



PLANNING COMMISSION

ROY HO, CHAIR

FRANCIS DEGRACIA, MEMBER

DONNA APISA, VICE CHAIR

RECEIVED

SUBDIVISION COMMITTEE TELECONFERENCE MEETING NOTICE AND AGENDA

Tuesday, January 12, 2021
8:30 a.m. or shortly thereafter

Microsoft Teams Audio: + 1 469-848-0234, Conference ID: 618 526 353#

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

This meeting will be held via Microsoft Teams conferencing only. Members of the public are invited to join this meeting by calling the number above with the conference ID information. You may testify during the video conference or submit written testimony in advance of the meeting via e-mail, fax, or mail. To avoid excessive noise/feedback, please mute your microphone except to testify.

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. MINUTES of the meeting(s) of the Subdivision Committee
- E. RECEIPT OF ITEMS FOR THE RECORD
- F. HEARINGS AND PUBLIC COMMENT The Planning Commission will accept written testimony for any agenda item herein. Written testimony indicating your 1) name, and if applicable, your position/title and organization you are representing, and 2) the agenda item that you are providing comment on, may be submitted in writing to planningdepartment@kauai.gov or mailed to the County of Kaua'i Planning Department, 4444 Rice Street, Suite 473, Līhu'e, Hawai'i 96766. Written testimony received by the Planning Department before 8:30 a.m. on Monday, January 11, 2021, will be distributed to all Planning Commissioners prior to the meeting. Written testimony received after 8:30 a.m. on Monday, January 11, 2021, will be summarized by the Clerk of the Commission during the meeting and added to the record thereafter.
- G. GENERAL BUSINESS MATTERS
- H. UNFINISHED BUSINESS

I. NEW BUSINESS (For Action)

1. Tentative Subdivision Extension Request

- a. Subdivision Application No. S-2019-18
(Salvatore F. & Jo-Ann Dileonardo, Trust)
2-lot Boundary Adjustment
TMK: (4) 4-9-013: 013 & 014
Moloa'a, Kawaihau, Kaua'i

- 1) Subdivision Report pertaining to this matter.

J. ADJOURNMENT

NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR ASEGRETI@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

COUNTY OF KAUAI
PLANNING DEPARTMENT

SUBJECT TO CHANGE

TO: Subdivision Committee, Planning Commission

SUBJECT: Extension Request

PURPOSE: ☒ File Final Subdivision Maps
☐ Complete Subdivision Improvements
☐ Other: _____

Subdiv. Application No.		Applicant(s)	
S-2019-18		Salvatore F. & Jo-Ann Dileonardo, Trust	
Location:	Moloa'a, Kawaihau	Tax Map Key:	(4) 4-9-013: 013 & 014
Extension Request No. (1 st , 2 nd , etc.)	1 st	Tentative Approval Granted On:	September 10, 2019
		Previous Ext. Expired On:	Not Applicable
Subdivision Bonded: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Deadline to Complete Improvements: Not Applicable	

APPLICANT'S REASONS: Additional time is being requested to comply with the conditions/requirements of tentative approval. The applicant is currently with the reviewing agencies in complying with their requirements for the proposed subdivision.

**PLANNING DEPARTMENT
EVALUATION & RECOMMENDATION**

EVALUATION: Please refer to next page...

RECOMMENDATION: Please refer to next page...

Kenneth A. Estes
Staff Planner

12.31.2020
Date

☒ Approved and Recommended
to Planning Commission

☐ Denied

Comments:

[Signature]
Planning Director

1/4/2021
Date

I.1.a.1.

JAN 12 2021

COUNTY OF KAUAI PLANNING DEPARTMENT

Extension requests are primarily processed for the purpose of continuing a tentative approval for a subdivision application. An extension approval allows an applicant additional time to comply with the requirements in order to obtain final subdivision approval.

In determining whether additional time should be granted, an evaluation is made of the project's progress as well as compliance with the requirements of tentative approval. The evaluation is primarily based on determining whether the applicant is **progressively working** towards obtaining final subdivision approval with the various reviewing agencies. The **tentative approval conditions** are then re-evaluated to determine whether the conditions/requirements are adequate to address the impacts of the proposed development in consideration of the time that has lapsed.

Pending evaluation of an extension request, one of the following can occur:

1. The extension is approved without changes to the tentative approval requirements;
2. The extension is approved with modified time frames but no modifications or additions to the tentative approval requirements;
3. The extension is approved with modifications and/or additions to the requirements; and
4. The extension is denied.

FINDINGS/BACKGROUND:

The proposed development involves a boundary adjustment between two (2) existing lots, one of which involves a Kuleana identified as Land Commission Award 238-X, Apana 2 (L.C. Aw. 238-X:2). Based on the subdivision map, the primary intent of the proposal is to provide a more accessible area for the Kuleana. The subdivision application was granted tentative approval by the Planning Commission on September 10, 2019 and the Applicant's request is the *first* extension of the tentative approval.

The subject property is approximately 1.5 acres in size and is located between Hui Road "A" and Moloaa Road with the front of the property adjacent with Hui Road "A" (see attached map). The Subject property is County zoned Open District within the State Land Use Agricultural District. Furthermore, the surrounding parcels are also County zoned Open District and within State Land Use Agricultural District.

PROGRESS OF THE SUBDIVISION:

In considering the Applicant's request, it should be noted that the Applicant has shown some progress with the development. The pre-final subdivision maps have been routed to the various reviewing agencies, and at this point, the department has received final subdivision map approval from the Department of Water. However, final subdivision map approval is still pending from the Department of Health and Department of Public Works. Since it is unclear as to when the Applicant will be completed with the requirements of the Department of Health and Department of Public Works, additional time is being requested.

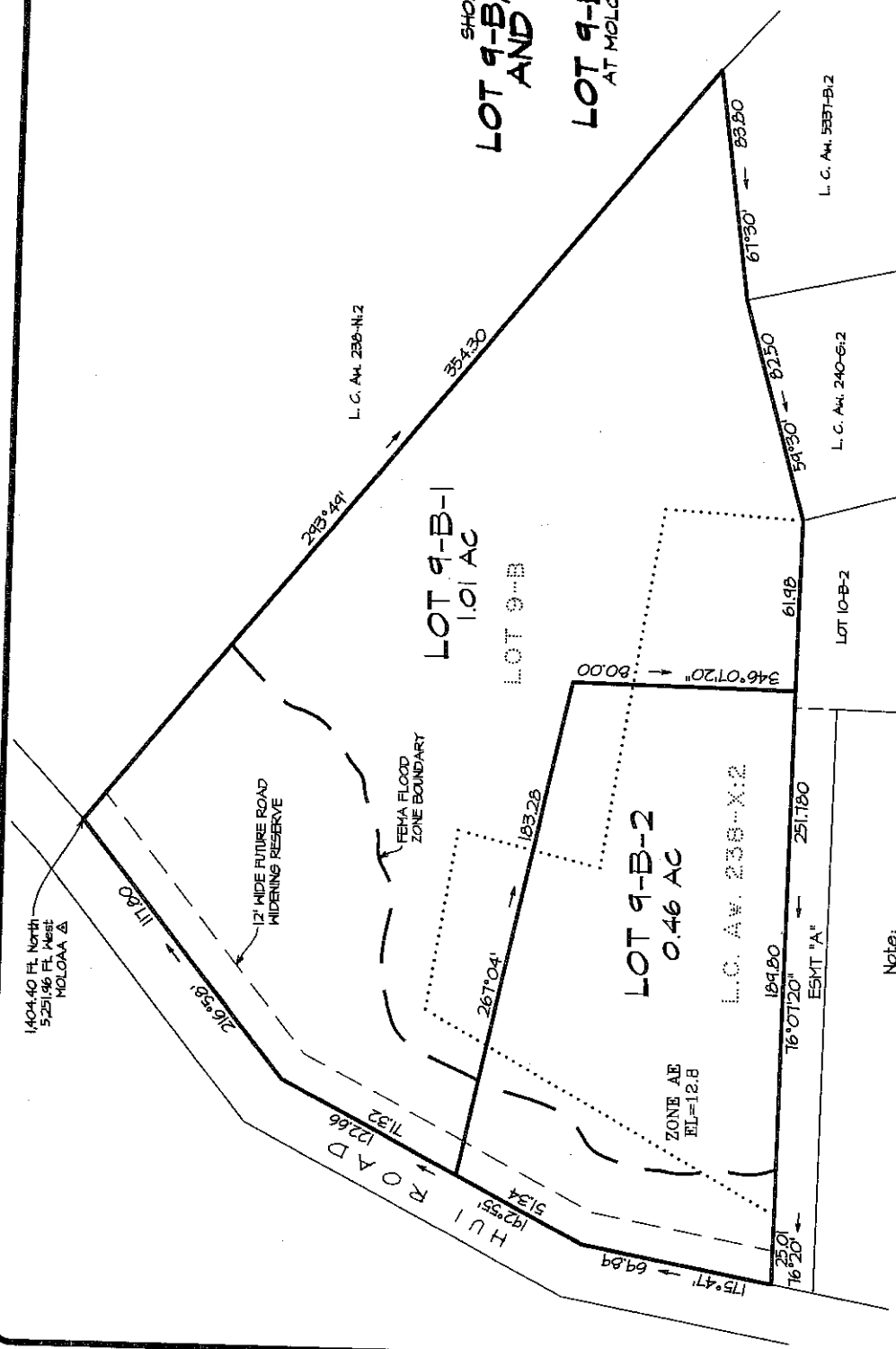
Based on the forgoing circumstances, the Applicants reasons are justifiable and no problems are foreseen in granting the extension request. The Department of Public Works and Water have no objections to the request.

However, the Applicant shall be made aware that in further considering extension requests involving the proposed development, the Applicant shall submit to the Planning Department an updated status report on the subdivision in order to justify further extension requests. The status report should be submitted to the Planning Department no later than sixty (60) days prior to the expiration date.

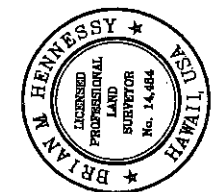
RECOMMENDATION:

It is recommended that an extension until **September 10, 2021** be granted to obtain final subdivision approval. However, the Applicant is made aware that an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements shall be submitted to the Planning Department for review for further extension requests. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date.

1404.40 Ft. North
5251.96 Ft. West
MOLOAA A



PRE-FINAL MAP
SHOWING CONSOLIDATION OF
LOT 9-B, MOLOAA HUI LAND
AND L.C. AW. 238-X:2
AND SUBDIVISION
OF THE SAME INTO
LOT 9-B-1 AND LOT 9-B-2
AT MOLOAA, KAWAII, HAWAII



THIS MAP WAS PREPARED BY ME OR
UNDER MY SUPERVISION

B. Hennessy
BRIAN M. HENNESSY
Licensed Professional Land Surveyor
Certificate No. 14,484 EXP. 4/30/22

PROJECT NO. 62471

deeds of the lot to the Department of Water that state
that the domestic water service is not available from the
Department of Water, County of Kauai.

4. Zone AE denotes flood zone EL=12.8 per FEMA Panel
No. 150002007HIF dated May 24, 2019

Note:

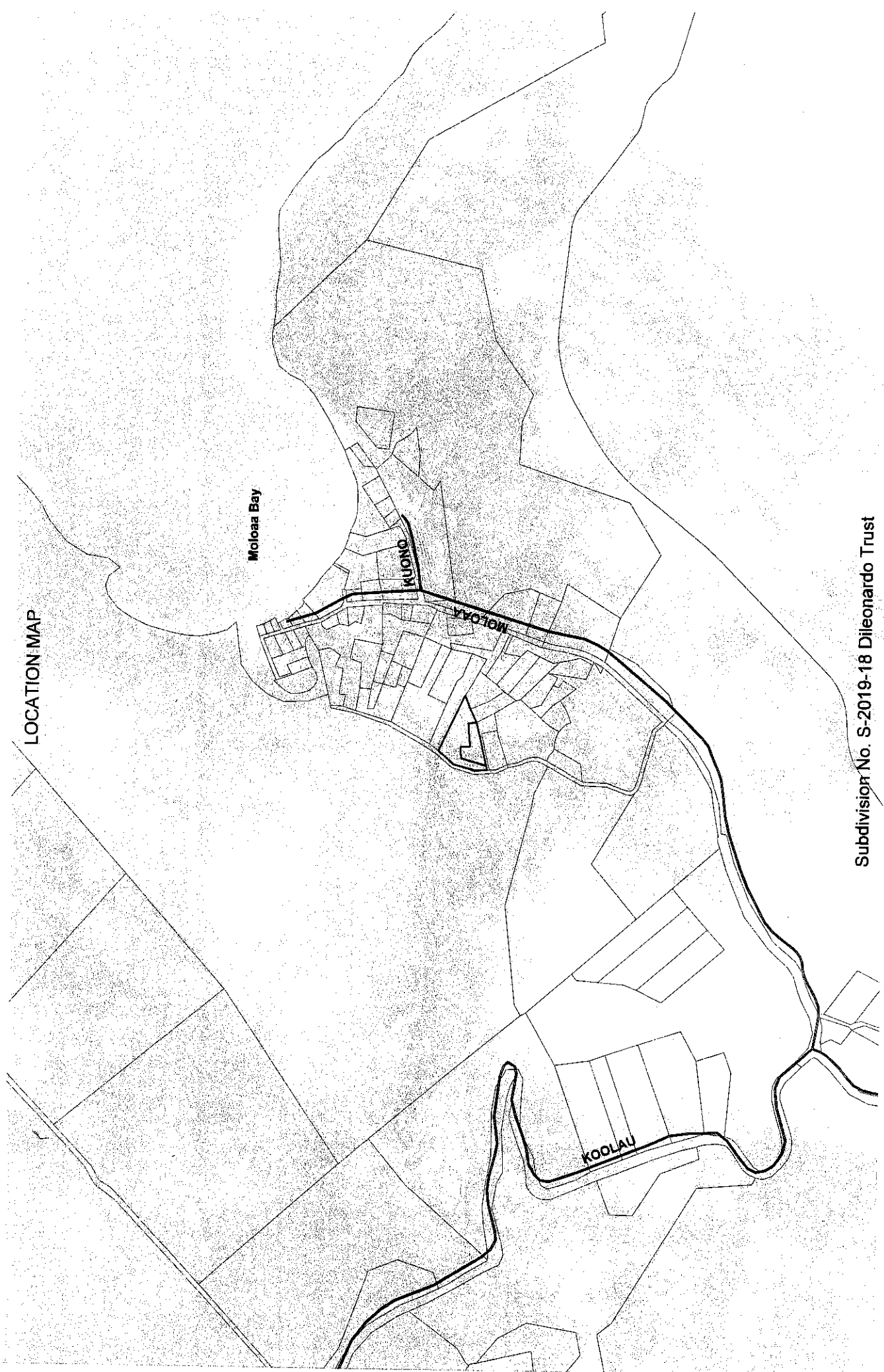
1. No new structures will be permitted within the future road
hiding reserve. New structures shall be set back from
the reserve.
2. Domestic water service is not available from the
Department of Water
3. Prior to building permit approval, the applicant shall either
complete a Waiver and Release Agreement with the
Department of Water, County of Kauai or submit a copy of the

Prepared For:
SAL & JO-ANN DILEONARDO, TRUST
PO BOX 3186
LIHUE, HI 96766

Honua Engineering, Inc.
P.O. Box 851 Hanalei, HI 96714 (808) 826-7256

TKK 4-4-2013 & 14 (4TH DIVISION)

LOCATION MAP



Subdivision No. S-2019-18 Dileonardo Trust



PLANNING COMMISSION

GLEND A NOGAMI STREUFERT, CHAIR

DONNA APISA, VICE CHAIR

MELVIN CHIBA, MEMBER

HELEN COX, MEMBER

FRANCIS DEGRACIA, MEMBER

ROY HO, MEMBER

LORI OTSUKA, MEMBER

RECEIVED

REGULAR TELECONFERENCE MEETING NOTICE AND AGENDA

Tuesday, January 12, 2021

9:00 a.m. or shortly thereafter

21 JAN -4 P3:21

Microsoft Teams Audio: + 1 469-848-0234, Conference ID: 680 192 715#

This meeting will be held via Microsoft Teams conferencing only. Members of the public are invited to join this meeting by calling the number above with the conference ID information. You may testify during the video conference or submit written testimony in advance of the meeting via e-mail, fax, or mail. To avoid excessive noise/feedback, please mute your microphone except to testify.

A. CALL TO ORDER BY CHAIR PRO TEM

B. ROLL CALL

C. SELECTION OF CHAIRPERSON AND VICE CHAIRPERSON

APPOINTMENT OF SUBDIVISION COMMITTEE CHAIRPERSON, VICE CHAIRPERSON

D. APPROVAL OF AGENDA

E. MINUTES of the meeting(s) of the Planning Commission

F. RECEIPT OF ITEMS FOR THE RECORD

G. HEARINGS AND PUBLIC COMMENT The Planning Commission will accept written testimony for any agenda item herein. Written testimony indicating your 1) name, and if applicable, your position/title and organization you are representing, and 2) the agenda item that you are providing comment on, may be submitted in writing to planningdepartment@kauai.gov or mailed to the County of Kaua'i Planning Department, 4444 Rice Street, Suite 473, Lihu'e, Hawai'i 96766. Written testimony received by the Planning Department before 9:00 a.m. on Monday, January 11, 2021, will be distributed to all Planning Commissioners prior to the meeting. Written testimony received after 9:00 a.m. on Monday, January 11, 2021, will be summarized by the Clerk of the Commission during the meeting and added to the record thereafter.

1. Continued Agency Hearing

2. New Agency Hearing

G. HEARINGS AND PUBLIC COMMENT (Cont'd)

3. Continued Public Hearing

- a. Zoning Amendment ZA-2021-1: A bill for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to Comprehensive Zoning Ordinance (CZO). The proposal amends Sections 8-1.5 and 8-2.4 of the CZO to Definitions and Tables of Users, respectively = *Kaua'i County Council*. [Director's Report received, hearing continued 12/8/20.]

1. Supplement 1 to Director's Report pertaining to this matter.

4. New Public Hearing

5. All remaining public testimony pursuant to HRS 92 (Sunshine Law)

H. CONSENT CALENDAR

1. Status Reports

2. Director's Report for Project Scheduled for Agency Hearing

I. EXECUTIVE SESSION

1. Pursuant to Hawai'i Revised Statutes Section 92-5(a)(2 and 4), the purpose of this executive session is to discuss matters pertaining to the annual evaluation of the Planning Director. This session pertains to the evaluation of the Planning Director's work performance where consideration of matters affecting privacy will be involved. Further, to consult with legal counsel regarding powers, duties, privileges, and/or liabilities of the Planning Commission as it relates to the evaluation of the Planning Director.

J. GENERAL BUSINESS MATTERS

K. COMMUNICATION

L. COMMITTEE REPORTS

1. Subdivision Subdivision Action matters listed in the Subdivision Committee Agenda (attached)

M. UNFINISHED BUSINESS (For Action)

N. NEW BUSINESS

1. For Action – See Agenda G for Project Descriptions

O. ANNOUNCEMENTS

1. Topics for Future Meetings
2. The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter, on February 9, 2021. The Planning Commission anticipates meeting via teleconference, but will announce its intended meeting method via an agenda electronically posted at least six days prior to the meeting date.

P. ADJOURNMENT

EXECUTIVE SESSION: The Commission may go into executive session on an agenda item for one of the permitted purposes listed in Section 92-5(a) Hawai'i 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 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: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR ASEGRETI@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.



PLANNING COMMISSION

ROY HO, CHAIR

FRANCIS DEGRACIA, MEMBER

DONNA APISA, VICE CHAIR

SUBDIVISION COMMITTEE TELECONFERENCE MEETING NOTICE AND AGENDA

Tuesday, January 12, 2021
8:30 a.m. or shortly thereafter

Microsoft Teams Audio: + 1 469-848-0234, Conference ID: 618 526 353#

This meeting will be held via Microsoft Teams conferencing only. Members of the public are invited to join this meeting by calling the number above with the conference ID information. You may testify during the video conference or submit written testimony in advance of the meeting via e-mail, fax, or mail. To avoid excessive noise/feedback, please mute your microphone except to testify.

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF AGENDA

D. MINUTES of the meeting(s) of the Subdivision Committee

E. RECEIPT OF ITEMS FOR THE RECORD

F. HEARINGS AND PUBLIC COMMENT The Planning Commission will accept written testimony for any agenda item herein. Written testimony indicating your 1) name, and if applicable, your position/title and organization you are representing, and 2) the agenda item that you are providing comment on, may be submitted in writing to planningdepartment@kauai.gov or mailed to the County of Kaua'i Planning Department, 4444 Rice Street, Suite 473, Līhu'e, Hawai'i 96766. Written testimony received by the Planning Department before 8:30 a.m. on Monday, January 11, 2021, will be distributed to all Planning Commissioners prior to the meeting. Written testimony received after 8:30 a.m. on Monday, January 11, 2021, will be summarized by the Clerk of the Commission during the meeting and added to the record thereafter.

G. GENERAL BUSINESS MATTERS

H. UNFINISHED BUSINESS

I. NEW BUSINESS (For Action)

1. Tentative Subdivision Extension Request

- a. Subdivision Application No. S-2019-18
(Salvatore F. & Jo-Ann Dileonardo, Trust)
2-lot Boundary Adjustment
TMK: (4) 4-9-013: 013 & 014
Moloa'a, Kawaihau, Kaua'i

- 1) Subdivision Report pertaining to this matter.

J. ADJOURNMENT

NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR ASEGRETI@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.
UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

ORDINANCE NO. _____

BILL NO. _____

**A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8,
KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO
USES IN THE AGRICULTURE ZONING DISTRICT**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Findings and purpose. The Council finds that the various lock-down measures in response to the Novel Coronavirus Disease 2019 (COVID-19) pandemic have halted economic activity in certain sectors and harshly disrupted others. Families who have lost employment income because of the COVID-19 pandemic have struggled to provide the basic needs of shelter and food.

The Council also finds that Kaua'i may experience further impacts as a result of steps taken by Young Brothers Hawaii to address financial challenges brought on by a 30% drop in cargo volumes due to the COVID-19 pandemic.

The Council further finds that nonprofit organizations and community members islandwide, including the County of Kaua'i and several business entities, have stepped up in many ways to help individuals and families in need and to provide and share a variety of resources at no cost to the recipient. The agriculture industry and agriculture community have been a major component and partner in efforts to provide families with food and fresh produce.

The Council finally finds that agriculture and agriculture-related activities must remain viable and continue to be a source towards accomplishing food security for the County of Kaua'i.

The purpose of this Ordinance is to amend the Comprehensive Zoning Ordinance to encourage and allow a multitude of agriculture and agriculture-related activities in the Agriculture Zoning District.

SECTION 2, Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Sec. 8-1.5 Definitions by inserting, alphabetically, definitions for the following terms:

"**Agricultural Retail Stand**" means a building or structure, not to exceed a gross floor area of 1,000 square feet, from which agricultural products produced on the subject property or the associated farm are sold.

"**Botanical Garden**" means a public or private facility for the demonstration and observation of the cultivation of flowers, fruits, vegetables, or ornamental plants.

"**Farmers Market**" means the offering of fresh agricultural products for sale directly to the consumer at an open-air market.

'Food Processing and Packaging of agricultural products' means facilities where raw and/or refined agricultural products are made suitable for human consumption and prepared for transport and sale.

'Restaurant and food services' means a retail business selling ready-to-eat food and/or beverages for on or off-premise consumption. These include eating establishments where customers are served from a walk-up ordering counter for either on or off-premise consumption ("counter service") and establishments where customers are served food at their tables for on premise consumption ("table service") that may also provide food for take-out, but does not include drive through services, which are separately defined and regulated.

'Zoological Garden' means a parklike area in which live animals are kept in cages or large enclosures for public exhibition."

SECTION 3. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Table 8-2.4 – Table of Uses, in pertinent part, as follows:

"TABLE 8-2.4 Table of Uses

Sec.	USE	ZONING DISTRICT							
		Residential		RR	Commercial		Industrial		O
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG	
8-2.4(q)(1)	Accessory structures and uses								P
8-2.4(q)(2)	<u>Agriculture, Diversified and Specialized; and Nurseries</u>								<u>P</u>
8-2.4(q)(3)	<u>Agriculture retail stand</u>								<u>P₂</u>
[8-2.4(q)(2)] 8-2.4(q)(4)	Aquaculture								P
[8-2.4(q)(3)] 8-2.4(q)(5)	Diversified Agriculture								P
8-2.4(q)(6)	Farm Dwelling								<u>P</u>
8-2.4(q)(7)	<u>Food processing and packaging of agriculture products</u>								<u>P₂</u>
[8-2.4(q)(4)] 8-2.4(q)(8)	Forestry								P
[8-2.4(q)(6)] 8-2.4(q)(9)	Historic sites								P
[8-2.4(q)(7)] 8-2.4(q)(10)	Intensive agriculture								P
[8-2.4(q)(8)]	[Livestock, poultry, and piggeries, except as provided in Sec. 8-2.4(r)(11)]								[P]
8-2.4(q)(11)	<u>Livestock and grazing</u>								<u>P</u>
[8-2.4(q)(10)] 8-2.4(q)(12)	Orchards								P

Sec.	USE	ZONING DISTRICT									
		Residential		RR	Commercial		Industrial		AG	O	
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG			
[8-2.4(q)(11)] 8-2.4(q)(13)	Outdoor recreation								P		
[8-2.4(q)(12)] 8-2.4(q)(14)	Pet keeping and raising except as provided in Sec. 8-2.4(r)(12)								P		
8-2.4(q)(15)	<u>Piggery, except as provided in Sec. 8-2.4(r)(13)</u>								<u>P</u>		
8-2.4(q)(16)	<u>Poultry Raising, except as provided in Sec. 8-2.4(r)(14)</u>								<u>P</u>		
[8-2.4(q)(13)] 8-2.4(q)(17)	Public parks and monuments								P		
[8-2.4(q)(14)] 8-2.4(q)(18)	Resource Management								P		
[8-2.4(q)(15)] 8-2.4(q)(19)	Single family <u>attached</u> and detached dwellings								P		
[8-2.4(q)(16)] 8-2.4(q)(20)	Solar energy facilities placed within land with soil classified by the State of Hawai'i Land Study Bureau's detailed land classification as overall (master) productivity rating B, C, D, or E; those facilities placed within land with soil classified as overall productivity rating class B and C shall not occupy more than ten percent (10%) of the acreage of the parcel, or twenty (20) acres of land, whichever is less								P		
[8-2.4(q)(17)]	[Specialized Agriculture]								[P]		
[8-2.4(q)(18)] 8-2.4(q)(21)	Undeveloped campgrounds								P		
[8-2.4(q)(19)] 8-2.4(q)(22)	Warehousing, storage, and packing of plant products								<u>P</u>		
[8-2.4(q)(20)] 8-2.4(q)(23)	Wildlife management								P		
8-2.4(r)(1)	Animal hospitals								U		
8-2.4(r)(2)	<u>Botanical and Zoological gardens</u>								<u>U</u>		
[8-2.4(r)(2)] 8-2.4(r)(3)	Cemeteries								U		
[8-2.4(r)(3)] 8-2.4(r)(4)	Churches, temples and monasteries								U		
[8-2.4(r)(4)] 8-2.4(r)(5)	Commercial Recreation								U		
[8-2.4(r)(5)] 8-2.4(r)(6)	Construction and worker temporary housing								U		
[8-2.4(r)(6)] 8-2.4(r)(7)	Development campgrounds								U		
[8-2.4(r)(7)] 8-2.4(r)(8)	Farm worker housing								U		
[8-2.4(r)(8)] 8-2.4(r)(9)	<u>Farmers Markets</u>								<u>U</u>		
[8-2.4(r)(8)] 8-2.4(r)(10)	Golf courses								U		

Sec.	USE	ZONING DISTRICT							
		Residential		RR	Commercial		Industrial		O
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG	
[8-2.4(r)(9)] 8-2.4(r)(11)	Mineral extraction and quarries								U
[8-2.4(r)(10)] 8-2.4(r)(12)	Pet keeping and raising proposed within five hundred (500) feet of any Residential District								U
8-2.4(r)(13)	<u>Piggery, when to be located within three thousand (3,000) feet of any Use District</u>								<u>U</u>
[8-2.4(r)(11)] 8-2.4(r)(14)	Poultry [and piggeries] Raising, when to be located within three thousand (3,000) feet of any Use District								U
[8-2.4(r)(13)] 8-2.4(r)(15)	Private and public utilities facilities								U
8-2.4(r)(16)	<u>Restaurants and food services</u>								<u>U</u>
8-2.4(r)(17)	<u>Retail Sales</u>								<u>U</u>
[8-2.4(r)(13)] 8-2.4(r)(18)	Schools and day care centers								U
[8-2.4(r)(14)] 8-2.4(r)(19)	Transportation terminals								U
[8-2.4(r)(15)] 8-2.4(r)(20)	Any other use or structure which the Planning Director finds to be similar in nature to those listed in this Section and appropriate to the District								U

Notes:

- 1 Requirements for Additional Dwelling Units (ADU) are contained in Article 15.
- 2 Only produce raised or grown on the property and/or associated farm or value-added goods derived primarily from produce or livestock raised on the subject property and/or associated farm.

KEY: U = Use Permit Required
P = Permitted Use or Structure (Zoning Permit may be required)"

SECTION 3. If any provision of this ordinance or application thereof to any person, persons, or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

SECTION 4. Ordinance material to be repealed is bracketed. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 5. This ordinance shall take effect upon its approval.

Introduced by:

A handwritten signature in black ink, appearing to read "Arryl Kaneshiro". The signature is written in a cursive, flowing style.

ARRYL KANESHIRO

DATE OF INTRODUCTION:

Līhu'e, Kaua'i, Hawai'i

V:\BILLS\2018-2020 TERM\2020-306 AgricultureNew AK_AMK_mn.docx



SUBJECT TO CHANGE

**COUNTY OF KAUA'I
PLANNING DEPARTMENT**

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission: Amendment to Chapter 8 of the Kaua'i County Code (KCC) 1987, as amended, Section 8-1.5 and Section 8-2.4, relating to agricultural uses in the Agriculture Zoning District

Zoning Amendment No. Zoning Amendment ZA-2021-1

Name of Applicant(s) KAUA'I COUNTY COUNCIL

II. PERMIT INFORMATION

PERMITS REQUIRED	
<input type="checkbox"/> Use Permit	
<input type="checkbox"/> Project Development Use Permit	
<input type="checkbox"/> Variance Permit	
<input type="checkbox"/> Special Permit	
<input type="checkbox"/> Zoning Permit Class <input type="checkbox"/> IV <input type="checkbox"/> III	
<input type="checkbox"/> Special Management Area Permit <input type="checkbox"/> Use <input type="checkbox"/> Minor	
AMENDMENTS	
<input checked="" type="checkbox"/> Zoning Amendment	Pursuant to Section 8-3.4(a) of the KCC, 1987, as amended, a Zoning Amendment is necessary when changing the text whenever the public necessity and convenience and the general welfare require an amendment.
<input type="checkbox"/> General Plan Amendment	
<input type="checkbox"/> State Land Use District Amendment	

F.4.a.1.

DEC 08 2020

Date of Receipt of Completed Application: N/A
Date of Director's Report: November 30, 2020
Date of Public Hearing: DECEMBER 8, 2020
Deadline Date for PC to Take Action (90TH Day): N/A

III. PROJECT DATA

PROJECT INFORMATION			
Parcel Location:	N/A		
Tax Map Key(s):	N/A	Area:	N/A
ZONING & DEVELOPMENT STANDARDS			
Zoning:	N/A		
State Land Use District:	N/A		
General Plan Designation:	N/A		
Height Limit:	N/A		
Max. Land Coverage:	N/A		
Parking Requirement:	N/A		
Front Setback:	N/A		
Rear Setback:	N/A		
Side Setback:	N/A		
Community Plan Area:	N/A		
Community Plan Land Use Designation:	N/A.		
Deviations or Variances Requested:	N/A.		

IV. LEGAL REQUIREMENTS

Section 8-3.1(f), KCC: N/A Public Hearing Date: December 8, 2021

V. PROJECT DESCRIPTION AND USE

The proposed legislation amends Section 8-1.5 and Section 8-2.4 of the Comprehensive Zoning Ordinance (CZO), Kaua'i County Code (1987), relating to uses within the Agriculture Zoning District.

Specifically, the draft bill proposes new definitions for 1) an agricultural retail stand, 2) a botanical garden, 3) a farmers market, 4) food processing and packaging of agricultural products, 5) restaurant and food services, and 6) a zoological garden. These six structures and uses are not currently defined within the CZO.

The draft bill amends the CZO's Table of Uses to outright permit agriculture retail stands and food processing and packaging of agricultural products in the Agriculture Zoning District. The draft bill also amends the CZO's Table of Uses to clarify that a use permit is required for botanical and zoological gardens, farmers markets, and restaurant and food services in the Agriculture Zoning District.

VI. APPLICANT'S REASONS/JUSTIFICATION

The proposed amendments are to encourage and allow a multitude of agriculture and agriculture-related activities in the Agriculture Zoning District. Specifically, the draft bill recognizes that the agriculture industry and agriculture industry have been a major component and partner in efforts to provide families with food and fresh produce, particularly during the COVID-19 crisis. The draft bill finds that agriculture and agriculture-related activities must remain viable and continue to be a source towards accomplishing food security for the County of Kauai.

VII. AGENCY COMMENTS

None received.

VIII. PRELIMINARY EVALUATION

In evaluating the proposed zoning amendment, the following aspect should be taken into consideration:

1. The proposed request is to be evaluated pursuant to Section 8-3.4(d) of the KCC, as amended, relating to the consideration of a proposed amendment and it reads:

“(d) Consideration. In considering an amendment, the Planning Commission shall consider the purposes of the existing and proposed changes to the Zoning Ordinance. A change in the Zoning Map or text shall not be made unless the change will further the public necessity and convenience and the general welfare.”
2. The CZO's current Table of Uses is structured in that if a specific use is not listed it can not be considered as an outright permissible use with a ministerial over-the-counter zoning permit (ex. Class I Zoning Permit). If the Director finds that the unlisted use is similar in nature to a use listed as requiring a use permit, the Director can then forward requests for said use to the Planning Commission for review via the use permit process.
3. Currently there are no commercial uses listed in the Table of Uses for the Agriculture Zoning District. As such, any proposed commercial uses, even to sell products grown on a respective property or that respective property's associated farm cannot be sold at that farm site without a use permit.

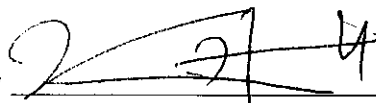
4. The process required for a use permit and its associated public hearing(s) and discretionary review can be a disincentive for farmers from applying for such permits as well as operating a small farm stand operation at their subject farm.
5. While commercial uses should be reserved primarily for our urban areas, farm operators should be outright allowed to commercially sell the products grown on their farm sites, and the proposed definition of an agriculture retail stand and corresponding listing in the Table of Uses for the Agriculture Zoning District happen would allow this to occur.
6. Minor food processing for agriculture products is currently listed in the Table of Uses as outright permitted in the Agriculture Zoning District; however, there is no definition of this use. Providing a definition lends clarity for the Department in reviewing applications for food processing within the Agriculture Zoning District.
7. The draft bill also recognizes that additional commercial operations such as farmers markets, restaurant and food services, and botanical and zoological gardens should be specifically defined. This does provide the Department with further clarity when reviewing application proposing such uses.
8. In conjunction, the draft bill also requires that the other four (4) uses should still require a public hearing and discretionary review by the Planning Commission. This can be considered appropriate in that these four (4) other uses can be of a much higher intensity and need to be reviewed through a public process.

IX. PRELIMINARY CONCLUSION

Based on the foregoing findings and evaluation, it is concluded that the proposal is reasonable and appropriate.

X. PRELIMINARY RECOMMENDATION

Based on the foregoing evaluation and conclusion, it is recommended that the subject request to amend Section 8-1.5 and Section 8-2.4 of the Kaua'i County Code (1987), as amended, relating to uses in the Agriculture Zoning District be **APPROVED**.

By 
KAAINA S. HULL
Director of Planning
Date: 11/30/2020



SUBJECT TO CHANGE

**COUNTY OF KAUA'I
PLANNING DEPARTMENT**

SUPPLEMENT #1 TO DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission: Consideration of an Ordinance amending Chapter 8, Kaua'i 1987, as amended, Section 8-1.5 and Section 8-2.4, relating to agricultural uses in the Agriculture Zoning District

Permit Application Nos. Zoning Amendment ZA-2021-1

Name of Applicant(s) KAUA'I COUNTY COUNCIL

II. PERMIT INFORMATION

PERMITS REQUIRED	
<input type="checkbox"/> Use Permit	
<input type="checkbox"/> Project Development Use Permit	
<input type="checkbox"/> Variance Permit	
<input type="checkbox"/> Special Permit	
<input type="checkbox"/> Zoning Permit Class <input type="checkbox"/> IV <input type="checkbox"/> III	
<input type="checkbox"/> Special Management Area Permit <input type="checkbox"/> Use <input type="checkbox"/> Minor	
AMENDMENTS	
<input checked="" type="checkbox"/> Zoning Amendment	Pursuant to Section 8-3.4(a) of the KCC, 1987, as amended, a Zoning Amendment is necessary when changing the text whenever the public necessity and convenience and the general welfare require an amendment.
<input type="checkbox"/> General Plan Amendment	
<input type="checkbox"/> State Land Use District Amendment	

Date of Receipt of Completed Application: N/A
Date of Director's Report: NOVEMBER 30, 2020
Date of Public Hearing: DECEMBER 8, 2020

Deadline Date for PC to Take Action
(60TH Day): Not Applicable

III. LEGAL REQUIREMENTS

Section 8-3.1(f), KCC: N/A

Continued Public
Hearing Date: JANUARY 12, 2021

IV. PROJECT DESCRIPTION AND JUSTIFICATION

The proposed legislation amends Section 8-1.5 and Section 8-2.4 of the Comprehensive Zoning Ordinance (CZO), Kaua'i County Code (1987), relating to uses within the Agriculture Zoning District.

Specifically, the draft bill proposes new definitions for 1) an agricultural retail stand, 2) a botanical garden, 3) a farmers market, 4) food processing and packaging of agricultural products, 5) restaurant and food services, and 6) a zoological garden. These six structures and uses are not currently defined within the CZO.

The draft bill amends the CZO's Table of Uses to outright permit agriculture retail stands and food processing and packaging of agricultural products in the Agriculture Zoning District. The draft bill also amends the CZO's Table of Uses to clarify that a use permit is required for botanical and zoological gardens, farmers markets, and restaurant and food services in the Agriculture Zoning District.

V. ADDITIONAL FINDINGS

The following additional findings are provided:

- A. At the December 8, 2020 Planning Commission meeting, it was pointed out that the addition of Restaurant and food services to the Agriculture District section of the Comprehensive Zoning Ordinance's Use Table did not have the sub foot note ₂ attached to the "U", which would denote that only produce raised or grown on the property and/or associated farm or value-added goods derived primarily from produce or livestock raised on the subject property and/or associated farm could be used in the dishes and products sold at the respective restaurant or food service operation within the Agriculture District. That correction has been made in the attached draft bill (Exhibit A).

- B. At the December 8, 2020 Planning Commission meeting, concerns were raised over the lack of commercial specificity in the definitions of botanical and zoological gardens. In the attached draft bill the Department is proposing to clarify that these would be commercial uses for a fee.
- C. At the December 8, 2020 Planning Commission meeting, concerns were raised over the definition of zoological gardens referencing the keeping of animals in cages for public display. In the attached draft bill, the Department is proposing to remove the phrase cages and only reference “large enclosures” of animals for public display.

VI. ADDITIONAL AGENCY COMMENTS

N/A

VII. CONCLUSION

Based on the foregoing findings and evaluation, it is concluded that the proposed amendment to Chapter 8 of the KCC is reasonable and appropriate to achieve the policies set forth by the Kaua‘i General Plan and to implement the intent of those policies governing the Agriculture Zoning District.

VIII. PRELIMINARY RECOMMENDATION

Based on the foregoing, it is hereby recommended that Zoning Amendment ZA-2021-1 be **APPROVED** with the amendments as shown in Exhibit “A” (see attached).

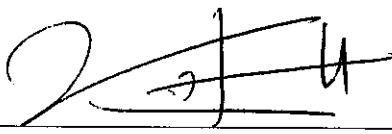
By 
KA'ĀINA S. HULL
Director of Planning
Date: 01/04/2021

Exhibit A

ORDINANCE NO. _____

BILL NO. _____

**A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8,
KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO
USES IN THE AGRICULTURE ZONING DISTRICT**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Findings and purpose. The Council finds that the various lock-down measures in response to the Novel Coronavirus Disease 2019 (COVID-19) pandemic have halted economic activity in certain sectors and harshly disrupted others. Families who have lost employment income because of the COVID-19 pandemic have struggled to provide the basic needs of shelter and food.

The Council also finds that Kaua'i may experience further impacts as a result of steps taken by Young Brothers Hawaii to address financial challenges brought on by a 30% drop in cargo volumes due to the COVID-19 pandemic.

The Council further finds that nonprofit organizations and community members islandwide, including the County of Kaua'i and several business entities, have stepped up in many ways to help individuals and families in need and to provide and share a variety of resources at no cost to the recipient. The agriculture industry and agriculture community have been a major component and partner in efforts to provide families with food and fresh produce.

The Council finally finds that agriculture and agriculture-related activities must remain viable and continue to be a source towards accomplishing food security for the County of Kaua'i.

The purpose of this Ordinance is to amend the Comprehensive Zoning Ordinance to encourage and allow a multitude of agriculture and agriculture-related activities in the Agriculture Zoning District.

SECTION 2, Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Sec. 8-1.5 Definitions by inserting, alphabetically, definitions for the following terms:

"Agricultural Retail Stand" means a building or structure, not to exceed a gross floor area of 1,000 square feet, from which agricultural products produced on the subject property or the associated farm are sold.

"Botanical Garden" means a public or private facility used for the commercial demonstration and observation of the cultivation of flowers, fruits, vegetables, or ornamental plants for a fee.

"Farmers Market" means the offering of fresh agricultural products for sale by multiple farmers or farms directly to the consumer at an open-air or enclosed area.

'Food Processing and Packaging of agricultural products' means facilities where raw and/or refined agricultural products are made suitable for human consumption and prepared for transport and sale.

'Restaurant and food services' means a retail business selling ready-to-eat food and/or beverages for on or off-premise consumption. These include eating establishments where customers are served from a walk-up ordering counter for either on or off-premise consumption ("counter service") and establishments where customers are served food at their tables for on premise consumption ("table service") that may also provide food for take-out, but does not include drive through services, which are separately defined and regulated.

'Zoological Garden' means a parklike area in which live animals are kept in large enclosures for public exhibition for a fee."

SECTION 3. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Table 8-2.4 – Table of Uses, in pertinent part, as follows:

"TABLE 8-2.4 Table of Uses

Sec.	USE	ZONING DISTRICT									
		Residential			Commercial		Industrial				
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG			
8-2.4(q)(1)	Accessory structures and uses									P	
8-2.4(q)(2)	<u>Agriculture, Diversified and Specialized; and Nurseries</u>									<u>P</u>	
8-2.4(q)(3)	<u>Agriculture retail stand</u>									<u>P₂</u>	
[8-2.4(q)(2)] 8-2.4(q)(4)	Aquaculture									P	
[8-2.4(q)(3)] 8-2.4(q)(5)	Diversified Agriculture									P	
8-2.4(q)(6)	<u>Farm Dwelling</u>									<u>P</u>	
8-2.4(q)(7)	<u>Food processing and packaging of agriculture products</u>									<u>P₂</u>	
[8-2.4(q)(4)] 8-2.4(q)(8)	Forestry									P	
[8-2.4(q)(6)] 8-2.4(q)(9)	Historic sites									P	
[8-2.4(q)(7)] 8-2.4(q)(10)	Intensive agriculture									P	
8-2.4(q)(8)	[Livestock, poultry, and piggeries, except as provided in Sec. 8-2.4(r)(11)]									[P]	
8-2.4(q)(11)	<u>Livestock and grazing</u>									P	

Sec.	USE	ZONING DISTRICT									
		Residential			Commercial		Industrial				
		R-1 to R-6	R-10 to R-20		RR	CN	CG	IL			IG
[8-2.4(q)(10)] 8-2.4(q)(12)	Orchards									P	
[8-2.4(q)(11)] 8-2.4(q)(13)	Outdoor recreation									P	
[8-2.4(q)(12)] 8-2.4(q)(14)	Pet keeping and raising except as provided in Sec. 8-2.4(r)(12)									P	
8-2.4(q)(15)	<u>Piggery, except as provided in Sec. 8-2.4(r)(13)</u>									<u>P</u>	
8-2.4(q)(16)	<u>Poultry Raising, except as provided in Sec. 8-2.4(r)(14)</u>									<u>P</u>	
[8-2.4(q)(13)] 8-2.4(q)(17)	Public parks and monuments									P	
[8-2.4(q)(14)] 8-2.4(q)(18)	Resource Management									P	
[8-2.4(q)(15)] 8-2.4(q)(19)	Single family <u>attached</u> and detached dwellings									P	
[8-2.4(q)(16)] 8-2.4(q)(20)	Solar energy facilities placed within land with soil classified by the State of Hawai'i Land Study Bureau's detailed land classification as overall (master) productivity rating B, C, D, or E; those facilities placed within land with soil classified as overall productivity rating class B and C shall not occupy more than ten percent (10%) of the acreage of the parcel, or twenty (20) acres of land, whichever is less									P	
[8-2.4(q)(17)]	[Specialized Agriculture]									[P]	
[8-2.4(q)(18)] 8-2.4(q)(21)	Undeveloped campgrounds									P	
[8-2.4(q)(19)] 8-2.4(q)(22)	Warehousing, storage, and packing of plant products									<u>P</u>	
[8-2.4(q)(20)] 8-2.4(q)(23)	Wildlife management									P	
8-2.4(r)(1)	Animal hospitals									U	
8-2.4(r)(2)	<u>Botanical and Zoological gardens</u>									<u>U</u>	
[8-2.4(r)(2)] 8-2.4(r)(3)	Cemeteries									U	
[8-2.4(r)(3)] 8-2.4(r)(4)	Churches, temples and monasteries									U	
[8-2.4(r)(4)] 8-2.4(r)(5)	Commercial Recreation									U	
[8-2.4(r)(5)] 8-2.4(r)(6)	Construction and worker temporary housing									U	
[8-2.4(r)(6)] 8-2.4(r)(7)	Development campgrounds									U	
[8-2.4(r)(7)] 8-2.4(r)(8)	Farm worker housing									U	
[8-2.4(r)(8)] 8-2.4(r)(9)	<u>Farmers Markets</u>									<u>U</u>	

Sec.	USE	ZONING DISTRICT								
		Residential		RR	Commercial		Industrial		AG	O
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG		
[8-2.4(r)(8)] 8-2.4(r)(10)	Golf courses								U	
[8-2.4(r)(9)] 8-2.4(r)(11)	Mineral extraction and quarries								U	
[8-2.4(r)(10)] 8-2.4(r)(12)	Pet keeping and raising proposed within five hundred (500) feet of any Residential District								U	
8-2.4(r)(13)	<u>Piggery, when to be located within three thousand (3,000) feet of any Use District</u>								<u>U</u>	
[8-2.4(r)(11)] 8-2.4(r)(14)	Poultry [and piggeries] <u>Raising</u> , when to be located within three thousand (3,000) feet of any Use District								U	
[8-2.4(r)(13)] 8-2.4(r)(15)	Private and public utilities facilities								U	
8-2.4(r)(16)	<u>Restaurants and food services</u>								<u>U₂</u>	
8-2.4(r)(17)	<u>Retail Sales</u>								<u>U</u>	
[8-2.4(r)(13)] 8-2.4(r)(18)	Schools and day care centers								U	
[8-2.4(r)(14)] 8-2.4(r)(19)	Transportation terminals								U	
[8-2.4(r)(15)] 8-2.4(r)(20)	Any other use or structure which the Planning Director finds to be similar in nature to those listed in this Section and appropriate to the District								U	

Notes:

- 1 Requirements for Additional Dwelling Units (ADU) are contained in Article 15.
- 2 Only produce raised or grown on the property and/or associated farm or value-added goods derived primarily from produce or livestock raised on the subject property and/or associated farm.

KEY: U = Use Permit Required
P = Permitted Use or Structure (Zoning Permit may be required)"

SECTION 3. If any provision of this ordinance or application thereof to any person, persons, or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

SECTION 4. Ordinance material to be repealed is bracketed. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 5. This ordinance shall take effect upon its approval.

Introduced by:

ARRAYL KANESHIRO
(By Request)

DATE OF INTRODUCTION:

Līhu'e, Kaua'i, Hawai'i

V:\BILLS\2018-2020 TERM\2020-306 AgricultureNew AK_AMK_mn.docx

Exhibit B

Leslie Takasaki

From: Planning Department
Sent: Tuesday, December 08, 2020 9:27 AM
To: Dale Cua; Leslie Takasaki
Subject: FW: Agenda item ZA-2021-1 Bill Relating to Farm Land Rule Changes to be Heard Today

From: Jeremy Hillstrom <hillstromjeremy@gmail.com>
Sent: Tuesday, December 8, 2020 7:21 AM
To: Planning Department <planningdepartment@kauai.gov>
Cc: Kaaina Hull <khull@kauai.gov>; Mason Chock <mchock@kauai.gov>; Luke Evslin <levslin@kauai.gov>
Subject: Agenda item ZA-2021-1 Bill Relating to Farm Land Rule Changes to be Heard Today

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Kauai Planning Commission,

Sorry for the late testimony I am a farmer in Moloa'a and own and operate True Leaf Farms Inc.

The Bill which you are taking testimony on today regarding Ag land on Kauai overall is good but I would like to ask for a deferment so that the definitions of farm worker housing may possibly be looked at and updated along with this bill.

The current farm worker housing laws are helping farmers get onto their land, but it does not help with the housing of the farm hands needed to run a farm on Kauai.

What legitimate farmers in Moloa'a would love to see are guidelines and requirements set forth by the county to house workers in a legal way but without the high cost of building a home. Some living quarters which may work could be repurposed shipping container homes, buses or even tiny homes. Farmers like me who struggle to get their farm to make ends meet and are really farming to help Kauai be more sustainable need to have workers on the farm, and I think Kauai can do better to help farmers get farm workers on the land.

I would be happy to testify by phone if that would help defer the bill and open a dialogue regarding the gap between the current farm worker housing rules and what many farmers on Kauai can realistically do to house their workers.

Me Ke Aloha,
Jeremy Hillstrom 808-635-7245
e-mail: hillstromjeremy@gmail.com
P.O. Box 108
Anahola, HI 96703

Leslie Takasaki

From: Planning Department
Sent: Tuesday, December 08, 2020 9:27 AM
To: Dale Cua; Leslie Takasaki
Subject: FW: Bill ZA-2021-1

From: Anabella Bruch <abruch@gmail.com>
Sent: Tuesday, December 8, 2020 7:53 AM
To: Planning Department <planningdepartment@kauai.gov>
Cc: Kaaina Hull <khull@kauai.gov>
Subject: Bill ZA-2021-1

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Planning Department,
The Kauai Chapter of the Hawaii Farmers Union United appreciates the work your department is doing for agriculture.

We see that this bill is in front of the Planning Department and we would like to be more engaged and respectfully request a short deferment in the decision making today.

We see this bill as an opportunity to discuss farmworker housing in more depth as it is one of the issues that still exist with our membership.

We thank the Department for the changes already included within this bill, as these will support small farmers in making a living at farming.

Mahalo,
Anny Bruch
President
HFUU-Kauai Chapter

**COUNTY OF KAUAI, PLANNING DEPARTMENT
4444 RICE STREET, LIHUE, KAUAI, HAWAII 96766**

MEMORANDUM

DATE: *December 7, 2020*

TO: *Planning Commission*

FROM: *Clerk of the Commission*

SUBJECT: *1st Addition to the Planning Commission 12/8/2020 Agenda*

F. HEARINGS AND PUBLIC COMMENT

2. New Agency Hearing

a. *Kawailoa Development, LLC*

2. Letter (12/8/20) from Greg Petersen.

b. *County of Kaua'i, Department of Public Works*

2. Letter (12/7/20) from Tommy A. Noyes, Kaua'i Path, Inc.

f. *Deborah Boden Manoogian*

2. Supplement 1 to Director's Report pertaining to this matter.

4. New Public Hearing

a. *Kaua'i County Council*

2. Letter from Janmarie Joufflas, Princeville Botanical Gardens.
3. Letter from La'au Woods Incorporated, Alexander "Sandie" Brodie

I. GENERAL BUSINESS MATTERS

2. *HBR Enterprises, LLC*

- a. Association of Apartment Owners of Hanalei Bay Resort's Memorandum in Opposition to HBR Enterprises LLC's Petition for a Declaratory Order Regarding Noncompliance with the Comprehensive Zoning Ordinance and Variance Application Permit V-72-11; Exhibits 1-6; Certificate of Service (12/7/20) from Ian K. Jung, Michael C. Carroll, and Sharon Paris, Attorneys for Interested Party Hanalei Bay Resort.

Aloha County Commissioners,

My name is Janmarie Jouflas and I am the new owner of the Princeville Botanical Gardens. My husband and I purchased these gardens in January 2020 after managing them for over 18 months prior to making the purchase.

Princeville Botanical Gardens has been offering tours and chocolate tasting since 2011 and has been listed as one of the top three Best Things To Do on Kauai on Trip Advisor for several years running. Along with most other businesses here in Kauai, we have been affected by the actions required by the State and County to prevent the spread of COVID-19.

We are very excited about the proposed draft bill No. 2804 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO USES IN THE AGRICULTURE ZONING DISTRICT.

We would like to ask that you consider making “botanical garden” an allowed permitted use in the Agricultural Zone, as opposed to simply adding “botanical garden” as a use that will be allowed in the Agricultural Zone subject to getting a special Use Permit.

Botanical gardens are important to maintaining the botanical and cultural history of the island. We provide education to our keiki, residents and visitors, creating appreciation for the living history a botanical garden provides. In addition, we grow and harvest cacao providing a “bean to bar” experience as well as growing many tropical fruits for our tour tastings.

This bill is an opportunity to fully recognize that botanical gardens are a legitimate use of Agricultural Lands, which should be fully permitted. This would provide security in our efforts to keep the gardens in existence. Whether we are open for business or closed, we must maintain these gardens at significant cost. Botanical Gardens add value to both our community and the tourism industry. Allowing Botanical Gardens to be fully permitted would add a great measure of security in planning for the future.

Please know that we endeavor to be good stewards of the land, and with all of the current challenges, this consideration would be most welcomed and appreciated.

Thank you for your time.

Respectfully,



Janmarie Jouflas
Owner & Manager

F.4.a.2. (A)
DEC 08 2020

Testimony to Planning Department

December 7, 2020

Brief : The intention of this testimony is to support the expansion of "Forestry" use category to include nursery sales, harvesting and wood processing.

To: All Concerned

My name is Alexander "Sandy" Brodie, a Kaua'i resident. I have been involved in forestry on Kauai'i for over 25 years. I am currently operating on property designated as "Agriculture" with a more specific category of "Forestry". Forestry is defined as follows in Wikipedia:

Forestry is the science and craft of creating, managing, using, conserving and repairing **forests**, **woodlands**, and associated resources for human and environmental benefits.^[1] Forestry is practiced in **plantations** and natural **stands**.^[2] The science of forestry has elements that belong to the biological, physical, social, political and managerial sciences.^[3]

Modern forestry generally embraces a broad range of concerns, in what is known as multiple-use management, including:

- The provision of lumber for a variety of uses

- Fuel wood

- Wildlife habitat

- Natural water quality management

- Landscape and community protection

- Employment

- Biodiversity management

- Watershed management

- Erosion control

- Preserving forests as "sinks" for atmospheric carbon dioxide

I began planting trees in 1995, and my land use category changed from "pasture/ grazing" to "forestry". Forestry seemed the perfect use for this land that had once supported sugar cane and pineapple.

I assumed incorrectly that there would be individuals or companies that would want to purchase mature trees for landscaping or lumber. This was not the case. It has been necessary to remove mature, dying trees and replant. The result was an inventory of logs, but no customers to purchase them and no commercial processors. I would not let the remain on the ground and rot, so I began to mill them into useable lumber. I soon

F.4.9.3.
DEC 08 2020

learned proper drying was necessary to prepare the product for market and set up a system for this. Once these steps are completed, the lumber is marketable..

As mentioned in the brief above, my suggestion is to expand the definition of forestry to lawfully allow processing to a marketable product. This also provides job opportunities and an export product for the State.

Thank you for the opportunity to provide testimony.

La'au Woods Incorporated

Alexander "Sandy" Brodie, President

**COUNTY OF KAUAI, PLANNING DEPARTMENT
4444 RICE STREET, LIHUE, KAUAI, HAWAII 96766**

MEMORANDUM

DATE: *December 8, 2020*

TO: *Planning Commission*

FROM: *Clerk of the Commission*

SUBJECT: *2nd Addition to the Planning Commission 12/8/2020 Agenda*

F. HEARINGS AND PUBLIC COMMENT

2. New Agency Hearing

b. *County of Kaua'i, Department of Public Works*

3. Letter (12/7/20) from Pat Griffin.

e. *Wilcox Family Limited Partnership*

2. Letter (12/7/20) from Andrea Socransky.

f. *Deborah Boden Manoogian*

3. Letter (12/7/20) from Suzanne Kobayashi.

4. New Public Hearing

a. *Kaua'i County Council*

4. Letter (12/8/20) from Eileen Irvine.

5. Letter (12/7/20) from Ned and Marta Whitlock.

6. Letter (12/7/20) from Carl Imperato.

I. GENERAL BUSINESS MATTERS

1. *Laura Bancroft Living Trust, et al.*

a. Letter (12/7/20) from Caren Diamond w/Attachments Exhibit A and Exhibit F.

Leslie Takasaki

From: Eileen Irvine <intoitlove@icloud.com>
Sent: Tuesday, December 08, 2020 12:28 AM
To: Planning Department; Kaaina Hull; Mason Chock; evslin@kauai.gov
Subject: Farm worker housing bill

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

Mahalo for all work done on the amendments to the ag bill. It's nice to see steps in the right direction toward a culture that is more supportive of agriculture. It just makes sense in these times to cultivate a resilient home-based economy, which supports Kaua'ians. Farming is a great example, as it possibly THE most essential activity.

I am a property owner & organic farmer in Moloa'a. I recently became aware of the amendments concerning farm worker housing. I would like to learn more and be a part of a discussion. Would you consider a deferral so we could explore these subjects in more detail? I feel many folks would have ideas to share, and it would be great to hear others', but Covid has been an understandable distraction. A deferral would give a chance to add more ideas to the pot. Please let me know as I understand it is scheduled to be reviewed in the morning.

Mahalo for your leadership and representation in this challenging and adaptive time.

Mahalo.

Be well, Eileen Irvine



F.4.a.4. (A)

Leslie Takasaki

From: Ned nMarta Whitlock <martaned@gmail.com>
Sent: Monday, December 07, 2020 10:56 PM
To: Planning Department
Cc: Kaaina Hull
Subject: ZA-2021-1

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

Bill ZA-2021-1 should be expanded to include a form of farm worker housing that will allow single wall buildings under 300 sq. feet. Such structures shall be well secured and strapped and built on piers no slab constructions. Covered outdoor 2 bin composting toilets would be an option instead of the standard septic system.

Otherwise this proposal looks OK. I ask for a deferral to add the option of simple country living for a lot of folks.

I apologize for this late response

Ned Whitlock
Moloa'a Organica'a



Virus-free. www.avg.com

F.4.a.5.
DEC 08 2020 (A)

December 7, 2020

County of Kauai Planning Commission
c/o County Planning Department
4444 Rice Street, Suite 473
Lihue, HI 96766

Re: ZA-2021-1 (Additional Uses in the Agriculture Zoning District)

Aloha Planning Commissioners,

ZA 2021-1 proposes a number of very reasonable changes to CZO Table 8-2.4 ("Table of Uses"). However, it would also add "retail sales" and "restaurants and food services" to the list of uses that are allowed (with a Use Permit), and this is a problem.

It might possibly be appropriate to allow small amounts of specific types of retail sales in the Agriculture zoning district. And it might possibly be appropriate to allow some types of food sales in the Agriculture zoning district.

- I note that ZA 2021-1 does very appropriately propose restrictions for "agriculture food stands" and for "food processing and packaging of agriculture products," requiring that they be limited to products grown or raised on the subject property
- But the proposed zoning amendment is "open-ended" in that it does not require that the "retail sales" be limited to, ancillary to, or even associated with, products grown on the property. Nor does ZA 2021-1 propose any restrictions on the types of "restaurants and food services" that would be allowable.

Adding these two open-ended categories of uses to the Table of Uses would seriously undermine the integrity of both Agriculture zoning and open space, as they would allow restaurants in general, food trucks in general, and retail sales in general on Agriculture-zoned parcels throughout Kauai, essentially allowing Agriculture-zoned parcels to be treated as commercially-zoned parcels.

The fact that the "retail sales" and "restaurants and food services" would require Use Permits and public hearings provides little assurance that agricultural parcels would not simply become sites for restaurants, food trucks and retail sales that have little-or-no connection to agricultural use of the parcel.

- Recent history shows that the Planning Department very liberally interprets the uses that are intended in the Table of Uses. We saw an example of this problem just two months ago, when the Planning Department recommended a proposed brewery/bar/restaurant as an allowable use in Hanalei's Open zone on the basis that it would have been "similar in nature" to other uses in

F.4.a.6^(A)
DEC 08 2020

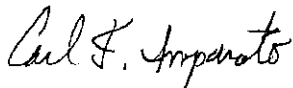
the Table of Uses. (The rationale that was provided to the Commission at the public hearing was that because churches and daycare centers are allowable land uses that are more-intensive than single-family residential dwellings, and because a brewery and food trucks would also be more intensive land uses than single-family residential dwellings, therefore a brewery and food trucks are "similar in nature" to the other uses listed in the Table and should be allowed.)

- Looking to the State land use laws for whatever additional restrictions they might place on food trucks, restaurants and retail sales on SLUC Agricultural-zoned parcels also provides no comfort. The CZO should make clear what is allowed, and should not place either an applicant or concerned members of the public into the situation in which the County might approve a use and then direct the applicant or the public to the SLUC rules to litigate the appropriateness of the use. Simply put: the CZO should provide very clear guidance as to what is, and what is not, allowed.

In conclusion: simply adding "retail sales" and "restaurants and food services" to the Table of Uses for the Agriculture zoning district would signal that it is open season for food trucks, restaurants and retail uses on Agriculture-zoned lands throughout the island.

Please either delete these two proposed uses, or provide additional guidance and conditions (such as those that ZA 2021-1 already proposes for "agriculture food stands" and for "food processing and packaging") to make it clear that as used in the Table of Uses, the terms "retail sales" and "restaurants and food services" are intended to be very limited in their scope.

Thank you for considering these concerns.



Carl Imperato
P.O. Box 1102
Hanalei HI 96714