

**BOARD OF VARIANCES AND APPEALS
REGULAR MEETING
July 12, 2018**

[\(HYPERLINK TO AUDIO RECORDING OF THE MEETING\)](#)

A. CALL TO ORDER

(Item A begins at 00:00:19 of the Audio Recording)

The regular meeting of the Board of Variances and Appeals (Board) was called to order by Chairman Raymond Sung at approximately, 1:32 p.m., Thursday, July 12, 2018, in the Planning Department Conference Room, first floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

A quorum of the Board was present. (See Record of Attendance).

B. COMMUNICATION (Deferred from June 28, 2018)

- 1. CALVERT G. CHIPCHASE AND CHRISTOPHER T. GOODIN OF CADES SCHUTTE LLLP representing D AND S VENTURES, LLC Appeal of the Planning Director's Notice of Violation (NOV 2014/0013) for the zipline activity within the County's Agricultural District without a Special Use permit pursuant to MCC §19.30A.060 (H) for property located at 2065 Kauhikoa Road, Haiku, Maui, Hawaii; TMK (2) 2-7-012:086 (BVAA 2015/0002), (J. Rapacz/D. Dias)**
 - a. As requested by the Board, Appellant's counsel and Corporation Counsel will provide an update on the status of this appeal.**
 - b. Discussion and possible action regarding the Hearing Officer and contested case hearing, including but not limited to: status and schedule of the hearing; status of the hearing officer contract and billing; whether the board or designated members of the board wish to serve as hearing officer.**

No public testimony will be received.

(Item B.1 begins at 00:00:25 of the Audio Recording)

(At 01:26:19 Call for the question made by Vice Chair Juanita Reyher-Colon)

(Motion made by Member Trisha Egge x, to keep Judge McConnell)

(At 01:31:40 of the Audio Recording Motion seconded by Member William Kamai)

(At 01:41:25 of the Audio Recording Vote was taken)

VOTED: Motion passes to keep Judge McConnell as the Hearings Officer for D&S Ventures Appeal; BVAA 2015/0002
(Assenting: J. Reyher-Colon, W. Greig, M. Kincaid, J. Borge, W. Kamai, T. Egge)
(Dissenting: R. Sung)
(Excused: E. Kissen)

(At 01:41:52 of the Audio Recording Portion to discuss to stay or post-pone the hearing begins)

(Motion made by Chair Sung at 02:02:22 of the Audio Recording)
(No second, therefore motion failed at 02:02:36 of the Audio Recording)

VOTED: Motion failed to deny the request for this Board to stay the appeal until the Planning Commission is done with their process.
(Assenting: R. Sung)
(Dissenting: J. Reyher-Colon, W. Greig, M. Kincaid, J. Borge, W. Kamai, T. Egge)
(Excused: E. Kissen)

(Motion made by Member Trisha Egge at 02:05:28 of the Audio Recording)
(Motion seconded by William Kamai at 02:11:32 of the Audio Recording)
(Motion failed at 02:13:22 of the Audio Recording)

VOTED: Motion to approve the stay for 60 days
(Assenting: W. Greig, M. Kincaid, W. Kamai, T. Egge)
(Dissenting: R. Sung, J. Borge, J. Reyher-Colon)
(Excused: E. Kissen)

(At 02:15:30 of the Audio Recording Final decision made for parties to reach out to Judge McConnell and start the process and come back to the Board in two weeks to give a report. Per Corp Counsel Richelle Thomson, no motion is needed if parties understand that the instruction is to reach out to Judge McConnell, than that's sufficient.)

(At 02:17:52 of the Audio Recording: Written report update due to Board from parties by July 26, 2018. Appearance at meeting is suggested if Judge McConnell is unable to carry out his duties as Hearings Officer.)

(At 02:20:30 of the Audio Recording Corp Counsel Richelle Thomson suggested to postpone Item C. due to only one new member being present at the time. Agreed by Vice Chair Juanita Reyher-Colon. Item C. postponed to the July 26, 2018 meeting.)

(At 02:02:30 Member William Kamai leaves the meeting)

C. ANNUAL ORIENTATION

1. Role of the Board (D.Dias)
2. Variances (D. Dias)
3. Appeals (D. Dias)
4. Rules of Practice and Procedure for the Board of Variances and Appeals (R. Thomson)
5. Ethics (R. Thomson)
6. Sunshine Law (R. Thomson)
7. Maui County Charter (R. Thomson)
8. Chapter 91, Hawaii Revised Statutes (HRS), Administrative Procedure, (R. Thomson)
9. Chapter 92, HRS ,Public Agency Meetings and Records, (R. Thomson)

(At 02:21:39 of the Audio Recording Vice Chair Juanita Reyher-Colon requested a five minute recess.)

(At 02:26:21 Meeting back in session. Audio Recording now unavailable until end of meeting-approximately 1.5 minutes left)

(At 02:26:22 Discussion to move Item B-Continuation/Update, Item C and Item D to the July 26, 2018 meeting, Board agrees.)

D. DISCUSSION (Deferred/Continued from June 28, 2018)

- a. Board discussion of Board procedures, including without limitation: Preparation of written minutes; Procedures for setting agendas; Procedures for canceling Board meetings.

No public testimony will be received.

E. NEXT MEETING DATE: July 26, 2018

(At 02:26:26 Item E. is stated)

F. ADJOURNMENT

(Item F. meeting adjourned at 02:26:35)

There being no further discussion brought forward to the Board, the meeting was adjourned.

Respectfully submitted by,

Chalsey Kwon

CHALSEY KWON

Secretary to Boards & Commission II

RECORD OF ATTENDANCE

Members Present:

Raymond Sung, Chairman
Juanita Reyher-Colon, Vice Chairman
William Greig
Max Kincaid Jr.
Jeffrey Borge
William Kamai
Trisha Egge

Excused:

Evelyn Klssen

Others:

Danny Dias; Supervising Planner
Ana Lilis; Staff Planner
Christi Keliikoa; Staff Planner
Chalsey Kwon, Secretary to Boards & Commission II, Department of Planning
Summer Enfield-Carlos; ZAED Secretary
Richelle Thomson, Deputy Corporation Counsel, Department of the Corporation Counsel