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CONCURRING OPINION BY LEVINSON, J., WITH WHOM MOON, C.J., JOINS

I am not as comfortable as the majority with the Commission's conflation of the areas makai of the Developer's Setback with the so-called "Open zone[(d)] portion" or "strip." The majority considers "plain[]" and "evident" the correspondence between the oceanfront regions circumscribed on the Developer's maps and the "Open zoned portion" or "Open zone strip." Majority opinion at 27. To the contrary, sections 8-2.2 and .3(a) of Kaua'i County's Revised Code of Ordinances (1976 & Supp. 1978) unambiguously require that the boundaries of an "Open District" correspond to those on the formal "Zoning Map" and may be changed only "by ordinance." Nevertheless, I realize that a "zone" and a "district" are not necessarily synonymous and, with regard to this and the other ambiguities in the SMA (U)-84-2 order, I would defer to the technical expertise of the Commission, see, e.g., In re Water Use, Well Constr., & Pump Install'n Permit Apps., 103 Hawai'i 401, 421, 83 P.3d 664, 684 (2004), which decided that the Developer's Setback and the "open zone" boundary could be, and were, one and the same.

Inasmuch as I ultimately agree with the majority that the Commission did not clearly err by concluding (1) that the SMA (U)-84-2 order incorporated the Developer's Setback and (2) that Brescia was on notice thereof, I concur in the court's judgment.

  
Steven J. Levinson