60 days?

YUEN: No, that would be part of your recommendation up to the Council.

OGATA: Okay. So it wouldn't, I mean, say we have been discussing that for 40 days so far and then all of a sudden somebody comes up with a recommendation for a revision, or something like that. Would that kind of amendment or revision restart the clock or we'll already be in the 40 days?

YUEN: No, once the Plan is transmitted to the Commission, that's when the 60 days start, and regardless of what the Commission may do in its own deliberations. Because if you restart it for amendments by the Commission, conceivably, you know, that could itself take forever; just as if you had no timeframe, you would not know when to bring it out of the Commission.

OGATA: Okay.

WATANABE: Mr. Woodward.

WOODWARD: I think what Mr. Yuen is saying is we don't make the final deliberations; we just send a recommendation to the Council. And we have quite a bit of leeway. If we want to send a recommendation to approve provisions 1 through 8 of 9, we send that recommendation to the Council; if there is one we object to, we suggest revisions to it. It's really up to the Council then to make the decision. So I don't think it's a matter of having it back and forth between us and the people that drafted the original Community Development Plan; it's a matter of sending our recommendation to the Council. And we have the ability to modify or make recommendations on, you know, line items essentially.

WATANABE: Mr. Alameda.

ALAMEDA: I'm just thinking about it, I don't see three more months being that big of a problem considering the ten years that we may never see the document again. You know what I mean? It's just three more months of more scrutiny, additional scrutiny that the County Council can probably benefit from. I mean nobody is going to look at one document better than Commissioner Siracusa. You know what I mean? So that may be additional, I don't see that as a huge problem unless there is some backlog or maybe there is some issue with administration-wise. But, I don't know, three more months for documents that we are not going to see again in ten years, I don't know, to me it's not a big deal.

SIRACUSA: Excuse me, it's not three more months; it's three months all together, not three more months.

ALAMEDA: Oh, one more month.

SIRACUSA: It's one more month.

ALAMEDA: So less of a big deal then to me.

SIRACUSA: And -.

WATANABE: Yes.

SIRACUSA: I just want to say I, you know, I suggested it because it gives us more wiggle room, it gives us some time. We don't have to use it; like, you know, a lot of things will have 90 days or 120 days to make a decision on and we can make it in a lot less time. But sometimes we do need that extra time, and I don't see why we should tie our hands behind our backs.

WATANABE: Okay. Mr. Woodward.

WOODWARD: Thank you, Mr. Chairman. I would agree. We've been pushed to the wall on a couple of issues lately; you know, where it takes awhile for the issue to come before us to be put on the agenda, we may have to have a West Hawaii meeting and an East Hawaii meeting. And I would say, what difference would one month make? It gives us a little more room to be able to make a decision and not have to make a rush decision. You know, if for one month we don't have a quorum and we have to take it on both sides of the island, then one month is not going to make a difference. And I would agree.

WATANABE: Okay. Mr. Domingo. Anything to add?

DOMINGO: I'll not fight it.

WATANABE: Okay.

DOMINGO: We are just advisory. We sit in an advisory capacity. Sometimes I get mixed up with my prior responsibility than responsibilities now, so -. You know, who knows, maybe Ms. Siracusa will be a Councilman by that time.

WOODWARD: Should be a Councilwoman.

DOMINGO: Councilwoman.

WATANABE: Okay, then, we've had some discussion over this. Would anyone care to make a motion?

WOODWARD: I would move that we accept the Planning Director's initiated - I don't have my glasses on, let me put them on - amendment to Chapter 2, Article 7, Hawaii Code 1983

with the revision that Commissioner Siracusa has suggested that we have 90 days to review Community Development Plans.

RHO: Second.

WATANABE: Okay. It's been moved and seconded. If we do have a revision in here, I'd like to add Mr. Yuen's comments maybe to the revision.

YUEN: My comments are the same as before. I do prefer the 60 days.

WATANABE: Okay. But in spite of that the 90 days does not present any additional problems as far as processing, etc.

YUEN: No.

WATANABE: Not in particular -.

YUEN: No, it does not. It also, I mean, actually you know, both of these, the Planning Commission can move more quickly. But it's not tied to anything else; I don't think there's any other clauses that we have to change.

WATANABE: Okay.

YUEN: And I, you know, I continue to wish that you go for 60 days. But I, unless you have questions, I've said what I have to say on that.

WATANABE: Okay, thank you. Mr. Domingo, it looks like you have some comments.

DOMINGO: Thank you, Mr. Chairman. Yeah. I'm not going to attempt to change the Commissioners' minds and I think you already kind of agree with the 90 days. But you know, I don't know how many of us have been involved in drafting so-called Community Development Plans or urban design plans for particular areas in a community and the original plans, you know. You have a wide array of people with various backgrounds, who come to those meetings. And they are very serious and sincere about what they really want accomplished, and they'll never let their concerns or their ideas go unnoticed. So you know, through all the vigorous efforts and time that they put into coming up with a plan, what I see coming up to us in a form of a Community Development Plan is what the community really wants. And if at any time when we receive a plan like that and we attempt to amend it or change its course of the planning and the process that it's involved, you know, we will certainly hear from the community. But I think even before it comes up, we have people in the Planning staff who would have been at the very beginning with the community sitting as a resource person in an advisory capacity, guiding and giving them direction. And of course, we also have consultants who come in and actually put, you know, put all the plan into its proper order, so that in a final analysis when we review it, it will be something that is appropriate as a matter of kind of technical aspects of the plan is concerned and the application of their desires in keeping with the General Plan and everything.

So as I view a Community Development Plan, it comes to us as a document practically almost perfect, you know. It then becomes a sacred document for the community. And I think for me

30 days is ample, uh, 60 days is ample time for us to make the decision; yes, we support the community. And then, you know, with that thought in mind and with respect to the community's efforts and their goal, I say, let's go with the 60 days, act on it as soon as possible in sending up to the Council. And I would feel in my mind that I'm honoring all the work and the efforts that they put into it, and you know, I'm respecting their decision. I don't want to change it; I respect because you know, that's the bottom line with community involvement. Let us have community plan their destiny. And that's what's going to come up to us; what the community really wants. I cannot foresee anyone of us drastically making changes to it because in my mind I feel that we are obligated to yield to their desires.

WATANABE: Thank you. Mr. Woodward.

WOODWARD: Mr. Chairman, I would like to make one comment. And that is these Community Development programs, the ones that have been in progress now are not even in a final draft form, but they have already directed the Planning Commission; we pay attention to what they had to say even though it's not in their final form. The County Council pays attention to it. In point of fact, these things will not become part of the General Plan until 2015. So if a community puts out a Community Development Plan, that is going to guide the Planning Commission, it's going to guide the County Council. And whether or not it has our final seal of approval, as I say, even if the County Council acts on it one way or another, it will not become ordinance until 2015. So I don't think it makes a difference if we take two months or three months to put our stamp of approval on it because just the fact that the community has developed it – and I can tell you, having been a part of this body now for a year – we have paid attention to what they have put out in Kohala, for example, even though it's not even in a final draft form at this point. So the fact that the community is doing it is guiding the government. It's not going to be enacted in ordinance as part of the General Plan until 2015. So I think the matter of whether it takes us two or three months to put our stamp of approval on it, probably it doesn't make much difference.

WATANABE: Thank you. Mr. Alameda.

ALAMEDA: Yeah, just a word of caution. I think we've got to be careful in assuming that the Community Development Plan represents everybody from the community. I've participated in many facilitation groups with the community, and we go quick too, and so you get about 15, 20 participants. We've got to be real cautious in saying that this Plan from these representatives from the community represents the whole community, and therefore we should just buy into everything that is in this document. Most of the people right now participating in these Community Development Plans are people who get time, cause maybe, you know, maybe that they don't work, older adults. Right? So it misses various segments of our population: the low, poor income, ethnic minorities. So we've got to be real cautious in suggesting that this Plan represents the viewpoints of the entire community, for some communities. Some communities, more diverse than others; some communities, they've really captured a good representative sample of that community, so maybe it reflects. But I like the idea of having the option to scrutinize even that Plan because I know plenty of people who'd like to participate in the Plan, no can, because of time constraint, kids, whatever. So we've just got to be careful, yeah?

WATANABE: Thank you. I haven't heard from you yet, Lani.

BOWMAN: I have a question as new person. How often do you not have a quorum?

YUEN: I think we've always had a quorum. Have we canceled a meeting for -?

WOODWARD: I think once in the last year.

YUEN: Okay, once, okay. We've canceled a meeting once for lack of a quorum, having five people to meet. We have had a lot of matters where there was a split vote and so there was no decision made, because of six people split 3-3 or 4-2 or something like that. So that's been quite common.

BOWMAN: My reason for asking that is I do feel it important that we be able to have two meetings, which would be 60 days to hear it. But if something happens, in that case, you know, maybe longer would be better. So I just was asking if that was a problem.

YUEN: Yeah, I would, you know, barring anything extraordinary, we would be able to schedule two meetings in 60 days. That's for sure.

BOWMAN: Can you make it a condition that 60 days or at least two meetings, or is that -? I don't know. Just an idea.

WATANABE: Any comments to that? Well, while they are pondering that, Mr. Woodward, you had some comments?

WOODWARD: Well, yeah, we've only had, in my year on the Commission, we've only had one meeting that was canceled due to lack of a quorum. But the problem is it requires five positive votes, you know, it's not a majority of – and I'm sure you probably know this – it's not a majority of people that are here; it's five votes one way or the other. And if we have five people there, you've got to have 5-0. And if you don't, it doesn't pass, and then it gets passed off to the next meeting. So things do happen like that. And that's the reason -. You know, again, as I say, this ordinance is not going to take, it's not going to become part of the General Plan until 2015. So I think to give ourselves that extra month would be good. Now if everything goes according to plan and we do it in a month or two, that's fine.

The other thing – and I would echo Commissioner Alameda's comments and I brought this up when Allen Salavea made his presentation to us – these Community Development Plans are certainly not perfect, and it's, you do come into the problem of sampling bias; you are not going to have, even in the best circumstances, probably more than 15 percent of the population of any given community that are going to participate. And how do you know that that 15 percent is representative of the entire community? You don't. So I think it's a bit presumptuous of us to suggest that we're going to make this law based on what 15 percent said who happened to come to the meetings. And you are right, you know, it's going to be a group of retired people, people who don't work, not people who have jobs and kids; so we are dealing with a bias sample. There is no doubt about it.

WATANABE: Yes, Ms. Siracusa.

SIRACUSA: I would like to address that point because although I can't speak for the Kona and the Kohala Community Development Plan processes, I can speak for the Puna one because I've been involved in that. There were quite a few large-scale meetings. One was at the Kamehameha School cafeteria. It was jam-packed with people there; there were at least 300 people at that meeting. And then there was another meeting at the Pahoehoe High School cafeteria, which was also jam-packed. Out of those meetings committees were formed. People who wouldn't be able to come to another meeting went to different tables; each table was for, at the Kamehameha School one, each table was for a different community. And they worked around the table together about things that were really -. Some things were real duh, you know, real obvious, which are things that your community needs. And the other meeting, it was formed by the committees that had to do with different issues like public facilities and land use and parks and recreations and natural resources, things like that. Then they broke down into smaller groups. Each of those people went out and had, called smaller meetings; it's almost like coffee hours in their own homes, bringing in smaller circles of people. The people who attended the big meetings, there were a lot of, there was a lot of ethnic mix, there was a lot of big age mix; we had young people from the high school coming in to put their manao, you know, what they as young people who are going to be inheriting the results of our decisions wanted to see the concerns of the senior citizens. It was a real mix. I was really delighted to see that mix. And I know that the Steering Committee work very hard to try to make sure that just about every stakeholder they could think of was represented. And so to echo one of the things that Commissioner Domingo was saying, you know, about the community is pretty clear about what they want, and I think that even though it ended up being a small number of people doing the final work, you know, the ideas that were put forth at the large group meetings and at the small private meetings all went into the pot, it all got added into the stew of ideas and desires. And so I would very much like, you know, to see the Community Development Plans passed. That said, I'm wondering why no one is taking exception with the part of Chris's amendment that says that the Planning Commission can reject the thing entirely. I mean, here we are talking about how we are ready to take it into consideration, how people work so hard and this and that, and yet we're still leaving that as an option.

WATANABE: Mr. Woodward.

WOODWARD: Yeah, Mr. Chairman, a couple of points to respond to Commissioner Siracusa. One is we just make a recommendation to the Council. So we can recommend negatively, and then the Council still has to decide. And I would agree with you that, you know, we do the best we can, but representative democracy is not perfect because you can't get everybody to participate, no matter how hard you try. All we can do is the best we can. And that's the pat on the back I gave to Allen Salavea; I think he has done absolutely the best job he can. But Commissioner Alameda's point is still pertinent; and that is not everybody is going to be represented. That's just one of the flaws of the system; there's nothing we can do about that.

WATANABE: Thank you. Mr. Domingo.

DOMINGO: Thank you, Mr. Chairman. Tell me if I'm wrong when I interpret the whole procedure; because after listening to Commissioner Woodward, he mentioned that this will become law when the General Plan is then again reviewed and adopted. Please clarify -.

YUEN: Yeah, no, that isn't correct. The Community Development Plan will become law when it's adopted, which would hopefully be -. We are shooting for an adoption in 2008 because both the administration that's myself and the Mayor and say Roy Takemoto who've been working on the Plan are out in December 2008. The present Council terms are out in December 2008. So we anticipate we would get the Plan to the Council, you know, the current Council sometime in 2008. We would like to have them to have enough time to pass it in that timeframe. But it does become law when it's passed. There may be aspects that call for General Plan amendments; and if the Community Development Plan contradicts a portion of the General Plan and says you have to amend the portion of the General Plan, then the General Plan would control until that amendment happens. We are working actually to have as little of that as possible, you know, because, and to make the Community Development Plans. For the most part they are consistent and they refine General Plans; they don't actually contradict it. But it would take affect upon adoption in hopefully sometime in 2008 or whenever.

WATANABE: Thank you.

DOMINGO: Yeah, I was with the understanding that the dog will always wag the tail, and not the tail the dog. So but anyway, in any event, after listening to Commissioner Bowman when she said that, you know, she probably wouldn't mind having more time, and because she's being very much involved in the Kohala Community Development Plan, you know, again I'm just going to make a statement and say, I yield, and whether it's 60 or 90 days, let it be.

WATANABE: Any further comments?

BOWMAN: I have another question. You indicated an urgency to get it to the Council for approval before the end of '08?

YUEN: Well, we would like the current -. We know that we are going to get the Plans to the Council some time in '08 or given any of the timeframes, but then the Council has to take some time to look at it. And then, and you have to remember the Council gets into their election cycle; they are already sort of in it, but it becomes in earnest. So we are certainly trying to get it to one group of people that -, because if you start to have hearings and you have a group of people who are looking at the Plan, and to have enough time for them to vote on it while you have the one group. And it's not because of the composition of the Council. That's up to the voters to decide. We know just from announcements that people have made that there will be some changes in the composition. But just from the standpoint of if you don't get it enacted by the end of the Council term, which end in, their last meeting would be at the end of November of '08, then it has to carry over to a new group of people that haven't, some of them haven't sat through the hearings and gone through that whole process. So that's the timeframes that we are working under.

And all the Plans, although – we have Kona, Puna, North Kohala and South Kohala – and although North and South Kohala actually started much later, we had done a lot of the groundwork in North and South Kohala as far as surveying community attitudes. So they are catching up. Kona is ready to go to – if you want to know the nitty-gritty of the timeframes – Kona should get voted on by the Steering Committee in late March, and then come up to the Planning Commission right after that. North and South Kohala and Puna are trailing a little bit, but probably a couple of months behind.

BOWMAN: May I ask a question? So do you envision us getting two CDP's at the same time?

YUEN: Most likely, yes. You will probably get, you will get Kona first. And you'll probably get North and South Kohala. North and South Kohala are working on about – they are separate Plans – they are working on about the same timeframe; we have the same consultant working on them. And Puna, there are still some things up in the air. But, yes, I think you would get, you'll probably get Kona first, and Puna second, and North and South Kohala at the same time.

BOWMAN: And Puna, when do you envision that? If Kona is late March -.

YUEN: May.

BOWMAN: May. And then, North and South Kohala, June, July?

YUEN: May, June, something like that.

BOWMAN: So if we get them in June – June, July, August – we, say we take those three months, then you'll have September, October, November and December for the Council. Four months, that's -.

YUEN: You, well, you can't count, not December. You change over Council on December 1.

BOWMAN: Okay. Thank you.

WATANABE: Okay.

ALAMEDA: Mr. Chair?

WATANABE: Mr. Alameda.

ALAMEDA: Yeah, real quick. I didn't mind the, I like the three months for one Plan. Now you are telling me that you are going to give us two Plans, or actually we might have all four Plans within the three months. That's tough. I mean, if we'd really like to scrutinize the Plan and we'd like to honor the community and all that hard work that they put into the Plan, and you are giving us four Plans technically, kind of like transitioning in and out, at once, that's heavy-duty. How about staggering them out, like one Plan three month, next Plan three month. I mean, I don't know why we've got to meet the deadline before '08. But if we'd like to honor the community and really -, I mean my brain can only handle so much information.

YUEN: Well, it does, we'll try to stagger the introduction of the Plan to the Planning Commission, but how long the Commission takes with them is also partly up to the Commission. We are operating under -. I think you see the practical difficulties with -, first of all, we are trying to get them, we definitely want to get them to the Council in this term, and the Council wants to see them in this term. They, you know, if they can't pass it, they can't pass it,

either. But, and I also would like you to remember the roles here; the Council is the final enacting body and the Planning Commission is a group that makes a recommendation on a Plan that has had a great deal of community input up until this point. So I understand what you are saying. And it is a lot to deal with; they are an important group of items to deal with. But at the same time, we can't, you know, to bring in four Plans three months apart means a year at the Planning Commission for the last one, which is really too much of a delay, given the amount of work and effort that's been put into them so far.

ALAMEDA: Actually, I was worried about the County Council. We can handle.

WATANABE: Okay. Mr. Domingo, it looks like you have some comments.

DOMINGO: What's the procedure for the Commission? Do we have to take it on a public hearing?

YUEN: It's just the same procedure here. I mean, if you want it, it's not formally a public hearing, but the public is welcome -.

DOMINGO: The same procedure. What about -?

YUEN: To come and give public testimony -.

DOMINGO: What about the County Council? They have to go in a public hearing, huh?

YUEN: Only if three members request a public hearing. So, but again, the Council is the same as the Planning Commission in that every meeting they have everybody can come and testify. So when they, there is this thing in the Charter about calling for a public hearing, and three members can call for a public hearing; and what that means is that then they have to schedule a separate meeting called a public hearing. Normally, the minimum timeframe for the Council to pass something would be -, say like, and you guys don't normally - Taka, you've been on the Council seat, so you know this, but most Commissioners have not seen directly what happens, once say a rezoning bill comes through here, and what happens at the Council - physically what happens is that we write up what the Commission's recommendation was, so put it in a letter form, the Chair comes and signs it, it goes via the Mayor's office to the Council; and that all happens pretty fast. And the Council has to hit their, the Council first goes to their Planning Committee agenda, and then if it passes out of the Planning Committee, it goes to two readings at separate Council meetings; and all these are scheduled two weeks apart.

And the Council, if they want to spend more time, they don't have an overall timeframe to pass something. So, say if three members are uncomfortable -, say if you're actually playing even a delaying tactic at the Council, well, if you have three members, they can call for a public hearing and they can cause a delay in a final vote on something, or just by, more typically by consensus if the Council is not comfortable with something, they will, you know, they will spend more time on it. But that's, you know, if you're talking about the overall timeframe, and I don't want, you know, it's obviously, it's not absolutely essential that these things go through the Council in the current, by December 2008. I think you do understand, though, that just like yourselves have been briefed on certain things, we've briefed the current Council on these Plans, they are familiar

with it, and they would like to see it. If you start over with a term and a new group of people, and if you've had a number of meetings and discussions on it, you're going to have several members who haven't seen the discussion.

WATANABE: Thank you. Mr. Woodward.

WOODWARD: Mr. Chairman, I'd just like to address a couple of Commissioner Alameda's concerns about the number of these Community Development Plans that we might get in a short period of time. I would have to say that since this is a process that's been going on in a community for a year or two, and has been decided by the community, unless there is something really egregious, we are not going to object to it. And it would be sort of presumptuous of us to say -. You know, unless this was one particular fashion in one community that wanted to do, you know, build a nuclear power plant or something, short of something like that, I think we are not going to have a lot of work to do; we're going to review it, we're going to say, okay, this is what you want, that's good with us. And so, yeah, there is going to be a lot of paperwork, but I don't think there's going to be a lot of decisions that we have to make, to be quite honest with you.

WATANABE: Thank you. I think we've run the gamut, so I'll add my two cents. I think what the Director is trying to achieve here is balance, you know, balance between not only the power but the timeliness also. And that's where you're sticking with the 60 days on this recommendation. Now whether the timeliness is 60 or 90 days, I'm not certain. But I do think that overall this proposal is a good amendment; at least it puts some timeframe, some stated timeframe, so that it can't get held up here, and eventually will get to the Council. With that, if everyone is completed with their comments, maybe we can take a vote. So again, we are looking at a recommendation for amendment to Chapter 2, Article 7, Hawaii County Code 1983, and I believe the motion was for the 90-day period; it was revised to the 90-day period. So, Jeff.

DARROW: Thank you, Mr. Chairman. The motion before us is to send a favorable recommendation for the Planning Director's initiated amendment to the County Code regarding the Planning Commission's review of the draft CDP with the amendment to change 60 days to 90 days. With that, I'll take the roll. Commissioner Woodward?

WOODWARD: Aye.

DARROW: Commissioner Rho?

RHO: Aye.

DARROW: Commissioner Alameda?

ALAMEDA: Aye.

DARROW: Commissioner Bowman?

BOWMAN: No.

DARROW: Commissioner Domingo?

DOMINGO: No.

DARROW: Commissioner Ogata?

OGATA: Aye.

DARROW: Commissioner Siracusa?

SIRACUSA: I like one part of it, but not the other. No.

DARROW: Mr. Chairman?

WATANABE: Aye.

DARROW: The motion passes, five to three.

WATANABE: Thank you.

The discussion ended at 10:30 a.m.

Respectfully submitted,

Noriko Sauer
West Hawaii Secretary