



WAILUA - KAPA'A
NEIGHBORHOOD
ASSOCIATION

November 5, 2013

Kaua'i County Planning Commission
Attn: Wayne Katayama, Chair
4444 Rice Street, Suite A-473
Lihu'e, HI 96766

RE: **Request for Reconsideration** for Long's/CVS Store - Special Management Area Use Permit SMA(U)-2013-9 and Class IV Zoning Permit Z-IV-2013-19

Aloha Chair Katayama:

Please accept this letter as our Request for Reconsideration of the Planning Commission's October 8, 2013 decision of the above referenced project. Respectfully, we ask you to assess whether there were procedural errors which merit reconsideration of the permit approval and possibly a new public hearing. The justifications for this request are as follows:

- A. The Long's SMA Permit required a "Public Hearing" not an "Agency Hearing". The Rules of Practice and Procedure of the Planning Commission indicate that the procedures for each are different and that agency hearings are only appropriate "prior to a judicial review of a contested case". There was no contested case – the individual who petitioned to intervene in July, withdrew many weeks before the October 8th Planning Commission Agenda was posted.
- B. The public was denied a reasonable and customary opportunity for meaningful testimony. (1) The public was required to give testimony prior to the developer's presentation and that presentation was delayed until very late in the day. Public Hearing procedures Chapter 5.1-5-3(c) state: "The applicant or his authorized representative shall be given the first opportunity to present testimony." (2) During the early portion of the hearing, the Director stated, and the Applicant agreed, that the project would be back on the PC's agenda on October 22. But approval was granted that same day around 10 PM after the project opponents in the audience had left, because they understood that decision-making would occur at the next meeting. (3) Two commissioners stated that the Oct. 8th meeting was the 3rd time the project was heard and that the public had "plenty of time to comment". This is untrue because Long's appeared on the July 23 consent calendar (with no presentation) and on August 13 agenda (with no presentation) only to be rescheduled to Oct. 8th.
- C. The CZO Table of Uses 8-2.4 may have been applied incorrectly. The Long's/CVS Store was inappropriately classified as Sec. 8-2.4(g)(19) "retail food and drug shops". However, its vast square footage of retail space makes it a "store" and not a "shop". The CZO allows for incidental drug shops and food shops to accommodate visitors for convenience. However, the Long's Store will continue to serve a very large resident population. And the range of merchandise far exceeds just a food and drug shop, offering fishing & gardening supplies, office & school supplies, cleaning products, stationery, souvenirs, clothing and liquor. The resort experience is intentionally meant to be separate from intensive retail and clearly the project does not align with the Purpose of the Resort District, CZO Article 5 Sec. 8-5.1 (items a through d).

Please support this request for reconsideration of the permit approval decision.

Rayne Regush, Chairperson, on behalf of the W-KNA Board

Serving Residents of the Kawaihau District
"We treasure our rural community"

340 Aina Uka Street, Kapa'a, Hawai'i 96746 • 821-2837