



PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISSION

HELEN COX, CHAIR
FRANCIS DEGRACIA, VICE CHAIR
GERALD AKO, MEMBER
DONNA APISA, MEMBER
LORI OTSUKA, MEMBER

MEMORANDUM

DATE: July 25, 2022

TO: Planning Commission

FROM: Clerk of the Commission

SUBJECT: 1st Addition to the July 26, 2022 Planning Commission Meeting Agenda

L. NEW BUSINESS

1. SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2022-7) to allow construction of a new single-family dwelling unit on a parcel situated along the mauka side of Moloaa Road, situated approximately 700 feet north of the Moloaa Road/Kuono Road intersection, further identified as 3532 Moloaa Road, Tax Map Key: (4) 4-9-014:026, containing a total area of approximately 5,532 square feet = **RUSSEL & BONNIE CALDERONE.**
 - b. Supplement #1 to Planning Director's Report.
 - c. Memorandum #2 to Planning Commission.
4. ZA-2022-11: A bill (2860) for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to increase the overall size and encourage buildout of Guest House entitlements to increase the supply of long-term rental inventory and housing options for small or extended families and to require one (1) off-street parking space for each Guest House = **KAUAI COUNTY COUNCIL.**
 - b. Memorandum #1 to Planning Commission.

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

Supplemental No.1 to Planning Director's Report

RE: Class III Zoning Permit Z-III-2022-3
Special Management Area Use Permit SMA(U)-2022-7

Applicant: Russell and Bonnie Calderone

ADDITIONAL FINDINGS

Attached for the Planning Commission's reference is supplemental information as follows:

- Revised exterior elevations (7/20/2022) from Design Consultants showing compliance with the North Shore Development Plan height requirements.
- Letter (7/25/2022) from Department of Land and Natural Resources, State Historic Preservation Department (DLNR, SHPD).

By

Romio Idica
Staff Planner

L.I.B.

JUL 26 2022

(A)

DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD., STE 555
KAPOLEI, HI 96707

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

July 20, 2022

Ka'āina S. Hull, Director
County of Kaua'i
Planning Department
4444 Rice Street, Suite A473
Līhu'e, Hawai'i 96766
khull@kauai.gov

IN REPLY REFER TO:
Project No. 2022PR00709
Doc. No. 2207DB04
Archaeology

Dear Mr. Hull:

SUBJECT: **HRS Chapter 6E-42 Historic Preservation Review –
County of Kaua'i Special Management Area Use Permit SMA(U) – 2022-7
Calderone Residence Project
3532 Moloa'a Road, Anahola 96703
Applicant: Russell and Bonnie Calderone
Moloka'a Ahupua'a, Ko'olau District, Island of Kaua'i
TMK: (4) 4-9-014:026**

This letter provides the State Historic Preservation Division's (SHPD's) HRS §6E-42 review of the County of Kaua'i Special Management Area Use Permit SMA(U) – 2022-7 for the Calderone Residence Project, located in Anahola. The SHPD received the submittal on June 3, 2022, which included a County of Kaua'i SMA(M) Permit Application, accompanying documentation and project details, site map, and aerial site photographs (Submission No. 2022PR00709.001). The project area comprises an approximately 2,182-sq.-ft. area within the 0.1270-acre property.

The subject project area is near Moloka'a Bay with Moloka'a Stream located adjacent to the southwest. The project will involve the construction of a single-family residence on a vacant lot, along with associated infrastructure and utilities, including the installation of an Individual Wastewater System (IWS) and septic tank. The project will include a 1,430-sq.-ft. dwelling with an additional 298-sq.-ft. covered lanai and 600-sq.-ft. enclosed garage, and a 516-sq.-ft. concrete driveway.

Ground disturbing activities will include excavation for the footings/foundation down several ft. for the primary residence, and more shallow grading and excavation for the concrete driveway. Excavation for the IWS and septic tank will require deeper excavation likely beyond 6 ft. below the surface, however this action and installation falls under a Department of Health (DOH) permit which is exempt from SHPD review.

A review of SHPD records did not identify any previous permit reviews within the project area or indication of an archaeological inventory survey having been conducted or identification of previously documented historic properties. The USDA (Foote et. al 1972) identifies the soils within the project area as Beaches (BS) and Hanalei silty clay, 0 to 2 percent slopes (HnA). Based on its location and the presence of soils which are known to contain cultural deposits and human burials, potential exists for the project to encounter subsurface historic properties not already identified or disturbed by previous development within the soils of the surrounding parcel.

At this time, SHPD has insufficient information for making a determination that the project will not adversely affect significant archaeological historic properties or human burials. Therefore, **SHPD requests archaeological monitoring for identification purposes** be conducted for the project to identify any archaeological historic properties or burials present and, if identified, to determine potential impacts to them, and to ensure that appropriate

Mr. Ka'āina S. Hull
July 12, 2022
Page 2

mitigation is implemented. Visit SHPD's website at: <http://dlnr.hawaii.gov/shpd/about/branches/archaeology> for a list of firms with permits to conduct archaeological work in Hawai'i.

SHPD also requests an archaeological monitoring plan (AMP) meeting the requirements of HAR §13-279-4 be submitted for SHPD review and acceptance prior to issuance of the permit. Please submit the AMP, the associated submittal review fee, and a copy of this letter to HICRIS Project 2022PR00709 using the Project Supplement option.

SHPD shall notify the County when the AMP is accepted, and the permit issuance process may continue.

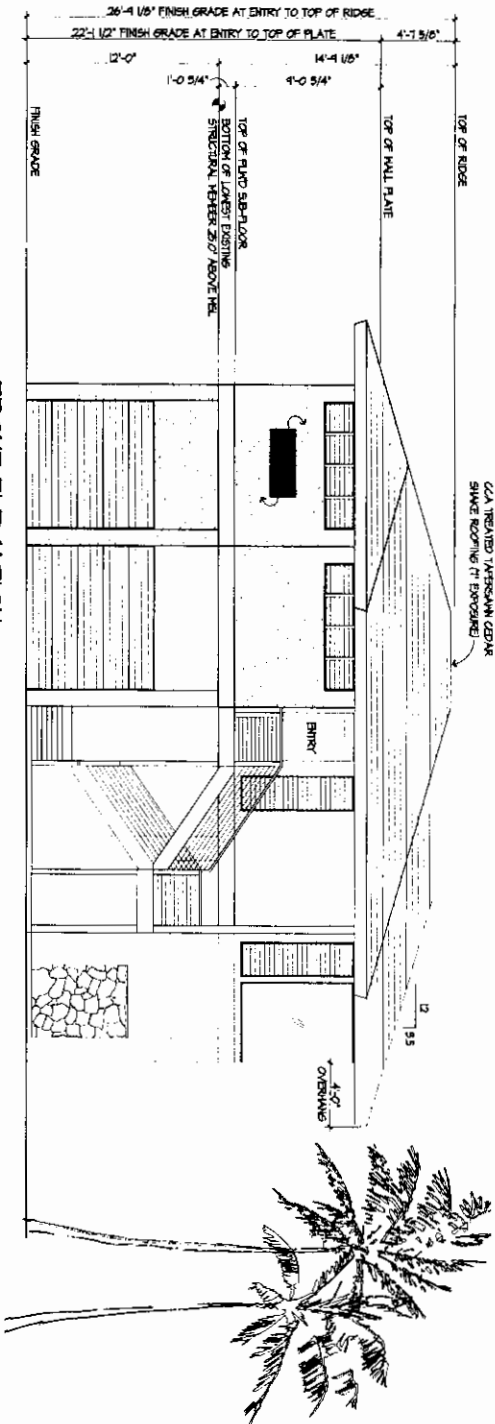
Please contact David Buckley, Kaua'i Lead Archaeologist, at (808) 462-3225 or at David.Buckley@hawaii.gov for questions regarding this letter.

Mahalo,

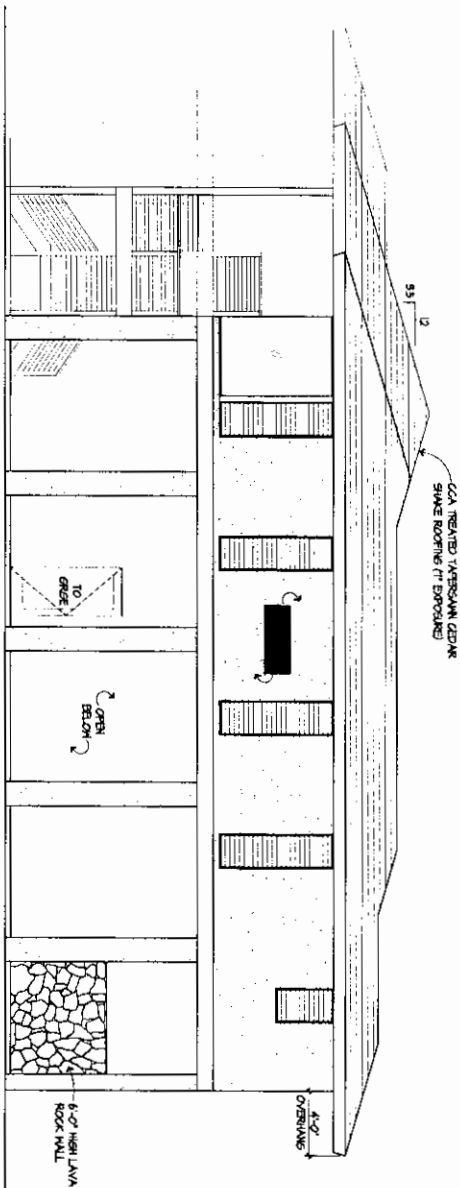
Alan Downer

Alan S. Downer, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

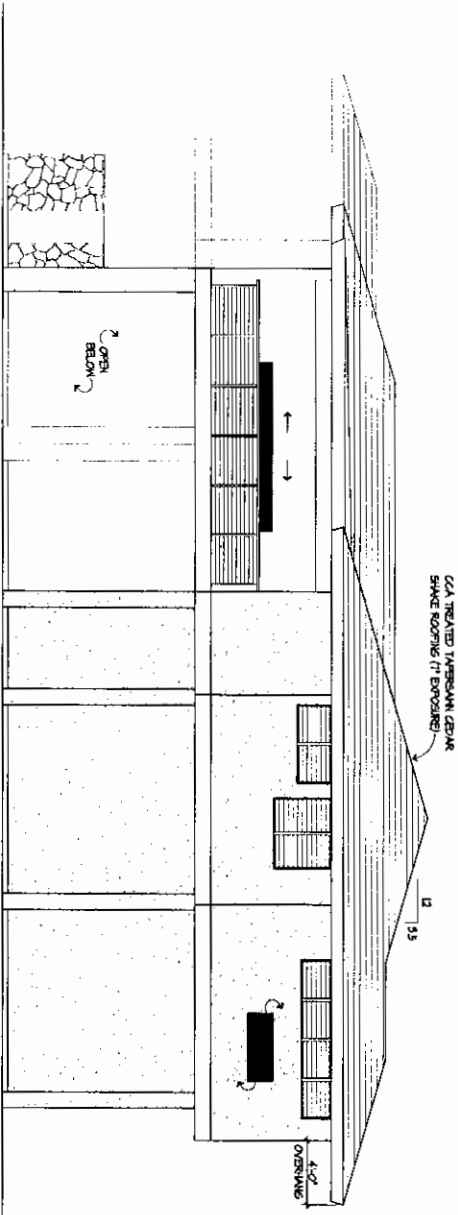
cc: Romio Idica, County of Kaua'i Planning Department, ridica@kauai.gov
Russell Calderone, russ@rdcrestoration.com
Bonnie Calderone, bonnie@rdcrestoration.com
Laurel Loo, McCorriston, Miller, Mukai, Mackinnon, LLP., info@m4law.com



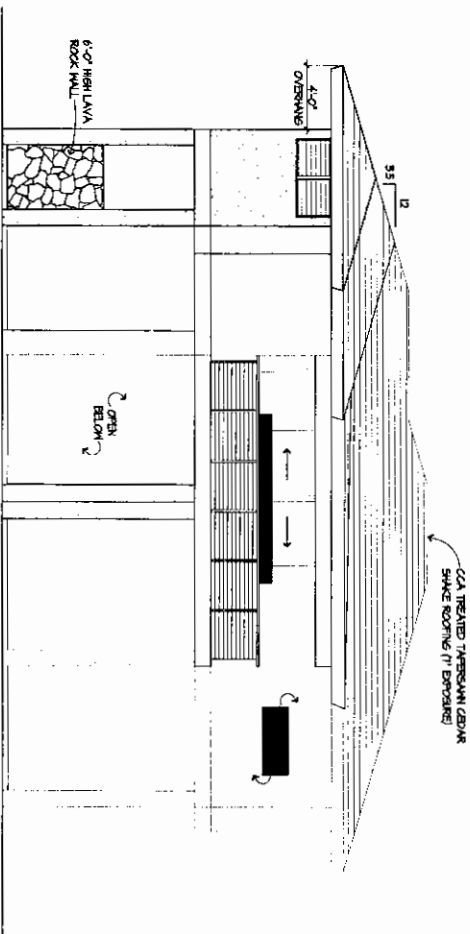
FRONT ELEVATION
SCALE 5/8" = 1'-0"



RIGHT SIDE ELEVATION
SCALE 5/8" = 1'-0"



LEFT SIDE ELEVATION
SCALE 5/8" = 1'-0"



REAR ELEVATION
SCALE 5/8" = 1'-0"

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

Memorandum No. 2 to Planning Commission

RE: Class III Zoning Permit Z-III-2022-3
Special Management Area Use Permit SMA(U)-2022-7

Applicant: Russell and Bonnie Calderone

ADDITIONAL FINDINGS

Attached for the Planning Commission's reference are public testimonies:

- Letter (6/7/2022) from Aaron Socha and Raymond Frye
- Letter (7/19/2022) from Mira Walker
- Letter (7/20/2022) from Barbara Wiedner
- Letter (7/20/2022) from Mike W. Schwartz, MD and Patricia A. Schwartz
- Letter (7/20/2022) from Ruta Jordans
- Letter (7/20/2022) from Ronda Rice
- Letter (7/22/2022) from Peter Eacott
- Letter (7/24, 2022) from Chryssanthie Rapsomaniki
- Letter (7/24/2022) from Heather O' Donnell
- Letter (7/25/2022) from Carl Berg

By

Romio Idica
Staff Planner

L.I.C.

JUL 26 2022



From: Frye & Socha Household <fshousehold@gmail.com>
Sent: Tuesday, June 7, 2022 12:36 PM
To: Planning Department
Subject: Re: Calderone Molooa Residence, 3532 Molooa'a Road, Anahola, 96703
Attachments: Calderone Molooa.pdf

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.

June 7, 2022
Kauai County Planning Department
4444 Rice Street
Suite A473
Lihue, HI 96766

RE: Calderone Molooa Residence, 3532 Molooa'a Road, Anahola, 96703 / TMK (4) 4-9-014 : 025 Lot 15

Aloha,

My husband and I reside at 3526 Molooa'a Rd. The Calderone family owns the vacant lot next to our property at 3532 Molooa'a Rd.. We understand that it is their intent to build a home on that land.

We wanted to inform the planning department that we do not oppose the Calderone's plan to build a home. We look forward to getting to know them as neighbors. They have also been attentive to maintaining their lot until they can build; contracting for cleanup and mowing on a regular basis.

Mahalo for your consideration.

Sincerely,

Aaron Socha & Raymond Frye

PS: A signed letter is attached.

THE SOFRYE HOUSEHOLD

June 7, 2022
Kauai County Planning Department
4444 Rice Street
Suite A473
Lihue, HI 96766

**RE: Calderone Molooa Residence, 3532 Molooa'a Road, Anahola, 96703 / TMK (4)
4-9-014 : 025 Lot 15**

Aloha,

My husband and I reside at 3526 Molooa'a Rd. The Calderone family owns the vacant lot next to our property at 3532 Molooa'a Rd.. We understand that it is their intent to build a home on that land.

We wanted to inform the planning department that we do not oppose the Calderone's plan to build a home. We look forward to getting to know them as neighbors. They have also been attentive to maintain their lot until they can build; contracting for cleanup and mowing on a regular basis.

Mahalo for your consideration.

Sincerely,



Aaron Socha

From: Mira Walker <mirasharan@pacific.net>
Sent: Tuesday, July 19, 2022 3:16 PM
To: Planning Department
Subject: 3532 Moloaa Road

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.

I am unable to attend the meeting on the 26th to discuss a variances to build a new dwelling at this address. Moloaa stream is already a polluted stream with high bacteria counts from existing residences the stream flow direct int ocean and is hazardous to cross due to possible bacteria infection. It regularly has one of the highest bacteria count on the island when it is tested. Please deny any variances to be denied until the present situation is cleaned up. Thank you
Mira Walker

Sent from my iPhone

From: bwiednerrealtor@aol.com
Sent: Wednesday, July 20, 2022 7:16 AM
To: Planning Department; Mayor
Subject: DO NOT grant Special Management Area Use Permit (SMA(U)-2022-7) to allow construction of a dwelling at 3532 Moloaa Road

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.

RE: Special Management Area Use Permit (SMA(U)-2022-7) dwelling at 3532 Moloaa Road

Dear County of Kauai Planning Commission,

Please DO NOT grant special permits to allow construction of a dwelling at 3532 Moloaa Rd.

Areas of concern:

The property requires numerous variances as it does not conform to the rules.

It is too close to the Moloaa Stream and too close to the Ocean.

Moloaa Stream has been tested twice annually and proven to be one of the two most polluted streams in every test since 2016. It has consistently shown traces of human sewage and has been a stinky, swampy body of water dumping directly into Moloaa Bay. Adding to the pollution is the wrong thing until the stream is cleaned or violators are dealt with.

The Moloaa Bay beach entry area is very narrow (10' wide) and granting variances is going to create a construction site that will inevitably block the entry to the only beach access to the bay. There is very limited parking for visitors and residents - adding a construction site between the parking area and the beach access is not in the public interest.

A raw building site on the banks of the stream will directly flow into the stream and then the bay and will make the bay unswimmable whenever it rains.

There are so many reasons granting variances so a McMansion can be built in an area that is already suffering from overuse.

Please DO NOT grant variances for the project at 3532 Moloaa Rd

Mahalo Nui,
Barbara Wiedner
1774 Puu Kaa St
Kapaa HI 96746
808-635-2593

I

From: Mike Schwartz <mschwartz98110@yahoo.com>
Sent: Wednesday, July 20, 2022 10:54 AM
To: Planning Department; Patty Schwartz
Subject: re: meeting scheduled for 9 am July 26th, 2022, to address construction of a new single-family dwelling unit at 3532 Moloaa Road

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.

Dear County of Kauai Planning Commission members,

My name is Dr. Michael W. Schwartz and my wife is Patricia A Schwartz. In this email, we would like to register our objection to Special Management Area Use Permit (SMA(U)-2022-7), which would allow construction of a new single-family dwelling unit at 3532 Moloaa Road, and will be discussed at a meeting scheduled for July 26th at 9 am. The building site is adjacent to our property and we take this opportunity to communicate our concerns about the construction of a new residential property at this location. Development of the site requires numerous variances, as the site does not conform to current building regulations. These variances should not be granted for the following reasons:

1. The building site is extremely close to the Moloaa Stream. Since 2016, this stream has consistently been among the most polluted on Kauai, containing unacceptably high levels of human fecal bacteria (*Enterobacter* species). Steps to clean the stream should be taken before additional residences are built within a few feet.
2. Even if a septic system is build to code, a building site so close to the banks of the stream will ensure that drainage from building construction flows into the stream and from there into the bay, posing health issues to swimmers and fishermen alike.
3. Further development of the very narrow entry area to Moloaa Bay beach at the end of Moloaa Rd (~10' wide) will hinder access to the beach by non-residents, thus encouraging illegal parking and trespass across private land, both of which are already regular occurrences at this location.
4. Related to this is the very limited parking for visitors and residents along Moloaa Rd. Adding a construction site between the parking area and the beach access will inevitably exacerbate traffic congestion and parking issues, which are already unacceptable.

Sincerely

Michael W. Schwartz, MD
Patricia A Schwartz
3556 Moloaa Rd
Kilauea, HI 96754

From: Ruta Jordans <rutajordans@gmail.com>
Sent: Wednesday, July 20, 2022 12:56 PM
To: Planning Department
Subject: 3532 Moloaa Road, SMA(U)-2022-7

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 proposed building at 3532 Moloaa Road is too big for the lot, too close to both the stream and the beach, and totally inappropriate in a county that should be caring for both its streams and its beaches. Please do not allow variances. The stream is already constantly polluted. We should work at making it better, but allowing those variances would make it worse.

Ruta Jordans

Wailua Homesteads

From: Ronda Rice <rondarice@hotmail.com>
Sent: Wednesday, July 20, 2022 1:23 PM
To: Planning Department
Subject: Special Management Area Permit (SMA(U)-2022-7) for 3532 Moloaa Road.

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.

To whom it may concern

There is much concern stirred up in resistance to a Special Management Area Permit (SMA(U)-2022-7) for [3532 Moloaa Road](#). The plans for a single-family residence includes numerous variances that do not conform to the rules for that area., and would create a higher potential for polluting the river and negatively impacting the ocean and beaches nearby. The neighbors and friends of the Aina ask that all rules be followed as the law stipulates.

Thank you, Ronda Rice (Kaua'i resident)

From: peter eacott <eacott@gmail.com>
Sent: Friday, July 22, 2022 7:27 AM
To: Planning Department
Subject: SMA Use Permit (SMA(U)-2022-) for 3532 Moloaa Road.
Attachments: Protest (1).pdf; PXL_20220719_200655969.MP_2.jpg

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.

TMK # (4)4-9-014:026

To: Kauai County Planning Dept.
4444 Rice St., Ste A473
Lihue, Hawaii 96766

July 21,2022

From: Peter Eacott
3531 Moloaa Road
Anahola, Hawaii 96703

RE:
Special Management Area Use Permit (SMA(U)-2022-7) to allow construction of a new single family dwelling at 3532 Moloaa Road, TMK: (4) 4-9-014:026

I object to the granting of a permit allowing the building of a dwelling on this property which requires several variances to avoid complying with clearly defined existing guidelines.

1. The property is located too close to the ocean. I live directly across from this property in an oceanfront house that is 25' deep (corner to corner) and from the oceanside corner to the subject property is 45'. The variance to be granted claims the subject property has to be 87' from the obvious debris line of the ocean - which is at most 12' from my house (57' from the debris line to the subject property) leaving the property 30' short of the required distance. I request that a proper survey be done and approved by the state to verify the numbers and determine the setback and verify these numbers.
2. The subject property is not supposed to have a wastewater system within 50 feet of the Moloaa Stream and a variance is being proposed to allow this construction project to be allowed. The property directly abuts the stream (one of the two most polluted streams on Kauai which since testing began in 2016 is way over the limit allowed and shows traces of human sewage) and could not be built without this variance.

I do not believe it is in the Public's interest to grant these variances. In addition this part of Moloaa Beach Rd. is a 10' wide paved road that has a dead end with no turn around and no clear parking or public facilities. This road is used by as many as 500 people a day for recreation and fishing purposes. The subject property is located between what parking exists and the only beach access for Moloaa Bay. A construction site in the middle of this crowded area will create a situation that will further pollute the stream/bay as well as block access to the public and the residents that live further down from the site.

I do not believe it is in the public's interest to move forward and approve this building project without at a minimum a proper shoreline survey and impact study to verify what is being proposed.

With Respect,

Peter Eacott

3531 Molooa Road - since 2009

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Friends... they cherish one another's hopes. They are kind to one another's dreams. hdt

To: Kauai County Planning Dept.
4444 Rice St., Ste A473
Lihue, Hawaii 96766

July 21, 2022

From: Peter Eacott
3531 Moloaa Road
Anahola, Hawaii 96703

RE:

Special Management Area Use Permit (SMA(U)-2022-7) to allow construction of a new single family dwelling at 3532 Moloaa Road, TMK: (4) 4-9-014:026

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2. The subject property is not supposed to have a wastewater system within 50 feet of the Moloaa Stream and a variance is being proposed to allow this construction project to be allowed. The property directly abuts the stream (one of the two most polluted streams on Kauai which since testing began in 2016 is way over the limit allowed and shows traces of human sewage) and could not be built without this variance.

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I do not believe it is in the public's interest to move forward and approve this building project without at a minimum a proper shoreline survey and impact study to verify what is being proposed.

With Respect,

Peter Eacott
3531 Moloaa Road - since 2009



From: Chryssanthie Rapsomaniki <chryssanthie@hotmail.com>
Sent: Sunday, July 24, 2022 11:42 AM
To: Planning Department
Subject: Hazardous possible permit approval for construction of home in Moloa'a Bay (3532 Moloa'a Road)!

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,

My name is Chryssanthie Rapsomaniki and I've been living in Moloa'a Bay for the past 3 years, in the David Houston home, address 3574 Moloa'a Road.

The tiny piece of land that's sitting on the brink of the stream is right next to the bridge leading to my property. I have witnessed this ridiculous sale of the speck of land go through along with my neighbors and heard about the plan of the owners to build a 3 bedroom house..???! This is absolutely absurd and extremely dangerous!

The property requires numerous variances as it does not conform to the rules.

It is too close to the Moloaa Stream and too close to the Ocean.

Moloaa Stream has been tested twice annually and proven to be one of the two most polluted streams in every test since 2016. It has consistently shown traces of human sewage and has been a stinky, swampy body of water dumping directly into Moloaa Bay. Adding to the pollution is the wrong thing until the stream is cleaned or violators are dealt with.

The Moloaa Bay beach entry area is very narrow (10' wide) and granting variances is going to create a construction site that will inevitably block the entry to the only beach access to the bay. There is very limited parking for visitors and residents - adding a construction site between the parking area and the beach access is not in the public interest.

A raw building site on the banks of the stream will directly flow into the stream and then the bay and will make the bay unswimmable whenever it rains.

There are so many reasons granting variances so a McMansion can be built in an area that is already suffering from overuse.

I'm writing to you to express my outmost concern and protest against the initiation of such a hazardous construction project.

Mahalo nui loa in advance for your consideration in this very important matter.

Our health here is in jeopardy in all levels!

Chryssanthie Rapsomaniki
+1 310 871 8601
3574 Moloa'a Road
Anahola, HI 96703

From: Chryssanthie Rapsomaniki <chryssanthie@hotmail.com>
Sent: Sunday, July 24, 2022 9:28 PM
To: Planning Department
Subject: Re: Hazardous possible permit approval for construction of home in Moloa'a Bay (3532 Moloa'a Road)!

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.

P.S. We have a family of these rare birds (see attached link) living in the highly polluted Moloa'a Bay stream surrounding our properties and it's a protected and endangered species (learned from the state officials that there's only around 80 of them in the entire state of HI), how cruel human greed can be infesting everything I sometimes wonder..

<https://www.facebook.com/groups/hawaiitracker/permalink/2266788256820313/?mibextid=y8LQlo>

I do hope you consider our neighborhood's plea in your decision making.. we are all trying to protect it.

We should all focus on cleaning up our mess and our waters not contaminating them further, and I am willing to contribute to that in every way that I can.

Mahalo nui loa. 🙏

Chryssanthie Rapsomaniki

From: Chryssanthie Rapsomaniki
Sent: Sunday, July 24, 2022 11:42:29 AM
To: planningdepartment@kauai.gov <planningdepartment@kauai.gov>
Subject: Hazardous possible permit approval for construction of home in Moloa'a Bay (3532 Moloa'a Road)!

Aloha,

My name is Chryssanthie Rapsomaniki and I've been living in Moloa'a Bay for the past 3 years, in the David Houston home, address 3574 Moloa'a Road.

The tiny piece of land that's sitting on the brink of the stream is right next to the bridge leading to my property. I have witnessed this ridiculous sale of the speck of land go through along with my neighbors and heard about the plan of the owners to built a 3 bedroom house..???! This is absolutely absurd and extremely dangerous!

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Mahalo nui loa in advance for your consideration in this very important matter.

Our health here is in jeopardy in all levels!

Chryssanthie Rapsomaniki
+1 310 871 8601
3574 Moloa'a Road
Anahola, HI 96703

From: Heather O'Donnell <heather.awh@gmail.com>
Sent: Sunday, July 24, 2022 3:27 PM
To: Planning Department
Subject: 3532 Moloa'a Road

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,

I am writing in opposition of granting variances to build a 3 bedroom property on this site. Rules exist for a reason, and this spot lies directly on the stream, making it a crucial place to uphold existing rules.

I have been a regular user of Moloa'a beach for over 10 years. As a very active volunteer with Surfrider, I have been removing marine debris off this beach for over a decade. A lot of marine debris comes into this beach and construction would block the 10 foot beach access. I hauled a broken kayak off the north end by myself, and needed the access spot to load it into my truck to haul it away.

Moloa'a stream has been one of two most polluted streams on island since 2016. It is disgustingly dirty! Any additional homes built directly on the stream will add to this pollution.

Over the past few years it's been very challenging to even find parking to go to the beach. Cars park in the very narrow road so far back now, it makes the road dangerous for drivers, residents and beach goers.

Moloa'a is a gem, enjoyed by visitors, residents and locals. Allowing variances on this property isn't fair to people that use the beach. Rules are set to help protect our very special places. From overdevelopment. From overuse. From stream and ocean pollution.

Please don't allow existing rules to be broken for the building of this property. It's not fair for the public to suffer the consequences.

Mahalo,
Heather O'Donnell

From: Carl Berg <cberg@pixi.com>
Sent: Monday, July 25, 2022 7:43 AM
To: Planning Department
Subject: Planning Commission meeting 7/25/2022 re: SMA(U)-2022-7
Attachments: Moloaa stream BWTF data.jpg

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.

Concerning Special Management Area Use Permit (SMA(U)-2022-7) to allow construction of a new single-family dwelling unit at 3532 Moloaa Road.

Aloha Planning Commission,

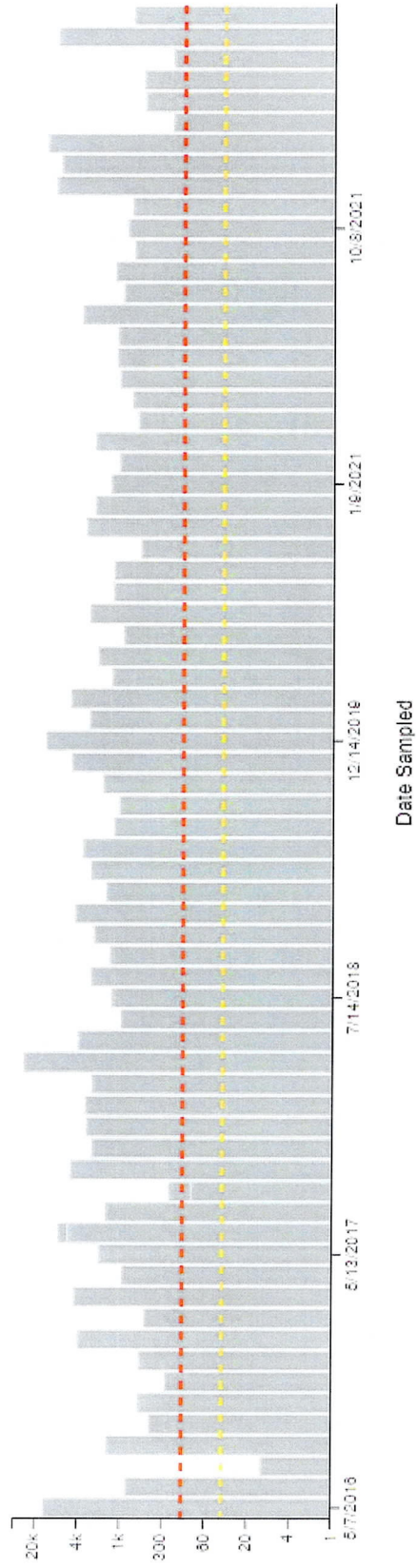
The Kauai Chapter of the Surfrider Foundation has been sampling water quality at the mouth of Moloa'a stream since 2016 and has found it is consistently contaminated by the fecal indicating bacteria *Enterococcus* from cesspools and septic systems along the stream. In the attached graph you can see that almost all of the test results are above the red line, the Hawaii Department of Health's Statistical Threshold Level for determining fecal pollution. The stream is listed by HDOH as "impaired" in its latest Integrated Report has been posted with warning signs.

Because of our monthly sampling in Moloa'a stream, we are very familiar with the property at 3532 Moloa'a Road and the adjacent stream and ditch system. In issuing an SMA permit for this proposed property, Surfrider would like to be assured that the Planning Commission has taken into account all environmental considerations that might affect the stream and the area, including a recent shoreline certification, setbacks, wetland determination, FEMA flood determinations, and DOH requirements for septic system design in high water table areas.

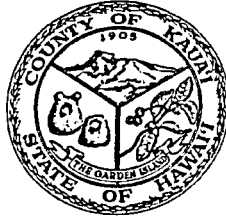
Respectfully submitted,

Carl J. Berg, Ph. D.
Senior Scientist
Kauai Chapter, Surfrider Foundation

Enterococcus
(MPN/100mL)



Ka'āina S. Hull
Director of Planning



Jodi A. Higuchi-Sayegusa
Deputy Director of Planning

**COUNTY OF KAUA'I
PLANNING DEPARTMENT**

**MEMORANDUM NO. 1 TO
PLANNING COMMISSION**

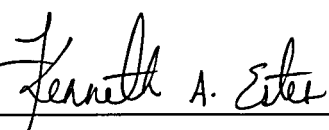
RE: Zoning Amendment ZA-2022-11

APPLICANT: Kaua'i County Council

ADDITIONAL FINDINGS

Attached for the Planning Commission's reference are public testimony concerning the above referenced Zoning Amendment:

- Correspondence from Kurt Bosshard received July 7, 2022.
- Correspondence from Josiah Enrique received July 17, 2022.
- Correspondence from Heath Prow received July 18, 2022.
- Correspondence from Peter Tausend received July 24, 2022.

By 
Kenneth A. Estes
Staff Planner

Date 07.25.2022

L. 4. b.
JUL 26 2022 (A)

From: Kurt Bosshard <kboss@aloha.net>
Sent: Thursday, July 7, 2022 1:23 PM
To: Planning Department
Subject: Public Testimony; Planning Commission Meeting 7-26-22; Item No. ZA-2022-11; Bill No. 2860 (Guest House Amendment)
Attachments: Council Testimony letter 5-17-22 (re Guest Houses).pdf

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I hereby resubmit my testimony as previously submitted to the County Council on 5/17/22.

Kurt Bosshard, Esq.
3144 Elua Street
Lihue, Hawaii 96766
Phone: 808-245-5302
Fax: 808-245-8929

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KURT R. BOSSHARD

ATTORNEY AT LAW
3144 ELUA STREET
LIHUE, HAWAII 96766
TELEPHONE: 808-245-5302
FAX: 808-245-8929
EMAIL: kboss@aloha.net

May 17, 2022

County Council Members
County of Kauai

via EMAIL

RE: Public Testimony
Council Meeting May 18, 2022
Item No. C 2022-104
Proposed Draft Bill No. 2860
Suggested Increase in Size of Guest House

Dear Council Members:

I write here to thank Council Members Chock and Carvalho for introducing proposed Draft Bill No. 2860 which would increase the allowable size of a Guest House to 800 square feet. The Council has recently demonstrated through introduction of several Ordinances that it will assert itself proactively to encourage reasonably sized Residential Units. Due in large part to the Council's urging the Guest House definition was expanded to allow usage as a dwelling. Unfortunately, 500 sq. ft. is not of sufficient size to accommodate other than a single person. I believe that at the end of the prior process which legalized Guest House dwelling usage, the Council recognized that 500 sq. ft. was unreasonably limiting, particularly on larger sized Ag zoned parcels. I also believe that if not for a limiting interpretation of the Sunshine Law by the County Attorney, that the Council would have then voted to increase the allowable Guest House size to 800 sq. ft.

Presently, it isn't worth the effort/cost to build a 500 sq. ft. residence. As you may be aware, the Water Department has applied an approximately \$9,500.00 FRC charge to Guest Houses. Such a significant FRC charge would be more palatable to the public if the allowable structure was 800 sq. ft. There are simply too many costs that broadly apply to all structures regardless of size (water, electric, driveway, septic, site prep, etc.) and you end up with a micro unit. There's no room for a kitchen (even if the County calls it one). And, no room for a bedroom. Generally, it's one open room with a bathroom in the corner. Walls take up too much space. I can say this because we have a 578 sq. ft. structure on our property which could be converted to a Guest House. However, we would have to remove 78 sq. ft. from the building. And, what if later the County sensibly raised the allowable square footage as we are requesting here? I'd feel wronged. An 800 sq.

County Council Members
County of Kauai
May 17, 2022
Page 2

ft. structure could allow two small bedrooms, a "kitchenette", and a reasonably sized bathroom. A child could have a bedroom. It could be built at a more favorable square foot cost.

My family has a number of affordable rentals on other properties. These rentals are occupied by residents born here. Council Members, Planning Commissioners, and Regulators often express "concerns" as to possible "abuses" as to Guest Houses, ARU's and ADU Residential Units. Those concerns are understandable. On the other hand, I would ask those who express such "concerns" to talk to our tenants who are concerned that they may in the future not have a place to live.

Residents who are paying attention to the Affordable Housing problem know that the Council/Planning are listening and that they realize that they will have to exercise substantial flexibility if they are going to make any dent in the "Housing Crisis". Steps have been taken but it's going to take more. Limitations with our infrastructure put many areas of the Island off limits for any additional residential construction (big or small). For example, I question whether the Water Department will even allow a Guest house to be made habitable in areas where there is a limitation on the number (or a moratorium on) the issuance of new Water Meters.

We have several Ag zoned parcels that qualify for a Guest House. Should the size of a Guest House be increased to 800 sq. ft. we would build a Guest House on one or more of these properties and affordably rent it. The occupant could maintain the land and hopefully do some farming. As you may know, as of 12/31/19 the ditch water which was diverted East out of the Wailua Reservoir has been terminated at the direction of the DLNR. It won't be restored as the condition of the system is so degraded and the East Kauai Water Coop gave up due to a lack of funds. This source of Ag water which extended to Kaapuni Road will not be restored. And, the DLNR and County enforcement will not allow tapping of the streams. The invasive species problem cannot be overstated. Agricultural use of this land on a large scale, other than ranching, is a thing of the past. Who will upkeep the drainageways? Lack of maintenance and hau bush, albizia, guinea grass, etc. are already exacerbating flooding. There needs to be people on the land in order to maintain it. We would not build a main house on these parcels as we have no need for it and it would be too expensive to build for rental purposes. I think there is an increasing understanding that

County Council Members
County of Kauai
May 17, 2022
Page 3

portions of the 1972 CZO, including the land classifications, are outdated. Where infrastructure is available, some of these Ag Lands should be redesignated to a "Rural" or Residential zoning, or granted some increased density (such as proposed here). Although such a review is unlikely in the near future, allowing a modest increase in density now is warranted.

Here are further bullet points:

- Whether it's 500 sq. ft. or 800 sq. ft. the septic will cost the same (20K), the water meter FRC will cost the same (\$10K + Installation \$3K), utilities, plans, permitting, roadways, etc. Likely a total cost of \$40,000.00. How many people are going to pay those charges for a 500 sq. ft. studio?

- There are no other options on ag zoned parcels (no ADUs, no ARUS, no vacant lots). There are no new subdivisions and most locals can't afford the cost of a vacant lot (\$250K and up) before building costs. The average sales price for a home in the Lihue District (which includes Hanamaulu and Puhi) over the past three months is over \$800,000.00.

- Rural local families are being forced to live 3 families in one home = not healthy. Grandparents could move in to an 800 sq. ft. guest house and let kids live in main house.

- Much of Kauai's Ag Zoned Land is either too small, poor soils and terrain, no water..., to make a living farming. Kama'aina kids have to pay rent elsewhere while their family large overgrown lands go unused?

- Years ago we were allowed ADUs on Ag Land and County took it away because size of structures being built were big and speculative. Had 2 year extension window to build the ADU if you registered. Most didn't make deadline. Later it was determined that this housing was necessary and deadline was removed. An 800 sq. ft. guest house is a modest alternative to what already exists (residential guest houses up to 500 sq. ft.).

- Since we now have approved these small guest house units as residences for small families, wouldn't we want these small families to have a modestly functional sized home with a bedroom or two?

County Council Members
County of Kauai
May 17, 2022
Page 4

- In order to farm, you need people on the land for purposes of security, emergencies, day to day chores. There is a plague of theft from farms.
- Invasive species are overwhelming Kauai's Rural areas. Our drainageways are clogged. Rural areas of our Island looks a mess. This condition is worsening. People on the land maintain the land!
- Other solutions to solve the problem are failing to provide needed modest housing. This is like the Titanic. The band is playing while the Rural family ship is sinking. Stopping "sprawl" is a fine concept should you have reasonable alternatives. Our "local culture" is Rural, they need housing help or the local culture dies.
- The people who want to be legal are being prevented from adding the needed housing while the black market thrives. We have tens of thousands of illegal residential units. We want to let our landowners get/stay legal.

Please keep it simple and without strings attached that will increase cost and discourage people from building these necessary Units. We want property owners to be legal, not forced to go underground.

We appreciate your, as well as the Planning Department's consideration in these regards.

Sincerely,



KURT BOSSHARD

KB:rsnh

From: Josiah Enrique <josiah.enrique@gmail.com>
Sent: Sunday, July 17, 2022 9:07 PM
To: Planning Department
Subject: Re: 7/26/2022 meeting Public Testimony
Attachments: Re- Public Testimony for Bill No 2860.pdf

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.

Attached Letter
Re: Public Testimony
Planning Commission Meeting 7/26/2022
Item No. 2A-2022-11
Bill No. 2860

Sent by
Josiah Enrique
PO Box 508
Anahola, HI 96703
808-639-1530

To the Members of Kauai's Planning Department

RE: Public Testimony

Planning Commission meeting 7/26/2022

Item No. 2A-2022-11

Bill No. 2860

I am asking you to approve the change from 500 to 800 square feet for guest houses located on farm lots on Kauai.

Housing on Kauai has been becoming a bigger and bigger issue for many locals. Multiple generations and even multiple families living under one roof is becoming more consistently the norm because that is the only affordable option available. While as an exception that can work well, for a growing number it just means health and safety issues. This is not a lifestyle choice for most as much as it is becoming a necessary part of life when living on this island. Having the option for adding an 800 square foot house is a more affordable option to house more local families, and means safer, healthier homes for many.

Having a 500 square foot guest house means a studio with a kitchenette and a barely functional or not-private bathroom. This works for single persons or even some couples, but the housing shortage is not only affecting single people. It is impacting families. Raising the size from 500 to 800 means the difference of that small studio to a modestly sized 2 bedroom apartment. Since these guest houses have been approved for residency, wouldn't it be more practical to expand the availability to include family households? On top of this, more people are likely to find the cost of building an 800 square foot unit to be much more worthwhile than it's smaller counterpart, which will only add encouragement to build and add to the housing currently available.

I am a local; born on Kauai and grew up in Anahola. I've been in the U.S. Military for the past decade and was recently given the opportunity to work on Oahu and move my family to Kauai. My wife and I have three children (seven, three, and one) and have moved in with family, in what was already a

multi-generation home before we moved back. This is not a sustainable lifestyle for anyone involved.

We have an agriculture lot in the family that is sitting empty because we can't afford to build a full house yet. Much of our extended family here on Kauai is in construction and building. With the skills of myself and those family members, a guest house is well within our means to afford and build. The current size limit of 500 square feet, however, makes it a non-viable option for our family of five.

We have farming experience and have been making efforts to use the land we are blessed to have. We already have the beginnings of an orchard planted, with nearly a dozen different types of fruit trees planted. Being able to actually live on our land sooner would mean being better able to utilize and properly care for this land and raise our children learning how to nurture and give back to this beautiful island we are so proud to call home.

This only touches on a few of the points of how helpful the passing of this bill would be for my family and many other local families here on Kauai.

Thank you for taking the time to consider this bill and all of the positive changes it could bring about.

Sincerely,

Josiah Enrique

PO Box 508

Anahola, HI 96703

808-639-1530

From: Heath Prow <heath@iekauai.com>
Sent: Monday, July 18, 2022 3:51 PM
To: Planning Department
Subject: Public Testimony; Planning Commission Meeting 7-26-22; Item No. ZA-2022-11; Bill No. 2860 (Guest House Amendment)
Attachments: Meeting 7-26-22_Agenda Item ZA-2022-11_Public Testimoy Guest Houses.pdf

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See attached testimony letter dated 7/18/22.

Kindly confirm your receipt.

Thank you,
Heath

Heath Prow, P.E., LEED AP
Project Engineer
Integrity Engineering, LLC
808.651.4468
PO Box 3182
Lihue, HI 96766

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July 18, 2022

Planning Commission Members
County of Kauai

RE: Public Testimony
Council Meeting July 26, 2022
Item No. ZA-2022-11; Bill No. 2860
Suggested Increase in Size of Guest House

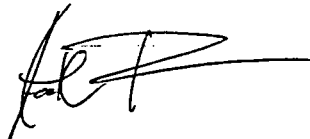
Dear Planning Commission Members:

I would like to thank Council Members Chock and Carvalho for introducing Bill No. 2860 which would increase the allowable size of a Guest House to 800 square feet. All residents on the island know that there is a "housing crisis", and it has become very hard for local people to buy, rent, and live on the island. The current economic situation will only make this more difficult. Increasing the guest house size from 500 sq. ft. to 800 sq. ft. and allowing the guest house to be a dwelling unit will be a good step in the right direction of helping provide affordable housing to the local community.

The cost of construction is higher than it's ever been. Take a walk through Home Depot and you'll see 2x4's that cost close to \$9 and a sheet of plywood that costs over \$80. These are the basic construction materials for building a house. Not to mention the cost of installing a water meter (including the FRC), septic system, plumbing, electrical, concrete, and all the other infrastructure associated with building a house. Increasing the allowable size of a Guest House to 800 square feet will make it a reasonable pursuit for a family to build.

Please make this to encourage people to build these Guest Houses. We ask that you make it simple and with no additional and unnecessary restrictions on the property that will discourage people to build.

Sincerely,

A handwritten signature in black ink, appearing to read 'Heath Prow', with a long horizontal stroke extending to the right.

Heath Prow

From: Peter Tausend <PeterTausend@msn.com>
Sent: Sunday, July 24, 2022 5:00 PM
To: Planning Department
Subject: Written Testimony on Agenda Item ZA-2022-11

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July 24, 2022

County of Kauai Planning Commission

RE: Written Testimony for July 26, 2022 Meeting
Support of Agenda Item ZA-2022-11 (Proposed Bill 2860 to allow increase of
Guest House size)

Dear Planning Commissioners:

Thank you for including this item in your public hearing.

Kauai has a severe problem of affordable housing. We urgently need to take steps to help this situation.

I support the purpose of this bill to allow larger Guest Houses to be built. Alone, it may not solve our problem, but I believe it will help. Please also support this bill.

In hope of more affordable housing choices for fellow Kauai residents,

Peter Tausend
Kalaheo resident

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