PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISSION

GERALD AKO, CHAIR
HELEN COX, VICE CHAIR
DAN GIOVANNI, MEMBER
KUULEIALOHA SANTOS, MEMBER
GLENDA NOGAMI STREUFERT, MEMBER

RECEIVED

26 JUN -3 P3:28

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUA'I

- **The Planning Commission Meeting will be at:**

  Līhu'e Civic Center, Moikeha Building
  Meeting Room 2A-2B
  4444 Rice Street, Līhu'e, Kaua'i, Hawai'i

- **Oral testimony** will be taken on specific agenda items, **at the public meeting location** indicated on the meeting agenda.

- **Written testimony** indicating your 1) name or pseudonym, 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 on any agenda item 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 at least **24 hours prior** to the meeting will be posted as testimony to the Planning Commission's website prior to the meeting (https://www.kauai.gov/Government/Boards-and-Commissions/Planning-Commission). Any testimony received after this time will be retained as part of the record, but we cannot assure the Commission will receive it with sufficient time for review prior to the meeting.

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 ADAVIS@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 MEETING NOTICE AND AGENDA
Tuesday, June 9, 2026
9:00 a.m. or shortly thereafter
Līhu'e Civic Center, Moikeha Building
Meeting Room 2A-2B
4444 Rice Street, Līhu'e, Kaua'i, Hawai'i

RECEIVED
26 JUN -3 P3:28
OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUA'I

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF AGENDA

D. MINUTES OF THE MEETING(S) OF THE PLANNING COMMISSION

1. May 12, 2026.

E. RECEIPT OF ITEMS FOR THE RECORD

F. COMMITTEE REPORTS

1. **Subdivision Committee Report**

   a. Subdivision Application No. S-2026-11
   Kiahuna Plantation Drive, LLC. / County of Kaua'i
   Proposed 2-Lot Subdivision
   TMK: (4) 2-8-014: 005
   Kōloa, Kaua'i

   b. Subdivision Application No. S-2026-12
   Lawrence A. & Gloria T. Rudolfo Trust Et Al.
   Proposed 3-Lot Subdivision
   TMK: (4) 1-3-008: 009
   Kekaha, Waimea, Kaua'i

G. HEARINGS AND PUBLIC COMMENT

1. Continued Agency Hearing

a. AMENDMENT TO SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-89-4), CLASS IV ZONING PERMIT Z-IV-89-14, and USE PERMIT U-89-14 to allow construction of a multi-family residential structure containing six (6) residential units, event pavilion, parking garage, and associated site improvements on parcels associated with the resort facility situated at the terminus of Ka Haku Road in Princeville, further identified as 5520 Ka Haku Road, Tax Map Keys: 5-4-004:029, 035; 5-4-011:004, containing a total area of 23,139 acres = **SOF-XI KAUAI PV HOTEL LP. [Director's Report Received, 5/12/2026; Hearing Continued, 5/26/2026].**

1. Director's Report pertaining to this matter.
2. Transmittal of public testimony to Planning Commission.
3. Verified Notice of Liability, Declaration of Standing, and Written Testament – Right to Due Process, Right to Redress submitted by Roslyn Cummings via email on May 2, 2026.
4. Applicant's Memorandum in Opposition to Rosyln Cummings' Verbal Request to Intervene; Exhibits "1" – "6"; Certificate of Service dated June 3, 2026, regarding the above-identified matter.

2. New Agency Hearing

a. None for this meeting.

3. Continued Public Hearing

a. **ZA-2026-6**: A bill for an ordinance to establish wildfire and the wildland urban interface (WUI) standards by amending Chapter 8 of the Kaua'i County Code 1987, as amended, relating to defensible space requirements in the Comprehensive Zoning Ordinance (CZO), amending Chapter 9 relating defensible space and subdivision requirements in the Subdivision Ordinance, amending Chapter 10 relating to defensible space requirements in Community Development plans, amending Chapter 12 relating to home hardening building and construction regulations, and amending Chapter 15 relating to home hardening building and construction regulations = **COUNTY OF KAUAI, PLANNING DEPARTMENT. [Director's Report Received, Deferred, 5/12/2026].**

1. Updated Director's Report Pertaining to this Matter.

4. New Public Hearing

a. None for this meeting.

H. CONSENT CALENDAR

1. Status Reports

a. None for this meeting.

2. **Director's Report for Project(s) Scheduled for Agency Hearing**

    a. None for this meeting.

3. **Class III Zoning Permits**

    a. None for this meeting.

I. GENERAL BUSINESS MATTERS

1. In the Matter of the Petition to Appeal Planning Director's Decision Related to the Planning Director's Third and Final Notice of Violation for the Operation of a Truss Manufacturing Facility within Agriculture Zoning District without the Proper Zoning Permits, Mahaulepu Farms LLC (HPM Building Supply), Tax Map Key No: (4)2-9-001:001, Koloa District, appeal received on May 15, 2026, for referral to Boards and Commissions as Contested Case File No. CC-2026-10.

    a. Correspondence dated May 15, 2026, from Mauna Kea Trask, Esq., Cades Schutte, transmitting Appellant HPM Building Supply's Petition to Appeal of the Decision of the Planning Director.

J. COMMUNICATIONS

1. None for this meeting.

K. UNFINISHED BUSINESS (For Action)

1. None for this meeting.

L. NEW BUSINESS (For Action)

1. None for this meeting.

M. EXECUTIVE SESSION

Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with the County's legal counsel on questions, issues, status, and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to the following matters:

1. Subdivision Application No. S-2026-11
   Kiahuna Plantation Drive, LLC. / County of Kaua'i
   Proposed 2-Lot Subdivision
   TMK: (4) 2-8-014: 005
   Kōloa, Kaua'i

2. Subdivision Application No. S-2026-12
   Lawrence A. & Gloria T. Rudolfo Trust Et Al.
   Proposed 3-Lot Subdivision
   TMK: (4) 1-3-008: 009
   Kekaha, Waimea, Kaua'i

3. AMENDMENT TO **SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-89-4), CLASS IV ZONING PERMIT Z-IV-89-14, and USE PERMIT U-89-14** to allow construction of a multi-family residential structure containing six (6) residential units, event pavilion, parking garage, and associated site improvements on parcels associated with the resort facility situated at the terminus of Ka Haku Road in Princeville, further identified as 5520 Ka Haku Road, Tax Map Keys: 5-4-004:029, 035; 5-4-011:004, containing a total area of 23,139 acres = **SOF-XI KAUAI PV HOTEL LP. [Director's Report Received, 5/12/2026; Hearing Continued, 5/26/2026].**

4. **A-2026-6**: A bill for an ordinance to establish wildfire and the wildland urban interface (WUI) standards by amending Chapter 8 of the Kaua'i County Code 1987, as amended, relating to defensible space requirements in the Comprehensive Zoning Ordinance (CZO), amending Chapter 9 relating defensible space and subdivision requirements in the Subdivision Ordinance, amending Chapter 10 relating to defensible space requirements in Community Development plans, amending Chapter 12 relating to home hardening building and construction regulations, and amending Chapter 15 relating to home hardening building and construction regulations = **COUNTY OF KAUAI, PLANNING DEPARTMENT.**

5. In the Matter of the Petition to Appeal Planning Director's Decision Related to the Planning Director's Third and Final Notice of Violation for the Operation of a Truss Manufacturing Facility within Agriculture Zoning District without the Proper Zoning Permits, Mahaulepu Farms LLC (HPM Building Supply), Tax Map Key No: (4)2-9-001:001, Koloa District, appeal received on May 15, 2026, for referral to Boards and Commissions as Contested Case File No. CC-2026-10.

N. ANNOUNCEMENTS

1. Topics for Future Meetings.

   The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter, on July 14, 2026. The Planning Commission anticipates this meeting to be held in-person at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, Hawaii. The Commission will announce its intended meeting method via an agenda electronically posted at least six days prior to the meeting date.

O. ADJOURNMENT

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

Pursuant to Section 8-27.8 (6) of the Kaua'i County Code (1987), as amended, the following shoreline setback determinations by the Director are disclosed for purposes of public notification.

June 9, 2026

SHORELINE SETBACK DETERMINATIONS

Application No.	Name of Applicant(s)	Property I.D. (Tax Map Key)	Location	Development/Reasons
SSD-2026-27	Diana K. Burton	1-6-006:010	Waimea	Construction/ Elevating residence, repairs, carport renovations, fencing, covered patio, landscaping, and related site utilities. Project occurs an additional 266ft from the required 60ft setback as evidenced by the approximate accreting shoreline.
SSD-2026-28	Neighborhood Power Corporation	4-3-002:014	Kapa'a	Construction/ Solar photovoltaic system on existing building.

KAUA'I PLANNING COMMISSION
REGULAR MEETING
May 12, 2026
DRAFT

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair Gerald Ako at 9:01 a.m. - Webcast Link: https://www.kauai.gov/Webcast-Meetings

The following Commissioners were present:

Mr. Gerald Ako
Ms. Helen Cox
Mr. Dan Giovanni
Ms. Glenda Nogami Streufert
Ms. Kuulei Santos

Excused or Absent

The following staff members were present: Planning Department - Director Ka'aina Hull; Staff Planner Romio Idica, Shelea Koga, Alisha Summers; Planning Secretary Shanlee Jimenez; Staff Services Leila Kim; Office of the County Attorney - Deputy County Attorney Laura Barzilai; Office of Boards and Commissions - Support Clerk Lisa Oyama.

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Chair Gerald Ako: Good morning. Today is Tuesday, May 12th, 2026, and I'd like to call to order the meeting of the Planning Commission.

Mr. Hull: Roll call, Mr. Chair…

Chair Ako: Before we actually get to roll call, one, I'd like to take the privilege to, for one of our planning staff that we have, Marie Williams. She was just given this great recognition. And as it states, her work has been earned statewide and national recognition, including outstanding Planning Award from the Hawai'i Chapter of the American Planning Association and the prestigious Daniel Burnham Award for Excellence in Comprehensive Planning from the American Planning Association, and the work and leadership of Marie Williams embodied the principles championed by urban theorist Jane Jacobs, a pioneering figure in the field of planning known for advancing community based planning and influential New Urbanism ideas, including mixed use neighborhoods and active streets, which have shaped more livable and vibrant communities. And on May 4th, 2026, Mayor Derek Kawakami has proclaimed that to be Marie Williams day, one of our own planners. So, our congratulations goes out to Marie Williams. Thanks Marie, and working with Marie, you know, she's a good one. She's a real good person, a good planner. So, thank you, Marie, with that, Mr. Clerk, if we can have a roll call, please.

ROLL CALL

Mr. Hull: Roll call, Mr. Chair. Commissioner Cox?

Commissioner Helen Cox: Here.

Mr. Hull: Commissioner Giovanni?

Commissioner Dan Giovanni: Here.

Mr. Hull: Commissioner Santos?

Commissioner Kuulei Santos: Here.

Mr. Hull: Commissioner Streufert?

Commissioner Glenda Nogami Streufert: Here.

Mr. Hull: Chair Ako?

Chair Gerald Ako: Here.

Mr. Hull: You have a quorum, Mr. Chair. 5:0.

APPROVAL OF AGENDA

Mr. Hull: Next, you have Approval of the Agenda. The department has no recommended changes to the agenda.

Ms. Streufert: I move to approve the agenda as presented.

Ms. Cox: Second.

Chair Ako: Okay, We've got a motion to approve. We have a second. Any discussions? If not, all those in favor, say aye. Aye (unanimous voice vote). All those opposed? Okay. The agenda is approved. 5:0.

MINUTES OF THE MEETING(S) OF THE PLANNING COMMISSION

Mr. Hull: Before we get into the…oh, no, why don't we do the minutes. Next is minutes for the meeting of April 14th, 2026.

Chair Ako: You have the minutes in front of you. Any questions? If not, we can look for a motion to approve.

Ms. Cox: I move we approve the minutes of April 14th, 2026.

Chair Ako: Okay. Got a motion to approve.

Ms. Santos: I second.

Chair Ako: It's been moved and seconded. Questions? If not, all those in favor, say aye. Aye (unanimous voice vote). All those opposed? The minutes of April 14th, 2026, have been approved.

RECEIPT OF ITEMS FOR THE RECORD (None)

COMMITTEE REPORTS (None)

Subdivision Committee Report

HEARINGS AND PUBLIC COMMENT (None)

Continued Agency Hearing

New Agency Hearing

Continued Public Hearing

CONSENT CALENDAR

Status Report (None)

Director's Report for Project(s) Scheduled for Agency Hearing

AMENDMENT TO SPECAIL MANAGEMENT AREA USE PERMIT (SMA(U)-89-4), CLASS IV ZONING PERMIT Z-IV-89-14, and USE PERMIT U-89-14 to allow construction of a multi-family residential structure containing six (6) residential units, event pavilion, parking garage, and associated site improvements on parcels associated with the resort facility situated at the terminus of Ka Haku Road in Princeville, further identified as 5520 Ka Haku Road, Tax Map Keys: 5-4-004:029, 035; 5-4-011:004, containing a total area of 23,139 acres = **SOF-XI KAUAI PV HOTEL LP**.

1. Director's Report Pertaining to this Matter.

Mr. Hull: Next, we have no Receipt of Items for the Record. No Subdivision Committee, and no Agency Hearing, or New Agency Hearing. The next agenda item would be Public Hearing, but we do have a number of individuals present in the audience. We don't have anybody signed up to testify on any agenda items. However, we did receive some testimony concerning Amendment to Special Management Area Use Permit SMA-89-4, Class IV Zoning Permit Z-IV-89-14, and Use Permit U-89-14, to allow construction of a multifamily residential structure containing six residential units in Princeville. This item is on the agenda, but it's just for the commission to receive the Director's Report. The actual hearing is scheduled for the following meeting, which is on May 26th, but if there's any member of the public that would like to testify on this agenda item now, it is an agenda item that can be testified. It just won't be discussed until the actual hearing on the 26th. But I just want to call to see if there's anybody that wants to testify on that agenda

item before we move in. If you do, you can approach the microphone and state your name, and you have three minutes for your testimony.

Chair Ako: Good morning.

Mr. Mike Lyons: Good morning. My name is Mike Lyons (inaudible). Okay, so again, I'm Mike Lyons, I live in Kīlauea with my ohana. I wanted to bring up some of my opinions on this plan put forth by Starwood. When I first heard about it, I was pretty angry. But then I realized the best way to kind of view this whole thing is to be a bit disgusted and a bit upset, and then use my mana'o to portray that to you folks about how this plan is, is going to really tarnish that whole area up there. The view plane, the trail, the parking, everything is already intensely being used and it's going to take another big hit if this plan goes through. I realize that Starwood, I can't slander them all the way just because I have friends that work there, people working hard to make a living. So, I'm not going to, you know tarnish their whole ability to make a living. But it, it reminded me that the enterprise that these guys put forth that that puts their whole plan forward, their ideology is what they are all about, which is equity. They want to have a place to make more money. All of us know, and they know what we know too, that they are overrunning. The money they spent to do the project is hundreds of millions of dollars more than they thought. I don't need to go on that. That's somebody else's kuleana. Mine is all about the place, and I've taken a firm stance there since a kid. We'd go there as kids. We'd drive there from Kapa'a with my family, cousins go play down there. We camped down there. We know that area intimately since kid days, but more recently I was the head, the lead, trying to get the trail back from Puu Poa. I didn't know any of this was happening until I saw them trying to block the trail, and I went to the red zone. So, because of that, with lots of collaboration from Ka'aina and other people in the county, County Council members were straightforward as well. We got the trail back to county. So, transgressed to today, there's a push now to build this new endeavor which doesn't benefit anybody besides the people that are going to buy it. It doesn't benefit local community at all. It actually detracts immensely from what we want to see done there. I've been arm wrestling with those folks forever. I've gone through three GM's. The first one, John Grisanti, was wonderful. He was very forthright. He invited us to coffee, for lunch. He wanted to find a way to help us enhance the trail and make the parking just for those trails. So, he's gone. The last two renditions weren't very helpful at all. They were very smug. They told me certain things that they wanted to happen for their benefit. So, today I just wanted to make sure that on the record, there's knowledge that there has to be a concerted effort to benefit the locals first, the parking lot, which is my focus. I'm not going to talk about SMA things or, you know, the view plane, the 30% view plane that's needed or the setbacks. That's more experienced people. Mine is just about the parking and the trail. We've enhanced it to a nice, safe way so people can get down there. It's a rustic trail. We put in new ropes, new poles. I don't know if everybody's aware of that. It's a, it's a beautiful trail now, and it's supposed to be the Kaua'i style, not like Puu Poa wanted, stainless steel guardrails or cement steps…

Mr. Hull: Three minutes, Mr. Chair.

Mr. Lyons: …we didn't want that. What's that?

Mr. Hull: It's been three minutes, if you could…

Mr. Lyons: Okay, so in conclusion, I just wanted to say that I think it's very important that planning finds a way to not allow this project to go through for various reasons. I don't want to see this destroyed. Thank you very much.

Chair Ako: Thank you very much.

Mr. Hull: Thank you for your testimony. Is there anyone else in the audience who would like to testify on this agenda item?

Chair Ako: Morning.

Ms. Caren Diamond: Good morning, commissioners. Caren Diamond. I sent in written testimony that you have. And so, I won't repeat myself, but there are a few issues I would like to address. And first is, although this project is asking to reopen an SMA that happened in the 80's, they're not offering a certified shoreline. They're using a shoreline that has expired, that is no longer valid. So, the first thing I think the commission needs to do is require them to do a certified shoreline. And although there are existing expired shorelines, none of them included photographs of where this shoreline is. It's a big lot, and it was mapped. When you do a shoreline, you map it out and you also take photographs of where that is. And none of that exists for this because there was no development proposed in this part of the lot. And so, very much now you do need to require them to do a shoreline that that is valid. The second point is the setback, and which gets measured from shoreline. I don't exactly know how this setback has been determined, but the project itself is five feet from the edge of the cliff. And with cliff instability and sea level rise and all the things that we know about siting projects correctly, this one is not sited correctly at all and definitely needs to have a real setback that's not at the edge of the cliff, that's not impacting everybody's views. And everybody, like this is open space now that is really treasured. And when you are standing there and you're looking at Mount Makana and you're looking at the incredible beauty that Hā'ena is, those views will only be accessible to the people that are paying to have to be in these structures or that are paying to be in that pavilion. And it's not a kind of pavilion that's open to the public, like our county beach pavilions. This is a pavilion that is the hotels. And so, unless if you are staying at the hotel or at a, you know, an event that the hotel or somebody is sponsoring, the public doesn't get to go in that pavilion. And so, these are very much privatizing what was open space for everybody. And your new SMA laws require that there's a view plane corridor. And so, this project needs to be redesigned to actually have a view plane corridor and all the different economic, environmental things that I suggest a new EA as well. And other people will address the historic impacts of this. But I really think they need to redesign this project, think it out better, and not impact all the views and, and everything that is. So, thank you. We'll have more comments later on, but those are my preliminary comments and thank you.

Chair Ako: Thank you very much.

Mr. Hull: Is there anyone else in the audience that would like to testify on this agenda item? If so, you may approach the microphone. Seeing none, and again, the public hearing for that agenda item is scheduled for May 26th, 2026.

New Public Hearing

Mr. Hull: So, moving on to the next agenda item. Excuse me, New Public Hearing.

> ZA-2026-5: A bill 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 introduce a new article to the CZO to administer condominium property regime (CPR) proposals to require public accessways = **KAUAI COUNTY COUNCIL**.
>
> 1. Director's Report Pertaining to this Matter.
> 2. Transmittal of agency comments to Planning Commission.

Mr. Hull: We don't have anyone signed up to testify on this agenda item. Is there anyone in the audience that would like to testify on this agenda item? Seeing none, I'll turn it over to our staff to give the preliminary report on this item.

Staff Planner Shelea Koga: Good morning. Before you today is Zoning Amendment ZA-2026-5, which is a proposed bill that would amend Chapter 8 of the Kaua'i County Code by amending a new article related to, relating to the Condominium Property Regimes, also known as CPR's. So, the intent of this bill is to make sure that CPR developments are reviewed very similarly to the way we review subdivisions when it comes to public access to the shoreline and mountain areas. So, right now, the way it works is subdivisions are required to dedicate public access to adjacent shoreline and mauka areas, but CPR units don't have that current provision on it, where they have to dedicate any public access. And so, what we're finding is some larger properties, they're actually using the CPR process to divide the land up and sell off the individual units. And by CPRing it instead of subdividing it, they're getting around the public access dedication. And so, what this bill is trying to do is to address the gap by establishing standards for when public access easements may be required as part of a CPR application. So, the bill includes standards for the width, spacing, location, and design of the public access ways that are generally consistent with what the subdivision standards are for requiring public access. The proposed bill also adds a new requirement that a CPR applicant prepare, execute and record the access within 12 months from the date of initial CPR application. So currently, right now, the subdivision, while it requires public access, it doesn't say that it has to be recorded in a certain time frame. So, we wanted to make sure in this bill we shore that up, so that way they can't really miss it. What happens is sometimes they'll list it on the maps that there is an easement, they'll drop the documents, but they don't record it in the Bureau of Conveyance, which can be problematic for us to follow up and go ahead and get that access. So, by including the 12-month timeline for them, we're able to bridge that gap and make it less likely for them to miss the recordation step. So, the Planning Department evaluated the proposed amendment against the Comprehensive Zoning Ordinance and the 2018 General Plan, and they found that the proposal supports the General Plan policies related to protecting and preserving mauka and makai access, including access for cultural and recreation activities. At this time, the Planning Department believes additional review and coordination with stakeholders and partner agencies is needed to further evaluate implementation, legal and procedural considerations related to the proposed bill, and so the Planning Department would like to ask, would also like to ask for additional comments from the Public Access, Open Space and Natural Resources Preservation Fund Commission, regarding

if they have any comments to this amendment. Therefore, the Planning Department is recommending that the Zoning Amendment ZA-2026-5 be deferred for at least 30 days.

Mr. Giovanni: Sorry, can you say that recommendation one more time?

Ms. Koga: Yep. We're recommending deferral for at least 30 days for this bill.

Mr. Hull: If the commission is okay, we definitely want discussion, questions, concerns. But ultimately we're asking for an open-ended deferral to allow the Open Space Commission their time to review it, to provide analysis and recommendations so they could take one meeting, they could take multiple meetings. But ultimately, we're asking for a deferral.

Chair Ako: Any questions?

Ms. Streufert: Is there a recommended minimum size of the CPR area before you require this, or is this for any CPR?

Ms. Koga: Right now, the way the bill is proposed, there is no size. But what would happen is when a CPR gets proposed to the planning or got brought to the Planning Department, I would review it as the Public Access Open Space Planner, and then if it's adjacent to, let's say, coastal lands or mauka lands, and it looks appropriate to request a public access, I would, me as well as Jodi would request a formal opinion from the county attorney to see if there is a nexus for us to get a public access through that area. And so, it's case by case.

Mr. Hull: I'll just say that, you know, when we were discussing with the introducing council members, property takings is, you know, cornerstone to land use law. So, requiring land be given to the county for public use, albeit, each one of those we recognize is going to have to be reviewed to determine whether or not there's a proportional nexus to extract that land. Reviewing the bill, it's a heavy lift for the county attorney's office, quite honestly. You know, we can look at, you know, any proposal and say, well, this should have an access, but does it meet the proportional nexus as set under the Constitution and takings precedence? You know, and so kind of kudos to Laura and Tyler's office, essentially, when they looked at it saying, no, this is, it is an ask of the county attorney's office, but an ask that they felt adequate to meet essentially.

Deputy County Attorney Laura Barzilai: So, it's not dependent upon size, Commissioner. It's dependent upon where it's located and is it proportional to the project itself.

Ms. Streufert: The only reason for asking this question is because sometimes the commission has been put into a position of having to, to interpret something that's not…that's ambiguous. And so, I was just looking for, is there some way to make it less ambiguous.

Ms. Barzilai: So, I…I don't want to get too deeply into it since we're, you know, we're probably moving toward deferral right now, but the Director will make the determination, it's not likely…that there are some recommended changes that I have for Shelea, where this might come to the commission at some point, but this is going to be a Director driven decision and not a commission driven decision.

Chair Ako: I got one real basic question. What's the difference between when you subdivide as opposed to a CPR?

Ms. Koga: Yeah. So, when you subdivide a property, one lot of record, you're cutting it into pieces, and those are, those can be individually sold off. Where you are CPRing a property, those can be cut up in individually sold off as well, but they're basically, it's like a marriage. They share the same lot of record. They're just individual owners that has rights to that one lot of record. And so, that's basically the difference. Maybe Laura can add.

Mr. Hull: I can, I can jump in a little bit too. So, CPR stands for Condominium Property Regime, and so, you know, within those that work in land use, CPR's and Condominium Property Regimes on land is a fairly standard route within Hawai'i, but to the layperson, it's kind of like, wait, what is this? What's the difference? And there is a very specific difference. When you subdivide a parcel of land, you create new lots of record. And these formal lots of record can be owned by an individual or entity in its entirety, that lot of record. So, if you subdivide a ten-acre lot into one acre individual lots, each one of those is owned by an individual or an entity. The history of CPR's really comes to Kaua'i and how our agricultural lands have a one-time subdivision restriction that after agricultural lands within Kaua'i are subdivided once. it can never be subdivided again. And there's density that sits on those lands. Agricultural land has, it's a sliding scale of one house for an acre of ag land, two houses for four acres, three houses for seven acres, four houses for ten acres and, and a fifth and final house for 13 acres. And so, for an array of different reasons, some of it to help local families divvy up those density rights to their family, as well as speculative investors, in the 70's saw this path in which they could take agricultural a lot of record that has multiple densities and take a Condominium Property Regime, a Condominium Property Regime is exactly what it is, sounds like, it's for condominiums. It's for the vertical splitting up of a lot of land in high rise apartments, essentially. So, what some pretty savvy realtors and land use attorneys did in the 70's, they took that Condominium Property Regime the way it chopped up partnerships within one lot of record and laid it horizontally onto lands on Kaua'i. And so, they took this Condominium Property Regime to chop up agricultural lands so that the individual dwelling unit rights on those lands could be held in the same way a person owns an apartment on a single lot of record. You know, I'm not trying to cast any judgment on whether or not CPR's were good or bad at the time. I think they've been used for good and bad purposes. It certainly has facilitated some speculative development and general estate development of agricultural lands. You look on much of the North Shore and clearly that's what happened. It's also allowed and facilitated the transfer of dwelling unit rights and land to family members and local families that own land. So, it's a mixed bag. And so, I'm not trying to cast any judgment, but recognizing that that process is there. It's regulated by the state. So, when it was first adopted, like the state, the Hawai'i Real Estate Commission that oversees Condominium Property Regimes was like, this is a state process, counties, we're not going to listen to anything you're saying. And we had to somewhat link up to kind of go over that, you better make sure they have density rights, because there was a time when they're just chopping up into multiple Condominium Property Regime units without any dwelling unit rights, and that resulted in considerable amounts of litigation. So, we do coordinate or we do comment on CPR applications, but we're not the over, the county is not the overseeing agency of it, but what…the Hawai'i, it's the state, it's the Hawai'i Real Estate Commission. So, what this bill proposes essentially, is that whether it's a subdivision or a CPR, particularly CPR, if you're proposing a CPR, the County of Kaua'i has the ability now to extract a public access on that CPR process

should the parcel be abutting a public area, be it coastlines or be it lands that are state lands. Yeah. Does that make sense? Sorry.

Chair Ako: So, would you be able to subdivide, say, an ag land and then CPR each unit?

Mr. Hull: There still are some agricultural parcels that haven't been subdivided. So, they could be subdivided. Those ones that haven't been submitted to a subdivision yet, a lot of lands on the West Kaua'i, much of the land here, surrounding Līhu'e, some lands in South Kaua'i. That's why you essentially have these large tracts of land that haven't been developed. In theory, they could be subdivided and once subdivided because many of those units, many of those parcels, I, sorry, would qualify for more than one dwelling unit, could then subsequently be CPR.

Mr. Giovanni: So, what is the, what is the pathway for a CPR application?

Mr. Hull: You pretty much have to hire an attorney and…sorry, you hire a surveyor to draw the CPR lines, and then you hire a, generally an attorney. You can do it, I guess pro se, but you essentially have to submit an application to the Hawai'i Real Estate Commission that demonstrates that each one of those units has a dwelling unit, right, and that essentially a homeowners association is spun up to oversee the condominium. Many of the large, many of the agricultural or mom and pop Condominium Property Regimes, their homeowners' associations aren't really functioning, but there is, there has to be an overseeing entity of a Condominium Property Regime.

Mr. Giovanni: So, it doesn't come to the Planning Commission, whatsoever?

Mr. Hull: It doesn't come to the Planning Commission whatsoever, and it only goes to the Planning Department for comment. And so, you know, when these ideas of us regulating the Condominium Property Regime process came up first, a couple years ago, I was under the impression the county couldn't even regulate Condominium Property Regimes because it's a state paradigm, but the county attorney's office was like, no, if the county passes requirements for the Condominium Property Regime, the Hawai'i Real Estate Commission then needs to, in the vetting of an application, ensure that that application meets the county laws.

Mr. Giovanni: That's why it's (inaudible).

Mr. Hull: Yes. So, if this bill were to pass, we have a staff member dedicated in our office who reviews all Condominium Property Regime applications at the Hawai'i Real Estate Commission. What it's pretty much vetting all of them for is to make sure each unit has a dwelling right. That's pretty much what he's looking for. He's like, all right, oh, if there's five CPR units proposed, five dwelling units, each CPR unit has a dwelling unit, good to go. What this would do is just put an extra layer like, oh, if it's abutting a public parcel, now that individual here in our office would say, oh, it's a public, abutting a public parcel handed off to Shelea or her predecessor to essentially do the review of, can one be extracted if one is appropriate, then consulting with the county attorney's office on whether or not there's a proportional nexus to make that grab, whatever it is.

Mr. Giovanni: So, laying it forward, do you see it, if it's passed and it's coming to the Planning Commission for that, what you just described, is that addressed at this level or is it addressed by the Subdivision Subcommittee or is it a new Subcommittee?

Mr. Hull: No, it'd be addressed in this, via this ordinance.

Mr. Giovanni: No, but I mean, if an applicant, if ordinance is passed, an application comes in, how do we, how do you process it with the department? Does it involve the commission?

Mr. Hull: No. If there is a subdivision, arguably, yes. But for a Condominium Property Regime, again, we're just a common agency to the Hawai'i Real Estate Commission.

Mr. Giovanni: Okay. Got it. Thank you.

Ms. Cox: I don't have a question. I have a comment, and I'm just very glad to see, maybe I've been just ignorant, but I haven't seen very many public access to mauka lands as much as to shoreline. So, I was really pleased to see that included here.

Chair Ako: Thank you. Any other questions? Comments? If not, I believe the Planning Department has recommended a deferral, an open-ended deferral on this. Can I have a motion?

Ms. Streufert: I move to defer, consideration of a bill amending Chapter 8 of the Kaua'i County Code 1987, establishing a new article relating to Condominium Property Regimes as an open ended.

Ms. Barzilai: You can give the Zoning Amendment number, please Commissioner.

Ms. Streufert: Zoning Amendment No. ZA-2026-5, as an open issue or…

Ms. Barzilai: Open deferral.

Ms. Streufert: Open deferral.

Ms. Cox: Second.

Chair Ako: We have a motion to defer as an open ended. We have a second. Any further questions? If not, Mr. Clerk, if we can have a roll call vote on this please.

Mr. Hull: Roll call, Mr. Chair. Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner Giovanni?

Mr. Giovanni: Aye.

Mr. Hull: Commissioner Santos?

Ms. Santos: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 5:0. Next, we have the last and final agenda item.

> ZA-2026-6: A bill for an ordinance to establish wildfire and the wildland urban interface (WUI) standards by amending Chapter 8 of the Kaua'i County Code 1987, as amended, relating to defensible space requirements in the Comprehensive Zoning Ordinance (CZO), amending Chapter 9 relating defensible space and subdivision requirements in the Subdivision Ordinance, amending Chapter 10 relating to defensible space requirements in Community Development plans, amending Chapter 12 relating to home hardening building and construction regulations, and amending Chapter 15 relating to home hardening building and construction regulations = **COUNTY OF KAUAI, PLANNING DEPARTMENT.**
>
> 1. Director's Report Pertaining to this Matter.
> 2. Transmittal of agency comments to Planning Commission.

Mr. Hull: We don't have anybody signed up to testify. Is there any member of the public that would like to testify on this agenda item? Seeing none, I guess it was the will of the commission. The department is ultimately asking for a deferral. I am able to give, and it was kind of prepared to give some background information around the draft bill, some history of it with the plantation camps, and then also turning it over to Alisha for a few minutes to go over a brief summary, or if the commission is like, well, this is coming back in June, let's have that presentation then. I'm fine to do either one. But just gauging the temperature of the commission.

Chair Ako: Comments.

Ms. Streufert: I think I would like to hear a little bit about this before we consider anything to gives us some time to digest information, because this is a significant bill and it's new and this is wildfire season. Well, I guess that's 365 days a year. But it's something that's on everybody's mind. So, if you would.

Mr. Hull: Yeah, absolutely. I thought maybe I'll give some background around it. We can show a video around the recent wildfire policies that we adopted that actually probably better encapsulated. But just to give some background history. When the Lahaina fires, let me take a step back a little further. I do recall wildfires coming across my desk as Planning Director, as a point of concern and topic of discussion during the West Kaua'i Community Plan update, I specifically recall information coming in from an organization called Hawai'i Wildfire Management Organization, and I remember the exact thought I had, and I had, I'll say it because I was guilty of it, of what does Hawai'i Wildfire Management Organization have to say concerning the built environment on West Kaua'i? Wildfire is primarily a forestry issue. It's not a

built environment issue. And we did fold in some of their comments, but I do recall not prioritizing it when I first saw it as a hazard being put on the radar. We were working pretty diligently at the time on how to incorporate coastal erosion and sea level rise into our built environment standards and policies, but what…did I personally, even as a planner, give the wildfire and the built environment much consideration that should have been due? I'll be honest, no. And for the most part, much, if not all, of the planning community and built environment folks were not and continue to not pay enough attention and priorities around policies to mitigate wildfire. That of course, and to a certain degree, you know. Well that of course, all comes crashing down for Hawai'i when Lahaina happens. That wildfire can not only impact structures, it can also lead to devastating consequences to the tune of thousands of structures, erasing the entire town and community off the map. And while we are aware that some of these fires have happened in the mainland, it happening in Hawai'i, where there aren't forests around our communities much, there aren't large scale groves around the community as much, it caused, you know, a lot of us to pause and say, do we have a role in this space? Are we supposed to be looking at what we can do to mitigate it? And so, you know, we at the Kaua'i Planning Department started trying to unpack that and see what is our role. That was brought even more to the forefront when, not too long after Lahaina, the Kaumakani, the Hanapēpē Heights, Kaumakani fire happened. Now Kaumakani didn't burn the way Lahaina burned, but it was very close. In fact, there were reports, if many of you recall that the town was in fact burning, and that wasn't social media rumors. It was because there was a belief the town was going to burn and was going to burn in entirety. What essentially saved it and, you know, was the work of the Fire Department and the Kaua'i Emergency Management Agency coordinated efforts to stave it off right at the edge. What Fire Chief Gibson will say is, is that and the fact that it wasn't a high wind event is what saved that town. So, you know, with these events happening, the Planning Department was really trying to dig into to see what our role is. And the question that I think I was asking myself, the planners were asking themselves is, what are we supposed to do against a moving wall of flames? And I need to stress that question pretty strongly, because if you're not the fire department, you're not forestry, that's what you're asking from the (inaudible), well, how are we supposed to stop a moving inferno of flames? And I highlight that question because, one, everybody's probably asking that question. Homeowners, planners, building officials. And I highlight that question because 100%, that is the wrong question to ask. And it took the Planning Department about 12 months to figure that out. We were asking that question. We were initiating policies. We were primarily looking at how we can use land use policies to mitigate the fuels of source and the fuel supply in the vegetative areas around the communities. And every policy we spun up really just kind of fell apart at its wheels, particularly the notion of trying to have small mom and pop landowners maintain these fuel sources. It was also the fact that we didn't understand wildfire science enough to understand that while vegetation is indeed a fuel source, it's the homes themselves that are the actual fuel source in these catastrophic situations. And that is not a wall of flames that's burning these towns. Case after case after case, either the inferno of flames in a catastrophic built environment situation, either the wall of flames has moved through that town, and the town remains. The town withstood the wall of flames. It was only eight, ten, 12, 16 hours after the wall of flames was gone that the town started to burn. Or in a lot of scenarios, the wall of flames isn't even at the town, and the town starts to burn. They're tracking now, wildfires occurring and towns starting to burn two, three, and as much as 15 miles away from the actual wildfire itself and what wildfire science shows, is that's because the wall of flames is what's burning these towns. So, planners, homeowners, don't be concerned about the

wall of flames. What's 90% of these catastrophic situations start from the embers created by wildfires? So, when the wall of flames moves through the town, the embers, the wooden walls can actually from flame standpoints on trees or grasslands, your wooden walls can withstand a lot of that. But it's the embers that are getting into these little nooks and crevices and corners. And they sit for a couple of hours, and your attics and your vents, under, they'll fall under your house. And after a few hours, those embers being exposed to these areas, essentially what catches the house on fire and the house is the fuel source. And so, you get a handful of these houses catching on fire, and they turn into a blizzard of embers in close proximity, heat, flame situations that catch the rest of the town on fire. And then you have an urban conflagration standpoint. So, going back to, oh, it's the embers we need to be focused on. We dug in real directly, real quickly with the plantation camp owners. We're also going through, some of you might remember we're going through the plantation zoning, up zoning, if you will, of the camps. And the camps should be up zoned because they're special places, they're communities, they're growing communities, they should be allowed to evolve and grow. So, we 100% wanted to facilitate their up zoning. But in the process of understanding wildfire science, the Planning Department kind of told G&R and BBCP folks, you know, we're not going to go further with this up zoning unless we also are able to fold in mitigative standards to address wildfire resiliency. And both of the landowners said, yeah, we're absolutely open to that. So, we spent some time drafting that ordinance. And what we're cognizant of in particular is not only making sure that the wildfire resiliency component was an aspect but making sure it was done within the nominal or reasonable threshold from a cost of construction standpoint. And Unlimited Construction was very helpful with us because they did a specific financial analysis of what the cost of construction would be for the camp homes to be constructed in the manner that we had laid out, the wildfire strategies and sorry, the strategies, essentially, from a home hardening standpoint, are you can't have a wooden roof, essentially the embers getting on top of that roof, that is one of the biggest vulnerabilities you can have from wildfire standpoint. So, you can either have metal toe tongue roof, which is historical in Hawai'i, or asphalt shingle. Asphalt shingle is cheaper than wooden shingle. If you're putting wooden shingle on, you're creating just not only a vulnerability, but it's more expensive than asphalt shingle. So, having asphalt shingle is completely appropriate and doesn't add to the increased cost of construction. The next area of vulnerability is the vents right under the eaves. Those vents are to vent the attics of homes, but that's another area where embers can get in. And once the embers get into your attic with all that exposed insulation and whatnot, the house is going to burn. So, a real easy fix to that is what's called wildfire mesh. It's a 1/8 inch mesh screening. It doesn't allow the embers to go in. It's a nominal cost that each vent just needs to be covered with that mesh. And then working your way down the house, wooden walls are completely fine from an ember standpoint. Wall embers, a blizzard of embers can hit that wall, and it's not going to have a prolonged exposure to that wall. It's going to hit it and fall. But where those embers fall at the perpendicular point between the ground and the wall, that 90-degree area that can…prolonged exposure can create a flame. And so just having a six-inch band of metal at the base of that wooden wall is how you mitigate the embers. If the house is elevated, if the house is constructed on slab on grade, then it's just going to be on concrete and there's not gonna be any problem with that. If it's elevated, which the camp homes are, most of them. That same issue, the embers getting under the house can be problematic. So, you take that same wire mesh screening, and you enclose the base of the house, essentially. And so, for the…that's home hardening ember resistance one on one, essentially. And when Unlimited Construction kind of broke that down for us, what the cost would be, it

came out to material cost about $2,000 per house it would add, with labor, you're talking about $4,000, with the houses costing anywhere from 400 to $500 a square foot. So, that, you know, that 2 to $3 increase was a nominal amount and was paramount in us making sure that and not just looking at the camp homes and construction of the camp homes, but in looking as a guide for other homeowners if they wanted to pursue home hardening strategies. This is this is how it can be done. So that was ultimately pitched, proposed, worked on by both the Planning Department, the Fire Department, Kaua'i Emergency Management Agency, the Office of the Mayor. We also have partners in an organization called Headwaters Economics that's over on the mainland. And other fire research experts. It was a national task force, if you will, and that moved through council relatively quickly and was adopted and has been kind of heralded as one of the premier wildfire policies in the country at this point. And so here we are today with you folks. After that policy was adopted, we began working with our national partners to say, okay, let's map other vulnerable areas and perhaps restricting it just to a plantation camps is not appropriate because there are clearly other vulnerable areas. And going through that mapping process. Wasn't really a process. It ended very quickly. Our national experts, our Hawai'i Wildfire Management organization partners, all explained that that whole ember issue, the 1 to 2 miles, the 15 miles, all of our built environment community is at risk. In fact, the island of Kaua'i has been identified by the National Forest Service as being 91% more vulnerable to wildfire than the rest of the country. So, that had us pause and that there's well, there's not really a mapping exercise we can do. And so, we started looking at, can we implement what was done with the plantation camps island wide? But at the same time, keeping in mind the recognition of the cost of construction. So, the home hardening proposal we have in the draft bill, which is actually being proposed in the building code and not the zoning code, but it's been provided as context. We anticipate those costs being relatively the same as the plantation camp ones, nominal in nature. For multifamily construction it's going to be even cheaper because of the fact that they're using some materials already that go well beyond the ember resistant policies. And so, yeah, I'm kind of rambling and going on, Alisha, I recognize that I probably skipped over some of the stuff you might have. Is there anything you had to add to…sorry. You get me going on wildfires.

Ms. Summers: No, I think that you, you covered a lot of what I was planning on covering too. So, that's perfect of just background of why this is so important. And I guess I just want to stress that I guess, you know, Ka'aina mentioned the embers when we've been going to wildfire conferences, learning more about this, talking to experts. And for me, something that got really highlighted is that approximately 90% of structural ignitions are due to these windblown embers, which is something I, I never knew. And these embers can travel. We went to a conference, and I learned about the Los Angeles fires, and they said they were traveling up to 16 miles. And I had no idea that that could happen. So, I think that the way that this bill is crafted, and I'm happy to provide a summary as well. I don't know if you want me to do it now or if you want to show the video, but it was a bill that was packaged that includes not only the Chapter 8 amendments, which is what, you know, Planning Commission's action really focuses on, but also to include Chapter 12 and 15, so that we can have this discussion and that you have it as context and you see how we can, how these different amendments really function synergistically and how their combined implementation can really try to meaningfully reduce and mitigate this wildfire impact. So, maybe that's all that I will add for now.

Mr. Hull: And I'll just add two points that I forgot to touch upon. One is, fire chief uses quote a lot, he credits it to Chief Ventura over on Maui. And it's, I'm going to, I'm not going to do it

justice. But it's something to the effect of, in a high wind wildfire event, there are no amount of firefighters, no amount of fire trucks, no amount of apparatuses that is going to stop a town from burning. The only way you can prevent a town from burning in a high wind event is to make sure that that town itself has been set up to withstand a blizzard of embers. And so, the bill is for new structures, 100%. But the issue is also going to be, what do we do with our existing built environment? That's where the vulnerability is, a lot of it is, and I'm not sure if you folks saw in the mayor's state of the county, but we have been working with an inter departmental team made up of Kaua'i Emergency Management Agency, Planning Department, Fire Department, Elderly Affairs, Office of Economic Development to spin up a team of what are called home assessors, whereby August 1st the program is set to launch, whereby any homeowner that requests a wildfire home assessment of their home be done, the county will respond and provide that assessment free to any homeowner that requests one. And it's not going to be a requirement that they do any of the changes. It's just an assessor will go on site with the property owner, go over the structural situation of their home and what moves can be done, or adjustments can be done to their house. Yeah, if you got a wooden roof, it's going to be an expensive recommendation. But if you've got toe tongue or asphalt shingle, you're looking at primarily, you know, mesh around the vents, removing some of the vegetation within the 0-to-5-foot space and maintaining the area free of debris. Many of the homes can be retrofitted in a in a fairly nominal way and a nominal cost. But that's how we're looking at doing the existing built environment. But this bill that you folks have before you, of course, is for the new built environment. And I think, you know, when we come back to you folks, in addition to wanting to get a financial analysis so that you folks can see it, that's in the works right now. One, we'd like the deferral for the financial analysis to get complete. But then also we do have an architectural planning firm also looking at some stuff a little bit beyond embers. The next step beyond embers is this issue of, okay, the house does catch on fire within a neighborhood or a subdivision. That house and its proximity to other houses can burn other houses, right. If you have ten feet of separation between a house that's on fire and a house that isn't, and this is a high wind wildfire event where the Fire Department is responding to multiple fronts. That house that's ten feet away from a burning structure has an 80% chance of burning. And so, the only way that you, you know, combat that is for new developments, looking at greater setbacks and the wildfire science says 30 feet is the appropriate measure that should be looked at. And that's a tall ask. I can say that from the Planning Department's perspective, over the past several years in looking at the housing crisis and the housing front and trying to look at infill development, we have been increasing density and reducing setbacks certainly have been a part of that. I've asked Opticos, engineer Opticos, which is a premier planning firm over on the West Coast, to look at design parameters, as well as some of our internal staff, to look at design parameters around that. I do think, and this might sound strange, but I think planners have been somewhat guilty of treating density and setbacks as synonymous in one and the same. And I would say that we definitely in a housing crisis and for infill, want to look at increasing density. I don't think, and I would hypothesize that setbacks are not synonymous with increased density. Reducing setbacks is not synonymous with increasing density. Particularly if you look at Hawai'i Island, Hawai'i Island has 40 foot setbacks between buildings on separate properties, and they've increased their density as well. Now, granted, Big Island has a lot more land, but the task that I've asked for Opticos, as well as their internal staff to do, is to take 10,000 square foot lots and 6,000 square foot lots and get us design parameters around how a house, an ARU and an ADU can be designed within that square footage. It is a theory I have. It is a hypothesis. We are going to see what those designs come out with. And I hope that we should have those designs for you

folks come June 9th at the next, not the next, but a 30 day window from here on out. So, those are the two areas that we're looking at. We're not set on setbacks. We're kind of going through that analysis. We're not set in the financial numbers. We'd like to get those done before June 9th. And then lastly, I'm probably going to ask, Alisha and I are going to work, much of the work that we've done stems out of recommendation analysis of the Attorney General's report in Lahaina. I've been caught publicly, somewhat talking a little smack about the report, saying it doesn't give us enough guidance. When I said those comments a year and a half ago, it's because I was asking the wrong question. I was asking myself and the planning staff, how do you combat a wall of fire? And I read that report with that question in mind. Recognizing we're not going to combat the wildfire, it's not the wall of fire we need to combat. We're turning back to the report. It is an absolute wonderful document, policy document, systems document of across the systems from utilities to forestry to fire departments, to emergency management to planning departments on what their roles in the space can be. And so, we'll probably chop our report back to you folks a little bit more within the line with the findings of the Lahaina report, as well as the author of that is the Attorney General, it definitely is her report, but it was authored by an organization called Fire Safety Research Institute, it's a national organization. The lead author on that is a man named Derek Alcones. Derek is working on reviewing this bill as well. So, we're putting all that together. And so, we don't mean to say we got you an unfinished copy, it's just we know there's work in progress, but we wanted to put on the agenda to get insight, input, concerns, objections, clearly. So, anyways, yeah, I'm rambling and rambling around, but now we're ready for any comments, objections, concerns and what have you. Thank you. Sorry.

Ms. Streufert: Thank you for that explanation. That was really good. But I have a couple of questions. When you said that as of 1 August, homeowners can ask for an assessment. Where do they get that? Or how do how do they get…who do they get that...

Mr. Hull: We'll be issuing a press release come, you know, early to mid-July on the portal. I'm essentially opening up a portal online or a phone line to call for the assessment to be done.

Ms. Streufert: And the second question is, is one with the finances and things. I can see this as either increasing or decreasing insurance costs or availability of insurance. Can something like that be included, or at least some speculative thing included in the finances to see what that would, what the impact would be on new versus current residents?

Mr. Hull: We can ask. We definitely have people within the insurance industry that work with insurance industry. I had a long conversation with an organization called the Insurance Institute for Business and Home Safety, which is an umbrella organization. We can definitely get analyzes from them. The companies themselves will not avail the public to the actuarial science of when they're going to come in and when they come out. What all and Dr. Kimiko Barrett, formerly of Headwaters Economics and has done a lot of analysis in the insurance industry and has been partnering with us so we can get her written comments to that effect. It will say something to the effect of, there is no move that a municipality can make that is going to see a decrease in insurance premiums for homeowners. What these policies can do is they can keep either keep, help keep the insurance premiums at a steady standard, or keep the flight of insurance providers out of the industry. And what Hawai'i Appleseed just came out with a report in December that, December 2025 that from 2018 to 2023, within that five year period, there was a 200% increase in the flight of homeowners insurance providers in Hawai'i from the

multifamily space. So, 200% flight means these guys weren't even negotiating higher premiums. They were just like, we are out, like we're not going to negotiate higher premiums. There is too much risk with this built environment. There is no way we can, feel that we can make it up. And they just left. And the consequence of them leaving has dramatically increased the cost of homeowners insurance in the multifamily market. So much so that you're hearing many stories of the multifamily market no longer really having insurance available, or if it is available, it's like a last resort with Lloyd's of London at extremely high premiums. So, I don't want to speak for Dr. Barrett, but I've spoken to her at great length on this. And so, the hope of this ordinance or the dialog that this ordinance has started at a national level is in the hopes of keeping insurance providers around.

Ms. Streufert: And I think that that's an excellent point that. But if that could be included into your financial analysis of it, that would be useful, because I know my insurance company left the left the state. So, I know that personally that that's a problem. And I'm, I've been told many stories of other families, not multifamily units, but individual units where they can't get insurance or even hurricane insurance at this point is becoming very difficult to get. So, this, if this decreases the probability of having a wildfire conflagration, then that should keep insurance companies in or at least I'm…you're right, I don't think it'll ever go down. But at least keep them more steady in their rates. So, and I do really want to thank you and the whole staff for your forward thinking, because I don't think that this is part of any of the state plans for wildfire mitigation and that kind of forward thinking and putting us ahead of the curve really is, I think, very useful and serves Kaua'i very, very well. So, thank you very much for thinking about this even and for identifying that it's embers, and it's not the wall of flame that everybody thinks about. We kind of think of it sort of like the volcanoes coming down in the lava, having to hit the buildings. And obviously we've been misled, or at least we haven't been doing the right research. So, thank you very much.

Ms. Cox: Yeah. I want to echo the thanks. I also have a couple specific comments. One, first of all, thank you for explaining that whole ember thing because now when I read the 91% of our communities and that we're seventh in the nation, I was like, wow, how can that be. Now I understand. So, thank you for that. The other thing is that I really like the fact that there's an educational piece in this, because obviously it isn't just new construction. And when what I was originally going to say was, well, we need to make sure that we, you know, are there, is there a way that homeowners can find out? And then you actually spoke to that by saying there's going to be this assessment so that that ability for assessment, which is fantastic. It also strikes me that down the line, that means there's also going to be an opportunity for people to develop experts who will come in and mitigate, you know, who actually do the things that are then recommended. So, it's actually an economic opportunity for someone or someones as well. So, again, thank you so much for really paying attention to this because I think the rest of us are in fear, but not understanding and not doing the research. And what you did was bring it down and really work on it. Thank you.

Chair Ako: Well, I would like to add that, you know, every time I come here and I listen to, you know, the department speak, yeah, I'm always, I don't know if the word is amazed or impressed or very proud of the fact that we're always on the cutting edge. We're always on the cutting edge. We're talking about, you know, coastal zone erosion. You know, we were the first, you know, to actually attack that issue. Now we're talking fire, again we're on the cutting edge. And I know

this one thing, to be on the cutting edge, man, it takes a lot of courage, yeah. It's not like we get to follow somebody and you know, whatever they're doing. But it takes a lot of courage to be on that cutting edge over there. And, you know, information that we have here, I'm sure is available to everybody out there throughout the nation. And yet it's only a handful that take the courage to say, this is what we need to do. And also in this too, I think what we're also looking at is the fact that apparently the department has gone down one road, the wrong road, only to find out it's the embers of that, and to be able to face those brutal facts that, you know, we're going down the wrong way, we need to change paths, I mean, that, to me is another sign of courage because it's not easy, right. A lot of times you got to admit that you're going down the wrong, you know, we were going down the wrong way. So, you know, when we do things like that, you know, to me, that really shows how I don't know if it's only the Planning Department or maybe it's the whole county, yeah, that really stands out about everybody in the nation that we have here. You know, and this too, I think is one issue. And like many other issues, when there's a crisis, we always cry out in terms of, you know, how come we didn't do this? Why didn't we do this? And yet when you take care of that crisis and nothing happens, I think it's an issue that kind of fades away and then we lose the appreciation and we lose the gratitude of what was done so that that crisis didn't occur. So, you know, to Alisha, Ka'aina and your whole staff out there, you know, just thanks so much for being on that cutting edge.

Mr. Hull: Thank you, Chair. I'll say, you got me and Alisha here right now. This is a massive group effort, group effort. And, you know, I'll be certain at the June meeting to, I know that Elizabeth Pickett from Hawai'i Wildfire will be here. The fire chief being here as well as Hawai'i emergency manager because it's been a it's been a work in progress, both statewide as well as nationally. Yeah.

Chair Ako: Okay. With that, if we can have a motion to defer, June 9 would work.

Mr. Hull: June 9 (inaudible).

Ms. Streufert: June 9? I move to defer the consideration of an Ordinance to amend Chapter 8, Comprehensive Zoning Ordinance of Kaua'i County Code 1987, as amended, relating to the Wildfire Wildland Urban Interface Standards Zoning Amendment ZA-2026-6 to the June 9th meeting.

Ms. Cox: Second.

Chair Ako: Motion and a second to defer to June 9th. Any questions? Comments? If not, we can have a roll call, Mr. Clerk?

Mr. Hull: Roll call, Mr. Chair. Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner Giovanni?

Mr. Giovanni: Aye.

Mr. Hull: Commissioner Santos?

Ms. Santos: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 5:0.

Status Reports (None)

Class III Zoning Permits (None)

GENERAL BUSINESS MATTERS (None)

COMMUNICATIONS (None)

UNFINISHED BUSINESS (For Action) (None)

NEW BUSINESS (For Action) (None)

EXECUTIVE SESSION (None)

ANNOUNCEMENTS

Topics for Future Meetings

Mr. Hull: With that we have no further agenda items. The following regularly scheduled meeting for Planning Commission will be held at 9 a.m. on May 26th, 2026 here in this room, at the Līhu'e Civic Center, Moikeha Building, Meeting Room 2A/2B. If there's any future other topics that the commission would like us to consider putting on, just let us know and we can work with the Chair to get it on. Yeah.

ADJOURNMENT

Chair Ako: Okay. So, with that opportunity to finish by 10:00 has passed. But I think that was…

Ms. Cox: Not by much.

Chair Ako: not by much, but I think it was a very well worth time that has been spent. So, with that, I'll entertain a motion to adjourn.

Ms. Streufert: I move to adjourn.

Chair Ako: We have a motion, a second?

Ms. Santos: I second.

Chair Ako: The motion has been seconded to adjourn. All those in favor, say aye. Aye (unanimous voice vote). All those opposed? The meeting has been adjourned.

Chair Ako adjourned the meeting at 10:07 a.m.

Respectfully submitted by:

Lisa Oyama

Lisa Oyama,
Commission Support Clerk

( ) Approved as circulated (date of meeting approved).

( ) Approved as amended. See minutes of _____ meeting.

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a Delaware limited partnership

BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUAI

In The Matter Of The Application Of SOF-XI KAUAI PV HOTEL, L.P., a Delaware limited partnership, to amend Special Management Area Use Permit SMA(U)-80-18, Use Permit U-37-80, and Class IV Zoning Permit Z-IV-80-43, and Special Management Area Use Permit SMA(U)-89-4, Use Permit U-89-14, and Class IV Zoning Permit Z-IV-89-14, concerning property located at Princeville and Hanalei, Halale'a, Kauai, Hawaii, identified by Kauai Tax Map Key Nos. (4) 5-4-004:029 and 035 and (4) 5-4-011:004, Applicant.	MASTER PERMIT Special Management Area Use Permit SMA(U)-80-18; Use Permit U-37-80; and Class IV Zoning Permit Z-IV-80-43 RENOVATION PERMIT Special Management Area Use Permit SMA(U)-89-4; Use Permit U-89-14; and Class IV Zoning Permit Z-IV-89-14 **APPLICANT'S MOTION TO AMEND MASTER PERMIT AND RENOVATION PERMIT; EXHIBITS "A" - "F"** **(1 Homes Project)**

MOTION TO AMEND MASTER PERMIT AND RENOVATION PERMIT
(1 Homes Project)

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MOTION TO AMEND MASTER PERMIT AND RENOVATION PERMIT APPROVAL
(1 Homes Project)

Comes now SOF-XI KAUAI PV HOTEL, L.P., a Delaware limited partnership, Applicant in the above-captioned proceedings, by and through its undersigned attorneys, and moves the Planning Commission of the County of Kauai pursuant to Sections 1-6-16 and 1-12-9 of the Rules of Practice and Procedure of the Planning Commission of the County of Kauai ("PC Rules"), to amend Special Management Area Use Permit SMA(U)-80-18, Use Permit U-80-37, and Class IV Zoning Permit Z-IV-80-43, as amended (collectively, the "Master Permit"), and Special Management Area Use Permit SMA(U)-89-4, Use Permit U-89-14, and Class IV Zoning Permit Z-IV-89-14, as amended (collectively, the "Renovation Permit"), to allow for six (6) attached dwelling units, event pavilion, parking garage and storage, new parking lot, Fort Alexander memorial, covered walkway, landscaping, and related-site utilities (collectively, the "Project") on Lot 4-A only as shown on ***Exhibit "E-1"***, as follows:

A. 1 Homes Project. The Applicant proposes a two-story six-plex building consisting of six (6) attached dwelling units. Five (5) dwelling units will contain four (4) bedrooms and four and a half bathrooms, with the sixth dwelling unit containing three (3) bedrooms and three and a half bathrooms. Each of the dwelling units will be in a range of 3,000-4,500 square feet. The exterior will be softened with earth tone colors and the use of natural textures. The elevations of the dwellings will not exceed twenty-five (25) feet from the front entrance. New landscaping will be installed to screen exterior walls, using vegetation as shown on the 3D View of Residences attached as ***Exhibit "E-2"***. Portions of the roofs will be consistent with the current 1 Hotel built environment with green roofs (i.e., roofs with

vegetative/landscaping materials). The dwellings will be sold to market; however, retain the option to be placed in the rental pool along with hotel rooms associated with the 1 Hotel resort.

B. Event Pavilion. The proposed Event Pavilion will service both the existing 1 Hotel built environment and the proposed six (6) dwelling units. The Event Pavilion is proposed to be 4,500 square feet and will be located northeast of Fort Alexander. The Event Pavilion will be used for events and celebrations. The Event Pavilion will consist of two (2) ballrooms, covered decking to the north and west, a warming kitchen, restrooms, and utilities. Similar to the six (6) dwelling units, the elevation will be limited to twenty-five (25) feet at front entry, and the exterior will be softened with earth tone colors and the use of natural textures. New landscaping will be installed to screen exterior walls, using vegetation as shown on the 3D View of Event Pavilion attached as ***Exhibit "E-3"***. The Event Pavilion will be used in conjunction with events associated with the 1 Hotel resort.

C. Parking Area, Garages, and Storage. The new parking area will include a proposed concrete porte-cochere as an entry to the parking layout along with one hundred and twenty-six (126) parking stalls to replace the existing parking lot. The parking area will include garage and storage spaces for the six (6) dwelling units at one (1) garage stall per dwelling unit. The garage and storage areas will not exceed twenty-five (25) feet in height and will blend with the overall Project design. The Parking Area will be minimally landscaped to ensure adequate space for parking stalls as shown in the attached ***Exhibit "E-1"***. Additional parking will be made available via 1 Hotel valet services to ferry vehicles to the Makai Golf Course.

D. Fort Alexander Storyboards Memorial and Covered Path. The current Fort Alexander pavilion is proposed to be demolished and replaced with a proposed Fort Alexander Storyboards Memorial, which will connect to a proposed new covered walkway

as shown on ***Exhibit "E-1"***. The existing storyboards will be re-established in the proposed Fort Alexander Storyboards Memorial to provide context and stories of the history of the Fort Alexander.

E. Landscaping. The 1 Homes Project, Event Pavilion, Parking Area, Garages, and Storage, and Fort Alexander Memorial and Covered Path will be landscaped to provide mitigation to the built environment and landscape continuity to the existing 1 Hotel, as shown collectively in ***Exhibits "E-1"***, ***"E-2"***, ***"E-3"*** and ***"E-4"***.

F. Related-Site Utilities. The collective Project will require necessary site utilities, including but not limited to water, power, communications, and wastewater connections.

All of the proposed built environments for the collective Project described above will be sited primarily on the footprint of the existing parking lot.

SECTION 1. OWNER/SUBJECT PROPERTY.

1.1 Owner. The Applicant, SOF-XI KAUAI PV HOTEL, L.P., a Delaware limited partnership ("Applicant"), is the owner of the Subject Property ("Owner") and has authorized Max W. J. Graham, Jr. and Ian K. Jung of Belles Graham LLP to file this Application pursuant to the Authorization attached as ***Exhibit "A"***.

1.2 Subject Property. As shown on the Location Map (***Exhibit "C-1"***), the property which is the subject matter of this Application ("Subject Property") is located in Princeville and Hanalei, Kauai, Hawaii, and is described as follows:

a. A remnant parcel containing an area of 4,356 square feet and identified by Kauai Tax Map Key No. (4) 5-4-004:029 ("Remnant Parcel").

b. Lot 5-A as shown on Map 10 filed with the Assistant Registrar of the Land Court of the State of Hawaii in Land Court Application No. 1724 containing an area of

6.533 acres, less erosion of 0.789 acres, for a net area of 5.744 acres and identified by Kauai Tax Map Key No. (4) 5-4-004:035 ("Lot 5-A").

c. Lot 4-A containing an area of 16.596 acres and identified by Kauai Tax Map Key No. (4) 5-4-011:004 ("Lot 4-A").

1.3 Title. Title to the Subject Property is held by the Applicant as shown on the Limited Warranty Deed attached as ***Exhibit "B"***.

SECTION 2. LOCATION AND LAND USE DESIGNATIONS OF PROPERTY.

2.1 Location.

a. The Subject Property is located in Princeville and Hanalei, Island and County of Kauai, State of Hawaii. Lot 5-A, the Remnant Parcel, and Lot 4-A are shown with Tax Map designations on the Tax Key Parcel Map.

b. Lot 4-A and the Remnant Parcel are subject to the Declaration of Restrictions, Covenants and Conditions ("CCRs") of the Princeville At Hanalei Community Association ("PHCA"). Lot 5-A is not part of PHCA and is not subject to the PHCA CCRs. The Project area will be located on Lot 4-A.

c. The Subject Property is located in the moku of Halele'a and the ahupua'a of Hanalei.

2.2 Land Use Designations. The respective State Land Use Commission ("SLUC"), Kaua'i General Plan, County of Kauai Comprehensive Zoning Ordinance ("CZO"), and other relevant land use designations for the Subject Property are shown on the Land Use Index ***(Exhibit "D-15")*** and are described as follows:

a. SLUC. As shown on the SLUC Map attached as ***Exhibit "C-2"***, the Subject Property is located within the following SLUC Districts:

(i) Remnant Parcel. The Remnant Parcel is located entirely within the SLUC Urban District.

(ii) Lot 5-A. As a result of erosion (as discussed below in Section 2.2f.) only a small (approximately .05 acre) portion of Lot 5-A along the Lot 5-A Shoreline is still located in the SLUC Conservation District (Limited Subzone). The remaining approximately 5.739 acre portion of Lot 5-A is located in the SLUC Urban District.

(iii) Lot 4-A. An approximately 3.5 to 5.5 acre portion of Lot 4-A along the Lot 4-A Shoreline is located in the SLUC Conservation District (Limited Subzone). An approximately 11.096 to 13.096 acre portion of Lot 4-A is located in the SLUC Urban District. The difference between the SLUC Conservation District area and the SLUC Urban District area is due to the fact that the Conservation/Urban boundary as shown on the SLUC map does not match the Conservation/Urban boundary as shown on the CZO map. Lot 4-A is the proposed location for the Project improvements.

b. Kaua'i General Plan. As shown on the General Plan Land Use Map ***(Exhibit "C-3")***, the Subject Property is located in the following General Plan Designations:

(i) Remnant Parcel. The Remnant Parcel is located entirely in the General Plan Natural Land Use Designation.

(ii) Lot 5-A. A portion of Lot 5-A, along its northern boundary, is located in the General Plan Resort Land Use Designation. The remainder is located in the General Plan Natural Land Use Designation.

(iii) Lot 4-A. The central portion of Lot 4-A is located in the General Plan Resort Land Use Designation. The western strip (along the Shoreline) and eastern side of Lot 4-A are located in the General Plan Natural Land Use Designation.

c. CZO. The CZO Districts for the Subject Property, as shown on the County of Kauai Zoning Map ZM-PR700 ***(Exhibit "C-4")***, are as follows:

(i) Remnant Parcel. The Remnant Parcel is located entirely in the CZO Resort District (RR-10).

(ii) Lot 5-A. An approximately 2.629 acre portion of Lot 5-A along the Lot 5-A Shoreline is located in the CZO Open District. An approximately 3.11 acre portion of Lot 5-A (on its eastern half) is located in the CZO Resort District (RR-10). The small (approximately .05 acre) portion of Lot 5-A is located in the SLUC Conservation District and is not subject to the CZO.

(iii) Lot 4-A. A total of approximately 6.76 acres of Lot 4-A (along its southwest and southeast sides) are located in the CZO Open District. An approximately 4.336 to 6.336 acre portion of Lot 4-A is located in the CZO Resort District (RR-20). A small portion of Lot 4-A (adjacent to Lot 5-A) may be located in the CZO Resort District (RR-10). The approximately 3.5 acre to 5.5 acre portion of Lot 4-A located in the SLUC Conservation District is not subject to the CZO.

d. Development Plan Area. The Subject Property is located within the North Shore Development Plan Area as defined by the North Shore Development Plan Ordinance (Ord. No. 239). As shown on Figure 5 of the North Shore Development Plan Update ("NSDP Update") attached as ***Exhibit "C-5"***, the Subject Property is located in the Resort (RR-20) and in the Open Recommended Zoning areas for Princeville.

e. Special Management Area. The Subject Property is located entirely within the Special Management Area ("SMA") of the County of Kauai as shown on the SMA Map ***(Exhibit "C-6")***.

f. Shoreline/Shoreline Setback Area. Lot 4-A and Lot 5-A are located along the Shoreline. The Lot 4-A Shoreline is a rocky shoreline that follows along the highwater mark at the rocky cliff on Lot 4-A and is not subject to the Kauai Coastal Erosion Study ***(Exhibit "C-13")***. However, as shown on the Shoreline Certification Map certified November 10, 1983, Lot 5-A is shown to be an eroding shoreline ***(Exhibit "C-8")***. The Lot 5-A Shoreline is an eroding shoreline as shown on the Shoreline Certification Map certified May 21, 2019 ***(Exhibit "C-9")***. The Lot 5-A Shoreline was certified again to show an eroding shoreline as shown on the Shoreline Certification Map certified August 11, 2022 ***(Exhibit "C-10")***. As a result of erosion (0.789 acre), Lot 5-A has been reduced in size from 6.533 acres to 5.744 acres. It appears that most of the southern area of Lot 5-A that was along the shoreline and was within the SLUC Conservation District has been lost due to erosion. As a result of its proximity along the Shoreline, portions of the Subject Property are located within the Shoreline Setback Area as defined in HRS Chapter 205A, Part III, and CZO Article 27. The Applicant will file an application for a Shoreline Setback Determination of Exemption with the Planning Department to exempt the Project given the distance and elevation above the shoreline area at approximately one hundred and thirty-eight (138) feet. All of the new Project improvements will comply with all of the requirements of the Shoreline Setback Ordinance.

g. Heritage Resources. The Subject Property is shown on the North Shore Heritage Resource Map (Kaua'i General Plan, November 2018) as containing a Cultural Feature ***(Exhibit "C-7")***. The Cultural Feature refers to Russian Fort Alexander, which is a Historic Site designated by SIHP Number 50-30-03-0890. However, it has not been formerly registered with either the Federal or Hawaii Register of Historic Places. The Project improvements will be located outside of the buffer areas for the Fort Alexander Preservation Plan, with the exception of the Fort Alexander Storybord Memorial and the covered walkway, which will enhance the historic preservation of Fort Alexander.

h. Sea Level Rise. The western and south-western portions of the Subject Property (along the Shoreline) are located in the Sea Level Rise Exposure Area (3.2 ft. scenario) shown on the Projected Sea Level Rise Model Map. The Project area is located on the northern boundary of Lot 4-A, on a bluff elevated at one hundred and thirty-eight (138) feet and approximately two hundred (200) feet away from the rocky shoreline and is not located in the Sea Level Rise Constraint District ***(Exhibit "C-12")***.

i. VDA. As shown on the Zoning Map ZM-PR700, the Project area is located in the CZO Visitor Destination Area ("VDA").

2.3 Workforce Housing Requirements. Pursuant to Section 7A-2.1(b) of the Housing Policy for the County of Kauai (County of Kauai Ordinance No. 860), the Workforce Housing Requirement is not applicable in connection with use or zoning permits for resort projects with less than ten (10) dwelling units. As a result, no workforce housing assessment is triggered by this request.

2.4 Land Use Approvals.

a. SLUC Docket No. A78-446 and Zoning Ordinance PM-56-80. LUC Docket No. A78-446, a copy of which is attached as ***Exhibit "D-1"***, was approved by the LUC to designate the developed area of the Subject Property to Urban classification. Ordinance No. PM-56-80 ("Ord. PM-56-80"), a copy of which is attached as ***Exhibit "D-2"***, was approved by the County of Kauai effective January 24, 1980. This ordinance transferred a 1.8 acre portion of Lot 4-A from the CZO Open District into the CZO Resort District (RR-20). Ord. PM-56-80 was subject to nine (9) conditions of approval ("Conditions") as shown in Ord. PM-56-80 and on the Index Of Discretionary Land Use Approvals attached as ***Exhibit "D-15"*** ("Permit Index").

b. Master Permit. The Princeville Hotel, which is located on the Subject Property, was approved by the Planning Commission on July 9, 1980, pursuant to the Master Permit as set forth in the letter from the Planning Department dated July 10, 1980, attached as ***Exhibit "D-3"***. The Master Permit was subject to sixteen (16) Conditions as shown in the permit letter and on the Permit Index. The Master Permit allowed the development of a hotel with a maximum of 300 hotel units and related resort amenities, including restaurants, bars, retail stores, guest services, and recreational facilities. Also approved was a variance from the North Shore Ordinance's twenty-five (25) foot height limitation for the lobby and two elevator structures, all of which were allowed to be built to heights of forty (40) feet. Currently, only 252 hotel units are constructed. Under the two-one split of hotel to dwelling unit counts per CZO Section 8-5.2(b), twenty-four (24) dwelling units remain available; however, this request is limited to six (6) dwelling units as shown on ***Exhibit 'E-1"***. *[Note: At the time of this approval, Lot 4-A was composed of Lot 4 (15.596 ac.) identified by Kauai TMK No. (4) 5-4-011:004, and Lot 1 (1.0 ac.) identified by Kauai TMK No. (4) 5-4-012:001. These two lots were thereafter*

consolidated into Lot 4-A (16.596 ac.) identified by Kauai TMK No. (4) 5-4-011:001. Similarly, Lot 5-A was part of a larger lot known as Lot 1 of Land Court Application 1724 (52.80 ac.). Lot 1 was subsequently subdivided into Lot 5-A (6.533 ac.) identified by Kauai TMK No. (4) 5-4-004:035 and Lot 5-B (44.766) identified by Kauai TMK No. (4) 5-4-004:001.]

c. ACOE Permit. By letter dated June 9, 1982, attached as ***Exhibit "D-4"***, the U.S. Army Corp of Engineers ("ACOE") approved a Section 404 (Dredge and Fill) Permit for the dredging and filling of materials in the wetland portions of Lot 5-A ("ACOE Permit"). This permit was necessary for the proposed construction of the Princeville Hotel swimming pool ("Pool") in this area ("Pool Area"). The ACOE Permit was subject to eight (8) Conditions, as shown in the permit letter and on the Permit Index.

d. Master Permit Amendment No. 1. On October 27, 1982, the Planning Commission approved a first amendment to the Master Permit, as set forth in a letter from the Planning Department dated November 1, 1982, attached as ***Exhibit "D-5"*** ("Master Permit Am. No. 1"). The Master Permit Am. No. 1 was subject to six (6) Conditions as shown in the permit letter and on the Permit Index. The Master Permit Am. No. 1 allowed the construction of the Pool and amenities (including a restaurant, bar, and recreational facilities) on Lot 5-A.

e. Pu'u Po'a Permit. On August 9, 1988, the Planning Commission approved Special Management Area Use Permit SMA(U)-88-16, as set forth in a letter from the Planning Department dated August 12, 1988, attached as ***Exhibit "D-6"*** ("Pu'u Po'a Permit"). The Pu'u Po'a Permit was subject to ten (10) Conditions as shown in the permit letter and on the Permit Index. The Pu'u Po'a Permit allowed the restoration of and development of certain limited improvements on the portions of the Pu'u Po'a Marsh located on Lot 5-A and Lot 5-B.

[Note: The gazebo/view platform and the boardwalk which were allowed by the Pu'u Po'a Permit were never constructed.]

f. Renovation Permit. On March 9, 1989, the Planning Commission approved the Renovation Permit, as set forth in a letter from the Planning Department date March 17, 1989, attached as ***Exhibit "D-7"***. The Renovation Permit was subject to fourteen (14) Conditions as shown in the permit letter and on the Permit Index. The Renovation Permit allowed the complete renovation of the interior and exterior portions of the Princeville Hotel.

g. Condition 9 Amendment. On May 9, 1989, the Planning Commission approved an amendment to Condition 9 of the Renovation Permit, as set forth in a letter from the Planning Department dated May 11, 1989, attached as ***Exhibit "D-8"*** ("Condition 9 Amendment"). The Condition 9 Amendment amended the terms under which Russian Fort Alexander (located on the bluff to the north of the Princeville Hotel entrance) is to be protected, preserved and managed. Condition 9 of the Renovation Permit was further amended as follows:

(i) On July 27, 1989, the Planning Commission granted interim approval of compliance with Condition 9, as set forth in a letter from the Planning Department dated August 2, 1989, attached as ***Exhibit "D-9"*** ("Interim Approval"). The Interim Approval accepted the interim protective measures segment of the Preservation Plan for the Russian Fort Alexander.

(ii) On January 10, 1991, the Planning Commission granted final approval of compliance with Condition 9, as set forth in a letter from the Planning Department dated January 14, 1991, attached as ***Exhibit "D-10"*** ("Compliance Approval"). The

Compliance Approval approved the final Preservation Plan for the Russian Fort Alexander, subject to the requirements of Condition 9, as amended.

h. Master Permit Amendment No. 2. On November 24, 2009, the Planning Commission approved a second Amendment to the Master Permit as set forth in the letter from the Planning Department dated November 24, 2009, attached as ***Exhibit "D-11"*** ("Master Permit Am. No. 2"). The Master Permit Am. No. 2 was subject to four (4) Conditions, as shown in the permit letter and on the Permit Index. The Master Permit Am. No. 2 allowed the installation of a canvas awning over the open deck portion of the restaurant on the 8th floor of the Princeville Hotel.

i. Master Permit Amendment No. 3. On October 22, 2019, the Planning Commission approved a third Amendment to the Master Permit as set forth in the letter from the Planning Department dated October 30, 2019 ("Master Permit Am. No. 3"). The Master Permit Am. No. 3 involved a major renovation to the Princeville Hotel, and is attached as ***Exhibit "D-12"***.

j. Site Plan Modification. On May 25, 2022, pursuant to Condition No. 1, the Planning Director issued its letter authorizing a slight site plan modification to reconfigure the existing western staircase, which is attached as ***Exhibit "D-13"***.

k. SMA Minor Activity Trailer. The Applicant has re-certified its shoreline and obtained Special Management Area Minor Permit SMA(M)-2025-7 and Shoreline Setback Determination SSD-2024-6, which recognize the relocation of the activity structure near the lower-level pool, which are attached as ***Exhibit "D-14"***.

SECTION 3. PAST, EXISTING AND PROPOSED USES OF SUBJECT PROPERTY.

3.1 Existing Improvements And Uses. The Subject Property is currently improved with the 1 Hotel, which contains: 252 Hotel Units; restaurants; bars; spa, pools, and fitness center facilities; tennis courts; retail boutiques; conference rooms; landscaping and water features; pathways (including a public path to the Shoreline); improved parking (including 219 regular parking spaces, ADA parking spaces and 10 public parking spaces); and the Russian Fort Alexander historic site. The 1 Hotel is located in six (6) buildings and contains eleven levels, plus a ground floor level at the Pool Area.

3.2 Proposed New Improvements And Uses. The proposed Project development will include the six (6) dwelling units, an event pavilion, parking garage and storage, new parking lot, Fort Alexander memorial, covered walkway, landscaping, and related-site utilities (collectively, the "Project") on Lot 4-A only, as shown collectively in ***Exhibits "E-1"***, ***"E-2"***, ***"E-3"*** and ***"E-4"***. The Project will be associated with the existing 1 Hotel resort and provide amenities to the existing resort built environment. The dwellings will be sold to market with the option to include the dwellings in the rental pool of the resort. The Project construction activities are expected to occur over the period from 2026 to 2028.

3.3 Land Coverage. After the completion of the Project, the land coverage of the Project will not exceed the land coverage currently existing within the various CZO Districts within the Subject Property. The Land Coverage Study is attached as ***Exhibit "E-5"***.

SECTION 4. DESCRIPTION OF SUBJECT PROPERTY AND IDENTIFICATION OF SURROUNDING LANDS.

4.1 Adjacent Property. The north and west boundaries of the Subject Property run along the Shoreline and the ocean. To the east of the Subject Property, from north (makai) to

south (mauka), are: the Pu'u Po'a Condominium project; Ka Haku Road; the Hanalei Bay Villas Condominium project; a portion of the Makai Golf Course; and the Hanalei Bay Resort Condominium project. To the south of the Subject Property is Lot 5-B, upon which is an undeveloped parcel upon which is located: a wetland area known as the Pu'u Po'a Marsh; and the Kamo'omaka'i Fishpond. The Project area is located between the Pu'u Po'a Condominium project and Fort Alexander, in the location of the existing Parking Lot area.

4.2 Natural Environment.

a. General Description. The Subject Property is composed of: level lands on the north end (on the bluff); sloping lands leading to the bordering shoreline and to the lower, southern portion; and level lands on the southern portion, adjacent to the Pu'u Po'a Marsh and beach area.

b. Soil Rating (Land Study Bureau/UH). Because the Subject Property is located in the SLUC Conservation District and Urban District, it is not listed in the Detailed Land Classification - Island of Kauai prepared by the Land Study Bureau, University of Hawaii.

c. Rainfall. The average annual rainfall in the area of the Subject Property is 78 inches.

d. Botanical/Biological Resources. With the exception of the wetland area (described below), the Subject Property has been fully developed with hotel and resort improvements and amenities, parking, and introduced landscaping. As discussed in Section 6.1 below, the Applicant will continue to implement the current mitigative measures that are being undertaken to protect any threatened or endangered biological species utilizing the Subject Property, as well as threatened or endangered botanical species located on, or that may

be affected by activities on, the Subject Property. The wetland area will be protected and preserved as discussed below.

e. Flood Zones. Lot 4-A, the Remnant Parcel, and the northern and eastern portions of Lot 5-A are located within Flood Zone X as shown on the Flood Zone Designation Map (which incorporates Federal Insurance Rate Map 150002-055E) attached as ***Exhibit "C-11"***. The western portion of Lot 5-A is located in Flood Zone VE (E1.14), the central portion of Lot 5-A is located in Flood Zone VE (E1.10), and the eastern tip of Lot 5-A is located in Flood Zone X.

f. Wetlands. There are wetlands on the southern and western portions of Lot 5-A, adjacent to the Pu'u Po'a Marsh and to the Shoreline. The wetlands along the Shoreline are designated Estuarine and Marine Wetland. The wetlands adjacent to the Pu'u Po'a Marsh are designated Freshwater Forested/Shrub Wetland and Freshwater Emergent Wetland. The Project area on Lot 4-A is not subject to any wetlands.

SECTION 5. PERMITS REQUESTED AND REQUIRED.

5.1 Required Approval. The proposed amendment to the Master Permit and the Renovation Permit requires the approval of the Planning Commission in accordance with Sections 1-6-16 and 1-12-9 of the PC Rules.

SECTION 6. IMPACTS OF PROJECT.

6.1 Botanical Resources and Wildlife. The Subject Property is already fully developed with the existing 1 Hotel improvements. The new Project improvements will be limited to areas of the Subject Property that have already been developed with a Parking Lot on Lot 4-A. As a result, with the implementation of the mitigative measures discussed below, the

Project will not have any significant impact on any endangered or protected fauna or flora on or in the vicinity of the Subject Property.

The Subject Property borders the ocean and the Pu'u Poa wetland area. In order to protect the biological resources of these adjacent areas, the Applicant will adhere strictly to all governmental regulations, and will implement best management practices, in order to prevent any impacts (including erosion, dust, and surface water discharges) that could impact these resources.

In addition, certain protected and/or endangered native seabirds, including the 'a'o (Shearwater), 'ua'u (Petrel) and 'akē'akē (Band-rumped Storm-Petrel), are known to frequent these adjacent areas. The Applicant will continue the efforts of the former owner of the Princeville Hotel to protect these native seabirds by doing the following:

a. The Applicant has prepared revisions to a Participant Inclusion Plan as part of its participation in the proposed Kauai Seabird Habitat Conservation Plan being developed by the Division of Forestry and Wildlife of the State Department of Land and Natural Resources.

b. The Applicant will continue to implement and update the Shearwater Awareness, Protection And Collection Program prepared by the former owner to protect the native seabirds.

c. The lighting design for the Project will meet the guidelines of the Dark Sky Association in order to minimize adverse night-time lighting.

d. All exterior construction work which requires exterior lighting will be limited to daylight hours (sunrise to sunset) during the seabird fledging season (September 15-December 15).

6.2 Historical Resources. As discussed in the prior approvals, the Applicant is not aware of any archaeological, cultural or historical resources ("Historic Sites") other than the Russian Fort Alexander historic site on the surface of the Subject Property which will be affected by the Project. The Project itself will be compatible with, and will have no negative impact on, the historic properties and values of the Russian Fort Alexander historic site. The removal of the existing pavilion within the Fort Alexander and construction of the Fort Alexander Storyboard Memorial will be coordinated with Historical Preservation Division of the State Department of Land and Natural Resources ("SHPD") and the existing Preservation Plan will be amended, if necessary. In the event of inadvertent historic site or burial discovery, the Applicant will immediately contact SHPD and the Planning Department.

6.3 Air Quality/Noise. The Project will have little or no impact on the air quality and ambient noise levels in the area. Air quality and ambient noise levels may be affected at a very minimal level during future activities associated with the construction of the improvements. All vehicles or equipment used by the Applicant during construction will be properly muffled, housed and maintained to reduce any noise impacts or emission impacts. The Environmental Protection Agency (EPA) and State of Hawaii air quality standards will not be exceeded.

6.4 Flooding and Drainage. The Project area on Lot 4-A, along with the Remnant Parcel, and the northern and eastern portions of Lot 5-A are situated within Flood Zone X, as shown on the Flood Zone Designation Map (which incorporates the data shown on Federal Insurance Rate Map 150002-055E). The western portion of Lot 5-A is located in Flood Zone VE (E1.14), the central portion of Lot 5-A is located in Flood Zone VE (E1.10), and the eastern tip of Lot 5-A is located in Flood Zone X. The Project will meet all of the

requirements of the Flood Plain Management Ordinance of the County of Kauai, as contained in Chapter 15, Article 1, of the Kauai County Code, 1987. The Project will have no negative impact on flooding on or around the Subject Property. All drainage resulting from construction activities, and from the increase in land coverage will be retained on site and subject to best management practices. No additional drainage will be allowed to significantly or negatively impact surrounding properties, including the wetland area.

6.5 Utilities.

a. Potable Water. The Project will obtain potable water from the existing Princeville Utility Company, Inc. ("PUCI") water meters that serve the Subject Property. Existing PUCI facilities in the Princeville area are sufficient to provide the potable water and fire flow requirements for the Project.

b. Electric/Communications. The Project will obtain electric service from Kauai Island Utility Cooperative, and communication services from Oceanic Time Warner Cable, LLC (dba Spectrum) and/or Hawaiian Telcom, Inc. from existing electric and communications facilities presently serving the Subject Property. These facilities are presently adequate to provide the demand for such services that will be generated by the proposed Project.

6.6 Wastewater Treatment and Disposal. Wastewater generated by the 1 Hotel is collected and routed to the Sewage Treatment Plant ("STP") in Princeville operated by PUCI via the existing sewer facilities servicing the Subject Property. The Princeville STP has adequate capacity to handle the 1 Hotel and the new Project's wastewater disposal requirements.

6.7 Solid Waste Disposal. Solid waste collection and disposal will be provided by the Applicant as part of its operation of the 1 Hotel by private means. Normal solid waste will be taken to the County's Transfer Stations for disposal in the County Landfill.

6.8 Governmental Services. The Project will have the following impacts on governmental services:

a. Fire and Police Services. Fire services are available from the Princeville Fire Station, which is located approximately 1.8 miles from the Subject Property. Police services are available from the Princeville Police Sub-Station, which is located approximately 1.8 miles from the Subject Property. The Project will not significantly increase the need for existing fire and police services.

b. Schools. The closest schools are Hanalei Elementary School located in Hanalei, Kilauea Elementary School located in Kilauea, Kapaa Middle School located in Kapaa, and Kapaa High School located in Kapaa. The Project will not generate any significant increase in enrollment.

6.9 Economics. The Project will have the following economic impacts:

a. Jobs. The Project will result in the generation of approximately 30-50 jobs on a temporary basis during the period of construction. Once the Project is completed, the 1 Hotel will operate with approximately the same number of full-time and part-time employees as currently exist.

b. Housing. The Project will not result in the need for additional worker housing.

6.10 Population. The Project will not result in any significant increase in population.

6.11 Traffic Circulation. The major roads which service the Subject Property are Ka Haku Road, Lei O' Papa Road, and Hanalei Plantation Road, all of which are private roads that connect to Kuhio Highway (a State highway). The Project will not significantly

increase traffic on these roads given only six (6) dwelling units are proposed. The proposed event pavilion will offset existing events that currently occur within the 1 Hotel property, and therefore no additional impacts are anticipated given the event capacity is not expected to increase significantly.

6.12 Heritage Resources. As shown on the North Shore Heritage Resource Map (Figure 5-14 of the Kauai General Plan), located on the Subject Property is the site of Russian Fort Alexander, which is a designated historic site. The Russian Fort Alexander is being preserved and protected pursuant to a Preservation Plan previously approved by the SHPD and the Planning Commission. The Russian Fort Alexander has not been listed on either the Federal or State Register of Historic Places.

SECTION 7. SLUC CONSIDERATIONS/STATE PLAN.

7.1 SLUC Urban District. The Subject Property is located within the SLUC Conservation District and the Urban District. No activities or improvements will be located in the SLUC Conservation District. Permitted uses in the SLUC Urban District are set forth in HRS Section 205-2(b), which provides as follows:

> "(b) Urban districts shall include activities or uses as provided by ordinances or regulations of the county within which the urban district is situated."

7.2 Project's Compliance with SLUC Urban District Standards. The use of the Subject Property for resort and residential purposes is recognized as a permissible use under HRS Section 205-2(b).

7.3 State Planning Act. The State Planning Act contains Objectives and Policies to assist the State in attaining its long-range planning Goals. Included in the Objectives and Policies are the following:

"a. **§226-6 Objectives and policies for the economy--in general.** *(a) Planning for the State's economy in general shall be directed toward achievement of the following objectives:*

(1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people, while at the same time stimulating the development and expansion of economic activities capitalizing on defense, dual-use, and science and technology assets, particularly on the neighbor islands where employment opportunities may be limited.

(2) A steadily growing and diversified economic base that is not overly dependent on a few industries, and includes the development and expansion of industries on the neighbor islands.

(b) To achieve the general economic objectives, it shall be the policy of this State to:

(1) Promote and encourage entrepreneurship within Hawaii by residents and nonresidents of the State.

(2) Expand Hawaii's national and international marketing, communication, and organizational ties, to increase the State's capacity to adjust to and capitalize upon economic changes and opportunities occurring outside the State.

(3) Promote Hawaii as an attractive market for environmentally and socially sound investment activities that benefit Hawaii's people.

(4) Transform and maintain Hawaii as a place that welcomes and facilitates innovative activity that may lead to commercial opportunities.

(5) Promote innovative activity that may pose initial risks, but ultimately contribute to the economy of Hawaii.

(6) Seek broader outlets for new or expanded Hawaii business investments.

(7) Expand existing markets and penetrate new markets for Hawaii's products and services.

(8) Assure that the basic economic needs of Hawaii's people are maintained in the event of disruptions in overseas transportation.

(9) Strive to achieve a level of construction activity responsive to, and consistent with, state growth objectives.

(10) Encourage the formation of cooperatives and other favorable marketing arrangements at the local or regional level to assist Hawaii's small scale producers, manufacturers, and distributors.

(11) Encourage labor-intensive activities that are economically satisfying and which offer opportunities for upward mobility.

(12) Encourage innovative activities that may not be labor-intensive, but may otherwise contribute to the economy of Hawaii.

(13) Foster greater cooperation and coordination between the government and private sectors in developing Hawaii's employment and economic growth opportunities.

(14) Stimulate the development and expansion of economic activities which will benefit areas with substantial or expected employment problems.

(15) Maintain acceptable working conditions and standards for Hawaii's workers.

(16) Provide equal employment opportunities for all segments of Hawaii's population through affirmative action and nondiscrimination measures.

(17) Stimulate the development and expansion of economic activities capitalizing on defense, dual-use, and science and technology assets, particularly on the neighbor island where employment opportunities may be limited.

(18) Encourage businesses that have favorable financial multiplier effects within Hawaii's economy, particularly with respect to emerging industries in science and technology.

(19) Promote and protect intangible resources in Hawaii, such as scenic beauty and the aloha spirit, which are vital to a healthy economy.

(20) Increase effective communication between the educational community and the private sector to develop relevant curricula and training programs to meet future employment needs in general, and requirements of new or innovative potential growth industries in particular.

(21) Foster a business climate in Hawaii--including attitudes, tax and regulatory policies, and financial and technical assistance programs--that is conducive to the expansion of existing enterprises and the creation and attraction of new business and industry.

b. **§226-8 Objective and policies for the economy--visitor industry.** *(a) Planning for the State's economy with regard to the visitor industry shall be directed towards the achievement of the objective of a visitor industry that constitutes a major component of steady growth for Hawaii's economy.*

(b) To achieve the visitor industry objective, it shall be the policy of this State to:

(1) Support and assist in the promotion of Hawaii's visitor attractions and facilities.

(2) Ensure that visitor industry activities are in keeping with the social, economic, and physical needs and aspirations of Hawaii's people.

(3) Improve the quality of existing visitor destination areas by utilizing Hawaii's strengths in science and technology.

(4) Encourage cooperation and coordination between the government and private sectors in developing and maintaining well-designed, adequately serviced visitor industry and related developments which are sensitive to neighboring communities and activities.

(5) Develop the industry in a manner that will continue to provide new job opportunities and steady employment for Hawaii's people.

(6) Provide opportunities for Hawaii's people to obtain job training and education that will allow for upward mobility within the visitor industry.

(7) Foster a recognition of the contribution of the visitor industry to Hawaii's economy and the need to perpetuate the aloha spirit.

(8) Foster an understanding by visitors of the aloha spirit and of the unique and sensitive character of Hawaii's cultures and values.

7.4 Compliance with State Plan. The proposed Project will comply with the State Planning Act as follows:

a. Economy in General. The Project will continue to: provide increased and diversified employment opportunities for Kaua'i residents; promote entrepreneurship by Kaua'i residents; expand markets for Kaua'i products; promote Hawaii as an attractive market for environmentally and socially sound investment activities; provide broader outlets for new or expanded Hawaii business investments; expand existing markets and penetrate new markets for Hawaii's products and services; strive to achieve a level of construction activity responsive to, and consistent with, state growth objectives; encourage labor-intensive activities that are economically satisfying and which offer opportunities for upward mobility; stimulate the development and

expansion of economic activities which will benefit areas with substantial or expected employment problems; maintain acceptable working conditions and standards for Hawaii's workers; provide equal employment opportunities for all segments of Hawaii's population through affirmative action and nondiscrimination measures; encourage businesses that have favorable financial multiplier effects within Hawaii's economy; and promote and protect intangible resources in Hawaii, such as scenic beauty and the aloha spirit, which are vital to a healthy economy.

b. Visitor Industry. The Project will continue to enhance the mix of resort and residential activities that can be used by visitors and Kaua'i residents. As such, it will: support visitor attractions in the Kaua'i North Shore area and contribute to job opportunities and employment for the Kaua'i community; support and assist in the promotion of Hawaii's visitor attractions and facilities; ensure that visitor industry activities are in keeping with the social, economic, and physical needs and aspirations of Hawaii's people; encourage cooperation and coordination between the government and private sectors in developing and maintaining well-designed, adequately serviced visitor industry and related developments which are sensitive to neighboring communities and activities; develop the industry in a manner that will continue to provide new job opportunities and steady employment for Hawaii's people; provide opportunities for Hawaii's people to obtain job training and education that will allow for upward mobility within the visitor industry; foster a recognition of the contribution of the visitor industry to Hawaii's economy and the need to perpetuate the aloha spirit; and foster an understanding by visitors of the aloha spirit and of the unique and sensitive character of Hawaii's cultures and values.

SECTION 8. GENERAL PLAN CONSIDERATIONS.

8.1 Kaua'i General Plan Land Use Designation. As shown on the North Shore Land Use Map (which is contained in the Kaua'i General Plan as Figure 5-7), the Subject Property is located in the Resort Land Use Designation and in the Natural Land Use Designation.

a. Resort Designation. Land uses in the Resort Designation are described in Section 2.2.8 of the General Plan as follows:

> "8. Resort
>
> Entitled or partially entitled resort development could add more than 3,000 resort units to the existing visitor unit inventory. Most of these entitlements have no expiration date. Given concerns regarding stressed infrastructure including roads, wasterwater systems, and parks, the policy is to prohibit expansion of Visitor Destination Area (VDA), and where possible, to reduce VDA boundaries and remove Resort areas where entitlements do not exist. Many in the community desired a shift toward a "use it or lose it" approach toward resort development. Use it or lose it refuses lack of action toward entitling over the past few decades, indicates the market's ability to start and absorb this type of product in that spatial location, or a developer's willingness to make forward progress toward utilizing the General Plan designation. Given this community desire, the General Plan Update reduces the island's total resort acreage.
>
> Actions for the Resort designation are found in the Chapter 3 sector: Economy.
>
> ***Changes from the Previous General Plan Land Use Map***
> Consistent with the policy to not expand the Visitor Destination Area (VDA), Resort designation was removed in unentitled areas (without County Resort Zoning or VDA) where there was little community support for resort expansion, such as Nukoli'i and Princeville (Table 2-1). Further restrictions are required on remaining areas without entitlements, by

policy, in the tourism subsection, to ensure furtherance of the "use it or lose it" policy, and provide a short window for areas like Kikiaola to commit investment toward the resort use of the area. Otherwise, the designation of the area will revert to Agriculture."

b. Natural Designation. Land uses in the Natural Designation are described in Section 2.2.1 of the General Plan as follows:

"1. Natural

Areas designated as Natural have either limited development capacity or are not suitable for development due to topography, hazards vulnerability, sensitive resources, and other constraints. They include all State Land Use Conservation District lands and some County Open Zoning District land. These areas include the many ridges, waterfalls, river valleys, and rugged coastlines of the island that comprise its open spaces and scenic views. Very few residential uses are found in the Natural designation and are generally not encouraged.

. . .

Changes from the Previous General Plan Land Use Map

Natural replaces the Open Designation in the previous General Plan. The Open Designation included undeveloped natural areas as well as some areas that are vegetated but developed and actively managed, such as golf courses."

8.2 Goals. The overall Goals contained in Section 1.3 of the Kaua'i General Plan, and the Project's compliance therewith, are as follows:

a. Goal 1 – A Sustainable Island. The Project is an example of responsible growth in an area designated for resort and open space uses by the general public. The Applicant will implement a number of green (environmentally enhancing) initiatives.

b. Goal 2 – A Unique and Beautiful Place. The Project will complement the natural, cultural, social and built environmental assets of the Princeville and Hanalei Town area and Community. It will provide resort and residential opportunities and uses that are compatible with similar uses in the area. The Applicant will ensure the Project's continuity with the 1 Hotel to be compatible with existing earth tone colors, vegetation screens, and landscaping which will enhance the appearance of the Project.

c. Goal 3 – A Healthy and Resilient People. The Project will have minimal visual impacts and will have no significant negative impacts on the Historic Sites or Hawaiian cultural practices.

d. Goal 4 – An Equitable Place, with Opportunity for All. The Project will support and enhance economic and business opportunities and jobs on Kaua'i.

8.3 Policies. The Project will comply with the Policies contained in Section 1.4 of the Kaua'i General Plan as follows:

a. Manage Growth to Preserve Rural Character. The Project will not detract from the rural characteristics of Kaua'i. It will provide appropriate opportunities for resort and residential activities within the designated growth boundaries of the North Shore area.

b. Provide Local Housing. The Project will not have any negative effects on affordable housing opportunities for Kaua'i residents.

c. Recognize the Identity of Kaua'i's Individual Towns and Districts. The Project will provide resort and residential opportunities that are consistent with the planning goals for the North Shore area.

d. Design Healthy and Complete Neighborhoods. The Project will be a compliment to healthy and complete neighborhoods by providing close, walkable access to resort and residential activities in the Princeville area.

e. Make Strategic Infrastructure Investments. The 1 Hotel has provided the necessary infrastructure (including public access to the Shoreline, public parking, the payment of environmental impact fees, and the preservation of the Russian Fort Alexander) to offset any negative impacts it may have on public facilities.

f. Reduce the Cost of Living. The Project will have no negative impact on the cost of living for the Kaua'i community.

g. Build a Balanced Transportation System. The Project will not substantially increase traffic or congestion problems. It will continue to provide ten (10) public parking spaces.

h. Protect Kaua'i's Scenic Beauty. The Project will have no substantial negative impacts on the visual resources in the Hanalei Town and Princeville area. Earth toned color scheme and landscaping for the Project will lessen the visual impact of the current improvements.

i. Uphold Kaua'i as a Unique Visitor Destination. The Project will provide unique resort and residential opportunities for visitors.

j. Help Business Thrive. The Project will provide resort and residential opportunities which in turn will generate increased revenues for business and commercial activities in the North Shore area.

k. Help Agricultural Lands Be Productive. The Project will have no negative impact on surrounding agricultural uses. It will help to preserve agricultural lands by locating resort uses in appropriately designated areas.

l. Protect Our Watersheds. As discussed in Section 4.2f. above and Section 6.1 above, the Project will have no negative impacts on the Pu'u Po'a watershed area.

m. Complete Kaua'i's Shift to Clean Energy. The Project will have no negative impact on Kaua'i's shift to clean sources of energy. The Applicant will utilize environmentally sustainable materials and designs throughout the Project.

n. Prepare for Climate Change. The Project is located well above the Shoreline at approximately one hundred and thirty-eight (138) feet above msl. The location of the Project will sit on the existing Parking Lot area approximately two hundred (200) feet from the Shoreline. The Project area is not located in the Sea Level Rise Constraint District.

o. Respect Native Hawaiian Rights and Wahi Pana. As discussed in Sections 6.2 and 14 herein, the Project will have no substantial impacts on any of the Historic Sites, Hawaiian traditional and cultural practices, or access to streams, shorelines, or areas associated with Hawaiian religious, traditional or cultural practices. The Russian Fort Alexander historic site will continue to be preserved.

p. Protect Access to Kaua'i's Treasured Places. As discussed in Section 14.1 below, the Project will have no negative impacts on the public's access to streams, the shoreline, trails, recreational areas, or places associated with Hawaiian religious, cultural, or traditional practices. The Applicant will continue to provide public access to the Shoreline across the Subject Property.

q. Nurture Our Keiki. The Project will help provide job opportunities that will allow Kaua'i's young people to grow and flourish.

r. Honor Our Kūpuna. The Project will provide walkable resort and residential opportunities for the Kūpuna in Princeville.

s. Communicate with Aloha. The scheduling of this Application before the Planning Commission will allow the public to participate in the planning and decision-making process for the Project.

8.4 Objectives & Actions by Sectors. The ten (10) Sectors contained in Section 3.0 of the Kaua'i General Plan (which represent the areas that must be considered in policy implementation), and the Project's compliance therewith, are as follows:

a. The Watershed. The Project is not located directly in any watershed, but it is located adjacent to the Pu'u Po'a Marsh, the Shoreline, and the Wailele Stream which runs through the north side of the Pu'u Po'a Marsh. As discussed in Section 6.1 above, the Project will have no significant negative impact on the flow of water through the Pu'u Po'a Marsh. As such, it will have no significant negative impacts on the natural, historic, cultural, or environmental qualities of, or resources within, the Watershed areas, or access thereto.

b. Housing. The Project will provide resort and residential opportunities compatible with the Princeville area. It is appropriately located in an "in-fill" area designated for resort uses.

c. Transportation. The Project will not result in a substantial increase in traffic and will have no significant negative impact on Kaua'i's transportation infrastructure. It is within walking distance of visitor amenities, commercial activities, recreation resources, and public facilities.

d. Infrastructure & Services. The Project will be served by existing utility (water/sewer/electric/cable) systems, none of which will require upgrades to meet Project demands.

e. Shared Spaces. The Project will not overburden the use and enjoyment of public resources and Shared Spaces in the North Shore area.

f. Economy. The Project will enhance and promote resident and visitor related uses and expenditures in the North Shore area in support of Kaua'i's economy.

g. Heritage Resources. The Project will have no substantial visual impacts on surrounding lands, and no substantial impacts on the Historic Sites, on Hawaiian cultural or traditional practices, or on access to streams, shorelines, areas associated with Hawaiian cultural or traditional practices, recreational areas or other special places. The Project will not negatively impact any special features or resources that are shown on the North Shore Heritage Resource Map (Kaua'i General Plan Figure 5-14).

h. Energy Sustainability. The Project will have no negative impacts on Kaua'i's energy sustainability goals. It will incorporate energy efficient features in its development.

i. Public Safety & Hazards Resiliency. The new Project is located at higher elevations above the Shoreline that will protect it from sea level rise. All of the new Project improvements will comply with all requirements of the Shoreline Setback Ordinance.

j. Opportunity & Health For All. The Project will promote knowledge of and access to Historic Sites (the Russian Fort Alexander), Hawaiian cultural and traditional practices, and public resources (including the Shoreline).

SECTION 9. CZO DISTRICT CONSIDERATIONS.

9.1 CZO Resorts District. Portions of the Subject Property are located in the CZO Resort District (RR-10 and RR-20). The purposes of the CZO Resort District are set forth in CZO Article 5, which provides in relevant part as follows:

> "**Sec. 8-5.1 Purpose.**
>
> (a) To create and protect attractive areas in pleasing and harmonious surroundings to accommodate the needs and desires primarily of visitors, tourists and transient guests.
>
> (b) To control density and to assure that undue congestion of streets and facilities will not occur.
>
> (c) To control the organization and design of use and structures to assure that the development will not detract from the natural features and attributes of the surrounding area.
>
> (d) To insure that physical and visual public access to recreational, historic and scenic areas is maintained and improved.
>
> **Sec. 8-5.2 Types Of Resort Districts.**
>
> (a) There are two (2) resort density districts as follows:
>
> (1) RR-10
> (2) RR-20
>
> (b) The number portion of each resort density district establishes the maximum number of dwelling units including hotel and motel rooms that may be permitted per acre of land in each district as calculated in accordance with Sec. 8-4.6, except that each hotel and motel room shall be considered as one-half (1/2) of one (1) dwelling unit in computing the allowable number of dwelling units."

9.2 Permitted Uses And Structures In CZO Resort District. CZO Section 2.4(a), (b), (c), (d), (e), (f), (g), and (h) contains the Uses And Structures which are permitted in the CZO Resort District, which include accessory structures (8-2.4(a)(2)), multi-family attached dwellings (8-2.4(b)), event concessions (8-2.4(h)(8), and restaurants and food service (8-2.4(h)(22).

9.3 Compliance With CZO Resort District Standards. The Project, which involves the addition of six (6) dwelling units and an event pavilion to the 1 Hotel built environment, is consistent with CZO, the Master Permit, and the Renovation Permit.

SECTION 10. DEVELOPMENT PLAN CONSIDERATIONS.

10.1 Community Plan Area. The Subject Property is located in the North Shore geographic area and is subject to the provisions of the North Shore Development Plan Ordinance as set forth in Title IV, Chapter 10, Article 2 of the Kauai County Code, 1987 ("KCC").

10.2 Land Use. The desired long-range land use pattern for the Princeville area is shown on the Recommended Zoning Map attached as Figure 5 of the North Shore Development Plan Update. The current zoning of the Subject Property is similar to the Recommended Zoning.

10.3 Development Plan Goals and Objectives. The goals and objectives of the North Shore Development Plan Update, as adopted by the North Shore Development Plan Ordinance, include the following:

Goal A: To preserve the unique natural beauty of the North Shore Planning Area.

Goal B: To preserve the special rural charm of the North Shore Planning Area.

Goal C: To provide for the safety and welfare of the people of their property of the North Shore Planning Area.

Goal D: To provide for economic development of the North Shore Planning Area.

Goal E: To preserve the wildlife and flora and the North Shore, recognizing man's dependence upon this preservation for his own health and welfare.

Goal F: To insure the preservation of historic-archaeological sites in the North Shore Planning Area.

Goal G: To create a development for evolutionary growth that depends upon a planning process whereby conflicts can be resolved through the establishment of priorities and community participation.

Goal H: To provide for recreational opportunities that are compatible with unique qualities and natural features of the North Shore.

10.4 Compliance with Development Plan Standards. The proposed use of the Subject Property will not conflict with any of the Goals contained in the North Shore Development Plan. The Project's appearance will be compatible with the built environment with earth tone coloring and vegetative screening. As such, the proposed use will not conflict with Goals A or B. The proposed use will provide resort, residential and commercial economic opportunity for Kaua'i residents and as such will promote Goal D. The proposed use will have no significant negative impact on the public safety or welfare, on any endangered species of plants or animals, on archaeologic or historic sites, or on recreational opportunities on or around the Subject Property. As such, it will not conflict with Goals C, E, F or H. The process of filing this Application is consistent with the purposes of Goal G.

SECTION 11. SMA CONSIDERATIONS.

11.1 Recreational Resources. There are no public recreational opportunities taking place on the Subject Property other than those associated with the resort aspects of the 1

Hotel. Therefore, the proposed Project will not have any negative impact on any public recreational opportunities located on the Subject Property. The Applicant currently provides public parking (10 spaces) in its Parking Area and an improved public pedestrian access (Public Path) from the Parking Area to the Shoreline and beach area on Lot 5-A. The Project will have no impact on these public amenities. The construction of the Project will not overburden the use of, nor restrict access to, the shoreline in the vicinity of the Subject Property. The Project will have no direct impact on any County Beach Parks in the Hanalei Town or North Shore area and will not overburden their facilities.

11.2 Historic Resources. As discussed in Section 6.2, above, the proposed Project will not have any significant impact on the Russian Fort Alexander historic site or on any other historic, cultural or archaeological resources located on or near the Subject Property. The Applicant will protect and preserve any historic resources that may be found as a result of the development of the proposed Project.

11.3 Scenic and Open Space Resources. The Project will be compatible with and blend into the surrounding area. The Project will not interfere with any views to or along the shoreline. The public views of the Project will be primarily from locations north of Princeville, which are steep bluff lines. The Applicant will use landscaping and earth tone exterior colors to provide reasonable mitigation to the visual impacts the Project may have on the scenic quality of the Subject Property, and on views from surrounding properties.

11.4 Coastal Ecosystems. The Project area is approximately one hundred and thirty-eight (138) feet above the shoreline area on the north side of Lot 4-A. All other improvements will be located at least two hundred (200) feet from the Shoreline. The Project will be constructed and maintained so that any erosion or increased runoff will be maintained on

site. It is not anticipated that the Project will endanger the coastal ecosystem or have any negative impacts on it.

11.5 Economic Impacts. As discussed previously, the Subject Property has been developed for resort purposes. The proposed residential component of the Project will create short-term economic benefits associated with the construction of the improvements and long-term economic benefits associated with the operation of the 1 Hotel. The proposed Project will not have any negative impacts on the economy.

11.6 Coastal Hazards. Most of the Subject Property is situated within Flood Zone X, including the Project area, as shown on the Flood Zone Designation Map (which incorporates the data shown on Federal Insurance Rate Map 150002-055E). Portions of Lot 5-A are located in Flood Zone VE (E1.10/14) and Flood Zone X. The Project will meet all of the requirements of the Flood Plain Management Ordinance of the County of Kauai, as contained in Chapter 15, Article 1, of the Kauai County Code, 1987. The Project will have no negative impact on flooding on or around the Subject Property. All drainage resulting from construction activities, from road use, and from the increase in land coverage will be retained on site and subject to best management practices. No additional drainage will be allowed to significantly or negatively impact surrounding properties, including the ocean and the Pu'u Po'a Marsh.

11.7 Managing Development/Public Participation. The commercial activities on the Subject Property are complimentary to, and consistent with, present and future coastal zone development in this area of Kaua'i.

11.8 Beach Protection/Marine Resources. The Subject Property is located along the Shoreline. All improvements within the Project are subject to a minimum setback of one hundred (100) feet from the Shoreline and will comply with the Shoreline Setback

Ordinance. As a result, the Project will have no impact on any shoreline or beach areas, or on any open space areas along the shoreline. The Project will not involve any development within the beach or coastal area which would have any negative impact on marine or coastal resources. The Subject Property is located adjacent to the Pu'u Po'a Marsh and the Kamo'omaika'i Fishpond. The Project is subject to prior Conditions which are sufficient to protect and preserve these resources.

11.9 Value of Development. The Project involves activities with a value greater than $750,000.00.

11.10 Compatibility With Surrounding Uses. The Subject Property is surrounded by properties located within the SLUC Conservation District, the SLUC Urban District, the CZO Resort District, the CZO Residential District, and the CZO Open District. Uses on the surrounding land include commercial uses, residential uses, resort-residential uses, transient vacation rentals, and resort uses. The Subject Property is similar in topography, character and nature with adjacent and surrounding properties, and the Project activities are consistent with such surrounding uses.

11.11 Impacts Within SMA. The Project activities on the Subject Property will have no significant negative impact on the SMA. The Project is and will be compatible with existing uses in areas on or around the Subject Property. The Project will have no significant negative impact on scenic or open space resources within the SMA. The Project will not increase runoff or otherwise endanger the coastal ecosystem. Portions of the Project will be located in a coastal hazard area but will comply with all applicable flood zone requirements. The Project will have no significant detrimental impact on recreational, historic, or economic resources. The Project will not have any detrimental impact on beach or marine resources.

Approval of the Project will not result in the foreclosure of future management options for development in the Princeville or Hanalei Town area. The design, siting, exterior colors, and landscaping of the Project as proposed will ensure that the proposed Project will recognize, preserve, maintain and contribute to the characteristics of the surrounding lands (which lands are recognized to be of particular significance or value to the general public). In particular, the Project will be compatible with, and will protect, the unique natural forms of, biologic systems contained within, and aesthetic characteristic of, the SMA.

11.12 Compliance with SMA Standards. The Project activities on the Subject Property will fulfill the provisions of the Special Management Area Rules And Regulations of the County of Kauai ("SMA Rules") in that:

a. The Project will have no effect on public access to publicly owned or used beaches and recreational areas.

b. The Project will not detrimentally affect any wildlife or endangered plant or animal species which may be located at this site.

c. Provisions for solid and liquid waste treatment, disposition and management will be developed in order to minimize adverse effects on the Special Management Area.

d. Alteration to existing landforms or vegetation and the construction of structures will cause minimum adverse effects to water resources and scenic and recreational amenities, and will minimize danger of floods, wind damage, storm surge, landslides, erosion, siltation, or failure in the event of earthquake.

e. The Project will not require dredging, filling, or altering any bay, estuary, salt marsh, river mouth, slough or lagoon.

f. The Project will not reduce the size of any beach or other area useable for public recreation.

g. The Project will not reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions or rivers or streams within the Special Management Area and the mean high tide line where there is no beach.

h. The Project will not substantially interfere with or detract from the line of sight toward the sea from the State highway nearest the coast.

i. The Project will not adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, or potential or existing agriculture uses of land.

j. The Project will not have any substantial environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interests.

k. The Project is consistent with the objectives, policies, and guidelines set forth in HRS Chapter 205A and Sections 3.0 and 4.0 of the SMA Rules.

l. The Project is consistent with permitted uses in the SLUC Urban District, the Kaua'i General Plan, the North Shore Development Plan, and the CZO.

SECTION 12. USE PERMIT AND ZONING PERMIT CONSIDERATIONS.

12.1 Use Permit. The Applicant is applying for an amendment to the existing Use Permit contained in the Master Permit and in the Renovation Permit.

12.2 Compatibility With Surrounding Uses. The Subject Property is surrounded by parcels that are located within the SLUC Conservation District, the SLUC Urban District, the CZO Resort District, the CZO Residential District, and the CZO Open District. Uses on adjacent parcels include transient vacation rental uses, resort uses, commercial uses, resort-residential uses, and residential uses. The Applicant's operation of the 1 Hotel on the Subject Property, if allowed, is not expected to cause problems for its neighbors and, to that extent, is compatible.

12.3 Compliance with Use Permit Standards. The proposed Project activities on the Subject Property are in compliance with the standards for Use Permits as contained in CZO Section 8-3.2, in that the Project will be:

a. A compatible use. The 1 Hotel and proposed dwelling units, and its accessory uses are allowed in the CZO Resort and Open Districts as long as impacts to the area are mitigated. These uses are, and will continue to be, compatible and similar to other uses in the area.

b. Not detrimental to health of persons residing or working in the neighborhood. The Project will not be detrimental to the health of persons residing and working in the neighborhood given the types of surrounding commercial, residential, resort-residential, and resort activities ("Surrounding Activities") in the area.

c. Not detrimental to safety of persons residing or working in the neighborhood. The Project will not have any substantial impacts on the environment, including noise generation, pollution, the discharge of odors, the discharge of fluid or gaseous materials, or visual impacts ("Environmental Impacts") that will be detrimental to the safety of persons residing and working in the neighborhood. The Project will be similar to and compatible with the types of Surrounding Activities in the area.

d. Not detrimental to peace of persons residing or working in the neighborhood. The Project will not create any Environmental Impacts that will be detrimental to the safety of persons residing and working in the neighborhood.

e. Not detrimental to morals of persons residing or working in the neighborhood. The Project will not involve activities that will be detrimental to the morals of persons residing and working in the neighborhood.

f. Not detrimental to comfort and general welfare of persons residing or working in the neighborhood. The Project will not create any Environmental Impacts that will be detrimental to the general welfare of persons residing and working in the neighborhood. It will be similar to Surrounding Activities and only operate during reasonable hours.

g. Not detrimental or injurious to property or improvements in the neighborhood. The Project will not create any Environmental Impacts that will be detrimental to the health of persons residing and working in the neighborhood.

h. Not detrimental to the general welfare of the community. The Project will not create any Environmental Impacts that will be detrimental to the general welfare of the community.

i. Not a cause of substantial harmful environmental consequences to the Subject Property, or to other lands or waters. The Project will not generate Environmental Impacts or negative by-products which would affect the surrounding area.

j. Not inconsistent with the intent of the CZO. As discussed herein, the Project activities are compatible with uses and structures within the CZO Resort District and CZO Open District.

k. Not inconsistent with the General Plan. As discussed herein, the Project activities will be consistent with the Goals, Policies, and Objectives & Actions (Sectors) of the Kauai General Plan.

SECTION 13. HRS CHAPTER 343 (ENVIRONMENTAL IMPACT STATEMENTS) CONSIDERATIONS.

13.1 HRS Chapter 343. The Project is not subject to the provisions of Hawaii Revised Statutes Chapter 343. HRS Chapter 343 requires the preparation of an Environmental Assessment and/or an Environmental Impact Statement for certain activities as specified in HRS Section 343-5. The proposed Project does not fall within such specified activities, in that the Project does not:

a. Propose the use of state or county lands or the use of state or county funds;

b. Propose any use within any land classified as conservation district by the State Land Use Commission under HRS Chapter 205;

c. Propose any use within the shoreline area as defined in HRS Section 205A-41;

d. Propose any use within any historic site as designated in the National Register or Hawaii Register as provided for in the Historic Preservation Act of 1966, Public Law 89-665, or HRS Chapter 6E;

e. Propose any use within the Waikiki area of Oahu, the boundaries of which are delineated in the land use ordinance as amended, establishing the "Waikiki Special District";

f. Propose any amendments to existing county general plans where such amendment would result in designations other than agriculture, conservation, or preservation;

g. Propose any reclassification of any land classified as conservation district by the State land Use Commission under HRS Chapter 205;

h. Propose the construction of new, or the expansion or modification of existing, helicopter facilities within the state; or

i. Propose the construction of a wastewater treatment unit, waste-to-energy facility, oil refinery, or power generating facility (which use petroleum-based fuels).

SECTION 14. NATIVE HAWAIIAN ISSUES.

14.1 Impacts on Traditional or Cultural Practices. The Project will have no impact on any known traditional or customary practices of native Hawaiians. The Applicant undertook a cultural impact assessment as part of its 1 Hotel Renovations, as noted in ***Exhibit "F"***. Lot 4-A was and continues to be a lot containing a resort hotel, parking, and amenities used exclusively by the Applicant for at least 45 years. Given the tenets of the law regarding practice of Native Hawaiian customary and traditional rights on "fully developed" lands, it is clear that no protected rights can exist on the Project area. As a result, the proposed Project will not affect any Native Hawaiian customary and traditional rights because none exist that are protected under Article XII, Section 7, of the Hawaii State Constitution. In addition, there have been no observed uses, or requested uses, of the Project area by Native Hawaiians for the exercise of Traditional Rights. This would be consistent with the respect for the sanctity of one's personal living area enshrined in the exemption for "fully developed" land.

a. The only known traditional and customary practice associated with the plateau area on Lot 4-A of the Subject Property was as a Kilo i'a (an observational point to track the movement of schools of fish in the nearshore ocean waters and to observe currents, tides and other seasonal phenomena). The Project will have no impact on the continued use of the plateau area for this purpose as Fort Alexander will be preserved. There are no other known traditional or customary practices of native Hawaiians that are presently occurring within the Subject Property.

b. There are no special gathering practices taking place within any portion of the Subject Property.

c. The Project will not detrimentally affect access to the Pu'u Po'a Marsh, the Kamo'omaka'i Fishpond or any streams, access to the shoreline or other adjacent shoreline areas, or gathering along or in the Pu'u Po'a Marsh, the Kamo'omaka'i Fishpond, any streams, the shoreline or the ocean.

d. There are no known religious practices taking place within the Subject Property.

e. Other than the Russian Fort Alexander historic site, there are no known cultural or historic sites or resources located within the Project area on Lot 4-A.

f. There are no known burials within the Lot 4-A.

14.2 Source Material. The conclusions concerning the Project impacts on traditional and customary practices were based on the examination of historical records, cultural sources, and maps, and on confidential interviews with knowledgeable individuals.

SECTION 15. COMMUNITY CONTACTS.

15.1 Contact with Community Groups. The Applicant will meet with representatives of the Princeville at Hanalei Community Association.

15.2 Consultation. The Applicant has met and consulted with the governmental agencies and representatives for pre-consultation.

SECTION 16. CONCLUSION.

The Applicant respectfully requests that the Planning Commission:

1. Find that the Project will not have any substantial environmental or ecological effect, except as such adverse effect is minimized to an extent practicable and clearly outweighed by public health, safety, or compelling public interest.

2. Find that the Project is consistent with the objectives, policies, and guidelines set forth in Hawaii Revised Statutes Chapter 205A and Sections 3.0 and 4.0 of the SMA Rules.

3. Find that the Project is consistent with permitted uses in the SLUC Urban District, the Kauai General Plan, the North Shore Development Plan, and the CZO.

4. Find that the Project will be in compliance with the provisions of HRS Chapter 6E and Title 13, Subtitle 13, Chapter 284 of the Hawaii Administrative Rules.

5. Find that the Project will be consistent with the provisions of HRS Sections 1-1 and 7-1 and Article 12, Section 7 of the Hawaii State Constitution.

6. Find that the Applicant has satisfied the minimum requirements of Ka Pa'akai O Ka'aina v. Land Use Commission to protect customary and traditional native Hawaiian rights.

7. Approve the Motion To Amend the Master Permit and the Renovation Permit for the Project on the Subject Property as described herein, subject to such reasonable conditions as the Planning Commission shall impose.

DATED: Lihue, Kauai, Hawaii, April 9, 20 26.

BELLES GRAHAM LLP

By _____
MAX W. J. GRAHAM, JR.
IAN K. JUNG
Attorneys for Applicant,
SOF-XI KAUAI PV HOTEL, L.P.,
a Delaware limited partnership

In The Matter Of The Application Of SOF-XI KAUAI PV HOTEL, L.P., a Delaware limited partnership, to amend Special Management Area Use Permit SMA(U)-80-18, Use Permit U-37-80, and Class IV Zoning Permit Z-IV-80-43, and Special Management Area Use Permit SMA(U)-89-4, Use Permit U-89-14, and Class IV Zoning Permit Z-IV-89-14, concerning property located at Princeville and Hanalei, Halale'a, Kauai, Hawaii, identified by Kauai Tax Map Key Nos. (4) 5-4-004:029 and 035 and (4) 5-4-011:004; ***APPLICANT'S MOTION TO AMEND MASTER PERMIT AND RENOVATION PERMIT; EXHIBITS "A" - "F"***

EXHIBIT LIST
MOTION TO AMEND MASTER PERMIT AND RENOVATION PERMIT
(1 Homes Project)

EXHIBIT

A. AUTHORIZATION

Authorization ..... A

B. TITLE

Limited Warranty Deed ..... B

C. MAPS

Location Map C-1
State Land Use Map C-2
General Plan Map C-3
CZO Map C-4
NSDP Update Map C-5
SMA Map C-6
Heritage Resources Map C-7
Shoreline Certification Map (11/10/83) C-8
Shoreline Certification Map (5/21/19) C-9
Shoreline Certification Map (8/11/22) C-10
Flood Zone Map C-11
Sea Level Rise Constraint District Map C-12
Kauai Coastal Erosion Map C-13

D. PERMITS/COUNTY APPROVALS

LUC Docket No. A78-446 ..... D-1
Ord. PM-56-80 ..... D-2
Master Permit D-3
ACOE Permit D-4
Master Permit Amendment No. 1 ..... D-5
Pu'u Po'a Permit D-6
Renovation Permit D-7
Condition 9 Amendment D-8
Interim Approval D-9
Compliance Approval D-10

Master Permit Amendment No. 2 ..... D-11
Amended Master Permit and Renovation D-12
Site Plan Modification D-13
SMA Minor Permit Trailer D-14
Land Use Permit Index D-15

E. PLANS

Master Site Plan E-1
Project Plan E-2
Elevations Plan E-3
Landscape Plan E-4
Land Coverage Study E-5

F. REPORT

G70 Report (noting Cultural Impact Assessment) ..... F

EXHIBIT "A"

AUTHORIZATION

I. APPLICANT.

Name: SOF-XI KAUAI PV HOTEL, L.P.,
a Delaware limited partnership

Address: 591 West Putnam Avenue
Greenwich, Connecticut 06830

II. AUTHORIZED AGENT.

Name: Max W. J. Graham, Jr., Esq.
Ian K. Jung, Esq.

Address: Belles Graham LLP
4334 Rice Street, Suite 202
Lihue, Kauai, Hawaii 96766

Telephone: (808) 246-6962
(808) 245-2163

Facsimile: (808) 245-3277

Email: mwg@kauai-law.com
ikj@kauai-law.com

III. PROPERTY.

Princeville Hotel Lot (Lot 4-A)
Princeville, Hanalei, Kauai, Hawaii
Kauai TMK No. (4) 5-4-011:004 (16.596 acres)

Remnant Lot
Princeville, Hanalei, Kauai, Hawaii
Kauai TMK No. (4) 5-4-004:029 (0.01 acres)

Lot 5-A (Map 10)
Land Court Application No. 1724
Princeville, Hanalei, Kauai, Hawaii
Kauai TMK No. (4) 5-4-004:035 (6.533 acres)

IV. AUTHORIZATION.

The Applicant hereby authorizes the Authorized Agent to act on the Applicant's behalf and to file and process on the Applicant's behalf any and all applications necessary to obtain governmental permits relating to the Subject Property, including, but not limited to, the following:

1. Permits and approvals, including but not limited to, ordinances, resolutions, building permits, grading permits, use permits, variance permits, zoning permits, and Special Management Area permits, issued by the County Council, or any department, agency, board or commission, of the County of Kauai.

2. Permits and approvals issued by any legislative body or any department, agency, board, or commission of the State of Hawaii, including but not limited to, the Department of Health and the Department of Transportation.

3. Permits and approvals issued by the Board of Land and Natural Resources of the State of Hawaii and/or the Department of Land and Natural Resources of the State of Hawaii.

4. Permits and approvals issued by any legislative body, department, agency, board or commission of the United States of America, including but not limited to, the Army Corps of Engineers.

DATED: 6-3-2019.

APPLICANT:

SOF-XI KAUAI PV HOTEL, L.P.,
a Delaware limited partnership

By _____

Its AUTHORIZED SIGNATORY

EXHIBIT "B"

D36
C150

DOUBLE SYSTEM

417

STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
November 20, 2018 8:01 AM
Doc No(s) T – 10550052
on Cert(s) 738986
Issuance of Cert(s) 1166969

/s/ LESLIE T. KOBATA
ASSISTANT REGISTRAR

1 1/3 DML
B – 33250304

Conveyance Tax: $1,373,881.70

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
November 20, 2018 8:01 AM
Doc No(s) A – 68980330

/s/ LESLIE T. KOBATA
REGISTRAR

1 2/3 DML
B – 33250304

LAND COURT SYSTEM REGULAR SYSTEM

Return by Mail ( ) Pickup ( ) To: DS 1

SOF-XI Kauai PV Hotel, L.P.
591 Putnam Avenue
Greenwich, CT 06830

FAM

NCS 812457

Tax Map Key No(s).: (4) 5-4-004-029; (4) 5-4-004-035; (4) 5-4-011-004 This document contains 16 pages.

Transfer Certificate of Title No.: 738,986

LIMITED WARRANTY DEED

THIS LIMITED WARRANTY DEED is made this 16th day of November, 2018, by and between **PRINCEVILLE HOTEL LP**, a Delaware limited partnership ("**Grantor**") whose address is c/o Barings LLC, One Financial Plaza, Hartford, CT 06103, and **SOF-XI KAUAI PV HOTEL, L.P.**, a Delaware limited partnership ("**Grantee**") whose address 591 West Putnam Ave., Greenwich, CT 06830.

WITNESSETH:

That the Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other valuable consideration paid by the Grantee to the Grantor, the receipt of which is hereby acknowledged, does hereby give, grant, bargain, sell and convey the real property described in Exhibit A attached hereto and expressly made a part hereof unto the Grantee, its successors and assigns, absolutely and forever, as a TENANT IN SEVERALTY.

And the reversions, remainders, rents, issues and profits thereof, and all of the estate, right, title and interest of the Grantor, both at law and in equity, therein and thereto;

TO HAVE AND TO HOLD the same, together with all buildings, improvements, rights, easements, privileges and appurtenances thereunto belonging or appertaining or held and enjoyed therewith, unto the Grantee as aforesaid, absolutely and forever in fee simple.

AND the Grantor does hereby covenant with the Grantee that the Grantor has not heretofore done, committed or suffered to be done or committed any act or thing whatsoever whereby the title and estate hereby conveyed, or any part thereof, are or shall be charged or encumbered, except as set forth in Exhibit A; that said real property is free and clear of liens and encumbrances made or suffered by the Grantor except for the encumbrances contained herein and as set forth in Exhibit B, and real property taxes not yet due and payable; and that the Grantor shall WARRANT AND DEFEND the same unto the Grantee, its successors and assigns, forever, against the loss or claims and demands of all persons claiming by, through or under the Grantor except as aforesaid.

AND the Grantee hereby acknowledges that the granted property is being sold to the Grantee in AS IS condition, with the benefit of no warranties express or implied regarding the property except the warranty of title as set forth above in this Deed. The Grantee acknowledges that the Grantor has not made, and does not make any warranties or representations except as set forth above, and hereby disclaims any representations or warranties, either express or implied of any kind or nature whatsoever except the warranties referenced above, and the Grantee expressly acknowledges that it has not relied upon any information, warranty, representation or verbal or written statements furnished by the Grantor, its agents, employees, servants or any other person or entity except the warranties referenced above. The Grantee acknowledges and agrees that it has relied solely on its own inspections and reviews, that it has determined what documents, matters and inspections to review to decide whether to purchase said property.

AND the Grantee, on behalf of itself and any successor owner of the real property, fully and irrevocably releases Grantor and its affiliates from any and all claims that they may now have or hereafter acquire against Grantor or its affiliates, for any cost, loss, liability, damage, expense, action or cause of action, whether foreseen or unforeseen, arising from or related to any of the matters set forth herein or relating to any environmental condition of the property, or any other matter relating to or affecting the real property. Grantee further acknowledges and agrees that this release shall be given full force and effect according to each of its expressed terms and provisions, including but not limited to, those relating to unknown and suspected claims, damages and causes of action.

The terms "Grantor" and "Grantee" wherever herein used shall be held to mean and include Grantor, its successors and assigns, and Grantee, its successors and assigns, and this instrument shall be binding upon and shall inure to the benefit of the parties hereto and their said respective successors and assigns.

The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the

counterparts may be discarded and the remaining pages assembled as one document. The parties agree that the person or company recording or arranging for the recordation of this instrument is authorized to complete any blanks contained herein with the applicable number of pages, dates, and recordation information, whether before or after this instrument has been notarized by a notary public, and in no event shall completion of any such blanks be deemed an alteration of this instrument by means of the insertion of new content.

[signatures are on the following pages]

IN WITNESS WHEREOF, the Grantor and Grantee have duly executed these presents as of the day and year first above written.

GRANTOR:

PRINCEVILLE HOTEL LP,
a Delaware limited partnership,

By: Princeville Hotel, LLC,
a Delaware limited liability company

By: Gateway Islander, LLC,
a California limited liability company

By: _____
Name: Christine Roseland
Title: Vice President & Secretary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of **LOS ANGELES**

On **11/09/2018** (*Date*) before me, **LISA L. GARCIA, NOTARY PUBLIC** (*Here Insert Name and Title of the Officer*),

personally appeared **CHRISTINE ROSELAND** (*Name(s) of Signer(s)*)

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who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

LISA L. GARCIA
Commission # 2091362
Notary Public - California
Los Angeles County
My Comm. Expires Nov 25, 2018

Place Notary Seal and/or Stamp Above

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (*Signature of Notary Public*)

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Limited Warranty Deed (Hotel)
Document Date: ——— Number of Pages: ———
Signer(s) Other Than Named Above: ———

Capacity(ies) Claimed by Signer(s)

Signer's Name: **CHRISTINE ROSELAND**	Signer's Name: **N/A**
☒ Corporate Officer – Title(s): **VICE PRESIDENT & SEC**	☐ Corporate Officer – Title(s):
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian of Conservator	☐ Trustee ☐ Guardian of Conservator
☐ Other:	☐ Other:
Signer is Representing: CalAtlantic Group, LLC, for the Principville Hotel, LLC	Signer is Representing:

©2017 National Notary Association Principville Hotel LP

GRANTEE:

SOF-XI KAUAI PV HOTEL, L.P.,
a Delaware limited partnership,

By: SOF-XI Kauai PV Hotel GP, L.L.C.,
a Delaware limited liability company

By: _____
Name: Akshay Goyal
Title: Authorized Signatory

ACKNOWLEDGMENT

STATE OF Connecticut) SS: Greenwich

COUNTY OF Fairfield)

On November 9th, 2018, before me, Amy Reinhold, Notary Public,
(insert name of and title of officer)

personally appeared Akshay Goyal, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Connecticut that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Amy Reinhold
Notary Public

Amy Reinhold
Notary Public-Connecticut
My Commission Expires
September 30, 2023

EXHIBIT "A"

Legal Description

Real property in the City of Princeville, County of Kauai, State of Hawaii, described as follows:

HOTEL PARCEL:

LOT 4-A, AS SHOWN ON MAP PREPARED BY WESLEY M. THOMAS, LAND SURVEYOR, WITH WES THOMAS AND ASSOCIATES, INC., APPROVED BY THE PLANNING COMMISSION OF THE COUNTY OF KAUAI, ON JULY 14, 1982, COMPRISED OF THE FOLLOWING:

EXCEPTING ANY PORTION OF THE LAND CREATED BY ACCRETION AND ALSO ANY PORTION LYING BELOW THE SHORELINE AS DEFINED BY HAWAII LAW AND/OR CERTIFIED BY THE STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES.

PARCEL FIRST:

ALL OF THAT CERTAIN PARCEL OF LAND SITUATE AT HANALEI, DISTRICT OF HANALEI, ISLAND AND COUNTY OF KAUAI, STATE OF HAWAII, DESCRIBED AS FOLLOWS:

LOT 5-A, AREA 6.533 ACRES, MORE OR LESS, AS SHOWN ON MAP 10, FILED WITH LAND COURT APPLICATION NO. 1724 OF HARRIET RICE MOODY.

EXCEPTING ANY PORTION OF THE LAND CREATED BY ACCRETION AND ALSO ANY PORTION LYING BELOW THE SHORELINE AS DEFINED BY HAWAII LAW AND/OR CERTIFIED BY THE STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES.

BEING ALL OF THE PREMISES DESCRIBED IN AND COVERED BY TRANSFER CERTIFICATE OF TITLE NO. 738,986

ISSUED TO: PRINCEVILLE HOTEL LP, A DELAWARE LIMITED PARTNERSHIP

(QUITCLAIM DEED RECORDED MARCH 18, 2005 AS LAND COURT DOCUMENT NO. 3242560 OF OFFICIAL RECORDS.)

PARCEL SECOND:

ALL OF THAT CERTAIN PARCEL OF LAND (PORTION OF THE LAND DESCRIBED IN AND COVERED BY LAND PATENT GRANT 4845 TO ALBERT WILCOX) SITUATE, LYING AND BEING AT THE WESTERLY END OF KA HAKU ROAD, ROAD A OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT VII (F. P. 1197) AND WEST OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT XV (F. P. 1303) AT HANALEI, HALELEA, ISLAND AND COUNTY OF KAUAI, STATE OF HAWAII, BEING THE WHOLE OF LOT 4 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT IX (F. P. 1187); LOT 1 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT XVIII (F. P. 1618) AND TAX MAP KEY NO. 5-4-004-029, 4TH DIVISION; BEING PORTION OF LOT 4-A, PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT IX AND THUS BOUNDED AND DESCRIBED:

BEGINNING AT THE EASTERLY CORNER OF THIS PARCEL OF LAND, BEING ALSO THE NORTHWEST CORNER OF LOT 2 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT VII (F. P. 1197), THE COORDINATES OF WHICH REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "POOKU" BEING 5,748.52 FEET NORTH AND 10,586.50 FEET WEST AND RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:

1. 348° 06' 10" 373.12 FEET ALONG LOT 2 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT VII (F. P. 1197) AND LOT 1 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT XV (F. P. 1303) AND ALONG THE REMAINDER OF GRANT 4845 TO ALBERT S. WILCOX;

2. 83° 58' 44" 121.60 FEET ALONG LOT 1 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT XV (F. P. 1303) AND ALONG THE REMAINDER OF GRANT 4845 TO ALBERT S. WILCOX;

3. 00° 35' 49" 196.01 FEET ALONG LOT 1 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT XV (F. P. 1303) AND ALONG THE REMAINDER OF GRANT 4845 TO ALBERT S. WILCOX;

4. 65° 18' 35" 110.07 FEET ALONG LOT 2 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT XV (F. P. 1303) AND ALONG THE REMAINDER OF GRANT 4845 TO ALBERT S. WILCOX;

5. 15° 47' 35" 143.40 FEET ALONG LOT 2 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT XV (F. P. 1303) AND ALONG THE REMAINDER OF GRANT 4845 TO ALBERT S. WILCOX;

6. 66° 11' 05" 121.25 FEET ALONG LOT 2 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT XV (F. P. 1303) AND ALONG THE REMAINDER OF GRANT 4845 TO ALBERT S. WILCOX;

7. 135° 55' 185.52 FEET ALONG LOT 5-A OF LAND COURT APPLICATION NO. 1724 AS SHOWN ON MAP 10;

8. 118° 51 30" 307.90 FEET ALONG LOT 5-A OF LAND COURT APPLICATION NO. 1724 AS SHOWN ON MAP 10;

9. 193° 52' 264.30 FEET ALONG LOT 5-A OF LAND COURT APPLICATION NO. 1724 AS SHOWN ON MAP 10;

10. 148° 41' 103.40 FEET ALONG LOT 5-A OF LAND COURT APPLICATION NO. 1724 AS SHOWN ON MAP 10;

THENCE ALONG THE BOUNDARY FOLLOWING ALONG THE HIGHWATER MARK AS APPROVED BY THE STATE SURVEYOR ON JANUARY 28, 1981 FOR THE NEXT FIFTEEN (15) COURSES, THE DIRECT AZIMUTHS AND DISTANCES BEING:

11. 179° 06' 51" 52.25 FEET;

12. 199° 12' 19" 334.60 FEET;

13. 212° 31' 47" 94.87 FEET;

14. 233° 47' 36" 88.01 FEET;

15. 206° 34' 38" 82.74 FEET;

16. 260° 11' 34" 52.77 FEET;

17. 297° 39' 29" 23.71 FEET;

18. 245° 47' 04" 65.80 FEET;

19. 227° 52' 29" 28.32 FEET;

20. 234° 28' 28" 51.61 FEET;

21. 243° 58' 57" 47.85 FEET;

22. 212° 01' 03" 28.30 FEET;

23. 235° 11' 16" 28.02 FEET;

24. 198° 26' 50" 31.62 FEET;

25. 217° 48' 20" 35.56 FEET;

26. 336° 10' 02" 176.13 FEET ALONG LOT 2 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT XVIII (F. P. 1618) AND ALONG THE REMAINDER OF GRANT 4845 TO ALBERT S. WILCOX;

27. 260° 45' 23.09 FEET ALONG LOT 2 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT XVIII (F. P. 1618) AND ALONG THE REMAINDER OF GRANT 4845 TO ALBERT S. WILCOX;

28. 280° 00' 53.84 FEET ALONG LOT 2 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT XVIII (F. P. 1618) AND ALONG THE REMAINDER OF GRANT 4845 TO ALBERT S. WILCOX;

29. 340° 00' 333.80 FEET ALONG LOT 2 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT XVIII (F. P. 1618) AND ALONG THE REMAINDER OF GRANT 4845 TO ALBERT S. WILCOX;

30. 73° 50' 44" 176.82 FEET ALONG THE NORTHERLY SIDE OF KA HAKU ROAD (ROAD A OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT VII (F. P. 1197);

31. 343° 50' 44" 60.00 FEET ALONG THE WESTERLY END OF KA HAKU ROAD (ROAD A OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT VII (F. P. 1197) TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 16.596 ACRES, MORE OR LESS.

AS TO PARCELS FIRST AND SECOND:

PARCEL I:

NONEXCLUSIVE APPURTENANT EASEMENT FOR ROAD PURPOSES OVER AND ACROSS THE ROADWAY LOTS SHOWN ON FILE PLAN NOS. 1179 AND 1197; PROVIDED, HOWEVER, THAT IN THE EVENT SAID LOTS OR ANY PORTION THEREOF IS CONVEYED TO THE STATE OF HAWAII, COUNTY OF KAUAI OR ANY OTHER GOVERNMENTAL AUTHORITY, SAID EASEMENT AS TO THE LOT OR LOTS SO CONVEYED SHALL IMMEDIATELY TERMINATE.

PARCEL II:

PERPETUAL NONEXCLUSIVE EASEMENT FOR INGRESS, EGRESS, UTILITY AND DRAINAGE PURPOSES OVER AND ACROSS TAX MAP KEY NOS. 5-4-004-028, 5-3-010-003 AND 5-4-005-009, AS GRANTED BY GRANT OF EASEMENT RECORDED MARCH 18, 2005 AS REGULAR SYSTEM DOCUMENT NO. 2005-053761 AND LAND COURT DOCUMENT NO. 3242564 OF OFFICIAL RECORDS.

PARCEL III:

PERPETUAL NONEXCLUSIVE EASEMENT FOR INGRESS, EGRESS, UTILITY AND DRAINAGE PURPOSES OVER AND ACROSS ROAD LOT A OF FILE PLAN 1360, LOTS A AND B OF FILE PLAN 1179, LOT A OF FILE PLAN 1197, ROAD LOT L OF FILE PLAN 1431, AND ROAD LOT M OF FILE PLAN 1431, AS GRANTED BY GRANT OF EASEMENT RECORDED MARCH 18, 2005 AS REGULAR SYSTEM DOCUMENT NO. 2005-053762 AND LAND COURT DOCUMENT NO. 3242565 OF OFFICIAL RECORDS.

BEING ALL OF THE PREMISES CONVEYED BY QUITCLAIM DEED RECORDED MARCH 18, 2005 AS REGULAR SYSTEM DOCUMENT NO. 2005-053744 OF OFFICIAL RECORDS.

GRANTOR: PRINCEVILLE HOTEL ASSOCIATES III, A HAWAII LIMITED PARTNERSHIP

GRANTEE: PRINCEVILLE HOTEL LP, A DELAWARE LIMITED PARTNERSHIP

EXHIBIT "B"

Exceptions

1. Real Property tax assessments for the fiscal year 2018-2019.

Tax Map Key No. (4) 5-4--011-004-0000 (as to Parcel First)
Class No.: 6

First Installment: $508,287.21, PAID, (8/20)
Second Installment: $508,287.20, PAYABLE (2/20)

Tax Map Key No: (4) 5-4-004-035-0000 (As to Parcel Second)
Class No. : 6

First Installment: $94,509.71, PAID (8/20)
Secord Installment: $94,509.71, PAYABLE (2/20)

Tax Map Key No.: (4) 5-4-004-029-0000 (as to Parcel SECOND)
Class No. 7

2. Title to all mineral and metallic mines reserved to the State of Hawaii.

3. AS TO PARCEL FIRST:

a. Easement "P-3" (6 feet wide) for pedestrian purposes, as shown on or disclosed by the survey maps dated February 04, 2005, revised March 09, 2005, prepared by Wesly M. Thomas, Licensed Professional Land Surveyor, with Wes Thomas and Associates, Inc., last revised February 4, 1981, approved on July 14, 1982, by the Planning Commission of the County of Kauai, and by James R. Thompson, Licensed Professional Land Surveyor, with Walter P. Thompson, Inc.

b. Urban Conservation Zone Area as shown on subdivision map of Wesley Thomas, Registered Professional Surveyor, dated December 16, 1980, as revised, approved by the Planning Commission of the County of Kauai on July 14, 1982.

c. Easement "13" (10 feet wide) for drainage purposes, shown on Map No. 11 filed with Land Court Application No. 1724, as set forth by Land Court Order No. 78712, recorded June 13, 1986.

d. Easement "16" for pedestrian ingress and egress purposes, shown on Map No. 12 filed with Land Court Application No. 1724, as set forth by Land Court Order No. 111542, recorded April 27, 1993.

e. Easement "17", shown on Map No. 12 filed with Land Court Application No. 1724, as set forth by Land Court Order No. 111542, recorded April 27, 1993.

f. A Grant of Easement "16" ingress and egress purposes, in favor of Association of

Apartment Owners of Hanalei Bay Resort and Princeville Hotel Associates III, recorded August 27, 1993 as Land Court Document No. 2060310 of Official Records.

g. The terms and provisions contained in the unrecorded Settlement and Mutual Release Agreement dated October 10, 1992 by and between the Association of Apartment Owners of Hanalei Bay Resort and Princeville Corporation fka Princeville Development Corporation.

h. The terms and provisions contained in the unrecorded Letter Agreement Relating to Settlement of Civil No. 900077 dated October 10, 1992 by and between the Association of Apartment Owners of Hanalei Bay Resort and Princeville Corporation.

i. The terms and provisions contained in the Declaration of Building Restriction recorded March 18, 2005 as Regular System Document No. 2005-053736 and Land Court Document No. 3242554 of Official Records.

j. The terms and provisions contained in the unrecorded Pedestrian Access Agreement dated as of August 01, 2006, executed by and between Princeville Hotel LP, a Delaware limited partnership, Princeville Hanalei Plantation, LLC, a Delaware limited liability company and Princeville Oceanside, LLC, a Delaware limited liability company and disclosed by the Memorandum of Agreement to Grant Easement recorded August 22, 2006 as Regular System Document No. 2006-153725 and Land Court Document No. 3470616 of Official Records.

k. The terms, provisions, reservations, covenants, conditions and restrictions, but deleting any of the aforementioned indication a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income of disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c) of the United States Codes or Chapter 515 of the Hawaii Revised Statutes, as contained in the Declaration of Restrictions, Covenants and Conditions recorded March 12, 1971 as Book 7444 Page 93, as amended of Official Records.

The foregoing includes, but is not limited to, matters relating to height limitations of building.

A declaration of annexation recorded as Book 7663 Page 264 of Official Records.

A declaration of annexation recorded April 11, 2005 as Regular System Document No. 2005-070379 and Land Court Document No. 3252221 of Official Records.

Princeville Development Corporation was declared and designated as the Declarant by Declaration of Declarant recorded May 24, 1985 as Book 18662 Page 485 of Official Records.

The interest of Princeville Development Corporation was assigned to Princeville at Hanalei Community Association, a Hawaii nonprofit corporation by Notice of Delegation, Transfer and Assignment recorded August 7, 19980 as Regular System Document No. 90-12077 and recorded January 20, 1994 as Regular System Document No. 94-009984, both, of Official Records.

4. AS TO PARCEL SECOND:

a. AS TO THAT PORTION OF SAID LOT 4-A LYING WITHIN FORMER LOT 4 OF FILE PLAN NO. 1187:

1) Easement "S-3" for sanitary sewer purposes as shown on 1187.

2) A Grant of Easement "S-3" for water pipeline and sanitary sewer purposes, in favor of Kauai County Public Improvement Corporation, recorded as Book 8192 Page 284 of Official Records.

b. Terms, provisions, reservations, covenants, conditions and restrictions, but deleting any of the aforementioned indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income or disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes or Chapter 515 of the Hawaii Revised Statutes, as contained in the Declaration of Restrictions, Covenants and Conditions recorded March 12, 1971 as Book 7444 Page 93, as amended of Official Records.

The foregoing includes, but is not limited to, matters relating to height limitations of building.

A declaration of annexation recorded as Book 7663 Page 264 of Official Records.

A declaration of annexation recorded April 11, 2005 as Regular System Document No. 2005-070379 and Land Court Document No. 3252221 of Official Records.

Princeville Development Corporation was declared and designated as the Declarant by Declaration of Declarant recorded May 24, 1985 as Book 18662 Page 485 of official records.

The interest of Princeville Development Corporation was assigned to Princeville at Hanalei Community Association, a Hawaii nonprofit corporation by Notice of Delegation, Transfer and Assignment recorded August 07, 1990 as Regular System Document No. 90-120777 and recorded January 20, 1994 as Regular System Document No. 94-009984 both of official records.

c. AS TO THAT PORTION OF SAID LOT 4A LYING WITHIN FORMER LOT 3 FILE PLAN 1197:

3) Easement Remainder P-1 (6 feet wide) for pedestrian access purposes as shown on File Plan No. 1197.

4) A Grant of Easement "p-1" for pedestrian access purposes, in favor of County of Kauai, recorded May 15, 1975 as Book 10636 Page 589 of Official Records.

d. Easement P-2 (6 feet wide) for pedestrian access purposes, as shown on or disclosed by the survey maps dated February 04, 2005 revised March 09, 2005, prepared by Wesly M. Thomas, Licensed Professional Land Surveyor, with Wes Thomas and Associates, Inc., last revised February 4, 1981, approved on July 14, 1982, by the Planning Commission of the County of Kauai, and by James R. Thompson, Licensed Professional Land Surveyor, with Walter P. Thompson, Inc.

e. A Grant of Easement for utility purposes, in favor of Citizens Utilities Company (now known as Frontier Communications Corporation) and Hawaiian Telephone Company (now Hawaiian Telcom, Inc.), recorded March 5, 1986 as Book 19332 Page 354 of Official Records.

f. A Grant of Easement for pedestrian access purposes (4 feet wide), in favor of County of

Kauai, recorded June 17, 1986 as Book 19591 Page 160 of Official Records.

g. The terms and provisions contained in the unrecorded Pool Access Agreement dated as of August 01, 2006, executed by and between Princeville Hotel LP, a Delaware limited partnership and Princeville Oceanside, LLC, a Delaware limited liability, as disclosed by the Memorandum of Agreement to Grant of Easement recorded August 22, 2006 as Land Court Document No. 3470617 of Official Records.

5. Shoreline setback lines as they may be established by the State Land Use Commission or by the various Counties pursuant to the Hawaii Revised Statutes.

6. A 100-foot Shoreline Setback Line and Urban Conservation Zone Area as shown on subdivision map of Wesley Thomas, Registered Professional Surveyor, dated December 16, 1980, as revised, approved by the Planning Commission of the County of Kauai on July 14, 1982.

7. The terms and provisions contained in the Waiver and Release recorded December 29, 1989 as Book 24075 Page 743 of Official Records.

8. The terms and provisions contained in the Waiver and Release recorded March 20, 1991 as Regular System Document No. 91-035576 of Official Records.

9. The terms and provisions contained in the Waiver and Release recorded March 20, 1991 as Regular System Document No. 91-035577 of Official Records.

10. The terms and provisions contained in the Waiver and Release recorded March 20, 1991 as Regular System Document No. 91-035578 of Official Records.

11. The terms and provisions contained in the Waiver and Release recorded March 20, 1991 as Regular System Document No. 91-035579 of Official Records.

12. The terms and provisions contained in the Waiver and Release recorded March 20, 1991 as Regular System Document No. 91-035580 of Official Records.

13. The terms and provisions contained in the Waiver and Release recorded October 04, 1991 as Regular System Document No. 91-135694 of Official Records.

14. The terms and provisions contained in the Waiver and Release Agreement recorded February 3, 2003 as Regular System Document No. 2003-019898 of Official Records.

15. The terms and provisions contained in the unrecorded Lease and Joint Promotion Agreement dated as of March 18, 2005, as disclosed by that certain Memorandum of Lease and Joint Promotion Agreement recorded March 18, 2005 as Regular System Document No. 2005-053775 and Land Court Document No. 3242569 of Official Records.

The terms conditions and provisions of the unrecorded First Amendment to Joint Promotion Agreement dated as of August 1, 2006, executed by and between Princeville Associates LLC, a Delaware limited liability company, Princeville HOTEL LP, a Delaware limited partnership, Princeville Makai Golf Course LLC, a Delaware limited liability company, et al.

The terms conditions and provisions of the unrecorded First Amendment to Agreement of

Purchase and Second Amendment to Joint Promotion Agreement dated as of April 9, 2007, executed by and between Princeville Associates LLC, a Delaware limited liability company, Princeville HOTEL LP, a Delaware limited partnership, Princeville Makai Golf Course LLC, a Delaware limited liability company, et al.

The terms and provisions of the unrecorded "Second Amendment of Purchase and Sale, Third Amendment to Joint Promotion Agreement, First Amendment to Princeville Hotel Retail Lease, Second Amendment to Golf Use Agreement (Prince Golf Club) Second Amendment to License Agreement (Hotel), Second Amendment to License Agreement (Makai) and Agreement dated as of January 14, 2009, executed by and between, Princeville Hotel LP, a Delaware limited partnership, Gateway Islander Golf Course L.P., a California limited partnership, Princeville Makai Golf Course, LLC, a Delaware limited liability company, et al.

16. The terms and provisions contained in the Agreement Regarding Memorandum of Lease and Other Agreements recorded March 18, 2005 as Regular System Document No. 2005-053777 and Land Court Document No. 3242570 of Official Records.

17. The terms and provisions contained in the unrecorded Golf Use Agreement(Prince Golf Club) as disclosed by a Memorandum thereof recorded March 18, 2005 as Regular System Document No. 2005-053778 and Land Court Document No. 3242571 of Official Records.

The terms and provisions of the First Amendment to Golf Use Amendment (Prince Golf Course) dated August 01, 2006, executed by and between Princeville Golf Course, LLC, a Delaware limited liability company and Princeville Hotel, LP, a Delaware limited partnership.

18. The terms and provisions contained in the unrecorded Golf Use Agreement (Makai) dated as of August 01, 2006, executed by and between Princeville Makai Golf Course LLC, a Delaware limited liability company and Princeville Associates, LLC, a Delaware limited liability company, as disclosed by a Memorandum of Golf Use Agreement (Makai) recorded August 22, 2006 as Regular System Document No. 153726.

19. The terms and provisions contained in the Parking License Agreement dated as of March 18, 2005 executed by and between Princeville Makai Golf Course LLC, a Delaware limited liability company and Princeville Hotel, LP, a Delaware limited partnership as disclosed by that certain Memorandum of Parking License Agreement recorded March 18, 2005 as Regular System Document No. 2005-053780 and Land Court Document No. 3242573 of Official Records.

20. Any facts, rights interests or claims that may exist or arise by reason of the following matters disclosed by an ALTA/NSPS Land Title Survey made by R. M. Towill Corporation, Dan L. M. Akita PLS # 12749 on July 27, 2018, last revised November 12, 2018, designated Job No. 1-23250-00S

The fact that a building roof line located on said land encroaches on the land adjoining on the East.

The fact that a building located on said land encroaches upon the 4 feet pedestrian walkway easement. (Exception 3a).

The fact that a building located on said land encroaches upon the 13 foot drainage easement. (Exception 3c).

The fact that a building located on said land encroaches upon the building setback line by 1.73 feet.

The fact that a concrete walkway crosses onto the property adjoining on the East.

The fact that a concrete pad and walkway cross into setback area.

The fact that a header wall crosses into the land adjoining on the East.

The fact that a portion of a chain link fence crosses into the land adjoining on the East.

The fact that curbing located on said land crosses onto Ka Haku Road.

The fact that the main hotel building lies over a 4 foot pedestrian access easement. (Exception 4f).

The fact that the main hotel building lies over an easement recorded in Liber 19332 Page 354.(Exception 4e).

The fact that a wooden deck lies across easement P-2. (Exception 4d).

The fact that another wooden deck lies over easement #13. (Exception 3c).

21. The terms and provisions contained in the unrecorded Amended and Restated Resort & Amenities Access Agreement dated as of August 02, 2012, executed by and between Princeville Hotel LP, a Delaware limited partnership, Princeville Makai Golf Course, LLC, a Delaware limited liability company, Princeville Prince Golf Course, LLC, a Delaware limited liability company and SVO Pacific, Inc., a Florida corporation et al., as disclosed by that certain Memorandum of Amended and Restated Resort & Amenities Agreement, recorded August 02, 2012 as Regular System Document No. A-45970283 of Official Records.

22. The terms and provisions contained in the unrecorded Resort Solicitation Access Agreement dated as of August 14, 2002, executed by Princeville Corporation, a Colorado corporation, Princeville Hotel Associates III, a Hawaii limited partnership, Sheraton Hawaii Management Corp., and SVO Pacific, Inc., a Florida corporation as disclosed by the Memorandum of Extension of Resort Solicitation Access Agreement with Respect to Princeville Hotel and Makai Golf Course recorded August 02, 2012 as Regular System Document No. A-45970284 of Official Records.

The terms and provisions of the First Amendment to Resort Solicitation Agreement, dated as of December 31, 2011, executed by and between Princeville Hotel LP and Sheraton Operating Corporation and SVO Pacific, Inc., a Florida corporation.

The terms and provisions of the unrecorded Extension of Resort Solicitation Access Agreement with Respect to Princeville Hotel and Makai Golf Course, dated as of August 02, 2012.

23. Rights of Tenants in possession, as tenants only, with no right or option to purchase or right of first refusal.

EXHIBIT "C-1"

County of Kaua'i
State of Hawai'i



Overview



Legend

- Parcels
- CPR Units
- Roads

Parcel ID	540110040000	Situs/Physical Address	5520 KA HAKU RD	Total Market Value	$165,754,200	Last 2 Sales Date	Price	Reason
Acreage	16.596	Mailing Address	SOF-XI KAUAI PV HOTEL L P	Total Assessed Value	$165,754,200	11/16/2018	$137388166	ADJUSTED PRICE VALID SALE
Class	HOTEL & RESORT		5520 KA HAKU RD PRINCEVILLE HI 96722	Total Exemptions	$0	n/a	0	n/a
				Total Net Taxable Value	$165,754,200			

Brief Tax Description POR LOT 4-A,PRINCEVILLE AT HANALEI,PARCEL 1-A,UNIT IX 16.596 AC DES TOG/ESMT
(Note: Not to be used on legal documents)

The Geographic Information Systems (GIS) maps and data are made available solely for informational purposes. The GIS data is not the official representation of any of the information included, and do not replace a site survey or legal document descriptions. The County of Kauai (County) makes or extends no claims, representations or warranties of any kind, either express or implied, inluding, without limitation, the implied warranties of merchantability and fitness for a particular purpose, as to the quality, content, accuracy, currency, or completeness of the information, text, maps, graphics, links and other items contained in any of the GIS data. In no event shall the County become liable for any errors or omissions in the GIS, and will not under any circumstances be liable for any direct, indirect, special, incidental, consequential, or other loss, injury or damage caused by its use or otherwise arising in connection with its use, even if specifically advised of the possibility of such loss, injury or damage. The data and or functionality on this site may change periodically and without notice. In using the GIS data, users agree to indemnify, defend, and hold harmless the County for any and all liability of any nature arising out of or resulting from the lack of accuracy or correctness of the data, or the use of the data.

Date created: 12/4/2025
Last Data Uploaded: 12/4/2025 4:25:01 AM

Developed by SCHNEIDER GEOSPATIAL

EXHIBIT "C-1"

County of Kaua'i
State of Hawai'i



Overview



Legend

- Parcels
- CPR Units
- Roads

Parcel ID	540040290000	**Situs/Physical Address**	
Acreage	0.01	**Mailing Address**	SOF-XI KAUAI PV HOTEL L P
Class	HOTEL & RESORT		

		Last 2 Sales		
		Date	Price	Reason
Total Market Value	$400			
Total Assessed Value	$400			
Total Exemptions	$0	n/a	0	n/a
Total Net Taxable Value	$400	n/a	0	n/a

Brief Tax Description LOT 4-A 0.01 AC
(Note: Not to be used on legal documents)

The Geographic Information Systems (GIS) maps and data are made available solely for informational purposes. The GIS data is not the official representation of any of the information included, and do not replace a site survey or legal document descriptions. The County of Kauai (County) makes or extends no claims, representations or warranties of any kind, either express or implied, inluding, without limitation, the implied warranties of merchantability and fitness for a particular purpose, as to the quality, content, accuracy, currency, or completeness of the information, text, maps, graphics, links and other items contained in any of the GIS data. In no event shall the County become liable for any errors or omissions in the GIS, and will not under any circumstances be liable for any direct, indirect, special, incidental, consequential, or other loss, injury or damage caused by its use or otherwise arising in connection with its use, even if specifically advised of the possibility of such loss, injury or damage. The data and or functionality on this site may change periodically and without notice. In using the GIS data, users agree to indemnify, defend, and hold harmless the County for any and all liability of any nature arising out of or resulting from the lack of accuracy or correctness of the data, or the use of the data.

Date created: 12/4/2025
Last Data Uploaded: 12/4/2025 4:25:01 AM

Developed by SCHNEIDER GEOSPATIAL

County of Kaua'i
State of Hawai'i



Overview



Legend

- Parcels
- CPR Units
- Roads

Parcel ID	540040350000	Situs/Physical Address		Total Market Value	$28,504,200	Last 2 Sales Date	Price	Reason
Acreage	6.533	Mailing Address	SOF-XI KAUAI PV HOTEL L P	Total Assessed Value	$28,504,200	11/16/2018	$137388166	ADJUSTED PRICE VALID SALE
Class	HOTEL & RESORT		5520 KA HAKU RD PRINCEVILLE HI 96722	Total Exemptions	$0	n/a	0	n/a
				Total Net Taxable Value	$28,504,200			

Brief Tax Description LOT 5-A MAP 10 LC APP 1724 6.533 AC

(Note: Not to be used on legal documents)

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Date created: 12/4/2025
Last Data Uploaded: 12/4/2025 4:25:01 AM

Developed by SCHNEIDER GEOSPATIAL

EXHIBIT "C-2"



State of Hawaii Land Use District Boundaries Map - January 2018

EXHIBIT "C-2"

EXHIBIT "C-3"

Figure 5-7 North Shore Land Use Map

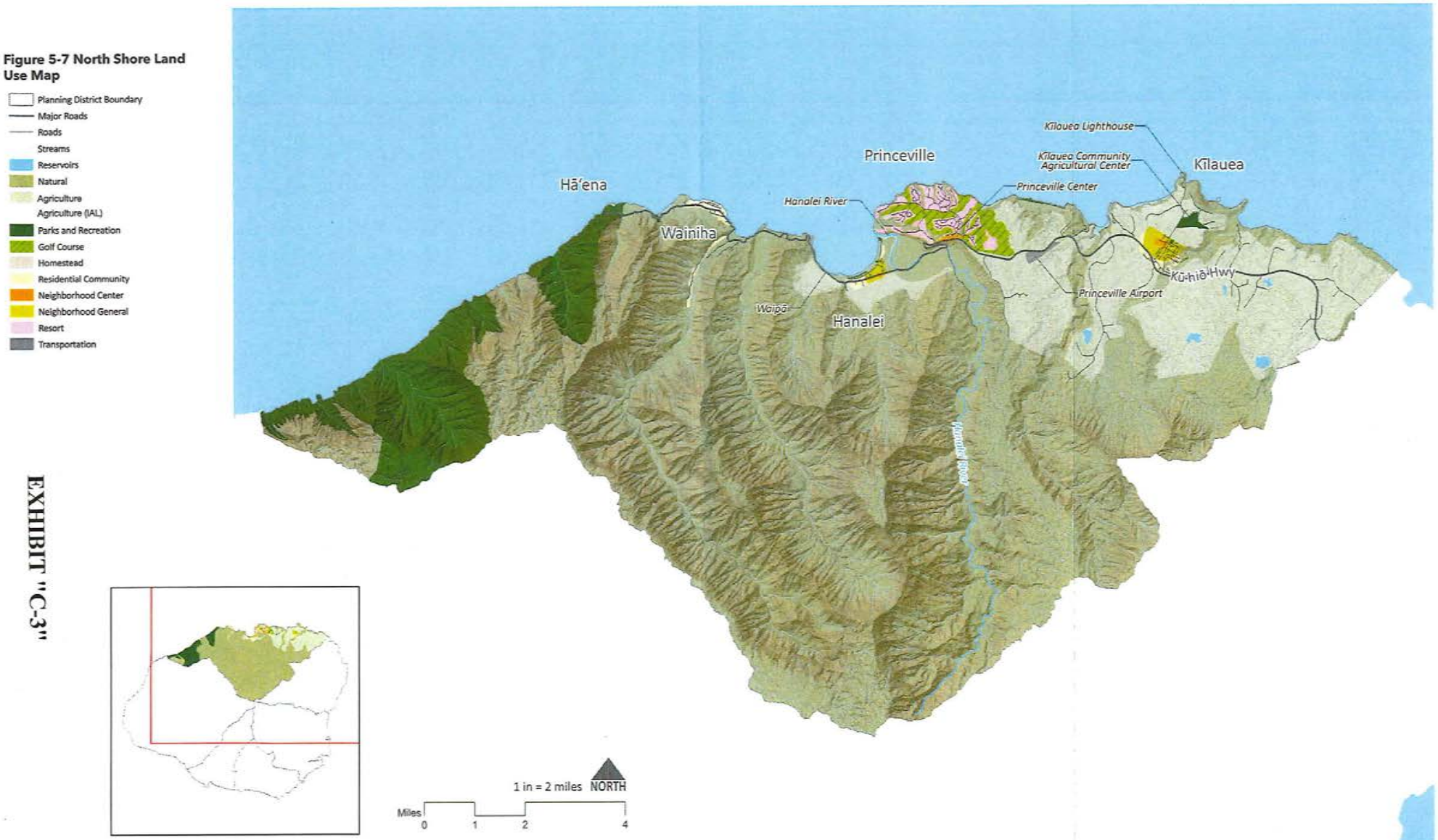


EXHIBIT "C-3"

EXHIBIT "C-4"

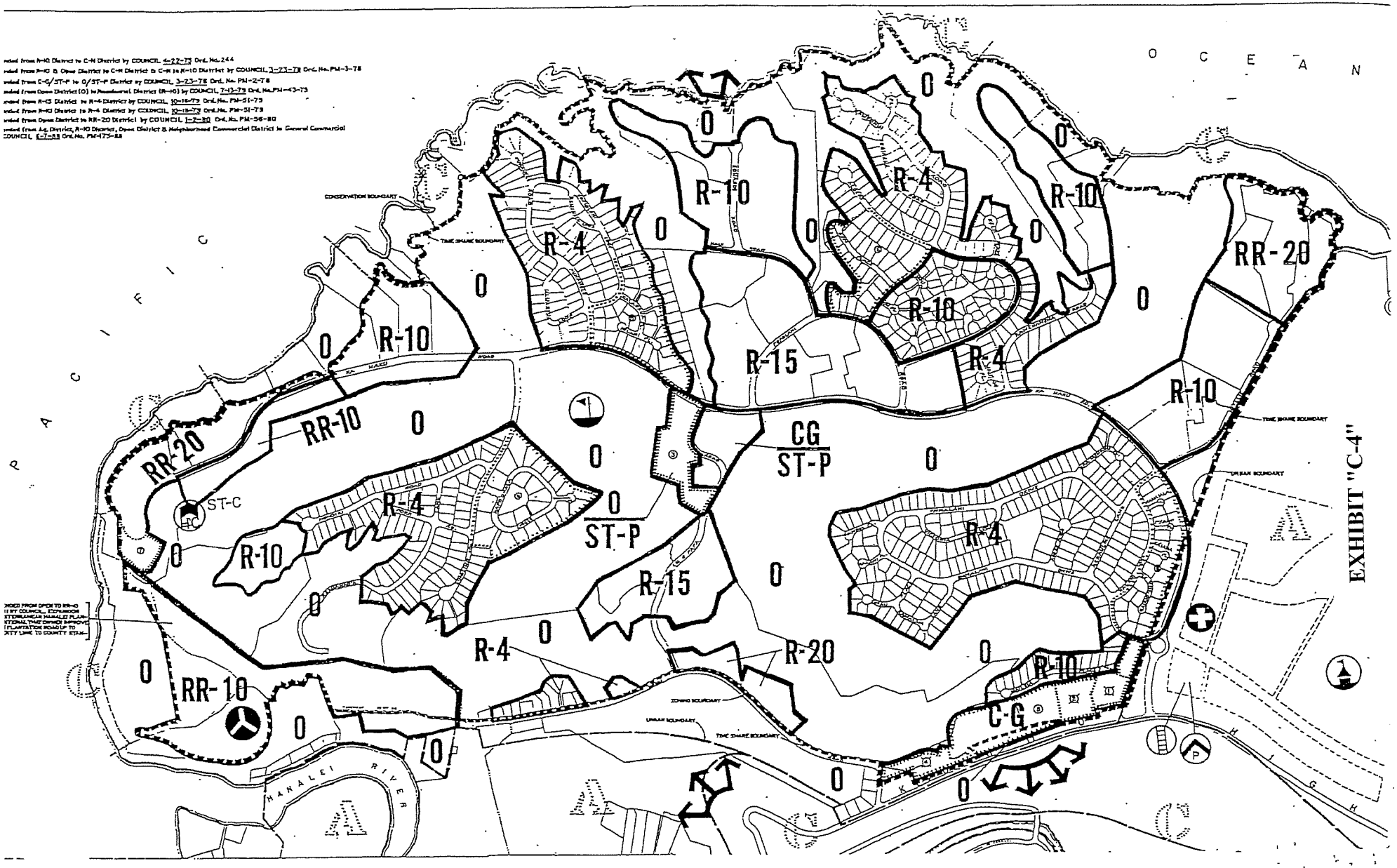
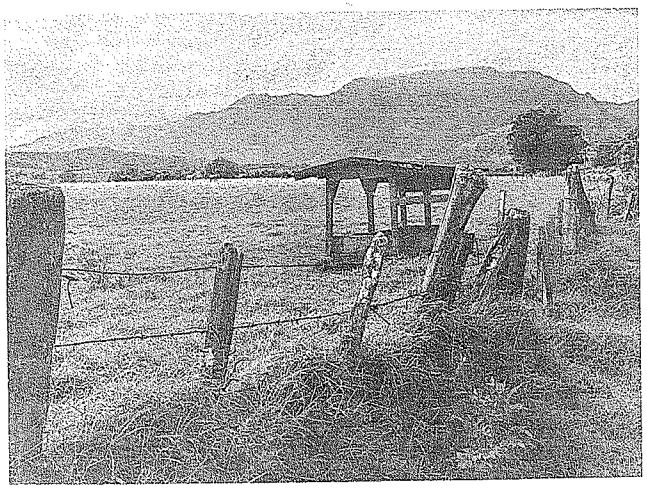

OCEAN
PACIFIC
R-10
R-4
R-15
RR-20
RR-10
CG
ST-P
ST-C
C-G
O
MANALEI RIVER
EXHIBIT "C-4"

EXHIBIT "C-5"

princeville



DEVELOPMENT PLAN

Program

Projected population	5,800 full time residents
Resort units	1,000
Dwelling units	2,300
Community services	5 acres
School site	15 acres
Commercial	5 acres

Princeville is anticipated to continue as a second home and resort community for high income groups. It should remain as a Project District, with continued review by the County. Adequate space should be provided in Princeville Center to accommodate the community services and schools which will be moved from Hanalei town.

Implementation

1. State Urban District and is a Project District in the County General Plan.
2. Incremental zoning granted as per development schedule

Commercial Allocations

Princeville*	Sq. Ft.	Acres
Food store	3,000	.25
Liquor store	300	.10
R. E. office	600	.20
Filling station	1,000	.25
Auto repair	2,000	.25
Drug store	500	.10
Beauty shop	300	.10
Barber shop	300	.10
Construction materials	2,000	.50
Furniture	2,000	.25
Clothing	1,000	.20
Variety store	1,000	.20
Dry cleaning	300	.10
Shoe sales	300	.10
Other offices	1,000	.20
	15,600 sq. ft.	2.9 acres

* Does not include Restaurants, Bars, Specialty shops, etc. in conjunction with Resort Hotel Development.

princeville

POPULATION	5,800±FULLTIME
RESORT UNITS	1,000
DWELLING UNITS	2,300
COMMUNITY SERVICES	5 ac. site
SCHOOL K-6; 7-9	15 ac. site
GENERAL COMMERCIAL	5 ac. site
PARK LAND	5 ac. site

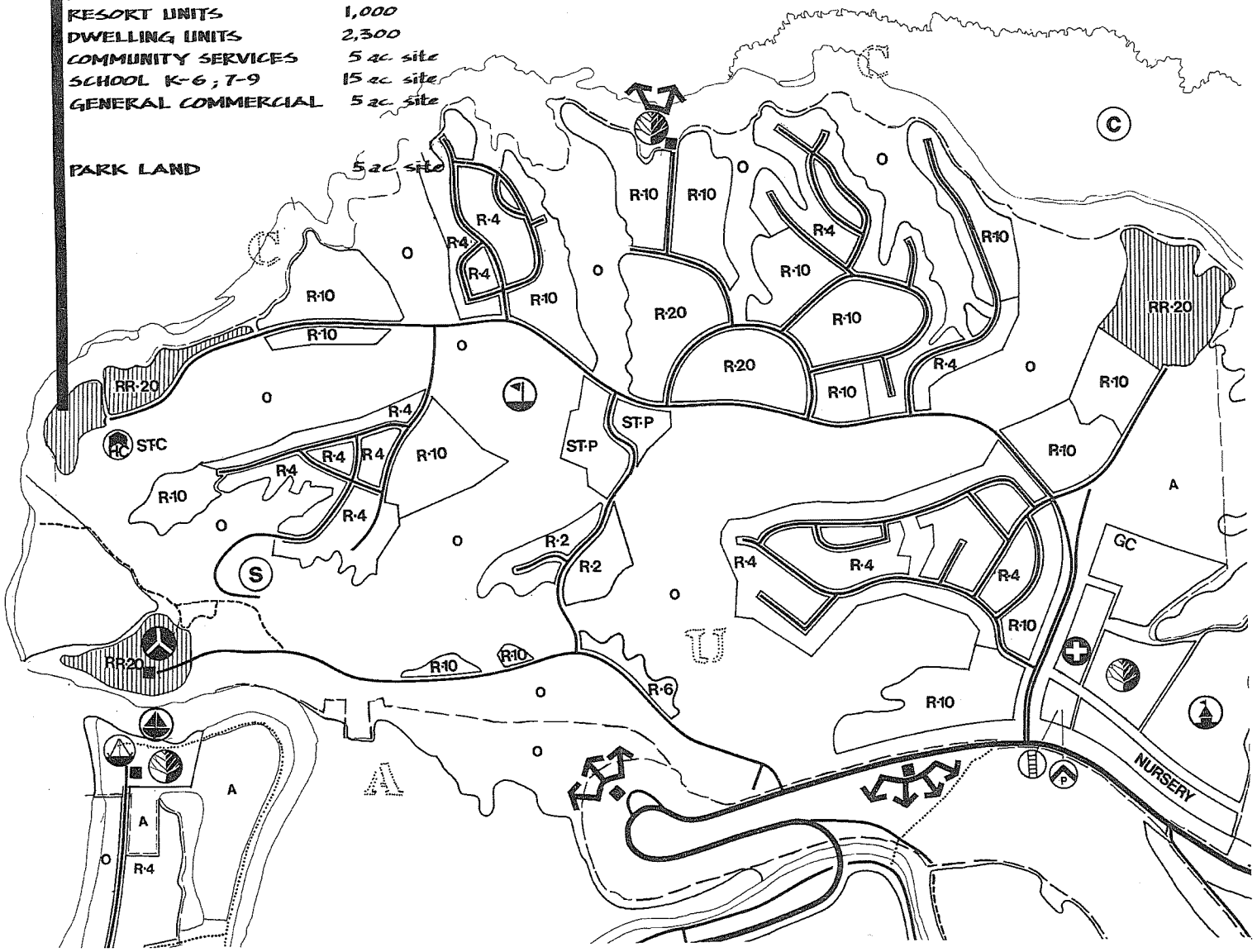


EXHIBIT "C-6"

Hawaii SMA Locator

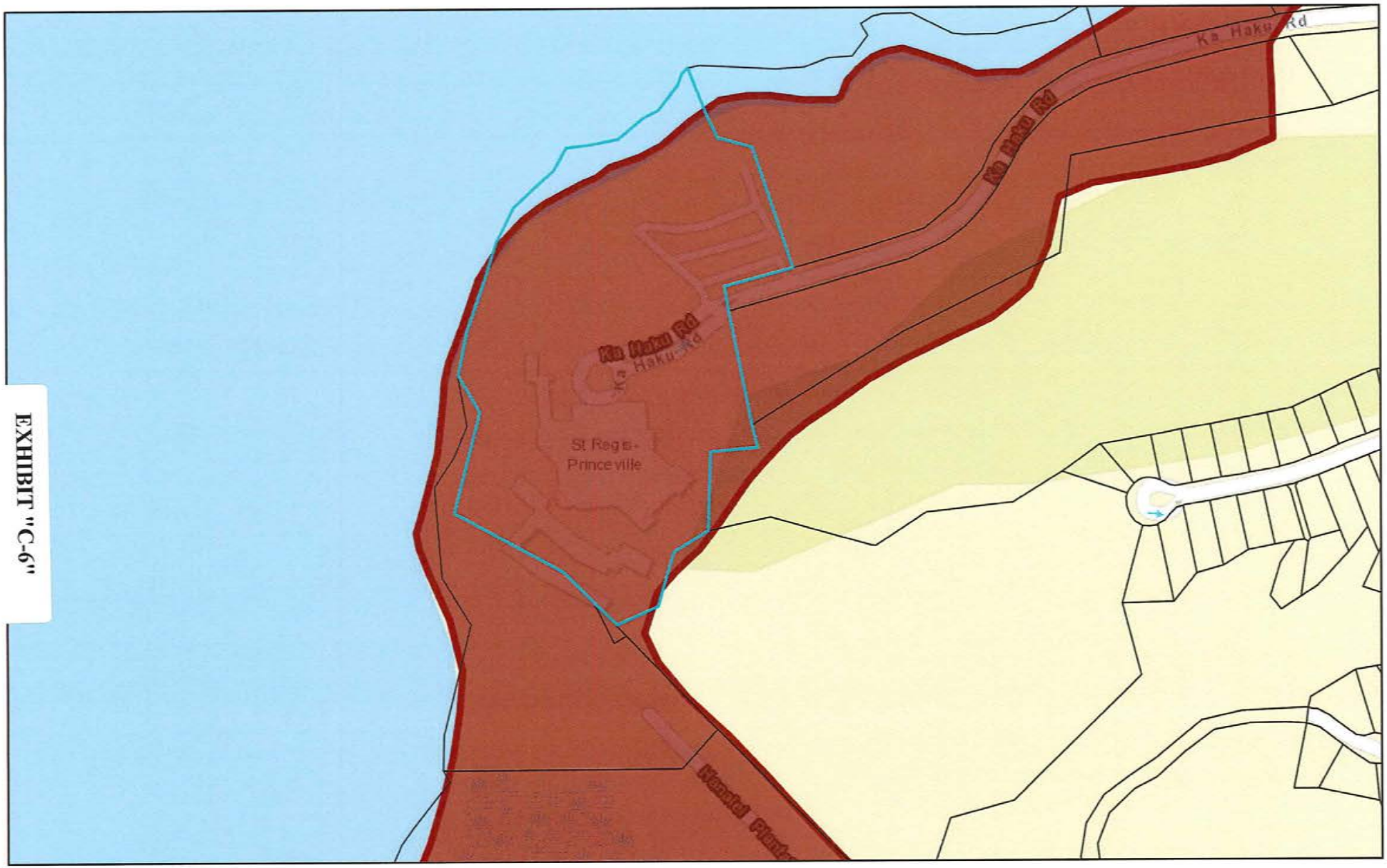


EXHIBIT "C-6"

December 4, 2025

1:4,514

0 0.04 0.07 0.14 mi

0 0.05 0.1 0.2 km

Esri, HERE, Garmin, NGA, USGS, Esri, HERE

EXHIBIT "C-7"

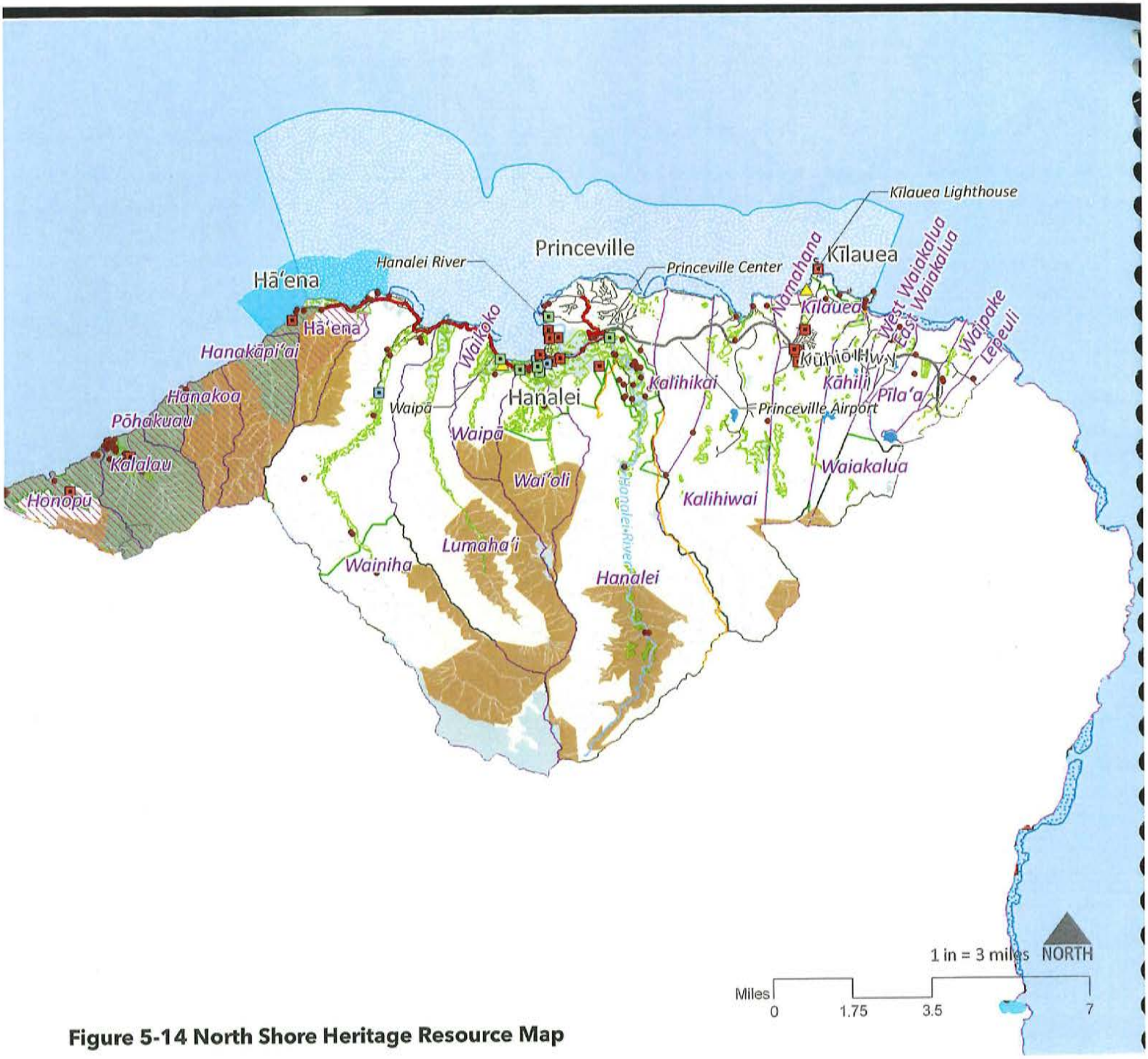


Figure 5-14 North Shore Heritage Resource Map

Registered Historic Sites
- State
- National
- State & National

Cultural Features

Priority Public Access Points

Fish Ponds

Streams & Waterbodies

Major Roads

Roads

Historic Belt Road

Trails

Planning District Boundary

Ahupua'a Boundaries

Wetlands

Coral Reefs

Regulated Fishing Areas

State & County Parks

Preserves

Reservoirs

Traditional Cultivation Areas

Sand Dunes

Open Space Acquisition Priorities

Critical Habitat

Threatened & Endangered Species
- High Density
- Very High Density

EXHIBIT "C-7"

EXHIBIT "C-8"

EXHIBIT "C-8"

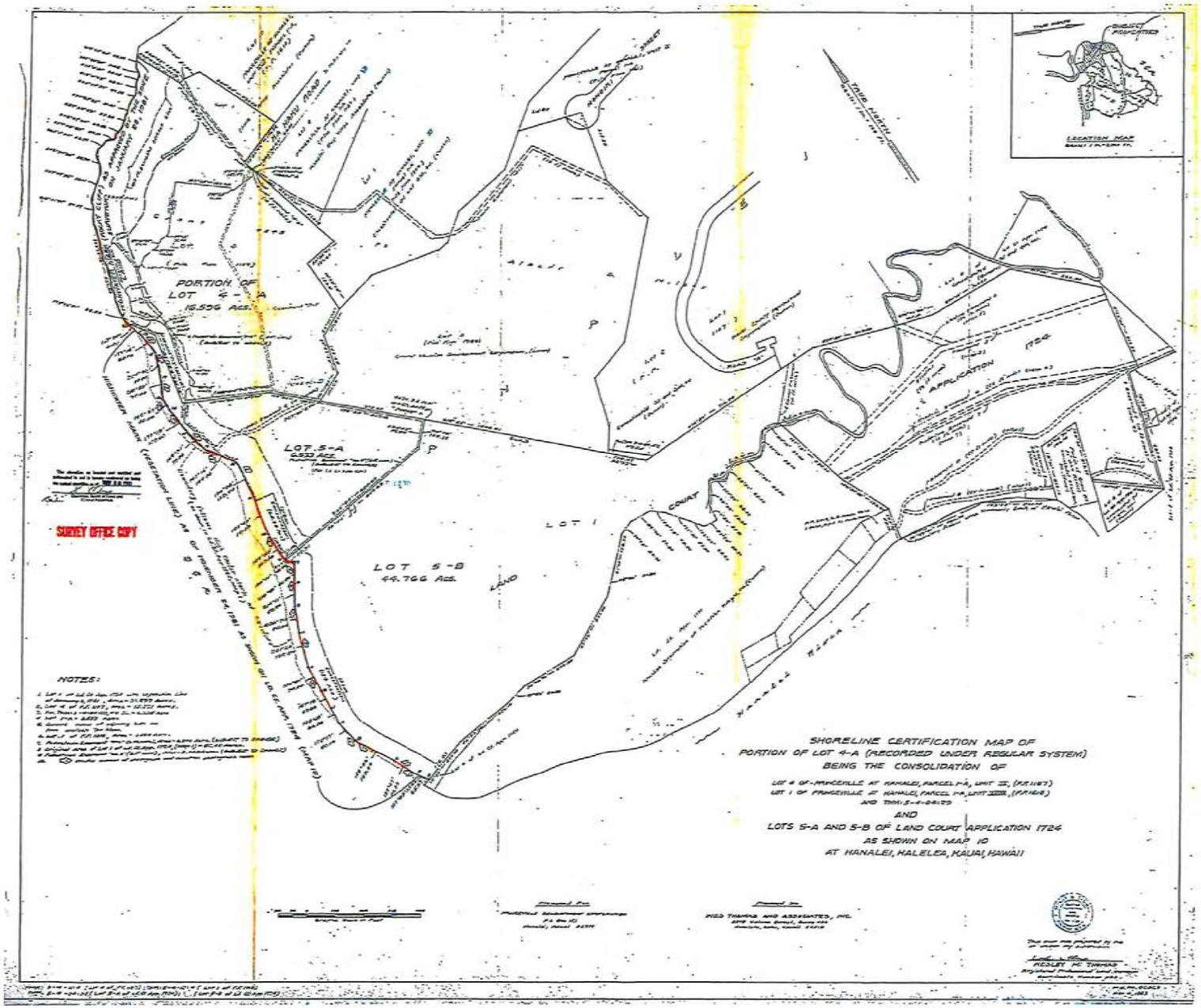
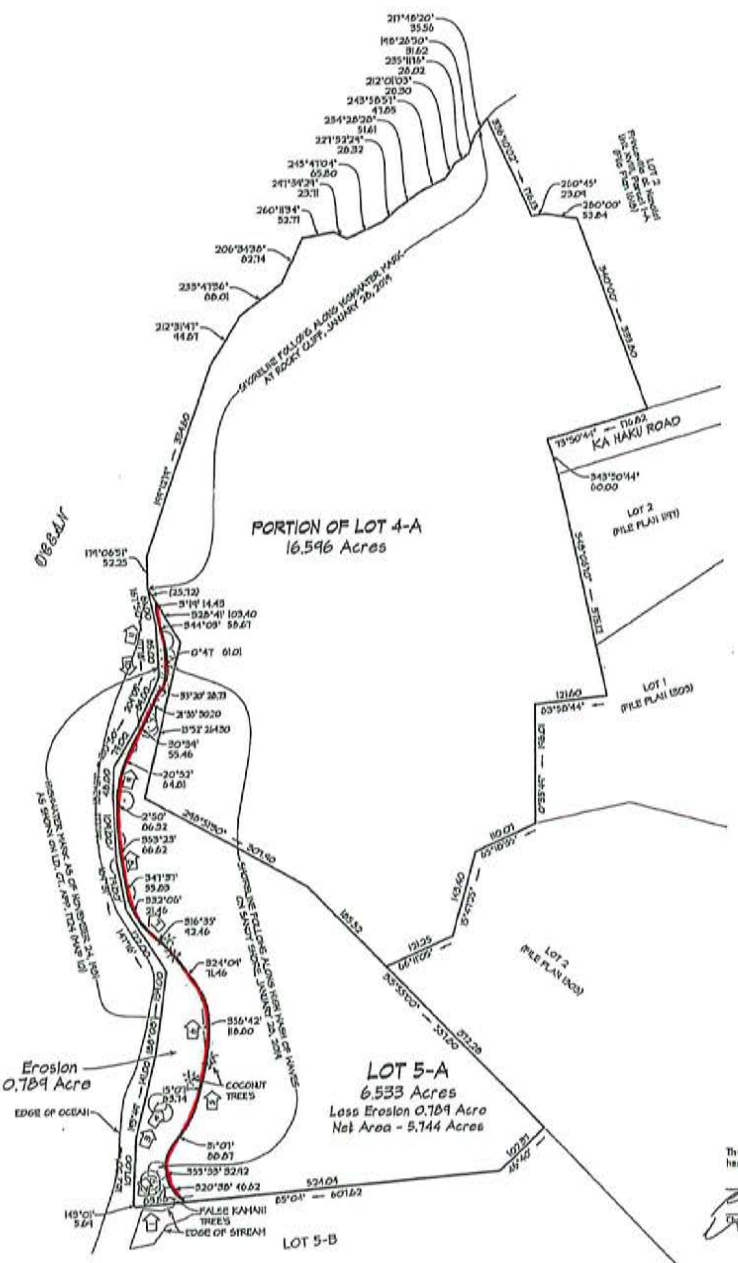

PORTION OF LOT 4-A
16.526 ACS.
LOT 5-A
0.532 AC.
LOT 5-B
49.766 ACS.
LOT 1
APPLICATION
1724
COURT
LAND
SURVEY OFFICE COPY
NOTES:
SHORELINE CERTIFICATION MAP OF
PORTION OF LOT 4-A (RECORDED UNDER REGULAR SYSTEM)
BEING THE CONSOLIDATION OF
LOT 4 OF "PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT II, (FILE 1187)
LOT 1 OF PRINCEVILLE AT HANALEI, PARCEL 1-A, UNIT III, (FILE 1618)
AND TMK: 5-4-04:29
AND
LOTS 5-A AND 5-B OF LAND COURT APPLICATION 1724
AS SHOWN ON MAP 10
AT HANALEI, HALELEA, KAUAI, HAWAII
LOCATION MAP

EXHIBIT "C-9"

SURVEY OFFICE COPY



The shoreline as delineated in red is hereby certified as the shoreline as of
MAY 21 2018

Chairperson, Board of Land and Natural Resources

SHORELINE CERTIFICATION MAP OF
PORTION OF LOT 4-A
Being the consolidation of
Lot 4 of Princeville at Hanalei, Parcel 1-A, Unit IX, (File Plan 1187)
Lot 1 of Princeville at Hanalei, Parcel 1-A, Unit XVIII, (File Plan 1618)
and TMK: 5-4-04:29
and
LOT 5-A
Ld. Ct. App. 1724, Map 10
at Hanalei, Halelea, Kaua'i, Hawai'i

100 0 100 200 300
GRAPHIC SCALE IN FEET

PREPARED FOR:
SOF-XI KAUAI PV HOTEL L P
598 WEST PUTNAM AVE
GREENWICH, CT 06830

APRIL 2, 2018

NOTE:
1. FEATURES SHOWN HEREON PER FIELD OBSERVATIONS ON JANUARY 26, 2018.
2. DENOTE LOCATION OF SHORELINE PHOTOGRAPH & NUMBER.

Honua Engineering, Inc.
P.O. Box 1211 Hanalei, HI 96714 (808) 826-7234

TMK: (4) 5-4-11:04 (LOT 4-A) & 5-4-04:30 (LOT 5-A)

BRIAN H. HENGESTY
LICENSED PROFESSIONAL LAND SURVEYOR
No. 11,111
HAWAII, USA

THIS MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION

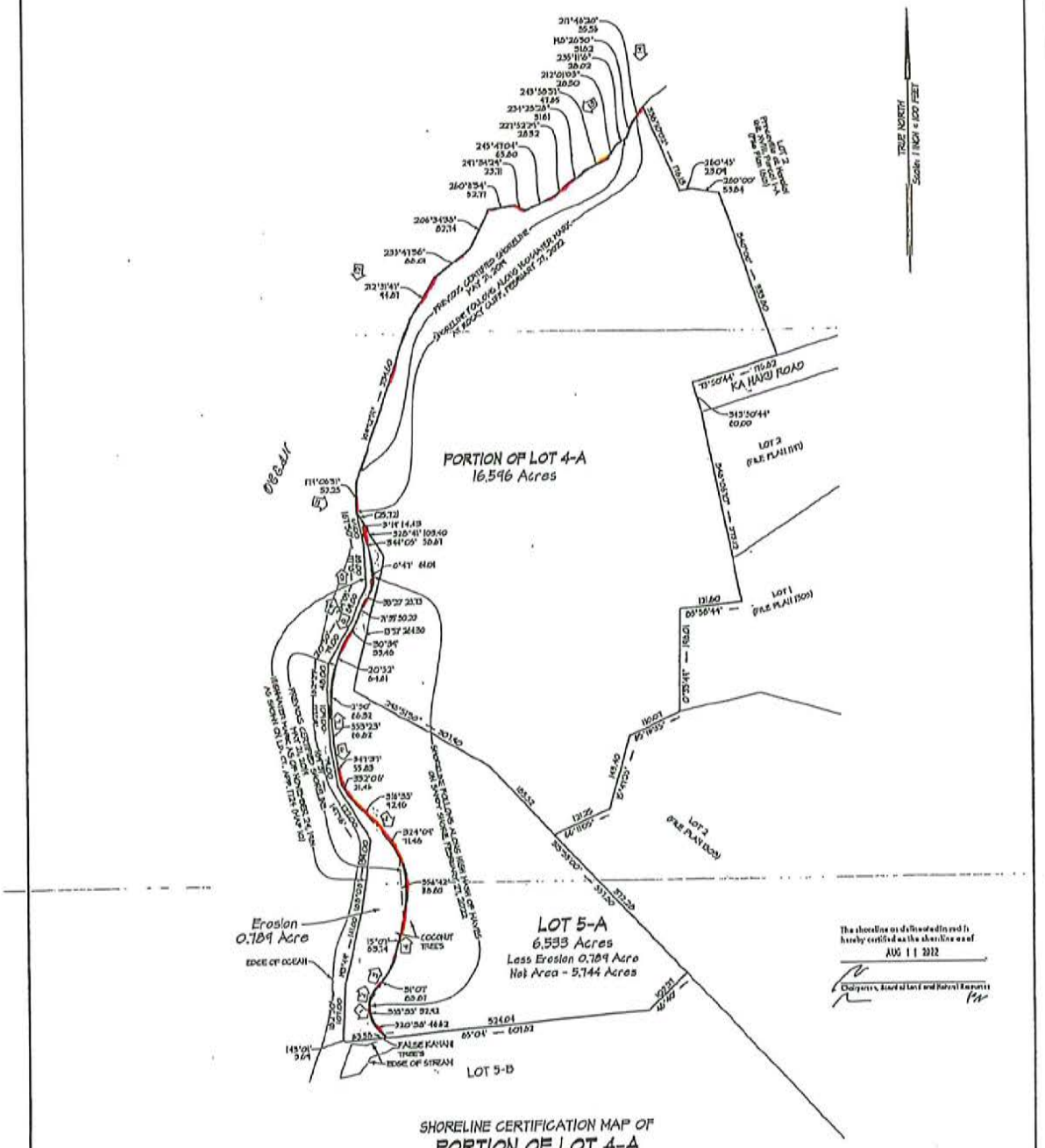
Brian Hengesty

BRIAN H. HENGESTY
Licensed Professional Land Surveyor
Certificate No. 11,484 EXP. 4/30/20

PROJECT NO. 6212

EXHIBIT "C-9"

EXHIBIT "C-10"



SHORELINE CERTIFICATION MAP OF

PORTION OF LOT 4-A

Being the consolidation of
Lot 4 of Princeville at Hanalei, Parcel 1-A, Unit IX, (File Plan 1187)
Lot 1 of Princeville at Hanalei, Parcel 1-A, Unit XVIII, (File Plan 1618)
and TMK: 5-4-04:29
Being a portion of Grant 4845 to Albert S. Wilcox
and

LOT 5-A

Ld. Ct. App. 1724, Map 10
at Hanalei, Halelea, Kaua'i, Hawai'i

GRAPHIC SCALE IN FEET

PREPARED FOR:
SOFOA KAUAI PV HOTEL LP
345 WEST PUTNAM AVE
GREENWICH, CT 06830

HAWAII | 2022 REV. MAY 30, 2022

NOTES:
1. FEATURES SHOWN HEREON PER FIELD CONDITIONS ON FEBRUARY 21, 2022.
2. APPROXIMATE LOCATION OF SHORELINE PHOTOGRAPH 1 NUMBER.

Hoolis Engineering, Inc.

THIS MAP(S) IS PREPARED BY ME OR UNDER MY SUPERVISION

BRIAN M. HENNESSY
LICENSED PROFESSIONAL LAND SURVEYOR
No. 11,161
HAWAII, USA

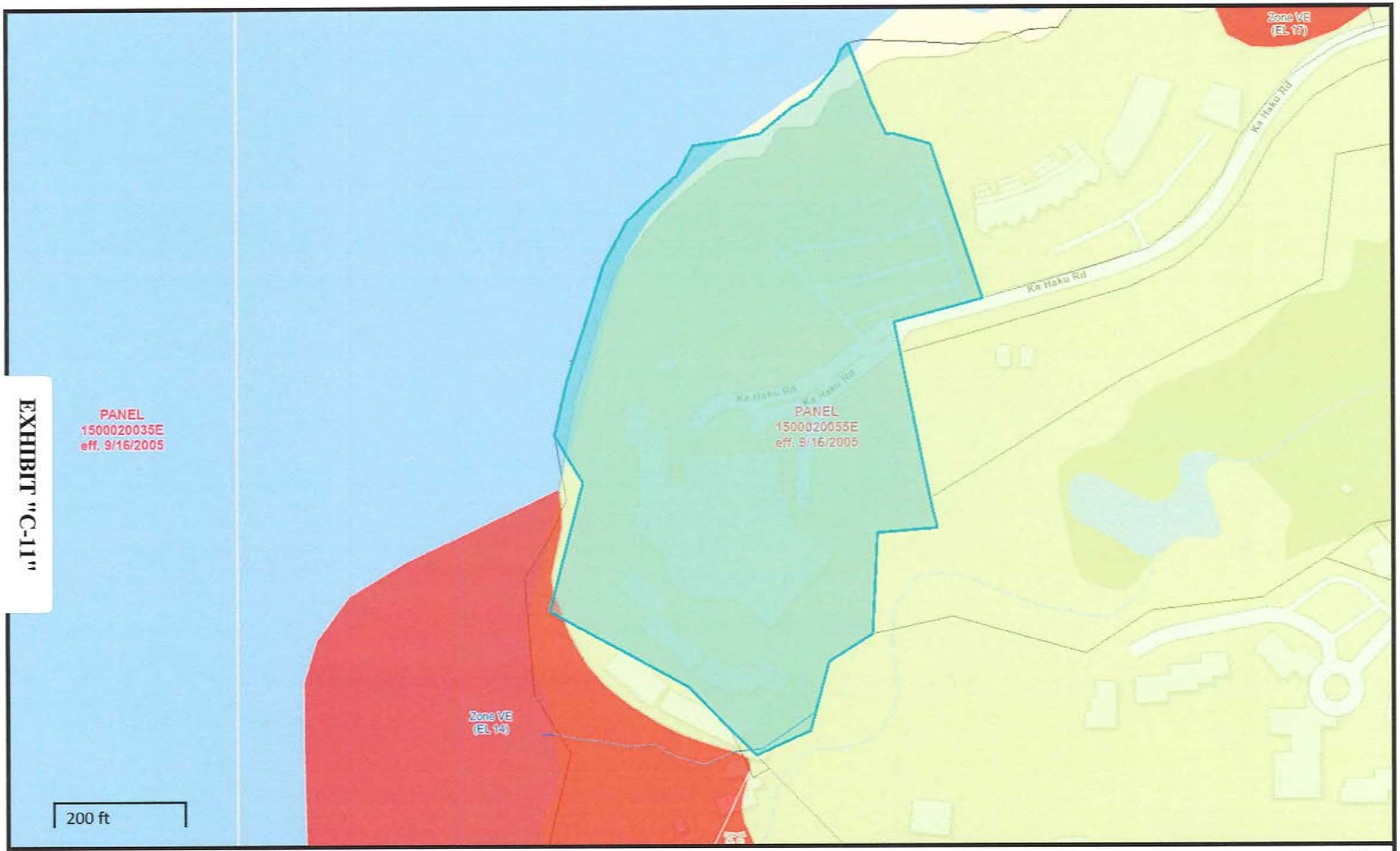
BRIANTIC HENNESSY
Licensed Professional Land Surveyor
Certificate No. 11,161 EXP. 4/30/24

PROJECT NO. 822

EXHIBIT "C-10"

EXHIBIT "C-11"

EXHIBIT "C-11"



Flood Hazard Map

Title:

Notes:

Map generated
on 12/04/2025

Map Legend

Disclaimer: The Hawaii Department of Land and Natural Resources (DLNR) assumes no responsibility arising from the use, accuracy, completeness, and timeliness of any information contained in this report. Viewers/Users are responsible for verifying the accuracy of the information and agree to indemnify the DLNR, its officers, and employees from any liability which may arise from its use of its data or information.

EXHIBIT "C-12"


Kaua'i Sea Level Rise Constraint District Viewer
9-Digit-TMK (4XXXXXXXX)
Parcels and CPRs
Zoom to
Owner
SQF XI KAUAI PV HOTEL L P
TMK
454011004
500 ft

EXHIBIT "C-12"

EXHIBIT "C-13"

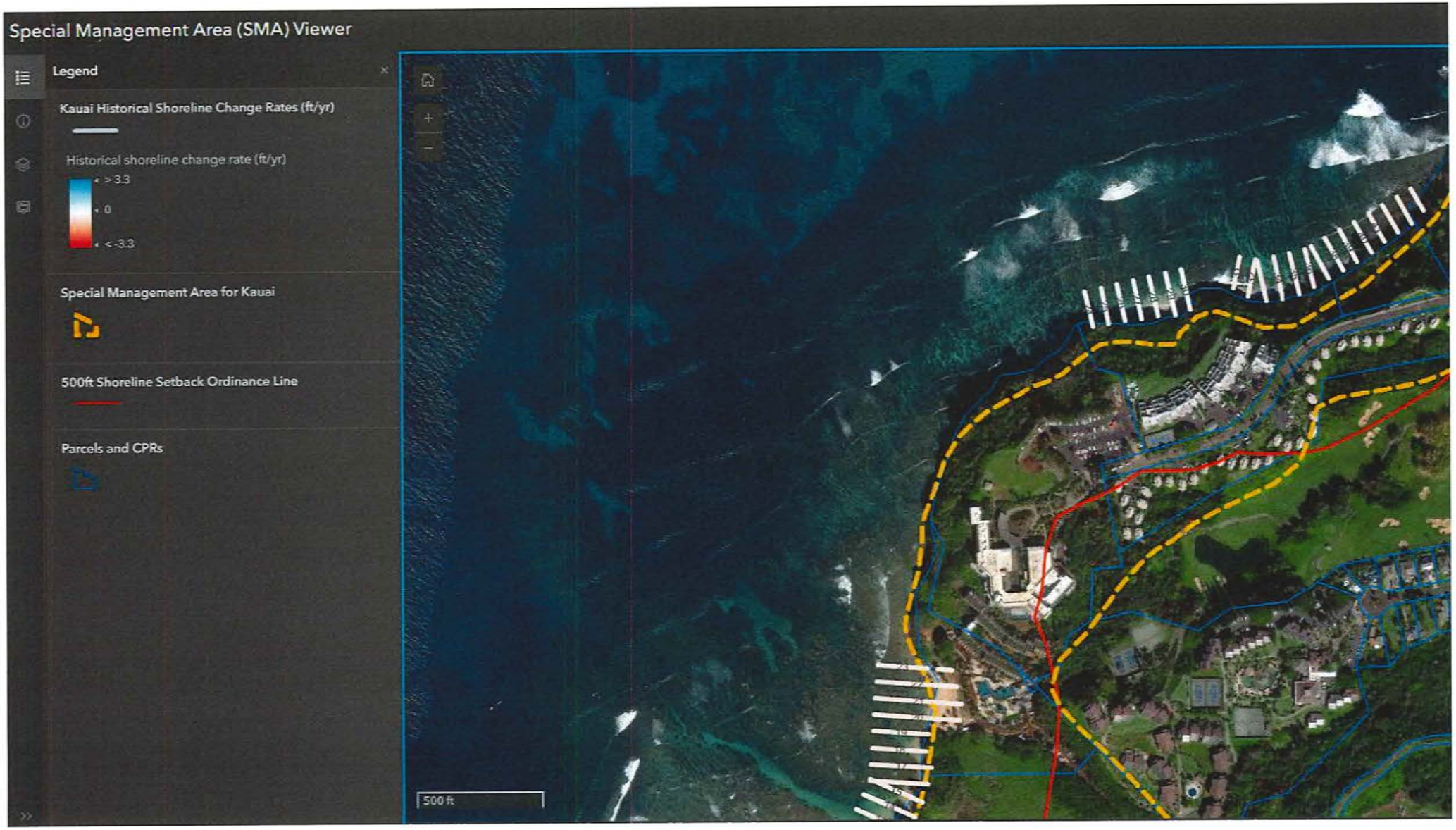

Special Management Area (SMA) Viewer
Legend
Kauai Historical Shoreline Change Rates (ft/yr)
Historical shoreline change rate (ft/yr)
> 3.3
0
< -3.3
Special Management Area for Kauai
500ft Shoreline Setback Ordinance Line
Parcels and CPRs
500 ft

EXHIBIT "C-13"

EXHIBIT "D-1"

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of PRINCEVILLE AT HANALEI, A DIVISION OF CONSOLIDATED OIL & GAS, INC. To Amend the Conservation Land Use District Boundary to Reclassify Approximately .7 Acre, TMK: 5-4-11: portion of Parcel 4, at Hanalei, Island and County of Kauai, into the Urban Land Use District	DOCKET NO. A78-446 PRINCEVILLE AT HANALEI, A DIVISION OF CONSOLIDATED OIL & GAS, INC.

DECISION AND ORDER

EXHIBIT "D-1"

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of PRINCEVILLE AT HANALEI, A DIVISION OF CONSOLIDATED OIL & GAS, INC. To Amend the Conservation Land Use District Boundary to Reclassify Approximately .7 Acre, TMK: 5-4-11: portion of Parcel 4, at Hanalei, Island and County of Kauai, into the Urban Land Use District	DOCKET NO. A78-446 PRINCEVILLE AT HANALEI, A DIVISION OF CONSOLIDATED OIL & GAS, INC.

DECISION

THE PETITION

This matter arises from a petition for an amendment to the Land Use Commission district boundary filed pursuant to Section 205-4 of the Hawaii Revised Statutes, as amended, and Part VI, Rule 6-1 of the Land Use Commission's Rules of Practice and Procedure and District Regulations by the fee owner of the property who is requesting that the designation of the subject property be amended from the Conservation to the Urban district. The requested change consists of property comprising approximately .7 acre of land, situated at Hanalei, Island and County of Kauai. The subject property is more particularly identified as Tax Map Key No. 5-4-11: portion of Parcel 4.

PURPOSE OF PETITION

Petitioner's stated purpose for requesting the reclassification of the subject property from Conservation to Urban is so that the Petitioner can design and construct a 300 room hotel on the subject property

and the adjoining Urban designated property which Petitioner also owns.

THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on October 5, 1978. Due notice of the hearing on this Petition was published on December 29, 1978 in the Garden Island and the Honolulu Advertiser. Notice of the hearing was also sent by certified mail to all parties involved herein on December 27, 1978. No timely application to intervene as a party or appear as a witness was received by the Land Use Commission. However, a Ms. Elizabeth M. Stone submitted a letter expressing her particular opinions as to this particular Petition, and no objection being raised by the parties herein, said letter was accepted and included as part of the record herein.

THE HEARING

The hearing on this Petition was held on February 2, 1979, in Lihue, Kauai, Hawaii.

Princeville at Hanalei, the Petitioner herein, was represented by Walton D. Y. Hong, Esq.; The County of Kauai was represented by Deputy County Attorney, Michael Belles; and the Department of Planning and Economic Development was represented by Tatsuo Fujimoto.

The witnesses presented by the aforementioned parties were as follows:

Petitioner:

Donald Carswell - Development Manager for Princeville at Hanalei

Dennis Hirota - Civil Engineer

Richard Van Horn - Planning Consultant

County of Kauai:

Tom Shigemoto - Staff Planner, Kauai Planning Department

Department of Planning and Economic Development:

Esther Ueda - Planner

POSITION OF THE PARTIES

County of Kauai - Approval.

Department of Planning and Economic Development - Approval.

APPLICABLE REGULATION

Standards for determining the establishment of an Urban District is found under Part II, Section 2-2(1) of the State Land Use Commission's District Regulations. Said regulation provides in pertinent part that:

"(1) 'U' Urban District. In determining the boundaries for the 'U' Urban District, the following standards shall be used:

(a) It shall include lands characterized by 'city-like' concentrations of people, structures, streets, urban level of services and other related land uses.

(b) It shall take into consideration the following specific factors:

1. Proximity to centers of trading and employment facilities except where the development would generate new centers of trading and employment.

2. Substantiation of economic feasibility by the petitioner.

3. Proximity to basic services such as sewers, water, sanitation, schools, parks, and police and fire protection.

4. Sufficient reserve areas for urban growth in appropriate locations based on a ten (10) year projection.

(c) Lands included shall be those with satisfactory topography and drainage and reasonably free from the danger of floods, tsunami and unstable soil conditions and other adverse environmental effects.

(d) In determining urban growth for the next ten years, or in amending the boundary, lands contiguous with existing urban areas shall be given more consideration than non-contiguous lands, and particularly when indicated for future urban use on State or County General Plans.

(e) It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the State and County General Plans.

(f) Lands which do not conform to the above standards may be included within this District:

1. When surrounded by or adjacent to existing urban development; and

2. Only when such lands represent a minor portion of this District.

(g) It shall not include lands, the urbanization of which will contribute towards scattered spot urban development, necessitating unreasonable investment in public supportive services.

(h) It may include lands with a general slope of 20% or more which do not provide open space amenities and/or scenic values if the Commission finds that such lands are desirable and suitable for urban purposes and that official design and construction controls are adequate to protect the public health, welfare and safety, and the public's interests in the aesthetic quality of the landscape."

FINDINGS OF FACT

The panel of the Land Use Commission, after having duly considered the record in this docket, the testimony of the witnesses and the evidence introduced herein, makes the following findings of fact:

1. The subject property, owned in fee simple by the Petitioner herein, is located in Hanalei, Island and County of Kauai, and consists of approximately .7 acre, more particularly described as Tax Map Key No. 5-4-11: portion of Parcel 4. The subject property is a portion of Tax Map Key No. 5-4-11: 4, which contains a total area of approximately 15.591 acres.

2. The existing State Land Use classification of the subject property is Conservation. The subject property has been in the Conservation District since the 1969 Five-year Boundary Review, wherein it was reclassified from Agricultural to Conservation.

3. The County of Kauai General Plan and Comprehensive Zoning Ordinance presently designates the subject property as "open". Petitioner has filed a Petition with the County of Kauai for a General Plan amendment for redesignation to "project district", and for rezoning to "RR-20". The subject property lies within the special management area and an SMA permit will be required for the project.

4. Lands immediately to the north of the subject property are in the Conservation district, while the other three boundaries of the subject parcel are joined by Urban designated property.

5. The subject property is presently vacant. The topography of the site is characterized by a pali or cliff setback approximately 125 feet from the shoreline.

6. The elevation of the subject property ranges from 25 feet to 125 feet above sea level. Slopes vary from between 70% at the northern end of the site, to about 30% at the southern end.

7. The average rainfall for the area is approximately 70 inches annually, and the subject site presently drains westward into Hanalei across a portion of the property identified as Tax Map Key No. 5-4-4: 01, being the finger of Urban designated land abutting the subject property. The subject property is not located within a potential flood prone area according to the Map of Flood Prone Areas, Hanalei Quadrangle, prepared by the U. S. Corps of Engineers.

8. The Land Study Bureau's "Detailed Land Classification - Island of Kauai" Map No. 58, indicates that most of the subject property has an overall productivity rating of "E", indicating that the land is poorly suited for cultivation. Under the Department of Agriculture's classification system, "Agricultural Lands of Importance to the State of Hawaii", the subject property is treated as urban development lands and not classified for agricultural purposes. The USDA Soil Conservation Service Soil Survey for Kauai, Sheet No. 16, describes this area as consisting of rough, broken land (rRR), which is characterized as very steep land broken by numerous intermittent drainage channels. Small areas of rock outcrop, stones and soil slips are common.

9. There are no rare or endangered species of flora or fauna on the subject site. The subject site also contains no known sites of archaeologic or historic significance. Another portion of which the subject property is a part includes the remains of an old Russian Fort. The remains of the fort have been considered in planning the proposed hotel and construction will not occur thereon. The historic background of the fort will be preserved

through partial restoration of the fort and/or integration within the hotel by means of displays and exhibits.

10. Petitioner proposes to construct a 300 room hotel on the property of which the subject site is a part. The proposed hotel will have winged terraces on the face of the pali with a central corridor. Approximately 60 of the 300 proposed hotel rooms will be located on the subject property. Petitioner states that the entire proposed hotel could be built on the presently Urban designated property without encroaching onto the subject property, however, utilization of the subject property would permit better design flexibility for the hotel. The increased design flexibility will permit preservation of the Russian Fort site, reduce obstruction of the view plane, while satisfying required hotel demands. The hotel will be low-rise in design, consisting of 300 rooms and will also have dining facilities, banquet facilities, meeting facilities, and approximately 8,000 square feet of commercial space for shops. Petitioner is also acquiring some of the land at the base of the pali for use as recreational facilities such as tennis courts and swimming pools.

11. The Petitioner has entered into a hotel management agreement with Marriott Hotels, whereby the Petitioner will construct and Marriott Hotels will operate the proposed 300 room hotel.

12. Petitioner's cost projection indicate that the total hotel development cost will be approximately $22 million dollars. Construction is scheduled to begin in the latter part of 1979, and be operational by the early part of 1981.

13. Petitioner presented testimony to the effect that the proposed 300 room hotel will create 270 jobs directly connected with the hotel, and due to the multiplier effect of each job, there will in turn be created additional jobs on Kauai so that the total direct, indirect and induced jobs generated by the proposed hotel will total 431. The projected annual wages to be paid to the 270 employees is estimated to be $2,502,163.00. The approximate construction costs of the hotel of $22 million dollars will mean additional real property tax in the amount of approximately $191,400. The visitors utilizing the proposed hotel will expend approximately $7,000,000., based on statistics provided by the Hawaii Visitors Bureau - 1977 Visitor Expenditure Survey. Testimony was also provided to the effect that State revenues obtained through the 4% gross excise tax would amount to approximately $280,000.

14. Ninety percent (90%) of the 270 jobs projected to be created by the establishment of the hotel will be filled by existing residents of the Kilauea and Princeville area, thus minimizing the necessity for employees having to move into the area.

15. The testimony was adduced to the effect that the 300 room hotel (the subject property will contain 60 rooms) will not unreasonably burden public agencies to provide necessary Urban amenities, services and facilities because:

(a) Public education system - children of hotel employees could either attend Hanalei or Kilauea Elementary School and Kapaa High School.

(b) Sewers - the presently existing sewage treatment facilities at Princeville at Hanalei,

owned by the Kauai County Public Improvement Corporation, will be utilized. The sewage treatment plant has a capability of handling 1-1/2 million gallons per day, whereas the proposed hotel will generate only 60,000 gallons per day.

(c) Water - domestic water for the hotel is available from the Kauai County Public Improvement Corporation water system. The County of Kauai Department of Water states that at the present time, water facilities appear to be adequate.

(d) Electricity and telephone - electricity and telephone services will be provided by Kauai Electric Company and the Hawaiian Telephone Company, respectively.

(e) Police and fire protection - police and fire protection will be provided to the hotel site from the new combined County Police and Fire station at Princeville at Hanalei, upon its completion. During the interim, fire and police protection will be provided by the police and fire stations at Hanalei town.

(f) Traffic - traffic generated from the proposed hotel will still be well within the estimated traffic capacity of Kuhio Highway.

16. The proposed development will not substantially alter the existing drainage patterns into Hanalei Bay. Petitioner has represented that grading of the subject site will be pursuant to Kauai County Grading Ordinances and that appropriate measures have and will be undertaken to insure that erosion and sedimentation will be controlled during the construction phase.

17. Comments received from the County of Kauai Department of Public Works, the Hawaii Housing Authority, the Department of Agriculture, the County of Kauai Department of Water, USDA Soil Conservation Service, and the Department of Education indicate that the proposed development would not conflict with existing or proposed State programs for the area.

18. The Department of Taxation has stated that the redesignation to Urban of the subject parcel would remove the "sliver" of Conservation land wholly within the Urban district, and eliminate the problem of split classification for real property assessment.

19. The State Tourism Office points out that the subject property abuts lands that are designated for Sanctioned Hotel Uses.

20. The Department of Land and Natural Resources points out that since fishermen will maintain a right of access to the shoreline, the proposed project does not appear to be in conflict with marine fishery values. Petitioner has also indicated that public access to the beach and public parking will be provided. The Department of Land and Natural Resources has also indicated that the proposed land use change will have no direct effect upon any known historic or archaeological site on or likely to be eligible for inclusion in the Hawaii and/or National Registers of Historic Places.

21. Based upon the review of the Petition, the evidence adduced at the hearing, and the policies and criteria of the Interim Statewide Land Use Guidance Policy, the Department of Planning and Economic Development and

the County of Kauai recommended that the reclassification be approved.

CONCLUSIONS OF LAW

Reclassification of the subject property, consisting of approximately .7 acre of land, situated at Hanalei, Island and County of Kauai, from Conservation to Urban and an amendment to the District boundaries accordingly is reasonable, non-violative of Section 205-2 of the Hawaii Revised Statutes, and is consistent with the Interim Statewide Land Use Guidance Policy established pursuant to Section 205-16.1 of the Hawaii Revised Statutes, as amended.

ORDER

FOR GOOD CAUSE appearing, it is hereby ordered that the property, which is the subject of the Petition in this Docket No. A78-446, consisting of approximately .7 acre of land, situated at Hanalei, Island and County of Kauai, identified as Tax Map Key No. 5-4-11: portion of Parcel 4, shall be and the same is hereby reclassified from the "Conservation" district to the "Urban" district classification, and the district boundaries are amended accordingly.

DONE at Honolulu, Hawaii, this 3rd day of May, 1979, per Motion on April 19, 1979, 1979.

LAND USE COMMISSION

By C. W. Duke
C. W. DUKE
Chairman and Commissioner

By Shinichi Nakagawa
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

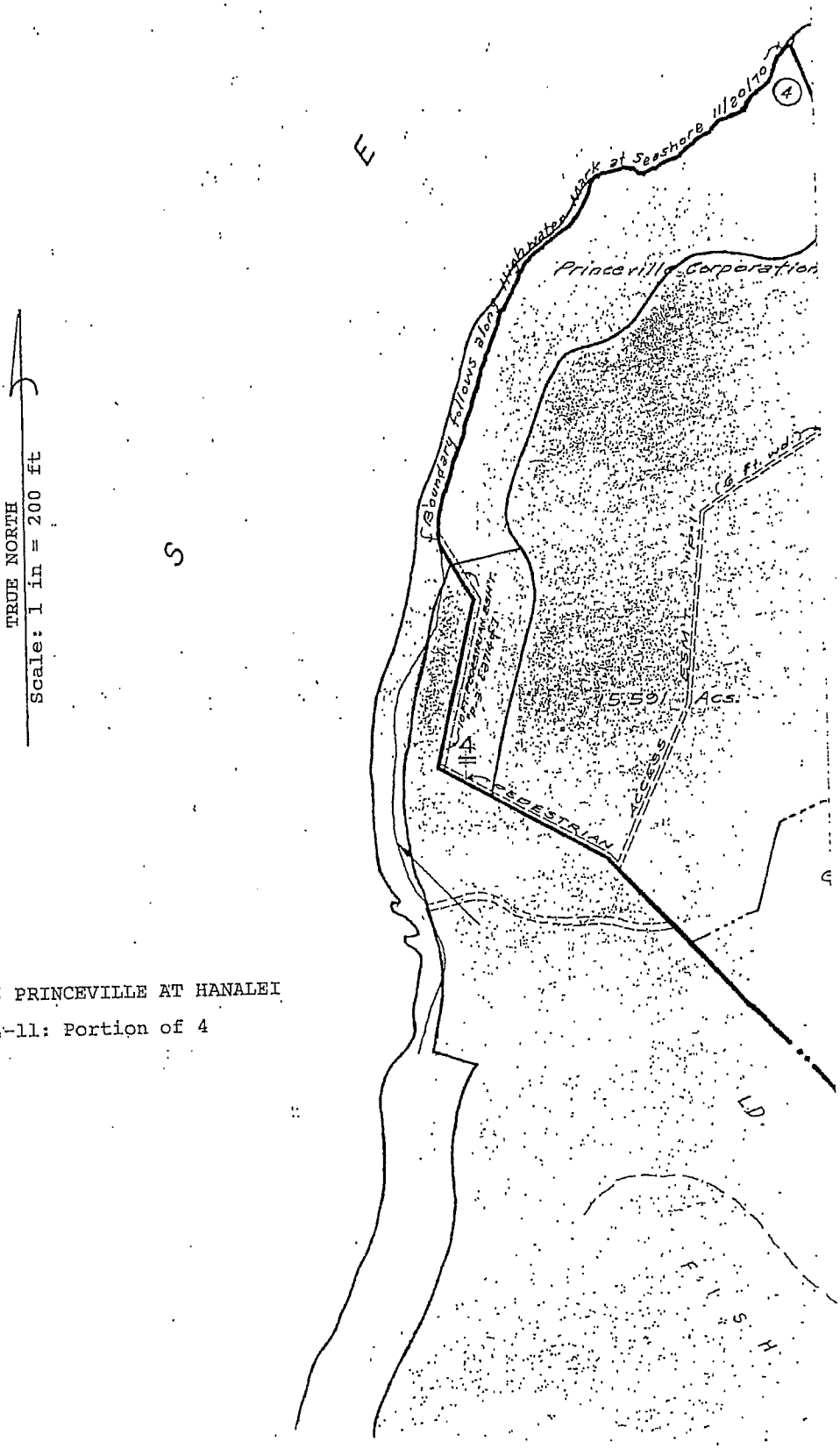
By James R. Carras
JAMES R. CARRAS
Commissioner

By Shinsei Miyasato
SHINSEI MIYASATO
Commissioner

By Mitsuo Oura
MITSUO OURA
Commissioner

By George R. Pascua
GEORGE R. PASCUA
Commissioner

By Carol B. Whitesell
CAROL B. WHITESELL
Commissioner



A78-446 PRINCEVILLE AT HANALEI

TMK 5-4-11: Portion of 4

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of PRINCEVILLE AT HANALEI, A DIVISION OF CONSOLIDATED OIL & GAS, INC., for a Petition to Amend the District Boundary of Property situate at Hanalei, Island and County of Kauai, State of Hawaii	DOCKET NO. A78-446 PRINCEVILLE AT HANALEI, A DIVISION OF CONSOLIDATED OIL & GAS, INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission's Decision and Order was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by certified mail:

HIDETO KONO, Director
Department of Planning & Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

BRIAN NISHIMOTO, Planning Director
Planning Department
County of Kauai
4280 Rice Street
Lihue, Kauai, Hawaii 96766

WALTON D. Y. HONG
Masuoka & Hong
P. O. Box 1727
Lihue, Kauai, Hawaii 96766

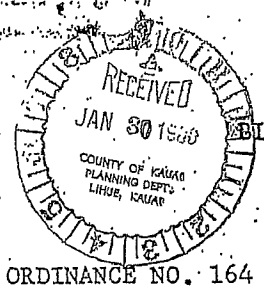
PRINCEVILLE AT HANALEI
Princeville Center
Hanalei, Kauai, Hawaii 96714

DATED: Honolulu, Hawaii, this 9th day of May, 1979.

GORDAN Y. FURUTANI
Executive Officer
Land Use Commission

EXHIBIT "D-2"

ORDINANCE NO. PM-56-80



BILL NO. 637 (Draft 1, As Amended)

AN ORDINANCE AMENDING ORDINANCE NO. 164 COMPREHENSIVE ZONING ORDINANCE OF THE COUNTY OF KAUAI

(Princeville at Hanalei)

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

SECTION I. That the North Shore Development Plan Zoning Map is hereby amended by changing the present "Open District (O)" to "Resort District (RR-20)" for TMK: 5-4-11:Por. 4, Hanalei, Kauai, as delineated on the map attached hereto and made a part hereof, as recommended by the Planning Commission subject to the following conditions:

1. The zoning amendment shall be in accordance to "Exhibit A," as amended (reduced from 2.4 to ± 1.8 acres).

2. Prior to submission for Special Management Area Use Permit, a certified shoreline survey shall be provided.

3. No structures shall be located within 100 feet of the certified shoreline. The 100 feet strip of land shall remain in the Open Zone.

4. Any development within the historical site containing the Fort Alexander (Russian Fort) site must be processed pursuant to Chapters 6E, relating to the State Historic Preservation Program, and 343, relating to Environmental Impact Statements, Hawaii Revised Statutes. That portion not utilized shall be preserved and restored under the supervision of a qualified archaeologist.

5. The final building design shall be considered for review and approval at time of Special Management Area Use Permit and Class IV Zoning Permit application. Buildings to be located on the sloped portions of the site shall be redesigned to avoid the appearance of a higher structure when viewed from Hanalei Bay; such redesign shall include limiting the number of stories, providing greater spacing between buildings, providing staggered building heights, intensive landscaping, and non-reflective earth tone colors.

6. A public pedestrian access shall be provided to the shoreline.

EXHIBIT "D-2"

7. As per Section 3.025 E(3) of the Comprehensive Zoning Ordinance, as amended, a fee equivalent to 1% of total development cost shall be paid to the County Trust Fund as established pursuant to Ordinance 371 (79) to be used for public recreational or housing purposes. Allowances for payment of fees in increments shall be established at time of Special Management Area Use Permit and Class IV Zoning Permit application.

8. The maximum allowable density permitted by the zoning notwithstanding and as represented by the applicant, Princeville at Hanalei, no more than 300 rooms shall be built upon the parcels, TMK: 5-4-11:4, TMK: 5-4-12:4 and TMK: 5-4-04:1, that make up the hotel site.

9. As represented by the applicant, the operator of the proposed hotel development shall be Marriott. In the event Marriott is unable to perform as the operator or is succeeded by another operator, said successor or substitute shall be equivalent in quality and reputation to Marriott.

SECTION II. The Planning Commission is directed to note the change on the North Shore Development Zoning Map on file with the Commission. All applicable provisions of the Comprehensive Zoning Ordinance shall apply to the district as amended.

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

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that hereto attached is a true and correct copy of Bill No. 637 (Draft 1), as amended, which was passed on second and final reading by the Council of the County of Kauai at its meeting held on January 22, 1980, by the following vote:

FOR ADOPTION: Baptiste, Hew, Sarita, Tsuchiya, Yotsuda — TOTAL - 5,
AGAINST ADOPTION: Yadao, Yukimura — TOTAL - 2,
ABSENT & NOT VOTING: None — TOTAL - 0.

Dated at Lihue, Kauai, Hawaii, this 22nd day of January, A. D. 1980.

Tatsuo Kato
County Clerk
County of Kauai

Date of transmittal to the Mayor:

January 22, 1980

Approved this 24th day of January, A. D. 1980.

Eduardo E. Malapit
Mayor
County of Kauai

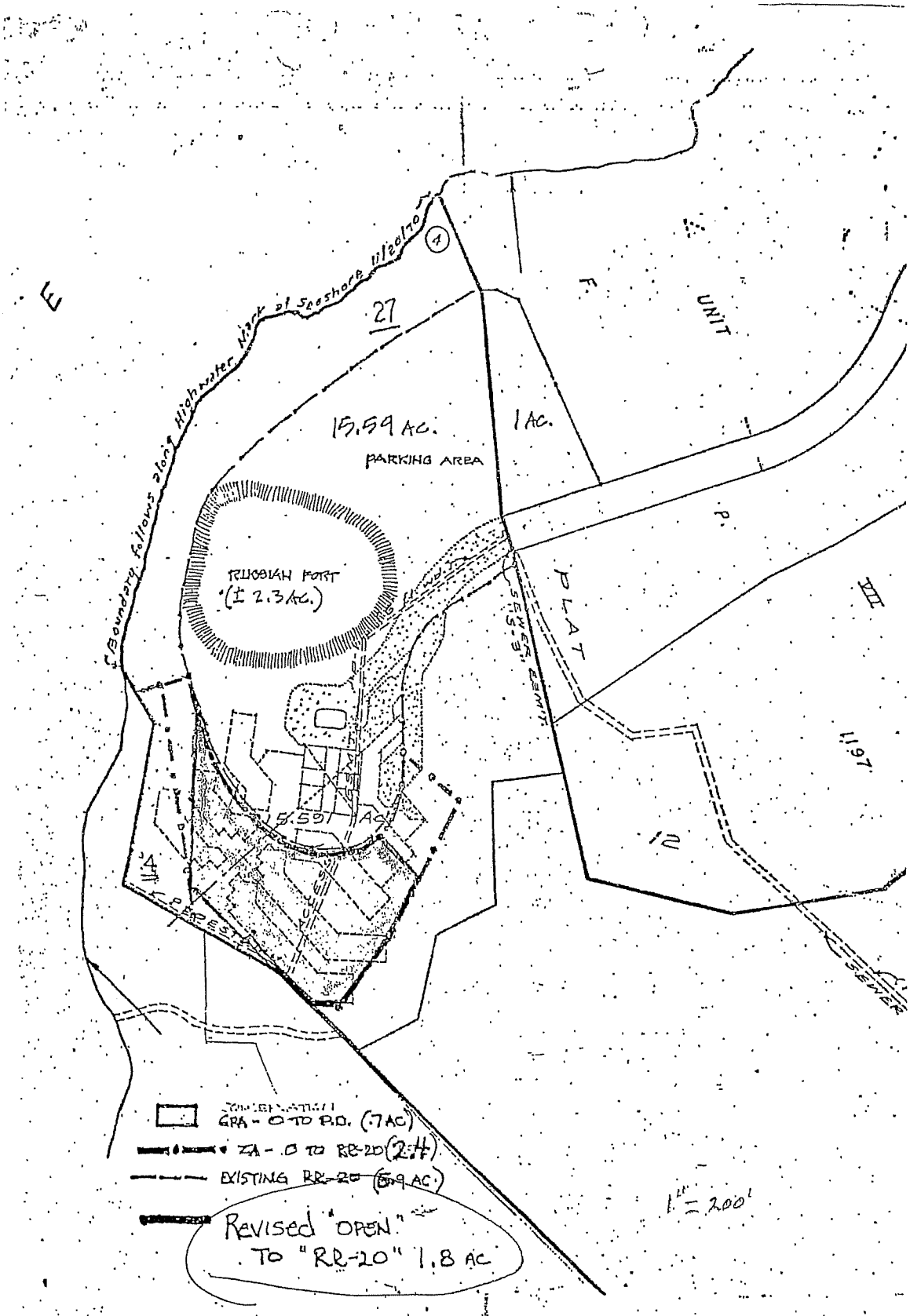


EXHIBIT A (as amended)

EXHIBIT "D-3"

EDUARDO E. MALAPIT
MAYOR

BRIAN K. NISHIMOTO
PLANNING DIRECTOR

AVERY H. YOUN
DEPUTY PLANNING DIRECTOR

TELEPHONE 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

July 10, 1980

Consolidated Oil & Gas, Inc.
c/o Walton D. Y. Hong
P. O. Box 1727
Lihue, HI 96766

Subject: Special Management Area Use Permit SMA(U)-80-18
Use Permit U-37-80
Class IV Zoning Permit Z-IV-80-43
TMK: 5-4-11:4, 5-4-12:4 & 5-4-04:1 Hanalei, Kauai

The Planning Commission, at its meeting on July 9, 1980, approved the subject permits to develop a 300-room hotel complex at Princeville, subject to the following conditions:

1. The applicant shall comply with County Subdivision Ordinance No. 175 for the consolidation and resubdivision of the properties involved and for the establishment of new public access easement.

2. The applicant shall substantially commence construction of the project within two (2) years from the date of Planning Commission approval. Substantial construction shall mean completion of site work and foundations and full approval shall mean securing of the building permit.

3. The SMA Permit, Class IV Zoning Permit and Use Permit are valid for three (3) years from the date of approval by the Planning Commission. If no building permit is received within this period, the above permits shall be null and void.

EXHIBIT "D-3"

4. Grading and excavation work shall be done in phases as represented. Erosion control measures shall be implemented at each phase before proceeding into the next phase. Such measures shall include but not be limited to jute matting, hydromulching and grassing, or construction of drainage berms and/or silting ponds.

5. The applicant shall maintain the area 100 feet inland from the established shoreline as a permanent open space. No structures shall be allowed within this space, and the existing mature vegetation shall be preserved.

6. Prior to building permit approval, the applicant shall submit a final landscape plan to the Planning Department for review and approval. The applicant is advised that the Planning Department during the review process will entertain the inputs of the North Shore Improvement Advisory Committee.

7. Relative to landscaping, the applicant shall provide for mature plantings where possible. After the landscaping has been put in place and prior to occupancy, an inspection shall be made by the Planning Commission for review and approval. If found to be inadequate, the Commission reserves the right to require additional landscaping prior to opening of the hotel.

8. The applicant shall revise the design of the elevator building and resite it further towards the main lobby. The revised plans shall be subject to the review and approval of the Planning Department whereby input from the North Shore Improvement Advisory Committee will be solicited.

9. The staggering of building heights on the upper tiers of the project shall be studied and reviewed by the Planning Department prior to issuance of building permit.

10. A color scheme shall be submitted to the Planning Department for review and approval. The applicant shall execute the color scheme on the scale model of the project at time of construction. The Planning Commission, after inspection, may change such color scheme should it be unacceptable and not blend in with the setting.

11. All exterior lighting shall be shielded to reflect downwards. No spot lights into Hanalei Bay shall be permitted. The lighting plan shall be reviewed and approved by the Planning Director prior to building permit application.

12. The windows to the hotel structure shall be of non-reflective glass.

13. Relative to the conditions of County Ordinance No. PM-56-80 for the zoning change:

    a) A certified shoreline survey shall be provided prior to building permit application.

    b) As per Section 3.025 E(3) of the Comprehensive Zoning Ordinance, as amended, a fee equivalent to 1% of total development cost shall be paid to the County Trust Fund. The timetable for payment shall be worked out with the Planning Department.

    The developer shall submit a development cost estimate, together with a timetable for payment of the fee, to be reviewed and approved by the Planning Director prior to issuance of the building permit.

14. As recommended by the Department of Water, the building permit shall not be granted until the developer submits to the Department of Water for review, and receives approval of detailed construction plans for domestic and on-site fire line service connection.

15. The applicant shall comply with the requirements specified in the comments of the State Department of Health and County Fire Department.

16. The applicant is advised that prior to and/or during construction and use, additional conditions may be imposed by government review agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).

BRIAN NISHIMOTO
Planning Director

cc: Mayor
Public Works Dept.
Water Dept.
Health Dept.
Fire Dept.
Taxation Br.

EXHIBIT "D-4"

Application No. PODCC 1607-S

Name of Applicant Consolidated Oil & Gas, Inc.

Effective Date

Expiration Date (If applicable)

DEPARTMENT OF THE ARMY
PERMIT

Referring to written request dated 9 March 1981 for a permit to:

~~( ) Perform work in or affecting navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403);~~

(X) Discharge dredged or fill material into waters of the United States upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344);

~~( ) Transport dredged material for the purpose of dumping it into ocean waters upon the issuance of a permit from the Secretary of the Army, acting through the Chief of Engineers pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1052; P.L. 92-532);~~

Consolidated Oil & Gas, Inc.
P. O. Box 121
Hanalei, Kauai, HI 96714

is hereby authorized by the Secretary of the Army:
to discharge approximately 11,500 cubic yards of earth fill material for construction of a swimming pool and small cabana/comfort station and construct an open pond area, approximately 40 feet wide by 600 feet long

in Puu Poa Marsh

at Hanalei, Kauai, Hawaii

in accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit (on drawings: give file number or other definite identification marks.) entitled "Proposed Fill and Pond Construction at Puu Poa Marsh, Hanalei, Kauai, Application by Consolidated Oil & Gas, Inc.," dated April 1981 (3 sheets);

subject to the following conditions:

I. General Conditions:

a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions j or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

EXHIBIT "D-4"

b. That all activities authorized [illegible] during their construction [illegible], any discharge of pollutants into waters of the United States or ocea[illegible]rs, be at all times consistent with applicable wa[illegible]uality standards, effluent limitations and standards of performance, prohibiti[illegible], pretreatment standards and management practi[illegible]ablished pursuant to the Federal Water Pollution Control Act of 1972 (P.L. 92-500; 86 Stat. 816), the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532, 86 Stat. 1052), or pursuant to applicable State and local law.

c. That when the activity authorized herein involves a discharge during its construction or operation, of any pollutant (including dredged or fill material), into waters of the United States, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

d. That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.

e. That the permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.

f. That the permittee agrees that he will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

g. That the permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

h. That the permittee shall maintain the structure or work authorized herein in good condition and in accordance with the plans and drawings attached hereto.

i. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.

j. That this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within ten days following receipt of this notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the permit will either be reinstated, modified or revoked.

k. That this permit may be either modified, suspended or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action would otherwise be in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after receipt by the permittee of written notice of such action which shall specify the facts or conduct warranting same unless (1) within the 30-day period the permittee is able to satisfactorily demonstrate that (a) the alleged violation of the terms and the conditions of this permit did not, in fact, occur or (b) the alleged violation was accidental, and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be in full compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend or revoke this permit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

l. That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

m. That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

n. That the permittee shall notify the District Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

o. That if the activity authorized by this permit is not started on or before 31st day of December, 19 85, (three years from the date of issuance of this unless otherwise specified) this permit, if not previously revoked or specifically extended, shall automatically expire.

p. That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

q. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition t hereof, he must restore the area to a condition satisfactory to the District Engineer.

r. That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

s. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

t. That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

II. Special Conditions: (Here list conditions relating specifically to the proposed structure or work authorized by this permit):

a. That the permittee shall retain a qualified archeologist to monitor both the placement of the fill and the excavation of the pond.

b. That the dredging equipment for the pond will be of a type and used in a manner to minimize the effect of the dredging operation on the pond.

c. That substantial and mature landscaping will be installed as a buffer between the pool area and the pond to minimize the visual impact of the pool area on the pond.

d. That the location of the pool, the pool improvements, and the pond will be surveyed to insure that they do not encroach upon the State Conservation District.

e. That the fill area should be minimized and runoff associated with the filled area and related recreational activities shall not degrade marsh water quality.

f. That the pond will be maintained to keep the water surface open as shown on the permit drawings.

g. That no further destruction of wetland habitat beyond that currently proposed at the project will occur.

h. That waterflow into the pond will be sufficient to maintain a fresh, healthy environment for birds.

The following Special Conditions will be applicable when appropriate:

STRUCTURES IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES:

a. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

b. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

c. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

d. That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

e. Structures for Small Boats: That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

MAINTENANCE DREDGING:

a. That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit for _____ years from the date of issuance of this permit (ten years unless otherwise indicated).

b. That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES:

a. That the discharge will be carried out in conformity with the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the CWA and published in 40 CFR 230;

b. That the discharge will consist of suitable material free from toxic pollutants in other than trace quantities;

c. That the fill created by the discharge will be properly maintained to prevent erosion and other non-point sources of pollution; and

d. That the discharge will not occur in a component of the National Wild and Scenic River System or in a component of a State wild and scenic river system.

DUMPING OF DREDGED MATERIAL INTO OCEAN WATERS:

a. That the dumping will be carried out in conformity with the goals, objectives, and requirements of the EPA criteria established pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, published in 40 CFR 220-228.

b. That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation and/or dumping of the dredged material as authorized herein.

This permit shall become effective on the date of the District Engineer's signature.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

Consolidated Oil & Gas, Inc.
By Michael J. Hannon

Name & Title: Michael J. Hannon, Assistant Secretary

PERMITTEE

June 4, 1982

DATE

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

June 9, 1982 (date typed in by pencil 10-8-82)

DATE

KENNETH E. SPRAGUE, Lt Col, COE

DISTRICT ENGINEER,
U.S. ARMY, CORPS OF ENGINEERS

Transferee hereby agrees to comply with the terms and conditions of this permit.

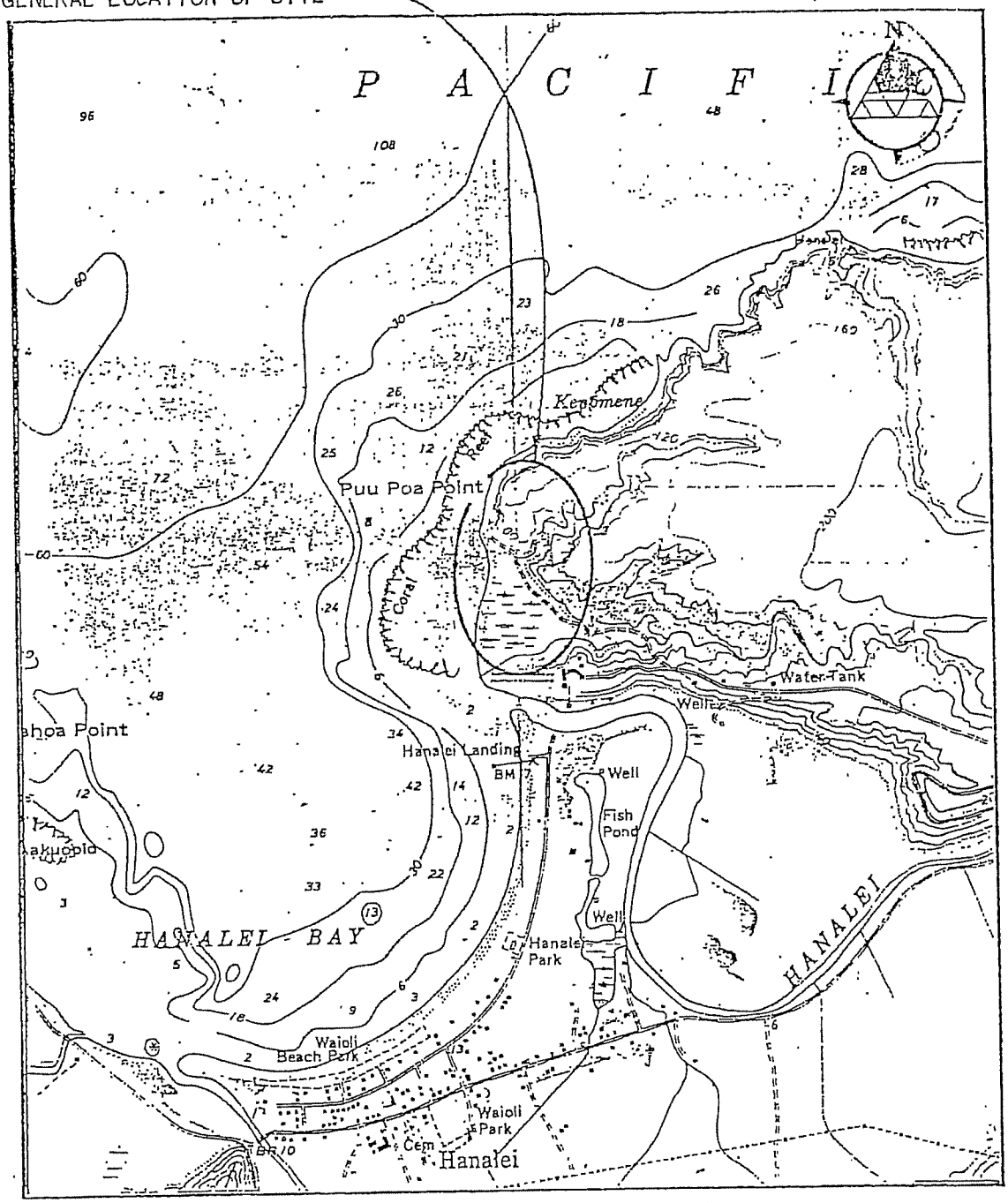
_____ _____

PODCO-O 1607-S
Consolidated Oil & Gas, Inc.

2 Incl
1. Print of Plan (3 sheets)
2. Notice of Authorization (ENG Form 4336)

Copies Furnished: w incl 1
US Fish & Wildlife Service, Portland, OR
US Fish & Wildlife Service, Honolulu, HI
Nat'l Marine Fisheries Service, Terminal Island, CA
Nat'l Marine Fisheries Service, Honolulu, HI
US Environmental Protection Agency, San Francisco, CA
Commander, Fourteenth Coast Guard District
Captain of the Port, U.S. Coast Guard, Honolulu, HI
State Dept of Land & Natural Resources, Honolulu, HI (2 cys)
Dames & Moore, Inc.

GENERAL LOCATION OF SITE



MAP OF AREA

SCALE 1:24000

1 MILE

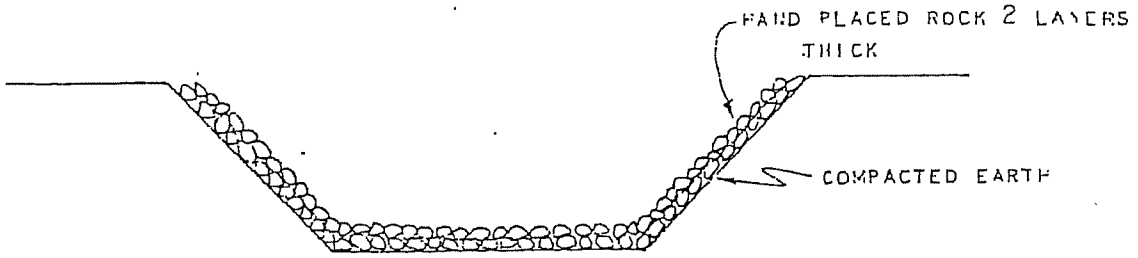
1000 0 1000 2000 3000 4000 5000 6000 7000 FEET

1 KILOMETER

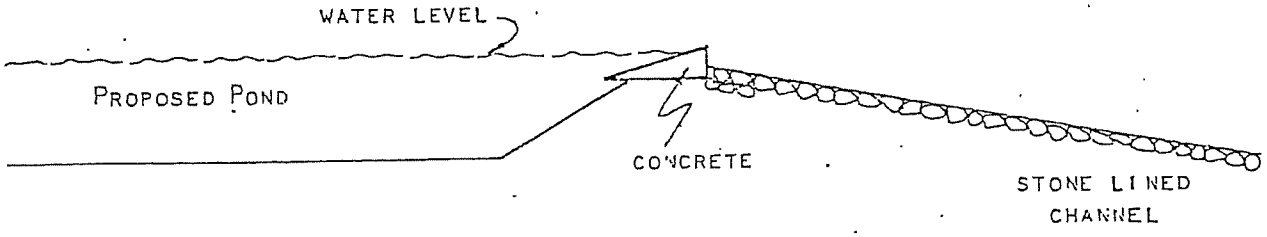
REFERENCE:
U.S.G.S. TOPOGRAPHIC MAP
HANALEI, KAUAI, HAWAII
DATED 1963

Proposed Fill and Pond Construction at
Puu Poa Marsh, Hanalei, Kauai,
Application by Consolidated Oil & Gas,

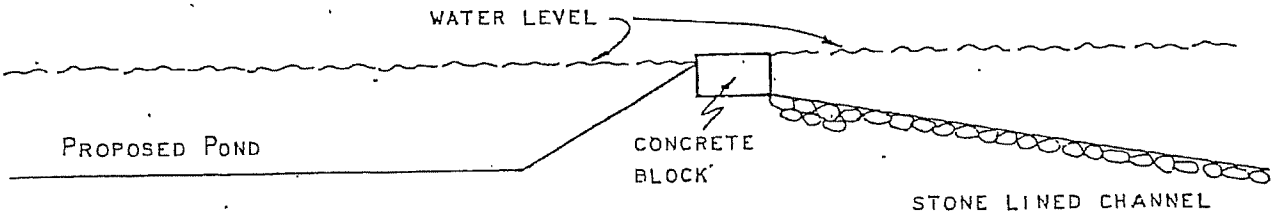
DAMES & MOORE



A. TYPICAL CROSS SECTION OF WATER FLOW CHANNELS



B. PROPOSED WEIR/WATER LEVEL CONTROL OUTLET STRUCTURE CROSS SECTION



C. PROPOSED INLET STRUCTURE - CROSS SECTION

Proposed Fill and Pond Construction at Puu Poa Marsh, Hanalei, Kauai, Application by Consolidated Oil & Gas, Inc. April 1981

DETAILS - WATER STRUCTURE - PROPOSED POND

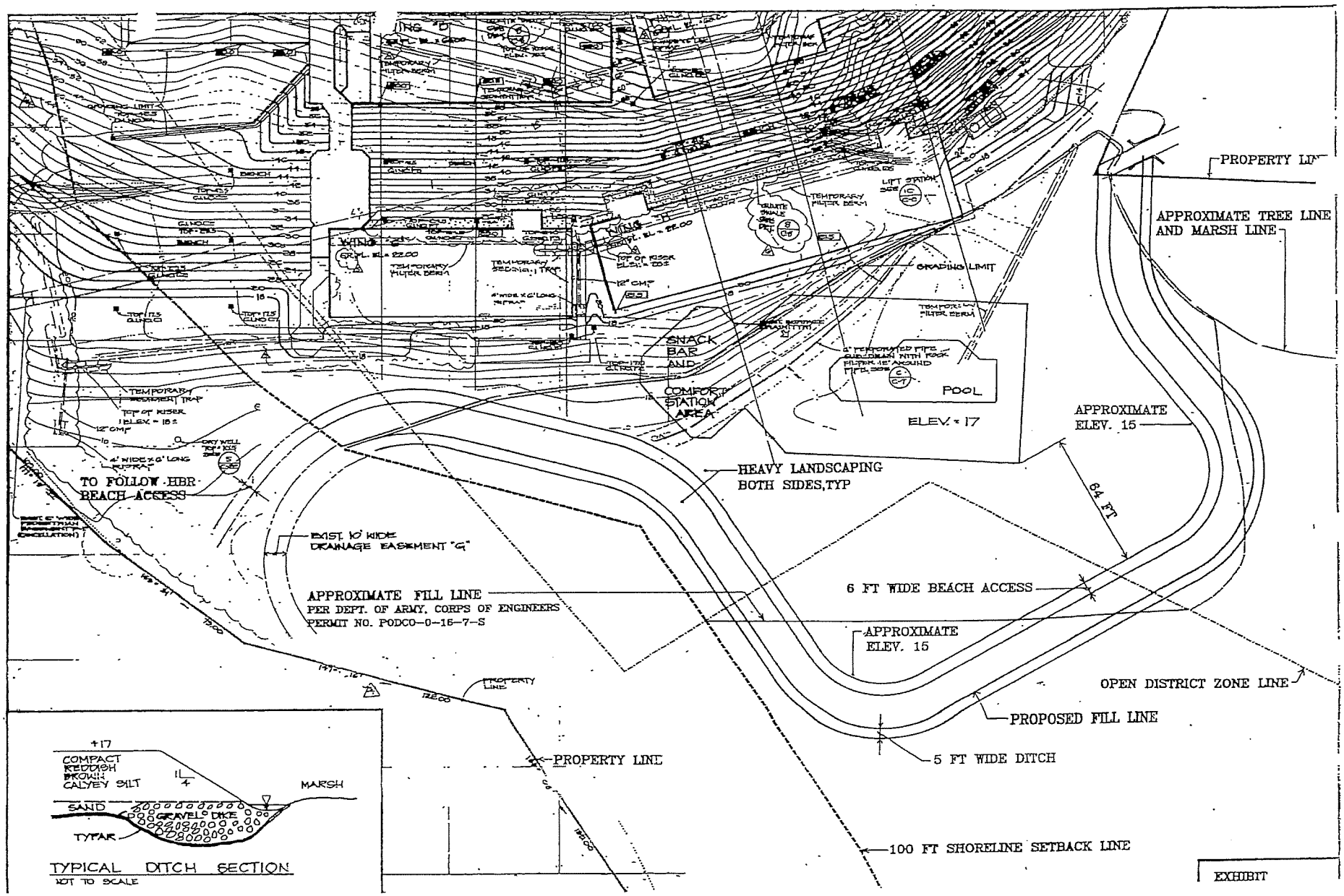

PROPERTY LI
APPROXIMATE TREE LINE AND MARSH LINE
GRADING LIMIT
SNACK BAR AND COMFORT STATION AREA
POOL
ELEV. = 17
APPROXIMATE ELEV. 15
HEAVY LANDSCAPING BOTH SIDES, TYP
64 FT
TO FOLLOW HBR BEACH ACCESS
EXIST. 10' WIDE DRAINAGE EASEMENT "G"
APPROXIMATE FILL LINE
PER DEPT. OF ARMY, CORPS OF ENGINEERS PERMIT NO. PODCO-0-16-7-S
6 FT WIDE BEACH ACCESS
APPROXIMATE ELEV. 15
OPEN DISTRICT ZONE LINE
PROPOSED FILL LINE
5 FT WIDE DITCH
PROPERTY LINE
100 FT SHORELINE SETBACK LINE
+17
COMPACT REDDISH BROWN CALVEY SILT
MARSH
SAND
GRAVEL DIKE
TYP.
TYPICAL DITCH SECTION
NOT TO SCALE
EXHIBIT

EXHIBIT "D-5"

EDUARDO E. MALAPIT
MAYOR

BRIAN K. NISHIMOTO
PLANNING DIRECTOR
AVERY H. YOUN
DEPUTY PLANNING DIRECTOR
TELEPHONE 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

NOV 2 1982

REC-FINL

November 1, 1982

Mr. Michael J. Hannon
Attorney at Law
Princeville Development Corporation
Grosvenor Center, Mauka Tower, Suite 3190
737 Bishop Street
Honolulu, Hawaii 96813

Subject: Special Management Area Use Permit SMA(U)-80-18
Use Permit U-37-80
Class IV Zoning Permit Z-IV-80-43
Consolidated Oil & Gas, Inc.
TMK: 5-4-04:Por. 1 Hanalei, Kauai

The Planning Commission at its meeting on October 27, 1982, approved revisions to the subject permits to dredge and fill a portion of the Pu'u Po'a Marsh to construct a swimming pool for the proposed hotel project at Princeville. Approval was with the following conditions:

1. As recommended by the Health Department:

   a) The proposed project is located adjacent to the Hanalei Bay which is Class AA water. Special measures shall be taken to prevent the pollution of the ocean and stream during all phases of construction by the developer.

   b) The proposed swimming pool shall meet the minimum requirements of Chapter 13, Public Swimming Pools, Title 11, Administrative Rules, State of Hawaii.

EXHIBIT "D-5"

c) Backwash water from the swimming pool shall not be discharged into the ocean or stream or allowed to flow into the ocean and stream.

d) We reserve the right to impose further environmental health restrictions on this project when more detailed plans are submitted.

2. The Commission reserves the right to alter or impose further conditions should any unforeseen adverse impacts arise.

3. The applicant be advised that prior to and/or during construction and use, additional governmental agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).

Brian Nishimoto

BRIAN NISHIMOTO
Planning Director

cc: Mayor
Pub. Works Dept.
Water Dept.
Health Dept.
Real Property Div.
U.S. Army Corps of Engineers

EXHIBIT "D-6"

TONY T. KUNIMURA
MAYOR

TOM H. SHIGEMOTO
Planning Director

ROLAND D. SAGUM, III
Deputy Planning Director

Telephone (808)245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

COPY

August 12, 1988

Mr. Ronald J. Wagner
Project Manager
Princeville Development Corporation
P. O. Box 3040
Princeville, Kauai, HI 96722

Subject: Special Management Area Use Permit SMA(U)-88-16
Princeville Development Corporation
TMK: 5-4-04:1 & 35 Princeville, Kauai

The Planning Commission at its meeting held on August 9, 1988, approved the subject permit to allow restoration and improvement of the Puu Poa Marsh wildlife pond with the following conditions:

1. The gazebo shall not be used in conjunction with hotel activities; i.e., no beach equipment rental, wedding ceremonies, etc.
2. Clearing shall be done in a curvilinear pattern as represented.
3. The 100-foot setback Conservation District line shall be surveyed and staked in the field. No activity associated with the proposed restoration work shall infringe on the 100-foot deep Conservation strip. Existing mature vegetation in this area shall be preserved. Should any vegetation in this area be accidentally damaged or destroyed, the applicant shall replace such immediately with the same or similar vegetation.
4. Gazebo construction shall comply with Flood Ordinance No. 500 requirements.
5. Conditions imposed with the Army Corps of Engineers Department of the Army permit shall still apply.
6. As recommended by the State Historic Preservation Officer (SHPO) and Kauai Historic Preservation Review Commission (KHPRC), prior to commencing the restoration work proposed, an archaeological data recovery plan as stipulated by SHPO and KHPRC shall be prepared and

executed by the applicant's archaeologist. Such plan shall be reviewed by SHPO and KHPRC prior to commencing clearing work. Findings of the data recovery work shall be made available to the general public. In keeping with the Army Corps permit, the applicant shall retain a qualified archaeologist to monitor excavation of the marsh. Should portions of the kuapa of makaha be discovered mauka of the 100-foot setback Conservation line, all work in that area shall cease immediately and no further work shall be permitted at that location. The Commission reserves the right to impose conditions relating to preservation of significant archaeological resources if so recommended by SHPO or KHPRC.

7. If herbicides are used, only one-quarter (1/4) of the marsh area shall be treated in one (1) spraying, 2 to 3 months apart. Spraying and clearing shall begin at the mauka edge of the marsh. Limits of the area to be sprayed shall be clearly marked, and Planning and Fish and Wildlife staff shall be present to monitor spraying and assure compliance. The applicant shall also explore the possibility of "biological" maintenance methods.

8. The mature vegetative landscape buffer required between the pool area (including associated structures) and the marsh shall be provided immediately. The vegetative buffer shall be extended to screen the emergency access road also.

9. Other requirements and concerns of the State Health, and County Public Works Departments shall be complied with and resolved with the respective agency(ies).

10. The applicant is advised that prior to and/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).

Roland D. Sagum III

ROLAND D. SAGUM III
Deputy Planning Director

cc: Mayor
Public Works Dept.
Water Dept.
Health Dept.
Real Property Div.
Sam Lee, DLNR
KHPRC
H-PIAC

EXHIBIT "D-7"

JOANN A. YUKIMURA
MAYOR

TOM H. SHIGEMOTO
PLANNING DIRECTOR

ROLAND D. SAGUM, III
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

COPY

March 17, 1989

Mr. Robert M. Burton
Project Manager
Princeville Corporation
P. O. Box 3040
Princeville, Kauai, HI 96722

Subject: Special Management Area Use Permit SMA(U)-89-4
Use Permit U-89-14
Class IV Zoning Permit Z-IV-89-14
Princeville Hotel Associates
TMKs: 5-4-11:4 & 5-4-04:35 Princeville, Kauai

The Planning Commission at its meeting held on March 9, 1989, approved the subject permits for renovations of exterior and public portions of the Sheraton Mirage Princeville Hotel with the following conditions:

1. The applicant shall reduce the "water feature" proposed in its plans in the upper lobby level area by fifteen percent (15%). Relative to landscaping, the applicant shall provide mature plantings, including the planting of mature coconut palm trees. This shall apply particularly to the upper lobby level, between the first and second tiers of the hotel on the southwest face, where removal of existing mature vegetation is being considered.

2. All exterior lighting shall be shielded to reflect downwards. No spot lights into Hanalei Bay shall be permitted. The lighting plan shall be reviewed and approved by the Planning Director prior to building permit application.

3. The windows of the hotel shall be of non-reflective glass.

EXHIBIT "D-7"

4. The Use Permit issued hereunder shall only be for the purpose of continuing the prior authorization for variance from the 25 feet height limit imposed under Chapter 10, Article 2, of the North Shore Development Plan, and only as to those existing structures which currently exceed the said 25 feet height limit. No additions to existing structures, nor any new structures, shall exceed the said 25 feet height limit, excepting the roof over the lobby area and the proposed driveway/porte cochere/entrance structure, which shall not exceed the height of 30 feet.

5. The vegetative buffer between Pu'u Po'a Marsh and the lower level pool area shown on the plans shall be in place subsequent to the demolition of the existing pool structures and removal of the Pu'u Po'a Marsh vegetation but prior to the issuance of any certificate of occupancy for the hotel rooms.

6. The 100-foot setback line from the certified shoreline shall be re-surveyed and staked in the field prior to any work occurring in the lower pool area.

7. Special measures shall be taken to prevent pollution of adjacent ocean, stream, and/or river waters by proposed renovations in the lower pool area adjacent to Hanalei Bay. Prior to construction of the lower level pond and pool improvements, the applicant shall obtain review and consent from the U.S. Army Corps of Engineers.

8. The proposed renovated swimming pool shall meet all requirements as administered by the State Department of Health. Backwash waters from the swimming pool shall not be discharged or be allowed to flow into any adjacent ocean, river, and/or stream.

9. As recommended by the State Department of Land and Natural Resources, Historic Sites Section (DLNR-HSS), prior to any work occurring in the upper lobby/porte cochere and driveway/Russian Fort Alexander area, an acceptable mitigation plan shall be developed to address the preservation of the Russian Fort Alexander site, with short-term protection measures, site interpretation, and long-term management aspects included. This mitigation plan shall be reviewed by the Kauai Historic Preservation Review Commission and DLNR-HSS and accepted by the Planning Commission before any work occurs in the upper lobby/porte cochere and driveway/Russian Fort Alexander area.

10. The applicant shall work with the Planning Department to modify the design of the driveway/porte cochere/entrance towards softening the severity of the current design. If the proposed modifications are not satisfactory to the Planning Department, the Planning Commission shall make the determination as to which design plans shall be authorized as to the driveway/porte cochere/entrance.

11. All existing public accesses shall remain as designated by any prior permits. At least ten (10) public parking stalls shall be designated by signage in the parking area.

12. Regarding the nuisances and other noxious activities, the Planning Commission reserves the right to revoke the subject permits if such activities are creating health and safety problems to the residents, pursuant to public hearing procedures.

13. The applicant will be permitted to work on exterior demolition and renovations seven (7) days a week between the hours of 7:00 a.m. to 7:00 p.m. If it is necessary to undertake such work beyond the stated hours, the applicant shall post notices at the entrance to Princeville and obtain the prior approval of the Planning Director.

14. The applicant is advised that prior to and/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).

TOM H. SHIGEMOTO
Planning Director

cc: Mayor
Public Works Dept.
Water Dept.
Health Dept.
Fire. Dept.
Real Property Div.
H-PIAC
HPRC

EXHIBIT "D-8"

JOANN A. YUKIMURA
MAYOR

TOM H. SHIGEMOTO
PLANNING DIRECTOR

ROLAND D. SAGUM, III
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

COPY

May 11, 1989

Mr. Robert Burton
Director of Hospitality Development
Princeville Corporation
P. O. Box 3040
Princeville, Kauai, HI 96722

Subject: Request to Modify Condition of Approval
Special Management Area Use Permit SMA(U)-89-4
Use Permit U-89-14
Class IV Zoning Permit Z-IV-89-14
Princeville Hotel Associates
(Sheraton-Mirage Hotel Renovations)

The Planning Commission at its meeting held on May 9, 1989, approved the amendment to condition #9 of the subject permits to read as follows:

9. As recommended by the State Department of Land and Natural Resources, Historic Sites Section (DLNR-HSS), prior to any reconstruction work occurring in the upper lobby/porte cochere and driveway/Russian Fort Alexander area, an acceptable mitigation plan shall be developed to address short-term protection measures, site interpretation, and long-term management aspects included. This mitigation plan shall be reviewed by the Kauai Historic Preservation Review Commission and DLNR-HSS and accepted by the Planning Commission before any reconstruction work occurs in the upper lobby/porte cochere and driveway/Russian Fort Alexander area. "Reconstruction work" shall mean rebuilding of the new porte cochere and entrance or any new structural improvements to the existing hotel structure immediately adjacent to the Fort area.

EXHIBIT "D-8"

a. The applicant's archaeologist shall submit appropriate maps delineating the fence area, a description of the method and materials to be used and stake out the area to be fenced, all of which shall be subject to the approval of the DLNR-HSS and the Planning Department.

b. The protective barrier shall be in place before demolition work adjacent to the Fort can commence.

Tom H. Shigemoto

TOM H. SHIGEMOTO
Planning Director

cc: DLNR-HSS
KHPRC

EXHIBIT "D-9"

JOANN A. YUKIMURA
MAYOR

TOM H. SHIGEMOTO
PLANNING DIRECTOR

ROLAND D. SAGUM, III
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

August 2, 1989

COPY

Mr. Robert M. Burton
Director of Hospitality Development
Princeville Corporation
P. O. Box 3040
Princeville, Kauai, HI 96722

Re: Compliance of Condition 9
Special Management Area Use Permit SMA(U)-89-4
Use Permit U-89-14
Class IV Zoning Permit Z-IV-89-14
Princeville Hotel Associates
(Sheraton Mirage Hotel Renovations)

The Planning Commission at its meeting held on July 27, 1989, accepted the interim protective measures segment of the Preservation Plan, thereby allowing hotel reconstruction to commence, subject to the following conditions:

1. The fencing of the Russian Fort site as shwon in the attachment be in place prior to the commencement of any work abutting the Fort. The fence installation work shall be monitored by the applicant's archaeologist and coordinated with the State DLNR-HSS and the County Planning Department.

2. The applicant's archaeologist shall work closely with the various contractors by reviewing grading, demolition and reconstruction plans which may impact the Fort area and shall monitor demolition and reconstruction activities which take place within the original Fort's perimeter. Should findings occur, appropriate data recovery measures shall be followed and coordinated with the State DLNR-HSS

EXHIBIT "D-9"

and Planning Department. The County Planning Department reserves the right to recommend further conditions to the Planning Commission should the need arise.

With respect to the long-term preservation plan, including alternatives for the previously disturbed segments of the Fort wall, the Planning Commission deferred acceptance until such time that further discussions between the applicant, the State DLNR-HSS and Kauai Historic Preservation Review Commission are completed and a revised plan be developed. This action was subject to the following conditions:

1. The Planning Commission's acceptance of the long-term preservation plan and the completion of the associated improvements to the Fort must be completed prior to the issuance of the occupancy permit for the hotel.

2. Should delays in the governmental review process cause an unreasonable construction/improvement timetable for the applicant (as determined by the Planning Director), the Planning Director shall require that the preservation project be bonded and completed at the earliest reasonable date.

Tom H. Shigemoto

TOM H. SHIGEMOTO
Planning Director

EXHIBIT "D-10"

JOANN A. YUKIMURA
MAYOR

PETER A. NAKAMURA
PLANNING DIRECTOR

ROLAND D. SAGUM, III
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

January 14, 1991

COPY

Mr. Tom H. Shigemoto
Director of Planning
Princeville Corporation
P. O. Box 3040
Princeville, Hawaii 96722

Subject: Compliance of Condition #9
Special Management Area Use Permit SMA(U)-89-4
Use Permit U-89-4
Class IV Zoning Permit Z-IV-89-14
Princeville Hotel Associates
(Sheraton Mirage Hotel Renovations)

The Planning Commission at its meeting held on January 10, 1991, approved the preservation plan for Fort Alexander subject to the conditions that:

1. The written text for the four (4) display panels be simplified for easy comprehension;

2. The Fort grounds shall be used only for open space; and

3. Any other changes to this plan be first reviewed by the Planning Department.

PETER A. NAKAMURA
Planning Director

EXHIBIT "D-10"

EXHIBIT "D-11"

BERNARD P. CARVALHO, JR.
MAYOR

GARY K. HEU
ADMINISTRATIVE ASSISTANT

IAN K. COSTA
DIRECTOR OF PLANNING

IMAIKALANI P. AIU
DEPUTY DIRECTOR OF PLANNING

COUNTY OF KAUA'I
PLANNING DEPARTMENT
4444 RICE STREET
KAPULE BUILDING, SUITE A473
LIHU'E, KAUA'I, HAWAI'I 96766-1326
TEL (808) 241-4050 FAX (808) 241-6699

COPY

November 24, 2009

Princeville Hotel, LLC
c/o Avery Youn
2980 Ewalu Street
Lihue, Hawai'i 96766

SUBJECT: Request to Amend Special Management Area Use Permit SMA(U)-80-18
Use Permit U-37-80
Class IV Zoning Permit Z-IV-80-43
Princeville Hotel, LLC
TMK 5-4-11: 4, 5-4-12: 4, and 5-4-4: 1, Hanalei, Kaua'i

The Planning Commission, at its meeting held on November 24, 2009, received and approved the above request to amend the permits in order to construct a 21'x37' canvas awning over an existing open deck situated outside of the existing 9th floor lounge adjacent to the hotel lobby. The approval was subject to the following conditions:

1. Exterior color and finish shall be as represented to the Planning Commission.

2. Applicant shall comply with the standards, requirements and recommendat6ions of the applicable County, State and/or Federal agencies.

3. The approval of this amendment does not authorize the enclosure of said improvement, or the establishment of new commercial uses.

4. Prior to the Planning Department approval of the building permit, the St. Regis hotel manager and management staff shall meet with the Planning Director and staff in order to discuss the permit conditions of approval.

EXHIBIT "D-11"

Should there be any questions relative to the above, please contact planner Michael Laureta at 241-4068.

IAN K. COSTA
Planning Director

EXHIBIT "D-12"

PLANNING COMMISSION
THE COUNTY OF KAUA'I
KA'ĀINA S. HULL, CLERK OF THE COMMISSION

Sean Mahoney
CHAIR

Glenda Nogami Streufert
VICE-CHAIR

Donna Apisa
Roy Ho
Kimo M. Keawe
MEMBERS

OCT 3 0 2019

Ian K. Jung, Esq., Authorized Agent
BELLES GRAHAM PROUDFOOT WILSON & CHUN, LLP.
Watumull Plaza
4334 Rice Street, Suite 202
Līhu'e, Hawai'i 96766

RECEIVED
NOV - 4 2019
Belles Graham LLP

Subject: Special Management Area Use Permit SMA(U)-89-4
Class IV Zoning Permit Z-IV-89-14
Use Permit U-89-14
Tax Map Keys: (4) 5-4-011:004; 5-4-004:029, 035
Princeville, Kaua'i
SOF-XI KAUA'I PV HOTEL, L.P., Applicant

Dear Mr. Jung,

This letter memorializes the action taken by the Kaua'i Planning Commission effective OCTOBER 22, 2019 concerning approval of the above subject permits involving renovations to portions of the existing resort facility on the parcel referenced above. The approval, per your consent and as amended, is subject to the following conditions:

1. The proposed improvements and resort use shall be constructed as represented in the application. Any changes to said structures and/or facilities shall be reviewed by the Planning Department to determine whether Planning Commission review and approval is warranted.

2. Relative to landscaping, the Applicant shall provide for mature plantings, including the planting of mature coconut palm trees. This shall apply particularly to the upper lobby level, between the first and second tiers of the hotel on the southwest face, where removal of existing mature vegetation is being considered.

   In order to further ensure that the project is compatible with its surroundings and to minimize the visual impact of the structure, the external color should be of a moderate to dark earth-tone color. The proposed color scheme and a landscape plan should be submitted to the Planning Department for review and acceptance prior to building permit application.

3. External lighting used in connection with the proposal shall be as described in the Participant Inclusion Plan for the Princeville Resort Hotel adopted in conformance with the Kaua'i Seabird Habitat Conservation Program.

4. The windows of the hotel shall be of non-reflective glass.

5. There shall be no structures or forms placed on the roof of the upper level lobby/porte cochere structure. Regarding the elevator core structures, no new design features higher than the existing roof forms shall be allowed.

6. The vegetative buffer between Puʻu Poʻa Marsh and the lower level pool area shall be in place prior to any work occurring at the lower pool level, as required under previously granted Special Management Area use Permit SMA-U-88-16.

7. A current, certified shoreline survey shall be required prior to any work occurring in the lower pool area. The one-hundred foot setback line from the certified shoreline shall be re-surveyed and staked in the field prior to any work occurring in the lower pool area.

8. Special measures shall be taken to prevent pollution of adjacent ocean, stream, and/or river waters by proposed renovations in the lower pool area adjacent to Hanalei Bay. Prior to construction of the lower level pond and pool improvements, the Applicant shall obtain review and consent from the U.S. Army Corps of Engineers.

   Prior to commencement of construction activity at the lower level, the Applicant shall provide to the Planning Department written confirmation of compliance from the Corps.

9. The proposed renovated svimming pool shall meet all requirements as administered by the State Department of Health. Backwash waters from the swimming pool shall not be discharged or be allowed to flow into any adjacent ocean, river, and/or stream.

10. As recommended by the State Department of Land and Natural Resources, Historic Sites Section (DLNR-HSS), prior to any reconstruction work occurring in the upper lobby/porte cochere and driveway/Russian Fort Alexander area, an acceptable mitigation plan shall be developed to address long-term management aspects included. This mitigation plan shall be reviewed by the Kauaʻi Historic Preservation Review Commission and DLNR-HSS and accepted by the Planning Commission before any reconstruction work occurs in the upper lobby/porte cochere and driveway/Russian Fort Alexander area. "Reconstruction work" shall mean rebuilding of the new porte cochere and entrance or any new structural improvements to the existing hotel structure immediately adjacent to the Fort area.

    a. The Applicant's archaeologist shall submit appropriate maps delineating the fence area, a description of the method and materials to be used and stake out the area to be fenced, all of

which shall be subject to the approval of the DLNR-HSS and the Planning Department.

b. The protective barrier shall be in place before demolition work adjacent to the Fort can commence.

In order to ensure that the historic site is left undisturbed and not impacted by the construction work, the Applicant shall prepare an updated Mitigation Plan to require further monitoring of the site and management aspects. The plan shall be submitted to the State Historic Preservation Division (SHPD) for their review and acceptance.

11. Placement and design of the driveway/porte cochere shall be revised to be in scale and character with the adjacent historic site and surrounding area, and to promote a Hawaiian theme. Prior to any work in this area, all revisions shall be reviewed by the Planning Department to determine whether design review and approval by the Planning Commission is warranted.

12. All existing public accesses shall remain as designated by any prior permits. At least ten (10) public parking stalls shall be designated by signage in the parking area.

13. Regarding the nuisances and other noxious activities, the Planning Commission reserves the right to revoke the subject permits if such activities are creating health and safety problems to the residents, pursuant to public hearing procedures.

14. The Applicant is advised that prior to and/or during construction and use, additional governmental agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

15. The Applicant must make substantial progress, as determined by the Director, regarding the development or activity within two (2) years. Prior to commencement of the proposed development, written confirmation of compliance with the requirements from all reviewing agencies shall be provided to the Planning Department.

Sincerely Yours,

KA'ĀINA S. HULL
Clerk, Kaua'i Planning Commission

xc: COK – Public Works, Fire, Water, Finance-Real Property Division
State – Health, Historic Preservation Division-DLNR

EXHIBIT "D-13"

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

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

May 25, 2022

RECEIVED
MAY 31 2022
Belles Graham LLP

Ian K. Jung, Esq.
BELLES GRAHAM LLP
Dynasty Professional Building
3135 Akahi Street, Suite A
Līhu'e, Hawaii 96766

Subject: Proposed Revision to Site Plan
Princeville Hotel Renovation
Special Management Area Use Permit SMA(U)-89-4
Class IV Zoning Permit Z-IV-89-14
Use Permit U-89-14
Tax Map Keys: (4) 5-4-011:004 & 5-4-012:007
Princeville, Kaua'i
SOF-XI Kauai PV Hotel LP., Applicant

Thank you for the opportunity to review the proposed modification involving the site plan for the hotel site.

As proposed, the revision involves the relocation of the existing staircase on the western portion of the project site as well as the landscaping of the public beach access parking lot. Based on the illustrations provided, the new staircase will be relocated further west and closer to Wings 'C' & 'G' of the hotel, and the landscaping will be slightly modified at the public beach parking lot to address previous landscaping concerns.

Based on the representation submitted, the department concurs that the proposed revisions are negligible and does not require Planning Commission review, as stated in Condition No. 1 of the above referenced permits.

If you have further questions regarding this matter, please reach me at (808) 241-4050.

KA'ĀINA S. HULL
Director of Planning

EXHIBIT "D-14"

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

November 6, 2024

RECEIVED
NOV 15 2024
Belles Graham LLP

Ian K. Jung
Belles Graham LLP
3135 Akahi Street, Suite A
Līhu'e, HI 96766

Subject: Special Management Area Minor Permit SMA(M)-2025-7
Activity Trailer
Tax Map Key: (4) 5-4-004:035
Princeville, Hawai'i
SOF-XI Kaua'i PV Hotel, L.P., Applicant

Based on the information submitted, the Planning Department has completed its review and assessment of the proposed development and hereby issues a Special Management Area Minor Permit for the placement of an Activity Trailer, subject to the following conditions:

1. The Project shall be constructed as represented in the application. Any changes to the activities and development shall be reviewed by the Planning Department and the Department reserves the right to impose additional conditions.

2. The Applicant shall develop and utilize Best Management Practices (BMPs) during all phases of development to minimize erosion, dust, and sedimentation impacts of the project to abutting properties.

3. The Applicant shall comply with the requirements of the County of Kaua'i Housing Agency, Fire Department, Department of Public Works, Transportation Agency, State of Hawaii Department of Health, State of Hawaii Historic Preservation Division, and State of Hawai'i Office of Hawaiian Affairs as well as any other applicable government agency(ies). These requirements include the specific comments, concerns, and requirements of the State of Hawaii Department of Health, County of Kauai Engineering Division, Department of Public Works, and the State of Hawai'i Office of Hawaiian Affairs, which are attached as Exhibit A and incorporated by reference.

4. To minimize adverse impacts on federally listed and threatened species, Newell's Shearwater and other seabirds, all external lighting (if applicable) shall be only of the following type: full cut-off, downward facing shielded lights. Spotlights aimed upward or spotlighting of structures, landscaping or the ocean shall be prohibited.

5. Should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings

shall immediately cease and the Applicant shall contact the State Department of Land and Natural Resources – Historic Preservation Division and the County of Kaua'i Department of Planning.

6. The Planning Department reserves the right to impose additional conditions to ensure that any affects to valued resources and traditional and customary practices are mitigated, and to implement reasonable measures to mitigate the cumulative impact that the water use associated with this permit has on public trust purposes.

7. Unless otherwise stated in the permit, once a permit is issued, the Applicant must make substantial progress, as determined by the Planning Director, regarding the development or activity within two (2) years or the permit shall be deemed to have lapsed and be no longer in effect.

Should there be any questions regarding this matter, please contact Romio Idica of my staff at (808) 241-4056.

JODI A. HIGUCHI SAYEGUSA
Deputy Director

cc: COK – DPW Engineering Division, Water Dept, Fire Dept,
State – Dept. of Health, Office of Hawaiian Affairs

EXHIBIT "A"

(Agency comments)

Water has no substitute..... Conserve it

ENGINEERING DIVISION
DEPARTMENT OF WATER, COUNTY OF KAUA'I
JASON F. KAGIMOTO, P.E.

Department of Water County of Kaua'i

JOSEPH E. TAIT.
MANAGER AND CHIEF ENGINEER

DATE: October 8, 2024

TO: Planning Department
Kaaina S. Hull, Director

SUBJECT: Special Management Area (Minor) SMA(M)-2025-7
Tax Map Key: (4) 5-4-004:035
Applicant: Belles Graham LLP c/o SOF-XI Kauai VP Hotel
SOF-XI Kauai PV Hotel-Activity Trailer

DOW COMMENTS:

We have no objections to the proposed Special Management Area (Minor) SMA(M)-2025-7.

At the present time, water service for TMK: 5-4-004:035 is not available from the Department of Water. The applicant be made aware that prior to the DOW recommending building permit approval, the applicant must:
Either:

- Complete a Waiver and Release Agreement with the Department of Water agreeing that water service is not available from the Department of Water for this development.

Or:

- Submit a copy of the current deeds for this lot to the Department of Water. The deeds must specifically specify that County (Department of Water) water service is not available to the lot or similar wording, as approved by the Department.

Regina Reyes-Flores
Regina Reyes-Flores (Oct 8, 2024 13:02 HST)
Regina Reyes-Flores, P.E.
Water Resources & Planning Section

10/08/2024
Date

SMA(M)-2025-7, 5-5-004-035, Belles Grahm LLP, 20241008/RF:lm

PLANNING DEPARTMENT
SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD 2024 - 10	
Acceptance Date:	8.9.23
Website Posting Date:	8.18.23
Determination Date:	8.9.23
Planning Commission Date:	9.12.23
Expiration Date:	8.9.24
Planner Assigned:	RI

Instructions: File all information requested under Part A for processing the Determination of Applicability (§8-27.1), including signature page. Fill out Parts A and B if you know that your parcel will require a Certified Shoreline Survey, due to the proximity to the shoreline. If you are proposing a permitted structure or subdivision within the shoreline setback area fill in Part C. For applications involving a variance, complete Part D.

Applicant Information			
Applicant:	SOF-XI Kauai PV Hotel, L.P., a Delaware limited partnership		
Mailing Address:	c/o Belles Graham LLP	Phone:	(808) 245-2163
	3135 Akahi Street, Suite A, Lihue, Hawaii 96766	Email:	lkj@kauai-law.com
Applicant's Status: (Check one)			
☑ Owner of the Property	(Holder of at least 100% of the equitable and legal title)		
☑ Authorized Agent	Attach Letter of Authorization		
Transmittal Date:	August 4, 2023		

Project Information (attach additional sheets, if necessary)			
County Zoning District:	RR-20 and Open Districts	Tax Map Key(s):	(4) 5-4-004:035
Building Permit Number: (If building plans submitted)	Building Permits for Renovation of Hotel	Land Area:	6.533 acres

Nature of Development: (Description of proposed structure or subdivision)	Improvements associated with Amended Special Management Area Use Permit SMA(U)-89-4, Class IV Zoning Permit Z-IV-89-14, and Use Permit U-89-14, issued on October 22, 2019, by the Planning Commission, included beach chairs, existing pads, and activity structure.

NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE, EXCEPT AS PROVIDED IN §8-27.8(c)(8)

Part A

Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

1. Property is Abutting the Shoreline
   - ☑ Proposed project's approximate distance from shoreline (based on aerial map): 100 ft.
2. Property is Not Abutting the Shoreline
   - ☑ Proposed project's approximate distance from shoreline (based on aerial map): 100 ft.
3. Additional Information:
   - ☑ Shoreline Change (Erosion/Accretion) Rate: No Erosion Rate ft./year
     (Information available here: Kauai Shoreline Change (arcgis.com))
   - ☑ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

Lot 4-A abuts the shoreline on the northwestern edge of the Project and a portion of Lot 4-A is a non-abutting shoreline property on the southern edge of the Project with Lot 5-A intersecting Lot 4-A.

PLANNING DEPARTMENT
SHORELINE SETBACK APPLICATION

☑ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

The Subject Properties are sloped above sea level. The Project Area is 10 to 75 feet above sea level.

☑ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)

The portion of the Subject Properties where the Project is located is both an abutting and non-abutting parcel to the shoreline and contains both rocky and beach portions of the shoreline fronting the Project Area.

☐ Artificially armored Shoreline
- ☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): _____
- ☐ Is the armoring permitted/authorized? _____
- ☐ Date of authorization (attach copy of authorization letter): _____

☑ Is property in coastal floodplain (if checked, what zone)? AE/X

☑ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?

Not to our knowledge.

PLEASE NOTE:

Any misrepresentation of information in this shoreline setback application will result in revocation of this determination and may result in fines and criminal prosecution.

Applicant's Signature

Signature — Date: 8/4/2023

Applicability (to be completed by Planning Department)

☑ **Setback Determination necessary.** Requirements of Ordinance No. 979 are applicable.

☐ **Setback Determination is NOT necessary.** Requirements of Ordinance No. 979 are not applicable.

Planning Director or designee — Date: 8/9/23

If **Part A** has been deemed that a Determination will be necessary, the additional information will be required for submission of this application.

Part B

☑ A non-refundable processing fee of **one hundred dollars ($100.00)** shall accompany a request for determination. (§8-27.8(e))

☑ An aerial map/image (ex. Google Maps or Google Earth) with a line drawn from the shoreline/vegetation line (approximate shoreline) to the proposed project and the calculated distance in feet.

☑ A detailed Plot Plan **to scale** with all existing and proposed structures including driveways, visible lot coverage, setbacks and measurement details, fences, gates, and walls, etc.

☑ Coastal Hazard Disclousre Statement Form

PLANNING DEPARTMENT
SHORELINE SETBACK DETERMINATION

Exemption Determination

☐ **Exemption 1**

In cases where the applicant can demonstrate to the satisfaction of the Planning Director that the applicant's proposed structure or subdivision will not affect beach processes, impact public beach access, or be affected by or contribute to coastal erosion or hazards, excluding natural disasters. Factors to be considered shall include, but not be limited to, proximity to the shoreline, topography, properties between shoreline and applicant's property, elevation, and the history of coastal hazards in the area.

☐ **Exemption 2**

Pursuant to §8-27.7, those structures and uses found exempt in Table 3 (see pg. 7) including repairs and renovations to a lawfully existing structure, including nonconforming structures, provided that:

(A) The repairs DO NOT enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;

(B) The repairs DO NOT constitute a substantial improvement of the structure; and

(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.

☐ Letter from the Department of Public Works stating that the proposed project does **NOT** constitute "Substantial Improvement," pursuant to §8-27.2 (If applicable, will require valuation of project).

Exemption Determination (to be completed by Planning Department)

☐ Pursuant to §8-27.3 the Kaua'i County Code, 1987 as amended, the Planning Department hereby certifies the proposed structure(s) or subdivision(s) as exempt from those shoreline setback determination requirements established under §8-27.8.

☐ Pursuant to §8-27.7 the Kaua'i County Code, 1987 as amended, the proposed structure(s) is permitted within the shoreline setback area. While exempt from those shoreline setback determination requirements established under §8-27.8, the proposed structure(s) is subject to the conditions of §8-27.7(b). (See pg. 8)

_____

Planning Director or designee Date

☐ **Additional comments/conditions:**

PLANNING DEPARTMENT
SHORELINE SETBACK DETERMINATION

Part C

Shoreline Setback Determination (§8-27.8)

(This document is the request for a shoreline setback structure or subdivision determination form.)

Please complete this section if you are proposing a structure or subdivision that is *not* exempt (pursuant to Part B) and requires a certified shoreline. Determination of applicability (**Part A**) from the Planning Director shall first be obtained.

Certified Shoreline

Select the appropriate option:

☑ Certified Shoreline

- ☑ Survey Map (showing Certified Shoreline, Shoreline Setback, and Structure(s) OR Subdivision)
- ☑ Average Lot Depth: Greater than 200 ft.
- ☑ Setback (Table 1 or Table 2): 100 ft.

☐ Affidavit: Statement of inability to certify shoreline, pursuant to §8-27.3(d)

Ronnie Agbayani 8.9.23

Planning Director or its designee — Date

Public Projects less than $125,000

☐ Public Projects less than $125,000 Declaration ((§8-27.8(c)(2))

_____

Planning Director or designee — Date

☐ Certified Shoreline Required
☐ Certified Shoreline Not Required

Describe proposed structure(s), including but not limited to the landscaping plan (please attach):

See, Exhibits "F", "G-1" and "G-2"

Explain how the proposed structure is in compliance with §8-27.8(c)(2) (attach additional information if necessary):

The Kauai Coastal Erosion Study in Transects 21-23 note an eroding shoreline of -0.3 to -0.4 in a small portion fronting the Project Area. The greater of 88 feet and 100 feet applies based on Table 1 and 2 given only a portion of the Project Area is subject to the Kauai Coastal Erosion Study. Therefore, the Shoreline Setback is 100 feet. Additionally, Condition No. 2 of Ordinance No. PM-56-80 required a 100 foot setback requirements for the Princeville Hotel. The Project will remain compliant with the Shoreline Setback Ordinance and Ordinance No. PM-56-80. The beach chairs and existing pads have been recognized as existing minor structures.

PLANNING DEPARTMENT
SHORELINE SETBACK VARIANCE

Part D

Shoreline Setback Variance (§8-27.9)

This part is the request for a shoreline setback variance. In addition to the documentation and information requested in Parts A, B, and C, the Applicant applying for a variance is required to submit all required information, per §8-27.9 listed in the checklist below.

- ☐ A non-refundable administrative fee of three hundred dollars (**$300.00**).
- ☐ Certification from the owner or lessee of the lot which authorizes the application for variance;
- ☐ An environmental assessment and or EIS, if required, prepared in accordance with HRS Chapter 343, and the environmental impact statement rules and applicable guidelines of the State of Hawai'i;
- ☐ The names, addresses, and the tax map key identification of owners of real property situated adjacent to and abutting the boundaries of the land on which the proposed structure or subdivision and/or landscaping is to be located; or operation is to occur (attach information);
- ☐ A site plan of the shoreline setback area, drawn to scale, showing:
  - ☐ Existing natural and man-made features and conditions within;
  - ☐ Existing natural and man-made features and conditions along properties immediately adjacent to the shoreline setback area and proposed improvements;
  - ☐ The certified shoreline and the shoreline setback line (submitted under **Part B**);
  - ☐ Contours at a minimum interval of two (2) feet unless waived by the Director; and
  - ☐ Proposed development and improvements showing new conditions with a typical section (if a structure).
- ☐ A copy of the certified shoreline survey map of the property (submitted under **Part B**);
- ☐ Detailed justification of the proposed project, which addresses the purpose and intent of these rules and the criteria for approval of a variance (attach written statement);
- ☐ Analysis and report of coastal erosion rates and coastal processes; and
- ☐ Any other information required by the Director (listed below).

Any structure approved within the shoreline setback area by variance shall not be eligible for protection by shoreline hardening during the life of the structure, and this limitation and the fact that the structure does not meet setback requirements under §8-27.3 and could be subject to coastal erosion and high wave action shall be written into a unilateral agreement that is recorded by the Bureau of Conveyances of Land Court, as the case may be. A copy of the unilateral agreement shall be submitted to the Planning Department prior to the issuance of the required zoning and/or shoreline setback variance. Failure of the grantor to record these deed restrictions shall constitute a violation and the grantor shall be subject to the penalties set forth in this Article 3.

For any structure approved within the shoreline setback area by variance, the Applicant shall agree in writing that the Applicant, its successors and permitted assigns shall defend, indemnify and hold the County of Kaua'i harmless from and against any and all loss, liability claim, or demand arising out of damages to said structure and this indemnification shall be included in the unilateral agreement required above.

PLANNING DEPARTMENT
SHORELINE SETBACK INFORMATION

Table 1. (*This table is included for illustrative purposes only.*)
Lots Included in the Kaua'i Coastal Erosion Study. The distance in feet of the shoreline setback line as measured from the certified shoreline based on the average lot depth in feet.

LOTS INCLUDED IN KAUA'I COASTAL EROSION STUDY

Average Lot Depth	Setback Line
Less than 140 feet (<140 feet)	40 feet plus (70 X annual coastal erosion rate) plus 20 feet
140 feet to 220 feet (140-220 feet)	Greater of: 40 feet plus (70 X annual coastal erosion rate) plus 20 feet -or- (Average Lot Depth minus 100 feet) ÷ by 2 plus 40
Greater than 220 feet (>220 feet)	Greater of: 40 feet plus (70 X annual coastal erosion rate) plus 20 feet -or- 100 feet from the certified shoreline

View erosion rate maps from the County website at
Kaua'i Coastal Erosion Study Update 2020
Kauai Shoreline Change (arcgis.com)

Table 2. (*This table is included for illustrative purposes only.*)
Lots Not Included in the Kaua'i Coastal Erosion Study.

LOTS NOT INCLUDED IN KAUA'I COASTAL EROSION STUDY

Setback Calculation	
(Average Lot Depth – 100/2+40) Subject to the Following:	
1	For lots with naturally *occurring rocky shorelines*, the shoreline setback line shall be **no less than 40 feet**.
2	For all other lots, the shoreline setback line shall be **no less than 60 feet**.
3	*For all lots*, the **maximum** setback that can be required **shall be 100 feet**.

Non-Abutting Lots. If an Applicant is unable to secure permission from the abutting landowner to complete a certified shoreline for a non-abutting lot within approximately five hundred fifty (550) feet of the shoreline, the Planning Director may, pursuant to §8-4.3, impose conditions to zoning permits to increase setbacks where evidence exists that a proposed structure may be affected by coastal hazards or erosion.

PLANNING DEPARTMENT
SHORELINE SETBACK INFORMATION

Table 3. This table is presented for **Exemption 3** (§8-27.7).

Permitted Structures within the shoreline setback area	
(a)	The following structures are permitted in the shoreline setback area. All structures and/or landscaping not specifically permitted in this section are prohibited without a variance.
(1)	Existing conforming or legally nonconforming structures.
(2)	Structure that received a shoreline variance or administrative approval prior to February 26, 2008.
(3)	A structure that is necessary for, or ancillary to, continuation of agriculture or aquaculture existing in the shoreline setback area on June 16, 1989.
(4)	"Temporary structures" as defined in Section 8-27.2. To ensure that there will be no irreversible or long-term adverse effects, the Director shall require as a condition of a permit the restoration of the site to its original condition or better, and the Director may require a bond to ensure such restoration.
(5)	A structure that consists of maintenance, repair, reconstruction, and minor additions or alterations that results in no interference with natural beach processes and is anchillary or associated with one of the following sites: (A) A Hawaiian fish pond; (B) A publicly owned and legal boating, maritime, or water sports recreational facility.
(6)	Repairs to a lawfully existing structure, including nonconforming structures, provided that: (A) The repairs do not enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes; (B) The repairs do not constitute a substantial improvement of the structure; (C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law; and (D) The Planning Director determines that the proposal complies with the definition of "repair" under Sec.8-1.5, Kaua'i County Code 1987, as amended.
(7)	Beach nourishment or dune restoration projects approved by all applicable governmental agencies.
(8)	A structure approved by the Director as a minor structure.
(9)	Qualified demolition of existing structures.
(10)	Unmanned civil defense facilities installed for the primary purposes of: (i) warning the public of emergencies and disasters; or (ii) measuring and/or monitoring geological, meteorological and other events.
(11)	Scientific studies and surveys, including archaeological surveys.
(12)	Structures built by a governmental agency to address an emergency as declared by the Governor of the State of Hawai'i, the Mayor of the County of Kaua'i or any other public official authorized by the law to declare an emergency.
(13)	Structures relating to film productions that have received a County Revocable Film Permit. Structures undertaken for film productions must be removed within thirty (30) days following the completion of the film production.
(14)	Structures required for remedial and removal actions undertaken pursuant to Chapter 128D of the Hawai'i Revised Statutes.

(15)	Repair and/or rebuiding of existing public park facilities, excluding shoreline armoring structures or improvements.
(b)	The following conditions shall apply to any new structure or any substantial improvement permitted in the shoreline setback area:
(1)	All new structures shall by constructed in accordance with the standards for development in Chapter 15, Article 1, Flood Plain Management, Kaua'i County Code 1987, as amended, relating to coastal high hazard districts and FEMA guidelines regarding construction in areas mapped on Flood Insurance Rate Maps as flood hazard areas.
(2)	The applicant shall agree in writing that the applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kaua'i harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures from any coastal natural hazard and coastal erosion.
(3)	The applicant shall agree in writing for itself, its successors and assigns that the construction of any erosion control or shoreline hardening structure and/or landscaping shall not be allowed to protect the permitted structure during its life, with the exception of approved beach or dune nourishment fill activities, and landscape planting and irrigation located more than forty feet (40') from the shoreline.
(4)	Unless otherwise provided, all new structures and/or landscaping shall not: (i) adversely affect beach processes, (ii) artificially fix the shoreline, (iii) interfere with public access or public views to and along the shoreline, (iv) impede the natural processes and/or movement of the shoreline and/or sand dunes, or (v) alter the grade of the shoreline setback area.
(5)	All new structures shall be consistent with the purposes of this article and HRS Chapter 205A, as amended, and shall be designed and located to minimize the alteration of natural landforms and existing public views to and along to the shoreline.
(6)	The requirements of this Subsection (b) shall run with the land and shall be set forth in a unilateral agreement recorded by the applicant with the Bureau of Conveyances or the Land Court, whichever is applicable, no later than thirty (30) days after the date of final shoreline approval of the structure under Section 8-27.8. A copy of the recorded unilateral agreement shall be filed with the Director and the County Engineer no later than forty-five (45) days after the date of the final shoreline determination and approval of the structure and the filing of such with the Director shall be a prerequisite to the issuance of any related building permit. (Ord. No. 979, December 5, 2014; Ord. No. 1088, February 4, 2021)

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PLANNING DEPARTMENT
SHORELINE SETBACK INFORMATION

COASTAL HAZARD DISCLOSURE STATEMENT FORM

Kauai TMK Nos. (4) 5-4-011:004, (4) 5-4-004:029 and 035

Project Address and TMK Number (the "Property"), and Shoreline Setback Permit Number

Beach Chairs, Existing Pads, and Activity Structure.

Scope of Construction for the Project or Description of Work

Disclosure: THE PROPERTY OWNER ACKNOWLEDGES AND UNDERSTANDS THAT THE PROPERTY MAY BE SUBJECT TO COASTAL HAZARDS AS DEFINED UNDER KAUA'I COUNTY CODE (KCC) SECTION 8-27.1. THESE COASTAL HAZARDS MAY LIMIT THE ABILITY TO DEVELOP THE PROPERTY AND FUTURE DEVELOPMENT MAY BE SUBJECT TO FURTHER RESTRICTIONS AND LIMITATIONS PURSUANT TO KCC CHAPTER 8, ARTICLE 27, AS AMENDED, AS WELL AS FEDERAL, STATE, AND COUNTY LAWS AND REGULATIONS THAT GOVERN COASTAL PROPERTIES. Additional information can be obtained from the County of Kaua'i Planning Department (https://www.kauai.gov/Government/Departments-Agencies/Planning-Department/Shoreline-Setback) including but not limited to links to the State of Hawaii, Department of Land and Natural Resources, Flood Hazard Assessment Tool and the State of Hawai'i Sea Level Rise Viewer.

Declaration: I declare under penalty of perjury and under the laws of the State of Hawai'i (Unsworn Falsification HRS §710-1063) that I am the property owner for the address listed above, I personally filled out the above information, that the foregoing is true and correct, and I certify its accuracy.

***The property owner signature is required to be notarized when property owner is not present at time of submitting the permit application. In lieu of notarization, the Planning Department will accept forms that are electronically signed using secure software that verifies the identity of the user (e.g., DocuSign or Adobe Sign).*

	DocuSigned by:	8/2/2023
Property Owner Name (print)	Property Owner Signature	Date
Property Owner Name (print)	Property Owner Signature	Date
Property Owner Name (print)	Property Owner Signature	Date
Property Owner Name (print)	Property Owner Signature	Date

**** Attach Notary Jurat ****

BELLES GRAHAM LLP

ATTORNEYS AT LAW

MAX W.J. GRAHAM, JR.
JONATHAN J. CHUN
IAN K. JUNG

Federal I D No. 99-0317663

DYNASTY PROFESSIONAL BUILDING
3135 AKAHI STREET, SUITE A
LIHUE, KAUAI, HAWAII 96766-1191

TELEPHONE NO: (808) 245-4705
FACSIMILE NO: (808) 245-3277
E-MAIL: mail@kauai-law.com

OF COUNSEL
MICHAEL J. BELLES
DAVID W. ROBLEDFOOT
DONALD H. WILSON

COUNTY OF KAUAI
'23 AUG 7 3:31
PLANNING DEPT.

August 4, 2023

Mr. Romio Idica
SMA/Shoreline Planner
Planning Department
4444 Rice Street, Suite A473
Lihue, Kauai, Hawaii 96766

VIA HAND DELIVERY

Re: **Shoreline Setback Determination Application**
Beach Chairs, Existing Pads, and Activity Structure
Princeville Hotel Lot (Lot 4-A)
Princeville, Hanalei, Kauai, Hawaii
Kauai TMK No. (4) 5-4-011:004 (16.596 acres)
Remnant Lot
Princeville, Hanalei, Kauai, Hawaii
Kauai TMK No. (4) 5-4-004:029 (0.01 acre)
Lot 5-A (Map 10)
Land Court Application No. 1724
Princeville, Hanalei, Kauai, Hawaii
Kauai TMK No. (4) 5-4-004:035 (6.533 acres)
Owner: SOF-XI Kauai PV Hotel, L.P., a Delaware limited partnership

Dear Mr. Idica:

This office represents SOF-XI Kauai PV Hotel, L.P., a Delaware limited partnership ("Applicant"). An Applicant's Authorization authorizing our office to file the Application on behalf of the Applicant is attached hereto as ***Exhibit "A"***.

On behalf of the Applicant, I am submitting a Shoreline Setback Determination Application pursuant to Kauai County Code, Chapter 8 ("CZO"), Section 8-27.3(d). The Applicant is nearing completion of the renovation of the former St. Regis Hotel, now known as 1 Hotel Hanalei ("Project"). The property which is the subject matter of this Application is located in Princeville and Hanalei, Kauai, Hawaii ("Property") ***[Exhibit "B"]***, and is described as follows:

1. A remnant parcel containing an area of 4,356 square feet and identified by Kauai Tax Map Key No. (4) 5-4-004:029.

2. Lot 5-A as shown on Map 10 filed with the Assistant Registrar of the Land Court of the State of Hawaii in Land Court Application No. 1724 containing an area of 6.533 acres (less erosion) and identified by Kauai Tax Map Key No. (4) 5-4-004:035 ("Lot 5-A").

3. Lot 4-A containing an area of 16.596 acres (less erosion) and identified by Kauai Tax Map Key No. (4) 5-4-011:004 ("Lot 4-A").

As part of the Shoreline Setback Determination Application, I have enclosed an original and two (2) copies of the Shoreline Setback Determination Application with Exhibits and a filing fee check of $100.00 made payable to the Director of Finance.

The existing structure associated with the Project is located in the State Land Use Classification Urban District and County-zoned Resort (RR-20) and Open Districts ***[Exhibit "C"]***. The Property is also located in the Special Management Area ("SMA") and the proposed Project will not be subject to a SMA review given the renovation of the Princeville Hotel was approved via an amendment to Special Management Area Use Permit SMA(U)-89-4, Class IV Zoning Permit Z-IV-89-14, and Use Permit U-89-14, issued on October 22, 2019, by the Planning Commission ***[Exhibit "D"]***.

The Property is subject to several land use approvals for the Princeville Hotel as follows:

1. Ordinance PM-56-80. Ordinance No. PM-56-80 ("Ord. PM-56-80"), which was approved by the County of Kauai effective January 24, 1980 ***[Exhibit "E"]***. This ordinance transferred a 1.8 acre portion of Lot 4-A from the CZO Open District into the CZO Resort District (RR-20). Ord. PM-56-80 was subject to nine (9) conditions of approval ("Conditions") as shown in Ord. PM-56-80.

2. Master Permit. The Princeville Hotel, which is located on the Property, was approved by the Planning Commission on July 9, 1980, pursuant to the Master Permit as set forth in the letter from the Planning Department dated July 10, 1980. The Master Permit was subject to sixteen (16) Conditions. The Master Permit allowed the development of a hotel with a maximum of 300 hotel units and related resort amenities, including restaurants, bars, retail stores, guest services, and recreational facilities. Also approved was a variance from the North Shore Ordinance's twenty-five (25) foot height limitation for the lobby and two elevator structures, all of which were allowed to be built to heights of forty (40) feet. *[NOTE: At the time of this approval,*

Lot 4-A was composed of Lot 4 (15.596 ac.) identified by Kauai TMK No. (4) 5-4-011:004, and Lot 1 (1.0 ac.) identified by Kauai TMK No. (4) 5-4-012:001. These two lots were thereafter consolidated into Lot 4-A (16.596 ac.) identified by Kauai TMK No. (4) 5-4-011:001. Similarly, Lot 5-A was part of a larger lot known as Lot 1 of Land Court Application 1724 (52.80 ac.). Lot 1 was subsequently subdivided into Lot 5-A (6.533 ac.) identified by Kauai TMK No. (4) 5-4-004:035 and Lot 5-B (44.766) identified by Kauai TMK No. (4) 5-4-004:001.]

3. ACOE Permit. By letter dated June 9, 1982, the U.S. Army Corp of Engineers ("ACOE") approved a Section 404 (Dredge and Fill) Permit for the dredging and filling of materials in the wetland portions of Lot 5-A ("ACOE Permit"). This permit was necessary for the proposed construction of the Princeville Hotel swimming pool ("Pool") in this area. The ACOE Permit was subject to eight (8) Conditions.

4. Master Permit Amendment No. 1. On October 27, 1982, the Planning Commission approved a first amendment to the Master Permit, as set forth in a letter from the Planning Department dated November 1, 1982 ("Master Permit Am. No. 1"). The Master Permit Am. No. 1 was subject to six (6) Conditions as shown in the permit letter. The Master Permit Am. No. 1 allowed the construction of the Pool and amenities (including a restaurant, bar, and recreational facilities) on Lot 5-A.

5. Pu'u Po'a Permit. On August 9, 1988, the Planning Commission approved Special Management Area Use Permit SMA(U)-88-16, as set forth in a letter from the Planning Department dated August 12, 1988 ("Pu'u Po'a Permit"). The Pu'u Po'a Permit was subject to ten (10) Conditions as shown in the permit letter. The Pu'u Po'a Permit allowed the restoration of and development of certain limited improvements on the portions of the Pu'u Po'a Marsh located on Lot 5-A and Lot 5-B. *[NOTE: The gazebo/view platform and the boardwalk which were allowed by the Pu'u Po'a Permit were never constructed.]*

6. Renovation Permit. On March 9, 1989, the Planning Commission approved the Renovation Permit, as set forth in a letter from the Planning Department date March 17, 1989. The Renovation Permit was subject to fourteen (14) Conditions. The Renovation Permit allowed the complete renovation of the interior and exterior portions of the Princeville Hotel.

7. Condition 9 Amendment. On May 9, 1989, the Planning Commission approved an amendment to Condition 9 of the Renovation Permit, as set forth in a letter from the Planning Department dated May 11, 1989 ("Condition 9 Amendment"). The Condition 9 Amendment amended the terms under which Russian Fort Alexander (located on the bluff to the north of the Princeville Hotel entrance) is to be protected, preserved and managed. Condition 9 of the Renovation Permit was further amended as follows:

EXHIBIT "D-15"

INDEX OF
DISCRETIONARY LAND USE APPROVALS
(PRINCEVILLE HOTEL)

A. SLUC

EXHIBIT	DATE	DOCKET NO. (ISSUING BODY)	SUBJECT	CONDITIONS
D-1	5/3/78	A78-446 (SLUC)	Approval of re-districting of 0.7 acre portion of Hotel Lot from SLUC Conservation District to SLUC Urban District	No Conditions imposed.

B. ORDINANCES.

EXHIBIT	DATE	ORDINANCE (ISSUING BODY)	SUBJECT	CONDITIONS
D-2	1/24/80	PM-56-80 (County Council)	Amend 1.8 acres from CZO Open District to CZO Resort District (RR-20)	1. Zoning change limited to 1.8 acre portion shown on map. 2. Certified Shoreline to be prepared. 3. 100 foot setback for structures from Certified Shoreline. 4. Any development in Russian Fort area to be processed per HRS Chapter 6E (Historic Preservation) and Chapter 343 (Environmental Studies). 5. Final building design subject to Planning Commission review.

EXHIBIT "D-15"

EXHIBIT	DATE	ORDINANCE (ISSUING BODY)	SUBJECT	CONDITIONS
				6. Public pedestrian access to Shoreline to be provided. 7. Environmental Impact Fee to be paid. 8. Maximum allowable density not to exceed 300 rooms. 9. Operator to be Marriott or successor equivalent in quality and reputation.

C. PERMITS.

EXHIBIT	DATE	PERMIT (ISSUING BODY)	SUBJECT	CONDITIONS
D-3	7/9/80	SMA(U)-80-18 U-37-80 Z-IV-80-43 (Planning Commission)	Approval of 300 Room Hotel Approval of variance from height limitations of North Shore Development Plan (allowing 40' height)	1. Compliance with Subdivision Ordinance re: consolidation/resubdivision of Hotel Lots; and for establishment of pedestrian access easement. 2. Substantial construction to be commenced within 2 years. 3. Permits valid for 3 years/Building Permit to be issued within 3 years. 4. Grading/excavation work to be phased. 5. No structures within 100 feet of Shoreline (permanent open space area).

EXHIBIT	DATE	PERMIT (ISSUING BODY)	SUBJECT	CONDITIONS
				6. Final landscape plan to be approved by Planning Department. 7. Mature landscaping required subject to final review by Planning Commission. 8. Elevator building to be redesigned and relocated. 9. Building heights to be staggered. 10. Color scheme to be submitted to Planning Department and subject to Planning Commission approval. 11. Exterior lighting to be shielded. 12. Windows to be of non-reflective glass. 13. Per Ordinance No. PM-56-80: a. Certified Shoreline required; b. Environmental Impact Fee to be paid. 14. Detailed plans for domestic/fire water services to be submitted to Department of Water (DOW). 15. Compliance with requirements of Kauai Fire Department (KFD) and State Department of Health (DOH). 16. Additional Conditions may be imposed.

EXHIBIT	DATE	PERMIT (ISSUING BODY)	SUBJECT	CONDITIONS
D-4	6/9/82	Section 404 (U.S. ACOE)	Dredge and fill permit for swimming pool	1. Archaeological Monitoring (Pool/Pond). 2. Approved dredging equipment (Pool/Pond). 3. Mature landscaping between Pool and Pond. 4. Survey of Pool/Pond (no encroachment into SLUC Conservation District). 5. Minimize fill area/runoff - No degradation of Marsh water quality. 6. Maintain Pond to keep water surface open. 7. No further wetland habitat destruction. 8. Waterflow into Pond must be sufficient to maintain healthy environment for birds.
D-5	10/27/82	Amendment No. 1 SMA(U)-80-18 U-37-80 Z-IV-80-43 (Planning Commission)	Approval of swimming pool on Pool Lot	1. a. Special measures during Pool development to protect ocean/stream. b. Pool to meet DOH Rules. c. No Pool backwash into ocean/stream. d. Additional DOH conditions (Pool). 2. Further Planning Commission conditions (Pool). 3. Further government agency conditions (Pool).

EXHIBIT	DATE	PERMIT (ISSUING BODY)	SUBJECT	CONDITIONS
D-6	8/9/88	SMA(U)-88-16 (Planning Commission)	Approval of restoration to Pu'u Poa Marsh area (including Pool Lot)	1. No Hotel use of Gazebo (Pu'u Poa Marsh). 2. Clearing in a curvilinear pattern (Pu'u Poa Marsh). 3. Survey and preservation of 100 foot Conservation District line (Pu'u Poa Marsh). 4. Gazebo to comply with Floor Ordinance (Pu'u Poa Marsh). 5. ACOE Permit Conditions apply (Pu'u Poa Marsh). 6. Archaeological Data Recovery Plan/ Archaeological Monitoring of Pu'u Poa Marsh improvements. 7. Restrictions on Herbicide Use (Pu'u Poa Marsh). 8. Landscape buffer between Pool and Pond to be installed immediately and extended to screen emergency access road. 9. DOH/DPW Conditions (Pu'u Poa Marsh). 10. Government agency conditions (Pu'u Poa Marsh).
D-7	3/9/89	SMA(U)-89-4 U-89-14	Approval for renovation of exterior/public portions of	1. Reduction of Lobby water feature/Mature vegetation to be installed.

EXHIBIT	DATE	PERMIT (ISSUING BODY)	SUBJECT	CONDITIONS
		Z-IV-89-14 (Planning Commission)	Hotel	2. Exterior lighting to face downward. 3. Windows to be non-reflective glass. 4. Variance for existing structures exceeding 25 foot height limitation may continue/No new structures may exceed 25 feet. 5. Existing vegetative buffer between Pool Area and Pu'u Moa marsh to be maintained. 6. 100 foot setback from Certified Shoreline to be re-surveyed and staked. 7. Special measures to be taken to prevent pollution of adjacent ocean, stream and river waters/Review by U.S. Army Corps of Engineers required. 8. Swimming Pool to be approved by DOH/No backwash waters allowed from Pool to adjacent ocean, stream or river. 9. Mitigation Plan for Russian Fort to be approved by State Historic Preservation Division (SHPD) and Kauai Historic Preservation Review Commission (HPRC). 10. Driveway/porte cochere/entrance to be redesigned and approved by Planning Department or Planning Commission. 11. Existing Public Access to be maintained/10

EXHIBIT	DATE	PERMIT (ISSUING BODY)	SUBJECT	CONDITIONS
				public parking spaces to be provided. 12. Planning Commission may revoke Permits if health/safety problems are created. 13. Work on exterior demolition allowed from 7:00 a.m. to 7:00 p.m., 7 days/week. 14. Additional Conditions may be imposed.
D-8	5/9/89	Amendment To Condition 9 SMA(U)-89-4 U-89-14 Z-IV-89-14 (Planning Commission)	Amendment to Condition 9 (Russian Fort Mitigation Plan)	9. Mitigation Plan required prior to "Reconstruction Work" defined as rebuilding of new porte cochere or entrance, or other structures adjacent to Russian Fort. a. Applicant's Archaeologist to submit maps delineating fenced area (Russian Fort). b. Protective barrier to be installed prior to demolition.
D-9	7/27/89	Compliance Review (Condition 9) SMA(U)-89-4 U-89-14 Z-IV-89-14 (Planning Commission)	Interim Approval of Compliance with Condition 9 (Interim protective measures approved)	A. Hotel Renovation allowed to proceed, subject to: 1. Fencing of Russian Fort area to be maintained/ monitored. 2. Archaeologist to work with Contractors to protect Russian Fort. B. Acceptance of long-term Preservation Plan deferred, subject to:

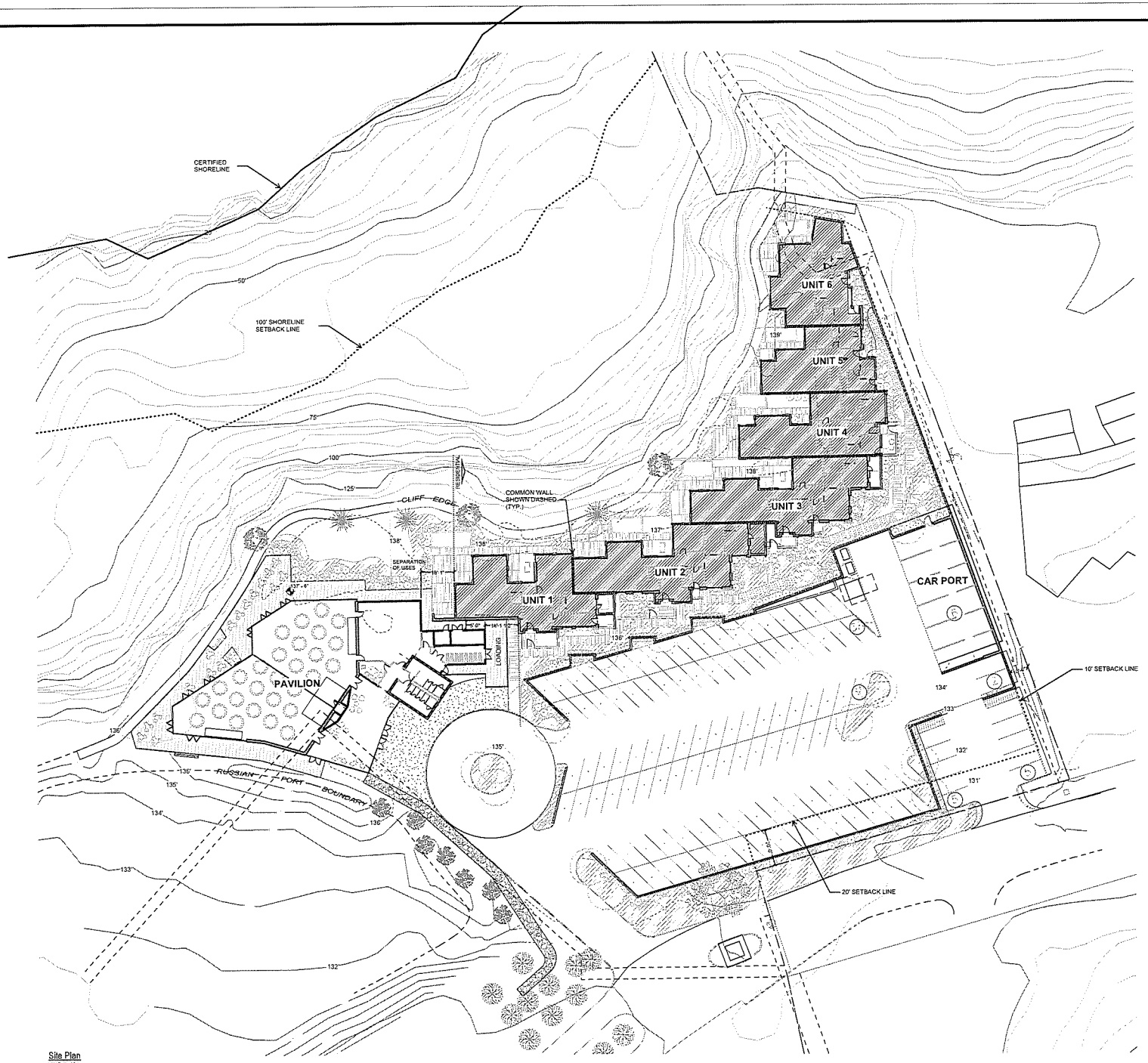
EXHIBIT	DATE	PERMIT (ISSUING BODY)	SUBJECT	CONDITIONS
				1. Planning Commission's acceptance of Preservation Plan and completion of improvements to Russian Fort area. 2. Should delays occur, Planning Director may require bond for preservation project.
D-10	1/10/91	Compliance Approval (Condition 9) SMA(U)-89-4 U-89-14 Z-IV-89-14 (Planning Commission)	Final Approval Of Compliance With Condition 9	1. Written text for 4 display panels to be simplified. 2. Russian Fort Alexander grounds to be used only for open space. 3. Any changes to be reviewed by Planning Department.
D-11	11/24/09	Amendment No. 2 SMA(U)-80-18 U-37-8 Z-IV-80-13 (Planning Commission)	Approval of Canvas Awning over Open Deck (Restaurant)	1. Exterior color/finish as approved by Planning Commission. 2. Compliance with governmental agency requirements. 3. No enclosure of area or new commercial uses allowed. 4. Meeting with Hotel manager and Planning Department to discuss Permit conditions required.
D-12	10/22/2019	Amendment No. 3 SMA(U)-80-18 U-37-8 Z-IV-80-13	Approval of Major Renovation into 1 Hotel	1. Project as represented. 2. Landscaping.

EXHIBIT	DATE	PERMIT (ISSUING BODY)	SUBJECT	CONDITIONS
		(Planning Commission)		3. External lighting requirements. 4. Non-reflective glass. 5. No structures on roof level. 6. Vegetative buffer between pool and Pu'u Poa Marsh. 7. Certified shoreline requirement. 8. Army Corps of Engineers consultation requirements. 9. State Department of Health clearance for pool renovation. 10. Compliance with SHPD. 11. Entry design compliance. 12. Public parking (ten (10) stalls for beach access). 13. Avoidance of noxious activities. 14. Compliance with other agencies and ability to impose additional conditions. 15. Permit status and two (2) substantial improvement requirement.
D-13	5/25/2022	Site Plan Modification	Reconfigure existing western staircase.	N/A
D-14		SMA(M)-2025-7	Activity Trailer near pool	1. Project as represented.

EXHIBIT	DATE	PERMIT (ISSUING BODY)	SUBJECT	CONDITIONS
			area.	2. Applicant to use BMPs. 3. Compliance with other agencies. 4. Minimal impacts to avian species. 5. Archaeological considerations. 6. Ability to impose additional conditions. 7. Permit status and two (2) substantial improvement requirement.

EXHIBIT "E-1"

EXHIBIT "E-1"



Site Plan

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www.lakeflato.com

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1 Homes Hanalei

5520 Ka Haku Rd,
Princeville, HI 96722

G.H.D. Architects

B.A.S.E. Engineering

Inelauke Engineering

Langan Engineering

Design Workshop

Salter Inc.

Issue Date

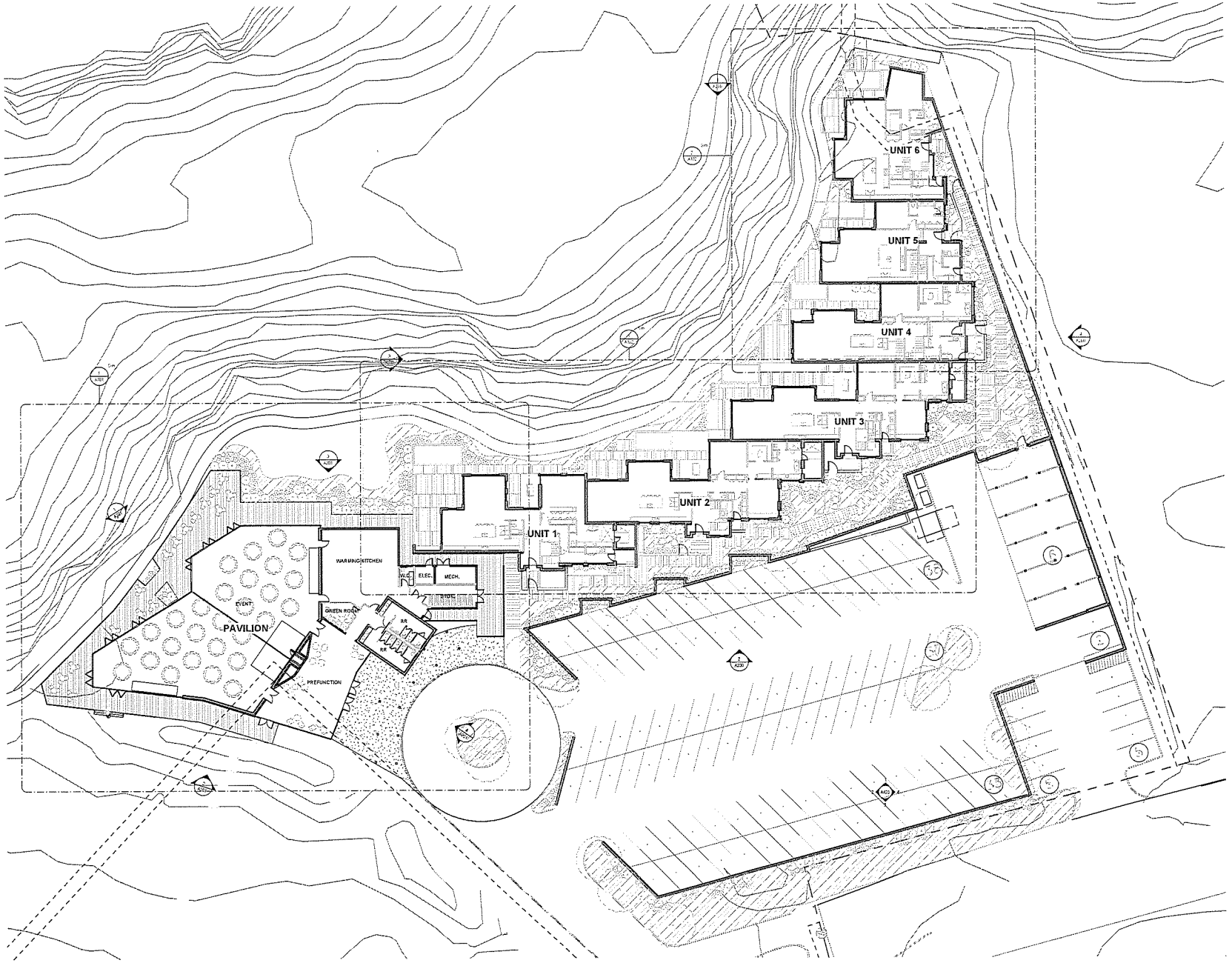
REVISIONS

NO.	DATE	DESCRIPTION

Project Status

SITE PLANS

A020



L01 - Ground Floor - Overall

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Langan Engineering

Design Workshop

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THIS SQUARE DIMENSION IS TRUE FOR FULL SIZE SHEETS

Issue Date: [illegible] R3/24/2021

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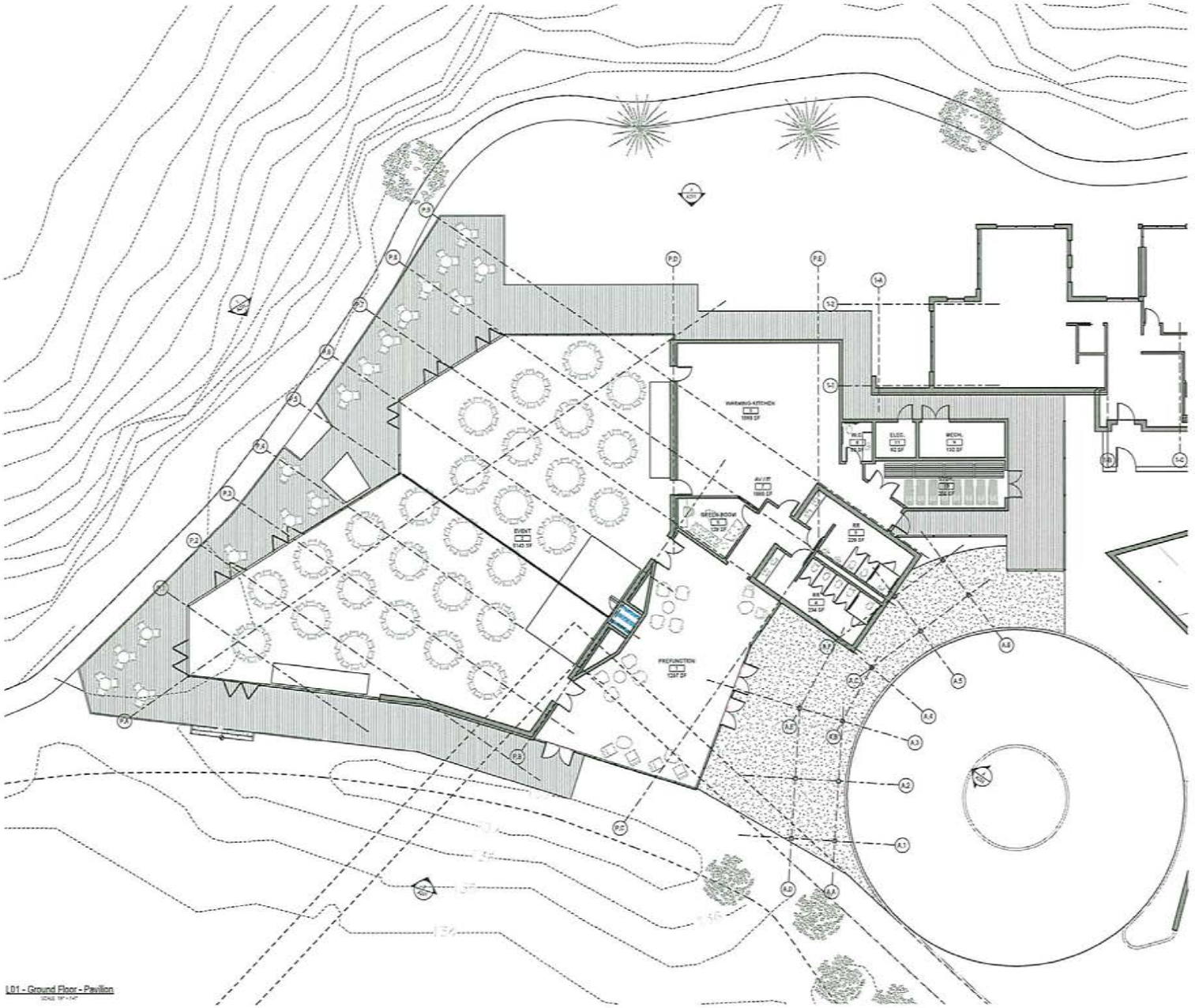
REVISIONS

NO.	DATE	DESCRIPTION

Project Status

PLANS - Overall

A100



L01 - Ground Floor - Pavilion

SCALE: 1/8" = 1'-0"

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B.A.S.E. Engineering

Inatsuka Engineering

Langan Engineering

Design Workshop

Salter Inc.

Issue Date

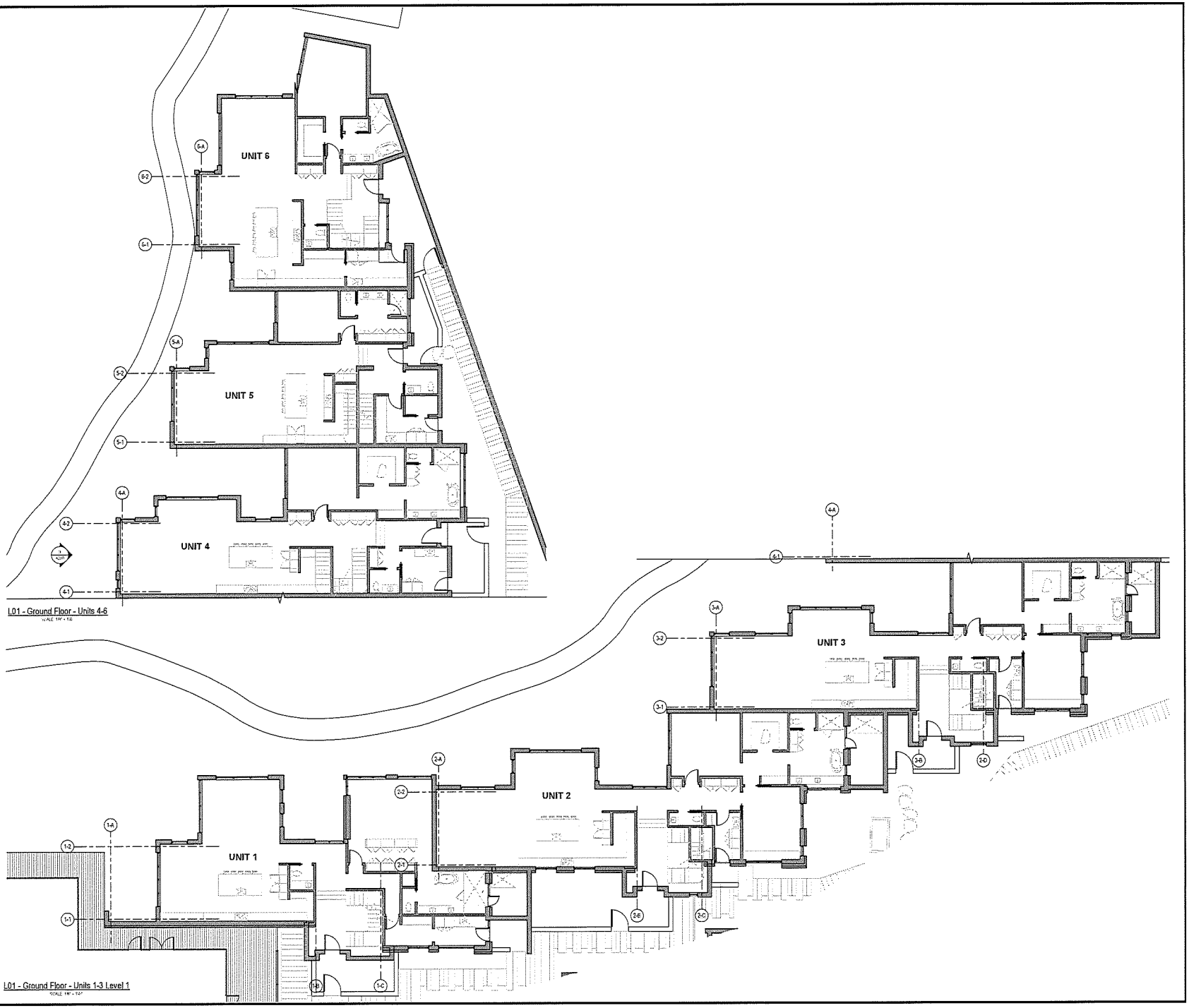
REVISIONS

NO.	DATE	DESCRIPTION

Project Status

PLANS - Pavilion

A101



L01 - Ground Floor - Units 4-6

L01 - Ground Floor - Units 1-3 Level 1

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G.H.D. Architects

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Inatsuka Engineering

Langan Engineering

Design Workshop

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THIS SQUARE REPRESENTS 1" IF NOT FULL SIZE OBJECT

Issue Date

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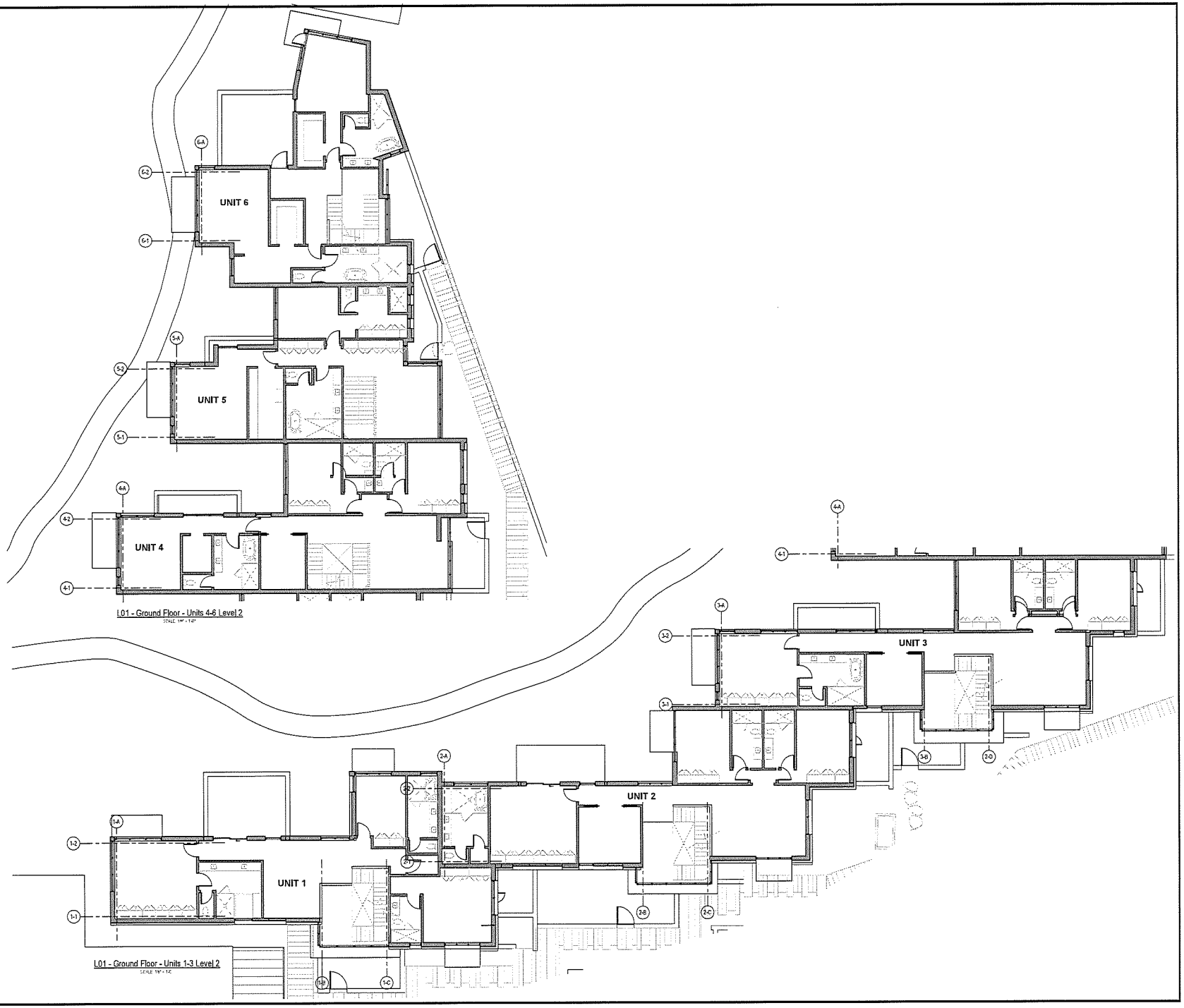
REVISIONS

NO.	DATE	DESCRIPTION

Project Status

PLANS - Units Level 1

A102



L01 - Ground Floor - Units 4-6 Level 2

L01 - Ground Floor - Units 1-3 Level 2

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Design Workshop

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Issue Date

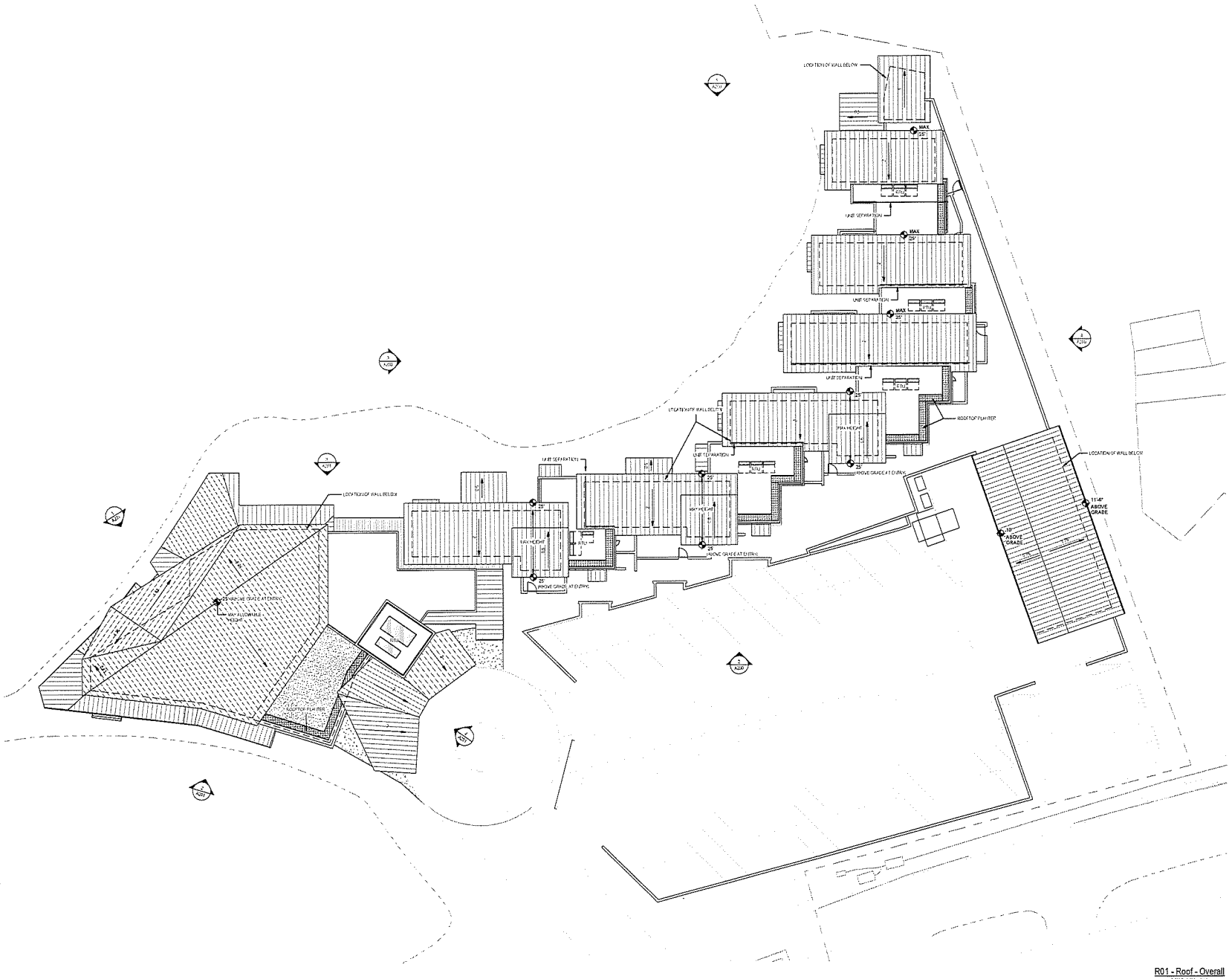
REVISIONS

NO.	DATE	DESCRIPTION

Project Status

PLANS - Units Level 2

A103



R01 - Roof - Overall

SCALE: 1/16" = 1'-0"

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Issue Date

LF PROJ. NO R22143801

PROJ. ARCHITECT

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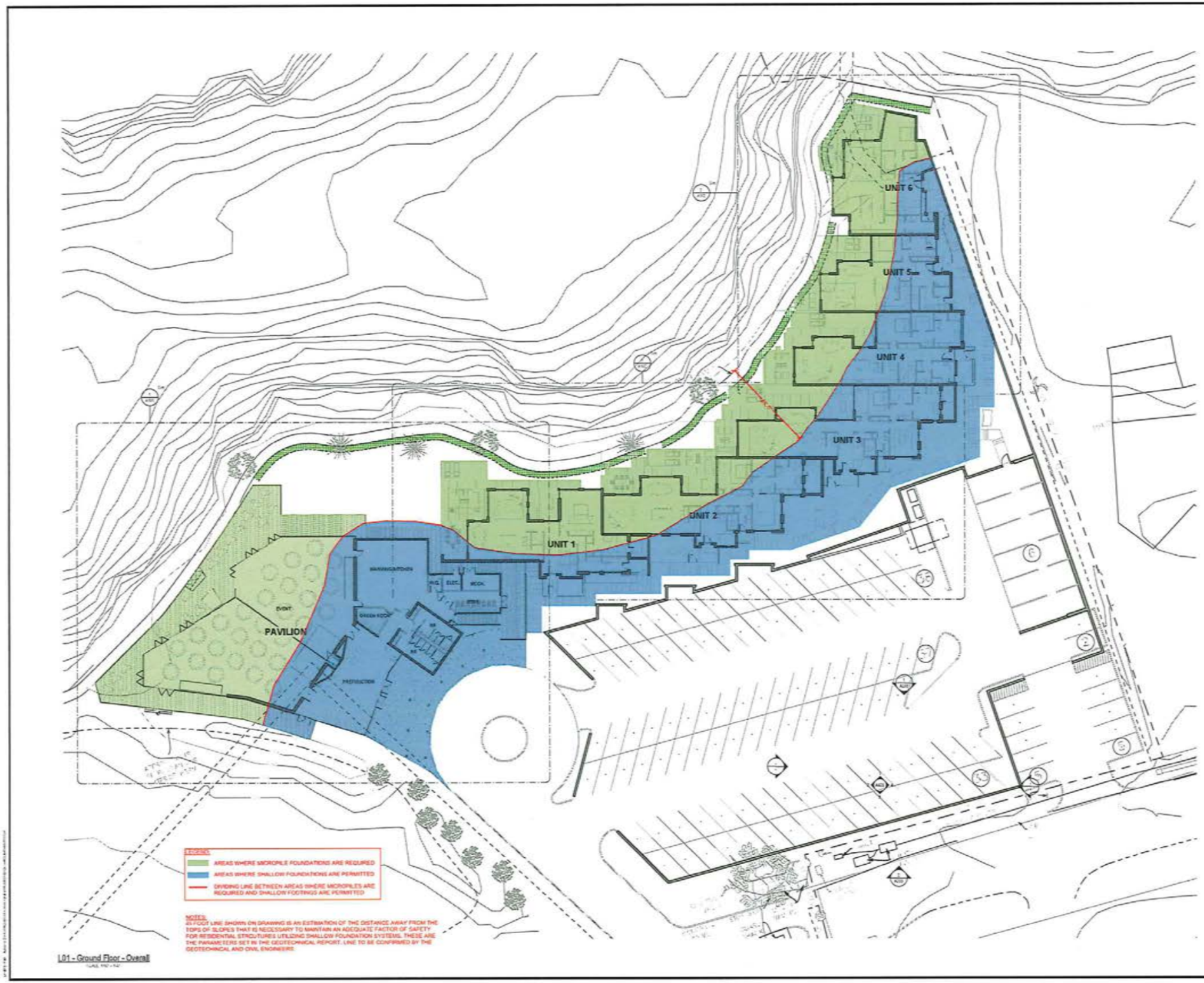
REVISIONS

NO.	DATE	DESCRIPTION

Project Status

PLANS - Roof

A110



L01 - Ground Floor - Overall

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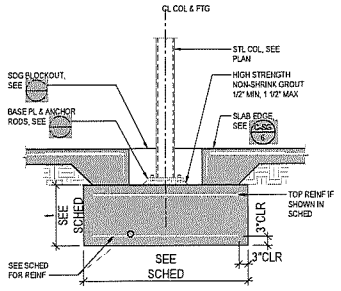
NO.	DATE	DESCRIPTION

Project Status

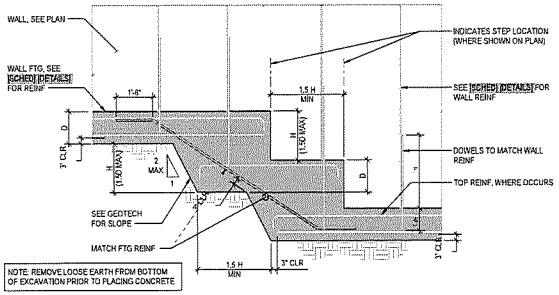
PLANS - Overall

S100

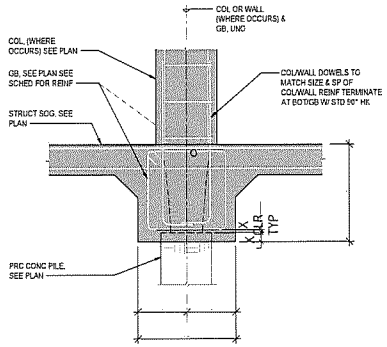
EXHIBIT "E-2"



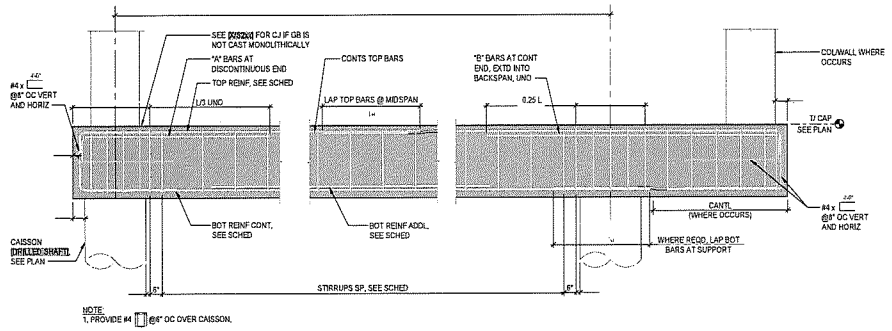
1 S211 TYPICAL SPREAD FOOTING DETAIL
SCALE: 3/4" = 1'-0"



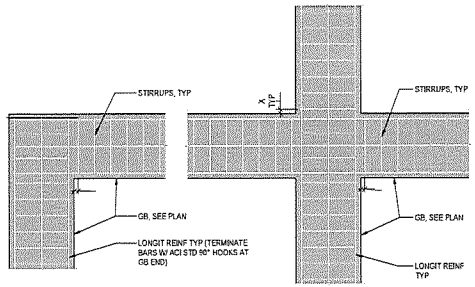
2 S211 TYPICAL STEPPED FOOTING DETAIL
SCALE: 1/2" = 1'-0"



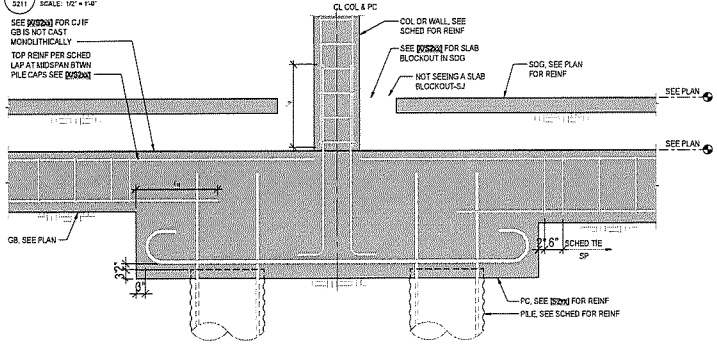
3 S211 TYPICAL INTERIOR GRADE BEAM SECTION WITH STRUCTURAL SLAB-ON-GRADE
SCALE: 3/4" = 1'-0"



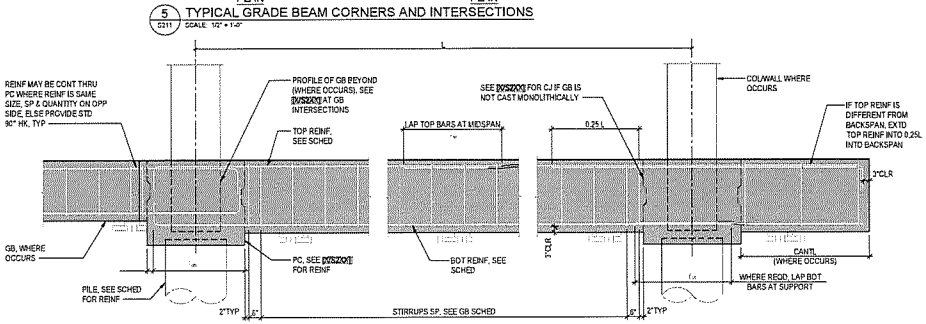
NOTE:
1. PROVIDE #4 @6" OC OVER CAISSON.



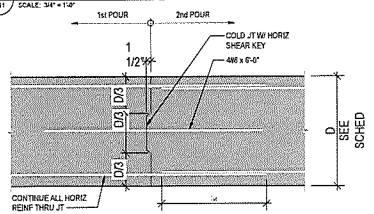
4 S211 TYPICAL GRADE BEAM ELEVATION
SCALE: 1/2" = 1'-0"



5 S211 TYPICAL GRADE BEAM CORNERS AND INTERSECTIONS
SCALE: 1/2" = 1'-0"



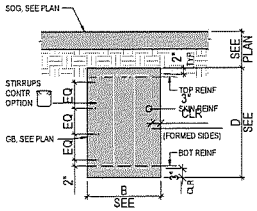
6 S211 TYPICAL GRADE BEAM TO PILE CAP (INTERIOR COLUMN)
SCALE: 3/4" = 1'-0"



NOTE:
JOINTS SHALL BE PLACED AT LOCATIONS THAT MINIMIZE THE IMPACT ON THE STRENGTH OF THE STRUCTURE. JOINTS SHALL BE PLACED AWAY FROM GIRDERS OR COLUMNS FRAMING INTO GRADE BEAMS. GENERALLY, JOINTS SHALL BE LOCATED IN MIDDLE THIRD OF SPAN, UNLESS NOTED OTHERWISE.

8 S211 TYPICAL GRADE BEAM VERTICAL CONSTRUCTION JOINT
SCALE: 3/4" = 1'-0"

7 S211 TYPICAL GRADE BEAM ELEVATION
SCALE: 1/2" = 1'-0"



GRADE BEAM SCHEDULE

MARK	WIDTH (B)	DEPTH (D)	f'c	TOP REINF "A" BARS	TOP REINF CONT	BOTTOM REINF "B" BARS	BOTTOM REINF CONT	BOTTOM REINF ADDL	STIRRUPS SIZE	STIRRUPS LEGS	STIRRUPS SPACING	SKIN REINF (EF)	NOTES
GB1	48"	48"	6,000		6#10	6#10	6#7		#5	8	6" AT CANTL	3#6	* 2ND LAYER EXTENDS 12'-6" INTO BACKSPAN
									#5	2	12" TYP		

NOTES:
1. WHERE THE SCHEDULE REQUIRES TWO LAYERS OF REINFORCING, THE REBAR IN THE LOWER LAYER SHALL BE PLACED DIRECTLY BELOW THE UPPER LAYER WITH MINIMUM 2" CLEAR SPACING BETWEEN BARS. SEE [WS##] FOR MAXIMUM BARS IN A LAYER.
2. SEE [WS##] FOR SLEEVES THROUGH GRADE BEAM.

9 S211 GRADE BEAM SCHEDULE
SCALE: 3/4" = 1'-0"

GRAPHICS SCALE
0" 1" 2" 3" 4" 5" 6"
1/2" = 1'-0"

GRAPHICS SCALE
0" 1" 2" 3" 4"
3/4" = 1'-0"

EXHIBIT "E-2"

LAKE | FLATO ARCHITECTS INC.
311 THIRD STREET
SAN ANTONIO, TEXAS 78205
P 210.227.3335 F
www.lakeflato.com

NOT FOR REGULATORY APPROVAL, PERMITTING OR CONSTRUCTION

1 Homes Hanalei

5520 Ka Haku Rd, Princeville, HI 96722

G.H.D. Architects

B.A.S.E. Engineering

Inatsuka Engineering

Langan Engineering

Design Workshop

Salter Inc.

Issue Date

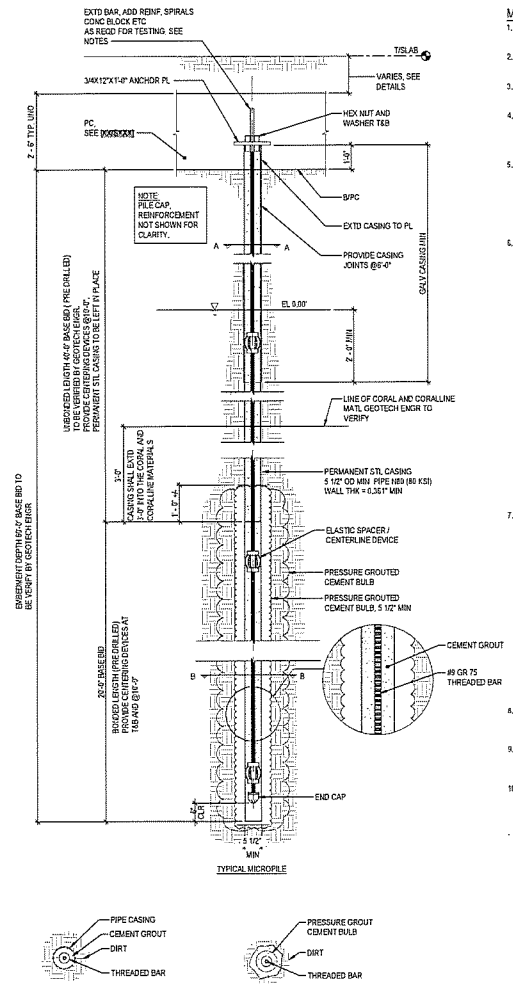
DRAWN BY: JBP

REVISIONS
NO. DATE DESCRIPTION

Project Status

FOUNDATION DETAILS

S211



MICROPILE NOTES:

1. CONTRACTOR SHALL ENGAGE A MICROPILE INSTALLER AND ENGINEER TO DESIGN MICROPILES PER SPECIFIED DESIGN LOADS.
2. MICROPILES SHALL BE 5 1/2" DIAMETER WITH #9 ASTM A615 GRADE 75 THREADED BARS. (ALLOWABLE LOAD CAPACITY 80 KIPS).
3. MINIMUM CENTER TO CENTER SPACING OF MICROPILES SHALL BE 2'-0" MINIMUM CLEAR SPACING TO ADJACENT EXISTING DRIVEN PIKES SHALL BE 2'-0".
4. STRUCTURAL STEEL
   A. ALL STRUCTURAL STEEL SHALL CONFORM TO ASTM A36.
   B. WELDING SHALL CONFORM TO AWS D1-1 WELDING ELECTRODES SHALL BE E7XXX. ALL WELDS SHALL BE PERFORMED BY CERTIFIED WELDERS.
5. CONCRETE
   A. ALL METHODS AND MATERIALS SHALL CONFORM TO THE LATEST EDITION OF ACI BUILDING CODE REQUIREMENTS FOR REINFORCED CONCRETE.
   B. GROUT SHALL HAVE A WATER CEMENT RATIO OF 0.5 OR LESS AND SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH = 4,000 PSI.
   C. GROUT VOLUME AND FLOW SHALL BE CONTINUOUSLY MEASURED.
   D. PILES SHALL BE GROUTED FULL LENGTH.
6. PRE-PRODUCTION (COMPRESSION) LOAD TEST PROGRAM
   A. ONE PRE-PRODUCTION LOAD TESTS SHALL BE PERFORMED.
   B. PRE-PRODUCTION LOAD TEST SHALL BE PERFORMED IN ACCORDANCE WITH ASTM TEST DESIGNATION D1143 (STANDARD LOADING PROCEDURE).
   C. PROVIDE ADDED REINFORCING DOWELS SPIRALS, CONCRETE ETC. AS REQUIRED FOR ASTM TEST.
   D. CONDUCT PRE-PRODUCTION LOAD TEST NO EARLIER THAN 7 DAYS AFTER COMPLETION OF THE MICROPILE INSTALLATION TO ALLOW GROUT ADEQUATE TIME TO CURE.
   E. TWO ADDITIONAL MICROPILES SHALL BE USED FOR REACTION DURING THE COMPRESSIVE LOAD TEST OF THE PRE-PRODUCTION LOAD TEST MICROPILE. THE REACTION MICROPILES SHALL BE INSTALLED TO DEPTHS AS DEEP AS THE LOAD TEST MICROPILE TO PROVIDE ADEQUATE REACTION IN UPLIFT.
   F. THE PRE-PRODUCTION LOAD TEST MICROPILE SHALL BE LOADED GRADUALLY TO LEAST 200 PERCENT OF THE ALLOWABLE DESIGN LOAD IN COMPRESSION (160 KIPS). IN ADDITION THE MICROPILE SHALL BE HELD AT MAXIMUM TEST LOAD (200 PERCENT OF THE DESIGN LOAD) FOR A MINIMUM OF ONE OR TWO HOURS, DEPENDING ON RECORDED MOVEMENTS OF THE LOAD TEST MICROPILE.
   G. AFTER SUCCESSFULLY HOLDING 200 PERCENT OF THE DESIGN LOAD, TEST THE PRE-PRODUCTION MICROPILE TO FAILURE, TO EXAMINE THE ULTIMATE MICROPILE LOAD CAPACITY.
   H. CONDUCT PRE-PRODUCTION LOAD TESTING UNDER THE OBSERVATION OF A REPRESENTATIVE FROM GEOTECH (SPECIAL INSPECTION).
   I. THE PRE-PRODUCTION LOAD TEST MICROPILE SHALL CONSIST OF 20 FOOT BONDED ZONE (GROUT BULB) AND 40 FOOT UNBONDED ZONE (NON-GROUT) WITH STEEL CASING, UPON COMPLETION OF THE LOAD TESTING THE STEEL CASING MAY BE REMOVED AFTER THE UNBONDED ZONE IS FULLY GROUTED.
7. PROOF LOAD TEST PILE PROGRAM (PULL OUT TEST)
   A. TEN PROOF LOAD TESTS SHALL BE PERFORMED.
   B. GEOTECH TO SELECT PROOF TEST MICROPILES AFTER COMPLETION OF THE PRODUCTION MICROPILE INSTALLATION.
   C. PROOF LOAD TEST SHALL BE PERFORMED IN ACCORDANCE WITH ASTM TEST DESIGNATION D3689.
   D. PROVIDE ADDED REINF. DOWELS SPIRALS, CONCRETE ETC. AS REQUIRED FOR ASTM TEST.
   E. CONDUCT PROOF LOAD TEST NO EARLIER THAN 7 DAYS AFTER COMPLETION OF THE MICROPILE INSTALLATION OR WHEN THE MICROPILE GROUT HAS ATTAINED AT LEAST 75 PERCENT OF THE SPECIFIED COMPRESSIVE STRENGTH.
   F. THE PROOF LOAD TEST MICROPILE SHALL BE LOADED TO AT LEAST 150 PERCENT OF THE ALLOWABLE DESIGN LOAD IN COMPRESSION (120 KIPS). THE MICROPILE SHALL BE LOADED IN 12.5 PERCENT DESIGN LOAD INCREMENTS, AND EACH LOAD SHALL BE HELD FOR AT LEAST 5 MINUTES, THE MAXIMUM TEST LOAD SHALL BE HELD FOR A MINIMUM OF 10 OR 60 MINUTES.
   G. CONDUCT PROOF LOAD TESTING UNDER THE OBSERVATION OF A REPRESENTATIVE FROM GEOTECH (SPECIAL INSPECTION).
8. TOLERANCE
   A. MAXIMUM VARIATION FROM (VERTICAL) = 2 PERCENT
   B. MAXIMUM VARIATION FROM SPECIFIED LOCATION = 2 INCHES
9. GROUND WATER MAY BE ENCOUNTERED DURING INSTALLATION. CONTRACTOR SHALL PROVIDE SUITABLE ANTIWASH AGENT WITHIN THE GROUT MIX TO MINIMIZE EXCESS GROUT TAKE.
10. MICROPILES SHALL BE INSTALLED PER MANUFACTURER'S SPECIFICATIONS.

INSTALLATION PROCEDURES:

1. DRILL HOLE TO REQUIRED DEPTH AND INSTALL THREAD BAR WITH ATTACHED CENTRALIZER.
2. GROUT HOLE TO INITIAL GROUT LEVEL. POST GROUT AS DESIRED.
3. INSTALL BEARING PLATE ASSEMBLY
4. TEST ANCHOR PER SPECIFICATIONS.
5. INSTALL ANCHORE NUT AND LOCK OFF ANCHOR.
6. PERFORM SECONDARY AND THIRD STAGE GROUTING.

NOTES:

1. THREADBAR SHALL CONFORM TO ASTM A1035 WITH A GUARANTEED MINIMUM YIELD STRENGTH OF 100 KSI.
2. DO NOT WELD TO BAR.
3. DO NOT USE BAR AS GROUND CONNECTION FOR WELDING.
4. DO NOT ALLOW HOT SLAG OR SPARKS TO TOUCH BAR.
5. DO NOT DAMAGE BAR SURFACE.
6. DO NOT USE BARS WITH KINKS OR SHARP BENDS.

1 S212 TYPICAL MICROPILE DETAIL
SCALE: 1/2" = 1'-0"

GRAPHICS SCALE
0" 1" 2" 3" 4" 5" 6"
1/2" = 1'-0"

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5520 Ka Haku Rd,
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G.H.D. Architects

B.A.S.E. Engineering

Inatsuka Engineering

Langan Engineering

Design Workshop

Sallar Inc.

THIS SQUARE MEASURES 1/2" x 1/2" ON FULL SIZE SHEETS

Issue Date: UPDATED 3.28.24
PROJECT ARCHITECT: DRAWN BY: JBP

"AS BUILT" DATE

DATE	ITEMS

REVISIONS

NO.	DATE	DESCRIPTION

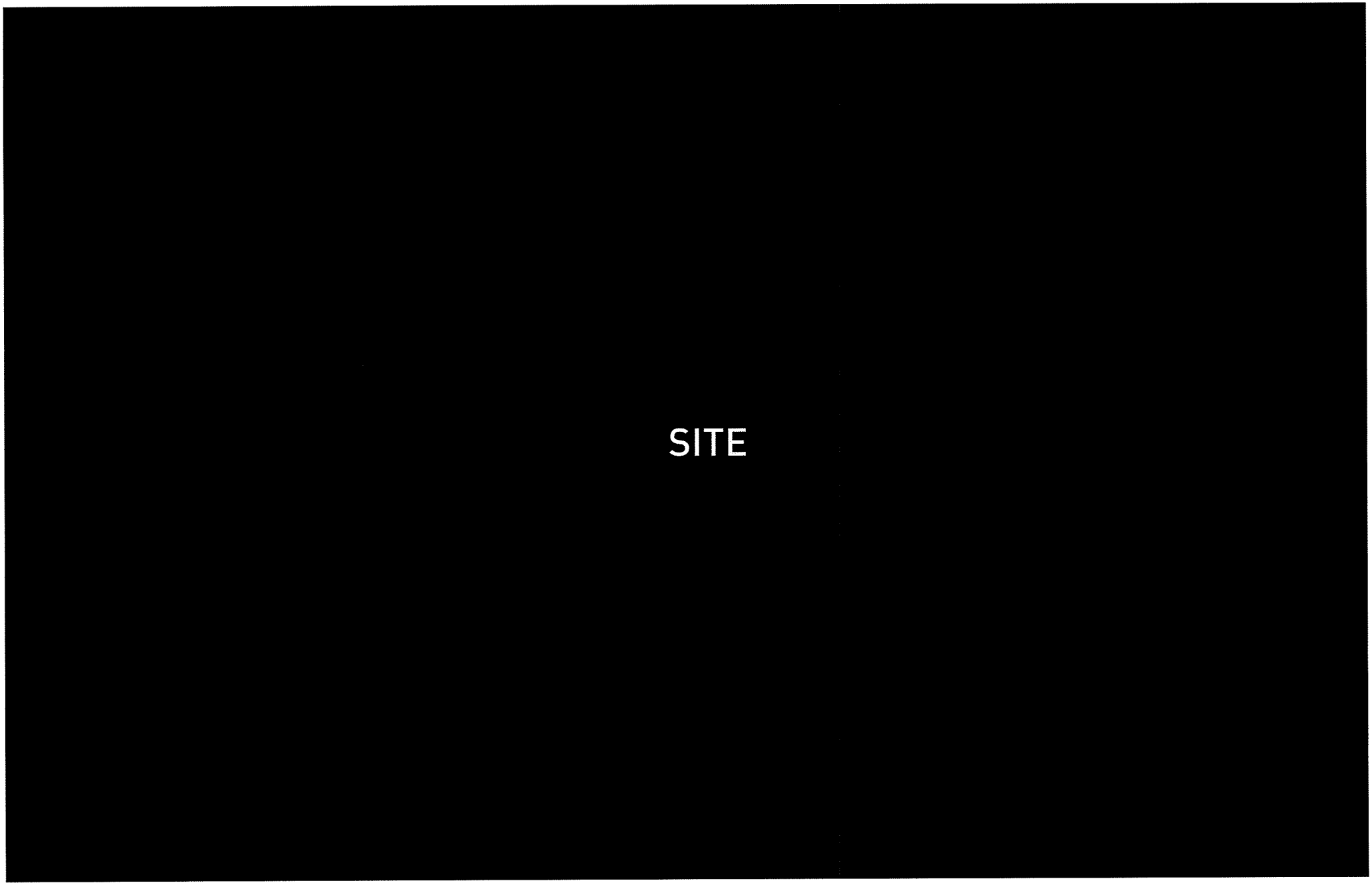
Project Status

FOUNDATION DETAILS

S212

1 HOMES + PAVILION | Concept/Schematic

LAKE|FLATO


SITE

SITE PLAN


Property Line
Edge of Cliff Face
5' Edge of Cliff Setback
Views to Bali Hai
10' Building Setback
Event room
Kitchen
Prefunction
Mech
Storage
Service
Resident Path
Trash + Recycling
Transformer
Russian Fort Boundary
Drop Off
30
Tandem Parking Spaces
6
Residence Garages + Stairs
Fort Alexander
37
Self Parking Spaces
2
Resident Access Gate
Fort Memorial
10
Beach Parking
33
Tandem Parking Spaces
Existing Utilities
Proposed Covered Path
PARKING COUNTS:
6 RESIDENT SPOTS
10 BEACH PARKING SPOTS
39 SELF PARK
71 VALET TANDEM
TOTAL SPOTS: 126

SITE
LEVEL 2


Property Line
Edge of Cliff Face
5' Edge of Cliff Setback
Views to Bali Hai
10' Building Setback
Resident Path
Russian Fort Boundary
Residence Garages + Storage
Fort Alexander
Resident Access Gate
Fort Memorial
Proposed Covered Path

SITE

ROOF PLAN



SITE

3D VIEW





SITE
3D VIEW





SITE

3D VIEW





RESIDENCES

RESIDENCES
PRECEDENTS



RESIDENCES

3D VIEW



RESIDENCES
3D VIEW





1 HOMES + PAVILION

RESIDENCES

3D VIEW



RESIDENCES

3D VIEW



RESIDENCES

3D VIEW



RESIDENCES

3D VIEW





RESIDENCES
3D VIEW





RESIDENCE 1
FLOOR PLAN

UNIT 1
GROSS SF: 4,248 sf
LEVEL 1 SF: 2,282 sf
LEVEL 2 SF: 1,966 sf
NET SF: 3,930 sf
LEVEL 1 SF: 2,099 sf
LEVEL 2 SF: 1,831 sf
BEDROOM COUNT: 4
BATHROOM COUNT: 4.5
FLEX ROOMS: Media Room



LEVEL 2



PAVILION FOOTPRINT

GROUND FLOOR



KEY PLAN



1 HOMES + PAVILION

June 6th, 2025

RESIDENCE 2

FLOOR PLAN

UNIT 2

GROSS SF: 4,872 sf
- LEVEL 1 SF: 2,647 sf
- LEVEL 2 SF: 2,225 sf

NET SF: 4,495 sf
- LEVEL 1 SF: 2,435 sf
- LEVEL 2 SF: 2,060 sf

BEDROOM COUNT: 4
BATHROOM COUNT: 4.5
FLEX ROOMS: Office, Media Room, Fitness



LEVEL 2



KEY PLAN



GROUND FLOOR

2' 10' 5' 20'

June 6th, 2025

RESIDENCE 3

FLOOR PLAN

UNIT 3

GROSS SF: 5,026 sf
- LEVEL 1 SF: 2,551 sf
- LEVEL 2 SF: 2,475 sf

NET SF: 4,395 sf
- LEVEL 1 SF: 2,367 sf
- LEVEL 2 SF: 2,028 sf

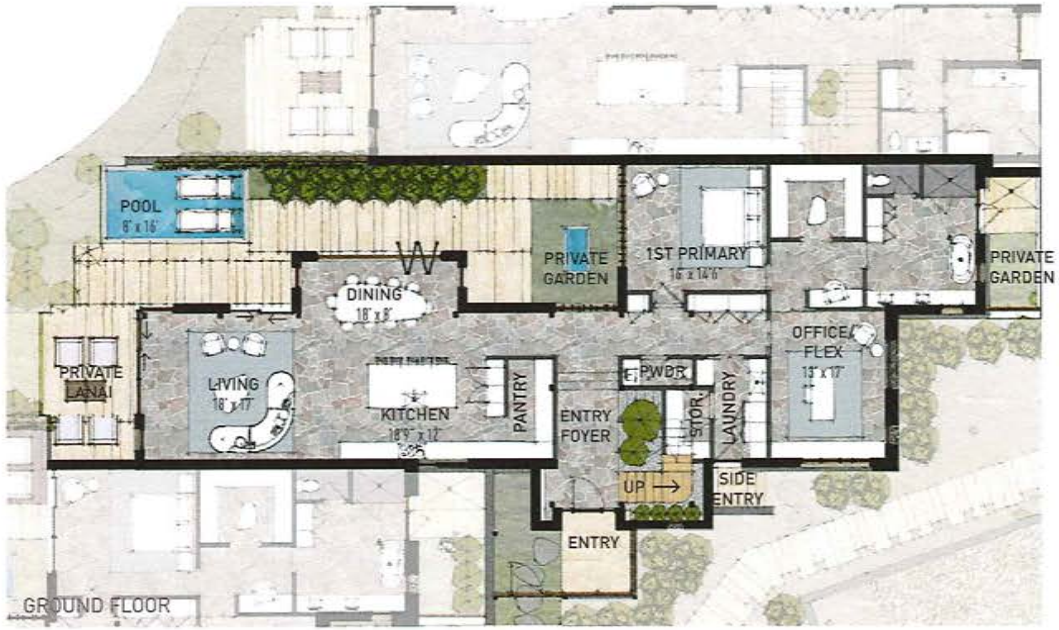
BEDROOM COUNT: 4
BATHROOM COUNT: 4.5
FLEX ROOMS: Office, Media Room, Fitness



LEVEL 2



KEY PLAN



GROUND FLOOR

2' 10' 5' 20'

June 6th, 2025

RESIDENCE 4

FLOOR PLAN

UNIT 4

GROSS SF: 4,286 sf
- LEVEL 1 SF: 2,150 sf
- LEVEL 2 SF: 2,136 sf

NET SF: 3,674 sf
- LEVEL 1 SF: 1,930 sf
- LEVEL 2 SF: 1,744 sf

BEDROOM COUNT: 4
BATHROOM COUNT: 4.5
FLEX ROOMS: Media Room



LEVEL 2



KEY PLAN



GROUND FLOOR

2' 10' 5' 20'

1 HOMES + PAVILION

June 6th, 2025

RESIDENCE 5

FLOOR PLAN

UNIT 5

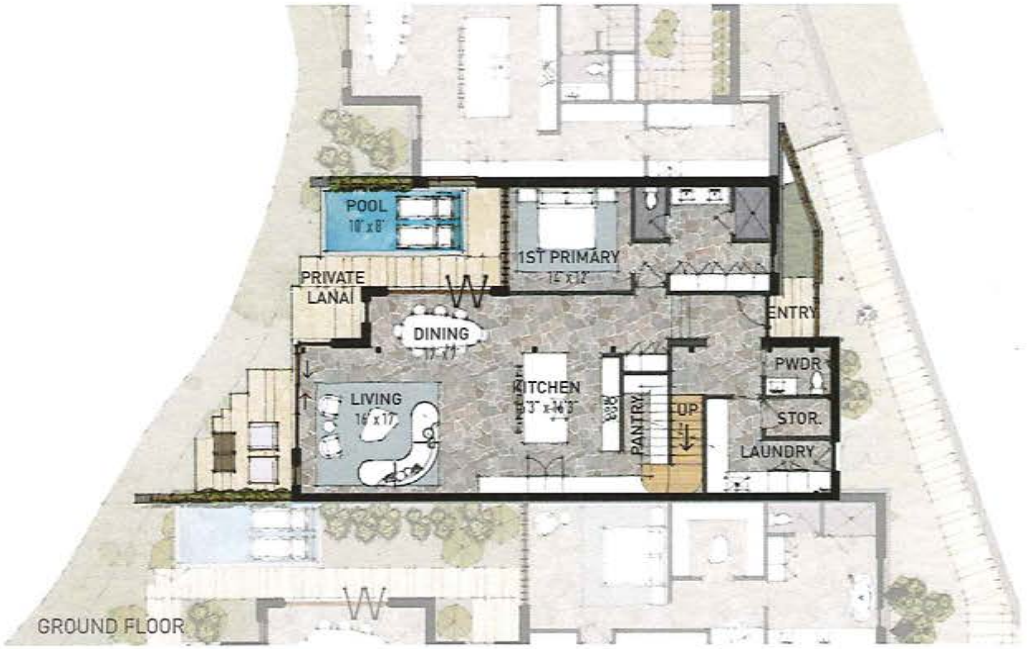
GROSS SF: 3,546 sf
- LEVEL 1 SF: 1,883 sf
- LEVEL 2 SF: 1,663 sf

NET SF: 3,169 sf
- LEVEL 1 SF: 1,688 sf
- LEVEL 2 SF: 1,481 sf

BEDROOM COUNT: 3
BATHROOM COUNT: 3.5
FLEX ROOMS: Media Room



LEVEL 2



GROUND FLOOR



KEY PLAN



June 6th, 2025

RESIDENCE 6
FLOOR PLAN

UNIT 6
GROSS SF: 3,844 sf
LEVEL 1 SF: 2,112 sf
LEVEL 2 SF: 1,732 sf
NET SF: 3,436 sf
LEVEL 1 SF: 1,978
LEVEL 2 SF: 1,458 sf
BEDROOM COUNT: 3
BATHROOM COUNT: 3.5



LEVEL 2



KEY PLAN

CLIF EDGE →



GROUND FLOOR



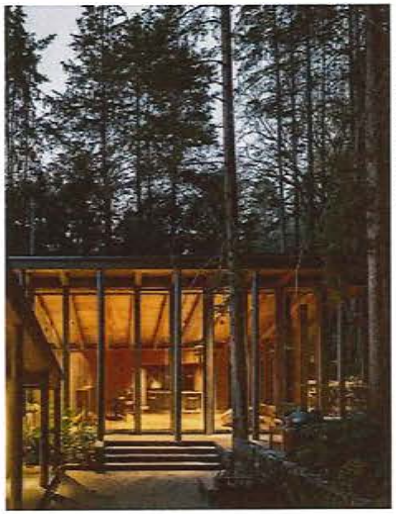
1 HOMES + PAVILION

June 6th, 2025

PAVILION

EVENT PAVILION
PRECEDENTS

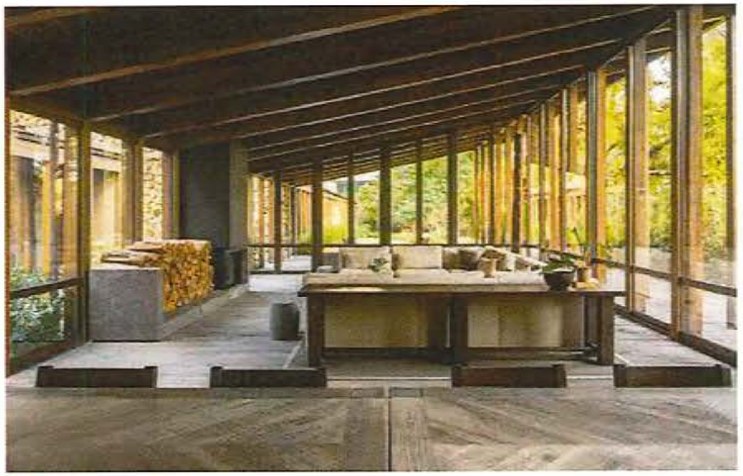


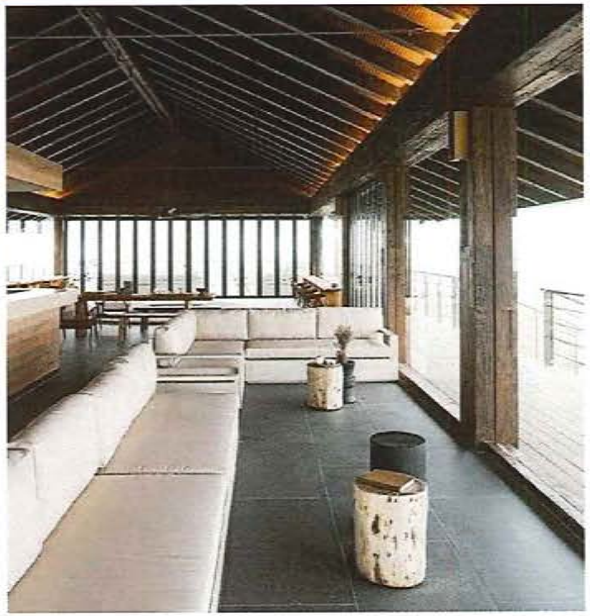
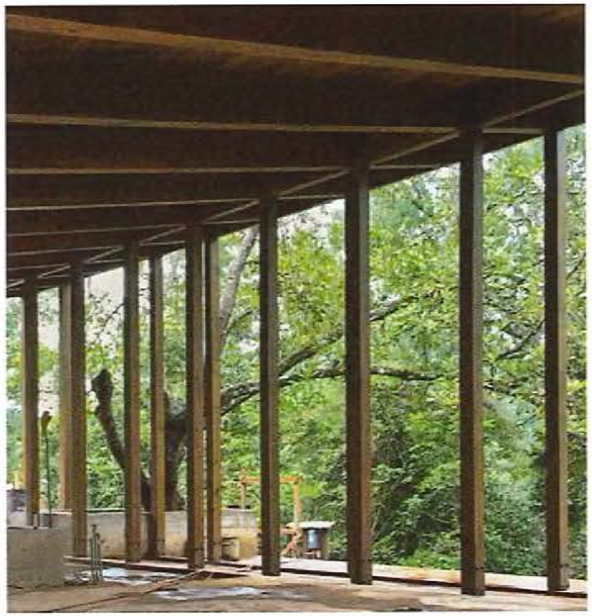






EVENT PAVILION
PRECEDENTS



EVENT PAVILION
PLAN



EVENT PAVILION
3D VIEW



EVENT PAVILION
3D VIEW



EVENT PAVILION
3D VIEW





EVENT PAVILION
3D VIEW





EVENT PAVILION
3D VIEW





EVENT PAVILION

3D VIEW





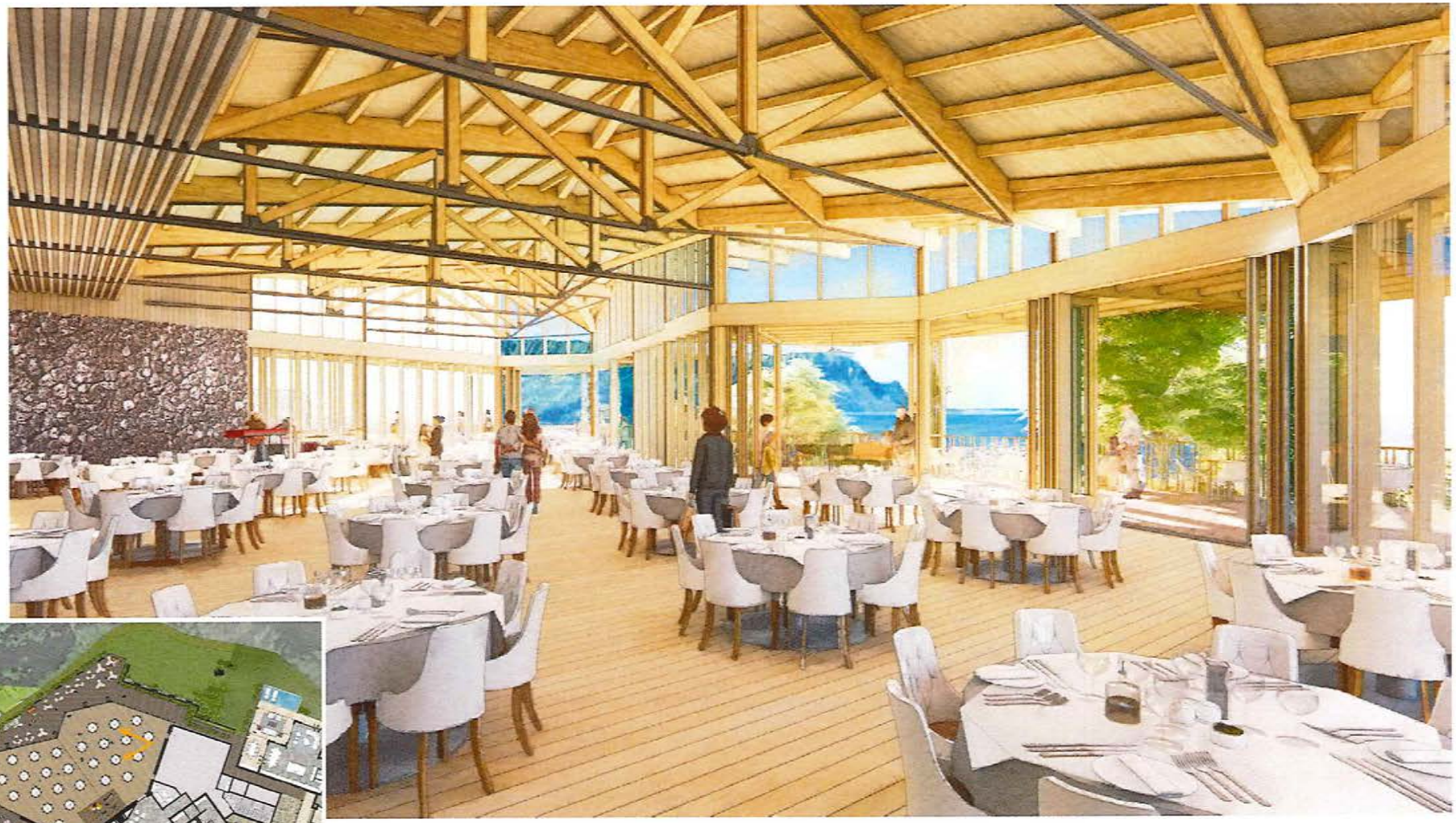
EVENT PAVILION
3D VIEW





EVENT PAVILION

3D VIEW





EVENT PAVILION

3D VIEW

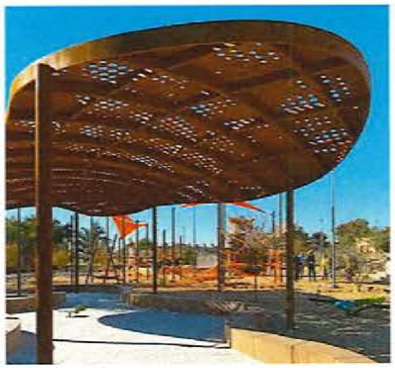




WALKWAY CANOPY

WALKWAY CANOPY
Precedents










WALKWAY CANOPY
Aerial View 1



WALKWAY CANOPY
Aerial View 2



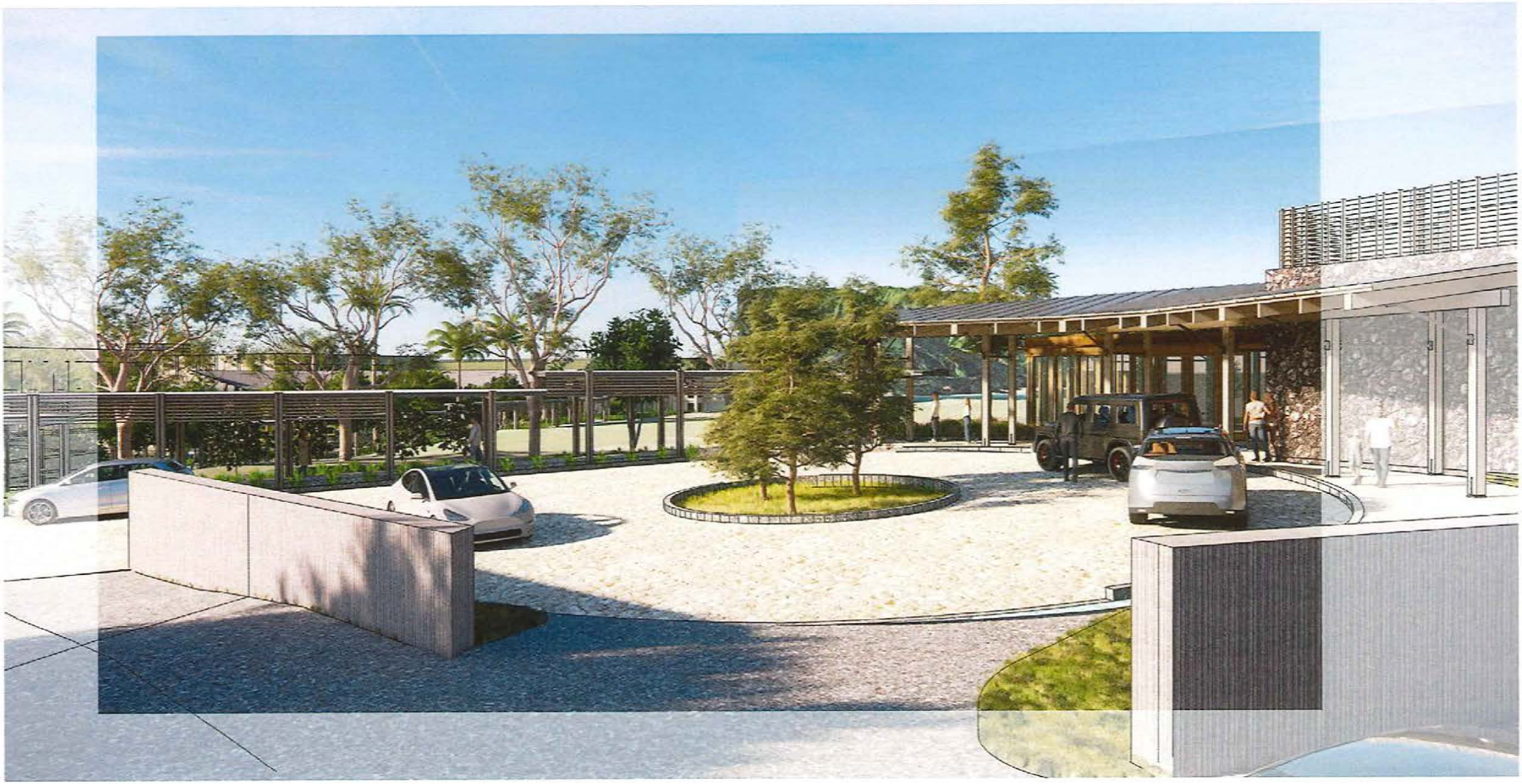
WALKWAY CANOPY
From Guardshack



WALKWAY CANOPY
From Entry Drive



WALKWAY CANOPY
Parking Lot



CANOPY OPTION 01A - FORT MEMORIAL

Aerial View



CANOPY OPTION 01A - FORT MEMORIAL

Eye Level View













CANOPY OPTION 01B - FORT MEMORIAL

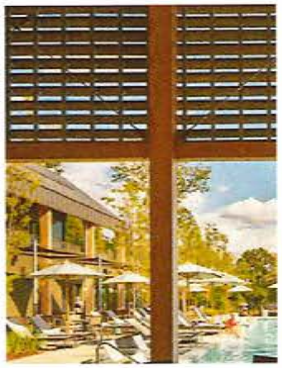
Aerial View



CANOPY OPTION 01B - FORT MEMORIAL

Eye level View - From Russian Fort To Napali Coast









CANOPY OPTION 02 - GATEWAY

Aerial View



CANOPY OPTION 02 - GATEWAY

Eye level View - From Entry Drive to Hotel (at Existing Crosswalk)













EXHIBIT "E-3"

1 HOMES + PAVILION | Building Height Study

LAKE | FLATO

EXHIBIT "E-3"

RESIDENCES

3D VIEW





RESIDENCES

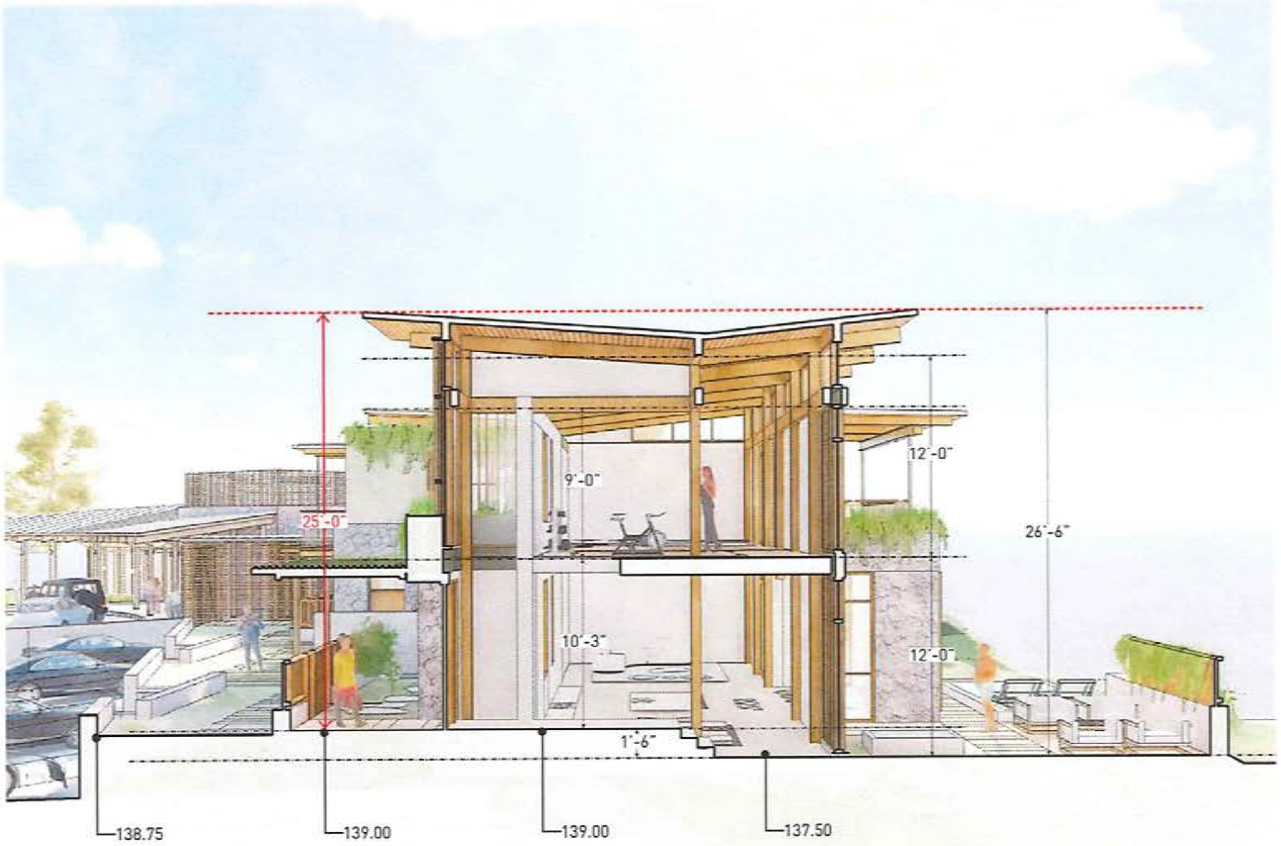
3D VIEW



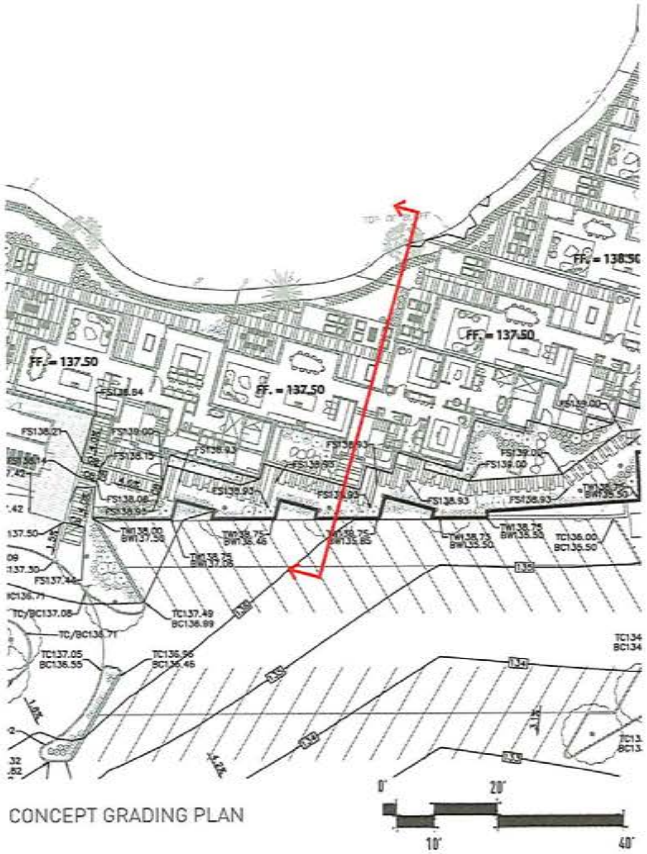


BUILDING HEIGHT COMPLIANCE

RESIDENCE (UNIT 2, TYPICAL)



SECTION (N.T.S.)



CONCEPT GRADING PLAN

SITE

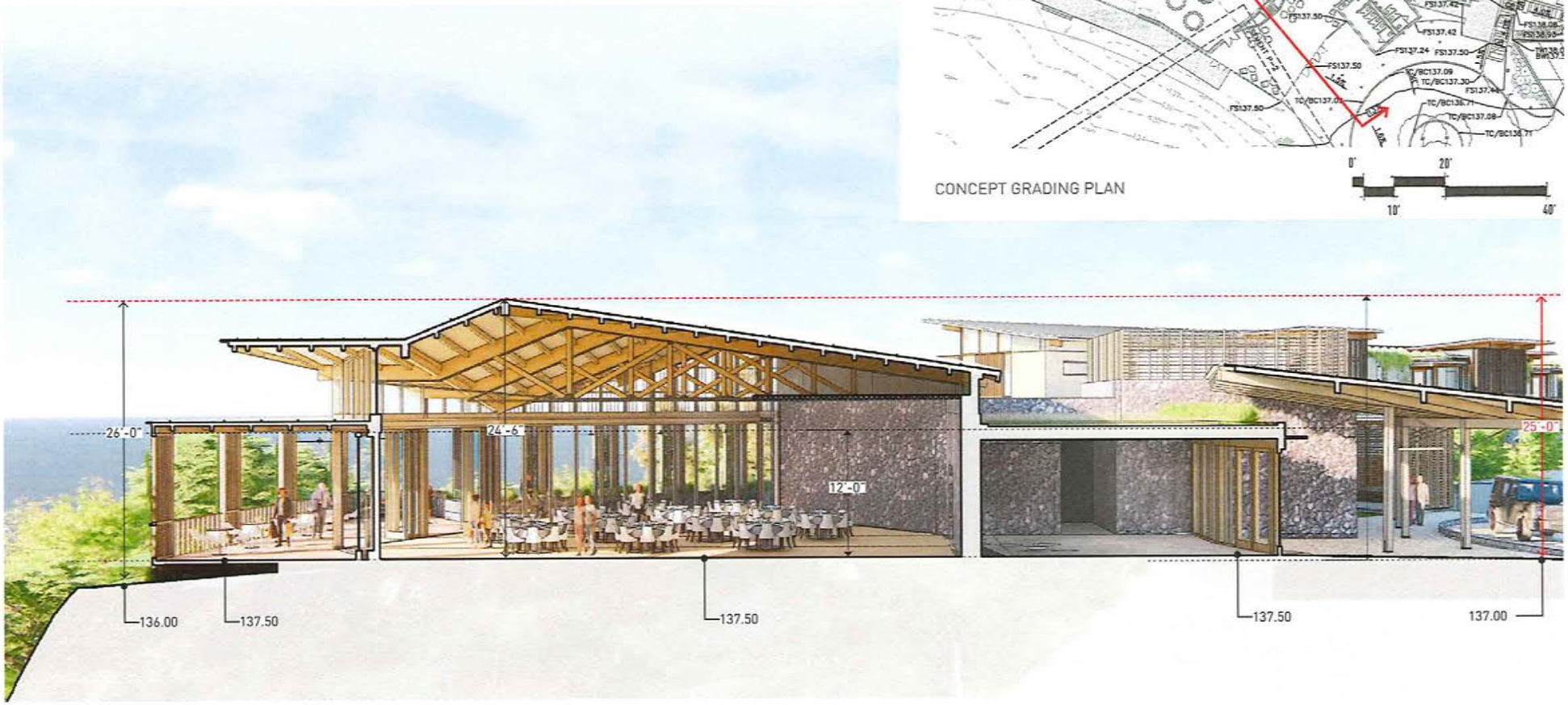
3D VIEW

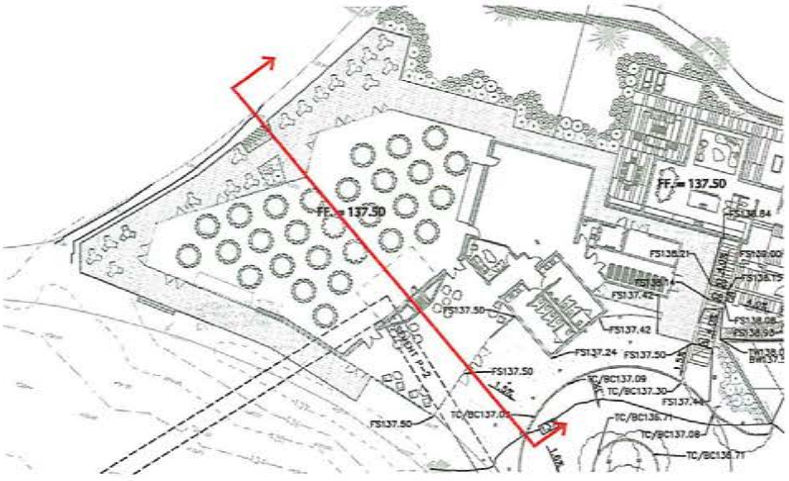




BUILDING HEIGHT COMPLIANCE
EVENT PAVILION

SECTION (N.T.S.)





CONCEPT GRADING PLAN

CONCEPT GRADING PLAN

LAKE | FLATO

November 19th, 2025

SITE

3D VIEW





EVENT PAVILION
3D VIEW





EVENT PAVILION
3D VIEW



WALKWAY CANOPY
From Entry Drive



EXHIBIT "E-4"

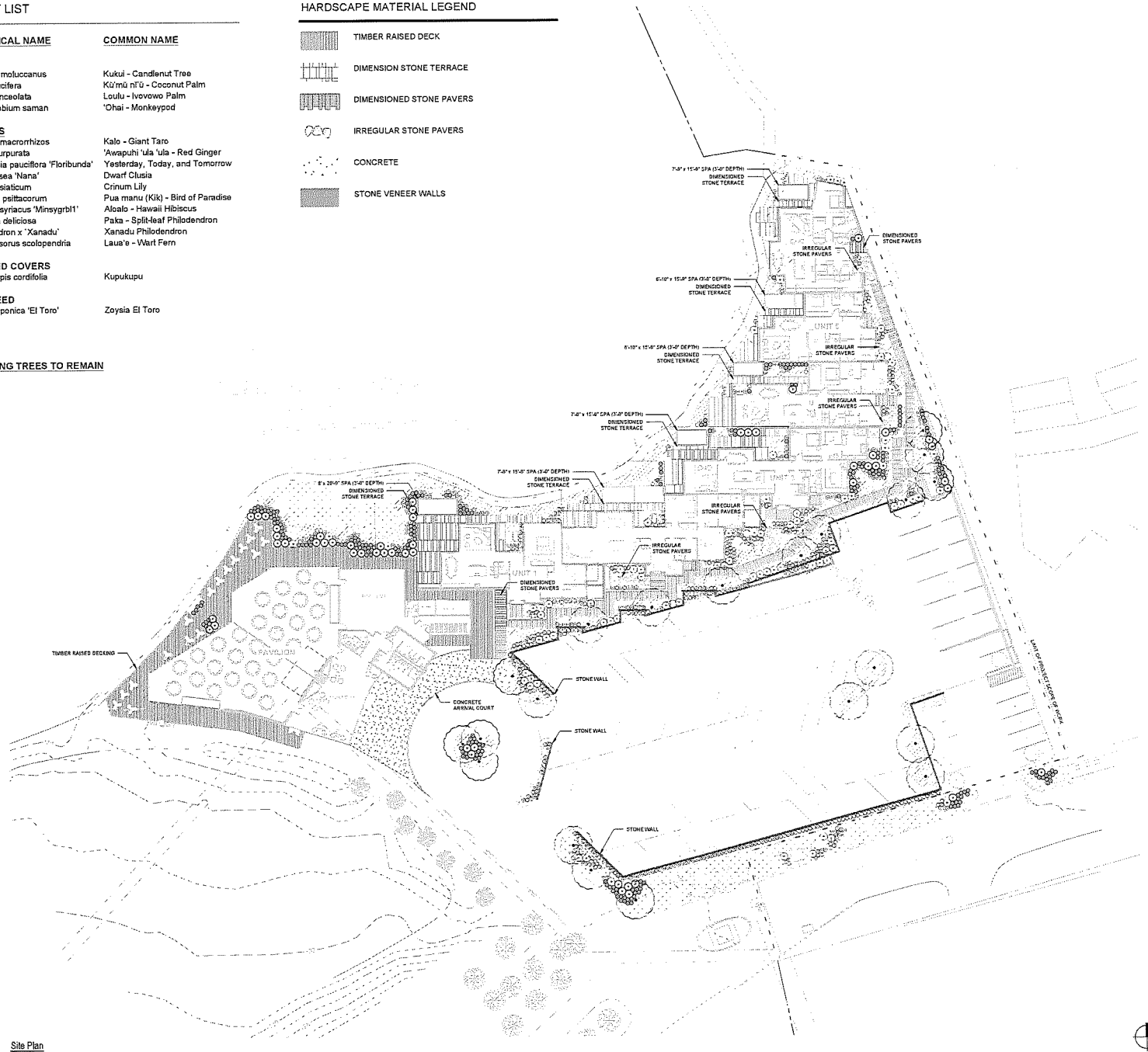
PLANT LIST

BOTANICAL NAME	COMMON NAME
TREES	
Aleurites moluccanus	Kukui - Candlenut Tree
Cocos nucifera	Kū'mū ni'ū - Coconut Palm
Dypsis lanceolata	Loulu - Ivovowo Palm
Pithecellobium saman	'Ohai - Monkeypod
SHRUBS	
Alocasia macrorrhizos	Kalo - Giant Taro
Alpinia purpurata	'Awapuhi 'ula 'ula - Red Ginger
Brunsfelsia pauciflora 'Floribunda'	Yesterday, Today, and Tomorrow
Clusia rosea 'Nana'	Dwarf Clusia
Crinum asiaticum	Crinum Lily
Heliconia psittacorum	Pua manu (Kik) - Bird of Paradise
Hibiscus syriacus 'Minsygrbl1'	Aloalo - Hawaii Hibiscus
Monstera deliciosa	Paka - Split-leaf Philodendron
Philodendron x 'Xanadu'	Xanadu Philodendron
Phymatosorus scolopendria	Laua'e - Wart Fern
GROUND COVERS	
Nephrolepis cordifolia	Kupukupu
SOD/SEED	
Zoysia japonica 'El Toro'	Zoysia El Toro

EXISTING TREES TO REMAIN

HARDSCAPE MATERIAL LEGEND

- TIMBER RAISED DECK
- DIMENSION STONE TERRACE
- DIMENSIONED STONE PAVERS
- IRREGULAR STONE PAVERS
- CONCRETE
- STONE VENEER WALLS



Site Plan
SCALE: 1"=20'-0"

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1 Homes Hanalei

5520 Ka Haku Rd,
Princeville, HI 96722

DESIGNWORKSHOP
Landscape Architecture + Land Planning
Urban Design + Tourism Planning

EXHIBIT "E-4"

THIS SQUARE APPEARS 3" X 3" ON FULL SIZE SHEETS

Issue Date
PROJECT ARCHITECT
DRAWN BY CB/TB

REVISIONS

NO.	DATE	DESCRIPTION

Project Status

LANDSCAPE AND HARDSCAPE SITE PLAN

L100



Scientific Name:
Aleurites moluccanus

Common Name:
Kukui - Candlenut Tree



Scientific Name:
Cocos nucifera

Common Name:
Kū'mū nī'ū - Coconut Palm



Scientific Name:
Dypsis lanceolata

Common Name:
Loulu - Ivovowo Palm



Scientific Name:
Pithecellobium saman

Common Name:
'Ohai - Monkeypod



Scientific Name:
Alocasia macrorrhizos

Common Name:
Kalo - Giant Taro



Scientific Name:
Alpinia purpurata

Common Name:
'Awapuhi 'ula 'ula - Red Ginger



Scientific Name:
Brunsfelsia pauciflora 'Floribunda'

Common Name:
Yesterday, Today, and Tomorrow



Scientific Name:
Clusia rosea 'Nana'

Common Name:
Dwarf Clusia



Scientific Name:
Crinum asiaticum

Common Name:
Crinum Lily



Scientific Name:
Heliconia psittacorum

Common Name:
Pua manu (Kik) - Bird of Paradise



Scientific Name:
Hibiscus syriacus 'Minsygrbl1'

Common Name:
Aloalo - Hawaii Hibiscus



Scientific Name:
Monstera deliciosa

Common Name:
Paka - Split-leaf Philodendron



Scientific Name:
Philodendron x 'Xanadu'

Common Name:
Xanadu Philodendron



Scientific Name:
Phymatosorus scolopendria

Common Name:
Laua'e - Wart Fern



Scientific Name:
Nephrolepis cordifolia

Common Name:
Kupukupu



Scientific Name:
Zoysia japonica 'El Toro'

Common Name:
Zoysia El Toro

LAKE | FLATO ARCHITECTS INC.
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NOT FOR REGULATORY APPROVAL, PERMITTING OR CONSTRUCTION

1 Homes Hanalei

5520 Ka Haku Rd,
Princeville, HI 96722

DESIGNWORKSHOP
Landscape Architecture + Land Planning
Urban Design + Tourism Planning
Aspen • Austin • Denver • Sarasota
Lake Tahoe • Los Angeles • Raleigh

Issue Date

REVISIONS

NO	DATE	DESCRIPTION

Project Status

LANDSCAPE PLAN

L101

EXHIBIT "E-5"

LAND COVERAGE CALCULATION

LOT 4-A	LAND COVERAGE AREA (SF)	TOTAL ZONING AREA (SF)	PERCENT OF LAND COVERAGE
RR-20	176,115	393,619	45%
RR-10	249	1,982	13%
OPEN	49,049	327,326	15%

*Area calculations are approximate based on ALTA survey dated 3/8/2023 and rounded to the nearest sf. G70 has only accounted for land coverage in the scope of the project Construction Documents. Any areas of lot coverage outside of the project's scope shall be accounted for separately by Owner.

LEGEND

- LOT 4-A | RR-20
- LOT 4-A | RR-20 (50%)
- LOT 4-A | OPEN
- LOT 4-A | RR-10

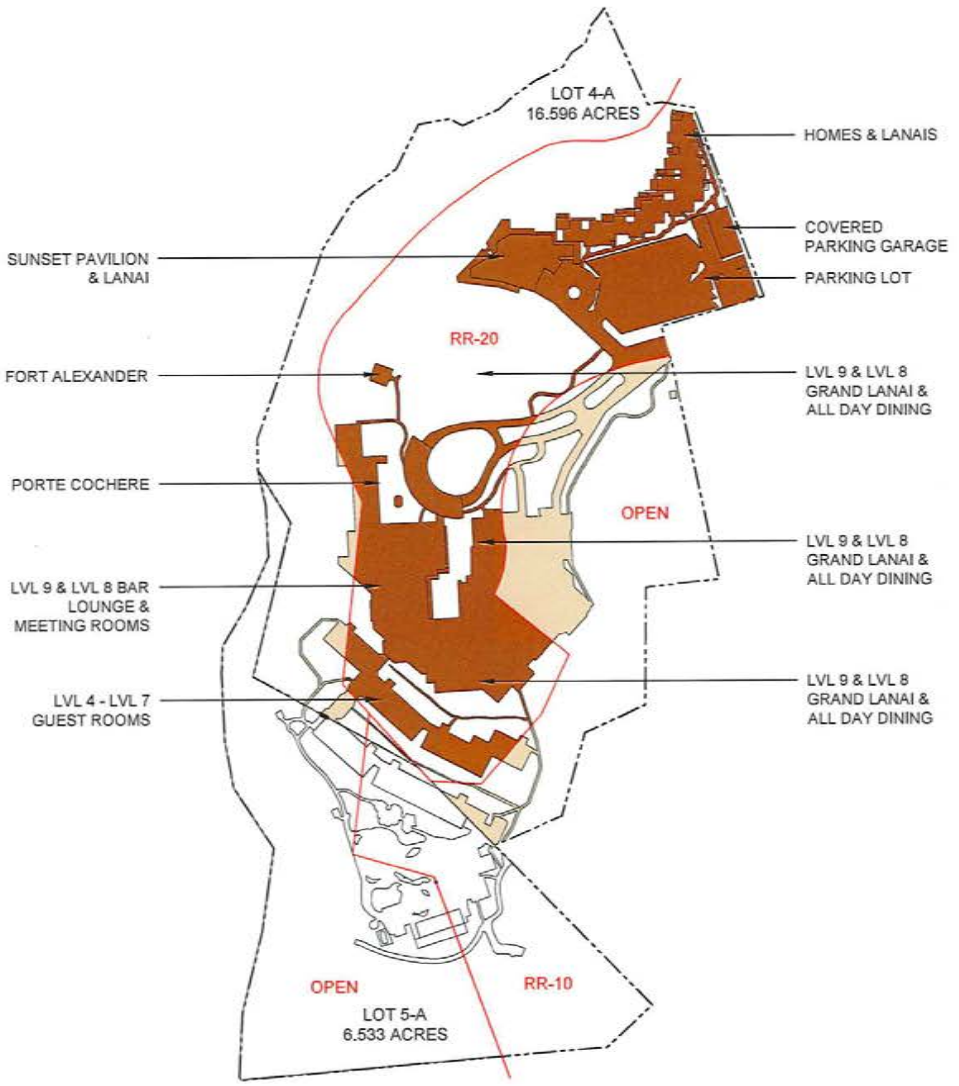


EXHIBIT "E-5"

1 HOMES HANALEI BAY PRINCEVILLE, HAWAII

STARWOOD CAPITAL GROUP

LAND COVERAGE ANALYSIS

NORTH 0 50 100 200 ORIGINAL SCALE: 1"=200'

DESIGN WORKSHOP

11.21.2025

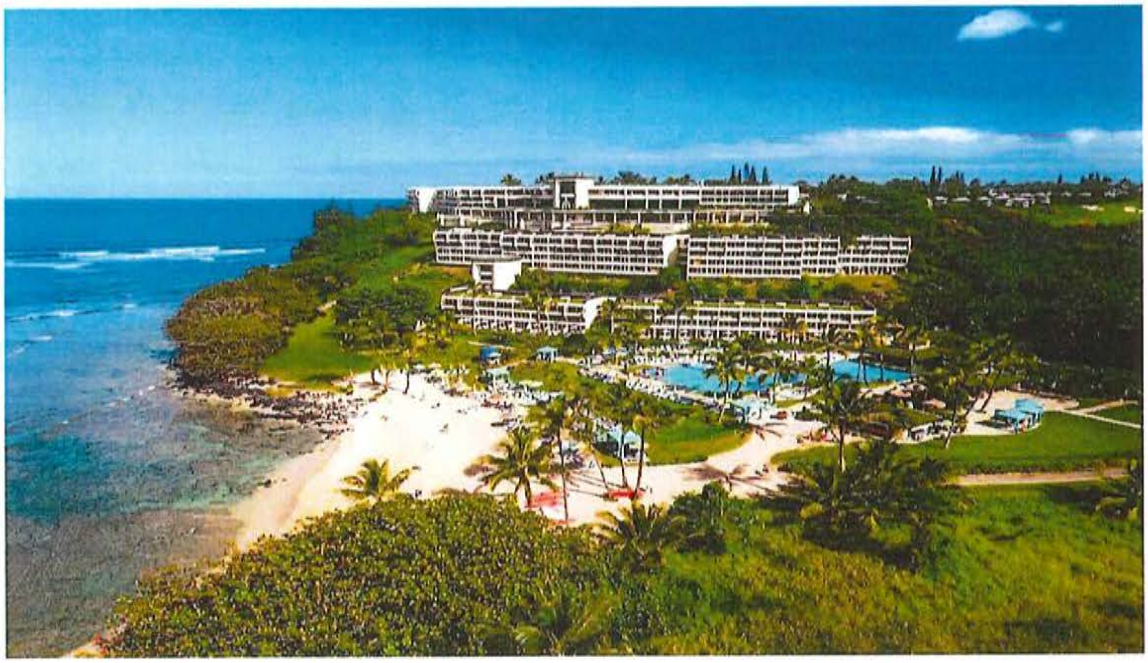
EXHIBIT "F"

1 HOTEL

Pu'u Pōā, Princeville, Hanalei, Halele'a, Kaua'i, Hawai'i

TMK (4) 5-4-001:004; 5-4-004:029,5-4-004:035

Site Plan Modification



Prepared By:

SOF XI Kauai PV Hotel, L.P.
591 West Putnam Avenue
Greenwich, Ct 06830

June 17, 2019

GTO

EXHIBIT "F"

1 HOTEL

Pu'u Pōā, Princeville, Hanalei, Halele'a, Kaua'i, Hawai'i

TMK (4) 5-4-001:004; 5-4-004:029; 5-4-004:035

Site Plan Modification

HOTELS

Applicant:

SOF XI Kauai PV Hotel, L.P.
591 West Putnam Avenue
Greenwich, Ct 06830

Submitted To:

County of Kaua'i
Planning Department
4444 Rice Street, Ste A473
Līhu'e, Hawai'i 96766

Prepared By:

G70
111 S. King Street, Suite 170
Honolulu, Hawai'i 96813

June 17, 2019

G70

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Section 1

Project Summary

Chapter 1

Project Summary

1.1 Project Information Summary

Type of Document:	Site Plan Modification.
Project Name:	1 Hotel
Applicant:	SOF XI Kauai PV Hotel, L.P. 591 West Putnam Avenue Greenwich, Ct 06830
Agent:	G70 111 S. King St., Suite 170 Honolulu, HI 96813
Approving Agency:	County of Kaua'i Planning Department 4444 Rice Street, Suite A473 Līhu'e, Hawai'i 96766
Project Location:	5520 Ka Haku Road, Princeville, Kaua'i (*Figure 2-1*)
Tax Map Keys (TMK)	(4) 5-4-001:004; 5-4-004:029; 5-4-004:035 (*Figure 2-2*)
State Land Use District:	Conservation (5.6 acres) and Urban (16.6 acres) (*Figure 2-3*)
Kaua'i General Plan:	Natural (12.57 acres) and Resort (10.42 acres) (*Figure 2-4*)
Kaua'i County Zoning	Open (10.2 acres), Resort District-10 (3.1 acres), and Resort District-20 (9.8 acres) (*Figure 2-5*). Visitor Destination Area
Special Management Area:	Within SMA (*Figure 2-6*)
Flood Zone:	X: Area of Minimal Flood Hazard and VE: High Risk Coastal Area, Base Flood Elevation (BFE)= 14ft (*Figure 2-7*)

Section 2

Project Description

Chapter 2

Project Description

2.1 Location

The existing Princeville Resort Kaua'i is a world-renowned oceanfront resort located in Princeville, Kaua'i (*Figure 2-1*). The property is located within the traditional moku of Halele'a and the ahupua'a of Hanalei. The 252-room resort is situated upon two parcels (TMK (4) 5-4-001:004; 5-4-004:029; 5-4-004:035) totaling approximately 23 acres that abuts the Pacific Ocean at Hanalei Bay (*Figure 2-2*).

The site is designated as Conservation district and Urban district by the State Land Use Commission and is designated as Natural and Resort by the Kaua'i General Plan (*Figure 2-3* and *2-4*). The site is zoned as Resort District (RR-10 and RR-20) and Open District (O) by the County of Kaua'i Comprehensive Zoning Ordinance (CZO) (*Figure 2-5*). The property is also identified by both the CZO and Kaua'i County General Plan as being part of the Princeville Visitor District Area (VDA). The site is located within the County's Special Management Area (SMA) and a portion of the site is within the Shoreline Setback Area (*Figure 2-6 and Figure 2-12*). Roadway access to the resort is served by Ka Haku Road, which is part of Princeville's internal roadway system. The resort is located at the end of the two-mile private road that runs through the resort community of Princeville.

The Princeville resort community was established in 1968 becoming Hawai'i's first and largest master-planned community. The Princeville area has been widely developed with luxury resorts and condominiums to support the region's visitor industry. The site is surrounded by modern urban development including hotels, condominiums, vacation homes, two championship golf courses, restaurants, and a retail shopping center.

2.2 Background

Site History and Ownership

Overlooking Hanalei Bay atop Pu'u Pōā, the Starwood Hotels and Resorts Group began construction of the Sheraton Princeville Hotel in 1983, and officially opened its doors in 1985. The low rise building with eleven levels was designed as a series of three terraces nestled within the Pu'u Pōā hillside. In September 2008, the hotel closed its doors for seven months to undergo major renovations and the redesign of guestrooms, meeting spaces, front lobby, swimming pool, and luxury spa. After the completion of these renovations, the hotel re-emerged as the St. Regis Hotel in April 2009.

In 2018, SOF XI Kauai PV Hotel, L.P. acquired the hotel site. The hotel operator's planned improvements seek to transform the existing resort to reflect the acclaimed 1 Hotel brand, product, and experience that provide an inviting and refreshed layout and improved visitor experience. The project will provide retrofits and upgrades to the existing property that will refurbish the hotel and include design characteristics representative of the contemporary 1 Hotel brand.

The 1 Hotel brand takes inspiration from nature to inform the design of the buildings, layouts, services, and guest experiences. The brand strives to integrate natural elements from the surrounding environment to enrich the guest experience, reduce energy consumption, and minimize the development's ecological footprint. 1 Hotel resorts incorporate an abundance of natural light, native vegetation, natural materials, and raw textures into the hotel design to minimize the visual impact of manmade structures and promote sustainable development.

Adjacent Land Uses

The project site is located within the Princeville Resort Community on the North shore of Kaua'i. The site is surrounded by Hanalei Bay Villas and the Princeville Makai Golf Club to the east, the Hanalei Bay Resort to the southeast, the Pu'u Pōā Condos to the north, and Hanalei Bay to the west. These adjacent areas are also zoned as Resort District (RR-10 and RR 20) and Open District (O) by the County of Kaua'i (*Figure 2-5*). The Princeville Resort Community is also a designated VDA.

Existing on-site Land Uses

The existing Princeville Resort Kaua'i is located on two parcels consisting of approximately 23 acres (*Figures 2-2, 2-10, 2-11,* and *2-12*). The hotel property provides 252 rooms and hotel amenities, including an outdoor swimming pool, full-service spa, modern fitness facilities, meeting spaces, gourmet dining, and retail gallery. Parking for the resort is at an open lot to the northeast of the site. Vehicular access to the property is off Ka Haku Road to a covered port-cochere drop-off area and/or self-parking lot.



Figure 2-1 **Project Location Map**



Figure 2-2 **County of Kaua'i, Tax Map Key Parcel Map of Project Area**

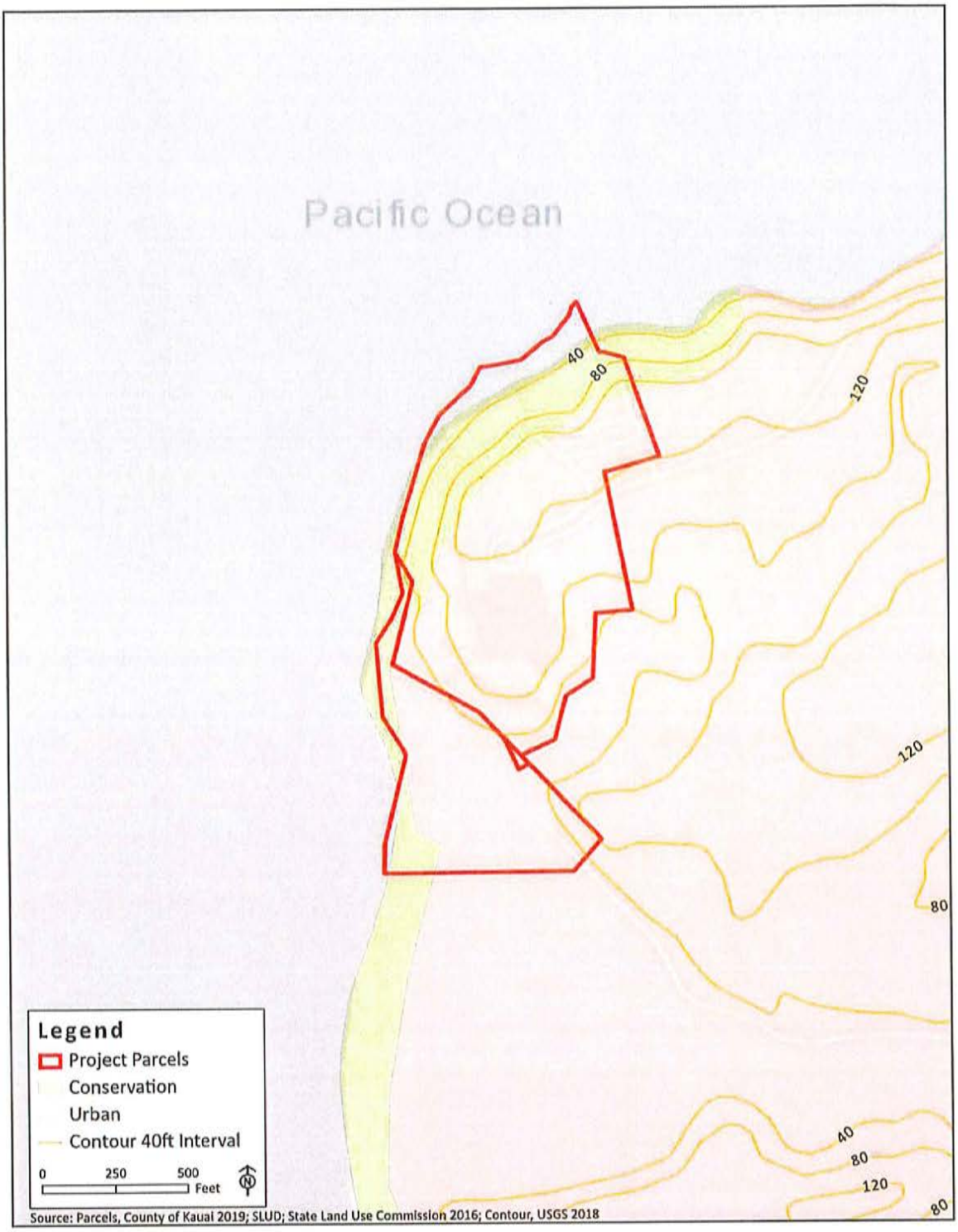


Figure 2-3 **State of Hawai'i, Land Use Designation Map**

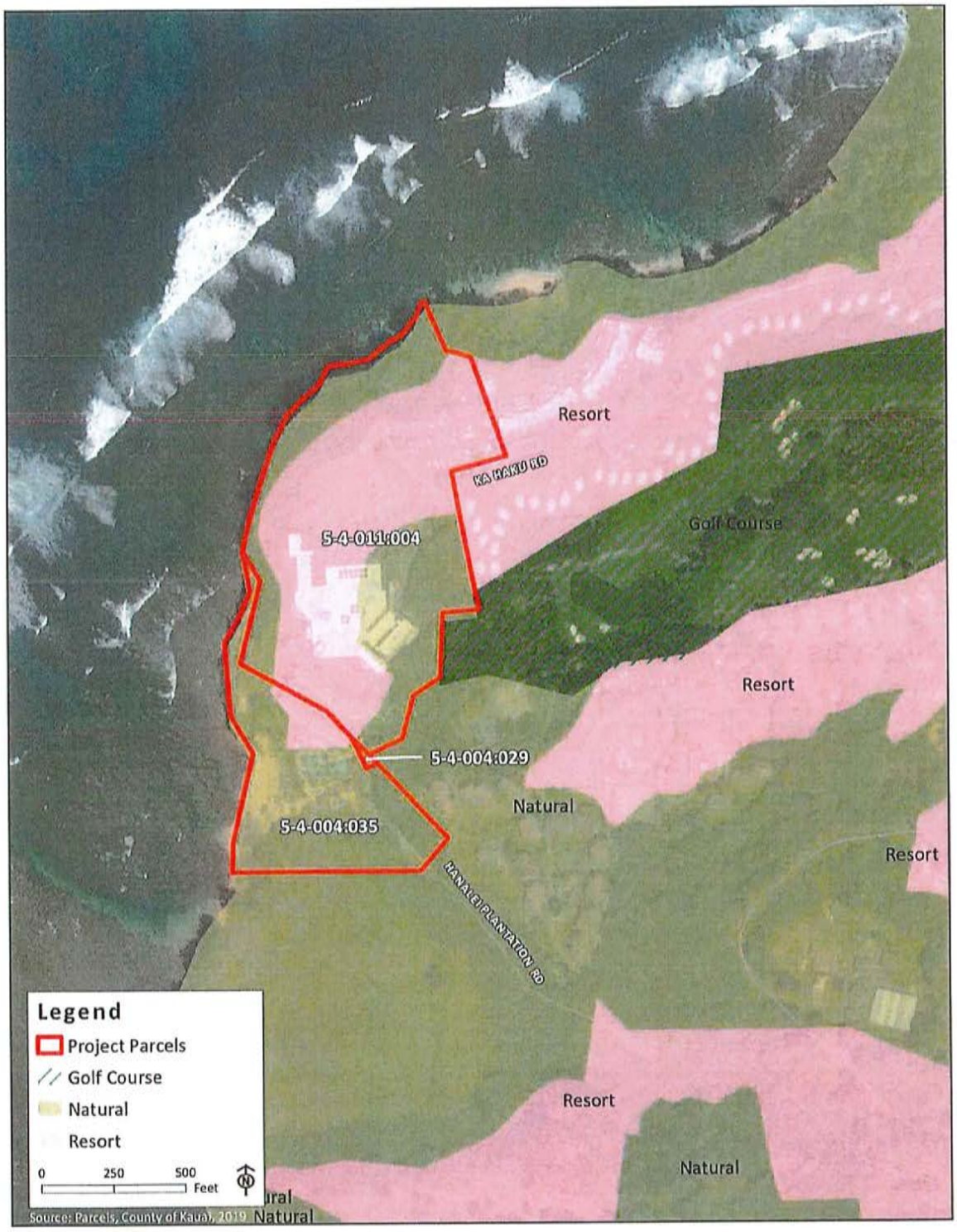


Figure 2-4 **Kaua'i County, General Plan Land Use Map**

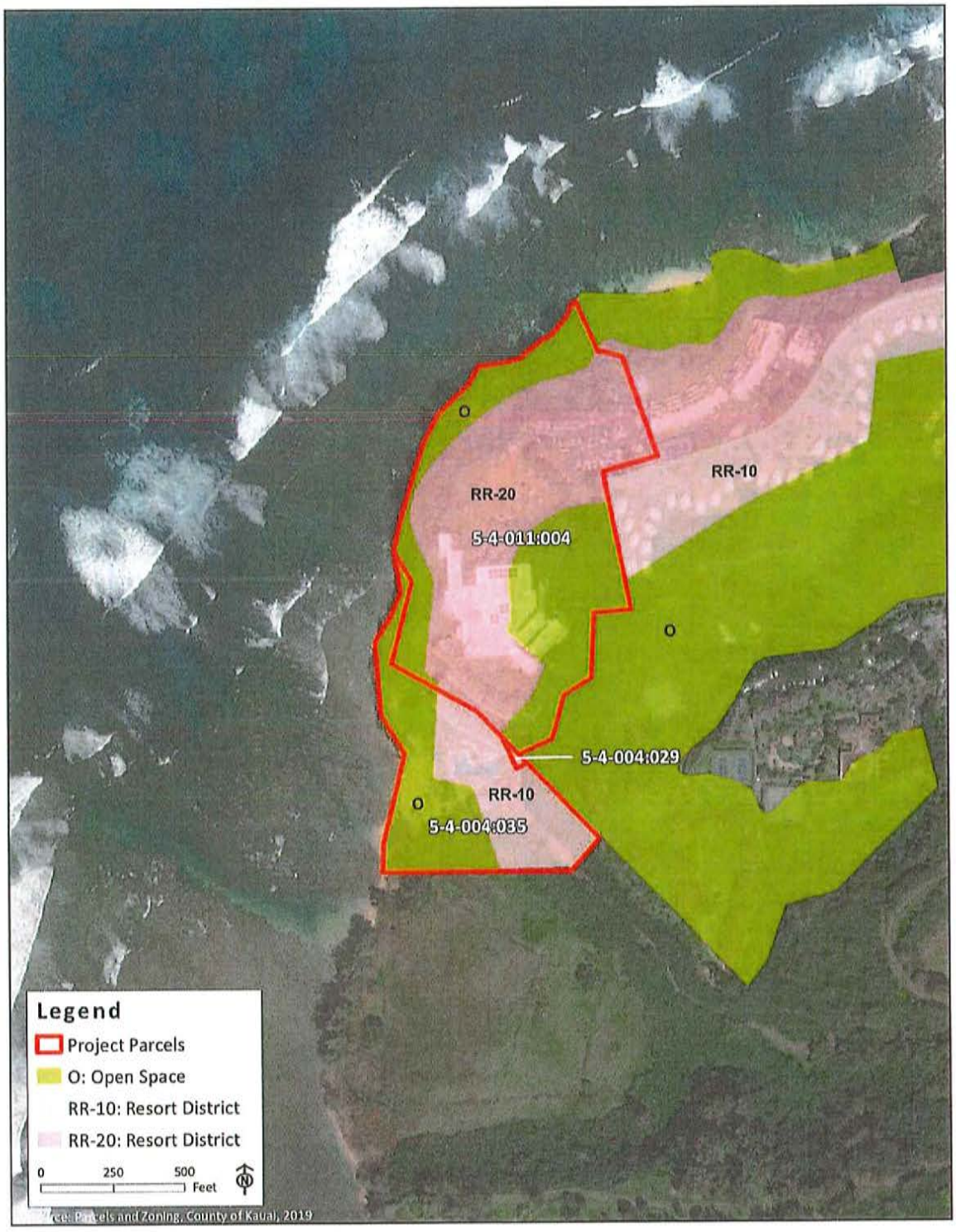


Figure 2-5 **County of Kauai, Zoning Map**

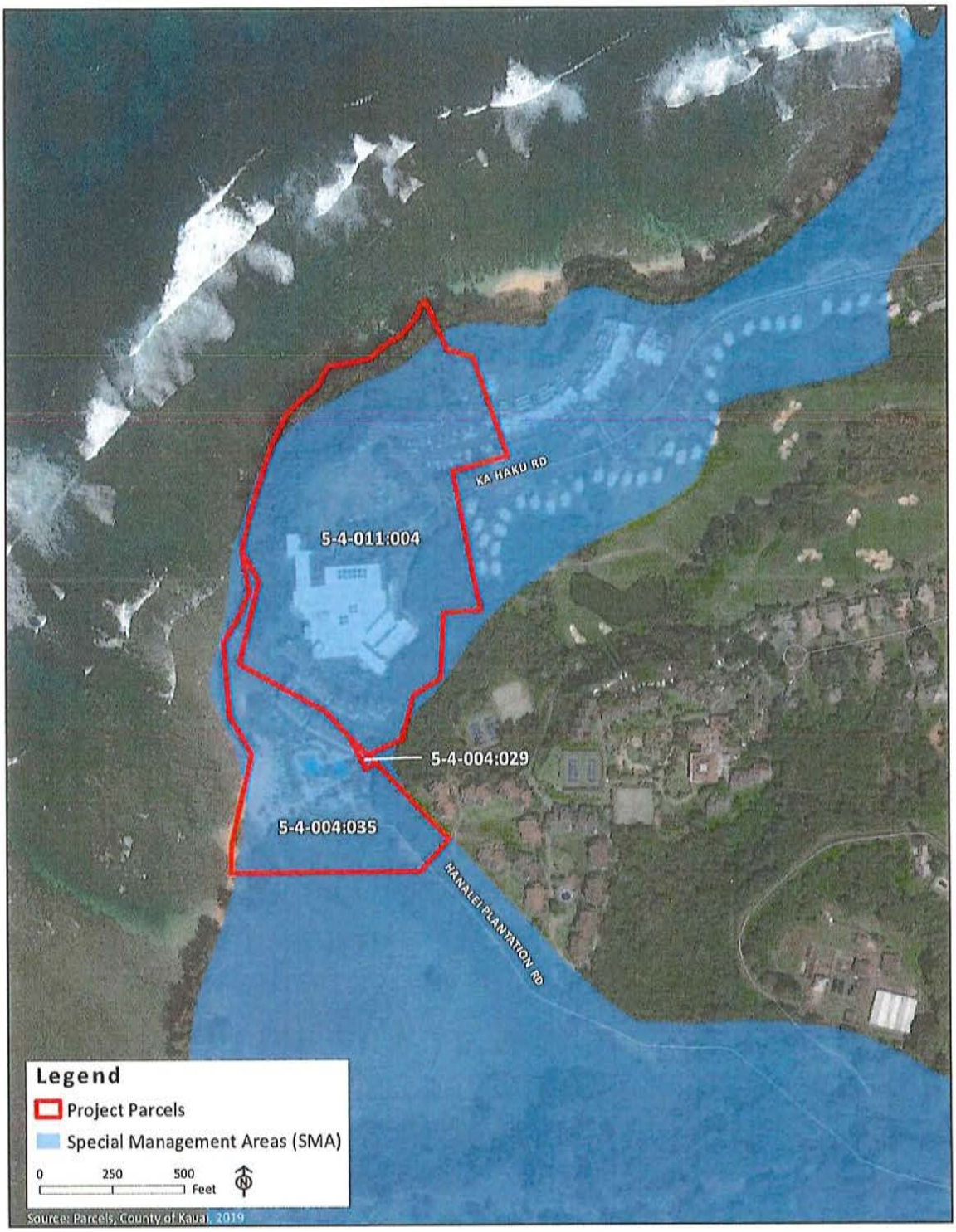


Figure 2-6 **Kaua'i County Special Management Area**

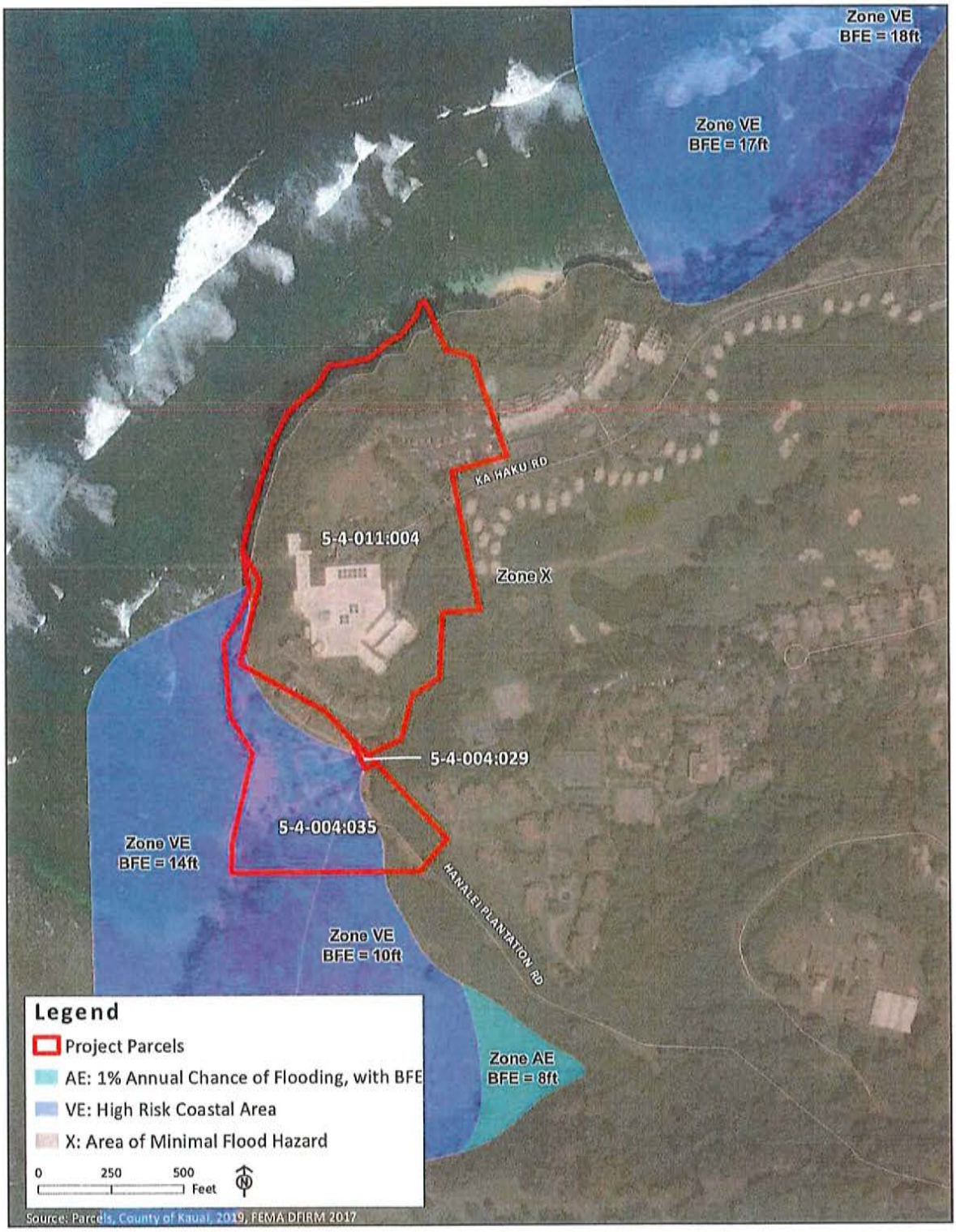


Figure 2-7 **Flood Zone Designations Map**

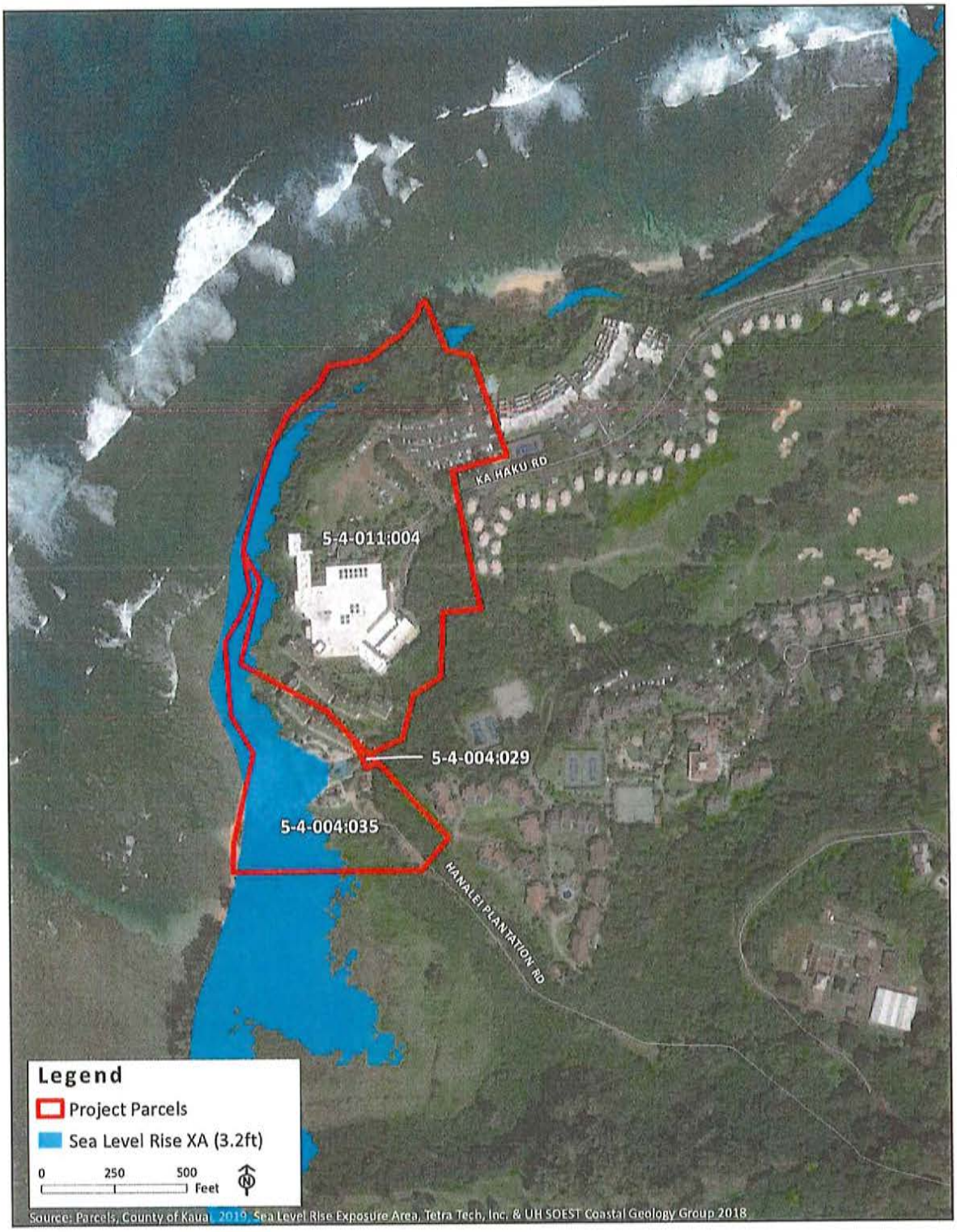


Figure 2-8 **Projected Sea Level Rise Model (3.2ft rise)**

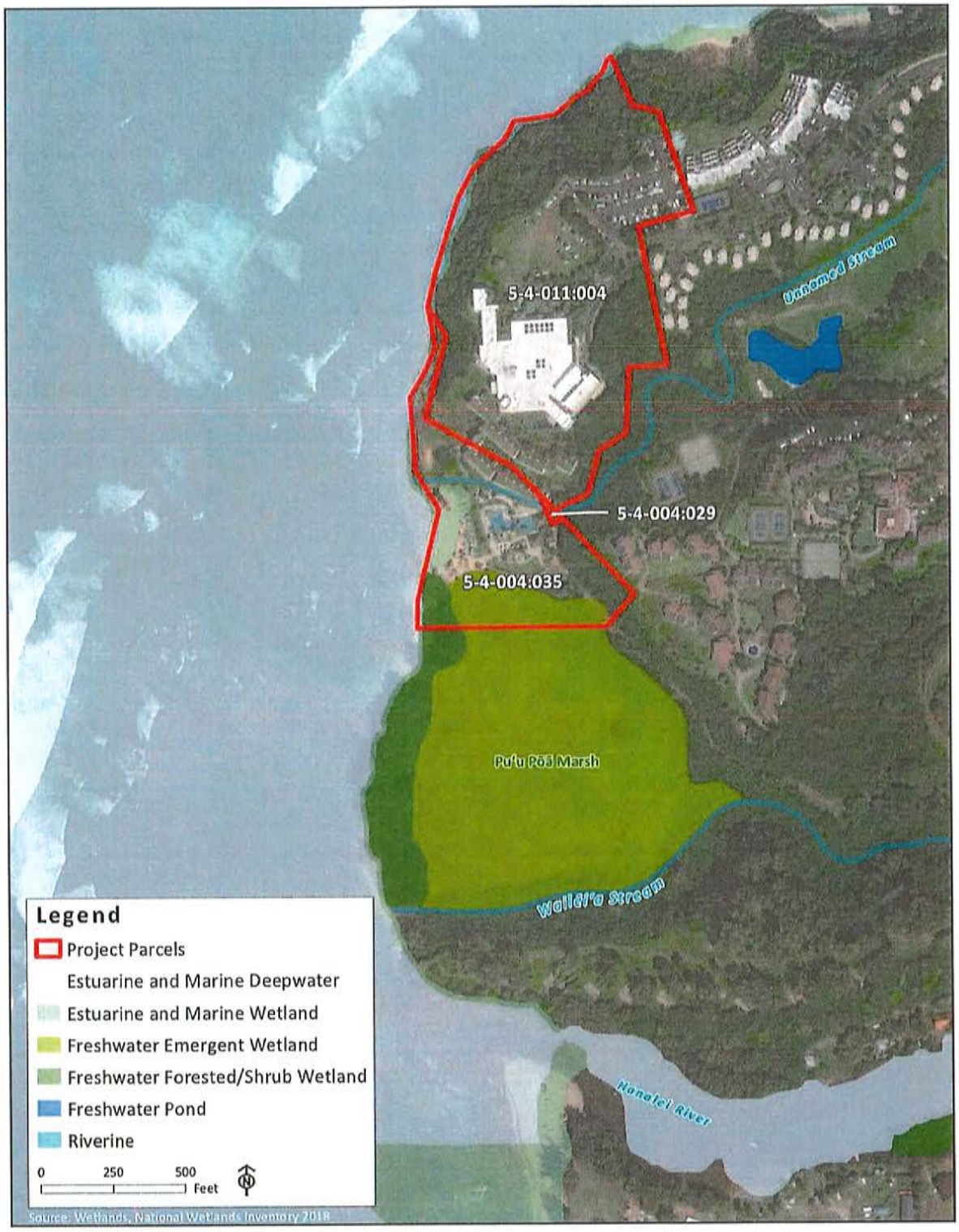


Figure 2-9 **Wetlands Location Map**

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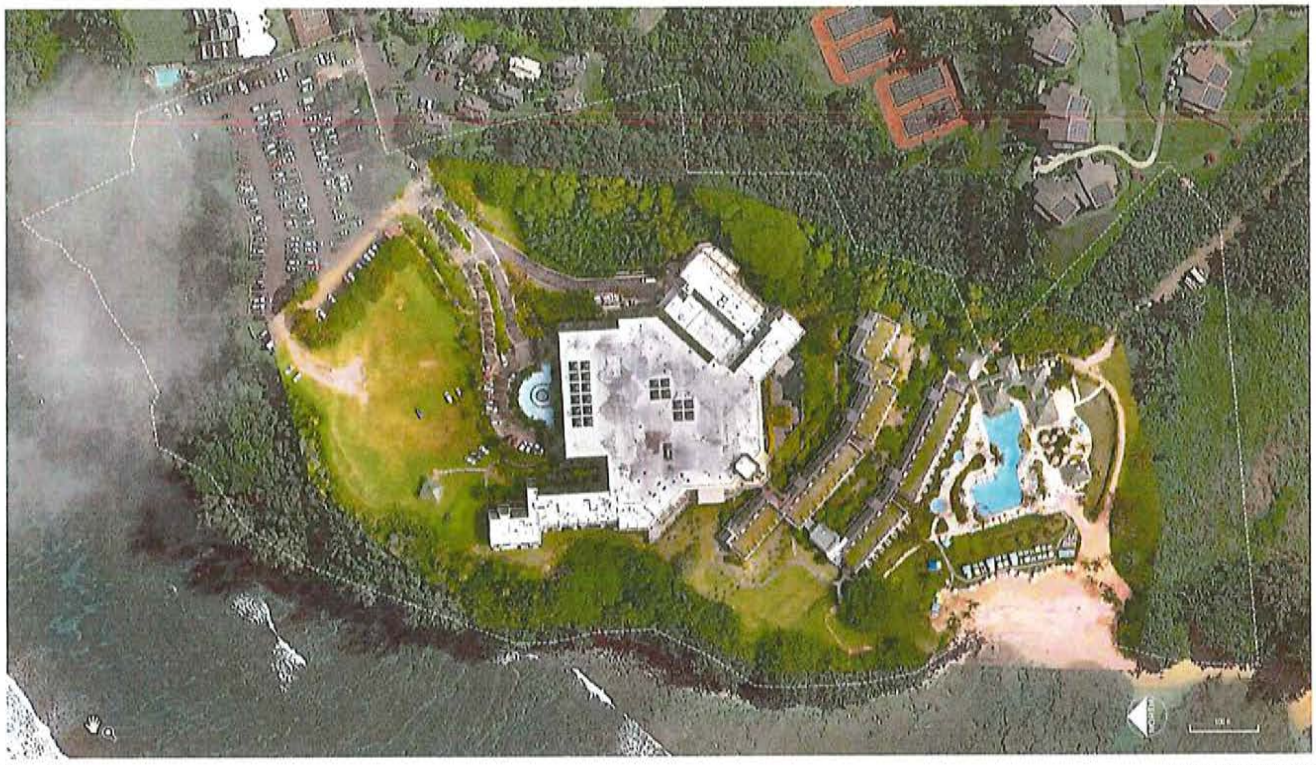


Figure 2-10

Arial View of Project Site

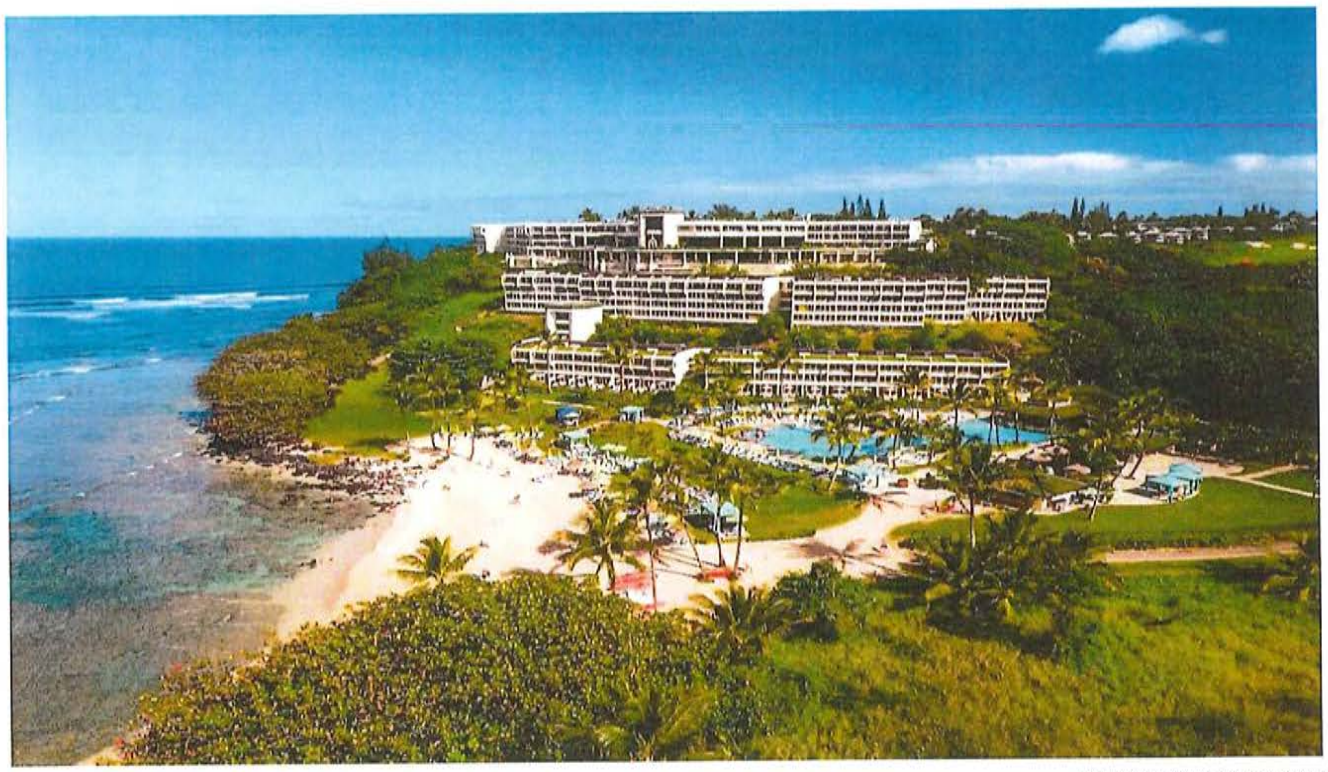


Figure 2-11

Existing Hotel Exterior, North Facing View

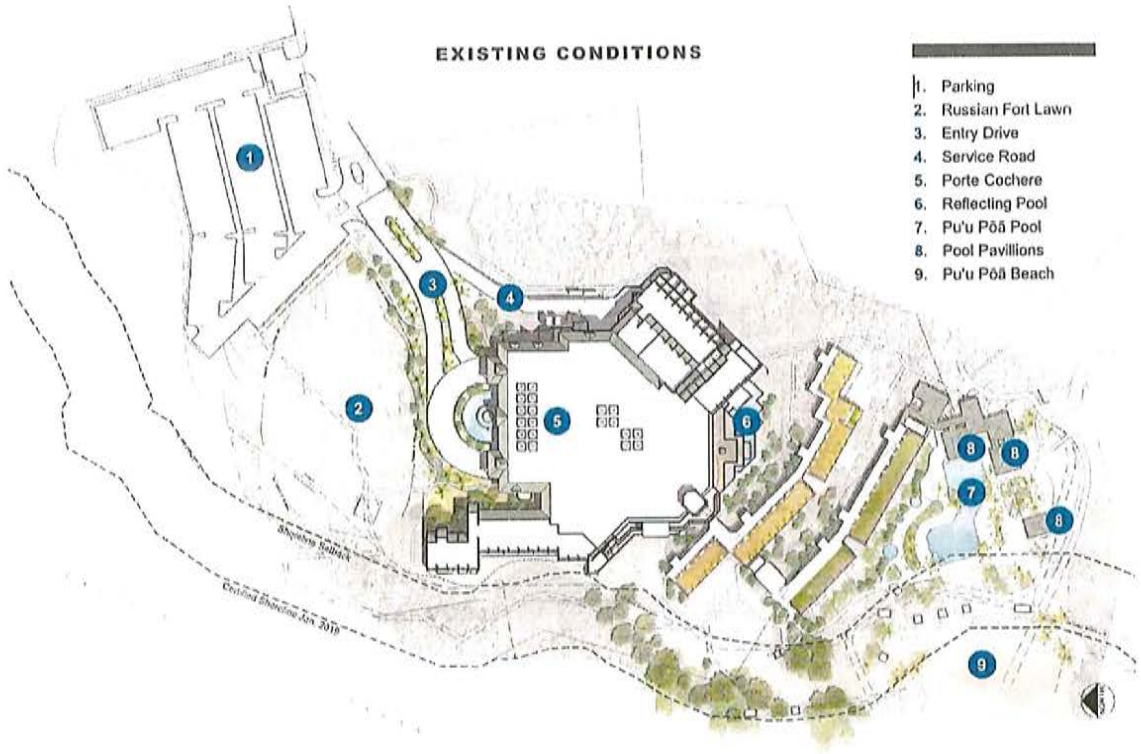


Figure 2-12

Existing Site

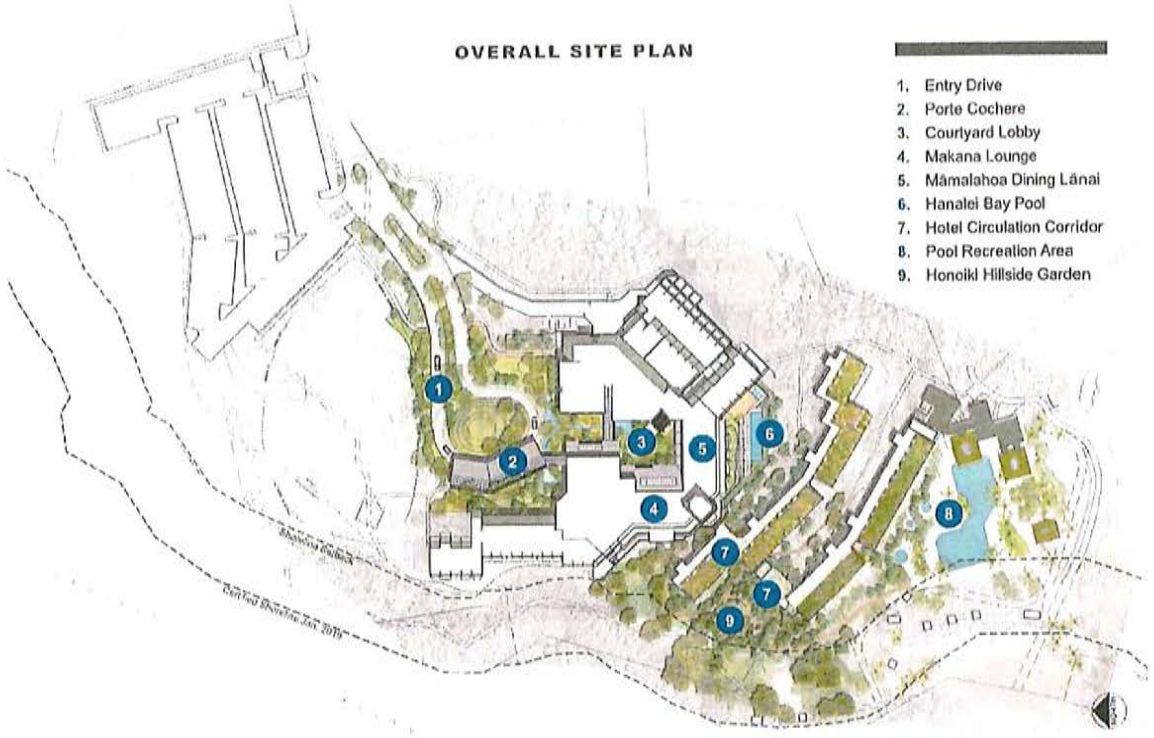


Figure 2-13

Proposed Overall Site Plan



A. Tree Tunnel
B. Conical Mound
C. Porte Cochere
D. Reception Area
E. Central Courtyard
F. Resort Spa
G. Makana Lounge
H. Grand Stairway
I. Māmalahoa Dining Lānai
J. Hanalei Bay Pool
K. Hotel Circulation Corridor

Figure 2-14

Proposed Hotel Arrival Area Floor Plan

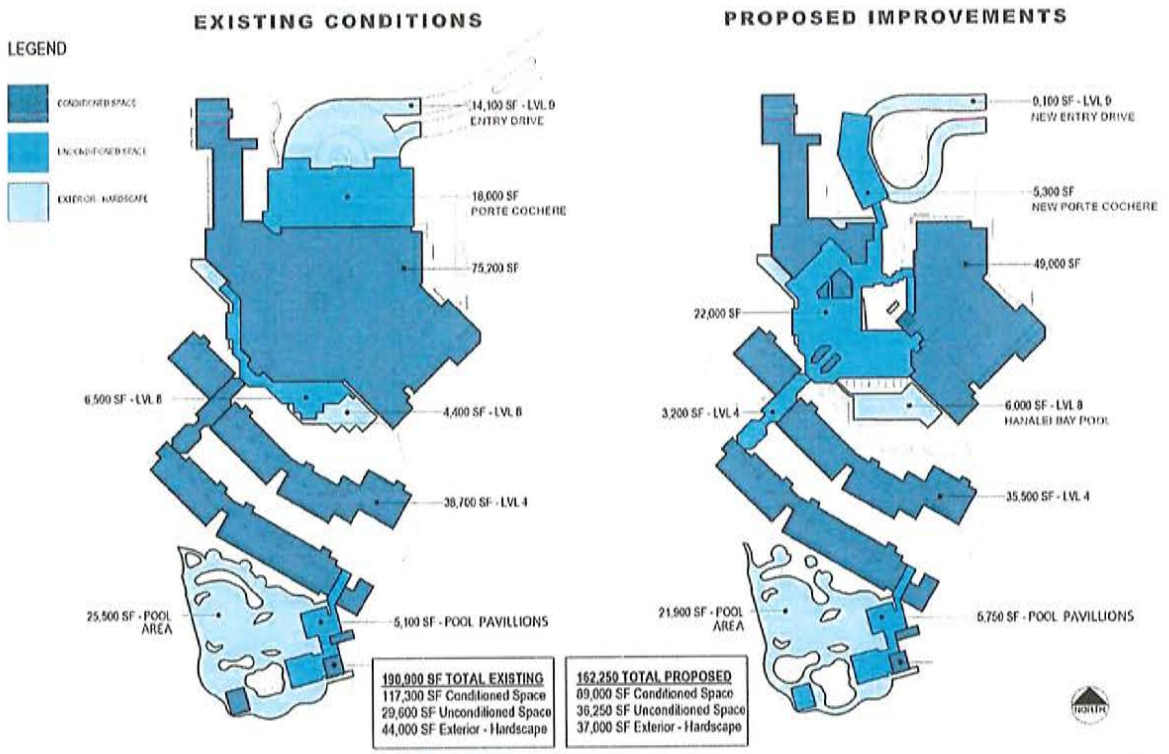


Figure 2-15

Modification of Development Footprint

2.3 Planned Improvements

The project supports the rebranding of the resort, providing guests with the 1 Hotel vision and experience. The project will provide key repair and maintenance improvements to the hotel exterior, arrival area, lounge, dining area, walkways, pool areas, and landscaping (*Figure 2-13*). Renovations are designed to enhance the guest experience by creating more open spaces and exposing interior spaces to outer elements that provide a more natural aesthetic. These upgrades to existing features will allow visitors at the resort to experience a luxury resort that is immersed with the natural beauty of Kaua'i.

The 1 Hotel project will also improve the existing guest rooms. The interior improvements will provide guests with a private lodging space that displays the luxuries of the 1 Hotel brand and its amenities. Although the interior renovations will occur concurrently with the planned project improvements, the specifics of these plans will be discussed in a separate permit application.

The 1 Hotel project will not result in changes to the existing setbacks or height of the hotel. The overall footprint on the site will be reduced from 190,900 square feet (SF) to 162,250 SF to provide additional open space and landscaping on the resort property (*Figure 2-15*). The proposed improvements to the Princeville Resort Kaua'i will fit with the existing site and are not expected to result in significant adverse impacts to the surrounding area. The resort will continue to be an economic engine for the County and provide employment opportunities for the local community. 1 Hotel will be a flagship resort property that provides a world-class visitor experience while preserving the authentic natural character of Kaua'i's North Shore. The project has been designed to optimize the existing space with improvements that update the hotel's overall appearance while providing a new lodging option for visitors to explore. The proposed project improvements are described in further detail below.

Overall Exterior

The building's existing exterior façade can be viewed from Hanalei Bay (*Figure 2-11*). Improvements to the building exterior are designed to elevate the aesthetic appeal of the resort by blending existing structures into the surrounding environment. The structure's existing white colored exterior will be softened using natural earthy colors and textures (*Figure 2-16*). Inspired by the 'āina of Kaua'i, the improved façade's color pallet contains shades and hues observable in the island's sandy shorelines, eroded lavas, and rocky precipices. Landscaping will also be integrated into the façade to create a living wall that blends the hotel into the natural landscape of Pu'u Pōā. The aging roofs on the resort's three main buildings will be refinished and partially replaced with new green roofs. The integration of green walls and green roofs will beautify the resort's structures while also reducing energy costs.

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Figure 2-16

Proposed Overall Exterior, North Facing View

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Entry Drive

Visitors arrive to the property via Ka Haku Road to the hotel driveway. As part of the improvements, trees will be planted along the perimeter of the driveway to create a shaded canopy (*Figure 2-14 and Figure 2-17*). The entry drive layout and landscaping are designed to provide a more intimate and leisurely feeling upon arrival. The project will also redevelop the existing roundabout to include a new central conical mound. The mound will block the view of the roadway and muffle vehicular noise, while also improving stormwater retention. The mound's construction will utilize the adaptive reuse of demolition materials to build up its elevation. Both the entry drive and mound will be lushly landscaped with native and tropical plants (*Figure 2-23 and Figure 2-24*).

Porte-Cochere

The existing white concrete porte-cochere will be replaced with a smaller scale structure that will incorporate natural building materials. The improved porte-cochere design will create an airy rustic setting that enhances natural light and air flow (*Figure 2-17*). The porte-cochere arrival area has been designed to provide guests with a memorable first impression to the 1 Hotel's nature-inspired resort setting.

Courtyard Lobby

The main entry to the three-tiered resort is located on the 9th floor. The lobby houses the reception area where visitors are greeted upon arrival. From there, guests may descend to the guestrooms, pool, and other public areas located on the floors below. The entryway and hotel lobby are key areas that help set the tone for the resort escape experience.

The existing lobby of the hotel is a confined space that is closed off from outdoor elements and scenic views. The project will improve the new lobby by providing an open-air courtyard landscaped with lush plants, lava rock, and a new water feature (*Figure 2-14*). The improvements are also designed to reorient the view from the hotel entrance towards Hanalei Bay and the Nā Pali Coast, that will add an element of drama to the arrival experience. Natural air and light will fill the space that helps to blur the boundary between the natural and built environment. A new wooden boardwalk with overhead vegetated trellises will also be constructed to provide wayfinding for guests to the reception area for check-in services (*Figure 2-18*).

The project design will open the arrival area as natural lobby garden setting that includes landscape and water feature elements. Some of these elements will be built above the 8th floor as a rooftop garden. The newly created lobby garden will provide enhanced natural light and ventilation to the existing lounge, spa and dining area. The addition of various natural materials and reconfiguration of circulation flow will create a seamless transition with the interior areas and new lobby garden.

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Figure 2-17 Entry Drive and Porte-Cochere



Figure 2-18

Arrival Area at Courtyard Lobby

Makana Lounge

The Makana Lounge located beyond the reception desk, is an area where guests can gather and relax while enjoying the panoramic views of Hanalei from the Makana Lounge (*Figure 2-14*). This area also provides seating and bar service.

The proposed construction within this area will include the demolition of existing finishes and exterior glass walls to create an open-air lounge. The existing bar floor will be raised by one-foot with a new slab to align with the existing outdoor elevation. Waterproofing materials will be installed at the floor and ceiling to protect the newly exposed areas

Māmalahoa Dining Lānai

The Māmalahoa Dining Lānai is located on the 8th floor of the hotel and can be accessed by the steps of the grand stairway from the reception area, or by the elevators in an upgraded elevator lobby (*Figure 2-14*). The dining lānai is a space for guests to indulge in the hotel's fine cuisines while enjoying the picturesque views of the Nā Pali Coast and Hanalei Bay Pool below (*Figure 2-19*).

As part of the project improvements, the existing finishes and exterior glass walls will be removed to open up the Māmalahoa Dining Lānai for a more indoor-outdoor experience that enhances natural light and ventilation. Window and door modifications with trellises will also be incorporated. Various natural materials and reconfiguration of the circulation flow will be done to the interior to flow with new lobby garden experience.

Hanalei Bay Pool

The existing reflecting pool beyond the Māmalahoa Dining Lānai will be converted into a new lap pool as part of the project improvements. The lap pool will provide guests with a place to swim laps for recreation or training purposes. The makai edge of the pool will be bordered by two tiers of planters each stepping down to a guardrail below. Tropical planters will be incorporated to further beautify and blend the pool into the landscape of Pu'u Pōā.

Construction of the lap pool will include demolition of the existing 4,400 SF reflection pool, that will be replaced with a 6,000 SF cast-in-place lap pool and deck (*Figure 2-14* and *Figure 2-19*).

Hotel Circulation Corridor

Modifications to the main circulation corridor will provide access and wayfinding improvements within the resort and will heighten guests experience of navigating down the cascading buildings to the beach below. Improvements to pedestrian circulation will include upgrades to the elevator cores and lobbies, 4th floor circulation space, viewing platform, stairway, and a new trail network (*Figure 2-20*).

The elevator exterior finishes will be painted with neutral colors and interwoven with landscaping. The existing walls in the elevator lobby will be removed to create an open-air lobby. The walkway on the 4th floor circulation corridor will be furnished with wood railings and planks that transform the path into a rustic boardwalk that will extend beyond the elevator lobby to a new 4th floor viewing platform.

As part of the project improvements, the existing stair tower will be upgraded and extended to connect levels 1 through 4. Outside the 1st floor, a new network of public trails will also be created. These trails will guide visitors to the main pool area, Pu'u Pōā Beach, and to viewpoints along the slope of the ridge. The slope will be densely planted with a variety of native and tropical plants to restore native habitats and contribute to the overall sense of place

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Figure 2-19

Māmalahoa Dining Lānai overlooking the Hanalei Bay Pool



Figure 2-20

Circulation Corridor

Pool Recreation Area

As the focal point of the resort's recreation area, light finishes to the Pu'u Pōā Beach Pool and pool deck will be completed to further invigorate the space and enrich the guest experience. Surrounding the main pool are three covered pavilions for activity, dining, and bar uses. The existing pool pavilions will be retrofitted with new roof tops and wood exteriors on the existing supporting columns (*Figure 2-21*). These pavilions will continue to provide shaded areas for guests to come together and relax near the poolside.

The existing planting areas will be renovated and landscaped with native shrubs and groundcovers (*Figure 2-23* and *Figure 2-24*). Native plants will beautify the pool recreation area and contribute to the Hawaiian sense of place. Many of the proposed coastal native plants are also commonly used for erosion control. These plants may be used to stabilize the landscape and mitigate future coastal erosion.

Honoiki Hillside Garden

The 1 Hotel project improvements will include a hillside garden located on the lower slope of Pu'u Pōā (*Figure 2-22*). The approximately 37,100 SF garden space will replace the existing lawn with native groundcovers, shrubs and trees (*Figure 2-23* and *Figure 2-24*). Biodegradable geo-jute will be installed for slope stabilization until groundcovers and shrubs grow in. Guests will be able to explore the gardens and use this space for gatherings such as family picnics or an impromptu kanikapila session. The Honoiki Hillside Garden will also be an ideal location for guests to relax and admire the beauty of a setting sun along the Nā Pali Coast or view the colorful schools of fish swimming among the Honoiki Reef in the coastal waters below. Beyond the terrace, a new public trail network will lead visitors to secluded garden alcoves and scenic viewing areas. The trails will follow the existing grade so that there is a balance of cut and fill for the area.

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Figure 2-21

Pool Pavilions



Figure 2-22

Honolkl Hillside Garden

TREES / PALMS



SHRUBS AROUND MAIN BUILDING



Figure 2-23

Plant Pallet (Trees/Palms and Shrubs Around Main Building)

GROUNDCOVERS AROUND MAIN BUILDING



COASTAL SHRUBS & GROUNDCOVERS



Figure 2-24

Plant Pallet (Groundcovers Around Main Building and Coastal Shrubs/Groundcovers)

2.4 Infrastructure

The proposed 1 Hotel project improvements will not adversely impact existing water, wastewater, drainage, or electrical/communications uses or infrastructure at the site. The project is not expected to alter existing capacity at the site.

As an environmentally sustainable and conscious brand, the 1 Hotel project seeks to achieve LEED Certification through its design, construction, and maintenance. The project will leverage the moderate climate of Kaua'i, by integrating natural design components to reduce the energy consumption of the existing building. Project priorities include reducing the total conditioned space on the property and allowing for natural ventilation and light. The project will also include environmentally responsible reconstruction through the adaptive reuse of building materials.

2.5 Access, Roadways, and Parking

Roadways adjacent to the project include Ka Haku Road and Hanalei Planation Road. Vehicular access to the site is located off Ka Haku Road to the covered porte-cochere arrival area. The project will not impact existing access or roadways; however, the resort driveway will be narrowed to slow vehicular traffic and will provide increased landscaping elements.

The project will generate short-term construction-related traffic associated with worker vehicles, transport vehicles for machinery, and waste disposal vehicles. Upon completion of the approximately one-year long project, traffic conditions are expected to return to existing conditions. The project will not result in any net increase in hotel capacity; therefore, the modification will not result in new traffic impacts beyond those currently experience.

The planned improvements for 1 Hotel will not affect the existing number of parking and loading stalls provided on the site. The project will not result in an increase in floor area or capacity; therefore, no additional parking is required for the project.

2.6 Shoreline

The project's planned improvements will not impact the existing shoreline. The shoreline frontage is located along the western boundary of the property as defined in the Hawai'i Revised Statutes (HRS) 205A-41, as amended. As part of the project, a shoreline survey was conducted by Honua Engineering on January 28, 2019 per Ordinance 979, Section 8.27.3. A Shoreline Setback Determination Application was submitted to the County of Kaua'i Planning Department in April 2019 (OEQC file no. KA-438).

The existing Pu'u Pōā pool area is located within the 100-foot shoreline setback. Improvements to this area include landscaping and upgrades to existing structures. The planned improvements will not increase the overall footprint or developed area on the site and will not include the construction of new structures within the shoreline setback.

2.7 Climate Change and Sea Level Rise

Sea level rise is a primary factor driving historical shoreline changes in Hawai'i. The average annual global sea level rise over the last century was approximately 1.88 millimeters, with studies indicating that this rate may accelerate in the coming decades. University of Hawai'i (UH) climate researchers predict that rising sea levels mostly caused by man-made climate change will affect coastal locations around the State of Hawai'i. The UH School of Ocean and Earth Science and Technology (SOEST) provide a sea level rise scenario for Kaua'i projecting up to a three foot increase by 2100 (PacIOOS Sea Level Rise: Hawai'i Sea Level Rise Viewer).

According to UH SOEST, sea levels in the central western Pacific Ocean may reach approximately 1 to 2.5 ft higher than the global average sea level rise by the end of the century. An appropriate planning target would include a sea level benchmark of 1 foot by mid-century, and about 3 ft by the end of the century. The 3.2-foot sea level rise scenario is depicted in *Figure 2-8*. Modeling indicates that sea level rise could significantly impact the project area. UH SOEST shoreline studies indicate that the shoreline area at Pu'u Pōā Beach is experiencing erosion at an average rate of -.05 ft/yr. A certified shoreline survey conducted on January 28, 2019, reveals that the parcel adjacent to the beach (TMK 5-4-004:035) has experienced approximately .789 acre of land loss due to erosion since 1981.

The 1 Hotel project is not anticipated to contribute to greenhouse gas emissions relating to the long-term processes of climate change and sea level rise. Strategic planting of native plants near the Pu'u Pōā Beach area could reduce erosion and act as natural shoreline protection. Additionally, the reduction in overall hardscape and the addition of landscaping may improve water retention and drainage to prevent ponding, runoff, erosion, or beach washout during heavy rainfall events.

2.8 Biological Resources

The major streams on Kaua'i originate in the rainy uplands and are relatively large and uniform in flow. The surface water bodies nearest to the project site are the Hanalei River, which meanders along the valley floor, and the river's adjacent wetlands. The river is designated a National Heritage River, and according to the State Department of Health (DOH), is classified as a Class 1(a) inland water. The Pu'u Pōā Marsh is located where the river meets the sea and is also the location of the historic Kamo'omaika'i fishpond (Figure 2-9).

Coastal waters form on the western boundary of the parcel. The DOH classifies these coastal waters as Class AA, while a portion of the waters in the areas offshore Pu'u Pōā Marsh are classified Class A. The stated objective of Class AA waters is, "that these waters remain in their natural pristine state as nearly as possible with an absolute minimum of pollution or alteration of water quality from any human-caused source or actions", while the objectives of Class A waters is, "their use for recreational purposes and aesthetic enjoyment be protected. These waters shall not act as receiving waters for any discharge which has not received the best degree of treatment or control compatible with the criterial established for this class." (Water Quality Standards, Title 11, Chapter 54, HAR).

According to the U.S. Fish and Wildlife Service's Fauna webpage, the Hanalei River and adjacent wetlands contain both native and non-native animals, including mammals, birds, reptiles, amphibians, crustaceans, mollusks, insects, and fish. Most of the animals that potentially utilize the project site and river south of the project site are transients through the area. This includes: one federally listed endangered bat species; four endemic waterbirds federally listed as endangered; one State listed endangered bird; several migratory waterbirds protected under the Migratory Bird Treaty Act (MBTA); and one species of sea turtle listed as federally threatened.

Hawai'i has five species of native fish (four gobies and an eleotrid), and two species of native crustaceans that are diadromous, meaning they migrate between salt and fresh waters. These species travel from river to ocean as newly hatched larvae and return from the ocean to the river as juveniles. All seven of these species utilize the Hanalei River and estuary.

The hotel improvements will involve minor soil disturbing activities. Potential water quality impacts to surface and near shore coastal waters during construction will be mitigated by adherence of State and County water quality regulations governing grading, excavation, and stockpiling. Mitigation measures will be instituted in accordance with site-specific designs, incorporating appropriate structural and non-structural Best Management Practices, such as minimizing time of exposure between construction and re-vegetation, avoiding grading during the winter and implementing erosion control measures such as silt fences and sediment basins.

Nearshore waters and the Pu'u Pōā marsh area will not be impacted by the hotel improvements. The hotel is interested in seeing the Kamo'omaika'i fishpond restored and would like to play a supporting role in future conservation efforts.

2.9 Protected Avifauna

Native seabirds are known to traverse the coastal areas along Princeville. Species such as the 'a'o (Newell's Shearwater- *Puffinus newelli*), 'ua'u (Hawaiian Petrel- *Pterodroma sandwichensis*), and 'akē'akē (Band-rumped Storm-Petrel- *Oceanodroma castro*) are nocturnal seabirds that fly to and from their land-based nests. Hawaiian seabirds may traverse the project area during seabird fledging season (September 15 – December 15) when young seabirds and adults start their navigation out to sea. Each fall, the young birds fly to the ocean for the first time using the moonlight on the sea to navigate their way. These birds can become disoriented and blinded by artificial bright lights that are emitted skyward.

The Princeville Hotel established the Shearwater Awareness, Protection and Collection Program in 2012 to ensure the protection of Kaua'i's seabirds at the resort property. 1 Hotel will continue to implement this existing program to mitigate potential impacts to avifauna to the extent possible. In addition, the lighting scheme for the hotel will be designed to minimize adverse night-time lighting, while providing a naturally lite ambience that accentuates guest experience at the hotel property. The design will meet the guidelines of the Dark Sky Association, while not exceeding the minimum levels specified in the Illuminating Engineering Society's recommended practices for night-time safety, utility, security, productivity, enjoyment, and commerce.

2.10 Traditional and Customary Rights

The rights of hoa'āina (native tenants) have and continue to be secured through the passage of laws that extend as early as the 1840 Constitution in the Kingdom of Hawai'i. These laws are an integral part of the complex transformation that occurred during this historical period of transition in land tenure practices, incorporating concepts of private property rights for the first time. Under the auspices of these laws, Native Hawaiians hold unique rights to exercise traditional and customary practices for subsistence, cultural, and religious purposes as codified in Article XII, section 7 of the Hawai'i State Constitution and Section 1-1 (Common law of the State; exceptions) and 7-1 (Building materials, water, etc; landlords' title subject to tenants' use) of the Hawai'i Revised Statutes.

Many court cases have been decided since 1858 to reaffirm these native tenant rights. One of these cases, *Ka Pa'akai O Ka 'Āina v. Land Use Commission (Ka Pa'akai)* (2000), resulted with the Hawai'i State Supreme Court introducing an analytical framework in which a government agency must at minimum identify the scope of existing cultural, historic, or natural resources and evaluate to the extent of which traditional and customary rights are exercised in a proposed project area and must assess the potential impact, alternatives, and mitigating measures of the project to reasonably protect these rights.

The project lies in the ahupua'a of Hanalei. In the mokuoloko of Halele'a. E.S. Craighill and Elizabeth Handy document that the area was understood to be a part of the more extensive region's utilization for wetland agriculture in traditional times.

Hanalei is unique on Kaua'i in having a broad river flowing into a magnificent level seaward area. The flats had been taro lo'i of Hawaiians, amply irrigate by ditches from Hanalei River. Because of an abundance of foods of all sorts, Hanalei was, and still is, one of the most attractive dwelling places in the islands. In addition to its rich lands and water resources, and its beautiful beach, it was close enough to the rich deep-sea fishing grounds off the Napali Coast to supply its people with plenty of fish (Handy and Handy 1972:420-421).

Early missionary accounts also describe an array of gardens, a mix of fruit-trees, vegetables and flowers. One account from Elsie H. Wilcox in 1917 describes that bananas, breadfruit, coffee, sugarcane, coconuts, sweet potatoes, yams, squash, pia, and taro were cultivated and chickens and pigs were raised. The bank areas of rivers were documented to be lined with taro patches that in some cased were reutilized for rice cultivation.

A succinct review of old maps reveals traditional place names within which the project area. An 1878 Kauai Government Survey Map by Surveyor General W.D. Alexander reveals the project lies in Pu'u Pōā at the base of Kauakaniunu Ridge and was adjacent to the activities of Princeville Plantation (*Figure 2-25*). The term Pu'u references a "hill, peak, cone, or mound". Pōā translates to mean "to rob or plunder". A limited research of available repositories and databases did not provide any further clarification to the meaning of this place name.

A Hawaii Territory Survey drawn by Surveyor Walter E. Wall in 1903 further illustrates that the project area was also possibly known as Pu'u Pehu (*Figure 2-26*). A succinct search of available resources did not provide an exact meaning. Pehu means to be "swollen". The name Kauakaniunu is defined as the "the rains that fall upon Kaunu'ōpua" – which is another name associated for the ridge line located south of the 1 Hotel property.

A succinct review of online historical archive databases did not provide any specific additional information. The distinction of place names would suggest that names for a pu'u were sometimes related to either specific phenomena or significant human activities that aligned to the specific functions of space. In many cases, pu'u, due to their prominence in the landscape, were often recognized for their purpose as geographical markers, triangulations points, and lines of sight for certain practices, like kilo i'a – an observational point to track movements of fish schools in nearshore waters, observation of currents and tides; or other seasonal phenomena. The nearshore waters were and continue to be utilized by fishermen.

As shared in several informal wala'au, the area's use as a kilo i'a is the only known traditional and customary practice understood to be associated to the plateau area. Information provided in these discussions revealed that the reef network extends east to Kalihiwai and was known for its abundance of he'e, limu, and other reef resources. The name of the reef makai of the hotel was called Honoiki. One source account shared that fishermen would track for certain movements and evidence of movement of fish schools. The old timers would use handkerchiefs to wave to communicate with other fishermen down below near the shoreline. In more contemporary times, the fishermen used portable walkie-talkies and cell phones. The proposed improvements of the project will not deter or diminish the existing conditions in which potential opportunities for the practice of kilo i'a are conducted.

Ensuring the quality of the reef is maintained for future generations was a key concern expressed by those that shared their mana'o. There were suggestions to expand upon existing reef educational activities for guests and residents, i.e. education on impacts of sunscreen to corals and reef systems. Additionally, it was expressed that all proposed renovations from building improvements to landscaping improvements eliminate all potential exposure risks from non-point source pollution and drainage discharge.

Review of historical and cultural sources and informal discussions with knowledgeable individuals do not reveal any other known traditional or customary practices associated to the site. However, one source shared that hotel operations before 2004 had a strong Hawaiian cultural component with Aunty Dora Swain serving as the hotel kupuna – as a respected elder she was a cultural ambassador that would welcome guests. Programming at the hotel used to include Hawaiian storytelling, music, cultural and artistic practices that some folks feel should be reinvigorated to the depth as to what other places like the Ritz Carlton does with its cultural programming offering an annual celebration for the arts.

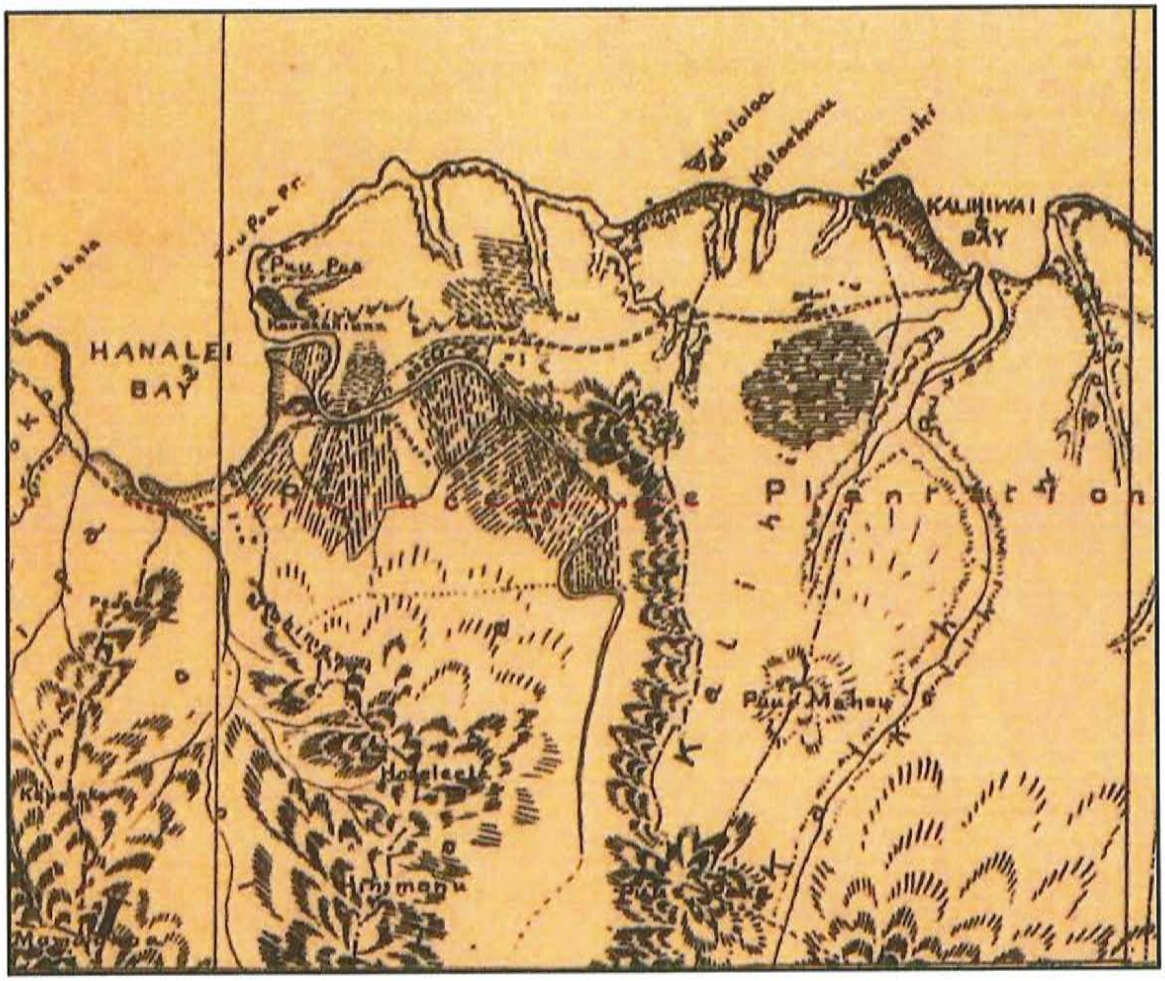


Figure 2-25 **1878 Kaua'i Government Survey Map**

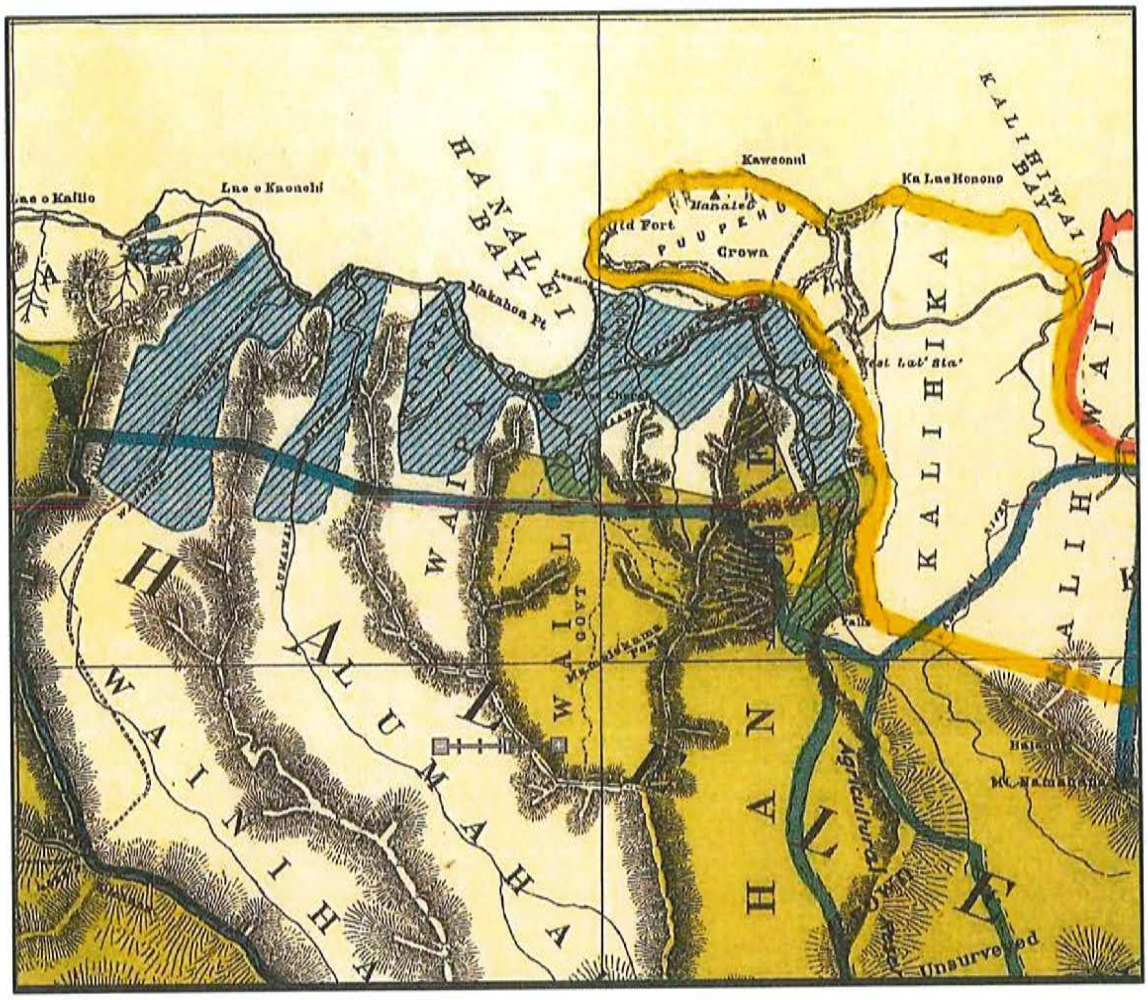


Figure 2-26 **1903 Hawai'i Territory Survey**

One significant cultural feature that lies to the south and outside of the project area is Kamo'omaika'i Loko I'a, which is understood as a fishpond system that was created as early as the 1400s. The walls of the pond were understood to be 5-6 meters wide and approximately 3-4 meters high and are considered to be the largest walls known to still exist. Due to changes in natural environment, Wailē'ia Stream began to accumulate terrestrial and marine sediments in the 1400s. The wall features still exist with a portion of them buried under the sand along Pu'u Pōā Beach. Opportunities for collaborative partnerships to restore the fishpond with the private landowner have been a community desire. None of the proposed project activities will impede upon the integrity of Kamo'omaika'i as a cultural resource. There are no plans to alter the beach front at Pu'u Pōā. Through the informal dialogue, it was suggested that if the hotel could play a part to support the restoration in similar fashion that the Hualālai Resort or Mauna Lani Bay hotel with King's Fishpond and Kalāhuipua'a Fishpond, respectively.

2.11 Historic Resources under 6E-42 HRS Consideration

Under HRS 6E-42, before any State or County agency approves a project permit or use which may affect historic property, the agency shall provide the State Historic Preservation Division (SHPD) an opportunity to review and comment on the effect of the proposed project. Under HRS 6E-2, a historic property is defined as any "building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old."

The hotel structure itself was built in 1983 and does not meet the minimum qualification of a historic property under HRS 6E-2. Accordingly, there is no need to evaluate the proposed improvements to the building as a historic architectural resource.

Related to archaeological resources, an Archaeological Inventory Survey completed by Cultural Surveys Hawai'i, Inc (November 2000) cites that the development of Kauakaniunu Ridge occurred as early as 1831 for cattle ranching by Charltons Farm, which the land was provided under a 20-year lease from Kaikio'ewa who was the "Governor of Kaua'i" during this time. During this time, other portions of Hanalei were granted by Kaikio'ewa to Joel Deadman for the planting of sugarcane in 1834. By 1842, considerable losses and expenses were incurred by Deadman who then sold his land to Dr. T.C.B. Rooke, the father of Queen Emma.

Other studies summarize that portions of Hanalei were also part of a silk-making enterprise in the 1840s through the use of paper mulberry trees by Charles Titicomb. Due to financial issues, Titicomb replanted his fields with coffee beans he procured from Koa. By mid-1800s, coffee dominated the landscape with at least 1,000 acres in cultivation.

The American Board of Commissioners for Foreign Missions also established a mission station in Hanalei around in 1834. William Patterson Alexander was the first missionary assigned to the state. Census taken by the missionaries in the 1834-1835 Census recorded a total of 1,505 Hawaiians in the district of Halele'a, with 522, or approximately one-third, residing in Hanalei.

By the 1850s to 1900, Hanalei was heavily utilized in the cultivation of coffee, Irish potatoes, and ranching. After a blight devastated the coffee crops in the 1850s, the agricultural efforts in Hanalei primarily shifted to sugarcane. By the 1950s and 1960s much of the rice production wetland field areas were converted back to lo'i kalo and by the 1980s, kalo was the predominant crop once again.

In the 1960s, resort development began along with the involvement by the Federal government to establish a waterbird refuge, which was established in 1972. The refuge is located approximately 2 miles south-east of the 1 Hotel site along the Hanalei River.

A search of the Office of Hawaiian Affairs Kīpuka Database revealed that the project area was part of a Government Grant 4845 awarded in 1904 to Albert S. Wilcox, who worked with his brother George to assist Robert Crichton Wyllie with the sugarcane plantation operations in the region. According to historical sources, Wyllie was a Scottish physician who served as foreign minister under Kamehameha IV and Kamehameha V. Wyllie owned the property here in 1860 when Kamehameha IV and his wife Queen Emma visited with their two-year-old son, the prince Ka Haku o Hawai'i. Wyllie named his home Princeville in honor of this visit by the young prince.

Records for Government Grant 4845 (*Figure* 2-27) reveal that an old Russian Fort was known possibly as Hamaiki. More commonly known as Fort Alexander, this site was documented in past archaeological studies and recorded as State Site #50-30-03-0890. The remnants of the earthwork fort site include

two defensive berms and two structural features undisturbed in an enclosure. Sources state that the fort was one of three built by Georg Anton Schäffer in 1816, named in honor of Emperor Alexander I of Russia.

In 1815, a three-masted Russian American Company vessel, named the "Behring" was shipwrecked off Waimea while carrying a load of seal skins. Schäffer, a trained physician, was sent by the Russian American Company on the "Surorov" to help diplomatically recover the lost property. Schäffer through a series of political maneuverings between Kamehameha I and Kaumuali'i was able to establish his influence with both ruling ali'i. He found favor with both Kamehameha I and Kaumuali'i and gained their collective trust. In quick summary, he then pursued the mercantile advantage of the Russian American Company particularly regarding the sandalwood trade and other opportunities in the kingdom.

Due to some unbecoming actions by the Russians, natives from Hanalei overtook and leveled the fort and burned a distillery in 1816. By May 1817, the Russians were expelled from Hawai'i. According to one source, the fort was occupied by Native Hawaiians until 1864, in which an order by Kauikeaouli (Kamehameha III) called for its dismantling. The hexagon star shaped fort was reported to have been 300 feet in diameter and 12 feet in height and included an earthen embankment, a layer of lava rock, and a hard-packed earth layer with a stone walkway. The compound included a guardroom, magazine, barracks, cannon emplacements, and a trading post. Only remnants of the outer walls remain.

During the first decade of the 20th Century, rice farming by predominantly Chinese immigrant laborers shifted the focus of agriculture yet again. The famous Hanalei Pier was also developed in the early 1900s for local rice farmers to load their crops onto ships.

As part of past approvals in the 1980s within the SMA, a condition (No. 9) stipulated that prior to any reconstruction work occurring in the upper lobby/porte cochere and driveway/Russian Fort Alexander area, an acceptable mitigation plan was to be developed to address short-term, site interpretation, and long-term management aspects. In October 1990, a Preservation and Interpretative Display Plan (PIDP) for Fort Alexander, Princeville, Kaua'i was completed by Cultural Surveys Hawaii. The PIDP called for specific development and management activities for the fort – inclusive of interim protection of fencing during then hotel construction and renovation; stabilization against erosion; landscaping; and the provision of interpretative displays. No restoration was recommended. The Plan was approved by the Historic Sites Section office, the present-day State Historic Preservation Division's predecessor, and the County Planning Department. Modification to the original condition also approved the use of the Fort grounds for open space. Any changes to the PIDP in the future must be first reviewed by the Planning Department.

The planned improvements under this site modification do not impede upon or affect the area immediately within or adjacent to the preservation area defined under the PIDP. However, consultation with SHPD will be on-going as a part of this site plan modification review to address any concerns that must be addressed during the detailed design phase.

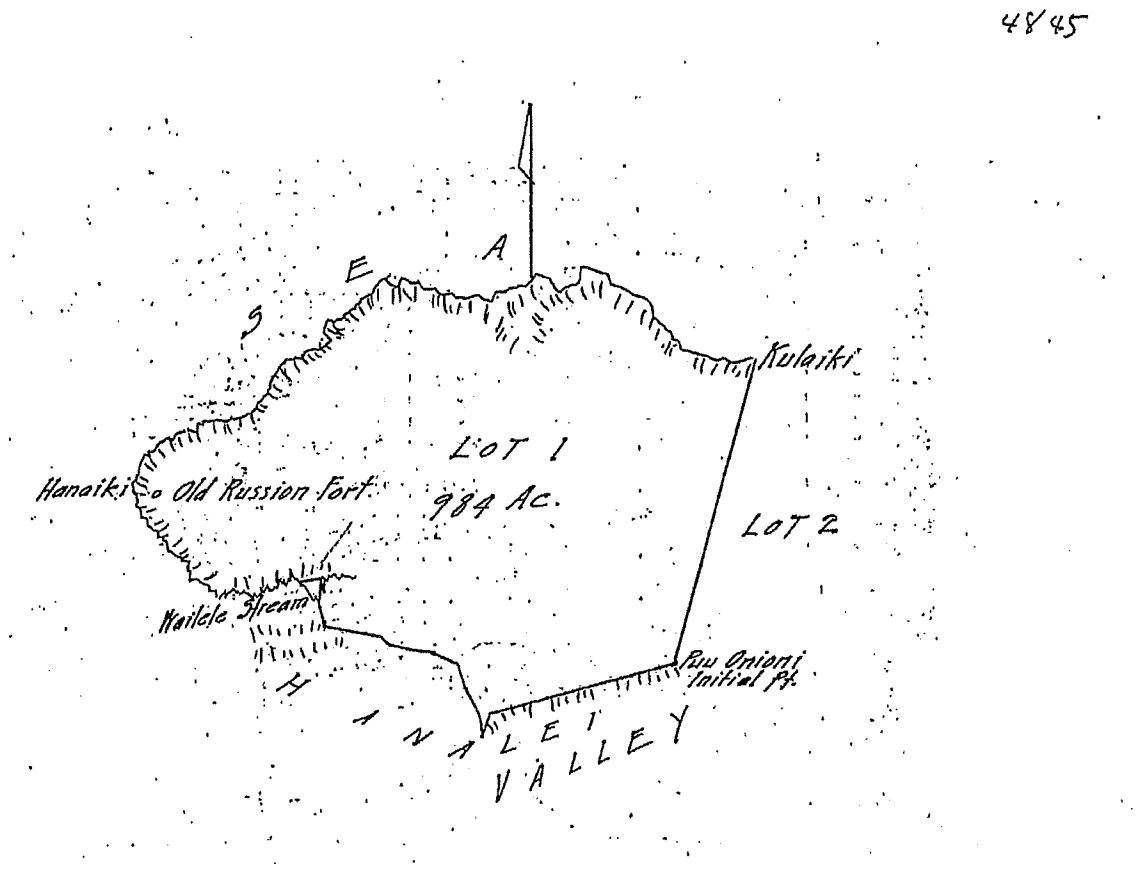


Figure 2-27 **Map from Government Grant 4845**

2.12 Consultation

Consultation meetings were held with key stakeholders to gather input on the proposed project. This information influenced the design of key concepts, project components, and planning process for the 1 Hotel project. *Table 2-1* lists the agencies, organizations, and individuals who were either formally consulted, provided a presentation, or notified early in the process of project design or are part of an ongoing consultation effort.

Table 2-1 List of Consulted Parties

Organization	Name	Position	Date Interviewed
Chamber of Commerce	Mark Periello	President	01/31/19
County of Kauai Planning Dept.	Dale Kua	Planner	11/15/18
County of Kauai Planning Dept.	Jody Galinato	Regulatory Planner	11/15/18
County of Kauai Council	JoAnn Yukimura	Former County Council Member	12/13/18
County of Kauai Planning Dept.	Ka'aina Hull	Planning Director	12/18/18
County of Kauai Council	Arryl Kaneshiro	Council Chair	01/31/19
County of Kauai	Derek Kawakami	Mayor	02/01/19
Hualalai Resort	Pat Fitzgerald	President	01/28/19
Kauai Visitor's Bureau	Sue Kanoho	Director	01/15/19
Princeville Community Association	Rory Enright	General Manager	01/22/19
Timbers Resorts	Gary Siracusa	Director of Construction	12/19/18
Wala'au Productions	Dickie Chang	Local Writer / TV Host / Former County Council Member	01/24/19
Rotary Club of Hanalei	Ken / Ben Gillikin	Member / President	01/31/19
Local Sustainability Expert	Orion Stanbro	Owner	02/05/19
Contractor's Association of Kauai	Karen Taketa	Executive Director	02/28/19
Re-Use Hawaii	Lucas Rensko	Project Developer	03/04/19
State of Hawaii	Nadine Nakamura	State Representative	
ILWU - Employees Union	Pamela Green		
Hanalei to Haena Community Association and Hanalei Initiative	Joel Guy	President and Executive Director respectively	04/09/19
Hanalei Initiative	Amy Frazier	Vice President	03/22/19
Hanalei River Watershed Hui	Maka`ala Ka`aumoana	Director	03/22/19
Malama Ku'aina	Caren Diamond	Director	03/22/19
Anaina Hou / Porter Trust	Jennifer Luck	Manager	03/27/19
Kauai Aha Moku Counsel for Hanalei	Yoshi L'Hote		03/27/19
Hale Halawai	Kati Conant	Executive Director	04/05/19
Hui Maka'ainana O Makana	Presley Wann		04/05/19
Princeville Design Rev. Committee			TBD
Pu'u Po'a Condo Assn.	Erik Fleck	Manager	TBD
Hanalei Villas Condo Assn.	Rick Drayton	Manager	TBD

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Section 3

Hawai'i Revised Statues Chapter 205A-2, Assessment

Chapter 3

Hawai'i Revised Statutes Chapter 205A-2, Assessment

3.1 Description of anticipated impacts:

(A) Affects natural or cultural resources (i.e., historic site, excavation on vacant land):

The resort property has undergone extensive alterations with the construction of the Princeville Resort Kaua'i. The proposed project improvements will be located within the existing hotel site and is not anticipated to result in significant impacts to existing natural or cultural resources.

The only potential traditional and customary practice understood to be associated to the plateau is the practice kilo i'a, or tracking fish from a high point. The improvements of the project will not deter or diminish the existing conditions in which potential opportunities for the practice of kilo i'a can be conducted.

Fort Alexander (State Site #50-30-03-0890) was documented in previous archaeological studies and a PIDP was approved by the Hisotric Sites Section office. The planned improvements under this site modification do not impede upon or affect the area immediately within or adjacent to the preservation area defined under the PIDP. However, consultation with SHPD will be on-going as a part of this site plan modification review to address any concerns that must be addressed during the detailed design phase.

During construction of the project, if there are any cultural or archaeological remnants unearthed, SHPD will be notified immediately, and appropriate mitigation will be carried out in strict compliance with SHPD requirements.

(B) Curtails the range of beneficial uses of the environment:

The proposed action does not curtail the range of beneficial uses of this location in Kaua'i. The project area is located in zones designated as Resort District (RR-10 and RR-20) which allows for the existing resort use of the site and proposed project improvements. The improvements will provide upgrades to existing hotel areas to better serve visitors of the resort. The project will provide additional open space on the site, including increased landscaping that will fit with the surrounding environement. Construction of the project improvements will be performed in accordance with the Federal, State and County regulations, thereby minimizing potential impacts to air and water quality and ambient noise levels.

(C) Conflicts with the county's or the state's long-term environmental policies or goals (i.e. State Plan, County General Plan, and Community Plan):

The proposed 1 Hotel improvements will not conflict with the State or County's long-term environmental policies or goals. The project is consistent with the land use designations of the hotel property. Applicable dust, noise and drainage control measure will be implemented during the construction period to minimize construction related impacts. The project will improve existing portions of the resort property that are already developed.

(D) Affects the economic or social welfare and activities of the community, county, or state: (what are the economic impacts of this project):

The proposed action will have positive direct and indirect economic benefits to the State and County through the flow of construction spending and construction related employment opportunities. Once the proposed improvements are completed, 1 Hotel will better attract and serve visitors and guests, which will increase spending, thereby benefiting the overall local economy.

(E) Involves secondary impacts, such as population changes (i.e. increase/decrease) and increased effects on public facilities, streets, drainage, sewage, and water systems, and pedestrian walkways (i.e. increased demands and deficiencies):

The proposed action will not produce substantial secondary impacts. The project improvements will be limited to the existing resort property and will not result in population changes. The cumulative footprint of the hotel will not increase as part of the project, therefore, increased impacts to public facilities are not anticipated.

(F) By itself has no significant adverse effects but cumulatively has considerable effect upon the environment or involves a commitment for larger actions:

The project will improve existing areas within the resort property and will not cumulatively have considerable effects upon the environment or involve a commitment for larger actions.

(G) Affects a rare, threatened, or endangered species of animal or plant, or its habitat:

The Princeville Resort Kaua'i is an existing developed site. No rare, threatened, or endangered plants or animal species, or related habitats exist within the site.

Native seabirds such as as the Newell's Shearwater (*Puffinus newelli*), Hawaiian Petrel (*Pterodroma sandwichensis*), and Band-rumped Storm-Petrel (*Oceanodroma castro*) are known to traverse the coastal areas along Princeville during fledging season (September 15 – December 15). Nocturnal seabirds can become disoriented and blinded by artificial bright lights that are emitted skyward. The birds circle around lit areas until total exhaustion or until they crash into something. Seabirds have legs positioned far back on their body, making them excellent paddlers in the ocean, but awkward and inefficient land travelers.

When these nocturnal seabirds fall to the ground, a phenomenon called "fallout," they become stranded and vulnerable to threats that include predation by dogs, cats, and rats, being struck by vehicles, starvation, and hypothermia. While unnatural light sources affect adults, newly fledged chicks are impacted the most. Biologists on Kaua'i have studied the fledgling "fallout" phenomenon in Hawaiian Petrels and Newell's Shearwaters for over 30 years.

To mitigate potential harm to seabirds, construction activities will be restricted to daylight hours during the peak of the seabird fledging season. Flood lights will be turned off or set to motion detectors from dusk through dawn during the seabird fledging season. The hotel will also shield outdoor lights to prevent upward radiation. 1 Hotel will continue to implement the existing Shearwater Awareness, Protection and Collection Program that was establishished for the resort property in 2012.

(H) Is contrary to the State Plan, County's General Plan, appropriate Community Plans, zoning and subdivision ordinances:

The project is consistent with the State Plan, Kaua'i County General Plan, and Kaua'i North Shore Development Plan. The project also complies with the State Land Use Urban designation and County Resort District zoning.

(I) Affects air or water quality or ambient noise levels (i.e. construction impacts): How might any affects be mitigated?

The 1 Hotel project will result in short-term impacts to air quality and noise levels. Construction related impacts will be mitigated through compliance with County of Kaua'i and State Department of Health rules, which regulate construction-related activities. Mitigation measures may include the use of dust screens and controlled construction areas, and minimization of equipment mufflers or other noise attenuating equipment. After construction is completed, adverse impacts to air, noise. and water quality are not anticipated.

The project improvements are not expected to affect coastal resources. Best Management Practices will be implemented during construction to mitigate potential runoff that may occur during construction. No significant adverse impacts to water quality are anticipated.

(J) Located in and does it affect an environmentally sensitive area, such as flood plain, shoreline dunes, tsunami zone, erosion-prone area, geologically hazardous land, estuary, fresh waters, or coastal waters:

While a small portion of the project parcel including the pool area is located at an area experiencing erosion and within Flood Zone VE (High Risk Coastal Area) improvements to the pool area will only include upgrades to the existing pool pavilions and deck (*Figure 2-7*). The majority of the improvements will be carried out at the existing entryway and arrival area of the property, which are located entirely within Flood Zone X (Areas of Minimal Flood Hazard). Flood Zone X is designated as an area of low flood risk and minimal flooding with no development restrictions.

While a portion of the project site is located within the tsunami evacuation zone, 1 Hotel has established emergency and civil defense procedures for employees and visitors in response to a tsunami and/or other emergency events.

(K) Alters natural land forms (i.e. cut and fill, retaining walls) and existing public views to and along the shoreline:

The 1 Hotel improvements will not require substantial grading as part of the project construction. While a mound area will be built up at the entry drive, this mound will be intentially created for aesthetic purposes and will consist of natural building materials that will fit with the surrounding environment. The project improvements will occur on previously developed portions of the property and will not impact existing views to and along the shoreline. The project design will fit with the existing resort setting of the property and surrounding area. Landscaping will be integrated throughout the site to accent the proposed improvements.

(L) Is contrary to the objectives and policies of chapter 205A, HRS:

The proposed project improvements are not in contrary with the objectives and policies of chapter 205A, Hawai'i Revised Statutues (HRS). No significant environmental or ecological impacts are anticipated to occur as a result of the project's development. Mitigation measures will be implemented to minimize potential environmental impacts to sensitive areas within the Special Management Area.

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission: Consideration of Applicant's request to approve amendments to the existing Master Permit and Renovation Permit to allow for a mixed-use development on Lot 4-A, including six (6) attached residential units, an event pavilion, parking improvements, a Fort Alexander memorial, a covered walkway, landscaping, and associated site utilities.

Permit Application Nos. Amend No. 4 Class IV Zoning Permit Z-IV-1989-14
Amend No. 4 Use Permit U-1989-14
Amend No. 4 Special Management Area Use Permit SMA(U)-1989-4

Name of Applicant(s) SOF-XI KAUA'I PV HOTEL L.P.
BELLES GRAHAM LLP
IAN K. JUNG, ESQ. AUTHORIZED AGENT

II. PERMIT INFORMATION

PERMITS REQUIRED	
☒ **Use Permit**	A Use Permit was required pursuant to the North Shore Development Plan Ordinance (NSDP), as the Applicant proposed renovations to portions of the existing structure that would exceed the maximum allowable height under both the NSDP and the previously granted permits for the original hotel.
☐ **Project Development Use Permit**	
☐ **Variance Permit**	
☐ **Special Permit**	
☒ **Zoning Permit Class** ☒ IV ☐ III	Pursuant to Section 8-8.4 of the Kaua'i County Code (KCC), 1987, a Class IV Zoning Permit is a procedural requirement for obtaining a Use Permit within the Agriculture (A) zoning district, and for applications involving a Variance Permit.
☐ **Special Management Area Permit** ☒ Use ☐ Minor	
AMENDMENTS	

G.1.a.1.
Jun 09, 2026

G.2.a.1.
May 26, 2026

H.2.a.1.
MAY 12 2026

☐ Zoning Amendment	
☐ General Plan Amendment	
☐ State Land Use District Amendment	

Date of Receipt of Completed Application: March 31, 2026

Date of Director's Report: April 29, 2026

Date of Public Hearing: May 26 2026

Deadline Date for PC to Take Action (60TH Day): May 29, 2026

III. PROJECT DATA

PROJECT INFORMATION			
Parcel Location:	Princeville. The parcel situated at the terminus of Ka Haku Road, on the makai side of the Kūhiō Highway and approximately 2.25 miles makai of its intersection with the highway.		
Tax Map Key(s):	(4) 5-4-011:004; (4) 5-4-004:029, 035	**Area:**	23.13 acres

ZONING & DEVELOPMENT STANDARDS	
Zoning:	Resort (RR-10 and RR-20)/ OPEN/ CON
State Land Use District:	Urban
General Plan Designation:	Resort and Natural
Height Limit:	25 feet or Base Flood Elevation (B.F.E.) plus fifteen, whichever is greater at the site.
Max. Land Coverage:	Not to exceed 50% of the lot or parcel area.
Parking Requirement:	2 parking per dwelling and 1 parking space per 8 seats within the auditorium.
Front Setback:	Ten (10) feet
Rear Setback:	5' or ½ the wall plate height whichever is greater
Side Setback:	5' or ½ the wall plate height whichever is greater
Community Plan Area:	North Shore Development Plan
Community Plan Land Use Designation:	N/A
Deviations or Variances Requested:	N/A

IV. LEGAL REQUIREMENTS

Section 8-3.1(e), KCC and Section 8.0, 9.0, and 10.0 of the Special Management Area Rules and Regulations:	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Section 8-3.1(e) of the KCC and Section 8.0, 9.0, and 10.0 of the Special Management Rules, relating to the provision of the Planning Director's report and recommendation on the subject proposal within sixty (60) days of the filing of a completed application. The application was received on March 31, 2026, and the Applicant, through its authorized agent, was notified accordingly of the Planning Department's intent to commence permit processing.
Public Hearing Date:	May 26, 2026

V. PROJECT DESCRIPTION AND USE

The subject property is currently improved with the resort facility, which includes 252 hotel units; restaurants, bars, and retail areas; spa, pool, and fitness facilities; tennis courts; conference rooms; landscaping and water features; and pedestrian pathways, including a public access path to the shoreline. The property also includes parking areas with 219 standard stalls, ADA-accessible stalls, and 10 public parking stalls, as well as the Russian Fort Alexander historic site.

The property was originally approved by the Planning Commission on July 9, 1980, pursuant to a Master Permit authorizing development of up to 300 hotel units and associated resort amenities. Of the approved 300 units, 252 hotel units have been constructed.

Applicant, SOF-XI Kaua'i PV Hotel, L.P., requests amendments to the existing Master Permit and Renovation Permit to allow for a new mixed-use development on Lot 4-A within the resort facility property. The proposed project includes six (6) attached residential units, an event pavilion, parking improvements, a Fort Alexander memorial, a covered walkway, landscaping, and associated site utilities.

The residential component consists of a two-story building with six (6) attached units, including five four-bedroom units and one three-bedroom unit, ranging from approximately 3,000 to 4,500 square feet. The design includes earth-tone colors, natural materials, and portions of vegetated (green) roofs. The units are proposed for sale on the open market, with the option to participate in the resort's rental pool.

The proposed 4,500-square-foot event pavilion is intended to support both the existing hotel operations and the proposed residential units. The structure includes ballrooms, covered deck areas, a warming kitchen, and related facilities.

Parking improvements include reconstruction of the existing parking lot with 126 stalls, a porte-cochere entry, and garage and storage spaces for each dwelling unit. Additional parking is proposed to be accommodated through valet operations at the Makai Golf Course.

The project also proposes removal of the existing Fort Alexander pavilion and replacement with a Fort Alexander storyboard memorial and a covered walkway.

VI. APPLICANT'S REASONS/JUSTIFICATION

Please refer to the application.

VII. ADDITIONAL FINDINGS

1. The subject property is located in Princeville and is within the resort facility property. Major road access to the subject property is provided by Ka Haku Road, Lei O Papa Road, and Hanalei Plantation Road. These private roadways connect to Kuhio Highway, a State highway under the jurisdiction of the State of Hawai'i.

2. Pursuant to CZO Section 8-5.2(b), the subject property retains remaining dwelling unit capacity based on the hotel-to-dwelling unit conversion ratio. A total of twenty-four (24) dwelling units are available; the current request is limited to six (6) dwelling units, as shown on Exhibit "E-1."

3. Potable water for the project will be provided through existing Princeville Utility Company, Inc. (PUCI) water meters serving the subject property. PUCI is identified as the provider for both potable water and fire flow requirements in the Princeville area.

4. Wastewater generated by the resort facility and the proposed project is to be conveyed through existing sewer facilities serving the subject property to the Princeville Sewage Treatment Plant (STP), operated by Princeville Utility Company, Inc. (PUCI)

5. Condition No. 12 of prior permits Class IV Zoning Permit Z-IV-1989-14, Use Permit U-1989-14, and SMA(U)-1989-4 required that all existing public accesses remain as designated by any prior permits and that at least ten (10) public parking stalls be designated by signage in the parking area. The proposed project includes full reconstruction of the existing parking lot, resulting in an entirely reconfigured parking area. As a result, the parking designation requirement established under prior Condition No. 12 is no longer applicable to the reconfigured parking area and is hereby superseded. The public access preservation requirement of prior Condition No. 12 is carried forward and remains in full force and effect. Updated and expanded parking designation requirements applicable to the reconfigured parking area are set forth in Conditions of Approval Nos. 16 and 17 of this permit, which reflect the Department's independent findings and Ka Pā'akai analysis set forth herein.

6. <u>North Shore Development Plan</u>

   The property is situated within the North Shore Planning Area and will be subject to the objectives and goals of the North Shore Development Plan (NSDP), that includes the following 5`goals:

   a. To preserve the unique natural beauty of the North Shore Planning area.

b. To preserve the special rural charm of the North Shore Planning area.

c. To provide for the safety and welfare of the people, of their property of the North Shore Planning Area.

d. To provide for economic development of the North Shore Planning Area.

e. To preserve the wildlife and flora and the North Shore, recognizing man's dependence upon this preservation for his own health and welfare.

f. To insure the preservation of historic-archaeological sites in the North Shore Planning area.

g. To create a development for evolutionary growth that depends upon a planning process whereby conflicts can be resolved through the establishment of priorities and community participation.

h. To provide for recreational opportunities that are compatible with the unique qualities and natural features of the North.

7. **Special Management Area (SMA)**

In addressing the issues of the Special Management Area and its objectives and policies, the following aspects will be considered and evaluated:

a. Recreational Resources

b. Cultural/ Historic Resources

c. Scenic Resources

d. Coastal Hazards

e. Coastal Ecosystems

8. **Use Permit**

Pursuant to Article 2 North Shore Development Plan Section 10-2.4(e)(1) of the Kaua'i County Code (1987), structures exceeding twenty-five (25) feet in height within the North Shore Planning Area require approval by the Planning Commission through a Use Permit. Accordingly, the request is subject to the Use Permit criteria set forth in Section 8-3.2 of the Comprehensive Zoning Ordinance. Section 8-3.2 of the CZO specifies a Use Permit may be granted only if the Planning Commission finds that the use meets the following criteria:

- The use must be a compatible use;

- The use must not be detrimental to persons or property in the area;
- The use must not cause substantial environmental consequences; and
- The use must not be inconsistent with the intent of the Comprehensive Zoning Ordinance (CZO) and General Plan.

9. **Comprehensive Zoning Ordinance (CZO) Development Standards**

The proposed development is subject to the standards prescribed in Sections 8-4.3, 8-4.6, and 8-5.3(b) of the KCC 1987 as amended Comprehensive Zoning Ordinance (CZO):

a. Setback Requirements: Front property line setbacks are ten (10) feet with a side, and rear property line setback of five (5) feet OR half the distance of the plate height whichever is greater. The minimum distance between structures shall be 10 feet.

b. Land/ Lot Coverage: The amount of land coverage created, including buildings and pavement, shall not exceed 50% of the lot or parcel area.

c. Height Requirements: The North Shore Development Plan (NSDP) pursuant to Sec.10-2.4(e)(l) allows structures to be no higher than twenty-five (25) feet, except as provided under Ordinance No. 416 (Flood Hazard Areas) Section 15-l.5(c)(4)(A) which allows a structure to be no higher than 25 feet from ground level or base flood elevation plus fifteen (15) feet, whichever is greater at the site. As stated earlier this parcel is Zone "X" and is outside of the 0.2% floodplain.

d. Parking Requirements: A minimum of two (2) off-street parking spaces per dwelling unit is required. Parking for the event pavilion is calculated at one (1) stall per eight (8) seats in principal assembly room.

VIII. AGENCY COMMENTS

Attached through separate transmittal.

IX. PRELIMINARY EVALUATION

In evaluating the Applicant's request to allow the construction of the proposed development, the following should be considered:

1. **General Plan**

The proposed development was evaluated through the following policies of the General Plan, as taken from Sections 1.4 and 3.0:

a. Section 1.4 Guiding Principle

i. Section 1.4 of the Kaua'i Kākou General Plan outlines guiding principles related to growth, development, and resource protection. The project is located within an existing resort area and utilizes established infrastructure. The proposal involves redevelopment of a previously developed portion of the site and includes improvements associated with the Fort Alexander historic area. These elements are generally consistent with the guiding principles related to directing growth to appropriate areas, supporting efficient land use, and recognizing cultural resources.

b. Section 3.0 Land Use

i. Section 3.0 of the Kaua'i Kākou General Plan includes policies related to the management of resort development. The subject property is an existing entitled resort property, originally approved for up to 300 hotel units, with 252 units constructed to date. The current request involves amendments to existing permits within the established resort footprint. The proposal does not expand previously approved resort entitlements and is limited to six (6) dwelling units consistent with available development capacity under the Comprehensive Zoning Ordinance. The project is subject to discretionary review through the County's permitting process.

2. **North Shore Development Plan Standards**

The North Shore Development Plan (NSDP) establishes goals related to the preservation of natural resources, rural character, historic resources, and the management of growth within the North Shore Planning Area. The subject property is located within the Princeville resort area, which is designated to accommodate visitor-related development. The proposed project involves redevelopment within an existing resort property and is generally contained within the established development footprint. The project also includes improvements associated with the Fort Alexander historic site and is subject to discretionary review through the County's permitting process. Based on the foregoing, the project is generally consistent with the intent of the NSDP.

3. **Native Hawaiian Traditional Cultural Rights**

A cultural impact assessment was submitted as part of the application addressing potential impacts to traditional and customary Native Hawaiian practices within the subject property and surrounding area. The assessment identifies the Russian Fort Alexander site as a historic resource located within the project area. The plateau area on Lot 4-A is further identified as having been used for kilo i'a, a traditional practice involving observation of nearshore ocean conditions, including fish movement, tides, and currents. No other traditional or customary practices, gathering activities, religious practices, or burial sites were identified within the subject property.

The assessment concludes that the proposed project will not affect identified practices, including kilo i'a. The project includes replacement of the existing pavilion with a Fort Alexander storyboard memorial, with the plateau area remaining accessible for observation

purposes. Shoreline access and access to adjacent resources, including Pu'u Po'a Marsh and Kamo'omaka'i Fishpond, are similarly represented as unaffected by the proposed project. These conclusions are based on a review of historical records, cultural sources, maps, and interviews with individuals familiar with the area, and are consistent with the Ka Pā'akai framework.

In addition to its review of the submitted cultural impact assessment, the Department conducted its own independent staff analysis of potential impacts to traditional and customary Native Hawaiian practices in connection with the proposed project. As part of this review, the Department considered the proposed parking reconfiguration, the existing public access conditions of the subject property, the dedication of the Kaumumene Trail to the County of Kaua'i as a public access, the community's ongoing use of the Kaumumene Beach Access for traditional and customary purposes, and information received from community members familiar with the area, including information received during the public review period, regarding the active and ongoing practice of kilo i'a in the vicinity of the Fort Alexander historical site and the adjacent coastal area. The Department's independent findings are addressed herein.

The Department's staff analysis finds that while the cultural impact assessment adequately identifies known traditional and customary practices and concludes that the proposed project will not adversely affect those practices, the proposed full reconstruction of the existing parking lot, resulting in a reconfigured area of one hundred twenty-six (126) stalls, presents a potential indirect impact to the practice of kilo i'a and to public access to the Kaumumene Beach Access if adequate public parking is not expressly designated, physically marked, and operationally managed in the reconfigured lot. The existing parking area currently includes ten (10) public parking stalls serving the Kaumumene Beach Access and the Fort Alexander historical site. Without express designation and enforceable management requirements, the reconfigured parking area could result in diminished public access to the shoreline and to the Fort Alexander historical site, thereby adversely affecting the traditional and customary practices identified herein, including kilo i'a.

The Department further finds that the conclusion that the proposed project will not affect traditional and customary practices is contingent upon the implementation of adequate public access protections in connection with the parking reconfiguration. The traditional and customary practices identified herein, including kilo i'a and public access to the Kaumumene Beach Access and the Fort Alexander Historical Site, are therefore entitled to protection pursuant to Article XII, Section 7 of the Hawai'i State Constitution, HRS §1-1, and the Coastal Zone Management objectives of HRS Chapter 205A.

To ensure that the proposed parking reconfiguration does not result in an adverse impact to identified traditional and customary practices and public access rights, the Department finds that the following minimum protections are necessary and appropriate: the designation of twenty (20) parking stalls, ten (10) for Public Beach Access Parking and ten (10) for Public Access Parking at the Fort Alexander Historical Site, together with the submission and Department approval of a Parking Management Plan prior to installation of signage, and Department approval of any subsequent modifications to that Plan. These protections are reflected in Conditions of Approval Nos. 16 and 17.

4. **SMA Rules and Regulations**

The County of Kaua'i (CoK) Special Management Area (SMA) Rules and Regulations include objectives, policies, and guidelines intended to protect coastal resources. Within the SMA, special consideration is given to recreational opportunities, cultural and historic resources, scenic quality and open space, coastal ecosystems, and coastal hazards. In evaluating the proposed development in relation to the goals and objectives of the SMA Rules and Regulations, the following aspects are considered:

a. Public Access and Coastal Recreation: The subject property does not include public recreational facilities beyond those associated with the existing resort use. Existing public amenities include approximately ten (10) public parking stalls and a pedestrian access path connecting the parking area to the shoreline and beach area on Lot 5-A. The Kaumumene Trail, dedicated to the County of Kaua'i as a public access, provides community access to the shoreline and coastal area and serves as an important public resource on Kaua'i's North Shore.

   The proposed project is located within Lot 4-A and includes full reconstruction of the existing parking lot, resulting in a reconfigured area of one hundred twenty-six (126) stalls. The Department finds that the parking reconfiguration has the potential to indirectly affect public access to the shoreline and to the Fort Alexander historical site if adequate public parking is not expressly designated and managed in the reconfigured lot. The project otherwise remains within the existing resort footprint and is separated from primary shoreline access areas.

   Application materials indicate that public access to the shoreline will be maintained during and after construction. The Department finds that conditions of approval are necessary and appropriate to ensure that public access to the shoreline, the Kaumumene Beach Access, and the Fort Alexander historical site is protected through and following the parking reconfiguration. The plateau area on Lot 4-A has further been identified as a location where kilo i'a, the traditional Hawaiian practice of observing nearshore ocean conditions, has been and continues to be actively practiced. The protection of this traditional and customary practice in connection with the proposed project is addressed in the Ka Pā'akai analysis set forth herein.

   Access to the shoreline and coastal areas is subject to applicable requirements under HRS Chapter 205A and County regulations. The conditions of approval applicable to this permit, including Conditions Nos. 16 and 17, are intended to ensure compliance with those requirements and to protect existing public access rights consistent with the objectives of HRS Chapter 205A.

b. Cultural/ Historic Resources: The subject property includes the Russian Fort Alexander historic site, which is a recognized historic resource within the project area. No other archaeological, cultural, or historic resources have been identified on the surface of the subject property based on information provided in the application materials.

The proposed project includes removal of the existing pavilion within the Fort Alexander area and construction of a Fort Alexander Storyboard Memorial. These improvements are proposed within the vicinity of the historic site.

The application identifies that coordination with the State Historic Preservation Division (SHPD) will occur, and that the existing preservation plan may be updated, as necessary. In the event of inadvertent discovery of historic properties or burial sites, applicable State and County requirements will apply, including notification of SHPD and the Planning Department.

Project-related activities affecting historic resources are subject to review under applicable historic preservation requirements, including coordination with SHPD.

c. Scenic and Open Space Resources: The subject property is located along the North Shore coastline within the Princeville resort area, which is characterized by established visitor accommodations and associated improvements. Public views of the site are primarily from areas to the north, including elevated bluff locations overlooking Hanalei Bay.

The proposed project is situated within a previously developed portion of Lot 4-A, consisting of an existing parking area, and remains within the existing resort footprint. The project area is set back from the shoreline and positioned below the primary bluff vantage points. The Applicant indicates that the project incorporates landscaping and earth-tone exterior finishes intended to be compatible with the surrounding built environment.

The Applicant states that the project is not expected to interfere with views to or along the shoreline. Based on the project's location within a developed area and its elevation relative to surrounding viewpoints, visual impacts are anticipated to be limited. Project design elements, including building placement and landscaping, are intended to reduce potential visual impacts.

d. Coastal Hazards: The subject property includes shoreline areas along Lots 4-A and 5-A. The Lot 4-A shoreline is described as a rocky cliff shoreline, while Lot 5-A is identified as an eroding shoreline based on certified shoreline maps dated November 10, 1983, May 21, 2019, and August 11, 2022. The Applicant indicates that shoreline erosion has reduced the size of Lot 5-A over time.

Portions of the subject property are located within the Shoreline Setback Area as defined by the Kaua'i County Code (CZO Article 27). The Applicant states that a Shoreline Setback Determination will be pursued. Any proposed development within the shoreline setback area shall comply with applicable shoreline setback requirements.

The Applicant further indicates that portions of the property along the shoreline are located within the Sea Level Rise Exposure Area (3.2-foot scenario). The proposed project area is located on the northern portion of Lot 4-A, on an elevated bluff

approximately 138 feet above and approximately 200 feet from the shoreline and is identified as being outside of the Sea Level Rise Constraint District.

The subject property, including the project area, is primarily located within Flood Zone X, with portions of the broader property located within Flood Zone VE, as identified on the applicable Flood Insurance Rate Map (FIRM). The Applicant states that the proposed project will comply with the County's Flood Plain Management Ordinance (Chapter 15, Article 1, Kaua'i County Code) and that drainage will be managed on-site in accordance with applicable best management practices. Development within identified flood zones and shoreline areas shall be subject to applicable County regulations and permit review.

e. Coastal Ecosystem: Wetland areas are located on the southern and western portions of Lot 5-A, adjacent to Pu'u Po'a Marsh and the shoreline. These wetlands are identified as estuarine and marine wetlands along the shoreline, and freshwater forested/shrub and emergent wetlands adjacent to the marsh. The proposed project area on Lot 4-A is not identified as containing wetlands.

   The subject property is currently developed with the existing resort facility and associated improvements. The proposed project is located within an already developed portion of Lot 4-A, consisting primarily of an existing parking area, and is situated within previously disturbed areas.

   The subject property is located adjacent to areas utilized by protected seabird species, including the 'a'o (Newell's shearwater), 'ua'u (Hawaiian petrel), and 'ake'ake (band-rumped storm petrel). The Applicant indicates that seabird protection measures will be implemented, including participation in a Habitat Conservation Plan, continuation of an existing seabird protection and monitoring program, use of lighting designed to minimize impacts, and limiting nighttime construction lighting during fledging season.

   Best management practices (BMPs) are proposed during construction and operation to minimize potential impacts to adjacent coastal and wetland resources, including erosion control, dust control, and management of surface water runoff. Activities within or adjacent to wetlands and coastal resources are subject to applicable State and County regulations, including HRS Chapter 205A and other permitting requirements, as applicable.

5. **Use Permit**

   Pursuant to Section 10-2.4(e)(1) of the Kaua'i County Code (1987), Special Regulations Applicable to All Districts within the North Shore Planning Area establish height limitations for structures. Height limits are generally governed by the Comprehensive Zoning Ordinance; however, no structure shall exceed twenty-five (25) feet in height unless a greater height is authorized by the Planning Commission through a Use Permit, following review and recommendation by the North Shore Improvement Advisory Committee. Accordingly, structures exceeding the 25-foot height limit are subject to Planning Commission review under the Use Permit process.

The Applicant is requesting approval for height deviations associated with the proposed residential units and event pavilion. As such, the request is evaluated under the Use Permit criteria set forth in Section 8-3.2 of the Comprehensive Zoning Ordinance.

Section 8-3.2 of the Comprehensive Zoning Ordinance provides that a Use Permit may be granted only if the Planning Commission finds that the proposed use meets the following criteria:

a. Based on the foregoing, the following aspects are considered:

   i. The use must be a compatible use:

      The project is situated within a previously developed portion of Lot 4-A and remains within the existing resort footprint. The requested height deviations, consisting of approximately one foot six inches (1'-6") for the residential units and approximately two (2) feet for portions of the event pavilion, are limited in scope and occur on specific elevations. Based on the project's location, existing development pattern, and design elements, the proposed use is compatible with surrounding uses.

   ii. The use must not be detrimental to persons or property in the area:

      The proposed project is located within an existing developed resort property and is subject to applicable County regulations, including building, drainage, and shoreline requirements. The limited height deviations are associated with specific elevations and are not anticipated to introduce conditions that would adversely affect persons or property. The project remains subject to review and permitting requirements to address site-specific considerations.

   iii. The use must not cause substantial environmental consequences:

      The project is located within a previously developed area and avoids direct impacts to identified wetlands and coastal resources. The application materials indicate that best management practices will be implemented to address construction-related impacts, and measures are proposed to minimize potential effects on adjacent resources, including seabird habitats. Based on the information provided, the project is not expected to result in substantial environmental consequences.

   iv. The use must not be inconsistent with the intent of the Comprehensive Zoning Ordinance and General Plan:

      The subject property is located within a designated resort area in Princeville, consistent with the land use framework established in the General Plan and the Comprehensive Zoning Ordinance. The project involves redevelopment within an existing resort footprint and does not expand previously approved development entitlements. The requested height deviations are limited and are considered within

the context of the Use Permit process established under Section 10-2.4(e)(1). Based on the foregoing, the project is not inconsistent with the intent of the CZO and the General Plan.

6. **CZO Development Standards**

As proposed, the project complies with the building height, setback, off-street parking, and land coverage requirements for development within the Open (O) zoning district, as specified in Sections 8-4.3, 8-4.5 and 8-9.2(a).

X. PRELIMINARY CONCLUSION

Based on the foregoing, and subject to applicable conditions of approval, the proposed development may be considered consistent with the objectives, policies, and guidelines of the Special Management Area, as set forth in HRS Chapter 205A. Based on the analysis, the project is not expected to result in significant adverse environmental or ecological impacts and is generally consistent with the policies of the County General Plan, the North Shore Development Plan, and the Comprehensive Zoning Ordinance.

The proposed development is located within an existing resort area and is situated within a previously developed portion of the subject property. The project does not involve dredging, filling, or alteration of coastal water bodies, and does not propose modifications that would reduce public access to the shoreline or established public recreational areas. Existing shoreline access and public parking are proposed to be maintained.

Based on the information provided, the project is not anticipated to result in substantial adverse impacts to water quality, coastal resources, wildlife habitats, or scenic and open space resources, and remains subject to applicable State and County regulations.

XI. PRELIMINARY RECOMMENDATION

Based on the foregoing evaluation and conclusions, it is hereby recommended that the Planning Commission approve Amend No. 4 to Class IV Zoning Permit Z-IV-1989-14, Amend No. 4 to Use Permit U-1989-14, and Amend No. 4 to Special Management Area Use Permit SMA(U)-1989-4, to allow for a mixed-use development on Lot 4-A, including six (6) attached residential units, an event pavilion, parking improvements, a Fort Alexander memorial, a covered walkway, landscaping, and associated site utilities, subject to the following conditions. The conditions of the Class IV Zoning Permit Z-IV-1989-14, Use Permit U-1989-14, and to Special Management Area Use Permit SMA(U)-1989-4 are reiterated, as amended:

1. The proposed improvements and resort use shall be constructed as represented in the application. Any changes to said structures and/or facilities shall be reviewed by the Planning Department to determine whether Planning Commission review and approval is warranted.

2. Relative to landscaping, the Applicant shall provide for mature plantings, including the planting of mature coconut palm trees. This shall apply particularly to the upper lobby level, between the first and second tiers of the hotel on the southwest face, where removal of existing mature vegetation is being considered. In order to further ensure that the project is compatible with its surroundings and to minimize the visual impact of the structure, the external color should be of a moderate to dark earth-tone color. The proposed color scheme and a landscape plan should be submitted to the Planning Department for review and acceptance prior to building permit application.

3. External lighting used in connection with the proposal shall be as described in the Participant Inclusion Plan for the Princeville Resort Hotel adopted in conformance with the Kaua'i Seabird Habitat Conservation Program.

4. The windows of the hotel shall be of non-reflective glass.

5. There shall be no structures or forms placed on the roof of the upper level lobby/porte cochere structure. Regarding the elevator core structures, no new design features higher than the existing roof forms shall be allowed.

6. The vegetative buffer between Pu'u Po'a Marsh and the lower level pool area shall be in place prior to any work occurring at the lower pool level, as required under previously granted Special Management Area use Permit SMA-U-88-16.

7. A current, certified shoreline survey shall be required prior to any work occurring in the lower pool area. The one-hundred foot setback line from the certified shoreline shall be re-surveyed and staked in the field prior to any work occurring in the lower pool area.

8. Special measures shall be taken to prevent pollution of adjacent ocean, stream, and/or river waters by proposed renovations in the lower pool area adjacent to Hanalei Bay. Prior to construction of the lower level pond and pool improvements, the Applicant shall obtain review and consent from the U.S. Army Corps of Engineers. Prior to commencement of construction activity at the lower level, the Applicant shall provide to the Planning Department written confirmation of compliance from the Corps.

9. The proposed renovated swimming pool shall meet all requirements as administered by the State Department of Health. Backwash waters from the swimming pool shall not be discharged or be allowed to flow into any adjacent ocean, river, and/or stream.

10. As recommended by the State Department of Land and Natural Resources, Historic Sites Section (DLNR-HSS), prior to any reconstruction work occurring in the upper lobby/porte cochere and driveway/Russian Fort Alexander area, an acceptable mitigation plan shall be developed to address long-term management aspects included. This mitigation plan shall be reviewed by the Kaua'i Historic Preservation Review Commission and DLNR-HSS and accepted by the Planning Commission before any reconstruction work occurs in the upper

lobby/porte cochere and driveway/Russian Fort Alexander area. "Reconstruction work" shall mean rebuilding of the new porte cochere and entrance or any new structural improvements to the existing hotel structure immediately adjacent to the Fort area.

a. The Applicant's archaeologist shall submit appropriate maps delineating the fence area, a description of the method and materials to be used and stake out the area to be fenced, all of which shall be subject to the approval of the DLNR-HSS and the Planning Department.

b. The protective barrier shall be in place before demolition work adjacent to the Fort can commence. In order to ensure that the historic site is left undisturbed and not impacted by the construction work, the Applicant shall prepare an updated Mitigation Plan to require further monitoring of the site and management aspects. The plan shall be submitted to the State Historic Preservation Division (SHPD) for their review and acceptance.

11. Placement and design of the driveway/porte cochere shall be revised to be in scale and character with the adjacent historic site and surrounding area, and to promote a Hawaiian theme. Prior to any work in this area, all revisions shall be reviewed by the Planning Department to determine whether design review and approval by the Planning Commission is warranted.

12. All existing public accesses shall remain as designated by any prior permits. [~~At least ten (10) public parking stalls shall be designated by signage in the parking area.~~]

13. Regarding the nuisances and other noxious activities, the Planning Commission reserves the right to revoke the subject permits if such activities are creating health and safety problems to the residents, pursuant to public hearing procedures.

14. The Applicant is advised that prior to and/or during construction and use, additional governmental agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

The following conditions of approval apply to the proposed amendments submitted on March 31, 2026:

15. <u>The Applicant must make substantial progress, as determined by the Director, regarding the development or activity within two (2) years. Prior to commencement of the proposed development, written confirmation of compliance with the requirements from all reviewing agencies shall be provided to the Planning Department.</u>

16. <u>The Applicant shall designate and clearly mark a minimum of twenty (20) parking stalls within the subject parking area as follows:</u>

a. Ten (10) stalls shall be designated exclusively for Public Beach Access Parking; and

b. Ten (10) stalls shall be designated exclusively for Public Access Parking – Fort Alexander Historical Site.

Designation shall be accomplished through permanent signage installed at the entrance to the parking area and at each designated stall, with pavement markings painted on each stall consistent with the applicable designation. Signage shall clearly indicate that overnight parking is prohibited and that unauthorized vehicles are subject to applicable penalties.

17. The Applicant shall submit a Parking Management Plan for review and approval by the Department of Planning prior to installation of signage. The Parking Management Plan shall, at minimum, address: (1) methods to ensure that designated stalls remain available for public use; (2) enforcement mechanisms and responsible parties; (3) hours of availability; and (4) procedures for addressing misuse. The Plan shall be implemented and maintained for the duration of the approved use.

    Any proposed modification to the approved Parking Management Plan shall be submitted to the Department of Planning for review and approval prior to implementation. The Applicant shall not implement any changes to parking management, signage, stall designation, or enforcement procedures without first obtaining written approval from the Department of Planning. Failure to obtain such approval prior to implementation shall constitute a violation of this condition of approval.

18. The Applicant shall develop and utilize Best Management Practices (BMP's) during all phases of development in order to minimize erosion, dust, and sedimentation impacts of the project to abutting properties.

19. The Applicant must receive a letter from DLNR, SHPD, prior to the installation of BMP's (dust fence) or any ground disturbing activities or grubbing.

20. Should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archeological/ historical findings shall immediately cease and the Applicant shall contact the State Department of Land and Natural Resources - Historic Preservation Division and the County of Kaua'i, Department of Planning to determine mitigation measures.

21. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua'i contractors as long as they are qualified and reasonably competitive with other contractors and shall seek to employ residents of Kaua'i in temporary construction and permanent resort-related jobs. It is recognized that the Applicant may have to employ non- Kauai residents for particular skilled jobs where no qualified Kaua'i residents possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.

22. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project, such as Leadership in Energy and Environmental Design (L.E.E.D.) standards or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low-energy fixtures, low energy lighting and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for building permit review.

*NOTE: Material to be deleted shown in brackets & strikethrough, and new material shown underlined.

The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for May 26 2026, whereby the entire record should be considered prior to decision making. The entire record should include but not be limited to:

1. Pending government agency comments;

2. Testimony from the general public and interested others; and

3. The Applicant's response to staff's report and recommendation as provided herein.

By _____
ROMIO IDICA
Planner

Approved & Recommended to Commission:

By _____
KA'ĀINA S. HULL
Director of Planning

Date: 5/6/2026

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

TRANSMITTAL OF PUBLIC TESTIMONY TO PLANNING COMMISSION

DATE: **June 2, 2026**

PERMIT NUMBER(S): **SMA(U)-89-4, Z-IV-89-14, and U-89-14**

APPLICANT(S): **SOF-XI KAUAI PV HOTEL LP.**

Attached for the Planning Commission's reference is Public Testimony pertaining to the permit application referenced above.

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)
An Equal Opportunity Employer

G.1.a.2.
JUN 09 2026

Planning Commission Kauai

4444 Rice Street

Lihue HI. 96766

Commission Members:

From Michael Grippe Princeville Resident

MAY 15 '25 PM2:05
PLANNING DEPT

No Affiliation

Subject: SFO XI Kauai PV Hotel LP

SMH U 89 4

Z IV 8914

U 89 14

I attended Starwood's picture show In Princeville and here are My objections for the plans they presented .

1. A Pavillion will be built as a convention hall/ banquet room. This Pavillion will be built directly adjacent to Fort Alexander. I can see party attendants will be using the adjacent Fort as a gathering place and place to step out for some fresh air. Caring nothing to the historical significance of this area to Hawaiian History and trampling what is left or the rock foundation.

2. I asked at the presentation "how many parking spaces will be available for the hotel guests and Pavillion attendees". I was told a total of 140 spaces will be available. Starwood Hotel has approximately 10 of their own vehicles parked in the lot. This would mean only 130 parking spots would be available for the pavilion attendees and a 502 room hotel. Where are all the cars for this size establishment going to be parked?

3. All the present foliage and trees will be taken out of the existing parking lot including the iron wood trees on the bluff. This whole plan significantly increases Hard Spaces for the area Not allowing for drainage. All this water will be ponding in Fort Alexander or runoff into Hanalei Bay.

4. Princeville has a private water supply and sewerage company supplying the people of Princeville. In the past we have been asked to limit water usage on numerous occasions. How much more construction and additions to Princeville can be handled?

5. In your agenda you state that 6 luxury homes will be built. In the presentation I saw there were 8 homes covering the bluff from Pua Poa to Fort Alexander. I am not sure what the discrepancy is.

6. These homes will be built very close to the cliffs edge leaving very little green area between the homes and cliff. These homes will have a parking lot for a front yard leaving very little green space for the home owners to enjoy and causing a dangerous cliff fall situation in the back yard.

In summation ever since Starwood purchased the Hotel and Golf course their main objective has been to develop the open spaces that were designed in the development of Princeville. They have proven that they are not stewards of the land but money hungry east coast company that cares nothing about Kauai, and only are looking to develop the area to the monetary benefit of their investors.

Thank you for your time and consideration.

Sincerely,

Michael Grippe
4786 Emmalani Drive
Princeville Hi 96722
808-635-9327

From: Roslyn Cummings
To: Planning Department
Subject: SMA(U)-89-4, Z-IV-89-14, U-89-14 AMENDMENT TO SPECIAL MANAGEMENT AREA USE PERMIT, ZONING PERMIT, AND USE PERMIT 5520 KA HAKU ROAD, PRINCEVILLE (PU'U POA), KAUA'I
Date: Saturday, May 2, 2026 10:16:02 PM

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.

VERIFIED NOTICE OF LIABILITY, DECLARATION OF STANDING, AND WRITTEN TESTAMENT— RIGHT TO DUE PROCESS, RIGHT TO REDRESS

By: Roslyn Cummings

I. DECLARATION OF STANDING (FACT OF LAW)

I, Roslyn Cummings, in special appearance not generally, hereby submit this Verified Declaration, Notice of Liability, and Written Testimony for the official record. A non-consenting party, with the right to freedom of speech, due process, and to redress.

My standing arises under:

- Vested Rights **moʻokūʻauhau (moʼopuna succession)**
- Standing as **wahine maoli, na kanaka, hoʼoilina, hoaʻāina kanaka maoli and kuleana**
- Exercise of constitutionally protected rights to:
  - **Due process of law**
  - **Freedom of speech**
  - **Protection of life, liberty, and property**

This testimony is submitted as **Fact of Law, Law of Evidence, and Rule of Law**, and is not submitted as opinion.

II. NOTICE OF APPLICABLE LAW AND HIERARCHY

This matter is governed by a hierarchy of law which binds all agencies:

1. Foundational Law (Hawaiian Kingdom Continuity)

- 1810 – Unification under Kamehameha Nui

- Recognition of Kauaʻi under Aliʻi **Kaumualiʻi**
- **1826 Treaty** (United States and Hawaiian Kingdom)
- **1849 Treaty of Friendship, Commerce, and Navigation**

These treaties establish:

- Nation-to-nation relations
- Protection of persons and property

Under **Article VI, Clause 2 (U.S. Constitution)**:
Treaties are the **supreme law of the land (apply supreme law)**

2. Constitutional and Kingdom Law

- **1839 Declaration of Rights**
  - Protection of life, limb, liberty, and property of nā kānaka
- **1840 Kanawai (Constitution)**
  - Establishes governance and rights protections
- **1846–1848 Māhele Framework**
  - Division of lands:
    - Crown Lands
    - Government Lands
    - Konohiki Lands
- **1850 Kuleana Act**
  - Vested rights of **hoaʻāina**
- **1852–1859 Civil Code**
  - Property rights, tenancy, and inheritance
- **1860 Law of Sepulture**
  - Protection of burial sites (iwi kūpuna)

These rights:
Inure to heirs (hoʻoilina)
Are **continuing and vested**

The 1840 Kanawai of the Hawaiian Kingdom establishes that governance is bound by law and that all persons are entitled to the protection of life, limb, and property. It affirms equality before the law and prohibits arbitrary deprivation of rights. These protections are vested, continuing, and inure to the benefit of the people and their heirs. Any action taken without adherence to these principles constitutes a violation of the rule of law and

due process

3. State Constitutional Obligations

- Hawai‘i Constitution:
  - **Article I, Section 5** – Due Process / Equal Protection
  - **Article XI** – Protection of natural resources
  - **Article XII, Section 7** – Protection of traditional and customary practices
- HRS §1-1 – Hawaiian usage
- HRS §7-1 – Rights of tenants (hoa‘āina)

4. CONTROLLING CASE LAW

Public Access Shoreline Hawaii v. Hawaii County Planning Commission

Holding (what the court established):

- The State and its agencies have an **affirmative duty** to protect the exercise of **traditional and customary practices** (grounded in the Hawai‘i Constitution, Art. XII, §7).
- This duty is **not passive**. Agencies must **investigate and make findings**—Agencies cannot wait for practitioners to prove.
- The **burden rests with the agency** to ensure that its decision **does not impair protected practices**.

Procedural principle relevant here:

- When protected rights are implicated, the agency must **meaningfully consider them on the record**.
- Treating such claims as mere “public comment” or failing to address them in findings is **legal error**.

On the record:

- PASH is used to establish that this Commission must **actively identify and protect practices from mauka to makai** and **cannot shift that burden to petitioner, na kanaka, Ho’oilina, Hoa’aina, Kanaka**

Maoli.

Ka Paʻakai o ka ʻĀina v. Land Use Commission

Holding (mandatory 3-part test):

Before approving a project the agency and its agents must:

1. **Identify** the specific cultural, historical, and natural resources in the area
2. **Assess impacts** (direct, indirect, and cumulative) on those resources and practices
3. **Provide mitigation** to reasonably protect those practices

Critical rule:

- These are **required findings on the record**.
- **Failure to satisfy any one of the three** renders the decision **invalid** (arbitrary/capricious and contrary to law).

On the record:

- I Demand **specific, on-the-record findings** for Puʻu Poa/Hanalei Ahupuaʻa/Kalihikai Ahupuaʼa archeological findings, maps,and bill of sale/chain of title (including practices, resources, and impacts).
- If the record lacks identification, impact analysis, or mitigation, the Commission **cannot lawfully approve** the permits.

In re Kanaina (legal principle)

The **Kanaina line of cases** stands for:

- Recognition of **property rights; vested rights as enforceable under law**
- Determination of rights based on:
    - **Title**
    - **Succession**
    - **Vesture**

NOT:

- Administrative presumption
- Government convenience

Key principles

A. Rights are determined by law, not assumption

The court recognized that:

Property and inheritance rights must be:

- Proven through lawful means
- Determined through **legal process**, not agency action

B. Succession (Heirship / Hoʻoilina)

Kanaina supports:

- Rights **inure to heirs**
- Genealogical connection is relevant to:
  - Title
  - Rights
  - Standing

C. Evidence is not limited to written instruments

Kingdom jurisprudence allowed:

- **Oral testimony**
- **Moʻokūʻauhau (genealogy)**
- **Ike (knowledge)**

As **valid forms of evidence**

D. Courts—not agencies—determine property rights

Administrative bodies (Planning Commissions)

do not have authority to extinguish or redefine vested rights

Combined Legal Effect (PASH + Ka Paʻakai)

- **PASH** establishes the **duty**: the agency must protect traditional and customary practices and cannot shift the burden to practitioners.
- **Ka Paʻakai** establishes the **method**: the agency must **identify → assess → mitigate** on the record.

Under controlling law, including In re Kanaina, property and succession rights are determined by law and cannot be altered or extinguished by administrative action or presumption. These principles are consistent with Public Access Shoreline Hawaii v. Hawaii County Planning Commission and Ka Paʻakai o ka ʻĀina v. Land Use Commission, which require agencies to affirmatively identify, assess, and protect traditional and customary rights. Where an agency proceeds without recognizing these rights or without developing a complete record, its actions exceed its authority and are unlaw

III. IDENTIFICATION OF SUBJECT LAND (FACT)

The subject area is identified as:

- "Princeville" (modern designation)
- Known lawfully as **Puʻu Poa as a Wahi Pana** within:
  - **Hanalei Ahupuaʻa/Kalihikai Ahupua'a**
  - **Moku of Haleleʻa/ Ko'olau**

This land includes:

- Crown and Konohiki land divisions
- Areas historically tied to **Kealiʻiahonui, Kekaihaakulo, Kaumualii, Muolehua, Kawelo, Kahakumakalina, Manokalanipo**

I assert genealogical connection as **hoʻoilina (heir)**.

IV. NOTICE OF CULTURAL AND BURIAL SIGNIFICANCE

This area is:

- A **wahi pana**
- Connected to:
  - Loko iʻa (punawai, wai, kai, waikai) fishing village, papa reef, limu, ko'a coral, i'a fish, lo'i kalo, pa'akai,
  - Coastal resource gathering
  - Traditional practices from **mauka to makai- wao forest, kumu**

la’au trees

Under the **1860 Law of Sepulture**:
Burial sites (iwi kūpuna) are protected by law

Any disturbanceconstitutes:

- Violation of law
- Intent to harm—desecration

V. NOTICE OF DEFICIENCIES (FACT & LAW)

The record, as presented, fails to demonstrate:

1. Certified shoreline determination
2. Full compliance with shoreline setback laws
3. Independent environmental impact analysis
4. Cultural Impact Assessment (CIA)
5. SHPD consultation
6. Geotechnical stability analysis
7. Watershed and runoff impact mitigation

Under **Ka Pa‘akai**:
These are **mandatory findings**, not optional

VI. NOTICE OF VIOLATIONS

Failure to meet legal requirements constitutes:

- **Dereliction of duty**
- **Crimes of omission**
- **Constructive fraud**
- **Unjust enrichment**
- **Trover and conversion** (conversion of land use and rights)

VII. DEMAND FOR DUE PROCESS & CONTESTED CASE

I hereby place the Commission on notice:

- This matter involves:
    - Vested rights

    - Environmental & Burial Protection
    - Property rights: Traditional & Customary “Kuleana”

Under due process principles:
A **contested case hearing is required** where rights are determined

Denial of such process:

- Violates constitutional protections
- Violates administrative law principles

VIII. NOTICE OF LIABILITY

All parties proceeding without full compliance are on notice of liability for:

- Violation of constitutional rights
- Breach of fiduciary duty
- Failure to uphold treaty obligations
- Damage to cultural and environmental resources—

1. DAMAGE TO TRADITIONAL & CUSTOMARY PRACTICES (KULEANA)

These are not general “cultural concerns”—they are **recognized practices from mauka to makai**, including:

- **Lawai‘a (fishing)**
- **Kohi limu (limu gathering)**
- **‘Ōpelu / nearshore resource use**
- **Saltwater and freshwater interaction zones (percolation)**
- **Kilo (observation, study, science)**

How they are impacted:

- Runoff from development → degrades reef and nearshore ecosystems
- Increased human use → restricts access and disrupts clean water, human waste, waste management negative impacts
- Construction → alters natural conditions required for Kuleana

Under **PASH**, impairment of these practices = legal issue

2. DAMAGE TO ACCESS (PHYSICAL + FUNCTIONAL)

Access is not just "can you walk there."

It includes:

- Safe shoreline access
- Ability to gather and practice without interference
- Maintenance of traditional routes "ala- pathway, holoholo, huaka'i"

Impacts:

- Cliffside development:
  - Limit or discourage access
  - Change access patterns
- Private development creates **practical exclusion**, even if not legally closed

Courts recognize that **interference = impact**, not just total denial

3. DAMAGE TO CULTURAL SITES (WAHI PANA)

Puʻu Poa / Hanalei/ Kalihikai area is identified as:

- A **wahi pana (storied place), Ahupua'a, Moku, Mokupuni**
- Connected to:
  - Aliʻi history
  - Coastal resource systems
  - Traditional land divisions

Impacts:

- Ground disturbance
- Structural development on culturally significant land
- Lack of cultural assessment

—Under **Ka Paʻakai**, failure to identify and protect = violation

4. DAMAGE TO BURIAL SITES (IWI KŪPUNA)

Coastal areas with:

- **loko i‘a (fishpond systems), lo’i, pali**
- Long-term habitation

Have **high probability of burials and spiritual pathway**

Impacts:

- Excavation
- Grading
- Infrastructure installation

Under burial protection law:

- Disturbance = unlawful

5. DAMAGE TO REEF ECOSYSTEM (DIRECT + MEASURABLE)

The reef below the project is identified as **fragile**

Impacts:

- Sediment runoff
- Pollutants from construction and use
- Altered drainage patterns

Result:

- Reef degradation
- Loss of fish habitat
- Collapse of nearshore food systems

This directly affects:

- Traditional & Customary practices known as kuleana
- Food sources (mea ai), Aina
- Environmental stability

6. DAMAGE TO CLIFF AND LAND STABILITY

Development is proposed on:

- **Coastal bluff / cliff system**

Impacts:

- Increased erosion
- Structural stress
- Potential failure risk

This is:

- Environmental harm
- Public safety issue
- Long-term land degradation

7. DAMAGE TO WATER SYSTEMS (MAUKA TO MAKAI)

Traditional system:
Water flows from mountain → streams → ocean

Impacts:

- Altered runoff
- Contamination pathways
- Increased stormwater load

Result:

- Impacts both:
  - Inland systems
  - Ocean systems

8. DAMAGE TO TRUST RESOURCES AND INTERFERENCE WITH VESTED RIGHTS

I. TRUST RESOURCES (KAUIKEAOULI FRAMEWORK)

Under the governance established by Kamehameha III (Kauikeaouli), including the 1840 Constitution and Māhele framework, lands and resources are subject to **duties of stewardship for the benefit of the**

people (nā kānaka).

The resources at issue include:

- **Shoreline (kai)**
- **Ocean and reef systems (kai, loko iʻa, nearshore ecosystems)**
- **Freshwater systems (wai) from mauka to makai**
- **Subsurface features, including caves (ana)**
- **Cultural practices tied to these systems**

Legal reality:

These are **not purely private assets**
They are **held in trust for the people**
Their use is subject to **ongoing obligations, not unrestricted control**

II. SUBSURFACE AND CULTURAL FEATURES (ANA)

The presence of **ana (caves)** is significant because:

- They are often associated with:
  - Burial sites (iwi kūpuna)
  - Refuge areas
  - Ceremonial or cultural use

Disturbance of subsurface areas through:

- Excavation
- Grading
- Structural development

creates risk of:

Irreversible damage to protected cultural and burial resources

III. CULTURAL LANDSCAPE AND PRACTICES

The affected area within **Hanalei Ahupuaʻa (Moku of Halelеʻa)** includes:

- Coastal and elevated vantage points historically used as:
  - **Warrior lookout areas (kilo, observation points)**
  - Strategic and cultural practice locations

These locations are part of a **functional cultural system**, not isolated features.

Impacts to these areas:

- Disrupt visibility, access, and use
- Alter the physical and cultural landscape required for practice

IV. HISTORICAL CONTEXT (HANALEI AND KAUMUALIʻI)

Hanalei is historically tied to:

- The rule of **Aliʻi Kaumualiʻi**, the last ruling chief of Kauaʻi
- A period of transition following unification under Kamehameha

This area carries:

- Political and cultural significance
- Associations with governance, land use, and continuity of people

Disturbance of such areas:

Affects not only land, but **historical continuity and cultural identity tied to place**

V. WHY THIS IS DAMAGE TO VESTED RIGHTS

The rights at issue are **vested rights**, meaning:

- Not future interests
- Not optional
- Not created by the agency

They are:

Existing, vested rights tied to na kanaka, Hoʻoilina, Hoaʻaina, Kanaka Maoli

These include:

- Access and use of shoreline and ocean resources
- Exercise of traditional and customary practices

- Protection of burial sites and subsurface cultural areas
- Maintenance of cultural landscape and context

VI. WHEN DAMAGE OCCURS

If a project:

- **Degrades natural resources** (reef, water systems, shoreline)
- **Restricts or alters access**
- **Destroys or diminishes cultural heritage**
- **Disturbs burial sites or subsurface features (ana)**
- **Impacts historically significant areas and traditional customary practices— Kuleana**

Then it:

Interferes with vested rights

VII. LEGAL EFFECT

Such interference:

- Triggers the agency's **affirmative duty to protect**
- Requires full compliance with:
    - Identification of resources
    - Assessment of impacts
    - Implementation of mitigation

Failure to do so constitutes:

- **Breach of trust obligations (under Hawaiian kingdom foundational law)**
- **Violation of due process**
- **Unlawful agency action**

VIII. CONCLUSION

The proposed project places at risk:

- Trust resources
- Cultural systems

- Subsurface and burial areas
- Historically significant lands within Kalihikai/Hanalei

These impacts are not abstract. They directly affect the **exercise of vested rights that pre-exist agency authority and remain protected under governing law**.

IX. CONCLUSION (RULE OF LAW)

This testament/ petition is submitted to:

- **Preserve the record**
- **Assert lawful standing**
- **Require strict adherence to governing law**

A. DUTY OF THE COMMISSION

The Commission is bound to:

- **Apply the law equally**
- **Protect vested rights**
- **Ensure full compliance with all legal requirements prior to any approval**
- **Develop a complete and lawful record before making any determination**

B. DEMAND FOR CHAIN OF TITLE AND OWNERSHIP DISCLOSURE

In order to establish lawful authority over the subject property, the following must be disclosed and entered into the record:

- **Full chain of title** from original source to present
- All **conveyance documents**, including:
    - Deeds
    - Assignments
    - Transfers

- Any **bill of sale or instrument evidencing transfer of interest**
- Identification of:
    - Current legal owner(s)
    - Beneficial owner(s)
    - Any trust or corporate entities holding interest

C. DEMAND FOR SUPPORTING PROPERTY AND PROJECT DOCUMENTATION

The following must be produced to establish lawful basis for the proposed action:

1. Surveys and Maps

- Certified **survey maps (TMK, metes and bounds)**
- **Shoreline certification and setback determination**
- Topographical and boundary surveys

2. Engineering and Construction Documents

- **Engineering reports**, including:
    - Geotechnical (soil and cliff stability)
    - Drainage and stormwater
- **Architectural plans and site plans**
- Grading and construction plans

3. Contracts and Agreements

- **Architectural and engineering contracts**
- Construction agreements
- Development agreements
- Any joint venture or partnership agreements

4. Financial Responsibility and Risk Instruments

- **Performance bonds**

- **Liability insurance**
- Environmental insurance (if applicable)

D. PURPOSE OF THIS DEMAND

These documents are required to:

- Establish **lawful authority and interest in the land**
- Verify **compliance with regulatory and safety requirements**
- Ensure that the Commission is not acting on:
    - Incomplete information
    - Assumptions
    - Unverified representations

E. LEGAL EFFECT OF NON-DISCLOSURE

Failure to produce and enter these materials into the record constitutes:

- **Failure to develop a complete record**
- **Violation of due process**
- **Arbitrary and capricious decision-making**
- **Breach of duty to ensure lawful approval**

F. FINAL NOTICE

No approval may lawfully be granted where:

- Ownership and authority are not fully established
- Required studies and documentation are absent
- Impacts to trust resources and vested rights have not been fully evaluated

Any action taken without full compliance will be preserved on the record as:

- **Unlawful agency action**
- **Violation of governing law and constitutional protections**

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

All Rights Reserved,

Roslyn Cummings



Kauaʻi Mokupuni, Ko Hawaii Pae Aina
Date: 05/02/2026

PULE NO KA PONO, KA ʻOIAʻIʻO, A ME KA HOʻOPONOPONO ʻĀINA

E ke Akua Mana Loa,
E ke Akua o ka ʻāina, o ke kai, o ka lani,
E nā kūpuna i hele mua ma ke ala o ka pono,

E kiaʻi mai iā mākou i kēia manawa.
E hoʻālohilohi mai i ka ʻoiaʻiʻo ma luna o kēia ʻāina.
E wehe i nā mea huna, e hōʻike i ka mea pololei.

E hoʻoponopono i nā mea a pau i kūʻē i ka pono.
E hoʻokaʻawale aku i nā hana, nā manaʻo, a me nā hana kūkulu
ʻaʻole i kū i ka pololei, ʻaʻole i kū i ke aloha, ʻaʻole i kū i ka mālama ʻāina.

E hoʻihoʻi mai i ke kaulike,
Mai uka a i kai, mai kahakai a i ke kuahiwi,
I loko o ka wai, i loko o ka lepo, i loko o ka ʻuhane o kēia wahi.

E mālama i nā iwi kūpuna i huna ʻia ma lalo o ka honua,
E mālama i nā ana, nā wahi pana, nā wahi kapu,
Mai hoʻopilikia ʻia, mai hoʻohaumia ʻia.

E alakaʻi mai iā mākou i ka ʻōlelo pono,
I ka hana pono,
I ka kūpaʻa ma luna o ka ʻoiaʻiʻo.

E hāʻawi mai i ka ikaika e kū i ka hewa,
A me ka naʻau haʻahaʻa e mālama i ka pono.

No ka mea, ʻo ʻoe nō ke ala, ke ʻoiaʻiʻo, a me ke ola.

HOLY BIBLE

“And ye shall know the truth, and the truth shall make you free.”
— John 8:32

Amene

CONFIDENTIALITY NOTICE
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BELLES GRAHAM LLP

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Attorneys for Applicant,
SOF-XI KAUAI PV HOTEL, L.P.,
a Delaware limited partnership

BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUAI

In The Matter Of The Application Of SOF-XI KAUAI PV HOTEL, L.P., a Delaware limited partnership, to amend Special Management Area Use Permit SMA(U)-80-18, Use Permit U-37-80, and Class IV Zoning Permit Z-IV-80-43, and Special Management Area Use Permit SMA(U)-89-4, Use Permit U-89-14, and Class IV Zoning Permit Z-IV-89-14, concerning property located at Princeville and Hanalei, Halale'a, Kauai, Hawaii, identified by Kauai Tax Map Key Nos. (4) 5-4-004:029 and 035 and (4) 5-4-011:004, Applicant.	MASTER PERMIT Special Management Area Use Permit SMA(U)-80-18; Use Permit U-37-80; and Class IV Zoning Permit Z-IV-80-43 RENOVATION PERMIT Special Management Area Use Permit SMA(U)-89-4; Use Permit U-89-14; and Class IV Zoning Permit Z-IV-89-14 **APPLICANT'S MEMORANDUM IN OPPOSITION TO ROSYLN CUMMINGS' VERBAL REQUEST TO INTERVENE; EXHIBITS "1" - "6"; CERTIFICATE OF SERVICE** **(1 Homes Project)**

G.1.a.4.
JUN 9, 2026

APPLICANT'S MEMORANDUM IN OPPOSITION TO ROSLYN CUMMING'S VERBAL REQUEST TO INTERVENE

Comes now SOF-XI KAUAI PV HOTEL, L.P., a Delaware limited partnership, Applicant in the above-captioned proceedings, by and through its undersigned attorneys, hereby submits its Memorandum in Opposition to Roslyn Cumming's (hereinafter, "Petitioner") verbal request to intervene at the Planning Commission meeting held on May 26, 2026.

I. INTRODUCTION.

The Applicant has filed its request to amend Special Management Area Use Permit SMA(U)-80-18, Use Permit U-80-37, and Class IV Zoning Permit Z-IV-80-43, as amended (collectively, the "Master Permit"), and Special Management Area Use Permit SMA(U)-89-4, Use Permit U-89-14, and Class IV Zoning Permit Z-IV-89-14, as amended (collectively, the "Renovation Permit"), to allow for six (6) attached dwelling units, event pavilion, parking garage and storage, new parking lot, Fort Alexander memorial, covered walkway, landscaping, and related-site utilities (collectively, the "Project") on Lot 4-A only as shown on Exhibit "E-1" to the Application, as follows:

A. 1 Homes Project. The Applicant proposes a two-story six-plex building consisting of six (6) attached dwelling units. Five (5) dwelling units will contain four (4) bedrooms and four and a half bathrooms, with the sixth dwelling unit containing three (3) bedrooms and three and a half bathrooms. Each of the dwelling units will be in a range of 3,000-4,500 square feet. The exterior will be softened with earth tone colors and the use of natural textures. The elevations of the dwellings will not exceed twenty-five (25) feet from the front entrance. New landscaping will be installed to screen exterior walls, using vegetation as shown on the 3D View of Residences attached as Exhibit "E-2" to the Application. Portions of the roofs will be

consistent with the current 1 Hotel built environment with green roofs (i.e., roofs with vegetative/landscaping materials). The dwellings will be sold to market; however, retain the option to be placed in the rental pool along with hotel rooms associated with the 1 Hotel resort.

B. Event Pavilion. The proposed Event Pavilion will service both the existing 1 Hotel built environment and the proposed six (6) dwelling units. The Event Pavilion is proposed to be 4,500 square feet and will be located northeast of Fort Alexander. The Event Pavilion will be used for events and celebrations. The Event Pavilion will consist of two (2) ballrooms, covered decking to the north and west, a warming kitchen, restrooms, and utilities. Similar to the six (6) dwelling units, the elevation will be limited to twenty-five (25) feet at front entry, and the exterior will be softened with earth tone colors and the use of natural textures. New landscaping will be installed to screen exterior walls, using vegetation as shown on the 3D View of Event Pavilion attached as Exhibit "E-3" to the Application. The Event Pavilion will be used in conjunction with events associated with the 1 Hotel resort.

C. Parking Area, Garages, and Storage. The new parking area will include a proposed concrete porte-cochere as an entry to the parking layout along with one hundred and twenty-six (126) parking stalls to replace the existing parking lot. The parking area will include garage and storage spaces for the six (6) dwelling units at one (1) garage stall per dwelling unit. The garage and storage areas will not exceed twenty-five (25) feet in height and will blend with the overall Project design. The Parking Area will be minimally landscaped to ensure adequate space for parking stalls as shown in attached Exhibit "E-1" to the Application. Additional parking will be made available via 1 Hotel valet services to ferry vehicles to the Makai Golf Course.

D. Fort Alexander Storyboards Memorial and Covered Path. The current Fort Alexander pavilion is proposed to be demolished and replaced with a proposed Fort Alexander Storyboards Memorial, which will connect to a proposed new covered walkway as shown on Exhibit "E-1" to the Application. The existing storyboards will be re-established in the proposed Fort Alexander Storyboards Memorial to provide context and stories of the history of the Fort Alexander.

E. Landscaping. The 1 Homes Project, Event Pavilion, Parking Area, Garages, and Storage, and Fort Alexander Memorial and Covered Path will be landscaped to provide mitigation to the built environment and landscape continuity to the existing 1 Hotel, as shown collectively in Exhibits "E-1", "E-2", "E-3" and "E-4" to the Application.

F. Related-Site Utilities. The collective Project will require necessary site utilities, including but not limited to water, power, communications, and wastewater connections.

All of the proposed built environments for the collective Project described above will be sited primarily on the footprint of the existing parking lot and collectively referred to as the "Project".

The Petitioner opposes the Project and her sole argument during her verbal request to intervene is premised on a lack of Ka Pa'akai Analysis. The Petitioner failed to recognize that the Application and supporting materials provides for a cultural analysis in Exhibit "F" to the Application and in Section 14. of the Application for the purposes of Special Management Area ("SMA") considerations. Furthermore, the Petitioner's verbal request to intervene at the Planning Commission meeting of May 26, 2026, does not qualify as a written petition and is untimely because it was not filed seven (7) days prior to the agency hearing on May 26, 2026, nor

did the Petitioner serve any materials to the Applicant of her intent to verbally request intervenor status.

II. PROCEDURAL HISTORY.

1. On March 31, 2026, the Planning Department accepted the completed application (See, ***Exhibit "1"***).

2. On May 1, 2026, the Garden Island Newspaper published the Notice of Hearing as required by Kauai County Code Chapter 8 Sections 8-3.1 and 8-3.2 of the Comprehensive Zoning Ordinance, as codified in the Kauai County Code, 1987 ("CZO") and Section 9.0 of the SMA Rules (See, ***Exhibit "2"***).

3. On April 24, 2026, in fulfillment of CZO Sections 8-3.1, 8-3.2, and Section 9.0 of the SMA Rules and Regulations, a Notice Of Public Hearing Before The Planning Commission Of The County Of Kauai was mailed to at least eighty-five percent (85%) of the persons or owners listed in the current Notice of Property Assessment Card File, located at the Real Property Division of the Department of Finance of the County of Kauai, of all parcels of real property within three hundred feet (300') from the nearest point of the tax map parcel involved in the Application, to the nearest point of the affected tax map parcel (See, ***Exhibit "3"***).

4. On April 25, 2026, the Applicant held an Open House at the Project site with storyboards and materials to review the proposed Project and obtain community feedback whereby approximately one hundred and fifty (150) individuals attended throughout the event. (See, ***Exhibit "4"***).

5. On April 24, 2026, our office executed the Affidavit as to Mailing Notice. U.S. Postal Service, Certified Mail Receipts for the mailings were postmarked on April 24, 2026. (See, ***Exhibit "5"***).

6. On May 6, 2026, our office executed an Amended Affidavit as to Mailing Notice given two (2) of the Notices were returned to lack of sender address and personally delivered to the Hanalei Bay Villas, Hanalei Bay Resort, and Puu Poa Condominium.

7. A Petition to Intervene filed by Earthjustice on May 19, 2026, on behalf of Malama Kua'aina, Hanalei-Wainiha-Haena Community Association, Hui Ho'omalu I Ka'aina and Conservation Council for Hawaii was filed seven (7) days prior to the May 26, 2026, Planning Commission agency hearing on the Project. The Applicant stipulated to standing by Intervenors and the Planning Commission granted intervenor status to Malama Kua'aina, Hanalei-Wainiha-Haena Community Association, Hui Ho'omalu I Ka'aina and Conservation Council for Hawaii.

8. On May 2, 2026, the Petitioner filed "written testimony" to planningdepartment@kauai.gov, stating her VERIFIED NOTICE OF LIABILITY, DECLARATION OF STANDING, AND WRITTEN TESTAMENT – RIGHT TO DUE PROCESS, RIGHT TO REDRESS. (See, ***Exhibit "6"***).

9. On May 26, 2026, the Petitioner orally moved to intervene during testimony before the Planning Commission.

10. On May 26, 2026, the Planning Commission, at its duly noticed meeting, opened the agency hearing, and due to a Planning Commissioner's travel schedule the meeting was stopped due to lack of quorum of the Planning Commission (Minutes of the May 26, 2026, Planning Commission Meeting are pending).

III. STANDARD OF REVIEW.

The Applicant appreciates and understands that standing in administrative hearings is freely given. (See, *East Diamond Association v. Zoning Board of Appeals*, 52 Haw. 518, 479 P.2d 796 (1971).

Notwithstanding the above, Hawaii courts are clear that there are consequences for late filings whereby the Planning Commission can disregard any Petition not timely filed. (See, *Gutschmidt et. al. v. Maui Planning Commission, County of Maui, et. al., SCOT-23-0000516 (May 22, 2026)*). In addition to being aggrieved, a person or party seeking judicial review of an agency decision must have been involved in the contested case before the agency; to meet this requirement, the claimant must have followed the applicable agency rules, whereby petitions must be in writing and properly served. (See, *E&J Lounge Operating Co., Inc. v. Liquor Com'n of City and County of Honolulu*, 118 Haw. 320, 189 P.3d 432 (2008)). Furthermore, a petitioner's failure to request a contested case hearing, which is required under rules of practice and procedure of an agency, resulted in the absence of a contested case from which a petition could appeal. (See, *Gutschmidt et. al. v. Maui Planning Commission, County of Maui, et. al., SCOT-23-0000516 (May 22, 2026), and Simpson v. Department of Land and Natural Resources, State of Hawaii*, 8 Haw.App. 16, 791 P.2d 1267 (1990)).

Rule 1-4-2 (b) of the Rules of Practice and Procedure of the Planning Commission ("RPPPC") provides that a "...petition for intervention with Certificate of Service shall be filed with the Commission no less than seven (7) days prior to the first public hearing for which the notice has been public pursuant to law..."

Pursuant to RPPPC Rule 1-4-2, "untimely petitions for intervention will not be accepted except for good cause or excusable neglect shown". RPPPC Rule 1-4-2(c)(1) and (2) provides:

> *(1) Good cause is a sufficient reason beyond the control of the petitioner including acts of God.*
> *(2) Excusable neglect is due to extenuating circumstances within the control of the petitioner. Carelessness, ignorance of rules, and deliberate or willful conduct do not constitute excusable neglect.*

As provided for in RPPPC Rule 1-4-2(c), a finding of good cause or excusable neglect will depend on the circumstances and will be determined at the discretion of the Commission.

IV. ARGUMENT.

A. Timeliness. The Petitioner failed to comply with RPPPC Rule 1-4-2, whereby its verbal request to intervene was not made seven (7) days prior to the first agency hearing on the matter and not formally written as a petition along with a certificate of service. RPPPC Rule 1-4-2 is strict and jurisdictional and said deadlines are mandatory. Any assertion of good cause to be recognized as an intervenor status or an argument for excusable neglect is tempered by the Petitioner's knowledge of the Project in advance of the first agency hearing when she submitted "written testimony" on May 2, 2026 to the planningdepartment@kauai.gov.

The Petitioner routinely attends Planning Commission meetings and asserts a litany of old and current law citations in her public testimony, both in written testimony and in verbal testimony. At the May 26, 2026, Planning Commission agency hearing on the Project, the Petitioner stated her litany of law citations during public testimony portion.

The Petitioner's "written testimony" submitted on May 2, 2026, did not meet the form and content of a written petition to intervene along with a certificate of service and relevant fees under RPPPC Rule 1-4-2. Additionally, her verbal request to intervene did not meet the requirements of a timely written petition to intervene, including payment of required fees and service upon the Applicant. The Applicant had no knowledge of the Petitioner's request until she verbally moved to intervene at the public testimony portion of the first agency hearing.

As noted in a recent May 22, 2026, Hawaii Supreme Court case, *Gutschmidt et. al. v. Maui Planning Commission, County of Maui, et. al., SCOT-23-0000516 (May 22, 2026),* petitions to intervene must meet the requirements of the agency in order to proceed. Here, the Petitioner's written testimony did not meet the necessary requirements of RPPPC Rule 1-4-2 and her verbal request to intervene was untimely and therefore should be denied intervenor status on the Project.

B. Lack of Good Cause or Excusable Neglect. The Petitioner's oral argument for intervention status is premised solely on the lack of a Ka Pa'akai Analysis. The 1 Hotel and its properties are improved and fully developed lands. The Petitioner attempts to reference the need for a Ka Pa'akai Analysis without fully understanding its breadth. Moreover, the Petitioner has failed to identify a specific and individualized injury threatened by the proposed Project to any reasonable traditional and customary native Hawaiian practice on the Project area. A cultural analysis was performed for the Subject Property and the Petitioner has not identified in writing a specific injury threatened by the proposed Project.

Allowing the Petitioner to gain intervenor status will not aid in the development of a full record and her involvement will overly broaden the issues given the Planning Commission has already granted north shore-based non-profit entities with ties to the

Princeville and Hanalei areas as intervenors. The Petitioner has not identified her ties to the Princeville area or specific reasonable customary and traditional native Hawaiian practices on the Project area, which is fully developed land with a resort hotel, parking area, and amenities.

As outlined in the Application, the Applicant believes the Project will have no significant impacts on any known traditional or customary practices of native Hawaiians. The Applicant undertook a cultural analysis as part of its 1 Hotel Renovations, as noted in Exhibit "F" to the Application along with a cultural analysis in Section 14 of the Application. The Subject Property is and continues to be a resort hotel, parking, and amenities operated by the Applicant and its predecessors for at least the last forty-five (45) years.

Given the tenets of the law regarding practice of native Hawaiian customary and traditional rights on "fully developed" lands, the Petitioner has not identified any protected rights that exist in the Project area. Under Article XII, Section 7, of the Hawaii State Constitution and pursuant to HRS Section 7-1, only hoa'aina (ahupua'a tenants) are allowed to enter undeveloped lands for the purpose of exercising traditional and customary rights. The Hawaii Supreme Court in *Public Access Shoreline Hawaii v. Hawaii County Planning Commission, 903 P.2d 1246 (1995)*("PASH"), provides that: (1) hoa'aina can gather anywhere that such rights have been customarily and traditionally exercised in that mater; (2) hoa'aina can gather what is needed for traditional and customary subsistence, cultural and religious purposes; (3) hoa'aina can gather on land that is less than fully developed; (4) the government cannot regulate traditional and customary rights out of existence; and (5) the balance weighs in favor of the property owner against hoa'aina who exercise otherwise valid customary rights in an unreasonable manner. The goal of the PASH case is to evaluate reasonable customary and traditional native Hawaiian practices and where possible mitigate impacts to those practices on undeveloped lands. Further,

the PASH case recognizes that that the rights of access and collection by native Hawaiians will not necessarily prevent landowners from developing their lands and does not require the preservation of undeveloped lands to in their natural state.

Here, the Petitioner broadly demands intervenor status on the sole notion of a lack of a Ka Pa'akai Analysis. Such a broad claim is not grounds for good cause or excusable neglect to allow an untimely and broad verbal request for intervenor status. Furthermore, the Petitioner did not state an articulatable threatened injury to her nor any asserted claims to reasonable customary or traditional native Hawaiian practices to meet standing requirements.

VI. CONCLUSION.

For the reasons stated above, the Applicant requests that the Petitioner's verbal request for intervenor status in this matter be denied for lack of timeliness given it was not filed seven (7) days prior the first agency hearing, and the Planning Commission should deny any claim for good cause or excusable neglect given the Petitioner's sole basis (lack of Ka Pa'akai Analysis) for intervenor status will overly broaden the issues given there is no clear and threatened injury noted in her verbal request as to how the Project will impact native Hawaii customary and traditional practices.

DATED: Lihue, Kauai, Hawaii, June 3, 2026.

BELLES GRAHAM LLP

By _____
MAX W. J. GRAHAM, JR.
IAN K. JUNG
Attorneys for Applicant,
SOF-XI KAUAI PV HOTEL, L.P.,
a Delaware limited partnership

EXHIBIT "1"

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

April 3, 2026

RECEIVED
APR - 9 2026
Belles Graham LLP

Ian K. Jung, Esq.
Belles Graham LLP.
Dynasty Professional Building
3135 Akahi Street, Suite A
Lihue, Hawaii 96766

Subject: Special Management Area Use Permit SMA(U)-89-4
Class IV Zoning Permit Z-IV-89-14
Use Permit U-89-14
Proposed Multi-Family Housing Project, Event Pavilion & Assoc. Improvements
Tax Map Key: (4) 5-4-004:029, 035 & 5-4-011:004
Princeville, Kaua'i
SOF-XI KAUAI PV HOTEL INVESTORS LP., Applicant

This is to acknowledge receipt of your application for the project referenced above. Based on the information provided, we find that the application is *complete* effective on March 31, 2026 and processing of the subject permits will commence consequently. As previously discussed, the department will consider the proposal as an amendment to the existing permits noted above. In accordance with Section 9 of the County of Kaua'i SMA Rules and Regulations, as amended, please be advised of the following:

1. The application will be forwarded for review by the Public Works Department, Water Department and other applicable County and State government agencies.

2. The Planning Director's Reports will be transmitted to the Planning Commission at its meeting scheduled for *May 26, 2026*. A copy of the report will also be transmitted to you citing the reasons for issuance or denial of the application.

The public hearing is scheduled for **MAY 26, 2026.** The public hearing will allow the Planning Commission to receive testimony and additional information from applicable government review agencies, interested parties, and the public prior to the Planning Commission rendering its final decision on the application. Please be further advised that the Department reserves the authority to require additional information relating to the proposed development and property that may be necessary for the public hearing procedure.

Finally, the Planning Department hereby warns all Applicants of ongoing criminal activity commonly known as "phishing," involving individuals who impersonate the Planning Department, government officials, or County of Kaua'i employees. These phishing scams request payment by wire transfer, i.e., by using an email address with a "@usa.com" domain. The email might purport to inform Applicants that their Planning Department application has been was reviewed and completed, attach an invoice for payment, and claim to "streamline the approval process." Please be aware that:

- The County of Kaua'i will not ask for passwords, Social Security numbers, nor request payment via email, text, or wire transfer;
- Please carefully check the sender's email address and phone number, potential criminals scammers use similar email addresses which might be several characters different than that of the Planning Department, and easy to misinterpret; and
- Do not click on links or open attachments from suspicious email communications.

If you believe you have received a scam phishing or other fraudulent communication, please do not respond. Please be advised that this is NOT an official communication from the Planning Department. You may contact the Planning Department if you are unsure whether an email is legitimate. Mahalo for your continued vigilance.

Should you have any questions, please feel free to contact project planner Dale A. Cua of my staff at (808) 241-4050. Aloha!

KA'ĀINA S. HULL
Director of Planning

EXHIBIT "2"

> > > THEGARDENISLAND.COM/CLASSIFIEDS

classifieds

PLACE YOUR AD TODAY 246-0325

KAUAI'S

Legals / Public Notices

808-245-0450

PLACE YOUR AD TODAY 808-245-0450 LEGALS@THEGARDENISLAND.COM

FORECLOSURES | FORECLOSURES

ORECLOSE INTERVAL OWNERSHIP INTERESTS AND OF
ON. NOTICE IS HEREBY GIVEN pursuant to the terms of
ation that the following timeshare interests more
n the lien(s) referred to in **Schedule "1"** will be
foreclosing agent, First American Title Company on
uai Beach Club Owners Association, a Hawaii
by sale of property secured thereby at public auction
:00 PM at **Vidinha Stadium, Hoolako St, Lihue,**
trees, at entrance to the stadium. Each of the
a Timeshare Interest at **Kauai Resort and Beach**
rtain Declaration recorded as **Doc. No. 95-088888**
of Conveyances or Assistant Registrar of the Land
and as amended and which property is located at
Kalapaki Beach, Lihue, Kauai, HI, 96766. The
noted on the Notice of Lien, which has been filed
er as consists of delinquent maintenance fees, (plus
and collection and enforcement costs). Terms of the
price. (2) Property sold without covenant or warranty,
to the title possession or encumbrances; (3) At the
irchaser shall pay 100% of the highest successful bid
ied, or cashier's check to FIRST AMERICAN TITLE
it the Association may submit a credit bid up to the
ndebtedness; (4) Purchaser shall pay all closing costs
d to: costs of document drafting, notary fees, consent
nveyance tax, recordation fees and other charges,
ial assessments which may arise under HRS 514B-
is not conveyed to Purchaser for any reason, other
to perform as specified herein, the Association's sole
he return of the Bid funds tendered by Purchaser. The
further recourse against the Association or its agents,
auctioneers; (6) The sale may be postponed from time
ncement by the Association or someone acting on its
g the Bid, Purchaser acknowledges reading the terms
in this notice and agrees to be bound thereby and
e of all terms herein. For further information regarding
tact **First American Title Insurance Company, a**
at **(702) 304-7509.** Conductor of the public sale
AQUA LEGAL LLC on behalf of, First American Title,
ne: (808) 539-7504; Address: 1099 Alakea Street,
awaii 96813. Batch No: **Foreclosure HOA 165094-**
e "1": Lien Recording Date and Reference:
A-9270000682; Timeshare Interest (Contract No.),
1*B, Joseph Stone Rosenthal and Suzan Howard
l1*B, Mark Henry Bondo and Erika Luise Bondo;
M. Frazier; KA*0439*01*E, Keith M. Frazier;
h Henry Krauth, Jr. and Joanne (Nmn) Krauth;
ald Rutt Mohler and Nancy Alice Mohler;
Henry Bondo and Erika Luise Bondo; KA*1025*41*B,
nd Ann Robinson Howard.
/08, 5/15/26)

FORECLOSURES | FORECLOSURES | FORECLOSURES

NOTICE OF INTENT TO FORECLOSE INTERVAL OWNERSHIP INTERESTS AND OF SALE BY PUBLIC AUCTION. NOTICE IS HEREBY GIVEN pursuant to the terms of the Timeshare Declaration that the following timeshare interests more particularly described in the lien(s) referred to in **Schedule "1"** will be foreclosed upon by the foreclosing agent, First American Title Company on behalf of **Waiohai Beach Club Vacation Owners Association, a Hawaii nonprofit corporation** by sale of property secured thereby at public auction on **05/29/2026** at **1:00 PM** at **Vidinha Stadium, Hoolako St, Lihue, HI 96766, under the trees, at entrance to the stadium.** Each of the properties to be sold is a Timeshare Interest at **Waiohai Beach Club** established by certain Declaration recorded as **Doc. No. 2692944** in the office of Bureau of Conveyances or Assistant Registrar of the Land Court, State of Hawaii and as amended and which property is located at **2249 Poipu Road, Koloa, HI, 96756.** The Timeshare Interest as noted on the Notice of Lien, which has been filed against the record owner as consists of delinquent maintenance fees, (plus interest, late charges, and collection and enforcement costs). Terms of the sale are: (1) No upset price. (2) Property sold without covenant or warranty, express or implied, as to the title possession or encumbrances; (3) At the close of the auction, Purchaser shall pay 100% of the highest successful bid price ("Bid") by certified, or cashier's check to FIRST AMERICAN TITLE COMPANY; provided that the Association may submit a credit bid up to the amount of the secured indebtedness; (4) Purchaser shall pay all closing costs including, but not limited to: costs of document drafting, notary fees, consent fees, escrow fees, conveyance tax, recordation fees and other charges, together with any special assessments which may arise under HRS 514B-146(g)(h)(i); (5) If title is not conveyed to Purchaser for any reason, other than Purchaser's failure to perform as specified herein, the Association's sole responsibility shall be the return of the Bid funds tendered by Purchaser. The Purchaser shall have no further recourse against the Association or its agents, attorneys, servicers and auctioneers; (6) The sale may be postponed from time to time by public announcement by the Association or someone acting on its behalf; (7) By submitting the Bid, Purchaser acknowledges reading the terms and conditions set forth in this notice and agrees to be bound thereby and sign a written acceptance of all terms herein. For further information regarding this sale, you must contact **First American Title Insurance Company, a Nebraska corporation** at **(702) 304-7509.** Conductor of the public sale in the state of Hawaii: AQUA LEGAL LLC on behalf of, First American Title, agent for Claimant; Phone: (808) 539-7504; Address: 1099 Alakea Street, suite 2430, Honolulu, Hawaii 96813. Batch No: **Foreclosure HOA 165100-WI110-HOA. Schedule "1": Lien Recording Date and Reference, Timeshare Interest (Contract No.),** Owner(s); 06/23/2025 Inst: A-9305000589, WI*2406*30*B, David Paul Jacobs and Josephine Judith Jacobs; 11/18/2025 Inst: 9453000594, WI*4103*38*X, Nancy S. Gall and Erich C. Gall; 06/23/2025 Inst: A-9305000589, WI*4104*26*B, Melvin P. Schneider, Jr. and Shirley A. Schneider, Trustees of the Melvin and Shirley Schneider Revocable Trust Dated April 19, 2002; 06/23/2025 Inst: A-9305000589, WI*5201*37*E, James Townsend Pulliam and Jacqueline Marian Pulliam; 06/23/2025 Inst: A-9305000589, WI*5201*38*E, James Townsend Pulliam and Jacqueline Marian Pulliam; 06/23/2025 Inst: A-9305000589, WI*5201*44*E, James Townsend Pulliam and Jacqueline Marian Pulliam.
(TGI1526926 5/01, 5/08, 5/15/26)

Public Notice | Public Notice | Public Notice | Public Notice | Public Notice

NOTICE OF PUBLIC COMMENT

HAWAII PUBLIC HOUSING AUTHORITY (HPHA)
REVISED UTILITY RATES AND ALLOWANCES
FEDERAL PUBLIC HOUSING RESIDENTS WHO PURCHASE THEIR OWN UTILITIES, EFFECTIVE JULY 1, 2026

GIVEN pursuant to Hawaii Administrative Rule, Section 17-2028-7, the HAWAII PUBLIC HOUSING AUTHORITY ("HPHA") monthly utility allowances for federal public housing residents who purchase their own utilities, beginning **JULY 1, 2026.**

id allowances listed below will be made effective on **JULY 1, 2026.**

itten or oral comments on the revised utility rates or allowances may be submitted until **Jul**

Hawaii Public Housing Authority
Property Management and Maintenance Services Branch

EXHIBIT "2"

Public Hearings | Public Hearings | Public Hearings

COUNTY OF KAUAI PLANNING COMMISSION – 4444 Rice Street, Suite A473, Lihue, Kauai, Hawaii, 96766, tel: (808) 241-4050, email: planningdepartment@kauai.gov.

NOTICE IS HEREBY GIVEN of an **agency hearing with a public hearing and an opportunity for public testimony** from all interested persons to be held by the Kaua'i Planning Commission pursuant to the provisions of Special Management Area Rules, Kauai County Code, Chapter 8, as amended, Hawaii Revised Statutes (HRS) Chapter 92 and 91, and the Rules of Practice and Procedure of the County of Kauai Planning Commission. The hearing will be held regarding the following:

AMENDMENT TO SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-89-4), CLASS IV ZONING PERMIT Z-IV-89-14, and USE PERMIT U-89-14 to allow construction of a multi-family residential structure containing six (6) residential units, event pavilion, parking garage, and associated site improvements on parcels associated with the resort facility situated at the terminus of Ka Haku Road in Princeville, further identified as 5520 Ka Haku Road, Tax Map Keys: 5-4-004:029, 035; 5-4-011:004, containing a total area of 23,139 acres.

Meeting Location: Lihu'e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihu'e, Kaua'i, Hawai'i

* Interested parties should look to the Planning Commission Agenda for May 26, 2026, for final determination of location.

Date: May 26, 2026

Time: 9:00 a.m. or shortly thereafter

Oral testimony will be taken on specific agenda items, in-person at the public meeting location indicated on the meeting agenda.

Written testimony indicating your 1) name or pseudonym, 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 on any agenda item in writing to planningdepartment@kauai.gov or mailed to the County of Kaua'i Planning Department, 4444 Rice Street, Suite 473, Lihue, Hawai'i 96766. Written testimony received by the Planning Department at least 24 hours prior to the meeting will be posted as testimony to the Planning Commission's website prior to the meeting (https://www.kauai.gov/Government/Boards-and-Commissions/Planning-Commission). Any testimony received after this time will be retained as part of the record, but we cannot assure the Commission will receive it with sufficient time for review prior to the meeting.

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 ADAVIS@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.
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EXHIBIT "3"

COUNTY OF KAUAI PLANNING COMMISSION – 4444 Rice Street, Suite A473, Lihue, Kauai, Hawaii, 96766, tel: (808) 241-4050, email: planningdepartment@kauai.gov.

NOTICE IS HEREBY GIVEN of an **agency hearing with a public hearing and an opportunity for public testimony** from all interested persons to be held by the Kaua'i Planning Commission pursuant to the provisions of Special Management Area Rules, Kauai County Code, Chapter 8, as amended, Hawaii Revised Statutes (HRS) Chapter 92 and 91, and the Rules of Practice and Procedure of the County of Kauai Planning Commission. The hearing will be held regarding the following:

AMENDMENT TO SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-89-4), CLASS IV ZONING PERMIT Z-IV-89-14, and USE PERMIT U-89-14 to allow construction of a multi-family residential structure containing six (6) residential units, event pavilion, parking garage, and associated site improvements on parcels associated with the resort facility situated at the terminus of Ka Haku Road in Princeville, further identified as 5520 Ka Haku Road, Tax Map Keys: 5-4-004:029, 035; 5-4-011:004, containing a total area of 23,139 acres.

Meeting Location:	Līhu'e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i * Interested parties should look to the Planning Commission Agenda for May 26, 2026, for final determination of location.
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Publication Date: April 23, 2026

EXHIBIT "3"

EXHIBIT "4"

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EXHIBIT "5"

ADJACENT PROPERTY INDEX

TAX MAP KEY	OWNER/ADDRESS
(4) 5-4-004:001	OHANA HAWAII LLC 1991 BROADWAY STREET SUITE 100 REDWOOD CITY CA 94063
(4) 5-4-011:003 (Apt. Nos. 0001 thru 0137)	TO THE RESIDENTS CARE OF THE MANAGER HANALEI BAY RESORT 5380 HONOIKI ROAD PRINCEVILLE HI 96722
(4) 5-4-012:003 (Apt. Nos. 0001 thru 0037)	TO THE RESIDENTS CARE OF THE MANAGER HANALEI BAY VILLAS 5451 KA HAKU ROAD PRINCEVILLE HI 96722
(4) 5-4-012:011 (Apt. No. 0001 thru 0056)	TO THE RESIDENTS CARE OF THE MANAGER PU'U PO'A 5454 KA HAKU ROAD PRINCEVILLE HI 96722

EXHIBIT "6"

From: Planning Department
To: Romio Idica; Shanlee Jimenez
Cc: Kaaina Hull; Jodi Higuchi Sayegusa
Subject: Fw: SMA(U)-89-4, Z-IV-89-14, U-89-14 AMENDMENT TO SPECIAL MANAGEMENT AREA USE PERMIT, ZONING PERMIT, AND USE PERMIT 5520 KA HAKU ROAD, PRINCEVILLE (PU'U POA), KAUA'I
Date: Monday, May 4, 2026 9:15:21 AM

-Leila

From: Roslyn Cummings <roslyncummings@ymail.com>
Sent: Saturday, May 2, 2026 10:15 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: SMA(U)-89-4, Z-IV-89-14, U-89-14 AMENDMENT TO SPECIAL MANAGEMENT AREA USE PERMIT, ZONING PERMIT, AND USE PERMIT 5520 KA HAKU ROAD, PRINCEVILLE (PU'U POA), KAUA'I

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.

VERIFIED NOTICE OF LIABILITY, DECLARATION OF STANDING, AND WRITTEN TESTAMENT— RIGHT TO DUE PROCESS, RIGHT TO REDRESS

By: Roslyn Cummings

I. DECLARATION OF STANDING (FACT OF LAW)

I, Roslyn Cummings, in special appearance not generally, hereby submit this Verified Declaration, Notice of Liability, and Written Testimony for the official record. A non-consenting party, with the right to freedom of speech, due process, and to redress.

My standing arises under:

- Vested Rights **mo'okū'auhau (mo'opuna succession)**
- Standing as **wahine maoli, na kanaka, ho'oilina, hoa'āina kanaka maoli and kuleana**
- Exercise of constitutionally protected rights to:
  - **Due process of law**
  - **Freedom of speech**

Protection of life, liberty, and property

This testimony is submitted as **Fact of Law, Law of Evidence, and Rule of Law**, and is not submitted as opinion.

II. NOTICE OF APPLICABLE LAW AND HIERARCHY

This matter is governed by a hierarchy of law which binds all agencies:

1. Foundational Law (Hawaiian Kingdom Continuity)

- 1810 – Unification under Kamehameha Nui
- Recognition of Kaua'i under Ali'i **Kaumuali'i**
- **1826 Treaty** (United States and Hawaiian Kingdom)
- **1849 Treaty of Friendship, Commerce, and Navigation**

These treaties establish:

- Nation-to-nation relations
- Protection of persons and property

Under **Article VI, Clause 2 (U.S. Constitution)**:
Treaties are the **supreme law of the land (apply supreme law)**

2. Constitutional and Kingdom Law

- **1839 Declaration of Rights**
  - Protection of life, limb, liberty, and property of nā kānaka
- **1840 Kanawai (Constitution)**
  - Establishes governance and rights protections
- **1846–1848 Māhele Framework**
  - Division of lands:
    - Crown Lands
    - Government Lands
    - Konohiki Lands
- **1850 Kuleana Act**
  - Vested rights of **hoa'āina**
- **1852–1859 Civil Code**
  - Property rights, tenancy, and inheritance
- **1860 Law of Sepulture**

- Protection of burial sites (iwi kūpuna)

These rights:
Inure to heirs (hoʻoilina)
Are **continuing and vested**

The 1840 Kanawai of the Hawaiian Kingdom establishes that governance is bound by law and that all persons are entitled to the protection of life, limb, and property. It affirms equality before the law and prohibits arbitrary deprivation of rights. These protections are vested, continuing, and inure to the benefit of the people and their heirs. Any action taken without adherence to these principles constitutes a violation of the rule of law and due process

3. State Constitutional Obligations

- Hawaiʻi Constitution:
  - **Article I, Section 5** – Due Process / Equal Protection
  - **Article XI** – Protection of natural resources
  - **Article XII, Section 7** – Protection of traditional and customary practices
- HRS §1-1 – Hawaiian usage
- HRS §7-1 – Rights of tenants (hoaʻāina)

4. CONTROLLING CASE LAW

Public Access Shoreline Hawaii v. Hawaii County Planning Commission

Holding (what the court established):

- The State and its agencies have an **affirmative duty** to protect the exercise of **traditional and customary practices** (grounded in the Hawaiʻi Constitution, Art. XII, §7).
- This duty is **not passive**. Agencies must **investigate and make findings**—Agencies cannot wait for practitioners to prove.
- The **burden rests with the agency** to ensure that its decision **does not impair protected practices**.

Procedural principle relevant here:

- When protected rights are implicated, the agency must **meaningfully consider them on the record.**
- Treating such claims as mere "public comment" or failing to address them in findings is **legal error.**

On the record:

- PASH is used to establish that this Commission must **actively identify and protect practices from mauka to makai** and **cannot shift that burden to petitioner, na kanaka, Ho'oilina, Hoa'aina, Kanaka Maoli.**

Ka Paʻakai o ka ʻĀina v. Land Use Commission

Holding (mandatory 3-part test):

Before approving a project the agency and its agents must:

1. **Identify** the specific cultural, historical, and natural resources in the area
2. **Assess impacts** (direct, indirect, and cumulative) on those resources and practices
3. **Provide mitigation** to reasonably protect those practices

Critical rule:

- These are **required findings on the record.**
- **Failure to satisfy any one of the three** renders the decision **invalid** (arbitrary/capricious and contrary to law).

On the record:

- I Demand **specific, on-the-record findings** for Puʻu Poa/Hanalei Ahupuaʻa/Kalihikai Ahupua'a archeological findings, maps,and bill of sale/chain of title (including practices, resources, and impacts).
- If the record lacks identification, impact analysis, or mitigation, the Commission **cannot lawfully approve** the permits.

In re Kanaina (legal principle)

The **Kanaina line of cases** stands for:

- Recognition of **property rights; vested rights as enforceable under law**
- Determination of rights based on:
  - **Title**
  - **Succession**
  - **Vesture**

NOT:

- Administrative presumption
- Government convenience

Key principles

A. Rights are determined by law, not assumption

The court recognized that:

Property and inheritance rights must be:

- Proven through lawful means
- Determined through **legal process**, not agency action

B. Succession (Heirship / Hoʻoilina)

Kanaina supports:

- Rights **inure to heirs**
- Genealogical connection is relevant to:
  - Title
  - Rights
  - Standing

C. Evidence is not limited to written instruments

Kingdom jurisprudence allowed:

- **Oral testimony**
- **Moʻokūʻauhau (genealogy)**

- **Ike (knowledge)**

As **valid forms of evidence**

D. Courts—not agencies—determine property rights

Administrative bodies (Planning Commissions)

do not have authority to extinguish or redefine vested rights

Combined Legal Effect (PASH + Ka Pa'akai)

- **PASH** establishes the **duty**: the agency must protect traditional and customary practices and cannot shift the burden to practitioners.
- **Ka Pa'akai** establishes the **method**: the agency must **identify** → **assess** → **mitigate** on the record.

Under controlling law, including In re Kanaina, property and succession rights are determined by law and cannot be altered or extinguished by administrative action or presumption. These principles are consistent with Public Access Shoreline Hawaii v. Hawaii County Planning Commission and Ka Pa'akai o ka 'Āina v. Land Use Commission, which require agencies to affirmatively identify, assess, and protect traditional and customary rights. Where an agency proceeds without recognizing these rights or without developing a complete record, its actions exceed its authority and are unlaw

III. IDENTIFICATION OF SUBJECT LAND (FACT)

The subject area is identified as:

- "Princeville" (modern designation)
- Known lawfully as **Pu'u Poa as a Wahi Pana** within:
  - **Hanalei Ahupua'a/Kalihikai Ahupua'a**
  - **Moku of Halele'a/ Ko'olau**

This land includes:

- Crown and Konohiki land divisions
- Areas historically tied to **Keali'iahonui, Kekaihaakulo, Kaumualii, Muolehua, Kawelo, Kahakumakalina, Manokalanipo**

I assert genealogical connection as **ho'oilina (heir).**

IV. NOTICE OF CULTURAL AND BURIAL SIGNIFICANCE

This area is:

- A **wahi pana**
- Connected to:
  - Loko i'a (punawai, wai, kai, waikai) fishing village, papa reef, limu, ko'a coral, i'a fish, lo'i kalo, pa'akai,
  - Coastal resource gathering
  - Traditional practices from **mauka to makai- wao forest, kumu la'au trees**

Under the **1860 Law of Sepulture**:
Burial sites (iwi kūpuna) are protected by law

Any disturbanceconstitutes:

- Violation of law
- Intent to harm—desecration

V. NOTICE OF DEFICIENCIES (FACT & LAW)

The record, as presented, fails to demonstrate:

1. Certified shoreline determination
2. Full compliance with shoreline setback laws
3. Independent environmental impact analysis
4. Cultural Impact Assessment (CIA)
5. SHPD consultation
6. Geotechnical stability analysis
7. Watershed and runoff impact mitigation

Under **Ka Pa'akai**:
These are **mandatory findings**, not optional

VI. NOTICE OF VIOLATIONS

Failure to meet legal requirements constitutes:

- **Dereliction of duty**
- **Crimes of omission**
- **Constructive fraud**

- **Unjust enrichment**
- **Trover and conversion** (conversion of land use and rights)

VII. DEMAND FOR DUE PROCESS & CONTESTED CASE

I hereby place the Commission on notice:

- This matter involves:
  - Vested rights
  - Environmental & Burial Protection
  - Property rights: Traditional & Customary "Kuleana"

Under due process principles:
A **contested case hearing is required** where rights are determined

Denial of such process:

- Violates constitutional protections
- Violates administrative law principles

VIII. NOTICE OF LIABILITY

All parties proceeding without full compliance are on notice of liability for:

- Violation of constitutional rights
- Breach of fiduciary duty
- Failure to uphold treaty obligations
- Damage to cultural and environmental resources—

1. DAMAGE TO TRADITIONAL & CUSTOMARY PRACTICES (KULEANA)

These are not general "cultural concerns"—they are **recognized practices from mauka to makai,** including:

- **Lawai'a (fishing)**
- **Kohi limu (limu gathering)**
- **'Ōpelu / nearshore resource use**
- **Saltwater and freshwater interaction zones (percolation)**

- **Kilo (observation, study, science)**

How they are impacted:

- Runoff from development → degrades reef and nearshore ecosystems
- Increased human use → restricts access and disrupts clean water, human waste, waste management negative impacts
- Construction → alters natural conditions required for Kuleana

Under **PASH**, impairment of these practices = legal issue

2. DAMAGE TO ACCESS (PHYSICAL + FUNCTIONAL)

Access is not just "can you walk there."

It includes:

- Safe shoreline access
- Ability to gather and practice without interference
- Maintenance of traditional routes "ala- pathway, holoholo, huaka'i"

Impacts:

- Cliffside development:
  - Limit or discourage access
  - Change access patterns
- Private development creates **practical exclusion**, even if not legally closed

Courts recognize that **interference = impact**, not just total denial

3. DAMAGE TO CULTURAL SITES (WAHI PANA)

Pu'u Poa / Hanalei/ Kalihikai area is identified as:

- A **wahi pana (storied place), Ahupua'a, Moku, Mokupuni**
- Connected to:
  - Ali'i history
  - Coastal resource systems
  - Traditional land divisions

Impacts:

- Ground disturbance
- Structural development on culturally significant land
- Lack of cultural assessment

—Under **Ka Pa'akai,** failure to identify and protect = violation

4. DAMAGE TO BURIAL SITES (IWI KŪPUNA)

Coastal areas with:

- **loko i'a (fishpond systems), lo'i, pali**
- Long-term habitation

Have **high probability of burials and spiritual pathway**

Impacts:

- Excavation
- Grading
- Infrastructure installation

Under burial protection law:

- Disturbance = unlawful

5. DAMAGE TO REEF ECOSYSTEM (DIRECT + MEASURABLE)

The reef below the project is identified as **fragile**

Impacts:

- Sediment runoff
- Pollutants from construction and use
- Altered drainage patterns

Result:

- Reef degradation
- Loss of fish habitat
- Collapse of nearshore food systems

This directly affects:

- Traditional & Customary practices known as kuleana
- Food sources (mea ai), Aina
- Environmental stability

6. DAMAGE TO CLIFF AND LAND STABILITY

Development is proposed on:

- **Coastal bluff / cliff system**

Impacts:

- Increased erosion
- Structural stress
- Potential failure risk

This is:

- Environmental harm
- Public safety issue
- Long-term land degradation

7. DAMAGE TO WATER SYSTEMS (MAUKA TO MAKAI)

Traditional system:
Water flows from mountain → streams → ocean

Impacts:

- Altered runoff
- Contamination pathways
- Increased stormwater load

Result:

- Impacts both:
  - Inland systems
  - Ocean systems

8. DAMAGE TO TRUST RESOURCES AND INTERFERENCE WITH VESTED RIGHTS

I. TRUST RESOURCES (KAUIKEAOULI FRAMEWORK)

Under the governance established by Kamehameha III (Kauikeaouli), including the 1840 Constitution and Māhele framework, lands and resources are subject to **duties of stewardship for the benefit of the people (nā kānaka).**

The resources at issue include:

- **Shoreline (kai)**
- **Ocean and reef systems (kai, loko i'a, nearshore ecosystems)**
- **Freshwater systems (wai) from mauka to makai**
- **Subsurface features, including caves (ana)**
- **Cultural practices tied to these systems**

Legal reality:

These are **not purely private assets**
They are **held in trust for the people**
Their use is subject to **ongoing obligations, not unrestricted control**

II. SUBSURFACE AND CULTURAL FEATURES (ANA)

The presence of **ana (caves)** is significant because:

- They are often associated with:
  - Burial sites (iwi kūpuna)
  - Refuge areas
  - Ceremonial or cultural use

Disturbance of subsurface areas through:

- Excavation
- Grading
- Structural development

creates risk of:

Irreversible damage to protected cultural and burial resources

III. CULTURAL LANDSCAPE AND PRACTICES

The affected area within **Hanalei Ahupua'a (Moku of Halele'a)** includes:

- Coastal and elevated vantage points historically used as:
  - **Warrior lookout areas (kilo, observation points)**
  - Strategic and cultural practice locations

These locations are part of a **functional cultural system**, not isolated features.

Impacts to these areas:

- Disrupt visibility, access, and use
- Alter the physical and cultural landscape required for practice

IV. HISTORICAL CONTEXT (HANALEI AND KAUMUALI'I)

Hanalei is historically tied to:

- The rule of **Ali'i Kaumuali'i**, the last ruling chief of Kaua'i
- A period of transition following unification under Kamehameha

This area carries:

- Political and cultural significance
- Associations with governance, land use, and continuity of people

Disturbance of such areas:

Affects not only land, but **historical continuity and cultural identity tied to place**

V. WHY THIS IS DAMAGE TO VESTED RIGHTS

The rights at issue are **vested rights**, meaning:

- Not future interests
- Not optional
- Not created by the agency

They are:

Existing, vested rights tied to na kanaka, Ho'oilina, Hoa'aina, Kanaka Maoli

These include:

- Access and use of shoreline and ocean resources
- Exercise of traditional and customary practices
- Protection of burial sites and subsurface cultural areas
- Maintenance of cultural landscape and context

VI. WHEN DAMAGE OCCURS

If a project:

- **Degrades natural resources** (reef, water systems, shoreline)
- **Restricts or alters access**
- **Destroys or diminishes cultural heritage**
- **Disturbs burial sites or subsurface features (ana)**
- **Impacts historically significant areas and traditional customary practices— Kuleana**

Then it:

Interferes with vested rights

VII. LEGAL EFFECT

Such interference:

- Triggers the agency's **affirmative duty to protect**
- Requires full compliance with:
    - Identification of resources
    - Assessment of impacts
    - Implementation of mitigation

Failure to do so constitutes:

- **Breach of trust obligations (under Hawaiian kingdom foundational law)**

- **Violation of due process**
- **Unlawful agency action**

VIII. CONCLUSION

The proposed project places at risk:

- Trust resources
- Cultural systems
- Subsurface and burial areas
- Historically significant lands within Kalihikai/Hanalei

These impacts are not abstract. They directly affect the **exercise of vested rights that pre-exist agency authority and remain protected under governing law.**

IX. CONCLUSION (RULE OF LAW)

This testament/ petition is submitted to:

- **Preserve the record**
- **Assert lawful standing**
- **Require strict adherence to governing law**

A. DUTY OF THE COMMISSION

The Commission is bound to:

- **Apply the law equally**
- **Protect vested rights**
- **Ensure full compliance with all legal requirements prior to any approval**
- **Develop a complete and lawful record before making any determination**

B. DEMAND FOR CHAIN OF TITLE AND OWNERSHIP DISCLOSURE

In order to establish lawful authority over the subject property, the following must be disclosed and entered into the record:

- **Full chain of title** from original source to present
- All **conveyance documents**, including:
    - Deeds

    - Assignments
    - Transfers
- Any **bill of sale or instrument evidencing transfer of interest**
- Identification of:
    - Current legal owner(s)
    - Beneficial owner(s)
    - Any trust or corporate entities holding interest

C. DEMAND FOR SUPPORTING PROPERTY AND PROJECT DOCUMENTATION

The following must be produced to establish lawful basis for the proposed action:

1. Surveys and Maps

- Certified **survey maps (TMK, metes and bounds)**
- **Shoreline certification and setback determination**
- Topographical and boundary surveys

2. Engineering and Construction Documents

- **Engineering reports**, including:
    - Geotechnical (soil and cliff stability)
    - Drainage and stormwater
- **Architectural plans and site plans**
- Grading and construction plans

3. Contracts and Agreements

- **Architectural and engineering contracts**
- Construction agreements
- Development agreements
- Any joint venture or partnership agreements

4. Financial Responsibility and Risk Instruments

- **Performance bonds**
- **Liability insurance**
- Environmental insurance (if applicable)

D. PURPOSE OF THIS DEMAND

These documents are required to:

- Establish **lawful authority and interest in the land**
- Verify **compliance with regulatory and safety requirements**

- Ensure that the Commission is not acting on:
  - Incomplete information
  - Assumptions
  - Unverified representations

E. LEGAL EFFECT OF NON-DISCLOSURE

Failure to produce and enter these materials into the record constitutes:

- **Failure to develop a complete record**
- **Violation of due process**
- **Arbitrary and capricious decision-making**
- **Breach of duty to ensure lawful approval**

F. FINAL NOTICE

No approval may lawfully be granted where:

- Ownership and authority are not fully established
- Required studies and documentation are absent
- Impacts to trust resources and vested rights have not been fully evaluated

Any action taken without full compliance will be preserved on the record as:

- **Unlawful agency action**
- **Violation of governing law and constitutional protections**

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

All Rights Reserved,

Roslyn Cummings

Kaua‘i Mokupuni, Ko Hawaii Pae Aina
Date: 05/02/2026

PULE NO KA PONO, KA ‘OIA‘I‘O, A ME KA HO‘OPONOPONO ‘ĀINA

E ke Akua Mana Loa,
E ke Akua o ka ʻāina, o ke kai, o ka lani,
E nā kūpuna i hele mua ma ke ala o ka pono,

E kiaʻi mai iā mākou i kēia manawa.
E hoʻālohilohi mai i ka ʻoiaʻiʻo ma luna o kēia ʻāina.
E wehe i nā mea huna, e hōʻike i ka mea pololei.

E hoʻoponopono i nā mea a pau i kūʻē i ka pono.
E hoʻokaʻawale aku i nā hana, nā manaʻo, a me nā hana kūkulu
ʻaʻole i kū i ka pololei, ʻaʻole i kū i ke aloha, ʻaʻole i kū i ka mālama ʻāina.

E hoʻihoʻi mai i ke kaulike,
Mai uka a i kai, mai kahakai a i ke kuahiwi,
I loko o ka wai, i loko o ka lepo, i loko o ka ʻuhane o kēia wahi.

E mālama i nā iwi kūpuna i huna ʻia ma lalo o ka honua,
E mālama i nā ana, nā wahi pana, nā wahi kapu,
Mai hoʻopilikia ʻia, mai hoʻohaumia ʻia.

E alakaʻi mai iā mākou i ka ʻōlelo pono,
I ka hana pono,
I ka kūpaʻa ma luna o ka ʻoiaʻiʻo.

E hāʻawi mai i ka ikaika e kū i ka hewa,
A me ka naʻau haʻahaʻa e mālama i ka pono.

No ka mea, ʻo ʻoe nō ke ala, ke ʻoiaʻiʻo, a me ke ola.

HOLY BIBLE

"And ye shall know the truth, and the truth shall make you free."
— John 8:32

Amene

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BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUAI

In The Matter Of The Application Of SOF-XI KAUAI PV HOTEL, L.P., a Delaware limited partnership, to amend Special Management Area Use Permit SMA(U)-80-18, Use Permit U-37-80, and Class IV Zoning Permit Z-IV-80-43, and Special Management Area Use Permit SMA(U)-89-4, Use Permit U-89-14, and Class IV Zoning Permit Z-IV-89-14, concerning property located at Princeville and Hanalei, Halale'a, Kauai, Hawaii, identified by Kauai Tax Map Key Nos. (4) 5-4-004:029 and 035 and (4) 5-4-011:004, Applicant.	MASTER PERMIT Special Management Area Use Permit SMA(U)-80-18; Use Permit U-37-80; and Class IV Zoning Permit Z-IV-80-43 RENOVATION PERMIT Special Management Area Use Permit SMA(U)-89-4; Use Permit U-89-14; and Class IV Zoning Permit Z-IV-89-14 **CERTIFICATE OF SERVICE** **(1 Homes Project)**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was duly filed, hand-delivered, and via electronic mail on the following party at their last known address on June 3, 2026:

VIA EMAIL ONLY

ROSYLN CUMMINGS
roslyncummings@ymail.com

VIA EMAIL & HAND DELIVERY

OFFICE OF THE COUNTY ATTORNEY
Attn: Tyler C. Saito, Esq.
4444 Rice Street, Suite 220
Lihue, Hawaii 96766

Attorneys for
KAUAI COUNTY PLANNING COMMISSION

VIA EMAIL & HAND DELIVERY

KA'ĀINA S. HULL
Director of Planning
County of Kauai Planning Department
4444 Rice Street, Suite A473
Lihue, Hawaii 96766

DATED: Lihue, Kauai, Hawaii, June 3, 2026.

BELLES GRAHAM LLP

By_____
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SOF-XI KAUAI PV HOTEL, L.P.,
a Delaware limited partnership

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission: Consideration for an Ordinance to amend Chapter 8 (Comprehensive Zoning Ordinance), of the Kaua'i County Code 1987, as amended, relating to the wildfire wildland urban interface standards.

Permit Application No.: Zoning Amendment ZA-2026-6

Name of Applicant(s): COUNTY OF KAUA'I, PLANNING DEPARTMENT

II. PERMIT INFORMATION

AMENDMENTS	
☒ **Zoning Amendment**	Pursuant to KCC Section 8-3.4(a), as amended, a Zoning Amendment is necessary because it involves the changing of legislation text whenever the public necessity and convenience and the general welfare require an amendment.
☐ **General Plan Amendment**	
☐ **Community Plan Amendment**	
☐ **State Land Use District Amendment**	

III. LEGAL REQUIREMENTS

KCC Section 8-3.4	
Public Hearing Date:	June 9, 2026
Date of Publication:	April 10, 2026
Date of Director's Report:	June 3, 2026

G.3.a.1.
JUN 09 2026

IV. DESCRIPTION OF THE AMENDMENT

The proposed bill (see attached Exhibit A), amends Chapter 8 (Comprehensive Zoning Ordinance) of the Kaua'i County Code to establish Wildfire and Wildland Urban Interface (WUI) standards. The attached bill also includes amendments to Chapters 12 and 15, all of which relate to building and construction regulations. As such, the proposed amendments span County codes administered by both the County's Planning Department (Chapter 8) and the County's Building Division (Chapter 12 and Chapter 15). While the Director's Report presented to the Commission focuses on Chapter 8, this report touches upon Chapters 12 and 15 as well to provide a comprehensive understanding of how these regulations function together as an integrated framework.

The purpose of this amendment is to adopt these standards to reduce wildfire risk to Kaua'i's communities, thereby enhancing public safety, reducing property loss, and protecting lives. They are introduced in recognition of the increasing intensity, scale, and frequency of wildfire activity nationwide, as well as the significant threat that wildfires pose to Kaua'i's communities. Given Kaua'i's vulnerability to these hazards, this amendment is proposed as a direct action to fulfill the County's responsibility to protect life and property and enhance wildfire resilience in accordance with best practices.

The proposed bill is also informed by the lessons learned from the August 2023 Lahaina wildfire disaster and incorporates recommended actions identified in the Department of the Attorney General's *Lahaina Fire Incident Analysis Report* (Phase Two)[1] and *Lahaina Fire Forward-Looking Report* (Phase Three).[2]

To implement these changes, the proposed bill includes the amendments to multiple chapters of the Kaua'i County Code, with Chapter 8 (Comprehensive Zoning Ordinance) serving as the primary focus for Commission evaluation.

Amendments to Chapter 15 – Building and Construction Regulations

The bill proposes the addition of a new chapter under Title V (Building and Construction Regulations), titled Chapter 15B: Wildfire and Wildland-Urban Interface (WUI) Construction Requirements. This chapter would apply to all lands where new residential structures are proposed or where substantial improvements to existing residential structures are undertaken.

Key components of Chapter 15B include:

- *New Definitions.* Establishes definitions for terms relevant to wildfire and WUI construction standards.
- *Structural Hardening (Home Hardening) Requirements.* Requires new residential construction and substantial improvements to comply with fire-resistant design standards, including:

[1] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.26858962.v3

[2] Kerber, Steve; Alkonis, Derek (2025). Lahaina Fire Forward-Looking Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.28074944.v2

- Class-A rated roof assemblies
- Noncombustible gutters and downspouts
- Exterior wall protection at intersections
- Noncombustible post and pier materials for elevated structures
- Underfloor enclosure with noncombustible mesh screen for structures elevated at four feet or less
- Unenclosed appendages and projections to incorporate ember-resistant design features, such as mesh screening
- Ember-resistant venting
- Exterior glazing with a fire protection rating of not less than 20 minutes, or dual-pane tempered glass.
- Noncombustible or ignition-resistant exterior doors

- *Address Identification.* Marked addresses on residential structures to facilitate emergency response during wildfire and other emergency events.

Amendments to Chapter 12 – Building and Construction Regulations

In addition to the creation of Chapter 15B, the proposed bill also amends Chapter 12. The amendment clarifies that one-story detached accessory structures- such as tool and storage sheds, playhouses, animal shelters, greenhouses, trash enclosures, and similar uses- do not require a building permit if they are 200 square feet or smaller, rather than the previous threshold of 300 square feet.

Amendments to Chapter 8 – Comprehensive Zoning Ordinance

The proposed bill also amends Chapter 8 of the Kaua'i County Code, including revisions to Section 8-1.5 (Definitions), Section 8-4.3 (Development Standards for Residential Structures Not Involving the Subdivision of Land), Section 8-4.5 (Standards of Development Applicable to All Residential Development), and the addition of a new Article 19: Wildfire and Wildland-Urban Interface (WUI) Defensible Space Standards.

Key components of the Chapter 8 amendments include:

- *New Definitions.* Adds and updates definitions to clarify Wildland-Urban Interface (WUI) terminology and ensure consistency in the implementation of wildfire-related standards.
- *Wildfire Considerations in Residential Development Standards (Non-Subdivision):* Revises standards for residential structures to incorporate wildfire risk reduction measures, including updated requirements for noncombustible fencing materials.
- *Secondary County Access Road:* Requires a second county-standard access road for developments meeting specified thresholds, including subdivisions of 10 or more lots, condominium property regimes with 10 or more units, or projects requiring zoning permits for 10 or more dwelling units.
- *Address Identification.* Requires clearly visible and legible address markings on all residential structures to support emergency response and evacuation operations.
- *Five-Foot Noncombustible Zone*: Establishes a five-foot noncombustible hardscape zone for all residential development.
- *Defensible Space Requirements (Multi-Zone Standards).* For developments meeting specified thresholds—including subdivisions of 10 or more lots, condominium

property regimes with 10 or more units, or projects requiring zoning permits for 10 or more dwelling units—establishes the following zones and requires that ongoing maintenance obligations and fire prevention education requirements be recorded in covenants and assigned to a responsible management entity (e.g., HOA, limited appreciation leasehold entity, land trust, or similar entity):
    - *Residential Structure Zone:* Requires ongoing removal of debris and fuels from roofs, gutters, downspouts, and unenclosed appendages.
    - *Five-Foot Noncombustible Zone:* Establishes and maintains a five-foot noncombustible hardscape area prohibiting vegetation and requiring noncombustible materials, items, and fencing.
    - *Thirty-Foot Defensible Space:* Establishes a thirty-foot defensible space requiring vegetation management, including tree limb pruning, canopy spacing, and the setback of fire-prone vegetation and firewood from structures.
    - *Accessory Structure Zone:* Establishes a five-foot noncombustible area prohibiting vegetation and requiring noncombustible fencing, materials, and items around an accessory structure.
- *Fire Prevention Outreach and Education Requirements:* Requires annual fire prevention and evacuation workshops in coordination with the Fire Department, Kaua'i Emergency Management Agency, and Planning Department for developments meeting specified thresholds.

Please refer to attached (Exhibit A) proposed draft bill language for further details.

V. AMENDMENT JUSTIFICATION

In recent decades, wildfire activity in the United States has intensified significantly, with fires becoming larger, more frequent, and more geographically widespread compared to prior periods.[3] A similar trend has been observed in Hawai'i, where research indicates that the total area burned has increased more than fourfold in recent decades.[4]

Moreover, wildfire is no longer solely a wildland issue.[5] While historically perceived as a problem concentrated in the forested regions of the western United States and within the wildland urban interface (WUI)- the transitional zone between undeveloped wildland and human development- wildfires are increasingly manifesting as conflagrations in the built environment. Built-environment conflagrations are fires that spread rapidly through structures and other developed features, resulting in widespread structural loss and significant impacts on human life and safety.

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[3] Iglesias, V., Balch, J. K., & Travis, W. R. (2022). US fires became larger, more frequent, and more widespread in the 2000s. *Science advances*, *8*(11), eabc0020.

[4] Trauernicht, Clay & Pickett, Elizabeth & Giardina, Christian & Litton, Creighton & Cordell, Susan & Beavers, Andrew. (2015). The Contemporary Scale and Context of Wildfire in Hawai'i 1. Pacific Science. 69. 427-444. 10.2984/69.4.1.

[5] Calkin DE, Barrett K, Cohen JD, Finney MA, Pyne SJ, Quarles SL (2023) Wildland-urban fire disasters aren't actually a wildfire problem. Proc Natl Acad Sci 120(51):e2315797120. https://doi.org/10.1073/pnas.2315797120

This shift is evident in several of the most devastating fire disasters in recent history. The August 2023 Lāhainā fires demonstrated the severe consequences of wildfire-initiated built-environment conflagration, resulting in 102 fatalities, damage to or destruction of approximately 2,153 structures, and an estimated $5.5 billion in reconstruction costs. [6] Similarly, the January 2025 Los Angeles fires, including the Palisades and Eaton Fires, destroyed nearly 16,000 structures and caused 31 direct fatalities, with research pointing to 409 additional deaths attributed to secondary and indirect impacts such as prolonged smoke exposure, exacerbation of underlying health conditions, and disruptions to critical healthcare and emergency services.[7] Earlier events further underscore this trend: the 2018 Camp Fire in Paradise, California, destroyed 18,804 structures and claimed 85 lives, while the 2016 fires in Gatlinburg and Pigeon Forge, Tennessee, resulted in 14 fatalities and the loss of 2,460 structures.[8]

Although these events occurred in different geographic and environmental contexts, they share several common characteristics.[9] Each was human-caused, ignited near communities, and occurred under extreme wind conditions. In each case, initial ignitions were followed by wind-driven ember intrusion and subsequent structure-to-structure fire spread, culminating in large-scale built-environment conflagrations. These events demonstrate that, under such conditions, modern firefighting capabilities alone are insufficient in preventing widespread loss.

These patterns are not limited to the continental United States and have direct implications for Kaua‘i. The state faces a high level of wildfire risk, including wildfire risk in the built environment, with approximately 94% of Hawai‘i’s communities located within the wildland-urban interface. [10] Hawai’i also ranks among the top ten states nationally, and seventh overall, in the number of communities exhibiting elevated built-environment wildfire risk factors.[11] This trend is further reflected in statewide wildfire activity patterns, as Hawai‘i experiences an average of approximately 0.5% of its land area burning annually, a rate comparable to some of the most wildfire-prone states in the nation.[12]

On Kaua‘i, wildfire risk datasets developed by the U.S. Department of Agriculture Forest Service indicate that communities on the island are subject to a very high level of wildfire risk, with homes in Kaua‘i County facing greater risk than approximately 91 percent of

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[6] Insurance Institute for Business & Home Safety. (2024). *Lahaina conflagration report.* https://ibhs.org/wp-content/uploads/FINAL-Lahaina-Conflagration.pdf

[7] Paglino E, Raquib RV, Stokes AC. Excess Deaths Attributable to the Los Angeles Wildfires From January 5 to February 1, 2025. *JAMA.* 2025;334(11):1018–1019. doi:10.1001/jama.2025.10556

[8] Calkin DE, Barrett K, Cohen JD, Finney MA, Pyne SJ, Quarles SL (2023) Wildland-urban fire disasters aren’t actually a wildfire problem. Proc Natl Acad Sci 120(51):e2315797120. https://doi.org/10.1073/p nas.2315797120

[9] https://headwaterseconomics.org/natural-hazards/redefining-the-urban-wildfire-problem-in-the-west/

[10] SILVIS LAB. “Global WUI Hotspots,” n.d. https://geoserver.silvis.forest.wisc.edu/geodata/fast/globalwui/.

[11] Headwaters Economics. (2024). *More than 1,100 communities face urban wildfire risk.* https://headwaterseconomics.org/natural-hazards/wildfire/more-than-1100-communities-urban-wildfire-risk/

[12] Clay Trauernicht et al., “The Contemporary Scale and Context of Wildfire in Hawai‘i,” Pacific Science, 69(4):427-444. (University of Hawai‘i Press, October 2015), https://gms.ctahr.hawaii.edu/gs/handler/getmedia.ashx?moid=6556&dt=3&g=12.

counties nationwide.[13] Recent events further underscore this local vulnerability. In July 2024, a 1,000-acre brush fire between Hanapēpē and Kaumakani threatened the historic Kaumakani plantation camp and resulted in the evacuation of more than 200 homes.[14] While effective emergency response and favorable conditions limited structural loss to a single shed and prevented injuries, the event highlights the proximity of wildfire risk to residential communities and the potential for far more severe impacts under different conditions. Taken together, these conditions suggest that heightened wildfire activity may represent a "new normal," with catastrophic events becoming less a question of if, and more a question of when, reinforcing the need for proactive planning to reduce risk and enhance community resilience.

In recognition of Kauai's high wildfire vulnerability, the proposed bill is intended to reduce the likelihood of another catastrophic wildfire event similar to the August 2023 Maui wildfire. In developing strategies to mitigate this risk, the Kaua'i County Planning Department reviewed the Department of the Attorney General's investigation reports regarding the Lahaina fire incident. This technical analysis, initiated by the Department of the Attorney General in response to the August 2023 Maui wildfire tragedy, was conducted by the Fire Safety Research Institute (FSRI), an independent fire safety and science organization widely recognized as a leading authority in fire safety science.

The findings of this investigation are documented in the *Lahaina Fire Incident Analysis Report (Phase Two)* [15] and the *Lahaina Fire Forward-Looking Report (Phase Three).*[16] In conducting its analysis of the August 2023 Maui wildfires, FSRI utilized the National Cohesive Wildland Fire Management Strategy (Cohesive Strategy) as a foundational framework for understanding the incident's complex and multifaceted causes and impacts, as well as for facilitating alignment between local, state, and national systems, policies, and best practices.

The Cohesive Strategy (Figure 1) recognizes wildfires as complex events driven by a range of interconnected factors and emphasizes that reducing wildfire risk requires a comprehensive and integrated approach. It is organized around three core components:

- **Wildfire-Resilient Landscapes:** The goal of this component emphasizes that landscapes, regardless of jurisdictional boundaries, are resilient to wildfire, insects, disease, invasive species, and climate change disturbances in accordance with management objectives. Strategies include vegetation and fuel management to reduce wildfire intensity and spread potential.

[13] https://apps.wildfirerisk.org/explore/risk-to-homes/15/15007/
[14] County of Kaua'i. (2024, July). *8:20 PM Kaumakani and Hanapēpē fire update.* County of Kaua'i. https://www.kauai.gov/County-Press-Releases/820-PM-KAUMAKANI-AND-HANAP%C4%93p%C4%93-FIRE-UPDATE
[15] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.26858962.v3
[16] Kerber, Steve; Alkonis, Derek (2025). Lahaina Fire Forward-Looking Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.28074944.v2

- **Fire-Adapted Communities:** The goal of this component focuses on ensuring that human populations and communities are as prepared as possible to receive, respond to, and recover from wildfire events. Key strategies include land use planning, evacuation planning, and building and zoning practices that reduce community vulnerability.

- **Safe, Effective, and Risk-Based Wildfire Response:** The goal of this component emphasizes that all jurisdictions participate in safe, effective, and coordinated wildfire response and decision-making. This includes improvements in weather forecasting, communications, interagency coordination, incident management, suppression strategies, and evacuation operations.



Figure 1. *National Cohesive Wildland Fire Management Strategy. Source: Wildland Fire Leadership Council*

This framework underscores that wildfire mitigation strategies function synergistically, and that their combined implementation is essential to meaningfully reduce community vulnerability. Accordingly, measures related to vegetation and fuel management, land use planning, evacuation planning, zoning, and wildfire suppression strategies are most effective when applied in an integrated manner.

Based on this framework, the *Lahaina Fire Incident Analysis Report (Phase Two)* and the *Lahaina Fire Forward-Looking Report (Phase Three)* identify 84 key findings related to pre-event conditions, contributing factors, and incident operations, along with 140 recommendations intended to address the critical question of "How do we prevent this from happening again?"[17,18]. Additionally, at the request of Governor Green, FSRI identified ten

[17] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.26858962.v3
[18] Kerber, Steve; Alkonis, Derek (2025). Lahaina Fire Forward-Looking Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.28074944.v2

key priorities for both the State of Hawai'i and Hawai'i counties to address at the state and county levels, respectively. County priorities that were identified as critical areas requiring immediate action are illustrated in Figure 2.

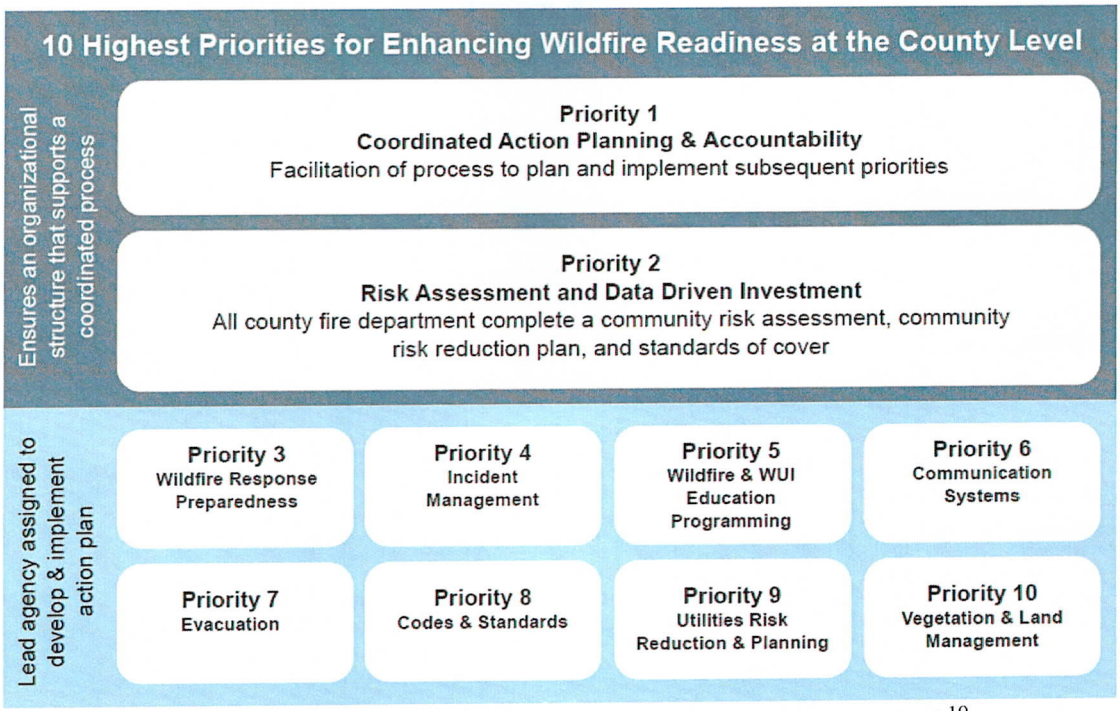


***Figure 2**. The highest 10 priorities for enhancing wildfire readiness at the county level.*[19]

The findings and recommendations from these reports have directly informed the development of this proposed bill, with the goal of enhancing wildfire resilience in the built environment and reducing the risk of a similar disaster occurring on Kaua'i. In particular, Priority 8 directs counties, including planning departments, to "*evaluate and enhance the review and adoption processes for codes and standards, ensuring they are driven by public safety and effectively address wildfire risks, particularly in the WUI,*" and to "*focus on aligning and coordinating codes to reduce fire risks to the built environment.*" This underscores that one of the most effective strategies for reducing vulnerability is the strengthening of building and land use codes and regulations.

The use of codes to improve resilience to natural hazards is not a new concept. Rather, the development of building and land use codes has historically been shaped by responses to catastrophic events, including major urban fires that exposed critical vulnerabilities in the built environment.[20] Over time, these events have informed the evolution of codes and the incorporation of best practices, with the overarching goal of promoting safe and sanitary

[19] Kerber, Steve; Alkonis, Derek (2025). Lahaina Fire Forward-Looking Report. UL Research Institutes. Report. Page 16. https://doi.org/10.60752/102376.28074944.v2

[20] Spence, James C.; Wells, Walter G.; and Boring, D. F., "Fire Protection Through Modern Building Codes, 5th Edition" (1981). AISI-Specifications for the Design of Cold-Formed Steel Structural Members. 7. https://scholarsmine.mst.edu/ccfss-aisi-spec/7

conditions within buildings and communities. As a result, building and land use regulations have progressively advanced to address a range of natural hazards- including hurricanes, flooding, earthquakes, and wildfire- guided by the best available science and established standards of practice.

While no building code can fully fireproof a community, research indicates that 40 to 60 percent of homes constructed in accordance with wildfire-resistant standards survive wildfire events.[21] Wildfire-resistant standards, especially when combined with fire-resistant landscaping and maintenance practices, can significantly reduce property damage and economic losses, while most importantly limiting the rapid spread of fire that can result in loss of life.

To understand how wildfire-resistant regulations effectively function, it is first important to understand how structures ignite during wildfires. Buildings are typically exposed to three primary pathways of ignition:

1. Embers (firebrands): Small, burning particles that can be carried more than a mile ahead of the main fire, where they may ignite new spot fires upon landing on combustible materials.
2. Radiant heat: Sufficiently intense heat, sustained over time, that can cause nearby combustible materials to reach ignition temperature.
3. Direct flame contact: Exposure to flames from the advancing fire front or from adjacent localized fuel sources, such as vegetation or fencing near a structure.

Embers are the most common cause for wildfire spread, with wind-blown embers responsible for approximately 90% of structural ignition.[22] Because embers can travel long distances, traditional fire breaks are often ineffective at preventing ignition of combustible materials associated with homes, either directly (e.g., ignition of a wooden lanai) or indirectly (e.g., ignition of nearby combustible materials such as woodpiles, which can then lead to structural ignition through radiant heat or direct flame contact).[23] Once embers ignite a structure or adjacent fuels, fire can rapidly spread from building to building and between other flammable sources. This mode of spread is the primary drive of home loss during wildfire events.

Regulations that disrupt the primary pathways of structural ignition—through the use of wildfire-resistant building materials, the management of connective fuels, and the strategic regulation of structure density—can significantly reduce the likelihood of ignition and play a critical role in mitigating overall wildfire risk. These strategies are commonly implemented through the following approaches:

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[21] Headwaters Economics. (2025, May 19). *Building wildfire-resistant homes after disasters will save billions.* https://headwaterseconomics.org/natural-hazards/wildfire/building-wildfire-resistant-homes-after-disasters-will-save-billions/

[22] Quarles SL et al. (2023) International Journal of Wildland Fire 32(3), 380–387. doi:10.1071/WF22132

[23] Headwaters Economics. (2024). *Redefining urban western fires.* https://headwaterseconomics.org/wp-content/uploads/2024/05/2024HE-Redefining_Urban_Western_Fires_FinalMay2024.pdf

- Ignition-Resistant Construction (Home hardening): Home hardening refers to the incorporation of fire-resistant construction methods and materials to reduce a structure's vulnerability to ember intrusion, radiant heat, and direct flame contact. This includes, but is not limited to, measures such as Class A fire-rated roofing, noncombustible gutters and downspouts, ember-resistant venting, noncombustible siding and underfloor enclosures, and tempered or fire-rated exterior glazing.[24]

- Defensible Space: Defensible space refers to the management and ongoing maintenance of the area surrounding a structure to minimize combustible materials, thereby reducing fuel continuity and the potential for ignition. This area, commonly referred to as the "home ignition zone," typically extends from the structure outward up to 100 feet. The first 5 feet, often designated as the noncombustible zone, is the most critical and is subject to the most stringent maintenance requirements. The area from 5 to 30 feet, commonly referred to as the intermediate zone, focuses on vegetation management and fuel reduction to limit fire spread. The extended zone, spanning from 30 to 100 feet, emphasizes landscape treatments designed to interrupt fire pathways, reduce flame intensity, and keep fire behavior lower to the ground.

- Emergency Access: Providing adequate emergency access and egress to and from a neighborhood is essential to support both emergency response operations and the safe, efficient evacuation of residents. Insufficient access can result in traffic congestion and delays that increase the risk of civilian fatalities during emergency events. Accordingly, communities should be served by a sufficient number of evacuation routes, and roadways should be designed and maintained to meet applicable standards to ensure safe and reliable passage.

Additionally, public education programs play a critical role in reducing wildfire risk by increasing awareness and encouraging homeowners to implement mitigation measures, including the ongoing management of combustible materials such as debris on their properties.[25] Programs such as *Fire Adapted Communities*, *Firewise*, and *Ready, Set, Go!* support residents in preparing their homes and properties for wildfire. However, due to their voluntary nature, these initiatives lack the authority to require mitigation measures at the parcel level and need to be complemented with other wildfire mitigation measures.[26]

While modern codes, such as the International Code Council's International Building Code, establish critical baseline standards for safety and structural integrity, they do not comprehensively address the increasing risk of wildfire. In response to growing wildfire threats and evolving best practices, the International Code Council introduced the International Wildland–Urban Interface Code (IWUI) in 2003 to reduce risks to life, safety, and property in wildfire-prone areas. The IWUI is updated on a three-year cycle to reflect advances in wildfire science and includes provisions addressing building construction and

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[24] Wildfire Prepared Home. (n.d.). *Wildfire Prepared Home BASE vs PLUS.* https://wildfireprepared.org/wildfire-prepared-home-base-vs-plus/

[25] Kimiko Barrett, *Reducing Wildfire Risk in the Wildland-Urban Interface: Policy, Trends, and Solutions,* 55 IDAHO L. REV. 3 (2019)

[26] Ibid.

materials, defensible space, emergency access, and water supply. Some jurisdictions adopt locally amended versions of the IWUI to tailor requirements to their specific environmental and community conditions. In addition, the National Fire Protection Association (NFPA) also develops codes and standards, such as NFPA 1140, which provide adoptable frameworks for wildfire risk reduction.

Another key source of guidance for jurisdictions is the Insurance Institute for Business & Home Safety (IBHS), which conducts applied research and full-scale testing to better understand structure ignition and effective mitigation strategies, including defensible space and home hardening measures, which are central to the proposed bill.

While the standards and recommendations developed by the ICC, NFPA, and IBHS represent recognized best practices for wildfire mitigation, jurisdictions often adapt and contextualize these frameworks to align with local circumstances. Such considerations may include the availability and cost of construction materials, local environmental and hazard conditions, housing affordability challenges, and community priorities.

Given that Hawai'i, including Kaua'i County, currently lacks comprehensive wildfire mitigation provisions within its building and land use codes, there is a need to further evolve the regulatory framework to incorporate wildfire-specific standards. These standards should address both the built environment and surrounding landscape conditions, be tailored to Kaua'i's local context, and draw upon best available science and established practices, including relevant provisions of the IBHS, IWUI, and NFPA.

In response to these findings and identified priorities, the proposed bill is intended to achieve the following objectives:

1. *Reduce the likelihood of structural ignition during wildfire events* by requiring new residential development to incorporate wildfire-resistant design standards that address windborne embers, radiant heat, and direct flame contact.
2. *Limit fuel continuity and reduce the potential for fire spread between structures* by establishing defensible space requirements that manage vegetation and other combustible materials in proximity to buildings.
3. *Improve the ability of residents to safely evacuate during wildfire and other hazard events* by requiring secondary access routes for larger residential developments.
4. *Enhance emergency response effectiveness* by requiring clearly visible and legible address markings on all residential structures.
5. *Increase community awareness and reinforce individual responsibility for wildfire risk reduction* by requiring coordinated wildfire prevention education for residents of larger residential developments, with an emphasis on the ongoing management of combustible materials to prevent conditions that can lead to structural ignition.
6. *Ensure clarity, consistency, and enforceability of wildfire-related regulations* by establishing and refining key definitions within the code.

Ultimately, the proposed bill is intended to implement and advance the priority directives and recommended actions identified in the *Lahaina Fire Incident Analysis Report (Phase*

Two) and the *Lahaina Fire Forward-Looking Report (Phase Three),* with the goal of reducing the likelihood of another catastrophic wildfire event similar to the August 2023 Maui wildfire. Through amendments to the Building Code and Comprehensive Zoning Ordinance, the proposed bill advances several of the identified priorities, including Priority 5 (Wildfire and WUI Education Programming), Priority 7 (Evacuation), Priority 8 (Codes and Standards) and Priority 10 (Vegetation and Land Management).

Please refer to the following Preliminary Evaluation for further discussion.

VI. AGENCY COMMENTS

Attached through separate transmittal.

VII. PRELIMINARY EVALUATION

As noted earlier in the Director's Report, the Planning Commission's discussion, evaluation, and action is focused primarily on the proposed amendments to Chapter 8. However, this report also references amendments to Chapters 12 and 15 in order to provide a comprehensive understanding of how the proposed regulations function collectively as an integrated regulatory framework. The Preliminary Evaluation therefore provides a detailed analysis of the proposed amendments to the Comprehensive Zoning Ordinance (CZO), while also including a brief analysis of the related amendments contained within Chapter 12 and 15 for contextual purposes.

Accordingly, the Preliminary Evaluation is organized as follows:

1. Comprehensive Zoning Ordinance (CZO) Amendments
   a. Amendment of Sec. 8-1.5 (Definitions)
   b. Amendment of Sec. 8-4.3 (Development Standards for Residential Structures Not Involving the Subdivision of Land)
   c. Amendment of Sec. 8-4.5 (Standard of Development Applicable to All Residential Development)
   d. Addition of Sec. 8-19 (Wildfire Wildland Urban Interface (WUI) Defensible Space Standards.)
2. Amendments to Building and Construction Regulations
   a. Chapter 15B. Wildland Urban Interface (WUI) Construction Requirements
   b. Amendment of Chapter 12 Sec. 1.3 (Administration)
3. In Consideration of Setbacks
4. WUI Standards Cost Considerations
5. Consistency with Existing Plans and Policies
   a. General Plan
   b. Kaua'i Adaptation and Action Plan
   c. Lahaina Fire Incident Analysis Report

This Director's Report also includes the following exhibits:

- Exhibit A. Original Proposed Bill

- Exhibit B. Revised Proposed Bill
- Exhibit C. 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction
- Exhibit D. Urban Design Modeling Results Illustrating Development Yield and Site Layout Implications of Increased Setbacks
- Exhibit E. Planning Department Visual Setback Analysis Example (ʻEleʻele Iluna Subdivision Phase 2)
- Exhibit F. September 2025 Plantation Camp Wildland–Urban Interface (WUI) Ordinance Cost Study
- Exhibit G. June 2026 Wildfire Wildland–Urban Interface (WUI) Ordinance Cost Impact Analysis for Alternative Residential Foundation Configurations
- Exhibit H. Wildfire & Insurance Challenges & Opportunities for Kauaʻi County

The Director's Report frequently references the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction, which serves as a model wildfire ordinance framework from which many of the proposed bill's standards are derived. Accordingly, the IBHS Model Ordinance is included as an exhibit for reference.

1. CZO Amendment

In evaluating the zoning provisions of the proposed bill, it is first important to note its alignment with the stated purpose of Chapter 8, the Comprehensive Zoning Ordinance (CZO). A central objective of the CZO is to "*promote and protect the health, safety, and welfare of all residents.*"

The proposed bill responds directly to the risks that wildfire events pose to public health and safety. The National Fire Protection Association (NFPA) estimates that in 2024 there were approximately 3,920 civilian fire deaths and 11,780 civilian fire injuries in the United States.[27] Notably, approximately 81 percent of civilian fire deaths resulted from fires occurring in or on structures, underscoring structure ignitability and structure-to-structure fire spread as primary contributors to fire-related fatalities. Additionally, as noted earlier in this report, the August 2023 fires on Maui resulted in 102 fatalities. In this context, the intent of the proposed bill is consistent with the fundamental purpose of the CZO.

The specific provisions included in the proposed bill to advance this objective, along with their policy implications and potential impacts, are examined in further detail below.

a. Amendment of Sec. 8-1.5 (Definitions)

The proposed bill amends Section 8-1.5 by introducing new and revised definitions. Below includes the proposed definitions with their respective justifications:

1) **"Advancing Standards Transforming Markets (ASTM)"** means the organization (formerly referred to as the American Society for Testing and Materials) that develops standards and publishes voluntary consensus technical

[27] Fire loss in the United States | NFPA Research

international standards for a wide range of materials, products, systems, and services.

- This definition is proposed to provide clarity regarding ASTM, as its standards are referenced throughout the code. ASTM helps to define whether materials are "fire-resistant" or "ignition-resistant" through its standardized, testable performance benchmarks based on consistent and scientifically validated testing methods. Including this definition helps ensure clarity for both implementing agencies and the public when interpreting and applying the code.

2) **"County"** means the County of Kaua'i.

- The new definition is being proposed because it is referred to in the proposed bill, as well as the existing Comprehensive Zoning Ordinance and Building and Construction Regulations, with no formal definition.

3) **"Defensible Space"** means an area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared, maintained or modified to slow the rate and intensity of an advancing wildfire through an urban or rural area and to create an area for structure defense operations to occur.

- The proposed definition is intended to provide clarity and consistency as a new section establishing defensible space standards (Section 8-19) is incorporated into the Comprehensive Zoning Ordinance (CZO). The definition is derived primarily from the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction, which defines defensible space as: "*An area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared, or modified to slow the rate and intensity of an advancing wildfire and to create an area for structure defense operations to occur.*"

  This definition also is in alignment with the 2024 International Wildland Urban Interface Code's (IWUIC) definition of defensible space.

  The proposed bill includes several targeted modifications to better reflect local regulatory intent and implementation needs:

  - Addition of "maintained"
    The inclusion of the term "maintained" reflects that defensible space is not a one-time treatment but an ongoing responsibility. This aligns the definition with the bill's maintenance requirements, including vegetation management practices such as pruning, and ensures that the term encompasses long-term upkeep necessary for effectiveness.

- Reference to "urban and rural areas"
  The addition of "through an urban or rural area" clarifies that defensible space is not limited to the wildland-urban interface but is also relevant within developed areas where structure-to-structure fire spread may occur. This distinction is important in recognizing the risk of conflagration in the built-environment under extreme fire conditions.

4) ~~["Dwelling, single-family attached" means a building consisting of two or more dwelling units designed for occupancy by two or more families living independently of each other where each unit is structurally independent although superficially attached or close enough to appear attached.]~~

- The proposed bill removes the definition of "Dwelling, single-family attached." It should also be noted that the bill also amends the definition of "Structure" to clarify that, for a building to be considered a single structure, any attached appurtenance must be structurally dependent on the primary structure. Appurtenances that are attached but not structurally dependent are to be considered separate structures and are therefore subject to applicable zoning requirements, including minimum setback distances between structures pursuant to Section 8-4.3(b).

  These revisions appear intended to ensure that buildings which may be physically attached but are structurally independent are regulated as separate structures. This distinction is particularly relevant to townhome-style development, where units are often constructed with double-stud wall assemblies separated by an air gap. While such units may appear attached, they are structurally independent and are not classified as multifamily under the current definition. However, in practice, these configurations function similarly to multifamily housing.

  From a wildfire perspective, wall assemblies that include concealed air gaps between walls can introduce additional vulnerabilities. Ember intrusion into these cavities may lead to concealed ignition, and the air space can facilitate vertical fire spread in a manner similar to a chimney effect, allowing heat and flames to propagate within the wall assembly.

  Additionally, certain single-family attached configurations may include shared roof elements or breezeways. In such cases, treating these as separate structures may be appropriate to ensure that applicable wildfire mitigation standards, such as defensible space and structure separation, are properly applied.

  However, it should be noted that if the definition of "Dwelling, single-family attached" is removed, this would necessitate corresponding revisions throughout the Comprehensive Zoning Ordinance, including provisions such as Section 8-4.4(b), which establishes development standards for single-

family attached dwellings. In practice, this change would likely require townhome-style developments to modify their construction methods so that attached units are structurally dependent, thereby meeting the definition of a single structure and being classified as multifamily development. Conversely, residential units that remain structurally independent, even if physically attached, would be regulated as separate structures and required to comply with applicable wildfire and zoning standards, including minimum separation distances.

5) **"Fire-prone vegetation"** means material that in its natural state can readily ignite, burn, and rapidly transmit fire. For the purposes of this Article this definition is limited solely to the three following plant species: 1) Megathyrsus maximus or commonly known as "Guinea Grass," 2) Leucaena leucocephala or commonly known as "Haole Koa," and 3) Cenchrus ciliaris or commonly known as "Buffel Grass."

- This definition is proposed to support a new requirement in the bill prohibiting fire-prone vegetation within 30 feet of any residential structure. Given the potential ambiguity surrounding what constitutes "fire-prone vegetation," the definition is intended to provide clarity and facilitate consistent implementation. The proposed definition is currently limited to three plant species- Guinea grass, haole koa, and buffel grass- identified through consultation with the County Fire Department, the Hawaii Wildfire Management Organization (HWMO), and supporting research, including fire risk assessments by the Pacific Fire Exchange, which classify these species as presenting a high wildfire risk in Hawai'i.[28,29,30] Furthermore, the *Lahaina Wildfire Incident Analysis Report (Phase Two)* identifies guinea grass, buffel grass, and haole koa as particular fire-prone vegetation types that contributed to fire spread during the Lahaina wildfire.[31]

  While the proposed list represents the primary prohibited species, additional vegetation may be identified in the future as posing a comparable wildfire risk, or certain species may present heightened wildfire concerns in specific geographic areas. Recognizing the evolving nature of wildfire science and the place-based characteristics of vegetation, the Planning Director, in consultation with the Fire Chief and/or the Hawai'i Wildfire Management Organization, may require additional fire-prone species to be addressed through project-specific conditions of approval. Additionally, the Planning Director may also consider the designation of additional fire-prone species

[28] Pacific Fire Exchange. (n.d.). *Invasive grasses*. https://pacificfireexchange.org/resource/invasive-grasses/
[29] Pacific Fire Exchange. (n.d.). *Megathyrsus maximus (Guinea grass)* [Fact sheet]. https://pacificfireexchange.org/weed-fire-risk-assessments/factsheets/Megathyrsus-maximus.pdf
[30] Pacific Fire Exchange. (n.d.). *Leucaena leucocephala* [Fact sheet]. https://pacificfireexchange.org/weed-fire-risk-assessments/factsheets/Leucaena-leucocephala.pdf
[31] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.26858962.v3

through administrative rule, as supported by scientific research and place-based vulnerability.

6) **"Fire Stopped"** means the process of filling openings and joints between walls, floors, and roofing material to inhibit the spread of fire between compartments within a structure.

   - This term is not referenced in the proposed amendments to Chapter 8; therefore, its definition may be removed from Chapter 8 to avoid unnecessary definitions.

7) **"Firewood"** means any kindling, logs, timber, or other portions of a tree of any species four (4) feet or less in length, cut or split, or intended to be cut or split, into a form and size appropriate for use as fuel for fires in an open pit, imu, grill, fireplace, stove, or other wood burning furnace or device.

   - This amendment is necessary due to the proposed provision prohibiting firewood within the 30-foot defensible space area. To support clear and consistent implementation of this requirement, a definition of "firewood" is included.

8) **"Ignition-resistant"** as applied to building construction material means a material treated or manufactured to delay ignition and tested to conform to ASTM E84 or ASTM E2768. Examples include but are not limited to fire-treated wood, dense hardwoods like ipe, and fiber-cement boards.

   - This term is not referenced in the proposed amendments to Chapter 8; therefore, its definition may be removed from Chapter 8 to avoid unnecessary definitions.

9) **"Noncombustible"** as applied to building construction material means a material of which no part will ignite and burn when subjected to fire and tested to conform to ASTM E136. Examples include but are not limited to concrete, metal, glass, and stone.

   - This new definition is proposed to clarify the meaning of "noncombustible" for implementation purposes, as the term is referenced multiple times throughout the proposed bill, including within defensible space standards. The definition is largely derived from the 2023 IBHS Model Ordinance for Construction, which defines "noncombustible" as: "*Material of which no part will ignite and burn when subjected to fire. Any material conforming to ASTM E136 shall be considered noncombustible...*"

     The proposed definition initially modified this language to apply specifically to building construction materials. However, the term "noncombustible" is

used more broadly within Chapter 8, including in reference to materials and items within defensible space zones. To ensure consistency and avoid limiting the applicability of the term, it is recommended that this restriction be removed and that the IBHS definition be adopted with minor refinement for clarify. Accordingly, the definition would read:

"*Noncombustible*" *means a material of which no part will ignite and burn when subjected to fire and tested to conform to ASTM E136. Examples include but are not limited to concrete, metal, glass, and stone.*

10) **"Noncombustible roof covering"** means a roof covering consisting of any of the following: (1) cement (or fiber-cement) shingles or sheets, (2) ferrous shingles or sheets, or (3) slate shingles.

- This term is not referenced in the proposed amendments to Chapter 8; therefore, its definition may be removed from Chapter 8 to avoid unnecessary definitions.

11) **"Noncombustible zone (NCZ)"** means the area of land that extends 5 feet measured from the edge of the exterior walls of a structure and any unenclosed appendages or projections (including but not limited to lānais, porches, and stoops). This area is also referred to as Zone 0.

- This definition is appropriate as it clearly establishes the spatial extent of the noncombustible zone and is consistent with current wildfire science.[32] It is also important to recognize that there is some overlap between this term and "Zone 0: 5-Foot Noncombustible Zone (NCZ)," as this definition explicitly acknowledges that the noncombustible zone is also referred to as Zone 0. While this creates a degree of redundancy, the two definitions serve distinct functions: this definition focuses on delineating the physical extent of the zone, whereas the "Zone 0" definition incorporates regulatory intent and performance expectations.

  Additionally, the term "Noncombustible Zone" is used within the proposed amendments to Chapter 15, while "Zone 0" is specific to the defensible space standards. To maintain consistency and clarity for users navigating both chapters, the inclusion of both terms may be appropriate.

12) **"Residential Structure Zone"** means an area that applies to the residential structure itself, and it includes requirements for ember ignition mitigation and fire-resistant construction to reduce the risk of structure ignition.

[32] National Fire Protection Association. (n.d.). *Immediate noncombustible zone.* https://www.nfpa.org/downloadable-resources/fact-sheets/immediate-noncombustible-zone

- This definition is appropriate as it clarifies the zone in which maintenance requirements apply to the structure itself, including vulnerable areas such as roofs, gutters, and attached appendages (e.g., lanais, porches, and decks), where combustible debris can accumulate and increase the risk of ignition. This zone complements the other defensible space zones (Zone 0 and Zone 1) by focusing on structure-specific management measures. The concept is grounded in established best practices and is consistent with current wildfire science.[33] Supporting research on structure survivability related to debris management and the reduction of fuel sources on the structure is discussed later in this report.

  However it's important to acknowledge that the term 'fire-resistant' is used in this definition but it is currently undefined. In review with fire experts of the best term to use it was recommended that 'fire resistant' should be replaced with 'ignition-resistant and noncombustible.'

13) **"Roof assembly"** means a system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly can include an underlayment, thermal barrier (i.e., insulation), ignition (fire) barrier, insulation, or a vapor retarder.

- This term is not referenced in the proposed amendments to Chapter 8; therefore, its definition may be removed from Chapter 8 to avoid unnecessary definitions.

14) **"Roof covering"** means the covering applied to the roof deck for weather resistance or appearance. The roof covering and underlying components are part of the fire rating for the roof assembly.

- This term is not referenced in the proposed amendments to Chapter 8; therefore, its definition may be removed from Chapter 8 to avoid unnecessary definitions.

15) **"Roof deck"** means that flat or sloped surface of a roof not including its supporting members or vertical supports.

- This term is not referenced in the proposed amendments to Chapter 8; therefore, its definition may be removed from Chapter 8 to avoid unnecessary definitions.

16) **"Structure"** means anything affixed, constructed, or erected that requires location on the ground or is attached to something having location on the ground, excluding:

(a) Vehicles designed and used only for the transportation of people or goods;

[33] Wildfire Prepared Home. (2025). *Wildfire Prepared Home technical standard (Version 12-25).* https://wildfireprepared.org/wp-content/uploads/WFPH-Technical-Standard-12-25.pdf

(b) Utility poles and towers constructed by a public utility; and

(c) Development or construction that meets all the following criteria:

(1) Does not exceed 200 square feet in size,

(2) Does not exceed 10 feet in height,

(3) Does not encroach into the respective lot's property line setbacks pursuant to KCC Chapter 8,

(4) Does not encroach into the respective lot's building-to-building setbacks pursuant to KCC Chapter 8,

(5) Does not exceed the respective lot's land coverage ratio pursuant to KCC Chapter 8,

(6) Is not used for residential or habitation purposes, and

(7) Is not used for the exchange of goods or services for compensation for a fee or otherwise.

To be considered a single structure, any attached appurtenance to the main structure needs to be structurally dependent upon that main structure. Any appurtenance that is attached to another structure but not structurally dependent upon that structure shall be deemed a separate structure and subject to all zoning regulations accordingly including but not limited to minimum distance setbacks for separate structures under Section 8-4.3(b)

- This definition is appropriate. Please refer to the evaluation of the removal of definition "Dwelling, single-family attached" for more information.

17) **"Structure, Accessory"** means a structure that is subordinate to, and the use of which is incidental to that of the primary structure or use on the same lot or parcel and not used for human occupancy of habitation. An accessory structure is not a primary structure.

- Chapter 8 of the Comprehensive Zoning Ordinance already includes a definition for "Accessory structure," defined as "*a structure which is subordinate to, and the use of which is incidental to that of the main structure or use on the same lot or parcel and not used for human occupancy of habitation.*" The proposed definition is substantially similar, differing only in minor wording (e.g., "main" versus "primary") and an added emphasis that the accessory structure is not a primary structure. Given the lack of substantive distinction between the two, it may be appropriate to remove the proposed definition to avoid redundancy and maintain consistency within the code.

18) **"Structure, Residential"** means a structure that is used for habitation purposes and having all necessary facilities for residency such as living, sleeping, cooking, eating, and sanitation. These structures include but are not limited to single-family dwelling units, farm dwelling units, multifamily dwelling units, additional dwelling units (ADUs), additional rental unit (ARUs), and a guest house. A residential structure is not an accessory structure.

- This definition is appropriate as it clarifies a term already used in the Comprehensive Zoning Ordinance (CZO), thereby promoting consistency and precision in its regulatory application. Within the context of the proposed bill, the term is particularly important for identifying which types of structures, specifically residential structures, are subject to maintenance and defensible space requirements.

19) **"Unenclosed Accessory Structure"** means an accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

- This term is not directly referenced in the proposed amendments to Chapter 8; however, accessory structures are referenced throughout. Including this definition clarifies that unenclosed structures may still be considered accessory structures, thereby supporting consistent interpretation and implementation of the proposed provisions. The definition is appropriate, as it is derived directly from the 2023 IBHS Model Ordinance for Construction, which is also in alignment with the 2024 International Wildland-Urban Interface Code.

20) **"Wildfire"** means an uncontrolled fire spreading through the natural or built environment exposing and possibly consuming structures.

- This definition is proposed to clearly identify the hazard addressed by the proposed bill. It is closely aligned with the definition in the 2023 IBHS Model Ordinance for Construction, as well as the 2024 IWUIC, which both define wildfire as "*an uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.*" The proposed modification replaces "vegetative fuels" with "natural or built environment" to more accurately reflect the range of fire conditions addressed by the bill, including both vegetation-driven wildfire and structure-to-structure fire spread in developed areas. This broader framing is intended to capture the full spectrum of wildfire risk, including fires in the built-environment leading to fire spread.

21) **"Wildland"** means an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar facilities, and often characterized by natural and invasive vegetation.

- This definition is proposed to provide clarity and consistency, as the term is used throughout multiple definitions and section headings within the ordinance. Establishing a clear definition will support consistent interpretation and implementation. The language is derived primarily from the 2023 IBHS Model Ordinance for Construction and the 2024 IWUIC and is therefore consistent with widely recognized model code standards. The proposed definition differs from these model definitions by including a reference to natural and invasive vegetation. This modification reflects the role that vegetation plays in wildland areas and the common association of wildlands with vegetated landscapes.

22) **"Wildland Urban Interface (WUI)"** means the zone of transition between unoccupied land and human development. It is the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.

- This definition is appropriate for inclusion in the proposed bill, as it establishes a clear and widely recognized understanding of the Wildland Urban Interface (WUI), which is the central focus of the code. Defining the WUI provides essential context for the application of wildfire mitigation standards, ensuring that regulations are consistently applied in areas where development and vegetative fuels intersect and where wildfire risk is most pronounced.

  The definition is derived from the United States Fire Administration, lending it credibility and alignment with nationally recognized fire management terminology.

23) **"Zone 0: 5-Foot Noncombustible Zone (NCZ)"** means an area that extends five feet from the exterior of a residential structure and any attached appendages and projections. It shall consist of noncombustible hardscape and materials. The purpose of this zone is to prevent direct flame contact and reduce the risk of ember ignition at the structure's base.

- This proposed definition is appropriate as it clarifies the term used in the defensible space standards, including both the spatial extent and intended function of the zone. The concept is grounded in best practices and is consistent with current wildfire science.[34] Research findings on structure survivability with defensible space is covered later in this report.

24) **"Zone 1: 30-Foot Defensible Space"** means an area that extends from the edge of Zone 0 to 30 feet away from the structure or to the property line, whichever is closer. It requires vegetation management such as pruning lower limbs, spacing trees and shrubs, and removing combustible materials to reduce fuel loads and slow fire spread toward the structure. Fire-prone vegetation is prohibited.

[34] Wildfire Prepared Home. (2025). *Wildfire Prepared Home technical standard (Version 12-25).* https://wildfireprepared.org/wp-content/uploads/WFPH-Technical-Standard-12-25.pdf

- This proposed definition is appropriate as it clarifies the term used in the defensible space standards, including both the spatial extent and intended function of the 30- foot zone. The concept is grounded in best practices and is consistent with current wildfire science.[35] Research findings on structure survivability with defensible space is covered later in this report.

b. *Amendment of Sec. 8-4.3 (Development Standards for Residential Structures Not Involving the Subdivision of Land)*

❖ *Noncombustible Fences*

The proposed bill amends Section 8-4.3, Development Standards for Residential Structures Not Involving the Subdivision of Land, by including a provision for fences:

> (4) No eave, roof overhang, or other appurtenance to a building, other than a fence under six feet in height, shall project into any setback more than ½ the distance of the setback, or four feet, whichever is less. Fences under six feet in height constructed within the setback shall comprised of non-combustible material.

The proposed amendment related to fencing is intended to reduce wildfire risk associated with combustible materials located in close proximity to structures. Wildfire research, including findings from the *Lahaina Fire Incident Analysis Report (Phase Two)*, indicates that fences constructed of combustible materials contribute to fire spread during wildfire events.[36] These fences are susceptible to ignition from embers, radiant heat, or direct flame contact and may function as a "wick," capable of carrying fire from one structure towards the next.

In addition, post-fire observations, including findings from the Waldo Canyon Fire in Colorado Springs, have demonstrated that burning fencing materials can also generate embers capable of causing ignitions downwind.

A burning fence has a high potential to act as a direct fuel pathway, increasing the risk of ignition to nearby structures. By requiring that fences projecting into setbacks be constructed of noncombustible materials, the amendment reduces the likelihood that these features will ignite and contribute to fire spread. This amendment is in alignment with guidance from Federal Emergency Management Agency (FEMA) and the Insurance Institute for Business & Home Safety (IBHS), which recommend the use of noncombustible fencing materials, to reduce the potential for ignition and subsequent fire spread to building exteriors.[37]

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[35] Wildfire Prepared Home. (n.d.). *Home technical standard.* https://wildfireprepared.org/home-technical-standard/

[36] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.26858962.v3

[37] Federal Emergency Management Agency. (2008). *Home builder's guide to construction in wildfire zones: Fact sheet 14—Defensible space and landscaping* (FEMA P-737). https://defensiblespace.org/wp-content/uploads/2021/01/fema_p_737_fs_14.pdf

Lastly, the proposed amendment includes minor grammatical and formatting revisions for clarity and consistency. Specifically, the phrase "shall comprised of" is proposed to be revised to "shall be comprised of," and the spelling of the term "noncombustible" is proposed to be standardized throughout the ordinance. These revisions are grammatical in nature and are not intended to alter the substantive requirements of the provision.

❖ *Accessory Building Setback*

The proposed bill also includes an amendment in this section which deletes the following provision:

~~(6) [Accessory building and garden or service shelters not height than seven feet nor covering more than 400 square feet, nor exceeding 20 % of the rear side property line in the longest dimension facing the rear property line, may be built without setback.]~~

The proposed bill removes this provision based on research indicating that the closer structures are located to one another, the greater the likelihood of direct fire spread between buildings, particularly under wind-driven fire conditions. While the provision was originally intended to promote efficient use of parcels and accommodate accessory units, wildfire science demonstrates that greater building separation is necessary to reduce wildfire risk. Similar conditions were observed during the Lahaina wildfire, where primary and accessory structures were in some cases separated by less than six feet, creating continuity of combustible fuels that contributed to rapid fire spread throughout the community.[38] Accordingly, accessory buildings and garden or service shelters would be required to comply with the general setback requirements outlined in this section.

❖ *Setback Flexibility*

The proposed bill also includes the following provisions:

(9) In consultation with the Fire Chief, and where all respective property owners provide written consent, the Planning Director may reduce minimum distances of buildings to property lines for shared wall construction if the proposed building's wall adjacent to the respective property line is constructed with non-combustible material.

(10) In consultation with the Fire Chief, the Planning Director may reduce minimum distances between structures proposed on a property for shared wall construction if the respective structure(s)'s abutting walls or shared walls are constructed with non-combustible material.

These provisions are appropriate as they establish a conditional mechanism for flexibility in setback requirements where enhanced fire-resistant construction

[38] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.26858962.v3

methods are employed. By allowing reductions in setbacks only under specified conditions and with appropriate oversight, these exemptions help reduce wildfire vulnerability while accommodating site-specific development constraints.

c. *Amendment of Sec. 8-4.5 (Standard of Development Applicable to All Residential Development)*

❖ *5-Foot Non-combustible Zone*

The proposed bill amends Section 8-4.5, Standard of Development Applicable to All Residential Development, by adding the additional provisions:

> (e) Non-combustible Zone. A five (5) foot non-combustible zone with groundcover comprised of hardscape (such as concrete, brick, or gravel) with a depth of at least four (4) inches shall be constructed and maintained for any residential structure. For pervious material like gravel or crushed rock, a protective barrier shall be utilized beneath the pervious hardscape that prevents organic material growth. This five (5) foot groundcover hardscape requirement is not required for accessory structures.

The addition of provision (e) is supported by wildfire research indicating that the area within the first 0 to 5 feet surrounding a structure has the greatest influence on its susceptibility to ignition.[39] This provision comes from the 2023 IBHS Model Ordinance for Construction, which establishes defensible space requirements, including a five foot noncombustible ground cover standard. The rationale for this standard is that creating a noncombustible zone in this immediate perimeter reduces the likelihood that wind-driven embers will ignite nearby fuels and expose the structure to direct flame contact.

This approach is further supported by findings and recommendations from the *Lahaina Fire Incident Analysis Report (Phase Two)*, which recognizes that within the built environment, virtually all combustible materials- including fences, vehicles, household belongings, vegetation, and even adjacent structures- can serve as available fuel. The report also documents instances of surviving structures that maintained clear buffers or low-combustibility areas, such as concrete pathways or stone landscaping, which helped separate structures from adjacent vegetation.[40] Based on these observations, the report explicitly recommends that codes and standards be updated, implemented, and enforced to strengthen fuel management and defensible space around structures. This action directly supports removing or treating combustibles immediately adjacent to structures, which is the foundational logic behind a 0-5 foot hardscape zone.

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[39] Insurance Institute for Business & Home Safety. (2020). *Near-building noncombustible zone*. https://ibhs.org/wp-content/uploads/member_docs/Near-Building_Noncombustible_Zone_Report_IBHS.pdf

[40] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.26858962.v3

The effectiveness of a five-foot noncombustible zone is also supported by experimental research. In 2018, more than 180 experiments conducted at the Insurance Institute for Business & Home Safety (IBHS) Research Center evaluated fire behavior and heat exposure to buildings.[41] The results demonstrated that the presence of a 5-foot noncombustible zone significantly limited surface temperatures on building exteriors to levels below ignition thresholds, with limited exceptions at building corners. However, given that sustained wind exposure from a single direction is unlikely over extended periods, the findings support the conclusion that a 5-foot noncombustible zone is an effective and appropriate wildfire mitigation measure.

It is also appropriate that this provision apply to residential structures rather than accessory structures, as residential buildings represent the primary assets intended to be protected from wildfire events. Extending the 5-foot noncombustible zone requirement to accessory structures would introduce additional costs for property owners and may not yield a proportional risk reduction benefit.

❖ *Secondary Access Road*

In addition to the noncombustible zone requirement, a separate provision addressing secondary county standard access roads has also been included:

> (f) A second county standard access road is required for proposals that include the following:
>
> 1) Subdivision of 20 or more lots;
>
> 2) Condominium property regime (CPR) for 20 or more units; or
>
> 3) A zoning permit for 20 or more dwelling units.
>
> The Planning Director or Planning Commission may require additional access beyond the second county standard access road when recommended by the Public Works Engineer or the Fire Chief.

The *Lahaina Fire Incident Analysis Report (Phase Two)* identifies that the Lahaina area had "*inherently limited access and egress routes, which became even more problematic during evacuations.*"[42] The report further describes how the limited roadway network was unable to accommodate the sudden and simultaneous surge of residents and visitors attempting to evacuate the area. With few available egress points, any blockage, disabled vehicle, or traffic incident had a disproportionate impact on evacuation efficiency and significantly constrained mobility.

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[41] National Fire Protection Association. (2025). *Firewise USA® fact sheet: Immediate noncombustible zone.* https://defensiblespace.org/wp-content/uploads/2025/08/FirewiseFactSheetsImmediateNoncombustibleZone.pdf

[42] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. Page 155. https://doi.org/10.60752/102376.26858962.v3

The report also notes that while former sugarcane roads provided potential alternative evacuation routes, access to many of these routes was restricted by locked gates or physical barriers such as boulders. In addition, these routes were not widely familiar to residents, visitors, or even some first responders, resulting in confusion and potential delays during evacuation operations.[43] Based on available information regarding victim circumstances, the report indicates that at least 65 of the 102 fatalities (approximately 65%) occurred while individuals were actively attempting to evacuate when they were overcome by the fire.[44]

Given these findings and recommendations, this amendment is appropriate, as providing a secondary access route for larger residential developments is a recognized minimum necessity for emergency preparedness across a range of hazard events, including wildfires, flooding, and severe storms. However, the current Comprehensive Zoning Ordinance (CZO), as well as existing subdivision provisions, do not explicitly require secondary access routes.

Requiring that such routes meet county road standards is also supported by the Lahaina report's findings regarding evacuation behavior and route familiarity. Evacuation behavior is influenced by familiarity, with residents tending to rely on known and regularly used routes. Consequently, emergency access routes that are not integrated into the everyday transportation network may not function as effectively as intended. Evacuation efficiency is enhanced when the roadway network is clearly defined, well-integrated, and designed for routine use, ensuring that residents are familiar with available routes during an emergency.

The 20-unit and lot threshold is appropriate as it aligns with how the existing code distinguishes between levels of residential development that warrant increased roadway and access standards. Under current provisions, residential developments serving more than 20 residential units shall require a roadway constructed to county roadway access standards. This demonstrates that the 20-unit threshold is already recognized within the code as a meaningful point at which roadway access needs increase.

Lastly to maintain consistency with County code language, 'Public Works' Engineer should be replaced with 'County' Engineer.

d. Addition of Sec. 8-19 (Wildfire Wildland Urban Interface (WUI) Defensible Space Standards.)

The proposed bill introduces a new article (Section 8-19) to the Comprehensive Zoning Ordinance establishing defensible space standards. These standards would apply to the following development applications:

1) Subdivision of ten (10) or more lots,

[43] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. Page 84. https://doi.org/10.60752/102376.26858962.v3

[44] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. Page 168. https://doi.org/10.60752/102376.26858962.v3

2) Condominium property regime (CPR) for ten (10) or more units, or
3) A zoning permit for ten (10) or more dwelling units.

The selection of a ten-unit or ten-lot threshold is appropriate as it aligns with existing permit review classifications that reflect increasing development intensity and corresponding levels of regulatory review. In particular, developments of this scale typically trigger higher-level review processes within the Planning Department (including Class II, Class III, and Class IV permits), which are intended to evaluate projects with greater potential impacts. Establishing defensible space requirements at this threshold ensures that wildfire risk mitigation measures are incorporated at the point where potential exposure begin to increase.

In the 'General Provisions' the proposed bill also includes the following:

> The covenants shall obligate all of the landowners within the project area subject to this Section to be mandatory members of an Association established by the developer, which could include but is not limited to a Homeowners Association (H.O.A.), limited appreciation leasehold estate, land trust, or similar civil property management entity.

Wildfire defensible space measures require ongoing maintenance to remain effective, and parcel-by-parcel enforcement by the County can be costly and time-intensive. In consideration of this, this provision is appropriate as it establishes a clear and enforceable mechanism for the long-term management of defensible space standards at the community level. By requiring all property owners within the project area to be members of a homeowners association or similar property management entity, responsibility and compliance for ongoing maintenance is implemented through the homeowners association/ property management entity rather than relying on and enforcing individual compliance. This ensures standards are both established at approval and maintained over time.

The following section evaluates the proposed defensible space zones. However, prior to this evaluation, it is important to note that *the Lahaina Fire Forward-Looking Report (Phase Three)* identified ten key priorities for the State of Hawai'i and the counties to enhance wildfire resilience and safety. Priority Ten for the counties focuses on vegetation and land management. The report explicitly states that "*Counties not having a local vegetation management policy should adopt one, following national best practices for clearance around structures...*"[45] The provisions evaluated below are intended to implement this directive.

❖ *Residential Structure Zone Requirements*
Within this Article, the proposed bill establishes "Residential Structure Zone Requirements." These requirements include the following:

[45] Kerber, Steve; Alkonis, Derek (2025). Lahaina Fire Forward-Looking Report. UL Research Institutes. Report. Page 26. https://doi.org/10.60752/102376.28074944.v2

1. Regular maintenance to ensure roofs are kept clear of debris;
2. Gutters and downspouts are maintained free of debris;
3. Limitation of storage within attached unenclosed appendages and projections (such as decks, lanais, porches, carports, and stoops) to noncombustible items only, with combustible items required to be stored within a noncombustible enclosure; and
4. Requirement that residential structures display their address on the exterior using reflective material to ensure visibility.

Inadequate maintenance was identified as a contributing factor to structure-to-structure fire spread during the Lahaina wildfire event. The Lahaina Fire Incident Analysis Report (Phase Two) notes that "*additional outdoor furniture, patio coverings, and other miscellaneous belongings created ladder fuels, which aided fire spread between structures.*"[46] The report further states that *"[e]mphasis should be placed on best practices like enforcing defensible space (an area around a building in which vegetation, debris, and other types of combustible fuels have been treated, cleared, or reduced to slow the spread of fire to and from the building) and using fire-resistant building materials.*"[47]

To support these recommendations, the *Lahaina Fire Forward-Looking Report (Phase Three)* identifies several actions related to fuel management, defensible space, and ongoing property maintenance, including the previously referenced recommendation to "*buildings should be constructed and maintained to resist ember intrusion...*" as well as to "*ensure properties and areas around structures are well-maintained, despite the structures' age (i.e., new structures are not exempt).*"

These maintenance requirements addressing debris and potential fuel sources on and around structures are also grounded in current wildfire science. The Insurance Institute for Business & Home Safety (IBHS) emphasizes that routine removal of debris from roofs, gutters, and downspouts, as well as the management of combustible materials on decks and porches, is essential to meaningfully reduce wildfire risk.[48] Consistent with this guidance, these provisions were derived from the defensible space standards contained in the 2023 IBHS Model Ordinance for Construction in Wildland-Urban Interface (WUI) Areas.

While noncombustible construction materials, such as a Class A roof, help mitigate structural ignitability, ongoing maintenance is a critical complementary measure. For example, although a Class A roof is designed to resist ignition, the

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[46] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. Page 131. https://doi.org/10.60752/102376.26858962.v3

[47] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. Page 189. https://doi.org/10.60752/102376.26858962.v3

[48] Wildfire Prepared Home. (2025). *Wildfire Prepared Home technical standard (Version 12-25).* https://wildfireprepared.org/wp-content/uploads/WFPH-Technical-Standard-12-25.pdf

accumulation of vegetative debris at roof intersections can significantly increase vulnerability, particularly during ember exposure. These areas often serve as collection points for windblown debris, which, if ignited by embers, can produce flames that expose adjacent siding, underlying sheathing, or windows.[49] Accordingly, effective wildfire risk reduction depends on the combined performance of both fire-resistant building materials and consistent maintenance practices.

Additionally including the addressing provision is also appropriate. While addressing requirements is also included in the proposed Chapter 15 amendments, including it in this Section ensures that address markings are not manipulated after building construction. However, to ensure proper placement of address for visibility purposes, the provisions should specific that numbers should be at least three inches in height.

However, it should be noted that the Insurance Institute for Business & Home Safety (IBHS) recommends that areas beneath elevated structures and appendages, such as lanais, porches, and decks, be maintained free of combustible materials and vegetation. If there is no mesh screen that mitigate ember intrusion beneath the underfloor enclosure, accumulated fuels in these areas, including combustible stored items or unmanaged groundcover, can be readily ignited by windblown embers during a wildfire event. Once ignited, these fuels can produce sustained flames and radiant heat beneath the structure, increasing the likelihood of fire spread to structural components above. Maintaining these under-deck areas in a noncombustible condition reduces potential ignition pathways and contributes to overall structure resilience. Therefore, it may be appropriate to include language in the proposed bill for the maintenance of underfloor areas, except if such areas are enclosed with the noncombustible corrosion-resistant mesh screen.

❖ *Zone 0: 5-Foot Noncombustible Zone (NCZ) Requirements*

In addition to the "Residential Structure Zone," the proposed bill establishes a "Zone 0: 5-Foot Noncombustible Zone." This zone is defined as the area extending five feet from the exterior of the residential structure, including any attached appendages and projections, and includes the following requirements:

1. Maintenance of installed groundcover consisting of hardscape material with a minimum depth of four inches;
2. Use of noncombustible groundcover maintained free of debris;
3. Prohibition of vegetation within the zone or overhanging into the zone;
4. Prohibition of vegetation overhanging the roof;
5. Requirement for noncombustible fencing within the zone; and

[49] Stephen L. Quarles, Yana Valachovic, Glenn M. Nakamura, George A. Nader, & Michael J. De Lasaux. (2010). *Home survival in wildfire-prone areas: Building materials and design considerations* (Publication 8393). University of California Agriculture and Natural Resources. https://escholarship.org/content/qt4vt8w5qk/qt4vt8w5qk_noSplash_263d42c0e0d1890d993ad117c9ca7bfa.p

6. Limitation of materials and items within the zone to noncombustible materials, with any combustible items required to be stored within a noncombustible enclosure.

Similar to the Residential Structure Zone requirements, these provisions were derived from the defensible space standards contained in the 2023 IBHS Model Ordinance for Construction in Wildland-Urban Interface (WUI) Areas and are consistent with current wildfire science and best practices for reducing combustible fuel pathways that contribute to structure ignitability. As discussed earlier in this report, wildfire research, including guidance from the Insurance Institute for Business & Home Safety, identifies the first five feet surrounding a structure and its attachments as the most critical area for defensible space.[50] The proposed maintenance requirements are intended to work in tandem with the five-foot noncombustible zone by ensuring not only the installation of hardscape, but also its ongoing maintenance free of combustible debris, so that the zone functions effectively as intended.

These requirements are also consistent with the findings and recommendations referenced earlier in the Director's Report from the *Lahaina Fire Incident Analysis Report (Phase Two)* and the *Lahaina Fire Forward-Looking Report (Phase Three)*, including observations that combustible materials adjacent to structures can function as ladder fuels and recommendations to update, implement, and enforce fuel management and defensible space standards around structures.[51]

It is acknowledged that the establishment of a vegetation-free zone may raise concerns related to landscaping preferences. The Planning Department also recognizes that traditional landscaping practices often place vegetation adjacent to structures. However, current research and best practices consistently emphasize that vegetation should be avoided within the five-foot zone. Even plant species considered fire-resilient, can dry out and become a source of ignition under wildfire conditions. The report *Re-Planting After Fire: A Fire-Resilient Landscape Guide for Lahaina & West Maui*, prepared by the Hawaii Wildfire Management Organization and the Surfrider Foundation, similarly recommends avoiding planting within the immediate five-foot perimeter of structures.[52] This is due to the potential for embers to accumulate between vegetation and the structure, and for radiant heat or direct flame contact from burning plants to ignite adjacent building components. In consideration of this, this requirement reflects a critical, evidence-based strategy for reducing structure vulnerability and improving overall wildfire resilience.

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[50] National Fire Protection Association. (2025). *Firewise USA® fact sheet: Immediate noncombustible zone*. https://defensiblespace.org/wp-content/uploads/2025/08/FirewiseFactSheetsImmediateNoncombustibleZone.pdf

[51] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.26858962.v3

[52] Surfrider Foundation. (2024). *Lahaina & West Maui landscaping handbook*. https://maui.surfrider.org/hubfs/Lahaina%20%26%20West%20Maui%20Landscaping%20Handbook_Pages-1.pdf?hsLang=en

It should be noted that, unlike the other zones, this section does not explicitly state that its requirements apply to residential structures. Given that the defensible space standards are intended to focus on residential structures, it is recommended that this section be revised to clearly specify its applicability to residential structures.

❖ *Zone 1: 30-Foot Defensible Space Requirements*

The proposed bill also establishes a "Zone 1: 30-Foot Defensible Space" area, requiring ongoing vegetation and fuel management within 30 feet of a residential structure, measured from the exterior walls and any attached appendages. Within this zone, the following standards apply:

1. Routine removal of accumulated vegetative debris, including leaf litter, dead vegetation, and piles from pruning;
2. Active management of vegetation to reduce fire intensity and continuity, including pruning of trees to elevate branches above the ground, limiting the size of lower-growing vegetation, and maintaining adequate horizontal spacing between tree canopies and between vegetation and the structure;
3. Prohibition of firewood storage within the zone unless it is fully enclosed within a noncombustible, ember-resistant storage unit;
4. Prohibition of fire-prone vegetation within the defensible space area; and
5. Exemption of culturally significant species with fire resilient characteristics, including kalo (taro) and banana, from these requirements.

At the time of August 2023, Lahaina's communities contained mature and/or dense vegetation, and the absence of comprehensive vegetation management programs- including policy development, regulatory implementation and enforcement, and adequate funding- contributed to widespread unmanaged vegetation across both wildland and urban interface areas impacted by the August 8, 2023 wildfire.[53]

The *Lahaina Fire Incident Analysis Report (Phase Two)* further found that wildfire risk mitigation and protective measures are not generally integrated into land use planning, ordinances, or permitting processes to ensure adequate defensible space or consistent management of vegetative fuels within and around communities. In response, the *Lahaina Fire Forward-Looking Report (Phase Three)* identifies an explicit regulatory action to address this gap, recommending to "*require integrated land use planning through zoning regulation that requires vegetation management in high-risk areas.*" [54]

The proposed defensible space requirements are consistent with this recommendation, as well as with vegetation management standards developed by the Insurance Institute for Business & Home Safety (IBHS). Specifically, IBHS recommends pruning trees to maintain a minimum clearance of six feet above the

[53] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. Page 131. https://doi.org/10.60752/102376.26858962.v3

[54] Kerber, Steve; Alkonis, Derek (2025). Lahaina Fire Forward-Looking Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.28074944.v2

ground, prohibiting the placement of shrubs beneath trees, limiting individual shrubs or clustered groupings to less than ten feet in horizontal diameter, and maintaining a minimum horizontal spacing of ten feet between shrubs.

❖ *Accessory Structure Zone Requirements*

The proposed bill also establishes defensible space requirements for accessory structures, including requiring each accessory structure to have its own five feet of NCZ. This zone must be independent and may not overlap with the noncombustible zone of a residential structure, its appendages, or other accessory structures. Furthermore, the following requirements would apply:

1. Groundcover must consist of noncombustible materials and be maintained free of combustible debris;
2. Vegetation is prohibited within the zone and may not overhang into the zone or extend over the roof;
3. Fencing within the zone must be constructed of noncombustible materials; and
4. Only noncombustible items and materials may be allowed, with any combustible materials required to be fully enclosed within a noncombustible, ember-resistant storage unit.

Similar to Lahaina, accessory structures are common across many properties on Kaua'i. In the Lahaina wildfire, ignition of accessory structures contributed to fire spread by functioning as ladder fuels; therefore, it is considered best practice to apply defensible space requirements to accessory structures that are consistent with those established for residential structure.

Listed are a few considerations for the Accessory Structure defensible space section:

- While the Insurance Institute for Business & Home Safety (IBHS) recommends that accessory structures incorporate a 0–5 foot noncombustible zone, the proposed bill, as drafted in Section 8-4.5(e) and Section 8-19(i)(1)(A), exempts the five-foot hardscape groundcover for accessory structures. At the same time, the requirements within this section requires groundcover to consist of noncombustible materials. This creates internal inconsistency. Given that accessory structures are not intended for human habitation and generally represent lower-risk structures compared to residences, and considering the cost implications of hardscape installation, it may be appropriate to limit hardscape requirements to residential structures only.
- If a full hardscape requirement is not applied to accessory structures, it is likely that certain low-fuel vegetation types, such as maintained grass that does not present elevated fire risk, could be permitted within this zone. Conversely, a strict prohibition on all vegetation would significantly limit design flexibility and effectively require full hardscaping.

- The proposed bill includes definitions for other defensible space zones but does not define an "Accessory Structure Zone," despite applying specific requirements to it. Providing a clear definition of this term would improve clarity, consistency, and ease of implementation for enforcement and permitting staff.
- It is also important to note that requirements related to roof and gutter maintenance, as well as limitations on combustible storage within attached unenclosed appendages and projections, remain appropriate. These measures address not only ground-level fuels within the defensible space zone but also the accumulation of debris on the structure itself, which is a critical factor in overall ignition risk.

❖ *Fire Prevention Outreach and Education*

The final section of the proposed article establishes fire prevention outreach and education requirements. Specifically, it requires the coordination of a workshop in collaboration with the homeowners association to engage with the Fire Department, Kaua'i Emergency Management Agency (KEMA), and the Planning Department. The purpose of this workshop is to provide education on fire prevention and evacuation, supporting defensible space maintenance, landscaping practices, and home hardening efforts.

Priority Five for the counties in the *Lahaina Fire Forward-Looking Report (Phase Three)* emphasizes the provision of educational programming and risk-reduction support related to wildfire preparedness, including mitigation best practices, defensible space and vegetation management, fire weather, and fire behavior.[55]

The fire prevention, outreach, and education requirements included in the proposed bill are consistent with this priority action. Such educational programming support the ongoing management of combustible materials and help prepare homes and properties for wildfire events. Assigning responsibility for organizing the workshop to the homeowners association, with support from County agencies, streamlines implementation and strengthens community capacity to effectively mitigate wildfire risk.

One recommended revision is to broaden this requirement beyond homeowners associations to include any applicable property management entity. This would ensure the provision applies in cases where the community is governed by alternative structures, such as a land trust, limited appreciation leasehold estate, or similar civil property management entity, thereby improving consistency and applicability across different development models.

The following section of the Preliminary Evaluation examines the proposed bill's amendments to Chapter 12 and Chapter 15- Building and Construction Regulations.

[55] Kerber, Steve; Alkonis, Derek (2025). Lahaina Fire Forward-Looking Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.28074944.v2

2. Amendments to Building and Construction Regulations

The proposed bill establishes a new chapter under Title V (Building and Construction Regulations), designated as Chapter 15B: Wildfire and Wildland-Urban Interface (WUI) Construction Requirements. This chapter introduces home hardening provisions, including requirements for fire-resistant construction methods and materials intended to reduce a structure's vulnerability to ember intrusion, radiant heat, and direct flame contact.

The *Lahaina Fire Incident Analysis Report (Phase Two)* and the *Lahaina Fire Forward-Looking Report (Phase Three)* explicitly identify ember intrusion through building envelopes- including roofs, vents, and windows- as a common pathway for structural ignition during wildfire events. In response to this finding, the reports provide several recommendations related to wildfire-resistant construction practices, including the following[56,57]:

- Buildings should be constructed and maintained to resist ember intrusion. This will include construction features (vents, roofs, etc.).
- Adopt stronger WUI codes (e.g., ICC International Wildland-Urban Interface Code and NFPA 1140: *Standard for Wildland Fire Protection*) or WUI Structure/Parcel/Community Hazard Mitigation Methodology guidance.
- Adopt and enforce contemporary codes and standards for building construction in wildfire prone areas.

The proposed amendments to Kaua'i County's Building and Construction Regulations were developed in response to both the wildfire science discussed in Section 5, Amendment Justification, and the findings and recommendations identified in the Lahaina reports.

An evaluation of the policy implications associated with the proposed amendments is provided in the following section.

a. *Chapter 15B. Wildland Urban Interface (WUI) Construction Requirements*

❖ Application of Requirements

The proposed Chapter 15B requirements are intended to apply to all lands on which a new residential structure is proposed to be constructed. At first consideration, questions may arise as to why the proposed requirements are applied island-wide rather than being limited only to areas identified as having the highest wildfire risk. However, the proposed approach is supported by wildfire science, local risk data, and the characteristics of wildfire behavior.

[56] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.26858962.v3

[57] Kerber, Steve; Alkonis, Derek (2025). Lahaina Fire Forward-Looking Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.28074944.v2

Several factors support the application of these requirements on a countywide basis:

- Kaua'i faces a high overall level of wildfire risk. Wildfire risk datasets developed by the U.S. Department of Agriculture Forest Service indicate that homes in Kaua'i County face greater wildfire risk than approximately 91 percent of counties nationwide.

- Wildfire ignitions on Kaua'i occur island-wide and are frequently human-caused. Available wildfire data indicates that majority of wildfire ignitions on Kaua'i are associated with human activity, including ignitions occurring near roadways, utility corridors, developed areas, and other human-accessed locations.[58] Because ignition sources are not confined to remote wildland areas, wildfire risk can affect communities throughout the island.

- Wind-blown embers are the primary cause of structural ignition and can travel long distances. Research consistently identifies embers (firebrands) as the leading cause of structural ignition during wildfire events, accounting for approximately 90 percent of home ignitions. Embers can travel significant distances ahead of the main fire front- sometimes miles under extreme wind conditions- allowing wildfire risk to extend well beyond areas immediately adjacent to vegetation or even fuel breaks. As demonstrated in many other wildfire disasters, including the Lahaina and Los Angeles wildfire, developed areas can remain vulnerable to ember-driven ignition even when not directly adjacent to wildland fuels.

- Structures themselves can become a source of fuel during wildfire events. Once a structure ignites, fire can spread rapidly from building to building through ember exposure, radiant heat, and direct flame contact, particularly in residential areas that were not constructed using ignition-resistant materials and methods. Combustible structures, especially those constructed primarily of wood or containing combustible exterior components, can significantly contribute to fire intensity and accelerate structure-to-structure fire spread during built-environment conflagration events.

Given these considerations, the application of ignition-resistant construction standards on an island-wide basis is appropriate and consistent with the best available wildfire science. Because residential structures are intended for human habitation and represent critical life-safety assets, prioritizing wildfire mitigation requirements for these structures is both reasonable and necessary to reduce the risk of structural loss, displacement, and loss of life during future wildfire events.

❖ Definitions

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[58] Hawai'i Wildfire Management Organization. (2024). *Kaua'i Community Wildfire Protection Plan.* https://static1.squarespace.com/static/660b500392aae13704d0e302/t/67999ac909758159af1d68f7/1738119942771/FINAL+K-Kauai_CWPP_Dec2024_SIGNED-compressed.pdf

As with the new definitions proposed in Chapter 8 of the Comprehensive Zoning Ordinance (CZO), the proposed bill establishes additional definitions within Chapter 15B to clarify Wildland-Urban Interface (WUI) terminology and ensure consistent application of wildfire-related standards. The following provides a brief analysis of each term.

1) **"Advancing Standards Transforming Markets (ASTM)"** means the organization (formerly referred to as the American Society for Testing and Materials) that develops standards and publishes voluntary consensus technical international standards for a wide range of materials, products, systems, and services.

   - This definition mirrors the proposed definition in Chapter 8. Please refer to the Preliminary Evaluation of the CZO Amendment for an analysis of this term.

2) **"County"** means the County of Kaua'i.

   - This definition mirrors the proposed definition in Chapter 8. Please refer to the Preliminary Evaluation of the CZO Amendment for an analysis of this term.

3) **"Defensible Space"** means an area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared, maintained or modified to slow the rate and intensity of an advancing wildfire through an urban or rural area and to create an area for structure defense operations to occur.

   - This term is not referenced in the proposed new article Chapter 15B; therefore, its definition may be removed from Chapter 15B to avoid unnecessary definitions.

4) **"Fire Stopped"** means the process of filling openings and joints between walls, floors, and roofing material to inhibit the spread of fire between compartments within a structure.

   - This term is appropriately included in Chapter 15B, as it describes a critical measure for reducing ember intrusion and limiting internal fire spread within structures. However, in consultation with fire experts, the more accurate and commonly accepted terminology is "firestopping" rather than "fire stopped." Accordingly, it is recommended that the term be revised to reflect standard usage.

5) "Ignition-resistant" as applied to building construction material means a material treated or manufactured to delay ignition and tested to conform to ASTM E84 or

ASTM E2768. Examples include but are not limited to fire-treated wood, dense hardwoods like ipe, and fiber-cement boards.

- This definition is appropriate because, while "noncombustible" refers to materials that will not ignite under fire exposure, "ignition-resistant" refers to materials that resist ignition or delay ignition under specified fire conditions. The proposed definition is appropriate as it aligns with the usage and intent of the term in Section A502: Wildland–Urban Interface (WUI) Construction and Materials of the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction in Wildland–Urban Interface (WUI) Areas. However, in consultation with fire experts, it was recommended to correct the example provided of "fire-treated wood" to be "fire-retardant-treated wood" which is a more precise and accurate term to use.

6) "Noncombustible" as applied to building construction material means a material of which no part will ignite and burn when subjected to fire and tested to conform to ASTM E136. Examples include but are not limited to concrete, metal, glass, and stone.

   - This definition mirrors the proposed definition in Chapter 8. In the analysis of this term in the Preliminary Evaluation of the CZO Amendment, the Director's Report recommends avoiding limiting the applicability of the term by removing language that restricts its application to building construction materials, as the term in Chapter 8 is used more broadly, including in reference to items within defensible space zones. However, within the context of Chapter 15B, application of the term specifically to building construction materials is appropriate. Accordingly, as drafted, the definition is suitable for its intended use in this chapter.

7) "Noncombustible roof covering" means a roof covering consisting of any of the following: (1) cement (or fiber-cement) shingles or sheets, (2) ferrous shingles or sheets, or (3) slate shingles.

   - This definition closely aligns with language used in the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction in Wildland–Urban Interface (WUI) Areas. However, the term itself is not explicitly referenced in the proposed provisions. A review of the IBHS Enhanced and Baseline Wildfire-Resistant Construction Standards indicates that compliance may be achieved either through a roof assembly rated Class A when tested in accordance with ASTM E108 or through the use of an approved noncombustible roof covering. The current proposed provision requires only a Class A roof assembly tested in accordance with ASTM E108. It is therefore recommended that the roof provision be revised to also allow for an approved noncombustible roof covering as an alternative compliance pathway.

8) "Noncombustible zone (NCZ)" means the area of land that extends 5 feet measured from the edge of the exterior walls of a structure and any unenclosed appendages or projections (including but not limited to lānais, porches, and stoops). This area is also referred to as Zone 0 in Chapter 8.

- This definition is appropriate as it is used to describe the five-foot hardscape noncombustible zone required for residential structures under the proposed provisions in Chapter 8, against which the underfloor enclosure mesh screening must abut to reduce the potential for ember intrusion. This definition is consistent with the proposed definition of "Noncombustible Zone (NCZ)" in Chapter 8. For additional analysis of this term, please refer to the Preliminary Evaluation of the CZO Amendment.

9) "Roof assembly" means a system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly can include an underlayment, thermal barrier (i.e., insulation), ignition (fire) barrier, insulation, or a vapor retarder.

- This definition is appropriate because it is utilized in the proposed roofing provisions and describes the complete roof system, including both the roof covering and roof deck, which are separately defined within the proposed code language.

  The definition is derived directly from the definition of "Roof Assembly" contained in the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction in Wildland–Urban Interface (WUI) Areas. This definition also is in alignment with the 2024 International Wildland Urban Interface Code's (IWUIC) definition of roof assembly.

  However, in consultation with a fire expert, it is recommended that the term 'fire barrier' is removed given that ignition barrier is different than a fire barrier and ignition barrier is the accurate term to use.

10) "Roof covering" means the covering applied to the roof deck for weather resistance or appearance. The roof covering and underlying components are part of the fire rating for the roof assembly.

- Defining this term is appropriate because it is utilized in the proposed roofing provisions and is also used in the proposed definitions for "Roof Assembly" and "Noncombustible Roof Covering."

  The definition is largely derived from the definition of "Roof Covering" contained in the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction in Wildland–Urban Interface (WUI) Areas

and is also in alignment with the 2024 International Wildland Urban Interface Code's (IWUIC) definition of roof assembly.

11) "Roof deck" means that flat or sloped surface of a roof not including its supporting members or vertical supports.

- Defining this term is appropriate because it is utilized in the proposed roofing provisions and is also used in the proposed definitions for "Roof Assembly." The definition is derived from the definition of "Roof Deck" contained in the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction in Wildland–Urban Interface (WUI) Areas and is also in alignment with the 2024 International Wildland Urban Interface Code's (IWUIC) definition of roof deck.

12) "Structure, Accessory" means a structure that is subordinate to, and the use of which is incidental to that of the primary structure or use on the same lot or parcel and not used for human occupancy of habitation. An accessory structure is not a primary structure.

- The definition mirrors the proposed definition in Chapter 8. The Director's Report's Preliminary Evaluation of the CZO Amendment notes that "Accessory Structure" is already defined in the CZO as "a structure which is subordinate to, and the use of which is incidental to that of the main structure or use on the same lot or parcel and not used for human occupancy or habitation." Given the lack of substantive distinction between the two, the report recommends retaining the existing CZO definition. Accordingly, the definition of "Structure, Accessory" in Chapter 15B should align with the CZO definition to ensure consistency.

13) "Structure, Residential" means a structure that is used for habitation purposes and having all necessary facilities for residency such as living, sleeping, cooking, eating, and sanitation. These structures include but are not limited to single-family dwelling units, farm dwelling units, multifamily dwelling units, additional dwelling units (ADUs), additional rental unit (ARUs), and a guest house. A residential structure is not an accessory structure.

- This definition is appropriate, as the new article applies to all lands on which a new residential structure is proposed to be constructed; therefore, defining "residential structure" is necessary for clarity and enforceability. The definition also aligns with the proposed definition in Chapter 8. However, because the definitions for the various dwelling unit types are already established in Chapter 8 of the Comprehensive Zoning Ordinance, this definition should reference those existing definitions for consistency. Accordingly, the list of included dwelling types should be modified to specify that these uses are defined in Kaua'i County Code 1987, Section 8-1.5, as amended.

14) "Structure, Unenclosed Accessory" means an accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

- This definition mirrors the proposed definition in Chapter 8. Please refer to the Preliminary Evaluation of the CZO Amendment for an analysis of this term.

15) "Wildfire" means an uncontrolled fire spreading through the natural or built environment exposing and possibly consuming structures.

- This definition mirrors the proposed definition in Chapter 8. Please refer to the Preliminary Evaluation of the CZO Amendment for an analysis of this term.

16) "Wildland" means an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar facilities.

- This definition mirrors the proposed definition in Chapter 8. Please refer to the Preliminary Evaluation of the CZO Amendment for an analysis of this term.

17) "Wildland Urban Interface (WUI)" means the zone of transition between unoccupied land and human development. It is the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.

- This definition mirrors the proposed definition in Chapter 8. Please refer to the Preliminary Evaluation of the CZO Amendment for an analysis of this term.

❖ Construction Requirements

These standards shall apply to all newly proposed residential structures and substantial improvements to existing structures. This approach is consistent with findings in the *Lahaina Fire Incident Analysis Report (Phase Two)*, which noted that newer structures are not inherently exempt from wildfire risk. Accordingly, new residential development should incorporate fire-resistant materials and construction standards to ensure meaningful resilience.

For substantial improvements, and in alignment with current Building Code practice, the standards shall apply only to the area of the structure being modified or added. While full retroactive application to entire structures would further reduce vulnerability, such requirements may introduce significant cost burdens relative to new construction or additions designed to incorporate these standards from the outset. This tiered application appropriately balances wildfire risk reduction with practical implementation and construction cost considerations.

❖ Roofs

The proposed bill includes the following construction requirement:

(A) Roofs. Roofs shall have a roof assembly that complies with a Class A rating when tested in accordance with ASTM E108. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space shall be fire-stopped to prevent entry of flames or embers.

Roofs represent one of the primary surfaces vulnerable to ember accumulation during wildfire events due to their large elevated surface areas, varied slopes, and complex geometry. Wildfire research has also identified a strong correlation between roofing material type and structure survivability under ember exposure. For example, one study found that homes with nonflammable roofs had an approximate 70 percent survival rate, compared to 19 percent for homes with flammable roofs. Similarly, following the 1961 Bel Air Fire in Southern California, research found that approximately 50 percent of homes with wood roofs located within 30 feet of burning vegetation ignited, compared to only 24 percent of homes with fire-resistant roofing materials.[59]

Accordingly, requiring Class A fire-rated roofing directly addresses one of the most common pathways of structural ignition. Residential roofing materials are classified as Class A, B, C, or unrated based on their fire performance characteristics, including resistance to flame penetration, flame spread, ignition, and ember generation. Class A roofing materials provide the highest level of fire resistance and are widely recognized as a critical component of fire-resistant construction.

Findings from the Lahaina wildfire further reinforce the importance of wildfire-resistant roofing systems. Although many structures in Lahaina incorporated certain wildfire-resistant components, such as Class A roofing materials, much of the housing stock consisted of older construction materials and assemblies that may have contributed to fire spread. In addition, wind damage to roof systems increased vulnerability to ember intrusion, further contributing to structural ignitions. As a result, the *Lahaina Fire Incident Analysis Report (Phase Two)* identified ember penetration through building envelopes, including roofs, as a common pathway for structural ignition. This finding was also consistent with data collected by IBHS in Lahaina, which found a strong correlation between damage mode and roof cover material (Figure 3).[60]

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[59] Insurance Institute for Business & Home Safety. (2022). *Wildland fire embers and flames: Home mitigations that matter*. https://ibhs1.wpenginepowered.com/wp-content/uploads/Home-Mitigations-that-Matter-FINAL.pdf

[60] Insurance Institute for Business & Home Safety. (2024). *The 2023 Lahaina conflagration*. https://ibhs.org/wp-content/uploads/FINAL-Lahaina-Conflagration.pdf

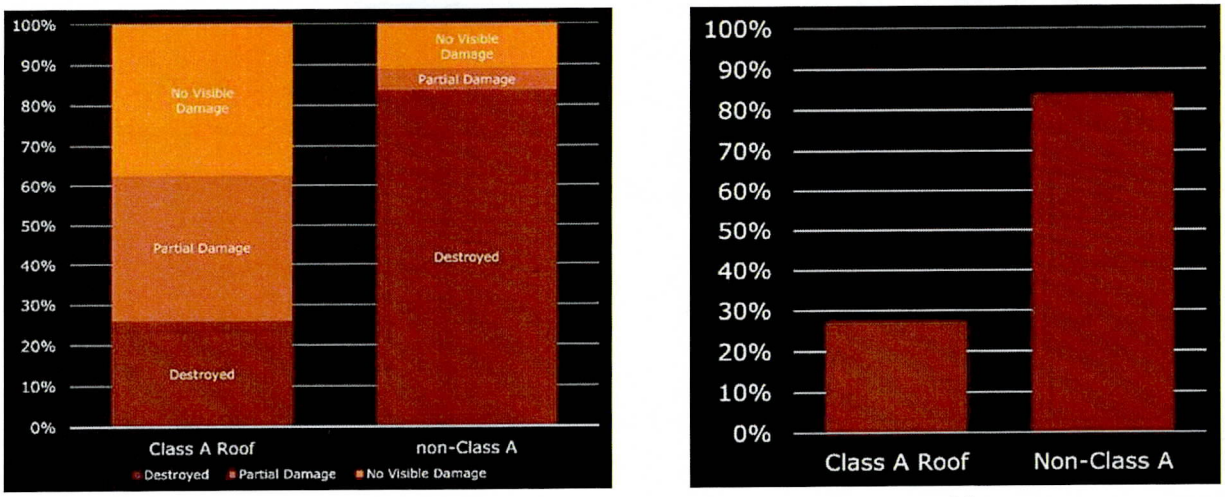


***Figure 3**. Distribution of structural damage by roof covering type (left) and comparison of destruction rates between Class A and non-Class A roofs, with non-Class A roofs exhibiting approximately three times greater likelihood of destruction (right).*

To address this vulnerability, the Lahaina reports recommend that buildings be constructed and maintained to resist ember intrusion, including through the incorporation of fire-resistant roof construction features and materials.

These findings, recommendations, and supporting wildfire science informed the development of the proposed roofing requirements. The proposed provisions are derived from the Baseline Wildfire-Resistant Construction Standards contained in the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction and are also consistent with the 2024 International Wildland–Urban Interface Code (IWUI) and NFPA 1140.

❖ Gutters and Downspouts

The proposed bill includes the following standards for gutters and downspouts:

(B) Gutters and Downspouts. Gutters and downspouts shall be constructed of metal material. Gutters shall be covered with a noncombustible material to prevent the accumulation of debris within the gutter.

The *Lahaina Fire Incident Analysis Report (Phase Two)* documented multiple instances of melted gutters during the Lahaina wildfire event. The vulnerability of gutters and their potential role in structural ignition are also well established in wildfire science. Gutters are recognized as common locations for the accumulation of combustible debris which can ignite from wind-driven embers and expose roof edges to direct flame contact.

Wildfire mitigation best practices therefore recommend the use of noncombustible gutters. Testing conducted by the Insurance Institute for Business & Home Safety

(IBHS) demonstrated that noncombustible gutters can provide additional protection to fascia boards and rafter tails by reducing flame exposure at roof edges.[61]

This provision is derived from the Baseline Wildfire-Resistant Construction Standards contained in the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction and is consistent with the 2024 International Wildland-Urban Interface Code (IWUI) and NFPA 1140.

❖ Exterior Walls

The proposed bill includes the following standard related to exterior walls:

> (C) Exterior walls. A minimum of 6 inches of noncombustible material vertically on the exterior of the wall shall be installed at the ground, decking, and roof intersections. This material shall extend behind the associated siding to reduce ember entrapment.

Wildfire science identifies exterior walls as a critical vulnerability pathway during wildfire events due to their large surface areas and their interfaces with other building components, including windows, doors, eaves, and vents. Residential structures may utilize a wide range of exterior wall assemblies and siding materials, including noncombustible materials such as brick or fiber cement, as well as combustible materials such as wood siding or combustible insulation systems beneath traditional or synthetic stucco.

The ignition of exterior siding can contribute significantly to fire growth and spread, as heat may penetrate through the exterior surface into underlying wall components, including sheathing and studs. Experimental testing of combustible wall assemblies has demonstrated the rapid nature of this vulnerability. One study found that flames projecting from a window opening ignited a combustible mock wall assembly located six feet away (equivalent to the minimum building separation distance permitted under some building codes) in approximately 80 seconds under no-wind conditions.[62] Post-fire investigations further indicate that once exterior wall assemblies ignite, fire can spread both vertically and laterally across the structure, exposing additional vulnerable building components, including windows and under-eave vents, to direct flame contact and radiant heat. Collectively, this body of research supports the conclusion that wildfire-resistant construction standards should address both flame spread and heat penetration through the use of ignition-resistant or noncombustible exterior wall materials, protected wall assemblies, and, where appropriate, fire-resistance-rated construction.

Observations from the Lahaina wildfire further reinforce the importance of exterior wall materials in reducing structure-to-structure fire spread. Although many homes

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[61] Insurance Institute for Business & Home Safety. (2022). *Wildland fire embers and flames: Home mitigations that matter*. https://ibhs1.wpenginepowered.com/wp-content/uploads/Home-Mitigations-that-Matter-FINAL.pdf

[62] Maranghides, A., & Johnsson, E. (2008). Residential Structure Separation Fire Experiments (NIST Techincal Note 1600). National Institute of Standards and Technology.

in Lahaina consisted of older construction materials and assemblies, the *Lahaina Fire Incident Analysis Report (Phase Two)* noted that some structures incorporated noncombustible exterior wall materials. In particular, the report observed that in areas such as the Opukea apartment complex and Kahoma Village, noncombustible exterior wall materials "likely contained the fire within the burning structures and reduced exposure to adjacent buildings."[63]

Consistent with this body of wildfire science, model WUI codes, including the 2024 IWUI Code, NFPA 1140, and the 2023 IBHS Enhanced and Optimum Wildfire-Resistant Construction Standards, generally recommend exterior walls constructed with noncombustible or ignition-resistant materials, as well as materials approved for not less than one-hour fire-resistance-rated exterior wall construction.

However, the proposed bill does not incorporate these enhanced exterior wall assembly requirements. Instead, the proposed bill limits the requirement to six inches of noncombustible flashing at the base of exterior walls. While flashing does not mitigate radiant heat exposure or direct flame contact to the same extent as fully noncombustible or ignition-resistant wall assemblies, it serves an important function in reducing ember intrusion and ignition potential at the base of structures, where embers may accumulate and ignite combustible siding. When embers strike exterior walls, they lose kinetic energy and tend to fall and accumulate at or near the base of the structure. Providing a minimum six-inch vertical noncombustible clearance at the base of exterior walls therefore helps reduce the likelihood that accumulated embers or burning debris will ignite combustible siding or other wall components. Additionally complementing the six-inch vertical noncombustible zone with a well-maintained Noncombustible Zone (NCZ) further limits ignition vulnerability from embers, radiant heat, and direct flame contact.

The proposed flashing provision is derived from the Baseline Wildfire-Resistant Construction Standards contained in the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction and is consistent with the flashing requirements contained in both the 2024 IWUI and NFPA 1140.

The decision to limit the proposed requirement to flashing standards is primarily based on the substantial increase in construction costs associated with enhanced noncombustible or ignition-resistant exterior wall assemblies. Back in September 2025 the Planning Department contracted Unlimited Construction Services, Inc. to conduct a cost study for wildfire standards to better understand cost comparisons for a standard build, a build incorporating Plantation Camp Wildland Urban Interface Standards, and IBHS Optimum Construction, which is the highest level of wildfire protection standards. Based on this cost analysis, the Department found that construction utilizing fire-rated exterior wall materials, such as Hardie Board

[63] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. Page 215. https://doi.org/10.60752/102376.26858962.v3

siding, and fire-rated soffit materials would result in an estimated increase of roughly $40 per square foot in construction and material costs.

These cost considerations were evaluated alongside broader housing affordability and cost-of-living policy objectives. After balancing the benefits of wildfire risk reduction against the potential impacts on housing costs, the Department determined that requiring noncombustible exterior wall materials would impose a prohibitively high cost burden at this time. Accordingly, the Department concluded that limiting the proposed requirement to noncombustible flashing standards represents an appropriate and reasonable policy approach.

For more information on the September 2025 Plantation Camp Wildland Urban Interface (WUI) Ordinance Cost Study, please refer to Exhibit F.

❖ Post and pier

The proposed bill includes the following standard related to post and pier:

(D) Post and pier. If any residential structure is elevated, the post and pier material shall be noncombustible or at a minimum 6 inches of noncombustible material shall be installed vertically on the exterior of the post and pier at grade and abut against the adjacent 5-foot hardscape noncombustible zone (NCZ).

This provision is important because elevated structures supported on post and pier systems are particularly vulnerable to wind-driven embers and surface fire spread beneath the elevated floor area. Where post and pier components consist of combustible materials, such as exposed wood posts, embers or adjacent fire beneath the structure may ignite these elements and allow fire to spread upward into the structure itself. Requiring noncombustible materials, or a minimum six-inch vertical band of noncombustible protection at grade, helps reduce ignition potential and promotes continuity between defensible space measures and wildfire-resistant construction practices.

❖ Underfloor Enclosure

The proposed bill includes provisions addressing underfloor enclosures for elevated residential structures. Structures elevated four feet or less above grade are required to install noncombustible mesh screening. Additional provisions include the following:

- For structures located on sloped sites, portions elevated more than four feet above adjacent grade are exempt from the mesh screening requirement; however, portions elevated four feet or less must still be screened.
- Underfloor areas are required to be constructed and framed to allow adequate access and maintenance.
- Residential structures elevated on post and pier systems to comply with floodplain management standards must include underfloor enclosures with a

minimum of two floodwater openings, incorporating approved floodwater opening devices.

Requiring mesh screening for lower-elevation underfloor areas is an appropriate measure to reduce the accumulation of combustible debris and wind-driven embers. This approach is consistent with wildfire science and model code guidance, including the Baseline Wildfire-Resistant Construction Standards contained in the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction.

The allowance to exempt portions of structures elevated above four feet on sloped sites is also appropriate from a constructability standpoint, while still maintaining mitigation where exposure is greatest. Fully enclosing lower-elevation portions of the underfloor area helps reduce ember intrusion and accumulation where ignition risk in the underfloor area is typically highest. However, it is important to note that any unenclosed underfloor areas should be maintained free of combustible materials to ensure that mitigation effectiveness is not compromised.

While the proposed amendments to Chapter 15 focus on building materials and construction standards administered by the County's Building Division, the proposed amendments to Chapter 8 (Comprehensive Zoning Ordinance), administered by the County's Planning Department, include ongoing maintenance requirements. As such, maintenance standards addressing combustible materials within unenclosed underfloor areas should be incorporated into the proposed amendments to Chapter 8.

Finally, the requirement for a minimum of two floodwater openings is appropriate to maintain compliance with the County's Floodplain Ordinance, as confirmed through consultation with the County's Public Works Floodplain Manager.

❖ Appendages and Projections

The proposed bill includes wildfire-resistant construction provisions applicable to unenclosed appendages and projections attached to residential structures, including decks, lanais, porches, and stoops elevated on post and pier systems. Key provisions include requirements for enclosing underfloor areas with noncombustible, corrosion-resistant mesh screening; installing flush floorboards; utilizing noncombustible or ignition-resistant exterior flooring materials; and incorporating noncombustible or ignition-resistant materials for walls and posts perpendicular to the deck. If a noncombustible or ignition-resistant material is not used for walls and posts, a minimum six-inch vertical band of noncombustible flashing is required at wall-to-deck and post to deck intersections to reduce ignition potential at these vulnerable connection points.

This provision is appropriate because unenclosed appendages and projections, such as lanais, are particularly vulnerable to ignition during wildfire events due to their exposure to wind-driven embers on both their upper and lower surfaces. Once

ignited, these features can contribute to fire spread by exposing adjacent exterior wall components, including siding, windows, doors, and under-eave areas, to direct flame contact and radiant heat.

The proposed provisions are consistent with the wildfire-resistant construction standards for unenclosed appendages contained in the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction.

❖ Vents

The proposed bill establishes requirements for vents, including provisions requiring vents to be constructed of noncombustible materials and covered with noncombustible, corrosion-resistant mesh with openings no greater than 1/8 inch. The bill also requires vents to be corrosion-resistant and flame-resistant.

These standards are consistent with wildfire science and recognized best practices, which identify inadequately protected vents as a common pathway for ember intrusion into structures. Wind-driven embers can enter through vulnerable vent openings and ignite combustible materials within the structure, resulting in interior fire spread that is often difficult for emergency responders to suppress. Research indicates that properly sized mesh screening, generally 1/8 inch or smaller, helps reduce ember intrusion by causing embers to stop, split, shatter, or deflect upon contact.[64,65] At the same time, vent systems must continue to provide adequate airflow and ventilation for the structure while limiting the entry of embers.

The *Lahaina Fire Incident Analysis Report (Phase Two)* similarly identified ember penetration through vents as a significant vulnerability and emphasized the importance of constructing vent systems to resist ember intrusion.

The vent requirements contained in the proposed bill are derived directly from the Wildfire-Resistant Construction Standards included in the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction.

❖ Exterior Glazing

The proposed bill includes the following standard related to exterior glazing:

> (H) Exterior glazing. Each residential structure's exterior windows, window walls, glazed doors, and windows within exterior doors shall be dual pane tempered glass or have a fire protection rating of not less than 20 minutes and tested to conform to ASTM E119.

Windows can serve as a primary entry point for wind-driven embers, direct flame contact, and hot gases when window assemblies fail during wildfire exposure. Older

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[64] Sharifian Barforoush, A., & Du Preez, M. (2022). Quantifying the effectiveness of a mesh in mitigating burning capabilities of firebrand shower. Fire, 5(5), 150.

[65] Insurance Institute for Business & Home Safety. (2022). *Wildland fire embers and flames: Home mitigations that matter*. https://ibhs1.wpenginepowered.com/wp-content/uploads/Home-Mitigations-that-Matter-FINAL.pdf

structures commonly utilize single-pane glass, whereas newer construction typically incorporates insulated glazing units, most often in a dual-pane configuration. During wildfire conditions, glass failure generally occurs due to thermal stress caused by temperature differentials across the pane resulting from uneven heating.

Research indicates that multi-pane and tempered glass systems provide improved wildfire resistance compared to single-pane, plain glass systems.[66] Double-pane windows typically withstand thermal exposure on the order of approximately 25 kW/m² and demonstrate consistently improved performance as a fire barrier relative to single-pane glazing.[67] Tempered glass provides further enhanced resistance, withstanding thermal exposure levels of approximately 40 kW/m², which are within the range of conditions that may occur during wildfire events.[68] However, research has also found that full performance benefits are most reliably achieved when both panes in a double-pane unit are tempered, as configurations with only a single tempered pane may still experience failure under sustained heat exposure.[69]

In consideration of this body of research, the proposed requirement is closely aligned with the exterior glazing provisions contained in the Enhanced Wildfire-Resistant Construction Standards of the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction. While the proposed bill requires dual-pane tempered glass for exterior glazing, it also provides an alternative compliance pathway for glazing with a fire protection rating of not less than 20 minutes. This alternative recognizes that fire-rated glazing can provide a comparable level of fire protection through different glazing configurations. As a result, a 20 minute fire-rated dual pane glazing units with a single tempered pane may satisfy the requirement and may offer a more cost-effective option for compliance.

Additionally, in consultation with fire experts, it was recommended that in addition to adding that the exterior glazing conform to ASTM E119 it also conform to ASTM E2010.

It should also be noted, however, that research conducted by Willi et al. (2026) found that wildfire-resistant window performance is dependent not only on glazing type, but also on the performance of the entire window assembly, including the window frame material.[70] The study found that aluminum frame assemblies

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[66] Shields, J., Silcock, G. W., & Flood, F. (2005). Behaviour of double glazing in corner fires. Fire Technology, 41(1), 37-65.

[67] Quarles, S. L., & Gorham, D. J. (2020). Sidings, Windows, and Glazing. In S. L. Manzello (Ed.), Encyclopedia of Wildfires and Wildland-Urban Interface (WUI) Fires (pp. 1-8). Springer International Publishing. https://doi.org/10.1007/978-3-319-51727-8_8-1

[68] Babrauskas, V. (2003). Ignition Handbook: Principles and Applications to Fire Safety Engineering, Fire Investigation, Risk Management and Forensic Science. Fire Science Publishers.

[69] Willi, J. M., Gorham, D. J., & Horn, G. P. (2025). *Window pane failure during exterior fire exposure. Fire Technology, 61*, 1613–1645. https://doi.org/10.1007/s10694-024-01656-z

[70] Willi, M., Mueller, E. V., Horn, G. P., & Suzuki, S. (2026). *Experimental investigation of wildfire exposure effects on residential window assemblies. Fire Technology*. https://doi.org/10.1007/s10694-025-01854-3

performed better than wood and vinyl frame assemblies under exterior fire exposure conditions, highlighting the significant influence that the design and construction of all window assembly components can have on window survivability during wildfire events. While the proposed bill does not currently include provisions related to window frame materials, the findings suggest that incorporation of such standards may warrant future consideration.

❖ Exterior Doors
The proposed bill includes the following standard related to exterior doors:

(I) Exterior doors. Exterior doors shall be solid core wood or have an exterior surface with noncombustible or ignition-resistant building material or have a fire protection rating of not less than 20 minutes.

This provision is appropriate because, like other components of the building envelope, exterior doors are vulnerable to exposure from wind-driven embers, direct flame contact, and radiant heat. Post-fire investigations, including findings from the Lahaina Fire Incident Analysis Report, frequently identify exterior doors as components subject to damage or failure during wildfire events.

The proposed requirement is derived from the Enhanced Wildfire-Resistant Construction Standards contained in the 2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction and is in alignment with the exterior door provisions included in both the 2024 IWUI and NFPA 1140.

❖ Addressing
The proposed bill includes the following standard related to addressing:

(J) Addressing. Each residential structure shall have its address marked with reflective material on its exterior thoroughfare facing wall.

This provision represents an important measure to support both emergency response operations and evacuation efforts during wildfire and other emergency events. The provision also aligns with the proposed address marking maintenance requirements contained in Chapter 8. Consistent with the recommended revisions to Chapter 8, the provision should further specify that address numbers be a minimum of three inches in height to ensure adequate visibility and legibility for emergency responders.

b. *Amendment of Chapter 12 Sec. 1.3 (Administration)*
The proposed bill amends Chapter 12 by reducing the threshold at which one-story detached accessory structures—such as tool and storage sheds, playhouses, animal shelters, greenhouses, trash enclosures, and similar structures—require a building permit. Under the proposed amendment, accessory structures exceeding 200 square feet would require a building permit, replacing the current threshold of 300 square feet.

This amendment is appropriate because it creates consistency and alignment with the Comprehensive Zoning Ordinance (CZO). Specifically, the CZO definition of "Structure" excludes structures that do not exceed 200 square feet in size. Similarly, the definition of "Construction, commencement of" excludes structures that do not exceed 200 square feet. Aligning the building permit threshold with these existing CZO provisions will improve regulatory consistency and eliminate situations in which an accessory structure may require a zoning permit but not a building permit.

3. In Consideration of Setback Requirements

It should be noted that while the proposed bill does not propose any amendments to the setback provisions, it is also important to recognize that structure-to-structure separation is a critical factor influencing fire spread in the built environment. Under severe wildfire conditions, particularly in high-density neighborhoods, extreme fire behavior can result in the rapid ignition of multiple structures. Once initial structures become involved, fire spread can progress in a cascading or "domino" effect, continuing until wind-driven conditions subside.

These findings are consistent with observations documented during the Lahaina wildfire. The *Lahaina Fire Incident Analysis Report (Phase Two)* noted that many areas of Lahaina contained closely spaced buildings, with some residential structures separated by as little as six feet and even smaller distances between primary and accessory structures.[71] The report identified these limited separation distances as a contributing factor to the rapid progression of the fire, as close proximity between buildings increased the potential for structure-to-structure ignition through radiant heat exposure and direct flame contact.

These observations are further supported by post-fire analysis conducted by the IBHS, which also identified structure separation distance as a significant factor influencing building survivability during the Lahaina conflagration.[72] IBHS findings indicated that homes with windward structure separations greater than approximately 50 feet typically sustained minimal to no visible damage, while separation distances of less than 30 feet were associated with a significant increase in structural damage or destruction. At very close proximities (<10 feet), most downwind homes were destroyed. (Figure 4).

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[71] Kerber, Steve; Alkonis, Derek (2024). Lahaina Fire Incident Analysis Report. UL Research Institutes. Report. https://doi.org/10.60752/102376.26858962.v3

[72] Insurance Institute for Business & Home Safety. (2024). *The 2023 Lahaina conflagration.* https://ibhs.org/wp-content/uploads/FINAL-Lahaina-Conflagration.pdf



Figure 4. *Examples of damage categories resulting from different setbacks in IBHS Lahaina Study.*

Additional research further supports the importance of separation distance in reducing structure-to-structure fire spread. Research by Hedayati et al. (2026) indicate that at approximately 10 feet of separation, structures constructed with typical fire-resistant materials are unlikely to withstand exposure from an adjacent fully ignited building under wind-driven fire conditions. At 20 feet, fire-resistant building assemblies begin to perform more effectively, although unmitigated structures continue to exhibit high probabilities of failure. At 30 feet, ignition risk is substantially reduced, and at 40 feet, exposures generally resulted in only cosmetic damage.[73] Additionally, research by Gorham et al. (2025) found that combustible siding assemblies ignited 3-10 times faster at a 3.0-meter (10-foot) separation distance than at a 4.3-meter (14-foot) separation distance from the fire source, demonstrating the strong influence that structure separation distance has on ignition vulnerability during post-flashover fire exposure. [74]

Collectively, this body of evidence suggests that separation distances in the range of 30 to 40 feet provide a substantially improved level of performance in limiting structure-to-structure fire spread.

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[73] Hedayati, F., Gorham, D., Monroy, X. *et al.* Wind-Driven Building-to-Building Fire Spread: Experimental Results and Probabilistic Modeling. *Fire Technol* **62**, 32 (2026). https://doi.org/10.1007/s10694-025-01854-3

[74] Gorham, D. J., Willi, J. M., & Horn, G. P. (2025). *Residential exterior wall reaction to post-flashover compartment fires. Fire and Materials*, 0, 1–20. https://doi.org/10.1002/fam.3278

The Planning Department considered the hazard resiliency benefits of increasing minimum structure-to-structure separation distances in light of the available scientific evidence and associated wildfire risk reduction outcomes. However, this consideration was balanced against broader housing policy objectives, including the need to reduce regulatory constraints that may limit the ability of property owners to fully utilize their parcels. This is particularly relevant in the context of the ongoing housing shortage and the need to support multigenerational housing opportunities, such as the construction of additional residential units for family members.

To evaluate whether increased structure setbacks would constrain development potential for property owners, the Planning Department contracted Opticos Design, Inc. to develop conceptual housing layouts incorporating increased rear and side setbacks of 15 feet, a 10-foot front setback, and a 30 foot building-to building setback. The purpose of this analysis was to determine whether increased setbacks would reduce achievable residential density or whether comparable levels of development could still be accommodated on typical lot sizes ranging from 6,000 to 10,000 square feet, with assumed lot widths from 30 to 70 feet.

Under the current regulatory framework, a 6,000-square-foot lot may accommodate one primary dwelling unit and one additional rental unit. Similarly, a 10,000-square-foot lot may accommodate two detached dwelling units per lot. In addition, these lots are generally capable of accommodating the following development components: two parking spaces per primary dwelling unit and one parking space per ARU; covered or garage parking where feasible; and building footprints of approximately 2,000 square feet for a two-story primary dwelling, 1,200 square feet for a single-story primary dwelling, and between 500 and 800 square feet for an ARU.

The analysis found that, overall, residential development density can largely be maintained with increased rear and side setbacks of 15 feet, a 10-foot front setback, and a 30 foot building-to building setback. No significant reduction in development yield was identified as a result of the increased setbacks. The analysis further demonstrated that intentional site design strategies (such as shared driveways, attached building configurations, and alley-loaded access) can support both density retention and a more cohesive urban form and neighborhood design. The primary constraint identified was that narrower lots may require a transition from detached to attached housing configurations in order to accommodate the increased setback standards while maintaining comparable development capacity.

Exhibit D presents the urban design modeling results and evaluates the development yield and site layout implications associated with increased setback standards along with a memo developed by Opticos Design, Inc summarizing their main findings. Figure 5 highlights select illustrative urban design configurations resulting from the modeled scenarios.

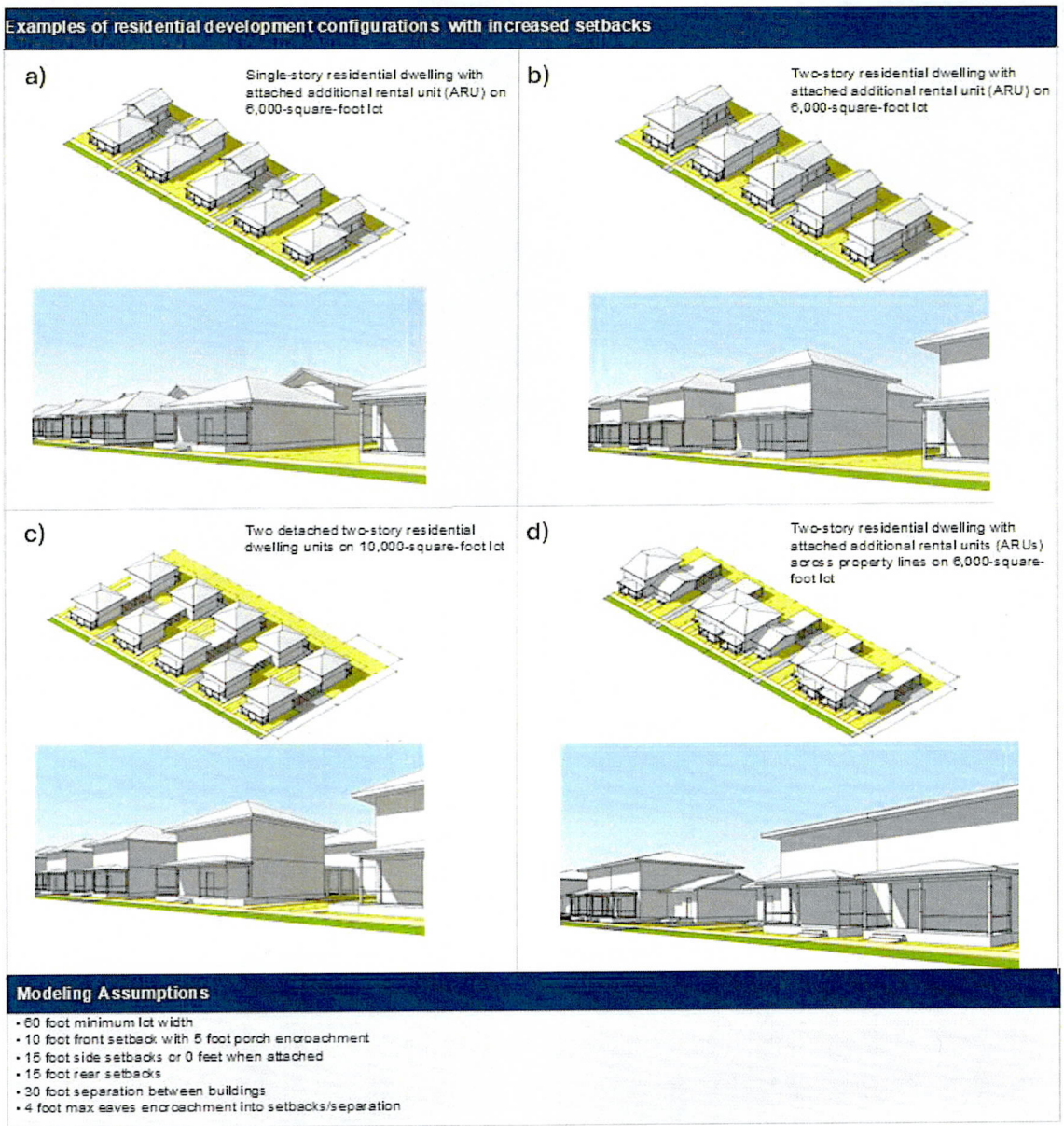


***Figure 5**. Urban design modeling outcomes with increased setbacks*

To further evaluate the implications of increased setback standards, the Department developed an experimental visual model based on an existing subdivision (the ʻEleʻele Iluna Subdivision Phase 2 project) to assess whether residential development could continue to accommodate comparable development density under proposed setbacks of 10 feet in the front yard, 15 feet in the side and rear yards, and 30 feet between buildings. The lots ranged in size from 6,000 to 10,000 square feet. Similar to the findings of the Opticos, Inc. study, the analysis demonstrated that residential development density could be maintained under the proposed setback framework. Please refer to Exhibit E for the illustrative urban design model.

To maintain interaction with the pedestrian streetscape while recognizing the role that streets and alleyways can serve as effective fuel breaks, the Department also determined that setback encroachments could be appropriate under certain circumstances. Specifically, proposed setback standards could allow up to a five-foot encroachment into the front setback for a primary entrance facing the front property line, as well as up to a five-foot encroachment into the rear setback where a rear vehicular access alleyway is provided to serve the residential structure.

Additionally, the proposed setback distances may be further reduced, subject to consultation with the Fire Chief and Planning Director, for structures utilizing shared-wall construction across property lines where the abutting walls are constructed of noncombustible materials, or for multifamily developments containing more than ten habitable residential units. These building types are generally constructed using more fire-resistant materials and construction methods, which can support a reduced wildfire exposure risk.

4. WUI Standards Cost Considerations

To evaluate the potential cost implications of the proposed Wildland-Urban Interface (WUI) standards, the Planning Department contracted Unlimited Construction Service, Inc. to prepare a Wildland-Urban Interface (WUI) Cost Impact Study. Building upon the September 2025 Plantation Camp WUI Ordinance Cost Study, this updated analysis updates the evaluation to additional common residential building types found throughout Kaua'i. This study compares hardening provision costs on several commonly used residential foundation systems, including slab-on-grade construction and elevated post and pier configurations at two and four feet above grade, which are commonly found in workforce housing developments throughout Kaua'i. The analysis also evaluates how varying foundation configurations affect underfloor protection requirements, exterior hardening measures, and the overall costs associated with WUI compliance.

While final pricing may vary depending on site-specific conditions, final design documents, permitting requirements, market conditions, and procurement timing, the analysis found the following estimated increases in construction costs associated with WUI compliance:

- Slab-on-grade construction: approximately $6.75 per square foot, representing a 1.6% increase;
- Elevated post and pier construction at two feet above finished grade: approximately $11.82 per square foot, representing a 3.0% increase; and
- Elevated post and pier construction at four feet above finished grade: approximately $6.74 per square foot, representing a 1.7% increase.

The slab-on-grade model and the four-foot elevated post and pier model reflected similar cost increases, while the two-foot elevated post and pier model demonstrated a moderately higher increase due primarily to additional earthwork and underfloor protection requirements associated with elevated foundations below the four-foot threshold.

Overall, the Department determined that the cost impacts associated with the proposed WUI standards are nominal. In consideration of the potential costs associated with wildfire-related damage, avoidable losses, and possible implications for insurance rates, the Department concluded that the anticipated costs are reasonable and appropriate.

It should also be noted that, as part of the evaluation and adoption process for the Plantation Camp Wildland-Urban Interface (WUI) Code, the Planning Department conducted a Plantation Camp Wildland-Urban Interface (WUI) Ordinance Cost Study in September 2025. The study prepared comparative cost estimates and design analyses for three construction approaches applied to the same residential structure: (1) a standard build utilizing conventional construction materials and methods; (2) a build incorporating the Plantation Camp WUI standards, which are generally comparable to the IBHS Wildfire Prepared Home "Base" designation; and (3) a higher-tier wildfire-resistant build incorporating noncombustible materials and fire-rated assemblies consistent with the IBHS "Optimum" standards.

This study informs the current proposed bill by providing the Planning Department with a clearer understanding of the cost implications associated with constructing homes to meet the IBHS "Optimum" standards compared to standards more closely aligned with the IBHS "Base" designation. The current proposed bill, similar to the adopted Plantation Camp WUI Code, generally aligns with the IBHS "Base" standards due to the significant cost implications associated with the "Optimum" standards.

For example, the study found that transitioning from standard construction to Plantation Camp WUI-compliant construction resulted in an overall cost increase of approximately 5.5%, equivalent to about $21.06 per square foot. In comparison, construction to the IBHS "Optimum" wildfire-resistant standards was estimated to increase total construction costs by approximately 22.9 percent, or $87.60 per square foot. The largest cost increases associated with the "Optimum" standards were attributed to requirements for fire-rated exterior wall materials and soffits. As discussed previously in this Director's Report, the use of fire-rated exterior wall materials, such as Hardie Board siding, and fire-rated soffits was estimated to increase construction and material costs by approximately $40 per square foot. In addition, IBHS "Optimum" standards for openings were estimated to increase costs by approximately $18 to $20 per square foot, while the incorporation of concrete hardscape added an estimated $13 to $15 per square foot compared to standard construction.

In consideration of these cost impacts, the proposed bill incorporates more flexible standards in certain areas. For example, the bill proposes installing 6 inches of noncombustible flashing material at the ground, decking and roof intersections to mitigate the risk of exterior wall ignition from ember accumulation rather than mandating noncombustible exterior wall material. Additionally, exterior glazing standards requiring either dual pane tempered glass or a fire-protection rating of not less than 20 minutes, rather than the 45-minute rating associated with the IBHS "Optimum" standards. Similarly, the proposed hardscape standards allow for a range of noncombustible

materials, including concrete, brick, and gravel, rather than limiting compliance solely to concrete hardscape treatments.

Please refer to Exhibit F and Exhibit G for the September 2025 Plantation Camp Wildland Urban Interface (WUI) Ordinance Cost Study and the June 2026 Wildfire Wildland Urban Interface (WUI) Ordinance Cost Impact Analysis for Alternative Residential Foundation Configurations, respectively.

It is also important to consider the potential implications that the adoption of WUI standards may have on the availability and affordability of property insurance. Insurers increasingly rely on sophisticated risk models to evaluate existing hazard exposure and assess risk at the property and community level. As the frequency and cost of natural disasters continue to rise, insurers have responded by reducing their exposure in higher-risk markets through premium increases, coverage restrictions, and policy nonrenewals.

Hawai'i is experiencing these trends firsthand. A report by the Hawai'i Appleseed Center for Law & Economic Justice found that between 2018 and 2023, homeowner insurance policy nonrenewals increased by nearly 216 percent statewide.[75] Additionally, between 2021 and 2024, Hawai'i homeowners experienced an average increase in insurance premiums of approximately 12 percent.[76] These trends have broader implications for housing affordability and accessibility. Because property insurance is generally a prerequisite for mortgage lending, reduced access to insurance creates significant barriers to homeownership, diminish housing market accessibility, and adversely affect property values for local residents.

Land use planning and building codes provide local governments with important tools to reduce hazard exposure and support long-term community resilience. While the adoption of WUI standards is unlikely to result in reductions in insurance premiums, such standards may help support the long-term availability and retention of insurance coverage by reducing community-level risk and ensuring that new development incorporates wildfire-resilient construction practices from the outset. As insurers increasingly evaluate risk, measures that reduce wildfire vulnerability may help communities remain insurable and better positioned to retain access to insurance coverage over time. As noted by the Hawai'i Appleseed Center for Law & Economic Justice, "Building resilient new housing secures a safer, more insurable future for all."[77]

Recognizing the important relationship between wildfire risk, resilience measures, and property insurance, the Planning Department consulted with wildfire expert and Principal Researcher for the Alliance for Wildfire Resilience, Dr. Kimiko Barrett, to better understand the insurance challenges and opportunities associated with wildfire risk reduction. Please refer to Exhibit H, *Wildfire & Insurance Challenges & Opportunities for Kaua'i County*, for Dr. Barrett's written insights and recommendations.

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[75] Heim, A. (2025, December). *Who pays for climate disasters? Case studies on regulatory responses to climate change-related disasters*. Hawai'i Appleseed Center for Law & Economic Justice.
[76] Ibid.
[77] Ibid, page 25.

The next section of the Preliminary Evaluation examines the proposed bill's alignment with existing plans and policies.

5. Consistency with Existing Plans and Policies

a. General Plan

The proposed bill is in alignment with the following goal and policy of the General Plan, which emphasize resiliency, safety, and preparing for climate change:

A. Section 1.3, entitled "Visions and Goals"

1) **Goal #3: "A Healthy and Resilient People"**- The General Plan's Goal #3 seeks to "*increase the resilience and vitality of Kaua'i's communities and promote better health outcomes through improving the natural, built, and social environment and responding to the impacts of climate change.*" The proposed bill advances this goal by strengthening the built environment's resilience to wildfire through the adoption of wildfire-resistant construction and material standards, defensible space requirements, and provisions for secondary access. Given Kaua'i's 'very high' level of wildfire risk,[78] these measures mitigate both an existing hazard and the increasing threat of wildfire associated with climate change, thereby supporting community health and long-term resilience.

B. Section 1.4, entitled "Policies to Guide Growth"

1) **Policy #14: "Prepare for Climate Change"**- Policy #14 directs communities to prepare for climate-related impacts. A growing body of research demonstrates a strong relationship between climate change and wildfire risk, with increasing temperatures and drier conditions contributing to landscapes that are more susceptible to ignition and rapid fire spread.[79] The Intergovernmental Panel on Climate Change Sixth Assessment Report also indicates that fire weather is projected to increase in many regions globally, with a 2°C warming scenario associated with an estimated 35 percent increase in burned area worldwide.[80] In Hawai'i, available data indicate that total area burned has increased more than fourfold over the past century.[81]

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[78] U.S. Forest Service. (n.d.). *Wildfire risk to homes: Kaua'i County, Hawai'i*. Wildfire Risk to Communities. https://apps.wildfirerisk.org/explore/risk-to-homes/15/15007/

[79] Synolakis, C. E., & Karagiannis, G. M. (2024). Wildfire risk management in the era of climate change. *PNAS nexus*, *3*(5), pgae151.

[80] Intergovernmental Panel on Climate Change (IPCC). 2022. Climate change 2022: impacts, adaptation and vulnerability. Contribution of working group II to the sixth assessment report of the intergovernmental panel on climate change. Cambridge, UK and New York, NY, USA: Cambridge University Press.

[81] Trauernicht, Clay & Pickett, Elizabeth & Giardina, Christian & Litton, Creighton & Cordell, Susan & Beavers, Andrew. (2015). The Contemporary Scale and Context of Wildfire in Hawai'i 1. Pacific Science. 69. 427-444. 10.2984/69.4.1.

The proposed bill functions as a climate adaptation measure by reducing the vulnerability of the built environment to wildfire. Defensible space and wildfire-resistant construction reduce structure ignitability, while secondary access provisions and address identification improve evacuation and emergency response. These measures enhance resilience not only to wildfire, but also to other hazard events, such as flooding, requiring emergency access.

2) **Policy #6: "Reduce the Cost of Living"**- Policy #6 underscores the importance of reducing the combined costs of housing and transportation, which currently account for more than 60 percent of the average household income on Kaua'i. Questions have been raised regarding how the proposed provisions, particularly those related to building materials and construction standards, may affect the cost of residential development. In recognition of these concerns, please refer to Section 4 which evaluates the WUI Standards Cost Considerations.

   At the same time, it is important to recognize that inaction carries significant long-term costs. Research indicates that investments in wildfire resilience yield substantial economic benefits, including:

   - Every $1 invested in making homes fire-resistant can result in up to $34 in avoided losses;
   - Buildings constructed in accordance with National Wildland-Urban Interface (WUI) recommendations can reduce fire-related damage by approximately $10 for every $1 invested; and
   - Each $1 invested at the community level can save an estimated $14 in future losses.

   Additionally, the increasing frequency and severity of wildfires are contributing to rising insurance premiums, policy non-renewals, and greater difficulty in securing mortgage financing, while also resulting in the loss of homes and entire communities. As such, wildfires are a growing driver of costly disasters. Adoption of a WUI code can help mitigate these risks by supporting the development of more resilient and safer communities, while also improving access to and stability of insurance coverage. Please refer to Section 4 for additional discussion regarding considerations related to insurance.

Additionally, the General Plan specifies actions that are tied to the overarching goals and policies outlined above. Some of the key policies associated with "Permitting and Code Changes" as well as "Partnership" actions are summarized in the text below:

A. Section 3.0, entitled "Actions by Sector"

1) **Sector IX. Public Safety & Hazards Resiliency: "Police, Fire, Ocean Safety, and Emergency Services"**
   a. The General Plan includes a partnership action to "*implement and update the Kaua'i Community Wildfire Protection Plan.*" The Kaua'i Community Wildfire Protection Plan (CWPP), developed by the Hawaii Wildfire Management Organization in collaboration with the Kaua'i Fire Department, the Hawai'i Department of Land and Natural Resources – Division of Forestry and Wildlife, and the Kaua'i Emergency Management Agency, provides guidance and strategic direction to mitigate wildfire risk on Kaua'i. The CWPP recommends reducing structure ignitability through defensible space and home hardening, as well as providing secondary emergency access in new residential subdivisions.[82]

      The proposed bill directly implements these recommendations through the wildfire mitigation measures described above, including defensible space requirements, wildfire-resistant construction standards, and secondary access provisions.

2) **Sector IX. Public Safety & Hazards Resiliency: "Hazards Resiliency"**
   a. The General Plan identifies a permitting and code-related action to "*periodically review building codes and permitting standards for alignment with disaster risk reduction (DRR) efforts.*" The proposed bill advances this action by amending Chapters 8, 12, and 15 to incorporate updated wildfire mitigation measures based on best available science. These include defensible space, wildfire-resistant construction, and secondary access requirements, which address identified gaps in the existing code framework and reduce overall wildfire vulnerability.

   b. The proposed bill is consistent with the General Plan's partnership action to "*reduce 'flash fuels,' such as dry vegetation, in high-use areas and to encourage vegetation clearing and clean-up programs.*" The bill supports this objective through defensible space requirements, which mandate the management and removal of flammable vegetation around residential structures. In practice, implementation of these requirements involves a designated managing entity, such as a homeowners association, to be responsible for ensuring vegetation maintenance within residential developments.

      In addition, the proposed bill includes a fire prevention outreach

[82] Hawai'i Wildfire Management Organization. (2024). *Kaua'i Community Wildfire Protection Plan.* https://static1.squarespace.com/static/660b500392aae13704d0e302/t/67999ac909758159af1d68f7/1738119942771/FINAL+K-Kauai_CWPP_Dec2024_SIGNED-compressed.pdf

and education component, which would support resident awareness of effective fuel management practices on private property. This component could also implement organized vegetation clean-up days, to further advance the General Plan's objective of reducing hazardous fuel loads.

c. The General Plan includes a partnership action to "*designate evacuation routes in cooperation with local communities.*" While the proposed bill does not designate routes within existing communities, it advances this objective by requiring secondary access for larger residential developments. This reduces reliance on single-access roadways and improves evacuation capacity and emergency response reliability.

3) **Sector IX. Public Safety & Hazards Resiliency: "Global Warming and Climate Change Adaptation"**

a. The General Plan includes a permitting and code-related action to "*regularly review and refine relevant policies, rules, and regulations based on the most currently available climate and hazard science and projections.*" The proposed bill advances this action by adding code provisions in accordance with current wildfire science. These updates incorporate widely recognized best practices, including home hardening standards, the establishment and maintenance of defensible space, and provisions to support emergency access and evacuation.

Certain measures identified in the literature as effective, such as a 30-foot structure-to-structure setback and the use of noncombustible wall materials (e.g., fiber cement siding such as Hardie board), are not included in the proposed bill due to cost considerations. In lieu of these requirements, the bill emphasizes defensible space provisions, which is a more economically feasible approach to reducing structure-to-structure fire spread risk.

b. While this Director's Report is not evaluating the amendments to Chapter 15, the inclusion of home hardening provisions is consistent with the General Plan's direction to "*periodically update building codes to ensure that standards for strengthening and elevating construction in hazardous areas reflect the best available science and planning information.*" Home hardening is widely recognized in both research and professional practice as an effective best practice for reducing structure ignitability and enhancing resilience to wildfire.

b. Kaua'i Adaptation and Action Plan

The Kaua'i Climate Adaptation and Action Plan (2025) identifies specific strategies and actions to guide the County's response to climate-related hazards, including wildfire risk. The proposed bill advances implementation of these strategies.

The Plan includes a priority strategy entitled "Resilient Site Design and Development Standards," which calls for the development and implementation of Wildland-Urban Interface (WUI)-specific regulations to reduce climate vulnerability through requirements for fire-resistant construction. An associated action directs the County to develop and implement a WUI code, along with a corresponding overlay zone, to mandate wildfire risk mitigation measures in vulnerable areas. These measures include standards for fire-resistant building materials, defensible space around structures, and adequate emergency access.

The proposed bill is consistent with this strategy and associated action by establishing a comprehensive wildfire and WUI regulatory framework. This includes provisions related to fire-resistant construction standards (amendments to Chapter 15), defensible space requirements (amendments to Chapter 8), and emergency access (including requirements for secondary access routes).

While the Plan contemplates the creation of a WUI overlay zone, the proposed bill instead applies these standards broadly to residential structures and associated accessory structures island-wide. This approach is supported by current wildfire science and local risk conditions. Wind-driven embers- responsible for the majority of structure ignitions- can travel significant distances, meaning that wildfire exposure is not limited to traditionally defined WUI areas. Additionally, Kaua'i faces elevated wildfire risk relative to many jurisdictions nationwide, further supporting the application of consistent, island-wide standards.

In consideration of these factors, and in consultation with wildfire experts, including the Hawaii Wildfire Management Organization, it was determined that implementing a countywide regulatory approach, rather than a geographically limited overlay, is both appropriate and aligned with current wildfire risk and mitigation best practices.

c. Lahaina Fire Incident Analysis Report

The Lahaina Fire Incident Analysis Report consists of three reports commissioned by the Hawai'i Department of the Attorney General (DOAG) to provide an independent review of the August 8–9, 2023 Lahaina fire. The reports identify key findings and recommendations to enhance wildfire safety statewide. The proposed bill aligns with the following recommendations:

- *WUI Code adoption*
  - Adopt stronger WUI codes (e.g., ICC International Wildland-Urban Interface Code and NFPA 1140: Standard on Wildland Fire Protection) or WUI Structure/Parcel/Community Hazard Mitigation Methodology

guidance

The proposed bill aligns with this recommendation by establishing a WUI code and incorporating provisions and best practices from IBHS "Base" standards.

❖ *Fire-resistant building construction*
- Adopt and enforce contemporary codes and standards for building construction in wildfire prone areas.
- Buildings should be constructed and maintained to resist ember intrusion. This will include construction features (vents, roofs, etc.).

While this Director's Report focuses on amendments to Chapter 8 rather than the Building Code, the proposed bill includes fire-resistant construction standards intended to improve resistance to ember intrusion, consistent with these recommendations.

❖ *Defensible Space*
- Update, implement, and enforce fuel management and defensible space around structures

The proposed bill directly aligns with this recommendation by establishing and requiring defensible space around structures.

❖ *Education*
- Educate homeowners on how to create defensible space around their properties, and require them to maintain these spaces.
- Residents and citizens should be educated on the importance of closing building openings as an important component of preparation for, and departure from, a home during an evacuation—part of a "Ready, Set, Go: Close Before You Go" campaign.

The proposed bill supports this recommendation by incorporating fire prevention outreach and education requirements, which promote homeowner awareness and ongoing maintenance of defensible space and property-level wildfire preparedness.

VIII. PRELIMINARY CONCLUSION

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

IX. PRELIMINARY RECOMMENDATION

Based on the foregoing evaluation and conclusion of the final proposed bill, it is recommended that the subject request to amend Chapter 8 (Comprehensive Zoning

Ordinance) of the Kaua'i County Code (1987), as amended, be **APPROVED** subject to the following revisions:

1. As a result of the proposed removal of the "Dwelling, Single-Family Attached" use classification, all provisions and references within the Comprehensive Zoning Ordinance (CZO) pertaining to single-family attached dwellings should also be removed. This includes, but is not limited to, references contained within the Use Table in Section 8-2.4, Section 8-4.4(b), Section 8-4.5(b)(1), Section 8-4.5(c)(1), Section 8-15.1(a), and Section 8-15.2(a). Corresponding amendments to these sections should be incorporated into the proposed bill.

2. Remove the definition for "Fire Stopped" given that this term does not appear in the existing language of Chapter 8 or in the proposed amendments.

3. Remove the definition for "Ignition resistant" given that this term does not appear in the existing language of Chapter 8 or in the proposed amendments.

4. Revise the proposed definition of "Noncombustible" to mean "a material that will not ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat, as determined by ASTM E136 or other approved standards.

5. Remove the definition of "Noncombustible roof covering" given that this term does not appear in the existing language of Chapter 8 or in the proposed amendments.

6. Revise the definition of "Residential Structure Zone" to replace the term 'fire-resistant' with 'ignition-resistant and noncombustible'.

7. Remove the definition of "Roof assembly" given that this term does not appear in the existing language of Chapter 8 or in the proposed amendments.

8. Remove the definition of "Roof covering" given that this term does not appear in the existing language of Chapter 8 or in the proposed amendments.

9. Remove the definition of "Roof deck" given that this term does not appear in the existing language of Chapter 8 or in the proposed amendments.

10. Remove the definition of "Structure, Accessory" given that this definition already exists in Chapter 8's definitions and the proposed and existing definition are not substantially different.

11. Replace 'Public Works' Engineer with 'County' Engineer in Section 8-4.5(f).

12. Include a new provision within Section 8-19 that establishes WUI setbacks, including a front setback of 10 feet, a rear setback of 15 feet, side setbacks of 15 feet, and a building-to-building setback of 30 feet. Adjust article title and provision titles and numbering accordingly.

13. Include a new provision in Section 8-19(h) which includes fuel maintenance requirements for unenclosed underfloor areas beneath elevated residential structures.

14. In Section 8-19(h) add details for number height for addressing.

15. Add in Section 8-19(i) that the requirements are specifically applied to residential structures.

16. Add a new definition for "Accessory Structure Zone" to describe this defensible space area.

17. Add maintenance requirements to take place on the accessory structure itself which mirror the Residential Structure Zone requirements.

18. Remove the provision in Section 8-19(k) that requires ground cover within the NCZ for accessory structures to be noncombustible.

19. Add an exemption for maintained lawn grass to grow within the NCZ of accessory structures in Section 8-19(k).

20. Add that an applicable property management entity can also conduct fire prevention outreach and education requirements in addition to the HOA in Section 8-19(l).

The Planning Commission's formal action pertains to Chapter 8. Any revisions to Chapters 12 and 15 will be subject to review and approval by the Building Division. However, to provide a comprehensive package of preliminary recommendations and facilitate additional discussion, this Director's Report also includes a preliminary evaluation of proposed amendments to Chapters 12 and 15. Based on the foregoing evaluation, it is recommended that Chapters 12 and 15 be revised as follows:

1. In the Chapter 15B title, delete the word "Wildfire" so that the chapter title reads "Wildland-Urban Interface (WUI) Construction Requirements," as the term "WUI" already stands for "Wildland-Urban Interface" and does not include the term "wildfire."

2. Remove the definition for "Defensible Space" given that this term does not appear in the existing language of Chapter 15 or in the proposed amendments for this Chapter.

3. Revise the definition term for "Fire Stopped" to instead read as "Firestopping."

4. Revise the proposed definition of "Ignition-resistant" to replace the example of "fire-treated wood" as "fire-retardant-treated wood."

5. Revise the definition of "Roof assembly" to delete the reference to a fire barrier.

6. Revise the definition of "Structure, Accessory" to align with the existing definition of "Accessory Structure" included in the CZO.

7. Revise the definition of "Structure, Residential" to reference Section 8-1.5, as amended to create consistency in defining the dwelling types that are listed.

8. Add to the residential roof construction requirements that roofs can also have an approved noncombustible roof covering.

9. Add to the exterior glazing provisions that the exterior glazing should also conform to ASTM E2010.

10. For addressing provisions, add details for number height for addressing.

By _____
Alisha Summers
Planner

Approved & Recommended to Commission:

By _____
KA'ĀINA S. HULL
Director of Planning

Date: 6-3-26

Exhibit A:

Original proposed bill

ORDINANCE NO. _____ BILL NO.

_____

A BILL FOR AN ORDINANCE AMENDING CHAPTER 15, 12, AND 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO A WILDFIRE AND THE WILDLAND URBAN INTERFACE (WUI)
(County of Kaua'i, Applicant) (ZA-2026-XXX)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I:

SECTION 1. Purpose. The purpose of this ordinance is to establish wildfire and the wildland urban interface (WUI) standards by amending Chapter 15 of the Kaua'i County Code 1987, as amended, relating to building and construction regulations, Chapter 12 relating to building and construction regulations, and Chapter 8 relating to the Comprehensive Zoning Ordinance (CZO), in order to enhance public safety, reduce property loss, and protect lives from wildfire hazards.

SECTION 2. Findings. The Council finds that wildfire activity in the United States has become larger, more frequent, and more widespread over recent decades, and that the total area burned in the State of Hawai'i has increased more than fourfold over the past century, posing a threat to property and safety; and

WHEREAS, the Council further finds that more than 38,000 homes and over 200 lives have been lost in the United States to four major wildfire events since 2018, including the Camp Fire (2018), the Marshall Fire (2021), the Lāhainā Fires (2023), and the Los Angeles Fires (2025), which were human-caused, occurred during extreme wind events, and resulted in urban conflagrations that rapidly spread through densely populated areas; and

WHEREAS, The Council finds that, according to USDA Forest Service national wildfire risk datasets, homes in Kaua'i County face a higher wildfire risk than approximately 91 percent of U.S. counties, indicating that communities on Kaua'i are subject to a very high level or wildfire risk, thereby necessitating regulatory measures to mitigate these risks; and

WHEREAS, the Council also finds that proactive planning measures, including requirements related to building materials, connective fuels, and multiple means of ingress and egress, emergency accesses, and evacuation routes can reduce property loss, limit fire spread between structures, and protect residents during wildfire events; and

WHEREAS, the Lāhainā Fire Incident Analysis Report identified ten key priorities for enhancing wildfire safety statewide, including the adoption and implementation of Wildland Urban Interface (WUI) codes, ember-resistant construction standards, and defensible space and fuel management requirements; and

WHEREAS, the Council further finds that the General Plan provides policy guidance to promote public safety and hazard resiliency by directing that building codes and permitting standards align with disaster risk reduction efforts and address hazardous fuels such as dry vegetation; and

WHEREAS, the General Plan further includes an action to implement the Kaua'i Community Wildfire Protection Plan, which recommends increasing the use of fire-resistant building materials in new residential construction, managing defensible space, and requiring multiple means of ingress and egress; and

WHEREAS, the Council finds that, based on the foregoing, the adoption and implementation of Wildfire Wildland Urban Interface (WUI) regulations will provide a comprehensive framework to reduce wildfire risk and address associated wildfire hazards.

SECTION 3. The content of Chapter 15, Kaua'i County Code 1987, as amended, is amended to add Chapter 15B:

CHAPTER 15 GENERAL PROVISIONS RELATING TO BUILDING AND CONSTRUCTION

§ 15B. Wildfire Wildland Urban Interface (WUI) Construction Requirements

(a) General Provisions.

(1) Lands Included.

(A) All lands on which a residential structure is proposed to be constructed.

(2) Other Laws and Regulations. All improvements subject to this Article shall comply with other applicable laws and regulations, including but not limited to the State and County Fire Codes, Building Code, Floodplain Management Code, Subdivision Ordinance, and Sediment and Erosion Control Ordinance. In case of a conflict between this Article and the requirements of any other Federal, State, or County law, such as the State Fire Code or the County Fire Code, the more restrictive requirements shall apply.

(3) Interpretation. In the interpretation and application of this Article, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the County; and

(C) Deemed to neither limit nor repeal any other requirement, power, or duty prescribed under Federal, State, or County law.

(5) Warning and Disclaimer of Liability. The degree of wildfire and wildland urban interface required by this Article is considered reasonable for regulatory purposes and is based on wildfire hazard assessment considerations. Wildfires can and will occur on occasion. This Article does not imply that land outside the area of the subject property or uses and structures within this area will be free from wildfire risk. This Article shall not create liability on the part of the County of Kaua'i or any officer or employee for any damages that result from reliance on this Article or any administrative decision lawfully made based on this Article.

(b) Definitions.

"Advancing Standards Transforming Markets (ASTM)" means the organization (formerly referred to as the American Society for Testing and Materials) that develops standards and publishes voluntary consensus technical international standards for a wide range of materials, products, systems, and services.

"County" means the County of Kaua'i.

"Defensible space" means an area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared, maintained or modified to slow the rate and intensity of an advancing wildfire through an urban or rural area and to create an area for structure defense operations to occur.

"Fire Stopped" means the process of filling openings and joints between walls, floors, and roofing material to inhibit the spread of fire between compartments within a structure.

"Ignition-resistant" as applied to building construction material means a material treated or manufactured to delay ignition and tested to conform to

ASTM E84 or ASTM E2768. Examples include but are not limited to fire-treated wood, dense hardwoods like ipe, and fiber-cement boards.

"Noncombustible" as applied to building construction material means a material of which no part will ignite and burn when subjected to fire and tested to conform to ASTM E136. Examples include but are not limited to concrete, metal, glass, and stone.

"Noncombustible roof covering" means a roof covering consisting of any of the following: (1) cement (or fiber-cement) shingles or sheets, (2) ferrous shingles or sheets, or (3) slate shingles.

"Noncombustible zone (NCZ)" means the area of land that extends 5 feet measured from the edge of the exterior walls of a structure and any unenclosed appendages or projections (including but not limited to lānais, porches, and stoops). This area is also referred to as Zone 0 in Chapter 8.

"Roof assembly" means a system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly can include an underlayment, thermal barrier (i.e., insulation), ignition (fire) barrier, insulation, or a vapor retarder.

"Roof covering" means the covering applied to the roof deck for weather resistance or appearance. The roof covering and underlying components are part of the fire rating for the roof assembly.

"Roof deck" means that flat or sloped surface of a roof not including its supporting members or vertical supports.

"Structure, Accessory" means a structure that is subordinate to, and the use of which is incidental to that of the primary structure or use on the same lot or parcel and not used for human occupancy of habitation. An accessory structure is not a primary structure.

"Structure, Residential" means a structure that is used for habitation purposes and having all necessary facilities for residency such as living, sleeping, cooking, eating, and sanitation. These structures include but are not limited to single-family dwelling units, farm dwelling units, multifamily dwelling units, additional dwelling units (ADUs), additional rental unit (ARUs), and a guest house. A residential structure is not an accessory structure.

"Structure, Unenclosed Accessory" means an accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

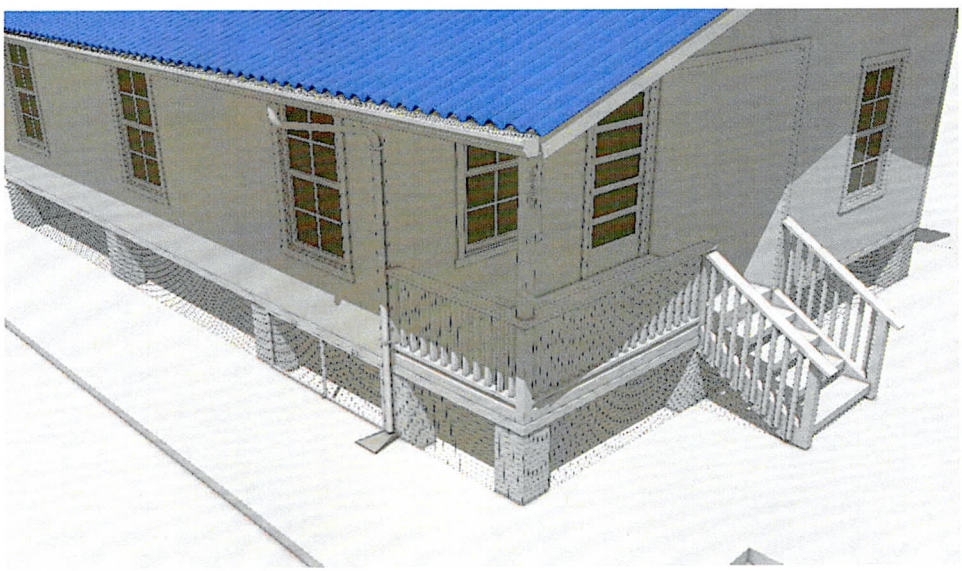
"Wildfire" means an uncontrolled fire spreading through the natural or built environment exposing and possibly consuming structures.

"Wildland" means an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar facilities.

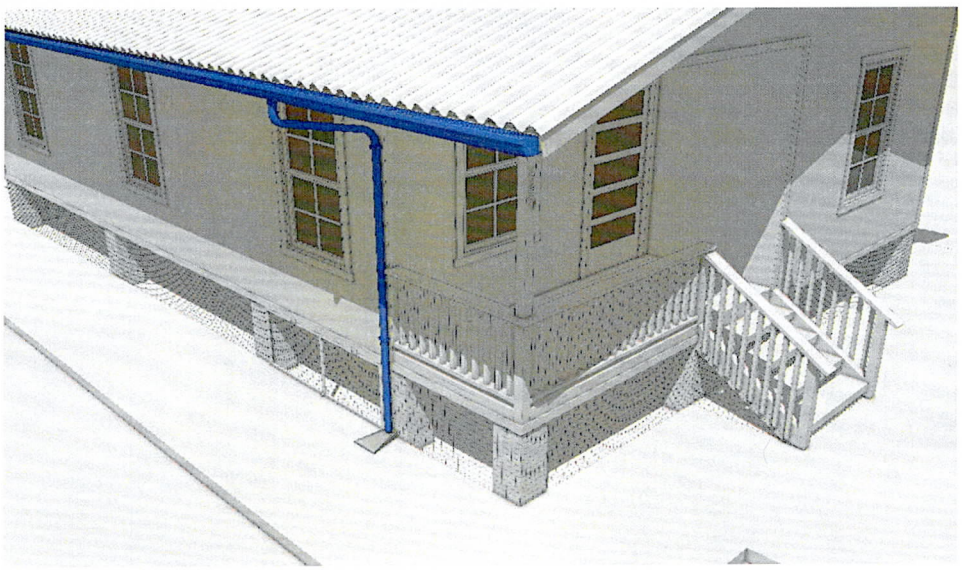
"Wildland Urban Interface (WUI)" means the zone of transition between unoccupied land and human development. It is the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.

(c) Residential Construction.

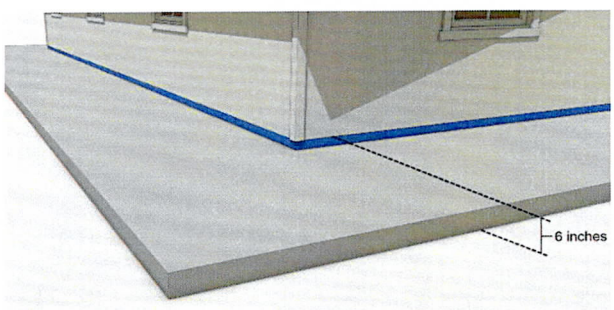
(1) Construction Requirements. For any newly proposed Residential structures, or substantial improvements of existing structures, the following construction requirements shall be met:

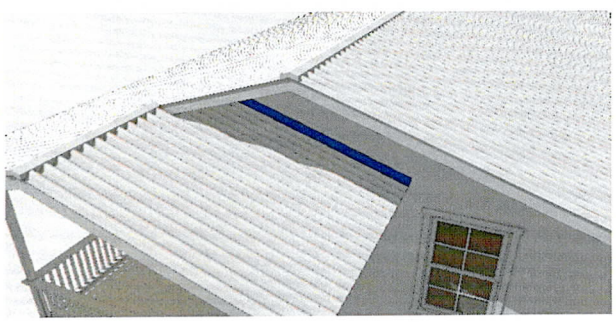


(A) Roofs. Roofs shall have a roof assembly that complies with a Class A rating when tested in accordance with ASTM E108. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space shall be fire-stopped to prevent entry of flames or embers.

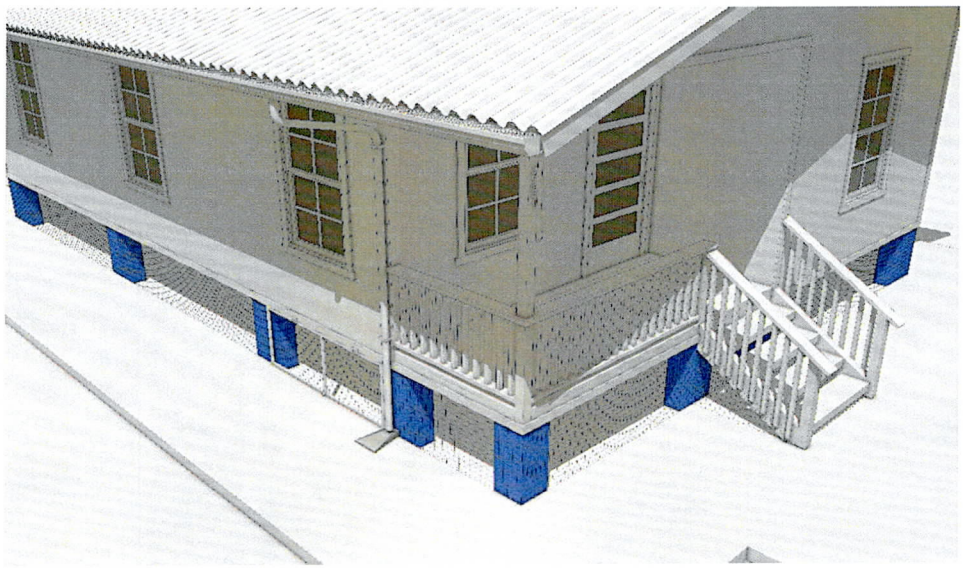


(B) Gutters and Downspouts. Gutters and downspouts shall be constructed of metal material. Gutters shall be covered with a noncombustible material to prevent the accumulation of debris within the gutter.

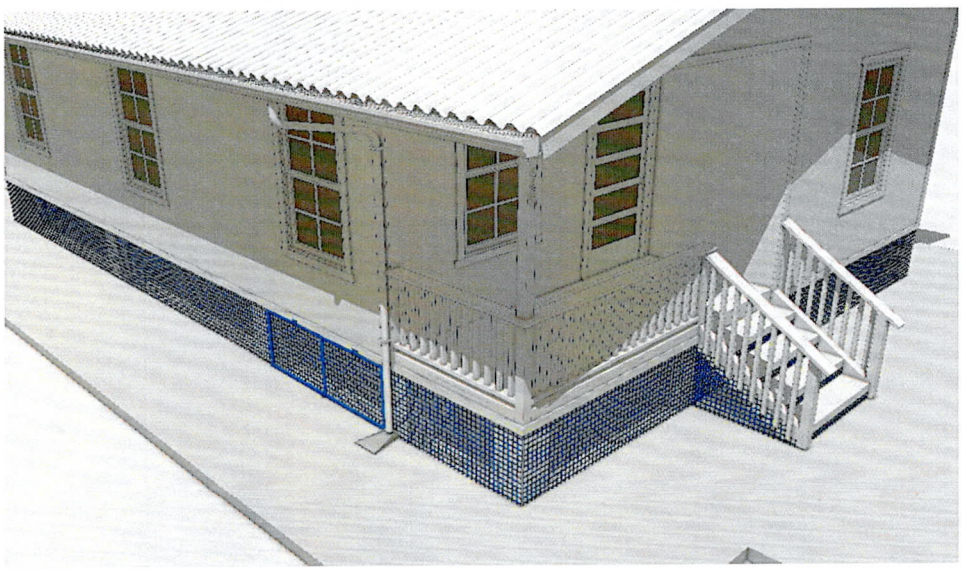




(C) Exterior walls. A minimum of 6 inches of noncombustible material vertically on the exterior of the wall shall be installed at the ground, decking, and roof intersections. This material shall extend behind the associated siding to reduce ember entrapment.



(D) Post and pier. If any residential structure is elevated, the post and pier material shall be noncombustible or at a minimum 6 inches of noncombustible material shall be installed vertically on the exterior of the post and pier at grade and abut against the adjacent 5-foot hardscape non-combustible zone (NCZ).



(E) Underfloor Enclosure. Residential structures elevated on post and pier at four feet or less (or any portion of the structure) and any attached appendages and projections such as decks, lānais, porches, and stoops elevated on post and pier at four feet or less (or any of the projection) shall have the underfloor areas enclosed to the ground with noncombustible corrosion-resistant mesh screen size not to exceed 1/8

inch (3.2 mm). The mesh shall meet the following additional requirements:

(i) Extended down to be flush with grade and abut against the adjacent 5-foot hardscape non-combustible zone (NCZ). For structures on a slope that may have portions elevated higher than four feet, the mesh screen enclosure of that portion of the structure is not required. The mesh enclosure for the portions of the structure that are elevated at four feet or less shall be extended below grade by at least four inches and fire stopped to prevent ember intrusion.

(ii) Any associated material including but not limited to framing material or covering material (such as lattice) shall be noncombustible; and,

(iii) At least one area of the underfloor area mesh screening shall be constructed and framed in a manner to allow a minimum 16" x 24" of the mesh screen to be removed for access and maintenance purposes of the underfloor area. The framing and any other associated material for this access section of the mesh screening shall be made of noncombustible material.

(iv) Residential structures elevated on post and pier in order to meet floodplain management standards shall still meet all requirements of K.C.C. 15-1.5(a)(3)(A) shall have underfloor areas screened in a manner that has a minimum of two (2) floodwater openings pursuant to Chapter 15-1.5 of the K.C.C. whereby any floodwater opening device that permits the automatic entry and exit of floodwaters shall be fire-stopped to prevent entry of flames or embers subject to review and approval of the Fire Chief and Floodplain Manager.

(F) Appendages and projections. Unenclosed appendages and projections attached to buildings such as decks, lānais, porches, and stoops elevated on post and pier shall have underfloor areas enclosed to the ground with noncombustible corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm) and shall meet the following additional requirements:

(i) When elevated, to prevent any ember intrusion beneath the underfloor area, all floorboards shall be flush with each other without any parallel space apart from each other.

(ii) Noncombustible or ignition-resistant material is required for all exterior flooring material.

Exception: if the exterior flooring material, such as floorboards, are comprised of combustible material, at a minimum all floorboards perpendicular to a wall or a post shall be ignition resistant within 6 inches of the deck-to-wall or deck-to-post intersection.

(iii) Noncombustible or ignition-resistant material is required for all walls and posts that are perpendicular to the deck.

Exception: if the wall or post is comprised of combustible material, at a minimum the wall or post shall have 6 inches of noncombustible flashing installed at the wall-to-deck or post-to-deck intersection.



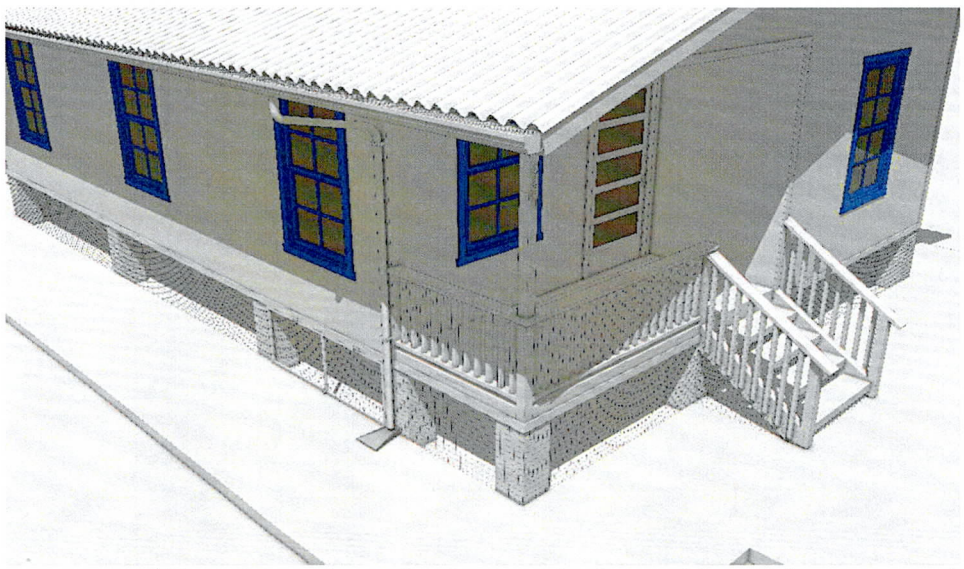
(G) Vents. Ventilation openings for enclosed attics (e.g., gable ends, ridge ends, and enclosed eave soffit spaces), enclosed rafter spaces

formed where ceilings are applied directly to the underside of roof rafters, underfloor ventilation, foundations, and crawl spaces; under eaves and cornices; or for any other opening intended to permit ventilation, either in a horizontal or vertical surface, shall resist the intrusion of burning embers and flames by meeting one of the following requirements:

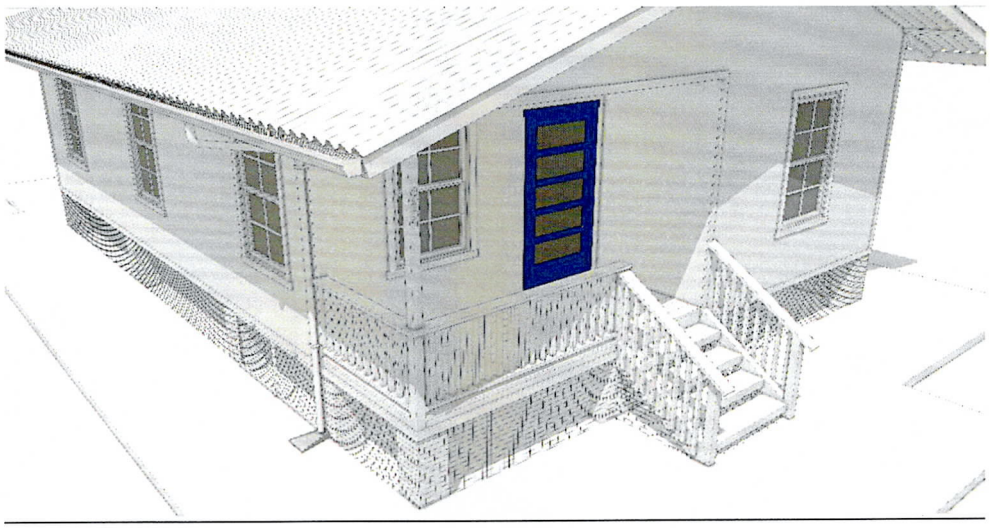
(i) Performance-based requirements: Corrosion-resistant ember and flame-resistant vents tested to conform to ASTM E2886.

(ii) Prescriptive-based requirements: Vents shall be made of a noncombustible material and covered on the exterior with noncombustible corrosion-resistant mesh with openings not to exceed 1/8 inch (3.2 mm).

Exceptions: Dryer vents shall have a solid metal louver or flap in lieu of mesh. Plumbing vents are excluded from these requirements.



(H) Exterior glazing. Each residential structure's exterior windows, window walls, glazed doors, and windows within exterior doors shall be dual pane tempered glass or have a fire protection rating of not less than 20 minutes and tested to conform to ASTM E119.



(I) Exterior doors. Exterior doors shall be solid core wood or have an exterior surface with noncombustible or ignition-resistant building material or have a fire protection rating of not less than 20 minutes.



(J) Addressing. Each residential structure shall have its address marked with reflective material on its exterior thoroughfare facing wall.

SECTION 4. The content of Chapter 12, Kaua'i County Code 1987, as amended, is amended as follows:

§ 12-1.3 Administration

The following provisions reference the International Building Code, 2018 Edition, amended to read as follows, but shall apply generally to any construction-related reference to Chapter 12, Kaua'i County Code 1987, as amended, and shall supersede and survive any county adoption deadlines relating to various code effective dates pursuant to action of the State Building Code Council:

...

(23) Amending Section **105.2 Work exempt from permit.** Section 105.2 is amended to read:

105.2 Work exempt from permit. A building permit shall not be required for the following; however, all other governmental agency codes and laws shall be complied with:

1. Work accepted under Section 101.2.

2. One-story detached accessory buildings used as tool and storage sheds, playhouses, animal shelters, green houses, trash enclosures and similar uses, provided the floor area does not exceed [~~300~~] 200 square feet and complies with Chapter 8, Comprehensive Zoning Ordinance; Chapter 15, Article 1, Floodplain Management, Kaua'i County Code 1987, as amended and the Administrative Laws and Rules of the Department of Health, State of Hawai'i.

...

SECTION 5. The content of Chapter 8, Kaua'i County Code 1987, as amended, is amended as follows:

CHAPTER 8 COMPREHENSIVE ZONING ORDINANCE

...

§ 8-1.5 Definitions

...

"**Advancing Standards Transforming Markets (ASTM)**" means the organization (formerly referred to as the American Society for Testing and Materials) that develops standards and publishes voluntary consensus technical international standards for a wide range of materials, products, systems, and services.

...

"**County**" means the County of Kaua'i.

...

"Defensible space" means an area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared, maintained or modified to slow the rate and intensity of an advancing wildfire through an urban or rural area and to create an area for structure defense operations to occur.

...

~~["Dwelling, single family attached" means a building consisting of two or more dwelling units designed for occupancy by two or more families living independently of each other where each unit is structurally independent although superficially attached or close enough to appear attached.]~~

...

"Fire-prone vegetation" means material that in its natural state can readily ignite, burn, and rapidly transmit fire. For the purposes of this Article this definition is limited solely to the three following plant species: 1) Megathyrsus maximus or commonly known as "Guinea Grass," 2) Leucaena leucocephala or commonly known as "Haole Koa," and 3) Cenchrus ciliaris or commonly known as "Buffel Grass."
"Fire Stopped" means the process of filling openings and joints between walls, floors, and roofing material to inhibit the spread of fire between compartments within a structure.
"Firewood" means any kindling, logs, timber, or other portions of a tree of any species four (4) feet or less in length, cut or split, or intended to be cut or split, into a form and size appropriate for use as fuel for fires in an open pit, imu, grill, fireplace, stove, or other wood burning furnace or device.

...
"Ignition-resistant" as applied to building construction material means a material treated or manufactured to delay ignition and tested to conform to ASTM E84 or ASTM E2768. Examples include but are not limited to fire-treated wood, dense hardwoods like ipe, and fiber-cement boards.

...

"Noncombustible" as applied to building construction material means a material of which no part will ignite and burn when subjected to fire and tested to conform to ASTM E136. Examples include but are not limited to concrete, metal, glass, and stone.
"Noncombustible roof covering" means a roof covering consisting of any of the following: (1) cement (or fiber-cement) shingles or sheets, (2) ferrous shingles or sheets, or (3) slate shingles.
"Noncombustible zone (NCZ)" means the area of land that extends 5 feet measured from the edge of the exterior walls of a structure and any unenclosed

appendages or projections (including but not limited to lānais, porches, and stoops). This area is also referred to as Zone 0.

...

"Residential Structure Zone" means an area that applies to the residential structure itself, and it includes requirements for ember ignition mitigation and fire-resistant construction to reduce the risk of structure ignition.

...

"Roof assembly" means a system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly can include an underlayment, thermal barrier (i.e., insulation), ignition (fire) barrier, insulation, or a vapor retarder.
"Roof covering" means the covering applied to the roof deck for weather resistance or appearance. The roof covering and underlying components are part of the fire rating for the roof assembly.
"Roof deck" means that flat or sloped surface of a roof not including its supporting members or vertical supports.

...

"Structure" means anything affixed, constructed, or erected that requires location on the ground or is attached to something having location on the ground, excluding:

(a) Vehicles designed and used only for the transportation of people or goods;

(b) Utility poles and towers constructed by a public utility; and

(c) Development or construction that meets all the following criteria:

(1) Does not exceed 200 square feet in size,

(2) Does not exceed 10 feet in height,

(3) Does not encroach into the respective lot's property line setbacks pursuant to KCC Chapter 8,

(4) Does not encroach into the respective lot's building-to-building setbacks pursuant to KCC Chapter 8,

(5) Does not exceed the respective lot's land coverage ratio pursuant to KCC Chapter 8,

(6) Is not used for residential or habitation purposes, and

(7) Is not used for the exchange of goods or services for compensation for a fee or otherwise.

To be considered a single structure, any attached appurtenance to the main structure needs to be structurally dependent upon that main structure. Any appurtenance that is attached to another structure but not structurally dependent upon that structure shall be deemed a separate structure and subject to all zoning regulations accordingly including but not limited to minimum distance setbacks for separate structures under Section 8-4.3(b)

"Structure, Accessory" means a structure that is subordinate to, and the use of which is incidental to that of the primary structure or use on the same lot or parcel and not used for human occupancy of habitation. An accessory structure is not a primary structure.

"Structure, Residential" means a structure that is used for habitation purposes and having all necessary facilities for residency such as living, sleeping, cooking, eating, and sanitation. These structures include but are not limited to single-family dwelling units, farm dwelling units, multifamily dwelling units, additional dwelling units (ADUs), additional rental unit (ARUs), and a guest house. A residential structure is not an accessory structure.

...

"Unenclosed Accessory Structure" means an accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

...

"Wildfire" means an uncontrolled fire spreading through the natural or built environment exposing and possibly consuming structures.

"Wildland" means an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar facilities.

"Wildland Urban Interface (WUI)" means the zone of transition between unoccupied land and human development. It is the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.

...

"Zone 0: 5-Foot Noncombustible Zone (NCZ)" means an area that extends five feet from the exterior of a residential structure and any attached appendages and projections. It shall consist of noncombustible hardscape and materials. The purpose of this zone is to prevent direct flame contact and reduce the risk of ember ignition at the structure's base.

"Zone 1: 30-Foot Defensible Space" means an area that extends from the edge of Zone 0 to 30 feet away from the structure or to the property line, whichever is closer. It requires vegetation management such as pruning lower limbs, spacing trees and shrubs, and removing combustible materials to reduce fuel loads and slow fire spread toward the structure. Fire-prone vegetation is prohibited.

§ 8-4.3 Development Standards for Residential Structures Not Involving the Subdivision of Land.

(a) Parcel Area. The parcel area required for singly family detached dwelling units shall be calculated in accordance with the density and acreage limitations in the particular Residential Density District, as provided in Sec. 8-4.2, except that, one singly family detached dwelling unit may be constructed on any legal lot or parcel of record as of August 17, 1972, even if the lot or parcel is smaller than is required in the density district in which the lot or parcel is located.

(b) Setback requirements. Setback requirements shall be as follows:

(1) Front setback: No structure, including but limited to garages, carport, decks above grade, and accessory or storage structures may be closer than 10 feet to the right-of-way line of a public throroughfare or the property line of a private street or the pavement line of driveway or parking lot serving more than three dwelling units.

(2) Rear setback: No structure shall be closer than five (5) feet or ½ the total height of the building wall nearest the rear property line, whichever is greater.

(3) Side setback: No building shall be closer to a side than five (5) feet or ½ the total height of the highest building wall from the ground level nearest the property line, whichever is greater.

(4) No eave, roof overhang, or other appurtenance to a building, other than a fence under six feet in height, shall project into any setback more than ½ the distance of the setback, or four feet, whichever is less. Fences under six feet in height constructed within the setback shall comprised of non-combustible material.

(5) No balconies, overhead walkways, decks, carports or other exterior spaces intended for human occupancy above the ground floor of any building, shall penetrate the setback area.

~~(6) [Accessory building and garden or service shelters not height than seven feet nor covering more than 400 square feet, nor exceeding 20 % of the rear side property line in the longest dimension facing the rear property line, may be built without setback.]~~

(7) Greater setbacks because of topographic, drainage, sun exposure or privacy conditions may be required and made a condition for a Zoning Permit.

(8) Minimum distance between structures. Minimum distance between structures shall be 10 feet.

(9) In consultation with the Fire Chief, and where all respective property owners provide written consent, the Planning Director may reduce minimum distances of buildings to property lines for shared wall construction if the proposed building's wall adjacent to the respective property line is constructed with non-combustible material.

(10) In consultation with the Fire Chief, the Planning Director may reduce minimum distances between structures proposed on a property for shared wall construction if the respective structure(s)'s abutting walls or shared walls are constructed with non-combustible material.

...

§ 8-4.5 Standard of Development Applicable to All Residential Development

...

(e) Non-combustible Zone. A five (5) foot non-combustible zone with groundcover comprised of hardscape (such as concrete, brick, or gravel) with a depth of at least four (4) inches shall be constructed and maintained for any residential structure. For pervious material like gravel or crushed rock, a protective barrier shall be utilized beneath the pervious hardscape that prevents organic material growth. This five (5) foot groundcover hardscape requirement is not required for accessory structures.

(f) A second county standard access road is required for proposals that include the following:

1) Subdivision of 20 or more lots;

2) Condominium property regime (CPR) for 20 or more units; or

3) A zoning permit for 20 or more dwelling units.

The Planning Director or Planning Commission may require additional access beyond the second county standard access road when recommended by the Public Works Engineer or the Fire Chief.

...

§ 8-19 Wildfire Wildland Urban Interface (WUI) Defensible Space Standards.

(a) General Provisions.

The implementation of this Section shall be by recorded covenants which shall run with the land for any of the following applications:

1) Subdivision of ten (10) or more lots,

2) Condominium property regime (CPR) for ten (10) or more units, or

3) A zoning permit for ten (10) or more dwelling units.

The covenants shall obligate all of the landowners within the project area subject to this Section to be mandatory members of an Association established by the developer, which could include but is not limited to a Homeowners Association (H.O.A.), limited appreciation leasehold estate, land trust, or similar civil property management entity.

(b) There shall be adequate assurance for perpetual compliance by recorded covenants running with the land which shall include but not necessarily be limited to the following:

(i) Provisions included in a recorded Association declaration and within owner deed restrictions obligating owners to build and comply with this Section.

(c) Enforcement. The Association or all of the owners shall be subject to the Enforcement, Legal Procedures, and Penalties established under Section 8-3.5 of the Kauai County Code.

(d) Other Laws and Regulations. All clearing and maintenance subject to these regulations shall comply with other applicable laws and regulations,

including but not limited to the State and County Fire Codes, Building Code, Subdivision Ordinance, and Sediment and Erosion Control Ordinance. In case of a conflict between these regulations and the requirements of any other Federal, State, or County law, such as the State Fire Code or the County Fire Code, the more restrictive requirements shall apply.

(e) The County shall not be liable for expenses incurred in the removal or replacement of any material required for the landowner to comply with this Article or to allow inspection.

(f) Interpretation. In the interpretation and application of this Article, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the County; and

(C) Deemed to neither limit nor repeal any other requirement, power, or duty prescribed under Federal, State, or County law.

(g) Warning and Disclaimer of Liability. The degree of wildfire and wildland urban interface required by this Article is considered reasonable for regulatory purposes and is based on wildfire hazard assessment considerations. Wildfires can and will occur on occasion. This Article does not imply that land outside the area of the subject property or uses and structures within this area will be free from wildfire risk. This Article shall not create liability on the part of the County of Kaua'i or any officer or employee for any damages that result from reliance on this Article or any administrative decision lawfully made based on this Article.

(h) Residential Structure Zone Requirements.

(1) Maintenance Requirements. For all residential structures, the following maintenance requirements shall be met:

(A) The roof shall be kept clear of debris, paying particular attention to roof intersection area (e.g., roof-to-wall, at entry to through-roof vents, and at the roof edge, if a gutter is installed).

(B) Gutters and downspouts shall be kept clear of debris such as leaves and pine needles.

(C) Unenclosed appendages and projections attached to buildings such as decks, lānais, porches, carports, and stoops shall meet the following requirement:

(i) Only noncombustible items or materials are allowed to be stored or placed within the attached unenclosed appendages and projections. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.



(D) Addressing. Each residential structure shall have its address marked with reflective material on its exterior thoroughfare facing wall.

(i) Zone 0: 5-Foot Noncombustible Zone (NCZ) Requirements.



(1) Maintenance Requirements. This zone is the most critical zone of defensible space and requires the most stringent fuel reduction and regular maintenance to protect against wildfire. In the NCZ the following maintenance requirements shall be met:

(A) A 5-foot groundcover comprised of hardscape (such as brick, gravel, or concrete) with a depth of at least 4 inches shall be maintained in the NCZ. This not required for accessory structures.

(B) Ground cover within the NCZ shall be noncombustible and free of debris such as leaves and pine needles.

(C) Vegetation growing within or overhanging into the NCZ is prohibited.

(D) Vegetation overhanging the roof is prohibited within the NCZ.

(E) Fences within the NCZ shall be noncombustible.

(F) Only noncombustible items or materials are allowed. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.

(j) Zone 1: 30-Foot Defensible Space Requirements.

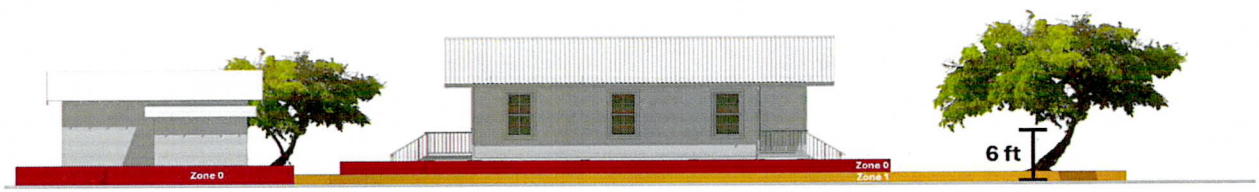


(1) Maintenance Requirements. The area beyond the residential structure shall have a regularly maintained defensible space of 30 feet measured from the edge of the exterior walls of the residential structure and its unenclosed appendages and projections (including but not limited to lānais, porches, and stoops). This includes:

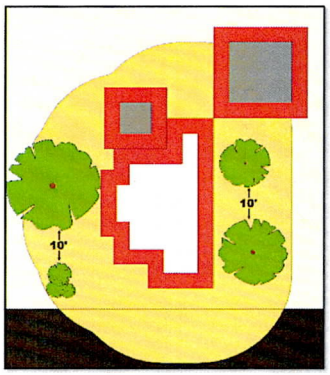
(A) Routine removal of accumulated vegetative debris, which may include but not be limited to fallen pine needles, leaves, twigs, and any dead vegetation, including piles from pruning.

(B) Vegetation with canopies within 30 feet of a residential structure shall be maintained as follows:

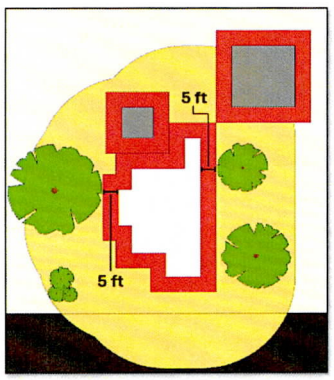
(i) Vegetation with a trunk of 4 inches in diameter or greater when measured at a height of 4.5 feet above the ground:



(a) Shall have limbs and branches pruned to a minimum height of 6 feet off the ground.

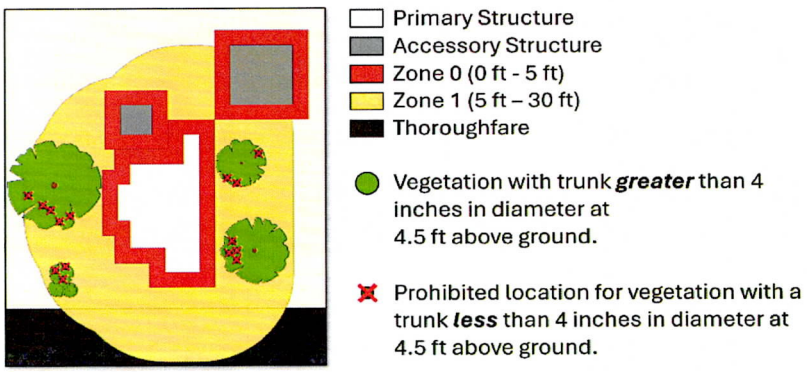


(b) Shall have a minimum of 10 horizontal feet of spacing between the tree canopy and the next closest tree, shrub, or bush canopy, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.

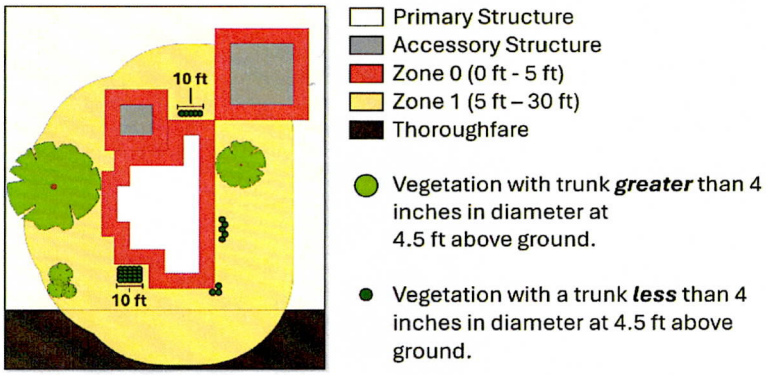


(c) Shall have a minimum of 5 horizontal feet between a tree canopy and the residential structure.

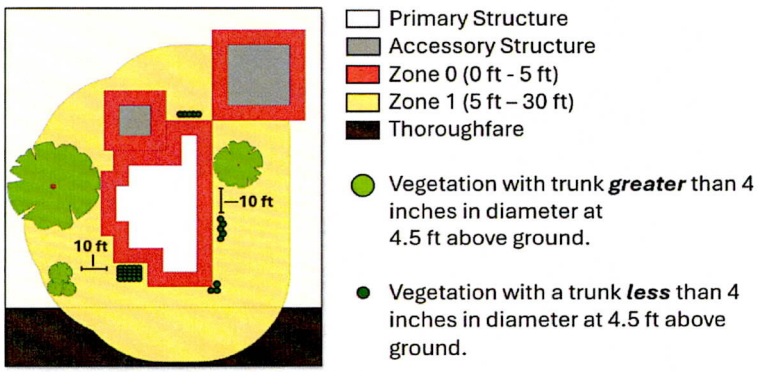
(ii) Vegetation with a trunk less than 4 inches in diameter when measured at a height of 4.5 feet above the ground or less than 4.5 feet tall:



(a) Are prohibited under larger trees.



(b) Are prohibited from having a canopy larger than 10 feet in horizontal diameter, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.



(c) Shall have a minimum horizontal space between canopies of at least 10 feet.

(iii) Firewood is prohibited in this 30-foot defensible space area from the residential structure. Firewood is only allowed in this area if it is enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any ember intrusion into the unit during a wildfire event.

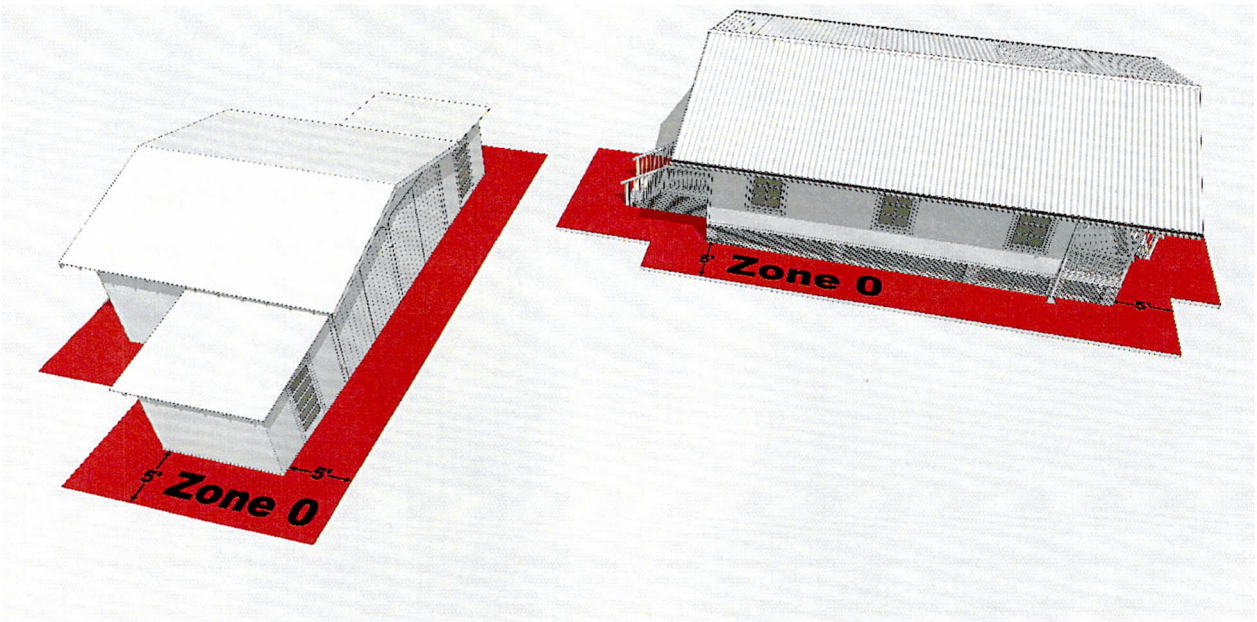
(C) Fire-prone vegetation is prohibited 30 feet from any residential structure, measured from the edge of the exterior walls of the residential structure and its unenclosed appendages, and projections (including but not limited to lānais, porches, and stoops).

(D) The following plant species are exempt from these requirements:

(i) Colocasia esculenta, also known as kalo or taro.

(ii) Musa, also known as banana.

(k) Accessory Structure Zone Requirements.



(1) Maintenance Requirements. Each accessory structure shall have its own 5 feet of NCZ that does not overlap the 5-foot NCZ required for a residential structure, appendages and projections (including but not limited to lānais, porches, and stoops), or other accessory structures. In the accessory structure's NCZ, the following standards shall apply:

(A) Ground cover within the NCZ shall be noncombustible and free of debris such as leaves and pine needles.

(B) Vegetation growing within or overhanging into the NCZ is prohibited.

(C) Vegetation overhanging the roof is prohibited within the NCZ.

(D) Fences within the NCZ shall be noncombustible.

(E) Only noncombustible items or materials are allowed. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.

(l) Fire Prevention Outreach and Education Requirements.

(1) Conduct a workshop titled "How to Have a Fire Adapted Home and Community." At least once per year, the Homeowners Association (HOA) shall coordinate with the Fire Department, Kaua'i Emergency Management Agency, and Planning Department to set up and conduct at least one workshop for the HOA board that is open to all residents of the subject property that teaches the principles of fire prevention and evacuation. Topics for discussion shall include but need not be limited to defensible space, landscaping, and home hardening. Workshops shall be scheduled for evenings or weekends when most homeowners are available. Material shall be available at the workshops that promote fire risk reduction practices and strategies.

(2) A report on the workshop format and participation shall be provided to the Fire Department and Planning Department no later than June 30 of every calendar year.

SECTION 5. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 6. Material to be deleted is bracketed. New material is underscored. When revising, compiling, or printing this Ordinance for inclusion in

the Kauai County Code 1987, as amended, the bracketed material, and underscoring need not be included

SECTION 7. This Ordinance shall take effect July 1, 2027.

Exhibit B:

Revised proposed bill

ORDINANCE NO. _____ BILL NO.

_____

A BILL FOR AN ORDINANCE AMENDING CHAPTER 15, 12, AND 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO A WILDFIRE AND THE WILDLAND URBAN INTERFACE (WUI)
(County of Kaua'i, Applicant) (ZA-2026-XXX)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I:

SECTION 1. Purpose. The purpose of this ordinance is to establish wildfire and the wildland urban interface (WUI) standards by amending Chapter 15 of the Kaua'i County Code 1987, as amended, relating to building and construction regulations, Chapter 12 relating to building and construction regulations, and Chapter 8 relating to the Comprehensive Zoning Ordinance (CZO), in order to enhance public safety, reduce property loss, and protect lives from wildfire hazards.

SECTION 2. Findings. The Council finds that wildfire activity in the United States has become larger, more frequent, and more widespread over recent decades, and that the total area burned in the State of Hawai'i has increased more than fourfold over the past century, posing a threat to property and safety; and

WHEREAS, the Council further finds that more than 38,000 homes and over 200 lives have been lost in the United States to four major wildfire events since 2018, including the Camp Fire (2018), the Marshall Fire (2021), the Lāhainā Fires (2023), and the Los Angeles Fires (2025), which were human-caused, occurred during extreme wind events, and resulted in urban conflagrations that rapidly spread through densely populated areas; and

WHEREAS, The Council finds that, according to USDA Forest Service national wildfire risk datasets, homes in Kaua'i County face a higher wildfire risk than approximately 91 percent of U.S. counties, indicating that communities on Kaua'i are subject to a very high level or wildfire risk, thereby necessitating regulatory measures to mitigate these risks; and

WHEREAS, the Council also finds that proactive planning measures, including requirements related to building materials, connective fuels, and multiple means of ingress and egress, emergency accesses, and evacuation routes can reduce property loss, limit fire spread between structures, and protect residents during wildfire events; and

WHEREAS, the Lāhainā Fire Incident Analysis Report identified ten key priorities for enhancing wildfire safety statewide, including the adoption and implementation of Wildland Urban Interface (WUI) codes, ember-resistant construction standards, and defensible space and fuel management requirements; and

WHEREAS, the Council further finds that the General Plan provides policy guidance to promote public safety and hazard resiliency by directing that building codes and permitting standards align with disaster risk reduction efforts and address hazardous fuels such as dry vegetation; and

WHEREAS, the General Plan further includes an action to implement the Kaua'i Community Wildfire Protection Plan, which recommends increasing the use of fire-resistant building materials in new residential construction, managing defensible space, and requiring multiple means of ingress and egress; and

WHEREAS, the Council finds that, based on the foregoing, the adoption and implementation of Wildfire Wildland Urban Interface (WUI) regulations will provide a comprehensive framework to reduce wildfire risk and address associated wildfire hazards.

SECTION 3. The content of Chapter 15, Kaua'i County Code 1987, as amended, is amended to add Chapter 15B:

CHAPTER 15 GENERAL PROVISIONS RELATING TO BUILDING AND CONSTRUCTION

§ 15B. ~~Wildfire~~ Wildland Urban Interface (WUI) Construction Requirements

(a) General Provisions.

(1) Lands Included.

(A) All lands on which a residential structure is proposed to be constructed.

(2) Other Laws and Regulations. All improvements subject to this Article shall comply with other applicable laws and regulations, including but not limited to the State and County Fire Codes, Building Code, Floodplain Management Code, Subdivision Ordinance, and Sediment and Erosion Control Ordinance. In case of a conflict between this Article and the requirements of any other Federal, State, or County law, such as the State Fire Code or the County Fire Code, the more restrictive requirements shall apply.

(3) Interpretation. In the interpretation and application of this Article, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the County; and

(C) Deemed to neither limit nor repeal any other requirement, power, or duty prescribed under Federal, State, or County law.

(5) Warning and Disclaimer of Liability. The degree of wildfire and wildland urban interface required by this Article is considered reasonable for regulatory purposes and is based on wildfire hazard assessment considerations. Wildfires can and will occur on occasion. This Article does not imply that land outside the area of the subject property or uses and structures within this area will be free from wildfire risk. This Article shall not create liability on the part of the County of Kaua'i or any officer or employee for any damages that result from reliance on this Article or any administrative decision lawfully made based on this Article.

(b) Definitions.

"Advancing Standards Transforming Markets (ASTM)" means the organization (formerly referred to as the American Society for Testing and Materials) that develops standards and publishes voluntary consensus technical international standards for a wide range of materials, products, systems, and services.

"County" means the County of Kaua'i.

~~"Defensible space" means an area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared, maintained or modified to slow the rate and intensity of an advancing wildfire through an urban or rural area and to create an area for structure defense operations to occur.~~

"Firestopping ~~Stopped~~" means the process of filling openings and joints between walls, floors, and roofing material to inhibit the spread of fire between compartments within a structure.

"Ignition-resistant" as applied to building construction material means a material treated or manufactured to delay ignition and tested to conform to ASTM E84 or ASTM E2768. Examples include but are not limited to

~~fire-treated wood~~fire-retardant-treated wood, dense hardwoods like ipe, and fiber-cement boards.

"Noncombustible" as applied to building construction material means a material of which no part will ignite and burn when subjected to fire and tested to conform to ASTM E136. Examples include but are not limited to concrete, metal, glass, and stone.

"Noncombustible roof covering" means a roof covering consisting of any of the following: (1) cement (or fiber-cement) shingles or sheets, (2) ferrous shingles or sheets, or (3) slate shingles.

"Noncombustible zone (NCZ)" means the area of land that extends 5 feet measured from the edge of the exterior walls of a structure and any unenclosed appendages or projections (including but not limited to lānais, porches, and stoops). This area is also referred to as Zone 0 in Chapter 8.

"Roof assembly" means a system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly can include an underlayment, thermal barrier (i.e., insulation), ignition ~~(fire)~~ barrier, insulation, or a vapor retarder.

"Roof covering" means the covering applied to the roof deck for weather resistance or appearance. The roof covering and underlying components are part of the fire rating for the roof assembly.

"Roof deck" means that flat or sloped surface of a roof not including its supporting members or vertical supports.

~~"Structure, Accessory" means a structure that is subordinate to, and the use of which is incidental to that of the primary structure or use on the same lot or parcel and not used for human occupancy of habitation. An accessory structure is not a primary structure.~~"Accessory Structure" means a structure which is subordinant to, and the use of which is incidental to that of the main structure or use on the same lot or parcel and not used for human occupancy of habitation.

"Structure, Residential" means a structure that is used for habitation purposes and having all necessary facilities for residency such as living, sleeping, cooking, eating, and sanitation. These structures include but are not limited to single-family dwelling units, farm dwelling units, multifamily dwelling units, additional dwelling units (ADUs), additional rental units (ARUs), and guest

houses, as defined in Kaua'i County Code 1987, Section 8-1.5, as amended. A residential structure is not an accessory structure.

"Structure, Unenclosed Accessory" means an accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

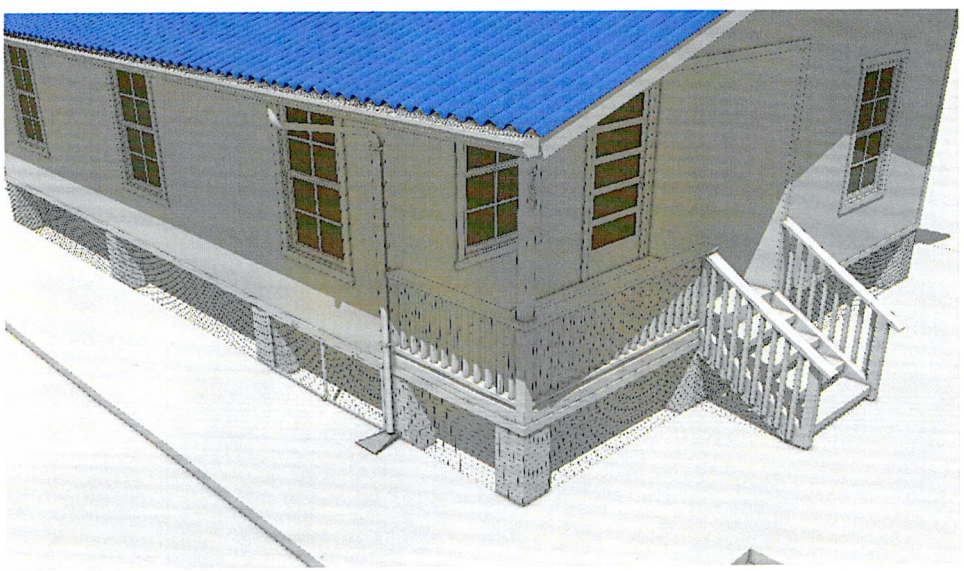
"Wildfire" means an uncontrolled fire spreading through the natural or built environment exposing and possibly consuming structures.

"Wildland" means an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar facilities, and often characterized by natural and invasive vegetation.

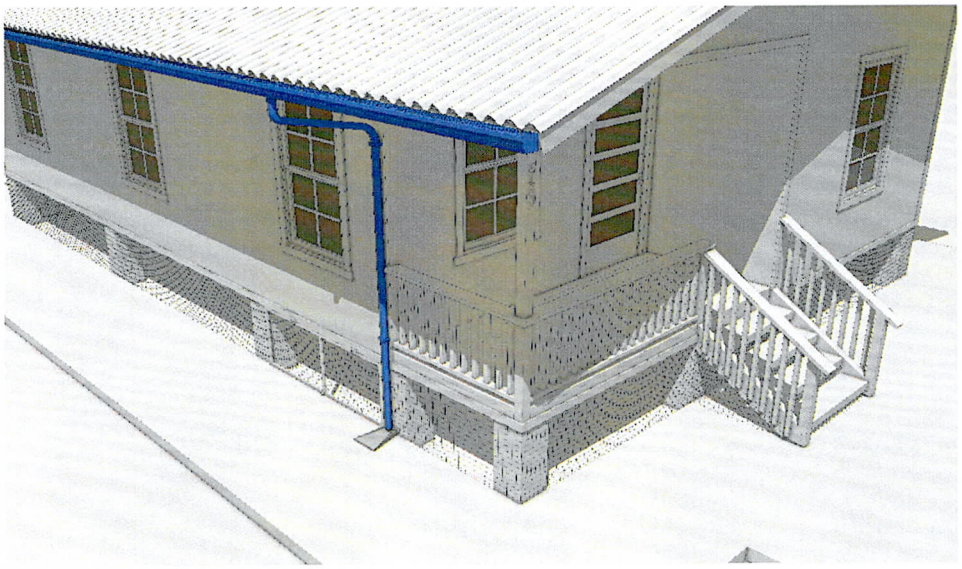
"Wildland Urban Interface (WUI)" means the zone of transition between unoccupied land and human development. It is the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.

(c) Residential Construction.

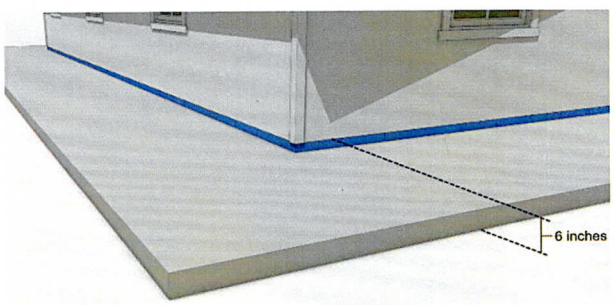
(1) Construction Requirements. For any newly proposed Residential structures, or substantial improvements of existing structures, the following construction requirements shall be met:

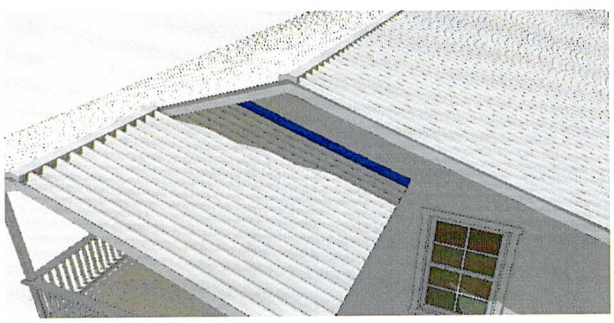


(A) Roofs. Roofs shall have a roof assembly that complies with a Class A rating when tested in accordance with ASTM E108, or an approved noncombustible roof covering. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space shall be fire-stopped to prevent entry of flames or embers.

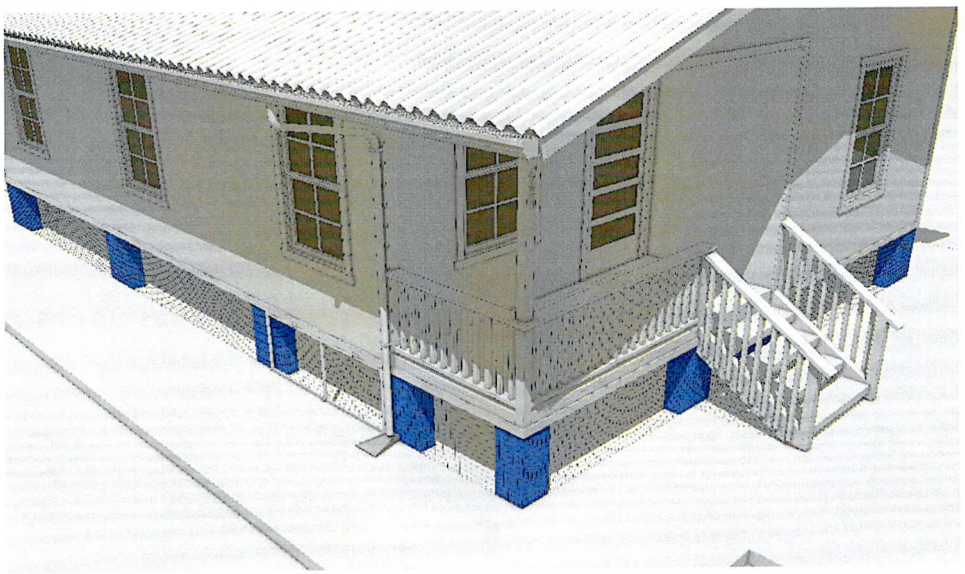


(B) Gutters and Downspouts. Gutters and downspouts shall be constructed of metal material. Gutters shall be covered with a noncombustible material to prevent the accumulation of debris within the gutter.

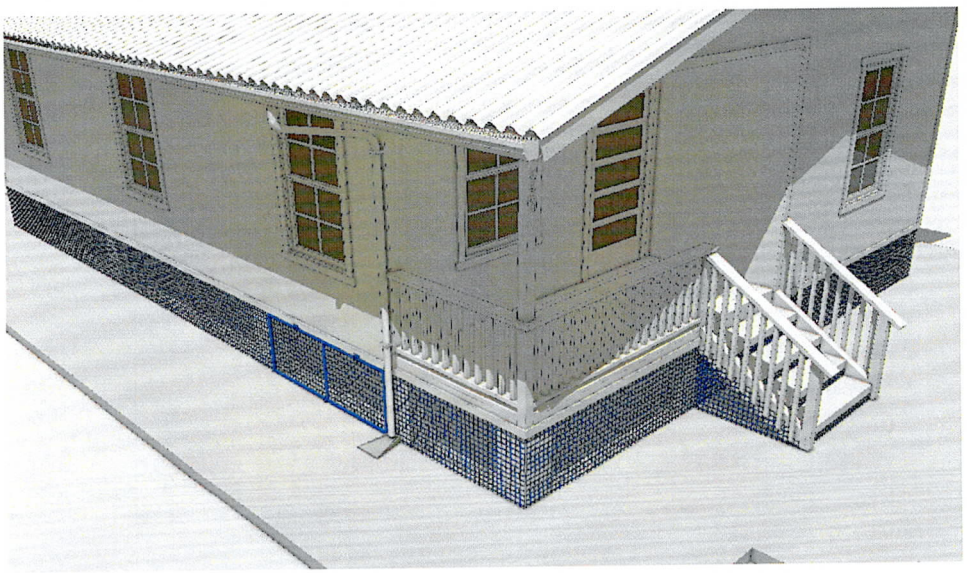




(C) Exterior walls. A minimum of 6 inches of noncombustible material vertically on the exterior of the wall shall be installed at the ground, decking, and roof intersections. This material shall extend behind the associated siding to reduce ember entrapment.



(D) Post and pier. If any residential structure is elevated, the post and pier material shall be noncombustible or at a minimum 6 inches of noncombustible material shall be installed vertically on the exterior of the post and pier at grade and abut against the adjacent 5-foot hardscape noncombustible zone (NCZ).



(E) Underfloor Enclosure. Residential structures elevated on post and pier at four feet or less (or any portion of the structure) and any attached appendages and projections such as decks, lānais, porches, and stoops elevated on post and pier at four feet or less (or any of the projection) shall have the underfloor areas enclosed to the ground with noncombustible corrosion-resistant mesh screen size not to exceed 1/8

inch (3.2 mm). The mesh shall meet the following additional requirements:

(i) Extended down to be flush with grade and abut against the adjacent 5-foot hardscape noncombustible~~n-combustible~~ zone (NCZ). For structures on a slope that may have portions elevated higher than four feet, the mesh screen enclosure of that portion of the structure is not required. The mesh enclosure for the portions of the structure that are elevated at four feet or less shall be extended below grade by at least four inches and ~~fire stopped~~firestopped to prevent ember intrusion.

(ii) Any associated material including but not limited to framing material or covering material (such as lattice) shall be noncombustible; and,

(iii) At least one area of the underfloor area mesh screening shall be constructed and framed in a manner to allow a minimum 16" x 24" of the mesh screen to be removed for access and maintenance purposes of the underfloor area. The framing and any other associated material for this access section of the mesh screening shall be made of noncombustible material.

(iv) Residential structures elevated on post and pier in order to meet floodplain management standards shall still meet all requirements of K.C.C. 15-1.5(a)(3)(A) and shall have underfloor areas screened in a manner that has a minimum of two (2) floodwater openings pursuant to Chapter 15-1.5 of the K.C.C. whereby any floodwater opening device that permits the automatic entry and exit of floodwaters shall be fire-stopped to prevent entry of flames or embers subject to review and approval of the Fire Chief and Floodplain Manager.

(F) Appendages and projections. Unenclosed appendages and projections attached to buildings such as decks, lānais, porches, and stoops elevated on post and pier shall have underfloor areas enclosed to the ground with noncombustible corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm) and shall meet the following additional requirements:

(i) When elevated, to prevent any ember intrusion beneath the underfloor area, all floorboards shall be flush with each other without any parallel space apart from each other.

(ii) Noncombustible or ignition-resistant material is required for all exterior flooring material.

> Exception: if the exterior flooring material, such as floorboards, are comprised of combustible material, at a minimum all floorboards perpendicular to a wall or a post shall be ignition resistant within 6 inches of the deck-to-wall or deck-to-post intersection.

(iii) Noncombustible or ignition-resistant material is required for all walls and posts that are perpendicular to the deck.

> Exception: if the wall or post is comprised of combustible material, at a minimum the wall or post shall have 6 inches of noncombustible flashing installed at the wall-to-deck or post-to-deck intersection.



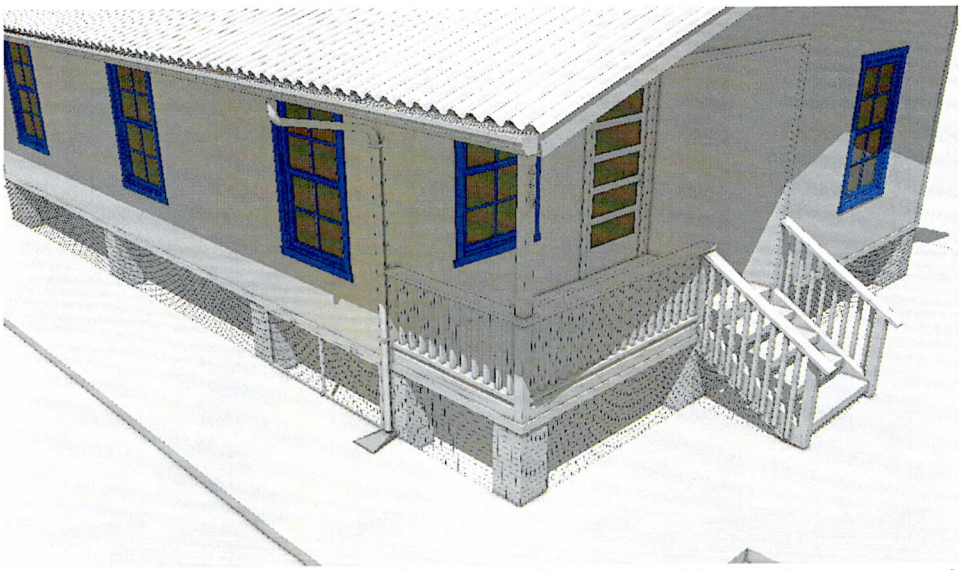
(G) Vents. Ventilation openings for enclosed attics (e.g., gable ends, ridge ends, and enclosed eave soffit spaces), enclosed rafter spaces

formed where ceilings are applied directly to the underside of roof rafters, underfloor ventilation, foundations, and crawl spaces; under eaves and cornices; or for any other opening intended to permit ventilation, either in a horizontal or vertical surface, shall resist the intrusion of burning embers and flames by meeting one of the following requirements:

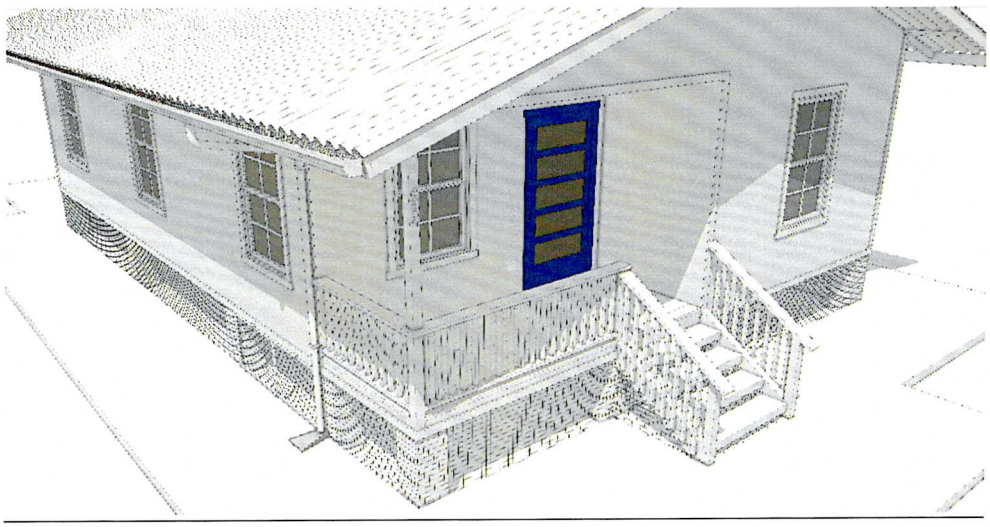
(i) Performance-based requirements: Corrosion-resistant ember and flame-resistant vents tested to conform to ASTM E2886.

(ii) Prescriptive-based requirements: Vents shall be made of a noncombustible material and covered on the exterior with noncombustible corrosion-resistant mesh with openings not to exceed 1/8 inch (3.2 mm).

Exceptions: Dryer vents shall have a solid metal louver or flap in lieu of mesh. Plumbing vents are excluded from these requirements.



(H) Exterior glazing. Each residential structure's exterior windows, window walls, glazed doors, and windows within exterior doors shall be dual pane tempered glass or have a fire protection rating of not less than 20 minutes and tested to conform to ASTM E119 and ASTM E2010.



(I) Exterior doors. Exterior doors shall be solid core wood or have an exterior surface with noncombustible or ignition-resistant building material or have a fire protection rating of not less than 20 minutes.



(J) Addressing. Each residential structure shall have its address numbers placed or marked with reflective material on its exterior thoroughfare facing wall, with numbers at least three (3) inches in height.

SECTION 4. The content of Chapter 12, Kaua'i County Code 1987, as amended, is amended as follows:

§ 12-1.3 Administration

The following provisions reference the International Building Code, 2018 Edition, amended to read as follows, but shall apply generally to any construction-related reference to Chapter 12, Kaua'i County Code 1987, as amended, and shall supersede and survive any county adoption deadlines relating to various code effective dates pursuant to action of the State Building Code Council:

...

(23) Amending Section **105.2 Work exempt from permit.** Section 105.2 is amended to read:

> **105.2 Work exempt from permit.** A building permit shall not be required for the following; however, all other governmental agency codes and laws shall be complied with:
>
> **1.** Work accepted under Section 101.2.
>
> **2.** One-story detached accessory buildings used as tool and storage sheds, playhouses, animal shelters, green houses, trash enclosures and similar uses, provided the floor area does not exceed [~~300~~] 200 square feet and complies with Chapter 8, Comprehensive Zoning Ordinance; Chapter 15, Article 1, Floodplain Management, Kaua'i County Code 1987, as amended and the Administrative Laws and Rules of the Department of Health, State of Hawai'i.

...

SECTION 5. The content of Chapter 8, Kaua'i County Code 1987, as amended, is amended as follows:

CHAPTER 8 COMPREHENSIVE ZONING ORDINANCE

...

§ 8-1.5 Definitions

...

"Accessory Structure Zone" means an area that applies to both the accessory structure itself and the area that extends five feet from the exterior of an accessory structure and any attached appendages and projections. It includes requirements for ember ignition mitigation and noncombustible materials.

"Advancing Standards Transforming Markets (ASTM)" means the organization (formerly referred to as the American Society for Testing and Materials)

that develops standards and publishes voluntary consensus technical international standards for a wide range of materials, products, systems, and services.

...

"County" means the County of Kauaʻi.

...

"Defensible space" means an area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared, maintained or modified to slow the rate and intensity of an advancing wildfire through an urban or rural area and to create an area for structure defense operations to occur.

...

~~[**"Dwelling, single family attached"** means a building consisting of two or more dwelling units designed for occupancy by two or more families living independently of each other where each unit is structurally independent although superficially attached or close enough to appear attached.]~~

...

"Fire-prone vegetation" means material that in its natural state can readily ignite, burn, and rapidly transmit fire. For the purposes of this Article this definition is limited solely to the three following plant species: 1) Megathyrsus maximus or commonly known as "Guinea Grass," 2) Leucaena leucocephala or commonly known as "Haole Koa," and 3) Cenchrus ciliaris or commonly known as "Buffel Grass."

~~**"Fire Stopped"** means the process of filling openings and joints between walls, floors, and roofing material to inhibit the spread of fire between compartments within a structure.~~

"Firewood" means any kindling, logs, timber, or other portions of a tree of any species four (4) feet or less in length, cut or split, or intended to be cut or split, into a form and size appropriate for use as fuel for fires in an open pit, imu, grill, fireplace, stove, or other wood burning furnace or device.

...

~~**"Ignition-resistant"** as applied to building construction material means a material treated or manufactured to delay ignition and tested to conform to ASTM E84 or ASTM E2768. Examples include but are not limited to fire-treated wood, dense hardwoods like ipe, and fiber-cement boards.~~

...

"Noncombustible" ~~as applied to building construction material~~ means a material that will not ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat, as determined by ~~of which no part will ignite and burn when~~

~~subjected to fire and tested to conform to~~ ASTM E136 or other approved standards. ~~Examples include but are not limited to concrete, metal, glass, and stone.~~

~~**"Noncombustible roof covering"** means a roof covering consisting of any of the following: (1) cement (or fiber-cement) shingles or sheets, (2) ferrous shingles or sheets, or (3) slate shingles.~~

"Noncombustible zone (NCZ)" means the area of land that extends 5 feet measured from the edge of the exterior walls of a structure and any unenclosed appendages or projections (including but not limited to lānais, porches, and stoops). This area is also referred to as Zone 0.

...

"Residential Structure Zone" means an area that applies to the residential structure itself, and it includes requirements for ember ignition mitigation, ignition-resistant and ~~fire-resistant~~ noncombustible construction to reduce the risk of structure ignition.

...

~~**"Roof assembly"** means a system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly can include an underlayment, thermal barrier (i.e., insulation), ignition (fire) barrier, insulation, or a vapor retarder.~~

~~**"Roof covering"** means the covering applied to the roof deck for weather resistance or appearance. The roof covering and underlying components are part of the fire rating for the roof assembly.~~

~~**"Roof deck"** means that flat or sloped surface of a roof not including its supporting members or vertical supports.~~

...

"Structure" means anything affixed, constructed, or erected that requires location on the ground or is attached to something having location on the ground, excluding:

(a) Vehicles designed and used only for the transportation of people or goods;

(b) Utility poles and towers constructed by a public utility; and

(c) Development or construction that meets all the following criteria:

(1) Does not exceed 200 square feet in size,

(2) Does not exceed 10 feet in height,

(3) Does not encroach into the respective lot's property line setbacks

pursuant to KCC Chapter 8,

(4) Does not encroach into the respective lot's building-to-building setbacks pursuant to KCC Chapter 8,

(5) Does not exceed the respective lot's land coverage ratio pursuant to KCC Chapter 8,

(6) Is not used for residential or habitation purposes, and

(7) Is not used for the exchange of goods or services for compensation for a fee or otherwise.

To be considered a single structure, any attached appurtenance to the main structure needs to be structurally dependent upon that main structure. Any appurtenance that is attached to another structure but not structurally dependent upon that structure shall be deemed a separate structure and subject to all zoning regulations accordingly including but not limited to minimum distance setbacks for separate structures under Section 8-4.3(b)

~~**"Structure, Accessory"** means a structure that is subordinate to, and the use of which is incidental to that of the primary structure or use on the same lot or parcel and not used for human occupancy of habitation. An accessory structure is not a primary structure.~~

"Structure, Residential" means a structure that is used for habitation purposes and having all necessary facilities for residency such as living, sleeping, cooking, eating, and sanitation. These structures include but are not limited to single-family dwelling units, farm dwelling units, multifamily dwelling units, additional dwelling units (ADUs), additional rental unit (ARUs), and a guest house. A residential structure is not an accessory structure.

...

"Unenclosed Accessory Structure" means an accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

...

"Wildfire" means an uncontrolled fire spreading through the natural or built environment exposing and possibly consuming structures.

"Wildland" means an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar facilities, and often characterized by natural and invasive vegetation.

"Wildland Urban Interface (WUI)" means the zone of transition between unoccupied land and human development. It is the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.

...

"Zone 0: 5-Foot Noncombustible Zone (NCZ)" means an area that extends five feet from the exterior of a residential structure and any attached appendages and projections. It shall consist of noncombustible hardscape and materials. The purpose of this zone is to prevent direct flame contact and reduce the risk of ember ignition at the structure's base.

"Zone 1: 30-Foot Defensible Space" means an area that extends from the edge of Zone 0 to 30 feet away from the structure or to the property line, whichever is closer. It requires vegetation management such as pruning lower limbs, spacing trees and shrubs, and removing combustible materials to reduce fuel loads and slow fire spread toward the structure. Fire-prone vegetation is prohibited.

§ 8-4.2 Uses in Districts

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Table 8-2.4 Table of Uses

		ZONING DISTRICT									
		Residential			Commercial		Industrial				
Sec.	USE	R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV
8-2.4(a)(1)	Single-family detached dwellings	P	P								
8-2.4(a)(2)	Accessory structures and uses	P	P								
8-2.4(b)	Multiple-family ~~and single-family attached~~ dwellings	P	P								
8-2.4(c)	Public and private parks and home businesses are permitted in all districts	P	P								
8-2.4(d)	Adult family boarding and family care homes that comply with all State Department of Social Services and Housing and State Department of Health rules, regulations and requirements provided, however, that the Planning Director may require a use permit for such applications that may create adverse impacts to the health, safety, morals, convenience, and welfare of the neighborhood or community that the proposed use is located	P	P								
8-2.4(e)	Transient vacation rentals, provided they are located within the designated Visitor Destination Areas established pursuant to Article 17 of this Chapter. These uses are prohibited in non-VDA areas	P	P								

Table 8-2.4 Table of Uses

		ZONING DISTRICT									
		Residential			Commercial		Industrial				
Sec.	USE	R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV
8-2.4(f)(1)	Artisans markets I	P5	P5								
8-2.4(f)2)	Event concessions	P	P								
8-2.4(f)(3)	Farmers markets I	P5	P5								
8-2.4(g)(1)	Adult family group living home	U	U								
8-2.4(g)(2)	Artisans Markets II	U	U								
8-2.4(g)(3)	Botanical and zoological gardens	U	U								
8-2.4(g)(4)	Cemeteries, mortuaries and crematoriums	U	U								
8-2.4(g)(5)	Churches, temples, and monasteries	U	U								
8-2.4(g)(6)	Clubs, lodges, and community centers	U	U								
8-2.4(g)(7)	Diversified and specialized agriculture and nurseries	U	U								
8-2.4(g)(8)	Dormitories, guest and boarding houses; but not hotels and motels	U	U								
8-2.4(g)(9)	Farmers market II	U	U								
9-2.4(g)(1)	Golf courses										
8-2.4(g)(11)	Medical and nursing facilities	U	U								
8-2.4(g)(12)	Museums, libraries and public services and facilities	U	U								
8-2.4(g)(13)	Private and public utilities and facilities, other than maintenance and storage of equipment, materials, and vehicles	U	U								
8-2.4(g)(14)	Project developments in accordance with Article 10 of this Chapter	U	U								
8-2.4(g)(15)	Retail shops and stores	U	U								
8-2.4(g)(16)	Residential care homes	U	U								
8-2.4(g)(17)	School and day care centers	U	U								
8-2.4(g)(18)	Transportation terminals and docks	U	U								
8-2.4(g)(19)	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	U								
8-2.4(h)(1)	Accessory uses and structures			P							
8-2.4(h)(2)	Apartment hotels			P							
8-2.4(h)(3)	Artisans Markets I & II			P							
8-2.4(h)(4)	Automobile service and storage			P							
8-2.4(h)(5)	Barber shop and beauty shop			P							
8-2.4(h)(6)	Commercial recreation			P							
8-2.4(h)(7)	Developed campgrounds			P							

Table 8-2.4 Table of Uses

		ZONING DISTRICT									
		Residential			Commercial		Industrial				
Sec.	USE	R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV
8-2.4(h)(8)	Event concessions			P							
8-2.4(h)(9)	Farmers markets I & II										
8-2.4(h)(10)	Gift shops			P							
8-2.4(h)(11)	Golf courses			P							
8-2.4(h)(12)	Home business			P							
8-2.4(h)(13)	Hotels			P							
8-2.4(h)(14)	Laundromat			P							
8-2.4(h)(15)	Libraries			P							
8-2.4(h)(16)	Motels			P							
8-2.4(h)(17)	Museums			P							
8-2.4(h)(18)	Police and fire stations			P							
8-2.4(h)(19)	Public parks and monuments			P							
8-2.4(h)(20)	Restaurants and food service			P							
8-2.4(h)(21)	Retail cleaning outlets			P							
8-2.4(h)(22)	Retail food and drug shops			P							
8-2.4(h)(23)	Shoe repair shops			P							
8-2.4(h)(24)	Single-family detached dwellings			P							
8-2.4(h)(25)	Transient vacation rentals, provided they are located within the designated Visitor Destination Areas established pursuant to Article 17 of this Chapter. These uses are prohibited in non-VDA areas			P							
8-2.4(i)(1)	Agriculture			U							
8-2.4(i)(2)	Automobile sales and repair			U							
8-2.4(i)(3)	Bars, night clubs and cabaret, not a part of a hotel			U							
8-2.4(i)(4)	Churches, temples and monasteries			U							
8-2.4(i)(5)	Day camps			U							
8-2.4(i)(6)	Employee or construction worker temporary housing			U							
8-2.4(i)(7)	Marinas, transportation terminals and docks			U							
8-2.4(i)(8)	Professional offices			U							
8-2.4(i)(9)	Project development in accordance with Article 10 of this Chapter			U							
8-2.4(i)(10)	Public utilities and facilities			U							
8-2.4(i)(11)	Retail manufacturing			U							

Table 8-2.4 Table of Uses											
		ZONING DISTRICT									
		Residential			Commercial		Industrial				
Sec.	USE	R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV
8-2.4(i)(12)	Shopping centers			U							
8-2.4(i)(13)	Theaters and auditoriums			U							
8-2.4(i)(14)	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							
8-2.4(j)(1)	Accessory uses and structures				P						
8-2.4(j)(2)	Artisans Markets I & II				P						
8-2.4(j)(3)	Automobile services				P						
8-2.4(j)(4)	Churches, temples, and monasteries				P						
8-2.4(j)(5)	Clubs, lodges, and community centers				P						
8-2.4(j)(6)	Event concessions				P						
8-2.4(j)(7)	Farmers market I & II				P						
8-2.4(j)(8)	Household services				P						
8-2.4(j)(9)	Multiple-family dwellings ~~and single-family attached dwellings~~				P						
8-2.4(j)(10)	Museums, libraries, and public services				P						
8-2.4(j)(11)	Personal services, such as barber shops, laundromats, and shoe repair shops				P						
8-2.4(j)(12)	Professional offices				P						
8-2.4(j)(13)	Public parks and monuments				P						
8-2.4(j)(14)	Retail shops and stores				P						
8-2.4(j)(15)	Restaurants and food services				P						
8-2.4(j)(16)	Single-family detached dwellings on lots or parcels of no less than 6,000 square feet				P						
8-2.4(j)(17)	Transient vacation rentals, provided they are located within the designated Visitor Destination Areas established pursuant to Article 17 of this Chapter. These uses are prohibited in non-VDA areas				P						
8-2.4(k)(1)	Accessory uses and structures					P					
8-2.4(k)(2)	Artisans Markets I & II					P					
8-2.4(k)(3)	Automobile sales, repair, and storage					P					
8-2.4(k)(4)	Automobile services					P					
8-2.4(k)(5)	Churches, temples, and monasteries					P					
8-2.4(k)(6)	Clubs, lodges, and community centers					P					
8-2.4(k)(7)	Commercial indoor amusement and parks					P					

Table 8-2.4 Table of Uses

		ZONING DISTRICT									
		Residential			Commercial		Industrial				
Sec.	USE	R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV
8-2.4(k)(8)	Department stores					P					
8-2.4(k)9)	Event concessions					P					
8-2.4(k)(10)	Farmers markets I & II					P					
8-2.4(k)(11)	Hotels and motels					P					
8-2.4(k)(12)	Household services					P					
8-2.4(k)(13)	Light manufacturing, such as handicrafts and garment fabrication					P					
8-2.4(k)(14)	Minor food processing, such as cracked seeds, jellies, candies, and ice cream					P					
8-2.4(k)(15)	Museums, libraries, and public services					P					
8-2.4(k)(16)	Offices and professional buildings					P					
8-2.4(k)(17)	Parking garages					P					
8-2.4(k)(18)	Personal services					P					
8-2.4(k)(19)	Public offices and buildings					P					
8-2.4(k)(20)	Public parks and monuments					P					
8-2.4(k)(21)	Research and development					P					
8-2.4(k)(22)	~~Residential~~ Single-family detached dwellings~~, detached, attached,~~ or multi-family dwellings					P					
8-2.4(k)(23)	Restaurants and food services					P					
8-2.4(k)(24)	Retail sales					P					
8-2.4(k)(25)	Supermarkets and shopping centers					P					
8-2.4(k)(26)	Transient vacation rentals, provided they are located within the designated Visitor Destination Areas established pursuant to Article 17 of this Chapter. These uses are prohibited in non-VDA areas					P					
8-2.4(k)(27)	Transportation terminals and docks					P					
8-2.4(k)(28)	Warehouses					P					
8-2.4(k)(29)	Wholesale outlets					P					
8-2.4(l)(1)	Animal hospitals				U						
8-2.4(l)(2)	Automobile sales, repair, and storage				U						
8-2.4(l)(3)	Botanical and zoological gardens				U						
8-2.4(l)(4)	Communications facilities				U						
8-2.4(l)(5)	Construction materials storage				U						
8-2.4(l)(6)	Diversified agriculture				U						

Table 8-2.4 Table of Uses

		ZONING DISTRICT									
		Residential			Commercial		Industrial				
Sec.	USE	R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV
8-2.4(l)(7)	Food processing and packaging				U						
8-2.4(l)(8)	Light manufacturing				U						
8-2.4(l)(9)	Private and public utilities and facilities				U						
8-2.4(l)(10)	Project development in accordance with Article 10 of this Chapter				U						
8-2.4(l)(11)	Research and development				U						
8-2.4(l)(12)	Schools and day care centers				U						
8-2.4(l)(13)	Warehouses				U						
8-2.4(l)(14)	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						
8-2.4(m)(1)	Animal hospitals					U					
8-2.4(m)(2)	Bars					U					
8-2.4(m)(3)	Botanical and zoological gardens					U					
8-2.4(m)(4)	Commercial outdoor amusement					U					
8-2.4(m)(5)	Communications facilities					U					
8-2.4(m)(6)	Construction materials storage					U					
8-2.4(m)(7)	Diversified agriculture					U					
8-2.4(m)(8)	Food processing and packaging					U					
8-2.4(m)(9)	Nightclubs and cabarets					U					
8-2.4(m)(10)	Private and public utilities and facilities					U					
8-2.4(m)(11)	Project development in accordance with Article 10 of this Chapter					U					
8-2.4(m)(12)	Schools and day care centers					U					
8-2.4(m)(13)	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					
8-2.4(n)(1)	Accessory uses and structures						P				
8-2.4(n)(2)	Animal hospitals						P				
8-2.4(n)(3)	Artisans Markets I & II						P				
8-2.4(n)(4)	Automobile services, sales, repair, and storage						P				
8-2.4(n)(5)	Cemeteries, mortuaries and crematoriums						P				
8-2.4(n)(6)	Communication facilities						P				
8-2.4(n)(7)	Construction material storage						P				

Table 8-2.4 Table of Uses

		ZONING DISTRICT									
		Residential			Commercial		Industrial				
Sec.	USE	R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV
8-2.4(n)(8)	Event concessions						P				
8-2.4(n)(9)	Farmers market I & II						P				
8-2.4(n)(10)	Food processing and packaging						P				
8-2.4(n)(11)	Light manufacturing						P				
8-2.4(n)(12)	Manufacturing in retail sales						P				
8-2.4(n)(13)	Private and public utilities and facilities						P				
8-2.4(n)(14)	Public parks and monuments						P				
8-2.4(n)(15)	Research and development						P				
8-2.4(n)(16)	Restaurants, bars, and food services						P				
8-2.4(n)(17)	Retail sales						P				
8-2.4(n)(18)	Warehouses						P				
8-2.4(o)(1)	Accessory uses and structures							P			
8-2.4(o)(2)	Animal hospitals							P			
8-2.4(o)(3)	Artisans Markets I & II							P			
8-2.4(o)(4)	Automobile services, sales, repair, and storage							P			
8-2.4(o)(5)	Cemeteries, mortuaries, and crematoriums							P			
8-2.4(o)(6)	Communication facilities							P			
8-2.4(o)(7)	Construction material manufacturing							P			
8-2.4(o)(8)	Construction material storage							P			
8-2.4(o)(9)	Event concessions							P			
8-2.4(o)(10)	Excavation and extraction							P			
8-2.4(o)(11)	Factories							P			
8-2.4(o)(12)	Farmers markets I & II							P			
8-2.4(o)(13)	Food processing and packaging							P			
8-2.4(o)(14)	Light manufacturing							P			
8-2.4(o)(15)	Manufacturing in retail sales							P			
8-2.4(o)(16)	Mineral processing							P			
8-2.4(o)(17)	Private and public utilities and facilities							P			
8-2.4(o)(18)	Public parks and monuments							P			
8-2.4(o)(19)	Restaurants, bars, and food services							P			
8-2.4(o)(20)	Research and development							P			

Table 8-2.4 Table of Uses

		ZONING DISTRICT									
		Residential			Commercial		Industrial				
Sec.	USE	R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV
8-2.4(o)(21)	Retail sales							P			
8-2.4(o)(22)	Transportation terminals and docks							P			
8-2.4(o)(23)	Warehouses							P			
8-2.4(p)(1)	Botanic and zoologic gardens						U				
8-2.4(p)(2)	Commercial recreation and parks						U				
8-2.4(p)(3)	Construction materials manufacturing						U				
8-2.4(p)(4)	Diversified agriculture						U				
8-2.4(p)(5)	Factories						U				
8-2.4(p)(6)	Junk yards and dumps						U				
8-2.4(p)(7)	Livestock and poultry yards						U				
8-2.4(p)(8)	Museums, libraries, and public services						U				
8-2.4(p)(9)	Office and professional buildings						U				
8-2.4(p)(10)	Project development in accordance with Article 10 of this Chapter						U				
8-2.4(p)(11)	Single-family dwellings						U				
8-2.4(p)(12)	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				
8-2.4(q)(1)	Commercial recreation and parks							U			
8-2.4(q)(2)	Diversified agriculture							U			
8-2.4(q)(3)	Inflammable or noxious chemical processing or storage							U			
8-2.4(q)(4)	Junk yards and dumps							U			
8-2.4(q)(5)	Livestock and poultry yards and piggeries							U			
8-2.4(q)(6)	Museums, libraries, and public services							U			
8-2.4(q)(7)	Office and professional buildings							U			
8-2.4(q)(8)	Project development in accordance with Article 10 of this Chapter							U			
8-2.4(q)(9)	Stockyards							U			
8-2.4(q)(10)	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			
8-2.4(r)(1)	Accessory structures and uses								P		
8-2.4(r)(2)	Agriculture, Diversified and Specialized; and Nurseries								P		
8-2.4(r)(3)	Agriculture retail stand								P2		

Table 8-2.4 Table of Uses												
		ZONING DISTRICT										
		Residential			Commercial		Industrial					
Sec.	USE	R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV
8-2.4(r)(4)	Aquaculture								P		
8-2.4(r)(5)	Diversified agriculture								P		
8-2.4(r)(6)	Event concessions								P		
8-2.4(r)(7)	Farm Dwelling								P		
8-2.4(r)(8)	Farmers markets I								P5		
8-2.4(r)(9)	Food processing and packaging of agriculture products								P2		
8-2.4(r)(10)	Forestry								P		
8-2.4(r)(11)	Historic sites								P		
8-2.4(r)(12)	Intensive agriculture								P		
8-2.4(r)(13)	Livestock and grazing								P		
8-2.4(r)(14)	Orchards								P		
8-2.4(r)(15)	Outdoor recreation								P		
8-2.4(r)(16)	Pet keeping and raising, except as provided in Sec. 8-2.4(s)(13)								P		
8-2.4(r)(17)	Piggery, except as provided in Sec. 8-2.4(s)(14)								P		
8-2.4(r)(18)	Poultry Raising, except as provided in Sec. 8-2.4(s)(15)								P		
8-2.4(r)(19)	Public parks and monuments								P		
8-2.4(r)(20)	Resource management								P		
8-2.4(r)(21)	Single-family ~~attached and~~ detached dwellings								P		
8-2.4(r)(22)	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 10% of the acreage of the parcel, or 20 acres of land, whichever is less								P		
8-2.4(r)(23)	Undeveloped campgrounds								P		
8-2.4(r)(24)	Warehousing, storage, and packing of plant products								P		
8-2.4(r)(25)	Wildlife management								P		
8-2.4(s)(1)	Animal hospitals								U		
8-2.4(s)(2)	Artisans markets I & II								U		
8-2.4(s)(3)	Botanical and Zoological gardens								U		
-2.4(s)(4)	Cemeteries								U		
8-2.4(s)(5)	Churches, temples, and monasteries								U		
8-2.4(s)(6)	Commercial Recreation								U		

Table 8-2.4 Table of Uses

Sec.	USE	ZONING DISTRICT Residential R-1 to R-6	R-10 to R-20	RR	Commercial CN	CG	Industrial IL	IG	AG	O	UNV
8-2.4(s)(7)	Construction and worker temporary housing								U		
8-2.4(s)(8)	Educational Campgrounds								U		
8-2.4(s)(9)	Farm worker housing								U		
8-2.4(s)(10)	Farmers Markets II								U		
8-2.4(s)(11)	Golf courses								U		
8-2.4(s)(12)	Mineral extraction and quarries								U		
8-2.4(s)(13)	Pet keeping and raising proposed within 500 feet of any Residential District								U		
8-2.4(s)(14)	Piggery, when to be located within 3,000 feet of any Use District								U		
8-2.4(s)(15)	Poultry Raising, when to be located within 3,000 feet of any Use District								U		
8-2.4(s)(16)	Private and public utilities facilities								U		
8-2.4(s)(17)	Restaurants and food services								U2		
8-2.4(s)(18)	Retail Sales								U		
8-2.4(s)(19)	Schools and day care centers								U		
8-2.4(s)(20)	Transportation terminals								U		
8-2.4(s)(21)	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										
8-2.4(t)(1)	Accessory uses and structures									P	
8-2.4(t)(2)	Artisans Markets I									P4, P5	
8-2.4(t)(3)	Day-use areas									P	
8-2.4(t)(4)	Diversified agriculture									P	
8-2.4(t)(5)	Event concessions									P	
8-2.4(t)(6)	Farmers markets I									P5	
8-2.4(t)(7)	Livestock and grazing, except as provided in Sec. 8-2.4(t)(6)									P	
8-2.4(t)(8)	Outdoor recreation									P	
8-2.4(t)(9)	Parks and monuments									P	
8-2.4(t)(10)	Private recreation areas									P	
8-2.4(t)(11)	Resource management									P	
8-2.4(t)(12)	Single-family detached dwellings									P	
8-2.4(t)(13)	Undeveloped campgrounds									P	
8-2.4(u)(1)	Artisans Markets II									U	

Table 8-2.4 Table of Uses

		ZONING DISTRICT									
		Residential			Commercial		Industrial				
Sec.	USE	R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV
8-2.4(u)(2)	Communications facilities									U	
8-2.4(u)(3)	Day care centers									U	
8-2.4(u)(4)	Educational Campgrounds									U3	
8-2.4(u)(5)	Farmers markets II									U	
8-2.4(u)(6)	Home businesses									U	
8-2.4(u)(7)	Intensive agriculture									U	
8-2.4(u)(8)	Livestock and grazing within the Urban District as established by the State Land Use Commission									U	
8-2.4(u)(9)	Outdoor recreation concessions									U	
8-2.4(u)(10)	Police and fire facilities									U	
8-2.4(u)(11)	Quarries									U	
8-2.4(u)(12)	Recreation vehicle parks									U	
8-2.4(u)(13)	Religious facilities									U	
8-2.4(u)(14)	Utility installations									U	
8-2.4(u)(15)	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	
8-2.4(v)(1)	Homestay										
8-2.4(v)(2)	Homestay located in the Visitor Destination Area (VDA), pursuant to Article 18 of this Chapter	P	P	P	P	P					
8-2.4(w)(1)	Accessory structures and uses										P
8-2.4(w)(2)	Artisans Markets I & II										P
8-2.4(w)(3)	Botanical and zoological gardens										P
8-2.4(w)(4)	Diversified and specialized agriculture, orchards, nurseries, and related structures										P
8-2.4(w)(5)	Dormitories, residence halls, faculty multifamily rental housing, guest and boarding houses										P
8-2.4(w)(6)	Event concessions										P
8-2.4(w)(7)	Farmers markets I & II										P
8-2.4(w)(8)	Food service, cafeteria, and dining commons										P
8-2.4(w)(9)	Gymnasiums, indoor recreational centers, and sports facilities under 3,000 attendees										P
8-2.4(w)(10)	Museums and libraries										P
8-2.4(w)(11)	Offices, classrooms, lecture halls, laboratories, and education buildings										P
8-2.4(w)(12)	Restaurants and snack shops										P
8-2.4(w)(13)	Retail sales										P

Table 8-2.4 Table of Uses

		ZONING DISTRICT									
		Residential			Commercial		Industrial				
Sec.	USE	R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV
8-2.4(w)(14)	School and day care centers										P
8-2.4(w)(15)	Solar energy facilities										P
8-2.4(w)(16)	Transportation terminals										P
8-2.4(x)(1)	Bars										U
8-2.4(x)(2)	Gymnasiums, indoor recreational centers, and sports facilities with 3,000 attendees or greater										U
8-2.4(x)(3)	Medical and nursing facilities										U
8-2.4(x)(4)	Multiple-family dwellings and single-family dwellings										U
8-2.4(x)(5)	Police and fire stations										U
8-2.4(x)(6)	Private and public utilities and facilities, other than maintenance and storage of equipment, materials, and vehicles										U
8-2.4(x)(7)	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

"

§ 8-4.3 Development Standards for Residential Structures Not Involving the Subdivision of Land.

(a) Parcel Area. The parcel area required for single family detached dwelling units shall be calculated in accordance with the density and acreage limitations in the particular Residential Density District, as provided in Sec. 8-4.2, except that, one singly family detached dwelling unit may be constructed on any legal lot or parcel of record as of August 17, 1972, even if the lot or parcel is smaller than is required in the density district in which the lot or parcel is located.

(b) Setback requirements. Setback requirements shall be as follows:

(1) Front setback: No structure, including but not limited to garages, carport, decks above grade, and accessory or storage structures may be closer than 10 feet to the right-of-way line of a public thoroughfare or the property line of a private street or the pavement line of driveway or parking lot serving more than three dwelling units.

(2) Rear setback: No structure shall be closer than five (5) feet or ½ the total height of the building wall nearest the rear property line, whichever is greater.

(3) Side setback: No building shall be closer to a side than five (5) feet or ½ the total height of the highest building wall from the ground level nearest the property line, whichever is greater.

(4) No eave, roof overhang, or other appurtenance to a building, other than a fence under six feet in height, shall project into any setback more than ½ the distance of the setback, or four feet, whichever is less. Fences under six feet in height constructed within the setback shall be comprised of non-combustible material.

(5) No balconies, overhead walkways, decks, carports or other exterior spaces intended for human occupancy above the ground floor of any building, shall penetrate the setback area.

~~(6) [Accessory building and garden or service shelters not height than seven feet nor covering more than 400 square feet, nor exceeding 20 % of the rear side property line in the longest dimension facing the rear property line, may be built without setback.]~~

(7) Greater setbacks because of topographic, drainage, sun exposure or privacy conditions may be required and made a condition for a Zoning Permit.

~~(e)~~ (8) Minimum distance between structures. Minimum distance between structures shall be 10 feet.

(9) In consultation with the Fire Chief, and where all respective property owners provide written consent, the Planning Director may reduce minimum distances of buildings to property lines for shared wall construction if the proposed building's wall adjacent to the respective property line is constructed with noncombustible material.

(10) In consultation with the Fire Chief, the Planning Director may reduce minimum distances between structures proposed on a property for shared wall construction if the respective structure(s)'s abutting walls or shared walls are constructed with noncombustible material.

...

§ 8-4.4 Development Standards for Residential Structures Which Involve the Subdivision of Land.

(a) Single Family Detached Dwellings. Subject to the density and acreage limitations in the particular Residential Density District, as provided in Sec. **8-4.2**, the following criteria shall apply where an applicant seeks subdivision approval to create lots for single family detached dwellings:

(1) Lot Area.

(A) The minimum average lot area shall be 6,000 square feet;

(B) No lot shall be less than 4,500 square feet; and

(C) No more than 20% of the lots in the proposed subdivision shall be less than 6,000 square feet.

(2) Lot Width.

(A) Minimum average lot width shall be 60 feet;

(B) No lot shall be less than 45 feet in width;

(C) No more than 20% of the lots in the proposed subdivision shall be less than 60 feet in width;

(D) No more than six lots less than 60 feet in width shall be located adjacent to one another;

(E) The pole section of a flag lot shall not be less than 15 feet in width.

(3) Lot Length.

(A) The average length of any lot shall not be greater than three times the average width;

~~(B) The maximum length of the pole portion of a flag lot shall be 150 feet.~~

(4) Setback. The minimum distances from property lines shall be as required by Sec. 8-4.3(b), except that the applicant may indicate

varying front setbacks on the subdivision map so long as no front setback is less than 10 feet.

(5) Subject to the density and acreage limitations in the particular Residential Density District, as provided in Sec. **8-4.2**, where an applicant seeks approval of a horizontal property regime, all single family detached dwelling units shall be located in a manner as to conform to the requirements of this Article as if they were to occur on separate subdivided parcels or lots.

Requirements for parking, access, driveways, building height, utilities and other regulations not specified in this Section shall be the same as those required of all residential development as established in Sec. **8-4.5**.

~~(b) Single Family Attached Dwellings. Subject to the density and acreage limitations in the particular residential density district, as provided in Sec. 8-4.2, the following standards shall apply where an applicant seeks subdivision approval to create lots for single family attached dwellings:~~

~~(1) Lot Area.~~

~~(C) The minimum average lot area shall be 3,000 square feet;~~

~~(D) No lot shall be less than 2,400 square feet;~~

~~(E) No more than 40% of the lots in the proposed subdivision shall be less than 3,000 square feet;~~

~~(F) There shall be a permanent open space in common ownership and readily accessible to each single family attached lot usable for recreation and community activities other than streets, driveways, and parking, equal to no less than 30% of the total area of all single family attached lots.~~

~~(2) Lot Width.~~

~~(A) The minimum average lot width shall be 30 feet;~~

~~(B) No lot shall be less than 24 feet in width;~~

~~(C) No more than 40% of the lots in the proposed subdivision shall be less than 30 feet in width;~~

(D) No more than six lots less than 30 feet in width shall be located adjacent to one another.

(3) Lot Length. The average length of any lot shall not exceed four times its average width.

(4) Setbacks.

(A) Minimum front setbacks shall be the same as required by Sec. 8-4.3(b);

(B) Minimum sideyard setback shall be the same as required by Sec. 8-4.3(b), except that the minimum setback from property lines between single family attached dwellings within the same subdivision shall be either less than six inches or greater than five feet;

(C) Minimum rear setbacks shall be 15 feet unless a maintenance easement is required in which case minimum rear setbacks shall be 25 feet.

(5) Maintenance Easements. Easements shall be provided for maintenance access to the rear or exposed sides of all single family attached lots which do not have exterior access. Side access easements shall be not less than five feet and rear access easements shall be not less than 10 feet.

(6) Distance Between Buildings.

(A) When the parallel walls of two or more single family attached units are not over one foot apart, they shall be considered as one building in determining the minimum distance between buildings;

(B) The minimum distance between buildings shall be the same as required by Sec. 8-4.3(c), except that the minimum side to side distances between any portion of adjacent buildings must be five feet or greater if the side to side distance is more than one foot; and no more than six attached single family dwellings may be placed adjacent to one another where all dwellings are within 20 feet of one another;

~~(C) Minimum distances between single family attached dwellings and single family detached or multiple family dwellings shall be as required by Sec. 8-4.3(c).~~

~~(7) Subject to the density and acreage limitations in the particular residential density district, as provided in Sec. **8-4.2**, where an applicant seeks approval of a horizontal property regime, all single family attached dwelling units shall be located in a manner as to conform to the requirements of this Section as if they were to occur on separate subdivision parcels or lots.~~

~~(8) Construction Requirements. No lots for single family attached dwellings, as provided in this Section, shall be sold or leased until the dwelling units and other improvements to be erected on the lots, as indicated on construction plans or which were required as a condition of a zoning permit, have undergone at least 50% construction or completion and that the developer has deposited or provided the County of Kaua'i with a 100% Bond from the inception to the completion of the project.~~

~~(9) Requirements for parking, access, driveways, building height, utilities and other regulations not specified in this Section shall be the same as those required of all residential developments as established in Sec. **8-4.5**.~~

(c) Multiple Family Dwellings. Subject to the acreage limitations in the particular residential density district, as provided in Sec. **8-4.2**, the following standards shall apply where an applicant seeks subdivision approval to create lots for multiple family dwellings:

(1) Lot Area. The minimum lot area shall be 10,000 square feet.

(2) Lot Width. The minimum lot width shall be 80 feet.

(3) Lot Length. The average length of any lot shall not exceed three times its average width.

(4) Setbacks. Minimum setbacks shall be as required by Sec. 8-4.3(b).

(5) Distance Between Buildings. Minimum distance between buildings shall be as required by Sec. 8-4.3(c).

(6) Maximum Lot Coverage. The amount of land coverage created, including buildings and pavement, shall not exceed 50% of the lot

or parcel area. This requirement shall not apply to separate lots or parcels used in common for parking or other community uses.

(7) Requirements for parking, access, driveways, building height, utilities and other regulations not specified in this Section shall be the same as those required of all residential development as established in Sec. **8-4.5**.

§ 8-4.5 Standard of Development Applicable to All Residential Development

...

(b) Building Height.

(1) No single family detached or ~~single family attached dwelling~~, or accessory structure shall be more than two stories above and one story below from the finished grade at the main entry, over 20 feet measured from the finished grade at the main entry to the highest exterior wall plate line, and over 30 feet to the highest point of the roof measured at each point along the building from the finished grade at the main entry. The finished grade at the main entry shall not be elevated more than a maximum of four feet from the existing grade. (See Figure 1)

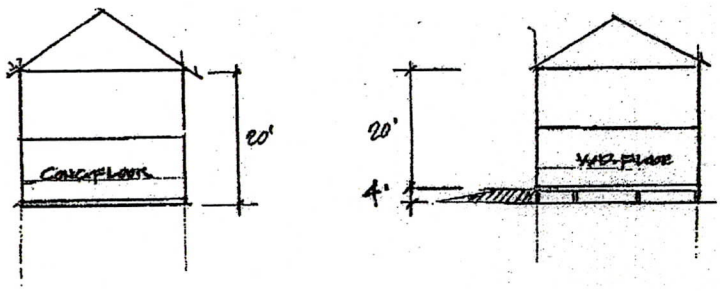


Figure 1.

For the purpose of determining the number of stories in a single family detached dwelling, a loft shall be considered a story, except when the dwelling is constructed in a flood plain area. In a flood plain area a loft shall not be deemed a story for the story limitation purpose of Subsection (b)(1). Lower minimums may be imposed as a condition to a zoning permit to recognize topographic, light and air, privacy or architectural conditions of adjacent development or uses.

(2) No multiple family buildings, hotel or motel, shall be more than 10 feet higher than any residential building located within 30 feet of the building, or shall not exceed four stories nor exceed 40 feet from finished grade at each point along the building to the highest wall plate line. Gables and roof height shall not exceed 1/2 the wall height or 15 feet, whichever is less. The limits contained in this Section shall not apply to spaces containing mechanical equipment, such as elevator machinery and air conditioning units, but the spaces shall not exceed 15 feet above the highest wall plate line.

(c) Utilities and Services. The following standards of development shall apply to all residential development:

(1) Waste collection areas shall be provided for single family detached dwelling and common waste collection areas shall be provided for ~~single family attached and~~ multiple family dwelling units, according to standards established by the County Engineer. All waste collection areas shall be screened by a fence, wall or hedge from public thoroughfares when serving over two dwelling units.

(2) Where a Zoning Permit is issued providing for development at a density of 10 or more dwelling units per acre on a parcel, all electric distribution lines, telephone lines, gas distribution lines, cable television lines, and like facilities located within the parcel to be developed or leading into the parcel shall be installed underground unless the applicant demonstrates, and the Planning Commission determines on the basis of substantial evidence, that installation of any of the foregoing lines and facilities above ground will better protect scenic and environmental values.

The following types of lines and facilities may be exempted from the requirements of this Section:

(A) Poles without overhead lines used exclusively for fire or police alarm boxes, lighting purposes or traffic control;

(B) Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building;

(C) Equipment appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal

boxes, and meter cabinets and concealed ducts, provided that the facilities shall be located and designed so as to harmonize with the area, and shall be appropriately screened and landscaped. In appropriate instances, all or part of the transformers and service terminals shall be flush with or below the surface of the ground at the point of installation.

(3) All residential development accessible to a public sewer shall provide for adequate sanitary sewer facilities in accordance with standards established by the Department of Public Works and the State Department of Health. In developments not accessible to public sewers, a private sewage disposal system shall be provided that meets the requirements of the Department of Public Works and the requirements of Chapter 57 of the Public Health Regulations of the State Department of Health.

(4) All residential development in districts permitting densities in excess of one dwelling unit per acre shall be served by a public water distribution system or a private system equivalent to public standards and specifications as established by the Department of Water.

(d) Public Access. The Planning Commission may require the dedication of adequate public access ways not less than six feet in width to publicly-owned land or waters and may require the preservation of all historic and archaeological sites, known or discovered on the parcel subject to development.

(e) Noncombustible Zone. A five (5) foot non-combustible zone with groundcover comprised of hardscape (such as concrete, brick, or gravel) with a depth of at least four (4) inches shall be constructed and maintained for any residential structure. For pervious material like gravel or crushed rock, a protective barrier shall be utilized beneath the pervious hardscape that prevents organic material growth. This five (5) foot groundcover hardscape requirement is not required for accessory structures.

(f) A second county standard access road is required for proposals that include the following:

1) Subdivision of 20 or more lots;

2) Condominium property regime (CPR) for 20 or more units; or

3) A zoning permit for 20 or more dwelling units.

The Planning Director or Planning Commission may require additional access beyond the second county standard access road when recommended by the ~~Public Works~~ County Engineer or the Fire Chief.

...

§ 8-15.1 Additional Dwelling Unit on Other Than Residentially Zoned Lots.

(a) Additional Dwelling Unit. Notwithstanding other provisions to the contrary, for any lot where only one single family residential dwelling or farm dwelling is a generally permitted use or is allowed through a Use Permit, one additional single family residential dwelling unit ~~(attached or detached)~~ or farm dwelling may be developed, provided:

...

§ 8-15.2 Additional Dwelling Unit on Other Than Residentially Zoned Lots.

(a) Notwithstanding other provisions to the contrary, for any residentially zoned lot where only one (1) single-family residential dwelling is permitted, one (1) additional single-family residential dwelling unit ~~(attached or detached)~~ may be developed, provided:

...

§ 8-19 Wildfire Wildland Urban Interface (WUI) Setbacks and Defensible Space Standards.

(a) General Provision for WUI Setbacks.

(1) For all zoning districts and special planning areas, any subdivision or created after XXX Ordinance Adoption Date XXX, the following setbacks shall apply for residential construction on any vacant lot created after XXX Ordinance Adoption Date XXX:

(A) Front Setback. No residential structure may be closer than 10 feet to the right-of-way line of a public throughfare or a private street lot serving more than three (3) dwelling units.

(i) The residential structure may encroach up to five (5) feet into the front setback when the primary entrance (including but not limited to a stoop, porch, or lanai entrance) to the structure is located on the front wall of the structure.

(B) Rear Setback. No residential structure may be closer than 15 feet to the rear lot line.

(i) The Planning Director may allow a residential structure to encroach up to five (5) feet into the rear setback when a vehicular access alleyway or an easement is established in the rear of the property, provided that a minimum structure-to-structure separation distance of thirty (30) feet is maintained between the residential structure on the subject property and any structure located on a property across such accessway or easement.

(C) Side Setback. No residential structure may be closer than 15 feet to the side lot line.

(i) The Planning Director may allow a residential structure to encroach up to five (5) feet into the side setback when a vehicular access (ex. an alleyway or a pole section of a flag lot) or an easement is established on the side property line, provided that a minimum structure-to-structure separation distance of thirty (30) feet is maintained between the residential structure on the subject property and any structure located on a property across such accessway or easement.

(D) Building-to-Building Setback. No residential structure shall be closer than 30 feet to another residential structure.

(2) No eave or roof overhang shall project into any setback more than four (4) feet.

(3) Accessory structures. With the exception of the front yard entrance encroachment, all accessory structures shall have the same property line setbacks as residential structures, and all accessory structures shall have the same building to building setbacks as residential structures.

(i) Exception: Accessory structures setbacks may be reduced to ten (10) feet if the accessory structure is 400 square feet or smaller, and the entire exterior (including but not limited to roof, walls, and footings) are comprised of noncombustible material.

(4) In consultation with the Fire Chief, the Planning Director may reduce minimum distances between structures proposed on a property or between property lines for the following:

(i) Shared wall construction across property lines if the respective structure(s)'s abutting walls or shared walls are constructed with noncombustible material.

(ii) Multifamily unit construction.

(~~a~~b) General Provisions for Defensible Space.

The implementation of this Section shall be by recorded covenants which shall run with the land for any of the following applications:

1) Subdivision of ten (10) or more lots,

2) Condominium property regime (CPR) for ten (10) or more units, or

3) A zoning permit for ten (10) or more dwelling units.

The covenants shall obligate all ~~of the~~ landowners within the project area subject to this Section to be mandatory members of an Association established by the developer, which could include but is not limited to a Homeowners Association (H.O.A.), limited appreciation leasehold estate, land trust, or similar civil property management entity.

(~~b~~c) There shall be adequate assurance for perpetual compliance by recorded covenants running with the land which shall include but not necessarily be limited to the following:

(1) Provisions included in a recorded Association declaration and within owner deed restrictions obligating owners to build and comply with this Section.

(~~c~~d) Enforcement. The Association or all ~~of the~~ owners shall be subject to the Enforcement, Legal Procedures, and Penalties established under Section 8-3.5 of the Kauai County Code.

(~~d~~e) Other Laws and Regulations. All clearing and maintenance subject to these regulations shall comply with other applicable laws and regulations, including but not limited to the State and County Fire Codes, Building Code, Subdivision Ordinance, and Sediment and Erosion Control Ordinance. In case

of a conflict between these regulations and the requirements of any other Federal, State, or County law, such as the State Fire Code or the County Fire Code, the more restrictive requirements shall apply.

(ef) The County shall not be liable for expenses incurred in the removal or replacement of any material required for the landowner to comply with this Article or to allow inspection.

(fg) Interpretation. In the interpretation and application of this Article, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the County; and

(3) Deemed to neither limit nor repeal any other requirement, power, or duty prescribed under Federal, State, or County law.

(gh) Warning and Disclaimer of Liability. The degree of wildfire and wildland urban interface required by this Article is considered reasonable for regulatory purposes and is based on wildfire hazard assessment considerations. Wildfires can and will occur on occasion. This Article does not imply that land outside the area of the subject property or uses and structures within this area will be free from wildfire risk. This Article shall not create liability on the part of the County of Kaua'i or any officer or employee for any damages that result from reliance on this Article or any administrative decision lawfully made based on this Article.

(hi) Residential Structure Zone Requirements.

(1) Maintenance Requirements. For all residential structures, the following maintenance requirements shall be met:

(A) The roof shall be kept clear of debris, paying particular attention to roof intersection area (e.g., roof-to-wall, at entry to through-roof vents, and at the roof edge, if a gutter is installed).

(B) Gutters and downspouts shall be kept clear of debris such as leaves and pine needles.

(C) Unenclosed appendages and projections attached to buildings such as decks, lānais, porches, carports, and stoops shall meet the following requirement:

(i) Only noncombustible items or materials are allowed to be stored or placed within the attached unenclosed appendages and projections. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.

(D) Underfloor areas beneath elevated residential structure, including unenclosed appendages and projections, that are not enclosed to the ground with noncombustible corrosion-resistant mesh screen shall meet the following requirements:

(i) Only noncombustible items or materials are allowed to be stored or placed within the unenclosed underfloor area. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.



(D) Addressing. Each residential structure shall have its address numbers placed or marked with reflective material on its exterior thoroughfare facing wall, with numbers at least three (3) inches in height.

(~~i~~j) Zone 0: 5-Foot Noncombustible Zone (NCZ) Requirements.



(1) Maintenance Requirements. This zone is the most critical zone of defensible space and requires the most stringent fuel reduction and regular maintenance to protect against wildfire. In the NCZ the following maintenance requirements shall be met for all residential structures:

(A) A 5-foot groundcover comprised of hardscape (such as brick, gravel, or concrete) with a depth of at least 4 inches shall be maintained in the NCZ. This is not required for accessory structures.

(B) Ground cover within the NCZ shall be noncombustible and free of debris such as leaves and pine needles.

(C) Vegetation growing within or overhanging into the NCZ is prohibited.

(D) Vegetation overhanging the roof is prohibited within the NCZ.

(E) Fences within the NCZ shall be noncombustible.

(F) Only noncombustible items or materials are allowed. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.

(~~j~~k) Zone 1: 30-Foot Defensible Space Requirements.

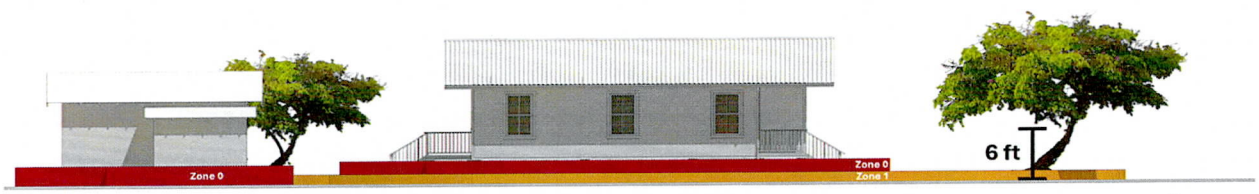


(1) Maintenance Requirements. The area beyond the residential structure shall have a regularly maintained defensible space of 30 feet measured from the edge of the exterior walls of the residential structure and its unenclosed appendages and projections (including but not limited to lānais, porches, and stoops). This includes:

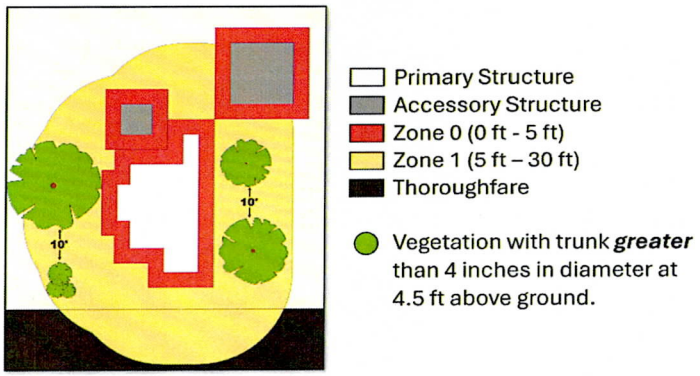
(A) Routine removal of accumulated vegetative debris, which may include but not be limited to fallen pine needles, leaves, twigs, and any dead vegetation, including piles from pruning.

(B) Vegetation with canopies within 30 feet of a residential structure shall be maintained as follows:

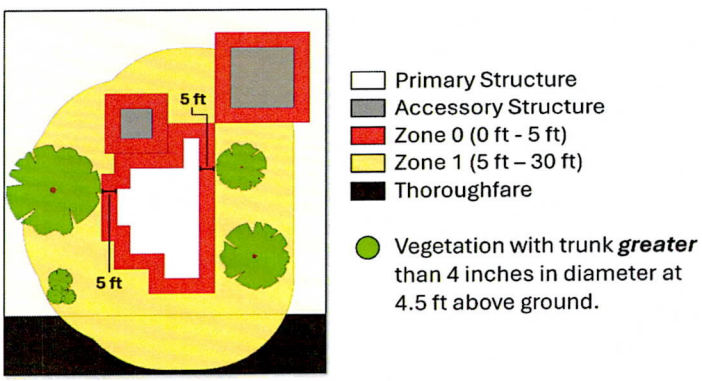
(i) Vegetation with a trunk of 4 inches in diameter or greater when measured at a height of 4.5 feet above the ground:



(a) Shall have limbs and branches pruned to a minimum height of 6 feet off the ground.

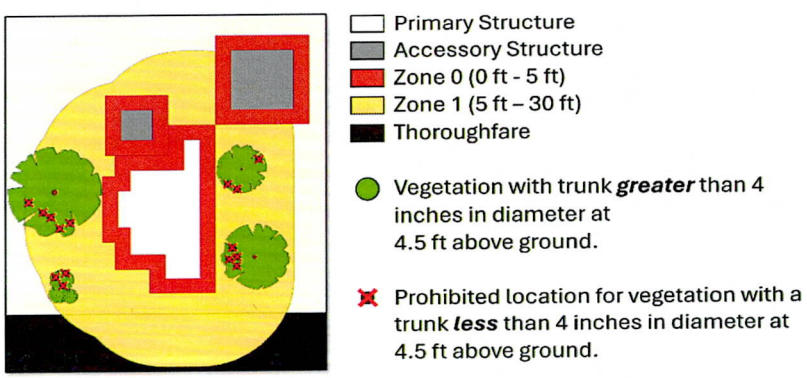


(b) Shall have a minimum of 10 horizontal feet of spacing between the tree canopy and the next closest tree, shrub, or bush canopy, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.

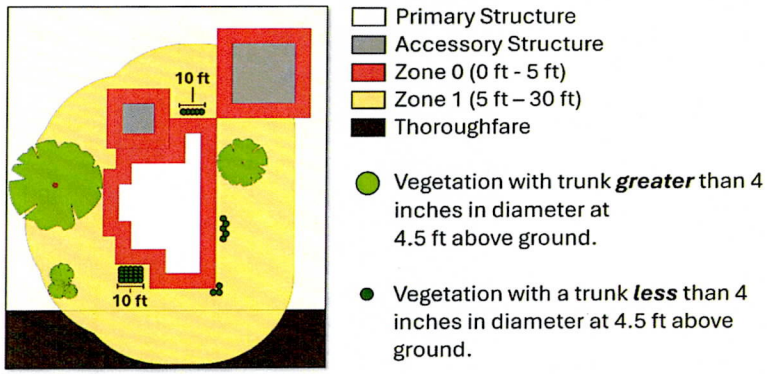


(c) Shall have a minimum of 5 horizontal feet between a tree canopy and the residential structure.

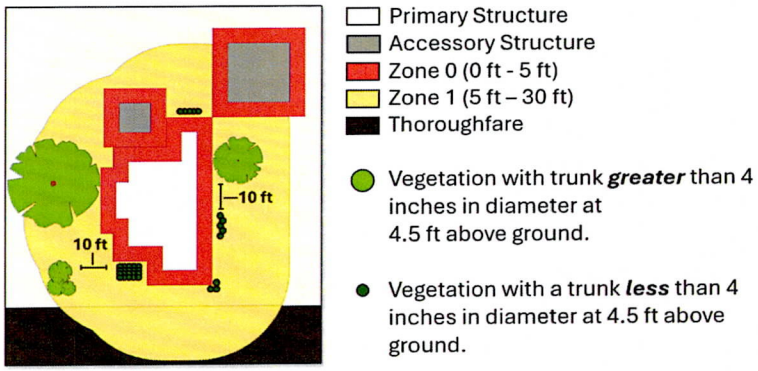
(ii) Vegetation with a trunk less than 4 inches in diameter when measured at a height of 4.5 feet above the ground or less than 4.5 feet tall:



(a) Are prohibited under larger trees.



(b) Are prohibited from having a canopy larger than 10 feet in horizontal diameter, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.



(c) Shall have a minimum horizontal space between canopies of at least 10 feet.

(iii) Firewood is prohibited in this 30-foot defensible space area from the residential structure. Firewood is only allowed in this area if it is enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any ember intrusion into the unit during a wildfire event.

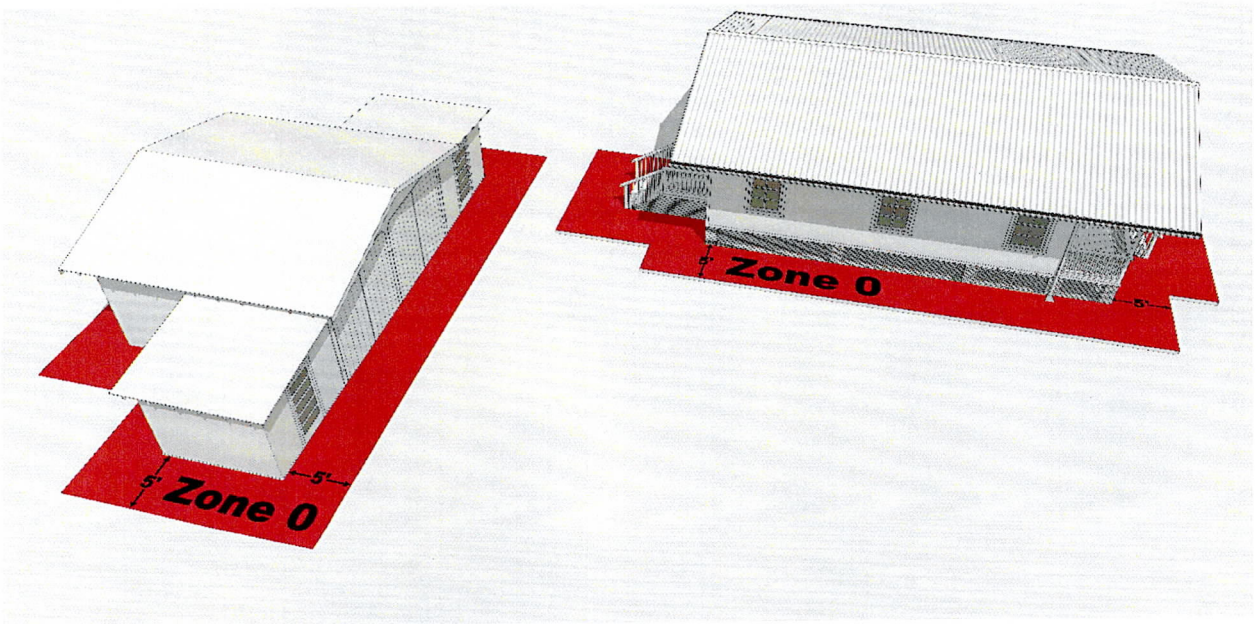
(C) Fire-prone vegetation is prohibited 30 feet from any residential structure, measured from the edge of the exterior walls of the residential structure and its unenclosed appendages, and projections (including but not limited to lānais, porches, and stoops).

(D) The following plant species are exempt from these requirements:

(i) Colocasia esculenta, also known as kalo or taro.

(ii) Musa, also known as banana.

(~~k~~l) Accessory Structure Zone Requirements.



(1) Maintenance Requirements for Accessory Structure. For all accessory structures, the following maintenance requirements shall be met:

(A) The roof shall be kept clear of debris, paying particular attention to roof intersection area (e.g., roof-to-wall, at entry to through-roof vents, and at the roof edge, if a gutter is installed).

(B) Gutters and downspouts shall be kept clear of debris such as leaves and pine needles.

(C) Unenclosed appendages and projections attached to buildings such as decks lānais, porches, carports, and stoops shall meet the following requirement:

(i) Only noncombustible items or materials are allowed to be stored or placed within the attached unenclosed appendages and projections. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.

~~(1)~~(2) Maintenance Requirements for Noncombustible Zone. Each accessory structure shall have its own 5 feet of NCZ that does not overlap the 5-foot NCZ required for a residential structure, appendages and projections (including but not limited to lānais, porches, and stoops), or other accessory structures. In the accessory structure's NCZ, the following standards shall apply:

~~(A) Ground cover within the NCZ shall be noncombustible and free of debris such as leaves and pine needles.~~

~~(B)~~(A) With the exception of maintained lawn grass at a height not to exceed 6 inches, ~~V~~vegetation growing within or overhanging into the NCZ is prohibited.

~~(C)~~(B) Vegetation overhanging the roof is prohibited within the NCZ.

~~(D)~~(C) Fences within the NCZ shall be noncombustible.

~~(E)~~(D) Only noncombustible items or materials are allowed. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.

(~~l~~m) Fire Prevention Outreach and Education Requirements.

(1) Conduct a workshop titled "How to Have a Fire Adapted Home and Community." At least once per year, the Homeowners Association (HOA), or applicable property management entity, shall coordinate with the Fire Department, Kaua'i Emergency Management Agency, and Planning

Department to set up and conduct at least one workshop for the HOA board that is open to all residents of the subject property that teaches the principles of fire prevention and evacuation. Topics for discussion shall include but need not be limited to defensible space, landscaping, and home hardening. Workshops shall be scheduled for evenings or weekends when most homeowners are available. Material shall be available at the workshops that promote fire risk reduction practices and strategies.

(2) A report on the workshop format and participation shall be provided to the Fire Department and Planning Department no later than June 30 of every calendar year.

SECTION 5. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 6. Material to be deleted is bracketed. New material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kauai County Code 1987, as amended, the bracketed material, and underscoring need not be included

SECTION 7. This Ordinance shall take effect July 1, 2027.

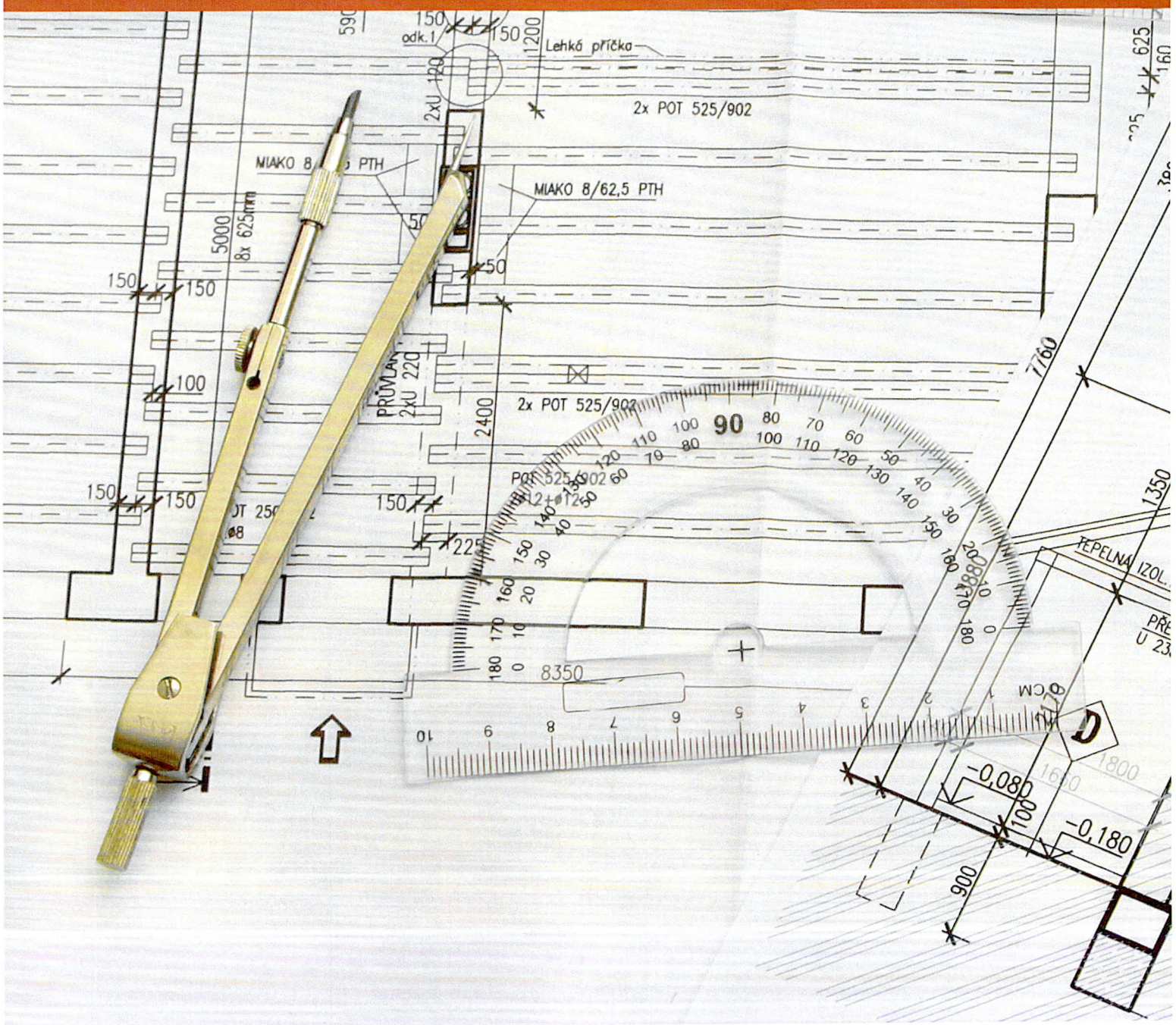
Exhibit C:

2023 Insurance Institute for Business & Home Safety (IBHS) Model Ordinance for Construction

Insurance Institute for Business & Home Safety®

Model Ordinance For Construction in WUI Area

September 2023



Wildfire-Resistant Construction Codes Supplement

The threat of wildfire has grown across the United States. When wildfires enter a community, catastrophe unfolds far too often. Strongly enforced building and defensible space codes and ordinances provide communities with a critical tool to strengthen resilience to this peril.

To help communities reduce their vulnerability to the embers, flames, and radiant heat associated with wildfires, the Insurance Institute for Business & Home Safety (IBHS) created the Wildfire-Resistant Construction Code Supplement ("Supplement") to provides municipalities and other local jurisdictions with wildfire resistance code/ordinance options for one- and two-family dwellings. The Supplement provides options for both new construction and retrofits of existing housing stock. Each of the three tiers of the Supplement is designed to be adopted and enforced alongside the building code in place within the jurisdiction.

The Supplement bridges wildfire protection gaps between the existing International Code Council's (ICC) model "I-Codes" (International Building Code and International Residential Code), the ICC Wildland-Urban Interface Code, and the IBHS Wildfire Prepared Home standard[1]. The Supplement consists of three tiers:

- **Baseline** – The "Baseline" tier of the Supplement provides a bridge between the existing IRC/IBC residential construction requirements and the IBHS Wildfire Prepared Home "base" designation requirements. Provisions focus on critical areas for ember defense and reducing pathways for fire to reach a home (e.g., roof material, 0–5-foot home ignition zone, also referred to as Zone 0, vents, 5–30-foot defensible space elements). The Baseline tier is specifically tailored for suburban wildland interface environments and is ideal for retrofit provisions.

- **Enhanced** – The "Enhanced" tier of the Supplement increases protections for direct flame and radiant heat (i.e., fire resistant enhancements for windows, doors, wall cover materials) above what is contained in the "Baseline" tier. The Enhanced tier meets the requirements of the IBHS Wildfire Prepared Home "Plus" designation. The Enhanced tier is designed for use in suburban, traditional wildland-urban interface areas, and rural environments.

- **Optimum** – The "Optimum" tier provides the highest level of protection based on current wildfire and fire science knowledge. It goes beyond the Enhanced tier to require fully noncombustible materials, addresses all three ignition mechanisms, and includes provisions to reduce fire spread and conflagration potential. The Optimum tier is designed for use in the most extreme wildfire prone areas and/or environments with dense residential construction near high density wildland fuels.

The Supplement is based on the latest research from both IBHS and the broader wildfire science and engineering communities. To learn more: https://ibhs.org/wildfire/suburban-wildfire-adaptation-roadmaps/

For additional information contact:

Ian Giammanco, PhD
IBHS Managing Director for Standards and Data Analytics
Igiammanco@ibhs.org

ADDENDUM TO THE _____ COUNTY RESIDENTIAL AND BUILDING CODE
APPENDIX A – CONSTRUCTION REGULATIONS IN WILDLAND-URBAN INTERFACE (WUI) ZONE

CHAPTER A1
SCOPE AND ADMINISTRATION

SECTION A101
SCOPE AND GENERAL REQUIREMENTS

A101.1 Scope. The provisions of this appendix shall apply to building materials, systems and/or assemblies used in the construction of new one and two-family dwellings not more than three stories above the grade plane that are located within the WUI zone in _____ County/City/Town.

A101.2 Objective. The purpose of this appendix is to establish minimum requirements to mitigate the risk to life, and structures located in a WUI zone from intrusion of flames, radiant heat and/or burning embers from wildlands and adjacent structures.

A101.3 Retroactivity. The provisions of this appendix shall apply to conditions arising after the adoption thereof, conditions not legally in existence at the adoption of this appendix and conditions that, in the opinion of the code official, constitute a distinct hazard to life or property.
Exception: Provisions of this appendix that specifically apply to existing conditions are retroactive.

A101.4 Additions or alterations. Additions or alterations shall be permitted to be made to any building or structure without requiring the existing building or structure to comply with all the requirements of this appendix, provided that the addition or alteration conforms to that required for a new building or structure.
Exception: Provisions of this appendix that specifically apply to existing conditions are retroactive.
Additions or alterations shall not be made to an existing building or structure that will cause the existing building or structure to be in violation of any of the provisions of this appendix nor shall such additions or alterations cause the existing building or structure to become unsafe. An unsafe condition shall be deemed to have been created if an addition or alteration will cause the existing building or structure to become structurally unsafe or overloaded; will not provide adequate access in compliance with the provisions of this appendix or will obstruct existing exits or access; will create a fire hazard; will reduce required fire resistance or will otherwise create conditions dangerous to human life.

A101.5 Maintenance. Buildings, structures, landscape materials, vegetation, defensible space or other devices or safeguards required by this appendix shall be maintained in conformance to the code edition under which installed. The owner or the owner's authorized agent shall be responsible for the maintenance of buildings, structures, landscape materials, and vegetation.

A101.6 Conflict or inconsistency with Residential Code. In the event of any conflict or inconsistency between the requirements in this appendix and the _____ County/City/Town, the requirements of this appendix shall control with respect to one and two-family dwellings not more than three stories above the grade plane located in a WUI zone.

A101.1.2 Effective date. This appendix shall become effective on _____ and shall apply to all permits applied for after _____.

CHAPTER A2
DEFINITIONS

SECTION A201
GENERAL

A201.1 Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this code, have the meanings shown in this chapter.

A201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural the singular.

A201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in other International Codes, such terms shall have the meanings ascribed to them as in those codes.

A201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have their ordinarily accepted meanings such as the context implies.

SECTION A202
DEFINITIONS

ACCESSORY STRUCTURE. A building or structure used to shelter or support any material, equipment, chattel, or occupancy other than a habitable building.

ACCESSORY DWELLING UNIT (ADU). An attached or detached dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

CERTIFICATE OF COMPLETION. Written documentation that the project or work for which a permit was issued has been completed in conformance with requirements of this appendix.

CRITICAL FIRE WEATHER. A set of weather conditions (usually a combination of low relative humidity and wind) whose effects on fire behavior make control difficult and threaten life safety.

DEFENSIBLE SPACE. An area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared, or modified to slow the rate and intensity of an advancing wildfire and to create an area for structure defense operations to occur.

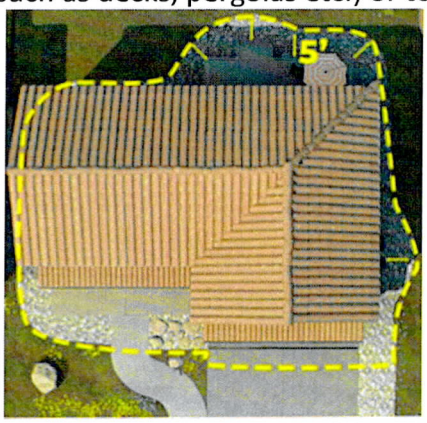
FIRE SEPARATION DISTANCE. [Reserved- *See section of Recommendation of Implementation.*]

FIRE-RESISTANCE-RATED CONSTRUCTION. The use of materials and systems in the design and construction of a building or structure to safeguard against the spread of fire within a building or structure and the spread of fire to or from buildings or structures to the wildland-urban interface area.

FIRE-RETARDANT-TREATED WOOD. Fire-retardant-treated wood is a type of wooden material that resists ignition and shall be identified for exterior use. Fire-retardant-treated wood material shall meet the requirements of Section 2303.2 of the International Building Code.

FLAME SPREAD INDEX. A comparative measure, expressed as a dimensionless number, derived from visual measurements of the spread of flame versus time for a material tested in accordance with ASTM E84.

HOME IGNITION ZONE (HIZ). This zone extends 5 feet out from the edge of the exterior walls of the dwelling and attachments (such as decks, pergolas etc.) or to the property line.



IGNITION-RESISTANT BUILDING MATERIAL. A type of building material that resists ignition or sustained flaming combustion sufficiently so as to reduce losses from wildland-urban interface conflagrations under worst-case weather and fuel conditions with wildfire exposure of burning embers and small flames, as prescribed in Section A502.4.

LOG WALL CONSTRUCTION. A type of construction in which exterior walls are constructed of solid wood members and where the smallest horizontal dimension of each solid wood member is not less than 6 inches (152 mm).

MULTILAYERED GLAZED PANELS. Window or door assemblies that consist of two or more independently glazed panels installed parallel to each other, having a sealed air gap in between, within a frame designed to fill completely the window or door opening in which the assembly is intended to be installed.

NONCOMBUSTIBLE. As applied to building construction material means a material that, in the form in which it is used, is either one of the following:

1. Material of which no part will ignite and burn when subjected to fire. Any material conforming to ASTM E 136 shall be considered noncombustible within the meaning of this section.
2. Material having a structural base of noncombustible material as defined in Item 1 above, with a surfacing material not over 1/8 inch (3.2 mm) thick, which has a flame spread index of 50 or less. Flame spread index as used herein refers to a flame spread index obtained according to tests conducted as specified in ASTM E84 or UL 723.

"Noncombustible" does not apply to surface finish materials. Material required to be noncombustible for reduced clearances to flues, heating appliances or other sources of high temperature shall refer to material conforming to Item 1. No material shall be classified as noncombustible that is subject to increase in combustibility or flame spread index, beyond the limits herein established, through the effects of age, moisture, or other atmospheric conditions.

NONCOMBUSTIBLE ROOF COVERING. A roof covering consisting of any of the following:

1. Cement shingles or sheets.
2. Exposed concrete slab roof.
3. Ferrous or copper shingles or sheets.
4. Slate shingles.
5. Clay or concrete roofing tile.

6. Approved roof covering of noncombustible material.

ROOF ASSEMBLY. A system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly can include an underlayment, thermal barrier, ignition barrier, insulation, or a vapor retarder.

ROOF COVERING. The covering applied to the roof deck for weather resistance, fire classification or appearance.

ROOF DECK. The flat or sloped surface not including its supporting members or vertical supports.

SLOPE. The variation of terrain from the horizontal; the number of feet (meters) rise or fall per 100 feet (30 480 mm) measured horizontally, expressed as a percentage.

UNENCLOSED ACCESSORY STRUCTURE. An accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

WILDFIRE. An uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.

WILDLAND. An area in which development is essentially nonexistent, except for roads, railroads, power lines and similar facilities.

WILDLAND-URBAN INTERFACE AREA. That geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.

CHAPTER A3
WILDLAND-URBAN INTERFACE AREA

[Reserved- Define wildfire-prone zones in and around your jurisdiction. *See section Recommendation of Implementation.*]

CHAPTER A4
FIRE PROTECTION REQUIREMENTS

SECTION A401
DEFENSIBLE SPACE REQUIREMENTS

A401.1 Home ignition zone (HIZ) requirements. This zone is the most critical zone of defensible space and requires the most stringent fuel reduction and regular maintenance to protect against wildfire. This includes:

- The roof shall be kept clear of debris.
- Gutters and downspouts shall be kept clear of debris such as leaves and pine needles.
- Ground cover shall be *noncombustible* and kept free of debris. *Noncombustible* hardscape such as gravel or paving stones are recommended. Bare soil is also acceptable.
- No vegetation (trees, shrubs, bushes, plants, grass, weeds, etc.) shall exist within or overhang. Any overhanging limbs or branches from nearby trees and bushes must be trimmed back to be outside the HIZ.
- Only *noncombustible* or *ignition-resistant* items are allowed.
- No boats, RVs, or other vehicles are allowed.



A401.2 Other defensible space requirements. The remainder of the property beyond the home must have defensible space that is regularly maintained. This includes:

- Routinely remove fallen pine needles, leaves, and other vegetative debris accumulated in the yard.
- Routinely remove any dead vegetation, including piles from pruning and firewood.
- Vegetation, including plants with canopies within 30 feet of the home:
    - Trees with a trunk of 4 inches in diameter or greater when measured at a height of 4.5 feet above the ground:
        - Must have limbs and branches pruned to a minimum height of 6 feet off the ground.
        - Must have a minimum of 10 horizontal feet of spacing between the tree canopy and the next closest tree, shrub, or bush canopy.

        - May be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.
    - Must have a minimum of 5 horizontal feet between a tree canopy and the home.
- Shrubs, bushes, and small trees with a trunk less than 4 inches in diameter when measured at a height of 4.5 feet above the ground or less than 4.5 feet tall:
    - Must not be placed under larger trees.
    - Must not have a canopy larger than 10 feet in horizontal diameter.
        - May be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.
    - Must have a minimum horizontal space between canopies of at least 10 feet.

A401.3 Other maintenance requirements. For unattached accessory structures and outbuildings that are within 30 feet of the home and that have a footprint greater than or equal to 15 square feet (such as sheds, gazebos, accessory dwelling units (ADUs), open covered structures with a solid roof, dog houses, playhouses, etc.):

- No more than 3 total of these structures are allowed within 30 feet of the home.
- Each structure must have its own 5 feet of defensible space (as prescribed under Home Ignition Zone) that does not overlap the 5-foot HIZ required for the home, decks, or other structures within 30 feet of the home.

CHAPTER A5
WILDLAND-URBAN INTERFACE ZONE CONSTRUCTION REGULATIONS

SECTION A501
GENERAL

A501.1 Scope. Building and accessory structures shall be constructed in accordance with the [Place Local jurisdiction's Title of Building Code here] and this appendix.
Exceptions: Agricultural buildings not less than 50 feet (15 240 mm) from buildings containing habitable spaces.

A501.2 Objective. The objective of this chapter is to establish minimum standards to locate, design and construct buildings and structures or portions thereof for the protection of life and property, to resist damage from wildfires, and to mitigate building and structure fires from spreading to wildland fuels.

SECTION A502
WUI CONSTRUCTION AND MATERIAL

A502.1 General. Buildings and structures hereafter constructed, modified, or relocated into or within wildland-urban interface areas shall be established in accordance with [One or more of these sections A503, A504, or A505]. Materials required to be *ignition-resistant building materials* shall comply with the requirements of Sections A502.2 through A502.6.
A502.2 Fire-resistance-rated construction. Where this code requires 1-hour *fire-resistance-rated construction*, the fire-resistance rating of building elements, components or assemblies shall be determined in accordance with the test procedures set forth in ASTM E119 or UL 263.
Exceptions:

1. The fire-resistance rating of building elements, components or assemblies based on the prescriptive designs prescribed in Section 721 of the *International Building Code*.
2. The fire-resistance rating of building elements, components or assemblies based on the calculation procedures in accordance with Section 722 of the *International Building Code*.

A502.3 Noncombustible material. Material shall comply with the requirements for noncombustible materials in Section A202.
A502.4 Ignition resistant building material. Material shall be tested on the front and back faces in accordance with the extended ASTM E84 or UL 723 test, for a total test period of 30 minutes, or with the ASTM E2768 test. The certification of the flame spread index shall be accompanied by a test report stating that all portions of the test specimen ahead of the flame front remained in position during the test. The materials shall bear identification showing the fire test results. Panel products shall be tested with a ripped or cut longitudinal gap of $^1/_8$ inch (3.2 mm). The materials, when tested in accordance with the test procedures set forth in ASTM E84 or UL 723 for a test period of 30 minutes, or with ASTM E2768, shall comply with Sections A503.4.1 through A503.4.3.

Exception: Materials composed of a combustible core and a noncombustible exterior covering made from either aluminum at a minimum 0.019-inch (0.48 mm) thickness or corrosion-resistant steel at a minimum 0.0149 inch (0.38 mm) thickness shall not be required to be tested with a ripped or cut longitudinal gap.

A502.4.1 Flame spread. The material shall exhibit a flame spread index not exceeding 25.

A502.4.2 Flame front. The material shall exhibit a flame front that does not progress more than 10 ½ feet (3200 mm) beyond the centerline of the burner at any time during the test.

A502.4.3 Weathering. Ignition resistant building materials shall maintain their performance in accordance with this section under conditions of use. The materials shall meet the performance requirements for weathering (including exposure to temperature, moisture, and ultraviolet radiation) contained in the following standards, as applicable to the materials and conditions of use.

A502.4.3.1 Evaluation requirements for weathering. Fire-retardant-treated wood, wood-plastic composite materials, and plastic lumber materials shall be evaluated after weathering in accordance with Method A "Test Method for Accelerated Weathering of Fire-Retardant-Treated Wood for Fire Testing" in ASTM D2898.

A502.4.3.2 Wood-plastic composite materials. Wood-plastic composite materials shall also demonstrate acceptable fire performance after weathering by the following procedure: first testing in accordance with ASTM E1354 at an incident heat flux of 50 kW/m2 in the horizontal orientation, then weathering in accordance with ASTM D7032 and then retesting in accordance with ASTM E1354 and exhibiting an increase of no more than 10 percent in peak rate of heat release when compared to the peak heat release rate of the nonweathered material.

A502.4.3.3 Plastic lumber materials. Plastic lumber materials shall also demonstrate acceptable fire performance after weathering by the following procedure: first testing in accordance with ASTM E1354 at an incident heat flux of 50 kW/m2 in the horizontal orientation, then weathering in accordance with ASTM D6662 and then retesting in accordance with ASTM E1354 and exhibiting an increase of no more than 10 percent in peak rate of heat release when compared to the peak heat release rate of the nonweathered material.

A502.5 Fire-retardant-treated wood. Fire-retardant-treated wood shall be identified for exterior use and shall meet the requirements of Section 2303.2 of the International Building Code.

A502.6 Fire-retardant-treated wood roof coverings. Roof assemblies containing fire-retardant-treated wood shingles and shakes shall comply with the requirements of Section 1505.6 of the *International Building Code* and shall be classified as Class A roof assemblies as required in Section 1505.2 of the *International Building Code*.

SECTION A503
OPTIMUM WILDFIRE RESISTANT CONSTRUCTION

A503.1 General. Optimum wildfire resistant construction shall be in accordance with sections A503.2 through A503.14.

A503.2 Roof assembly. Roofs shall have a roof assembly with an approved *noncombustible* roof covering. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space at the eave ends shall be firestopped to preclude entry of flames or embers or have one layer of cap sheet complying with ASTM D3909 installed over the combustible roof deck.

A503.2.1 Roof valleys. Where provided, valley flashings shall be not less than 0.019-inch (0.48 mm) (No. 26 galvanized sheet gage) corrosion-resistant metal installed over a minimum 36-inch-wide (914 mm) underlayment consisting of one layer of 72-pound (32.4 kg) mineral-surfaced, nonperforated cap sheet complying with ASTM D3909 running the full length of the valley.

A503.3 Protection of eaves. Eaves and soffits shall be protected on the exposed underside with materials approved for not less than 1-hour *fire-resistance-rated construction* on the exterior side. The exterior covering of such assembly shall be constructed with *noncombustible* materials. Fascia is required and shall be constructed with materials approved for not less than 1-hour *fire-resistance-rated construction*. Such fascia shall be protected on the backside by *noncombustible* materials.

A503.4 Gutters and downspouts. Gutters and downspouts shall be constructed of *noncombustible* material. Gutters shall be covered with a *noncombustible* material to prevent the accumulation of debris within the gutter.

A503.5 Exterior walls. Exterior walls of buildings or structures shall be constructed with materials approved for not less than 1-hour *fire-resistance-rated construction* on the exterior side. The exterior siding of such wall shall be constructed with *noncombustible* materials. Such material shall extend from the top of the foundation to the underside of the roof sheathing.

A503.6 Underfloor enclosure. Buildings or structures shall have underfloor areas enclosed to the ground, with exterior walls in accordance with Section A503.5.

Exception: Complete enclosure shall not be required where the underside of exposed floors and exposed structural columns, beams and supporting walls are protected as required for exterior 1-hour *fire-resistance-rated construction* and the exterior covering of such assembly is protected with *noncombustible* materials.

503.7 Appendages and projections. Unenclosed accessory structures attached to buildings such as decks shall be constructed with *noncombustible* walking surface. Where there is gap in

walking surface, the horizontal surface between walking surface and joists and girders (beams) shall be covered with a *noncombustible* material (such as foil-faced tape products).
Exception: Coated materials shall not be used as the walking surface of decks.

A503.7.1 Underfloor areas. The underfloor area of appendages and projections shall be enclosed to the ground, with exterior walls construction in accordance with Section A503.5.

Exception: underfloor areas enclosure shall not be required for appendages and projections where the underside of exposed floors and exposed structural columns, beams and supporting walls are constructed with materials approved for not less than 1-hour *fire-resistance-rated construction* on the exterior side. The exterior siding of such assembly shall be constructed with *noncombustible* materials.

A503.8 Exterior glazing. Exterior windows, window walls and glazed doors, windows within exterior doors, and skylights shall have a fire protection rating of not less than 45 minutes.

Exception: Exterior windows, window walls and glazed doors, windows within exterior doors, and skylights with multipaned glass with at least two tempered panes, glass blocks (windows only) are permitted when such an exterior glazing is protected with fire-resistant-rated shutters constructed in accordance with section A503.10 on the exterior side.

A503.9 Exterior doors. Exterior doors shall be approved noncombustible construction, solid core wood not less than 13/4 inches thick (44 mm) or have a fire protection rating of not less than 20 minutes. Windows within doors and glazed doors shall be in accordance with Section 503.8. Such an exterior door assembly shall be protected with fire-resistant-rated shutters constructed in accordance with section A503.10 on the exterior side.

Exception: Vehicle access doors.

A503.9.1 Vehicle access door perimeter gap. Exterior vehicle access doors shall resist the intrusion of embers from entering by preventing gaps between doors and door openings, at the bottom, sides, and tops of doors, from exceeding 1/8 inch (3.2 mm). Gaps between doors and door openings shall be controlled by one of the following methods:

1. Weather-stripping products made of materials that: (a) have been tested for tensile strength in accordance with ASTM D638 (Standard Test Method for Tensile Properties of Plastics) after exposure to ASTM G155 (Standard Practice for Operating Xenon Arc Light Apparatus for Exposure of Non-Metallic Materials) for a period of 2,000 hours, when the maximum allowable difference in tensile strength values between exposed and non-exposed samples does not exceed 10%; and (b) exhibit a V-2 or better flammability rating when tested to UL 94 (Standards for Tests for Flammability of Plastic Materials for Parts in Devices and Appliances).
2. Door overlaps onto jambs and headers.
3. Vehicle access door jambs and headers covered with metal flashing.

A503.9.2 Vehicle access door automatic openers. Residential vehicle access door automatic openers must have a battery backup function so that the vehicle access door automatic opener is operational without interruption during an electrical outage.

A503.10 Fire-resistant-rated shutters. The fire-resistant shutter shall:

- Protect the entire window or door assembly including framing and glazing; and
- Consist of *noncombustible* material; and
- Be fixed to the building and be non-removable; and
- Be capable of being closed manually from either inside or outside or motorized shutter systems, where they are not reliant on main power to close; and
  Note: if power-assisted shutter systems are used then that system is powered with continuous back-up energy such as a battery system.
- When in the closed position, have no gap greater than 1/8-in (3.2 mm) between the shutter and the wall, frame, or sill; and
- Where perforated, have uniformly distributed perforations with a maximum aperture of 1/8 inch and a perforated area no greater than 20% of the shutter.

A503.11 Vents. Attics and enclosed rafters shall be unvented in accordance with Section 1202.3 of the *International Building Code* or Section R806.5 of the *International Residential Code*. In residential buildings underfloor spaces shall be unvented in accordance with Section R408.3 of *International Residential Code*.

Exception: In existing buildings, ventilation openings for enclosed attics, gable ends, ridge ends, enclosed eave soffit spaces, enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, underfloor ventilation openings, foundation or underfloor vents or other ventilation openings in vertical exterior walls and vents through roofs shall not exceed 144 square inches (0.0929 m2) each. Gable end, crawl space and other vents that mount on a vertical wall or in the under-eave area shall be tested in accordance with ASTM E2886 and approved to prevent flame or ember penetration into the structure. Those vents that are excluded from the scope of ASTM E2886 such as roof ridge and off-ridge (field) vents shall be protected with *noncombustible* corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm).

A503.12 Detached accessory structures. Detached accessory structures shall be constructed in accordance with Sections A503.2 through A503.11.
Exception: Accessory structures not exceeding 120 square feet (11 m2) in floor area where located not less than 50 feet (15 240 mm) from buildings containing habitable spaces.

A503.13 Spark arrestor. Chimneys serving fireplaces, barbecues, incinerators, or decorative heating appliances in which solid or liquid fuel is used, shall be provided with a spark arrestor. Spark arrestors shall be constructed of woven or welded wire screening of 12 USA standard gage wire (0.1046 inch) (2.66 mm) having openings not exceeding 1/2 inch (12.7 mm).

The net free area of the spark arrestor shall be not less than four times the net free area of the outlet of the chimney.

A503.14 Fences. All fences within the property line shall be constructed with noncombustible materials.

SECTION A504
ENHANCED WILDFIRE RESISTANT CONSTRUCTION

A504.1 General. Enhanced wildfire resistant construction shall be in accordance with sections A504.2 through A504.14.

A504.2 Roof assembly. Roofs shall have a roof assembly that complies with a Class A rating when tested in accordance with ASTM E108 or UL 790, or an approved *noncombustible* roof covering. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space at the eave ends shall be firestopped to preclude entry of flames or embers or have one layer of cap sheet complying with ASTM D3909 installed over the combustible roof deck.

A504.2.1 Roof valleys. (Reserved

A504.3 Protection of eaves. Eaves and soffits shall be protected on the exposed underside by *ignition-resistant building materials*, *noncombustible* materials, materials approved for not less than 1-hour *fire-resistance-rated construction*, or 2-inch (51 mm) nominal dimension lumber.

A504.4 Gutters and downspouts. Gutters and downspouts shall be constructed of *noncombustible* material. Gutters shall be covered with a *noncombustible* material to prevent the accumulation of debris within the gutter.

A504.5 Exterior walls. Exterior wall covering (siding or cladding) of buildings or structures shall be *noncombustible, ignition-resistant building material* or *fire-retardant-treated wood.* Decorative shutters mounted on exterior wall covering shall be *noncombustible, fire-retardant-treated wood or ignition-resistant building material.* A minimum of 6 inches of *noncombustible* material applied vertically on the exterior of the wall shall be installed at the ground, decking, and roof intersections.

A504.6 Underfloor enclosure. Buildings or structures shall have underfloor areas enclosed to the ground, with exterior walls in accordance with Section A504.5 or with *noncombustible* corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm).

A504.7 Appendages and projections. Unenclosed *accessory structures* attached to buildings such as decks shall be constructed in accordance with one of the following methods:

A504.7.1 New construction. All the components including posts, joists, railings, stairs, and walking surfaces are constructed with *noncombustible, fire-retardant-treated wood* or *ignition-resistant building materials.*

A504.7.1.1 underfloor areas. Reserved.

A504.7.2 Existing structures.

- Deck walking surfaces constructed with a solid core, *noncombustible* material without any gap;
- Railings within 5 feet of the building constructed of a *noncombustible* material, including where railings attach to the building.
- Deck posts with a minimum of 6 vertical inches of *noncombustible* material at grade.
- For staircases 4 feet in width or less that attach to a deck and open underneath shall have one of the following requirements:
  - Open risers (no solid risers)
    - Shall have a minimum of 6 vertical inches of the bottom of stairs constructed with *noncombustible* material.
    - Stair treads shall be a solid core without any gaps, *noncombustible* material.
  - Closed risers
    - Shall have a minimum of 6 vertical inches of the bottom of stairs made from *noncombustible* material.
    - Stair treads and risers should be a solid core without any gaps, noncombustible material.
- For staircases wider than 4 feet that attach to a deck, the staircase shall be cleared underneath and enclosed with noncombustible material with openings not to exceeded 1/8-inch, such as 1/8-inch or finer metal mesh and include the following requirements:
  - Closed risers
    - Shall have a minimum of 6 vertical inches of the bottom of stairs made from *noncombustible* material.
    - Stair treads and risers shall be a solid core without any gaps, *noncombustible* material.

A504.7.2.1 Underfloor areas. For appendages and projections 4 feet or less above the ground when measured nominally from the walking surface to the ground at the location where this distance is maximum, the underfloor area shall be fully enclosed to the ground, with exterior walls constructed in accordance with Section A504.5 or fully enclosed with *noncombustible*, corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm).

A504.8 Exterior glazing. Exterior windows, window walls and glazed doors, windows within exterior doors, and skylights shall be multipaned glass with at least two tempered panes, glass blocks (windows only), or have a fire protection rating of not less than 20 minutes.

A504.9 Exterior doors. Exterior doors shall be solid core with an exterior surface with *noncombustible* or *ignition-resistant building material* or have a fire protection rating of not less than 20 minutes. Exterior doors threshold shall be *noncombustible* material. Glazing within doors shall be in accordance with Section A504.8. Doors constructed with combustible material are allowed where a *noncombustible* exterior storm door is installed as the outermost door.
Exception: Vehicle access doors.
A504.9.1 Vehicle access door perimeter gap. Reserved.
A504.9.2 Vehicle access door automatic openers. Reserved.

A504.10 Fire-resistant-rated shutters. Reserved.

A504.11 Vents Ventilation openings for enclosed attics, gable ends, ridge ends, enclosed eave soffit spaces, enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, underfloor ventilation, foundations, and crawl spaces; under eaves and cornices; or for any other opening intended to permit ventilation, either in a horizontal or vertical surface, shall meet one of the following requirements:

Performance-based requirements: Corrosion-resistant ember and flame-resistant vents conforming with the ASTM E2886 test requirements:

- No flaming ignition of the cotton material during the Ember Intrusion Test.
- No flaming ignition during the Integrity Test portion of the Flame Intrusion Test.
- Temperature of the unexposed side of the vent does not exceed 662°F.

Prescriptive-based requirements: Vents must be made of a noncombustible material and covered with noncombustible corrosion-resistant mesh with openings not to exceed 1/8 inch.

Exceptions: Dryer vents shall have a solid metal louver or flap in lieu of mesh. Plumbing vents are excluded from these requirements.

A504.12 Detached accessory structures. Detached accessory structures located less than 50 feet (15,240 mm) from a building containing habitable space and all detached accessory structures exceeding 120 square feet (11 m^2) in floor area shall be constructed in accordance with Sections A504.2 through A504.11. All detached accessory structures greater than or equal to 15 square feet in floor area shall be located at least 30 feet away from the building.

A504.13 Spark arrestor. Reserved.

A505.14 Fences. All fences within 5 feet of the structure shall be constructed with noncombustible materials. Back-to-back fencing (separate fences that are closer than 5 feet apart) are not allowed.
Exceptions: Back-to-back fencing is allowed when one of the fences is constructed with *noncombustible* materials.

SECTION A505
BASLINE WILDFIRE RESISTANT CONSTRUCTION

A505.1 General. Baseline wildfire resistant construction shall be in accordance with sections A505.2 through A505.14.

A505.2. Roof. Roofs shall have a roof assembly that complies with a Class A rating when tested in accordance with ASTM E108 or UL 790, or an approved noncombustible roof covering. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space at the eave ends shall be firestopped to preclude entry of flames or embers.

A505.2.1 Roof valleys. Reserved.

A505.3 Protection of eaves. Reserved.

A505.4. Gutters and Downspouts. Gutters and downspouts shall be constructed of *noncombustible* material.

A505.5 Exterior walls. A minimum of 6 inches of *noncombustible* material applied vertically on the exterior of the wall shall be installed at the ground, decking, and roof intersections.

A505.6 Underfloor enclosure. Buildings or structures shall have underfloor areas enclosed to the ground with exterior walls in accordance with Section A505.5 or with *noncombustible* corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm).

505.7 Appendages and projections. Unenclosed *accessory structures* attached to buildings such as decks shall be constructed with underfloor areas protected in accordance with Section A505.7.1.

A505.7.1 Underfloor areas. For appendages and projections 4 feet or less above the ground when measured nominally from the walking surface to the ground at the location where this distance is maximum, the underfloor area shall be enclosed with exterior walls constructed in accordance with Section A505.5 or with *noncombustible* corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm).

A505.8 Exterior glazing. Reserved.

A505.9 Exterior doors. Reserved.

A505.9.1 Vehicle access door perimeter gap. Reserved.

A505.9.2 Vehicle access door automatic doors. Reserved.

A505.10 Fire-resistant-rated shutters. Reserved.

A505.11. Vents. Ventilation openings for enclosed attics, gable ends, ridge ends, enclosed eave soffit spaces, enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, underfloor ventilation, foundations, and crawl spaces; under eaves and cornices; or for any other opening intended to permit ventilation, either in a horizontal or vertical

surface, shall resist the intrusion of burning embers and flames by meeting one of the following requirements:

Performance-based requirements: Corrosion-resistant ember and flame-resistant vents conforming with the ASTM E2886 test requirements.

Prescriptive-based requirements: Vents must be made of a noncombustible material and covered with noncombustible corrosion-resistant mesh with openings not to exceed 1/8 inch.

Exceptions: Dryer vents shall have a solid louver or flap in lieu of mesh. Plumbing vents are excluded from these requirements.

A505.12. Detached accessory structures. Detached accessory structures such as sheds, gazebos, open covered structures with solid roofs, dog houses, playhouses, etc. within 30 feet of a building that have a footprint greater than or equal to 15 square feet shall constructed with underfloor areas in accordance with Section A505.12.1.

A505.12.1 Underfloor Areas. The underfloor area of all detached accessory structures shall be enclosed to the ground with exterior walls in accordance with Section A505.5.

Exception: Complete enclosure shall not be required where the underside of exposed floors and exposed structural columns, beams and supporting walls are protected in accordance with Section A505.5.

A505.13 Spark Arrestor. Reserved.

A505.14 Fences. All fences within 5 feet of the structure shall be constructed with noncombustible materials.

RECOMMENDATION OF IMPLEMENTATION

CHAPTER A3
WILDLAND-URBAN INTERFACE AREA

SECTION A301
GENERAL

A301.1 Scope. The provisions of this chapter provide methodology to establish and record *wildland-urban interface areas* based on the findings of fact.

A301.2 Objective. The objective of this chapter is to provide baseline criteria for the classification of *wildland-urban interface areas* in accordance with the severity of fire hazard expected to prevail in those areas.

SECTION A302
WILDLAND-URBAN INTERFACE AREA

A302.1 Declaration. The legislative body shall declare the wildland-urban interface areas within the jurisdiction. The wildland-urban interface areas shall be based on the findings of fact. The wildland-urban interface area boundary shall correspond to natural or man-made features.

A302.2 Mapping. Classification of land into *wildland-urban interface areas* shall be based on fuel loading, slope, *critical fire weather*, and other factors present that influence the potential intensity of uncontrolled wildfires. For the purpose of this appendix, the *wildland-urban interface area* shall include such territory or portions of the County/City/Town as shown in Figure A301, the *Wildland-Urban Interface Area* Map. The *Wildland-Urban Interface Areas* Map shall be available for inspection by the public.

A302.3 Review of wildland-urban interface areas. *Wildland-urban interface areas* shall be reevaluated in accordance with Section A302.1 on a 3-year basis or more frequently as deemed necessary by the legislative body.

[County/City/Town WUI MAP]

Figure A301. The Wildland-Urban Interface Area Map.

CHAPTER A5
WILDLAND-URBAN INTERFACE ZONE CONSTRUCTION REGULATIONS

A502.1 General. Buildings and structures hereafter constructed, modified, or relocated into or within *wildland-urban interface areas* shall be established in accordance with Table A502.1 and Sections A503, A504, and A505, respectively. Materials required to be *ignition-resistant building materials* shall comply with the requirements of Section A502.2.

FIRE SEPARATION DISTANCE. [Reserved- If you are adopting this table, add this definition to section A202] The distance measured from the building face to one of the following:
1. The closest interior lot line.
2. To the centerline of a street, an alley or public way.
3. To an imaginary line between two buildings on the lot.

The distance shall be measured at right angles from the face of the wall.

Table A502.1
WUI CONSTRUCTION

Minimum Fire Separation Distance (ft)	Construction Classification
> 100 ft	BASELINE
30 ft < Fire Separation =< 100 ft	ENHANCED
Fire Separation =< 30 ft	OPTIMUM

Note: In case when the intention is to adopt all three different classes Section A502.1 shall be replaced with provided section above.

Exhibit D:

Urban Design Modeling Results Illustrating Development Yield and Site Layout Implications of Increased Setbacks

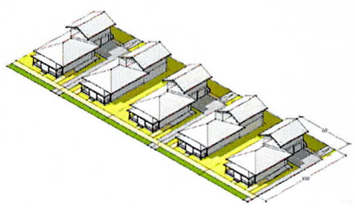
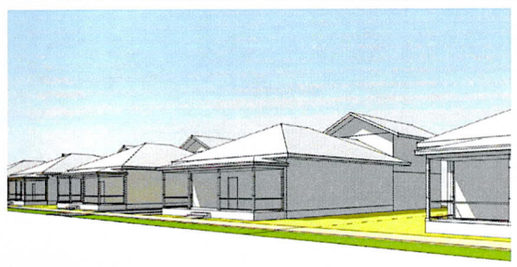
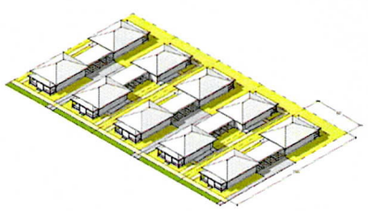
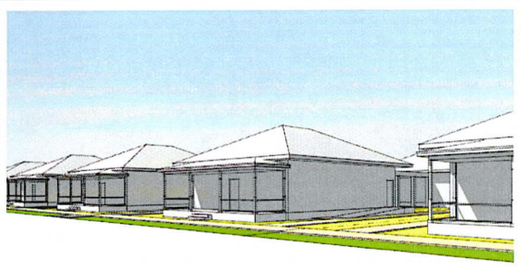
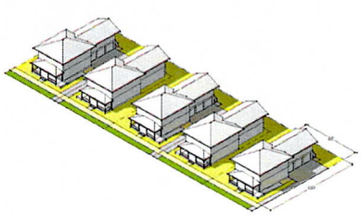
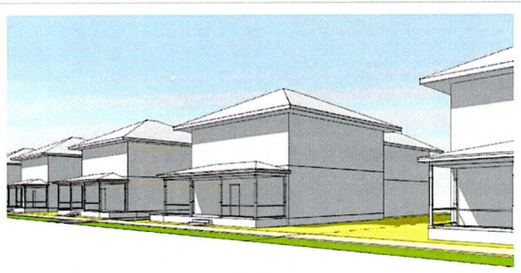
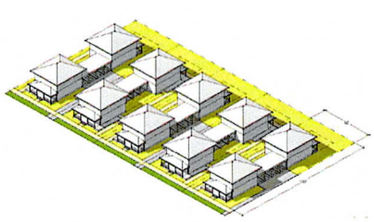
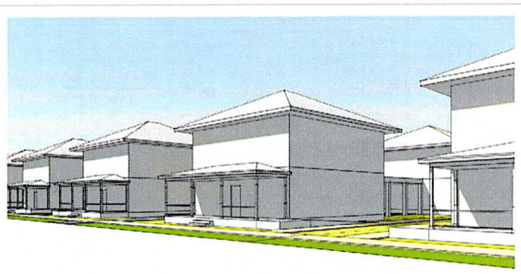
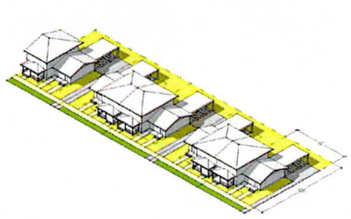
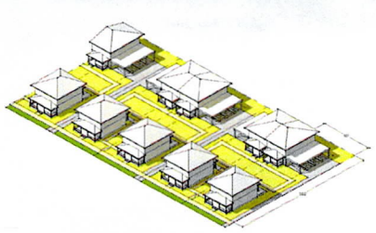
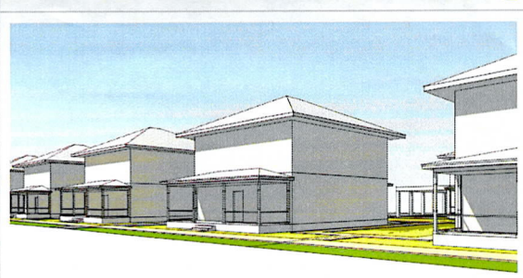
Urban Design Modeling Results

Illustrative Models

Proposed Increased Setbacks

Modeling Assumptions

- 60 foot minimum lot width
- 10 foot front setback with 5 foot porch encroachment
- 15 foot side setbacks or 0 feet when attached
- 15 foot rear setbacks
- 30 foot separation between buildings
- 4 foot max eaves encroachment into setbacks/separation

Scenario	Aerial View (Model)	Street View (Adjacent)
1. Single-story residential dwelling with attached additional rental unit (ARU) on 6,000-square-foot lot		
2. Two detached single-story residential dwelling units on 10,000-square-foot lot		
3. Two-story residential dwelling with attached additional rental unit (ARU) on 6,000-square-foot lot		
4. Two detached two-story residential dwelling units on 10,000-square-foot lot		
5. Two-story residential dwelling with attached additional rental unit (ARU) across property lines on 6,000-square-foot lot		
6. Two-story residential dwelling detached to an attached dwelling unit across property lines on 10,000-square-foot lot		

Memo: WUI Code Fit and Development Yield Analysis

Prepared by: Opticos Design | Prepared for: Planning Dept., County of Kaua'i | 05/18/2026

This memo summarizes Opticos' preliminary assessment of how Wildland-Urban Interface (WUI) code requirements affect site planning, development yield, and urban design outcomes under conventional zoning and form-based code (FBC) scenarios. The analysis focused on whether development can still be physically arranged under the applicable code parameters and where different zoning frameworks (conventional zoning or FBC) provide more or less flexibility. Reference visual analysis on ConceptBoard.

Methodology

We evaluated development yield and site layout implications across conventional zoning (R10), FBC (T3VN-WK), and WUI overlay conditions using the following approach:

- **Tested representative lot sizes and dimensions.** Analyzed 6,000 sf and 10,000 sf lots across a range of lot widths from 30 to 70 feet.
- **Assessed the impact of setbacks on development capacity.** Examined how setback requirements influence lot configuration, building placement, and the ability to accommodate:
    - One primary unit and one ARU on 6,000 sf lots
    - Two primary units on 10,000 sf lots
- **Evaluated building type performance.** Compared how attached and detached housing types function under varying lot widths and setback conditions.
- **Applied consistent development assumptions across all scenarios.** The following inputs were held constant:
    - Parking: 2.0 spaces per dwelling unit + 1.0 space per ARU
    - Parking type: Covered/garage parking where feasible
    - Unit sizes:
        - 2,000 sf primary home (two-story)
        - 1,200 sf primary home (one-story)
        - 500–800 sf ARU
    - Density assumptions:
        - 6,000 sf lots: 1 dwelling unit + 1 ARU
        - 10,000 sf lots: 2 dwelling units

Preliminary Conclusions

- **Overall yield is largely maintained under WUI requirements.** Based on the physical fit analysis, the tested development programs remain generally achievable, with no meaningful reduction in yield attributable to WUI standards.
- **Small-lot detached development is the most constrained condition.** Increased setbacks make narrower lots more difficult—and in some cases infeasible—without either shifting to attached housing types or increasing lot sizes.
- **WUI standards have a greater relative effect in contexts such as narrow FBC setbacks.** The flexibility within FBC (e.g., accommodating multiple buildings on a lot) creates opportunities to recapture potential "lost" density.
- **Physical feasibility does not fully address implementation considerations.** While compliant site layouts can generally be achieved, this analysis does not resolve questions related to market acceptance, preferred product types, or feasibility.

Urban Design Implications

WUI-related setbacks can influence streetscape character, lot dimensions, and building placement.

- **WUI standards shift development toward a more suburban form.** Increased setbacks result in buildings that are more spread out, reducing the compact streetscape pattern typical under conventional zoning and FBC.
- **Side yard space creates opportunities.** Larger side yards readily accommodate front-loaded driveways and provide usable open space, with potential for shared green courts when coordinated across adjacent lots.
- **Narrow lots remain efficient but introduce layout challenges under larger setbacks.** While narrower lots reduce frontage gaps and improve land efficiency, when combined with deeper setbacks they tend to produce elongated lot configurations that can complicate access to rear units, particularly as regards fire access.
- **Intentional design strategies can help maintain efficiency and urban form.** Strategies such as shared driveways, attached building configurations, and alley-loaded access can offset WUI constraints, supporting both density retention and more cohesive urban form and neighborhood design.

Limitations of This Preliminary Review

This review was limited to physical fit, code-based layout feasibility, and relative yield under the tested assumptions. It does not address parcel economics, builder preferences, cost-effective delivery to market, or whether the development community will view the resulting products as workable.

Exhibit E:

Planning Department Visual Setback Analysis Example ('Ele'ele Iluna Subdivision Phase 2)

Iluna St
Mahea St
Elodie Iluna Subdivision
1,196 sq ft
720 sq ft
800 sq ft
LOT 96
LOT 97
PP#5502
30' HOPE DR
Edge Of Coffee Field
MAHEA

Exhibit F:

September 2025 Plantation Camp Wildland Urban Interface (WUI) Ordinance Cost Study

PLANTATION CAMP
WILDLAND URBAN INTERFACE (WUI)
ORDINANCE COST STUDY

SEPTEMBER 2025

Prepared by:

UNLIMITED
CONSTRUCTION SERVICES, INC

Kuuleialoha Santos - Vice President
Lance Delos Reyes - Senior Project Manager

Overview

The increasing threat of wildfires across Hawai'i, has prompted the County of Kaua'i to evaluate construction practices that enhance community resilience. This report presents a comparative cost estimates and design analysis of three residential construction types on the same building.

- **Standard Build**: Conventional construction using cost-effective materials commonly found in Hawaii.
- **Plantation Camp WUI Construction**: COK Entry-level wildfire-resistant construction modeled to be similar to the IBHS Wildfire Prepared Home "Base" designation.
- **IBHS Optimum Construction**: Highest level of wildfire protection, incorporating noncombustible materials and fire-rated assemblies per the IBHS "Optimum" standards

Project Scope

This study evaluates pricing for ten newly constructed homes in Kaumakani Village, designed by Schwetizer-Architects in 2021. Each home includes three bedrooms, two bathrooms, and a full kitchen, with a total gross covered floor area of 993 square feet. The pricing analysis excludes infrastructure, mass grading, and landscaping costs, assuming that each site is pre-prepared. Cost estimates are based on actual material quotes from Kaua'i suppliers and historical labor data from similar projects. Indirect costs such as general conditions, GET, general liability, and contractor fees are also included.

Design Assumptions and Qualifications

Design documents were available only for the standard build. No formal designs were provided for the Plantation Camp WUI or IBHS Optimum constructions. Therefore, assumptions were made to reflect the appropriate scope of work for each tier. These assumptions should be verified by a licensed architect or engineer to ensure compliance with applicable codes and wildfire ordinances.

Plantation Camp WUI Construction Qualifications

- **Foundation:**
  - CMU piers
- **Framing:**
  - Standard Wood Framing
- **Roofing**:
  - Class A asphalt shingles
  - Roofing Underlayment
- **Siding**:
  -
  - T1-11 exterior

- **Windows**:
  - Milgard WUI Glass windows
- **Doors**:
  - Therma Tru standard line or equal
- **Vents**:
  - 1/8" corrosion-resistant mesh at bird blocks
- **Underfloor Area**:
  - Enclosed with 1/8" corrosion-resistant mesh framed with Cement Board Battens
  - 5 ft wide concrete maintenance strip around perimeter of the building

IBHS Optimum Construction Qualifications

- **Foundation:**
  - CMU piers
- **Framing:**
  - Standard Wood Frame Construction except at exterior sheathing
- **Roofing**:
  - Metal Roof
  - Underlayment
  - Dens Deck Substrate
- **Siding**:
  - Dens Shield Exterior Sheathing
  - Cement board Siding (i.e. Hardie) installed over Dens Glass
- **Eaves and Soffits**
  - Closed Sofit
  - Dens Glass Sheathing
  - Cement board Siding over Dens Glass
  - Cement Board Fascia
  - Soffit Vents
- **Decking**
  - Non Combustible Decking, Composite
  - Enclosed under Decking Area
- **Windows**:
  - 45 Minute rated windows
- **Doors**:
  - 20 Minute rated doors at Entry
- **Underfloor Area**:
  - Added Skirt Framing to enclose Area (no open area below floor)
  - Dens Glass Sheathing
  - Cement board Siding over Dens Glass
  - 5 ft wide concrete maintenance strip around perimeter of the building
- **Interior**
  - Type X Gypboard at Perimeter Walls

Pricing Analysis

The tables below represent the final estimates for each building type aligned with the design qualifications listed.

Table 1: Overall Estimates Per Construction Type

	Standard Build	Plantation Camp WUI	IBHS Optimum Wildfire Resistant
Overal Cost	$ 3,802,479.66	$ 4,011,458.17	$ 4,671,612.00
Cost per SF	$ 383.22	$ 404.28	$ 470.82

Table 2: Estimates Per Division

Div	Description	Standard Build	Plantation Camp WUI	IBHS Optimum Wildfire Resistant
3.0	Concrete	$ 207,910.94	$ 343,507.70	$343,508
6.0	Rough Carpentry	$ 1,522,070.56	$ 1,583,843.78	$1,979,565
6.1	Finish Carpentry	$ 497,670.79	$ 497,670.79	$497,671
7.0	Thermal Moisture Protection	$ 210,892.84	$ 210,892.84	$280,495
8.0	Openings	$ 263,499.48	$275,108	$448,991
9.0	Finishes	$ 427,528.61	$ 427,528.61	$448,476
11.0	Equipment	$ 58,067.32	$ 58,067.32	$58,067
22.0	Plumbing	$ 258,754.04	$ 258,754.04	$258,754
26.0	Electrical	$ 294,851.80	$ 294,851.80	$294,852
31.0	Earthwork	$ 61,233.29	$ 61,233.29	$61,233
	Total	**$ 3,802,479.66**	**$ 4,011,458.32**	**$ 4,671,612.00**

Table 3: $/SF Per Division

Div	Description	Standard Build	Plantation Camp WUI Construction	IBHS Optimum Wildfire Resistant ($ / SF)
3.0*	Concrete	$ 20.95	$ 34.62	$ 34.62
6.0	Rough Carpentry	$ 153.40	$ 159.62	$ 199.50
6.1	Finish Carpentry	$ 50.16	$ 50.16	$ 50.16
7.0	Thermal Moisture Protection	$ 21.25	$ 21.25	$ 28.27
8.0	Openings	$ 26.56	$ 27.73	$ 45.25
9.0	Finishes	$ 43.09	$ 43.09	$ 45.20
11.0	Equipment	$ 5.85	$ 5.85	$ 5.85
22.0	Plumbing	$ 26.08	$ 26.08	$ 26.08
26.0	Electrical	$ 29.72	$ 29.72	$ 29.72
31.0	Earthwork	$ 6.17	$ 6.17	$ 6.17
	Total	**$ 383.22**	**$ 404.28**	**$ 470.82**
** Option*	*Removal of Concrete Sidewalk*	***$ 383.22***	***$ 390.61***	***$ 458.51***

Table 4: % Increase Against Standard Build

Div	Description	Plantation Camp WUI Construction	IBHS Optimum Wildfire Resistant
3.0	Concrete	65.2%	65.2%
6.0	Rough Carpentry	4.1%	30.1%
6.1	Finish Carpentry	0.0%	0.0%
7.0	Thermal Moisture Protection	0.0%	33.0%
8.0	Openings	4.4%	70.4%
9.0	Finishes	0.0%	4.9%
11.0	Equipment	0.0%	0.0%
22.0	Plumbing	0.0%	0.0%
26.0	Electrical	0.0%	0.0%
31.0	Earthwork	0.0%	0.0%
	Total	**5.5%**	**22.9%**

Table 5: Material Cost of Hardening

Div	Description	Plantation Camp WUI Construction Material Increase vs Standard	
6.0	Rough Carpentry	$ 15,620.00	0.4%
8.0	Openings	$ 11,610.00	0.3%
	Total	**$ 27,230.00**	**0.7%**

*Does not include concrete sidewalk

Conclusion

The cost estimates for the three construction types highlight the relative affordability of upgrading to Plantation Camp WUI standards. Transitioning from standard construction to Plantation Camp WUI construction results in only a 5.5% increase in overall costs, while the additional material costs required for hardening under the ordinance account for just a 0.7% increase. Given the potential damage a wildfire can inflict on a home, these modest increases represent a worthwhile investment in resilience.

In contrast, the Optimum Wildfire Resistant construction entails a significantly higher cost. However, when built in accordance with IBHS guidelines, it offers substantial protection against wildfire threats, making it a valuable option for high-risk areas.

Disclaimer: The cost figures presented in this report are intended solely for preliminary study and comparative analysis. They are based on estimated material and labor pricing, historical data, and assumed design specifications. These values do not represent a formal quote, bid, or commitment by Unlimited to perform the described scope of work. Final pricing may vary significantly depending on site-specific conditions, finalized design documents, and contractual terms.

EXHIBIT A
PLANTATION CAMP
WILDLAND URBAN INTERFACE (WUI)
ORDINANCE

ORDINANCE NO. _____ BILL NO. _____

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8 AND CHAPTER 10, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE PLANTATION CAMP DISTRICT WILDFIRE AND WILDLAND URBAN INTERFACE (WUI)

(County of Kaua'i Planning Department, Applicant) (ZA-2025-11)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I:

SECTION 1. Purpose. The purpose of this Ordinance is to amend Chapter 8 and Chapter 10, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO) and the West Kaua'i Community Plan Implementing Ordinance. This proposal includes amendments to Chapter 8, Article 8A, for the Plantation Camp District (PC), and Chapter 10, Article 3, to incorporate provisions addressing wildland urban interface (WUI) wildfire hazards.

SECTION 2. Findings. The Council finds that the Plantation Camp communities are located within areas identified as high-risk zones for wildfires, which pose significant threats to public health, safety, and property. As such, it is necessary to implement regulations that will mitigate the risks of wildfires through proactive planning, building standards, and vegetation management, ensuring the safety of residents while preserving the historic character of the communities.

The Council finds that the implementation of the Plantation Camp Wildland Urban Interface regulations within Special Planning Areas O, P, and Q will provide a comprehensive framework for addressing wildfire hazards in these areas.

SECTION 3. The content of Chapter 8, Article 8A, Plantation Camp Districts (PC), Kaua'i County Code 1987, as amended, is amended as follows:

ARTICLE 8A

Plantation Camp [Districts] <u>District</u> (PC) <u>Wildfire and Wildland Urban Interface (WUI)</u>

Section 8-8A.1. Purpose.

The Plantation Camp District is established to ensure that the historic use of these sites can continue in perpetuity by allowing the continued use, maintenance, repair, and rebuild of existing structures to occur. <u>Additionally, the Plantation Camp District addresses the growing threat of wildfires to the Plantation Camps' Wildland Urban Interface (WUI). This Article serves the following purposes:</u>

<u>(a) To minimize the threat to public health and safety due to wildfire</u>

hazards associated with the Plantation Camps' Wildland Urban Interface.

(b) To promote and require the removal and maintenance of those vegetation species around the Plantation Camps most associated with WUI wildfires on Kaua'i.

(c) To establish defensible spaces and home hardening requirements in the Plantation Camps to reduce vulnerability from wind-blown embers that can land on combustible material and ignite, propagating fire spread through spotting.

(d) To reduce rescue and relief efforts that are associated with WUI wildfire operations in the Plantation Camps.

Section 8-8A.2. Plantation Camp District Development Standards.

(a) New buildings and structures in the Plantation Camp [(PC)] District (PC) shall be subject to the development standards established in Sections 8-4.3 and 8-4.5 of this Chapter.

(b) Nonconforming buildings and structures in the Plantation Camp [(PC)] District.

(1) Buildings and structures that do not conform to the regulations established by this Chapter and that lawfully existed prior to December 3, 2020 may be maintained, transferred, and sold, provided that the Planning Commission may, after hearing, order the removal of a nonconforming structure that creates substantial danger to public health or safety.

(2) Any nonconforming structure, except as otherwise regulated, may be repaired, maintained, demolished, and rebuilt insofar as the following requirements are met:

(A) The rebuild does not expand or enlarge the structure; and

(B) The repair or rebuild are subject to the requirements of Chapter 8, Article 27, Kaua'i County Code 1987, as amended and Chapters 12 through 15A, Kaua'i County Code 1987, as amended.

(3) The Director may allow the rebuild of a nonconforming structure in a different location from where it originally occupied if the following requirements are met:

(A) The applicant can demonstrate how the new location

will better mitigate the structure's vulnerability to environmental hazards; and

(B) The proposed rebuild structure is not an expanded or enlarged version of the original structure; and

(C) The repair or rebuild are subject to the requirements of Chapter 8, Article 27, Kaua'i County Code 1987, as amended and Chapters 12 through 15A, Kaua'i County Code 1987, as amended.

(c) Nonconforming uses in the Plantation Camp District [(PC).]. A nonconforming use of land, building, or other structure may continue to the extent that the use lawfully existed prior to December 3, 2020 as provided in this Section, provided that the Planning Commission may, after hearing, order the termination of a nonconforming use that creates substantial danger to public health or safety.

(d) Residential Density. No new or additional residential density shall be permitted beyond, or in addition to, the existing residential density established by the existing nonconforming residential structures.

Section 8-8A.3. Limitations on Subdivision of Parcels in Plantation Camp Districts.

(a) Subdivision in the Plantation Camp [(PC)] District shall be subject to the subdivision standards established in Section 8-8.3 of this Chapter.

(b) For the purposes of subdivision, and the application of Section 8-8.3, the portion of the subject lot that is within the Plantation Camp [(PC)] District shall be considered as within the Agriculture Zoning District.

Section 8-8A.4. Pākalā Camp Coastal Hazard Managed Retreat.

(a) In Pākalā Camp there is a coastal hazard area subject to sea level rise, coastal erosion, storm flooding, passive flooding, and high wave run-up. This area is identified as the Coastal Hazard Send Zone on Zoning Map ZM-200.

(b) In Pākalā Camp there is a mauka area that is not subject to coastal hazards that is to be used for the managed retreat of those structures in that Coastal Hazard Send Zone. This mauka area is identified as the Coastal Hazard Receive Zone on Zoning Map ZM-200.

(c) A dwelling unit located in the Coastal Hazard Send Zone may be relocated to the Coastal Hazard Receive Zone.

(d) If a dwelling unit in the Coastal Hazard Send Zone is demolished or destroyed, it may not be rebuilt at its original site or anywhere within the Coastal

Hazard Send Zone. A demolished dwelling unit in the Send Zone may have its respective density entitlement transferred to the Coastal Hazard Receive Zone and be built in accordance with the following standards:

(1) The proposed dwelling unit is not an expanded or enlarged version of the original structure; and

(2) The proposed dwelling unit is subject to the Wildland Urban Interface (WUI) regulations in Section 8-8A.5.

(e) Aside from those dwelling units proposed under Section 8-8A.4(c) and (d), no other dwelling units shall be allowed in the Coastal Hazard Receive Zone.

§ 8-8A.5. Plantation Camp Wildland Urban Interface.

(a) General Provisions.

(1) Lands Included.

(A) All lands within the Plantation Camp Zoning District.

(B) For resilient vegetation purposes, all lands adjacent to the Plantation Camp Zoning District.

(2) Other Laws and Regulations. All improvements, clearing, and maintenance subject to this Article shall comply with other applicable laws and regulations, including but not limited to the State and County Fire Codes, Building Code, Subdivision Ordinance, Special Management Area regulations, and Sediment and Erosion Control Ordinance. In case of a conflict between this Article and the requirements of any other Federal, State, or County law, such as the State Fire Code or the County Fire Code, the more restrictive requirements shall apply.

(3) The County shall not be liable for expenses incurred in the removal or replacement of any material required for the landowner to comply with this Article or to allow inspection.

(4) Interpretation. In the interpretation and application of this Article, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the County; and

(C) Deemed to neither limit nor repeal any other requirement,

power, or duty prescribed under Federal, State, or County law.

(5) Warning and Disclaimer of Liability. The degree of wildfire and wildland urban interface required by this Article is considered reasonable for regulatory purposes and is based on wildfire hazard assessment considerations. Wildfires can and will occur on occasion. This Article does not imply that land outside the area of the Plantation Camp WUI will be free from wildfire risk. This Article shall not create liability on the part of the County of Kaua'i or any officer or employee for any damages that result from reliance on this Article or any administrative decision lawfully made based on this Article.

(b) Definitions.

"Advancing Standards Transforming Markets (ASTM)" means the organization (formerly referred to as the American Society for Testing and Materials) that develops standards and publishes voluntary consensus technical international standards for a wide range of materials, products, systems, and services.

"Area A" means the area identified by the Plantation Camp WUI Viewer that is within the Plantation Camp District boundaries and is vacant or undeveloped on *DATE* (the effective date of Ordinance No. ****).

"Area B" means the area identified by the Plantation Camp WUI Viewer that is within the Plantation Camp District boundaries and was previously developed and is an existing built environment on *DATE* (the effective date of Ordinance No. ****).

"County" means the County of Kaua'i.

"Defensible space" means an area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared, or modified to slow the rate and intensity of an advancing wildfire through a wildland area and to create an area for structure defense operations to occur.

"Fire-prone vegetation" means material that in its natural state can readily ignite, burn, and rapidly transmit fire. For the purposes of this Article this definition is limited solely to the three following plant species: 1) Megathyrsus maximus or commonly known as "Guinea Grass," 2) Leucaena leucocephala or commonly known as "Haole Koa," and 3) Cenchrus ciliaris or commonly known as "Buffel Grass."

"Fire Stopped" means the process of filling openings and joints between walls, floors, and roofing material to inhibit the spread of fire between compartments

within a structure.

"Firewood" means any kindling, logs, timber, or other portions of a tree of any species four (4) feet or less in length, cut or split, or intended to be cut or split, into a form and size appropriate for use as fuel for fires in an open pit, imu, grill, fireplace, stove, or other wood burning furnace or device.

"Ignition-resistant" as applied to building construction material means a material treated or manufactured to delay ignition and tested to conform to ASTM E84 or ASTM E2768. Examples include but are not limited to fire-treated wood, dense hardwoods like ipe, and fiber-cement boards.

"Noncombustible" as applied to building construction material means a material of which no part will ignite and burn when subjected to fire and tested to conform to ASTM E136. Examples include but are not limited to concrete, metal, glass, and stone.

"Noncombustible roof covering" means a roof covering consisting of any of the following: (1) cement (or fiber-cement) shingles or sheets, (2) ferrous shingles or sheets, or (3) slate shingles.

"Noncombustible zone (NCZ)" means the area of land that extends 5 feet measured perpendicularly from the edge of the exterior walls of a structure and any unenclosed appendages or projections (including but not limited to lānais, porches, and stoops).

"Plantation Camp Wildland Urban Interface (WUI) Viewer" means an online atlas in effect on *DATE* (the effective date of Ordinance No. ****) and generated through an analysis of the Kaua'i Community Wildfire Protection Plan, 2024, additional consultation with the Kaua'i Fire Department, Kaua'i Emergency Management Agency, and the Hawai'i Wildfire Management Organization. The Viewer indicates the Plantation Camp WUI district boundaries.

"Primary Structure Zone" means an area that applies to the primary structure itself, and it includes requirements for ember ignition mitigation and fire-resistant construction to reduce the risk of structure ignition.

"Roof assembly" means a system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly can include an underlayment, thermal barrier (i.e., insulation), ignition (fire) barrier, insulation, or a vapor retarder.

"Roof covering" means the covering applied to the roof deck for weather resistance or appearance. The roof covering and underlying components are part of the fire rating for the roof assembly.

"Roof deck" means that flat or sloped surface of a roof not including its supporting members or vertical supports.

"Structure, Accessory" means a structure that is subordinate to, and the use of which is incidental to that of the primary structure or use on the same lot or parcel and not used for human occupancy of habitation. An accessory structure is not a primary structure.

"Structure, Primary" means a structure that is used for the principal use permitted in the zoning district. In the Plantation Camp primary structures include but are not limited to residential dwelling units, commercial buildings, and schools. A primary structure is not an accessory structure.

"Substantial improvement" means any cumulative series of repairs, reconstruction, improvements, or additions to a structure over a 10-year period, where the cumulative cost equals or exceeds 50% of the market value of the structure before the start of construction of the first improvement during that 10-year period. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The value of any substantial improvement shall be determined by the Planning Director or his/her authorized representative. The term does not, however, include any project for improvement of a structure to correct existing violations of a State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

"Unenclosed Accessory Structure" means an accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

"Wildfire" means an uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.

"Wildland" means an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar facilities.

"Wildland Urban Interface (WUI)" means the zone of transition between unoccupied land and human development. It is the line, area, or zone where structures and other human development meet or intermingle with

undeveloped wildland or vegetative fuels.

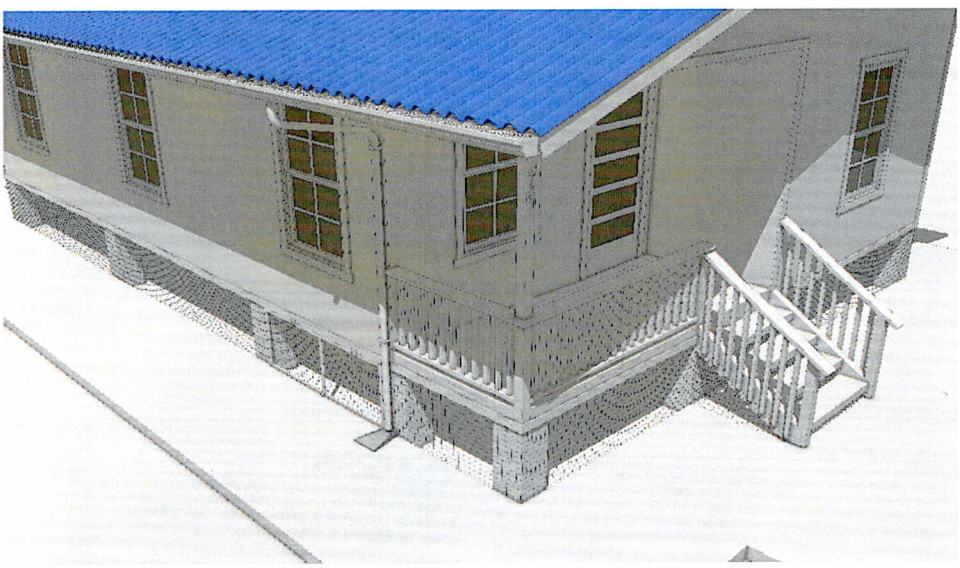
"Zone 0: 5-Foot Noncombustible Zone (NCZ)" means an area that extends five feet horizontally from the exterior of a primary structure and any attached appendages and projections. It shall consist of noncombustible hardscape and materials. The purpose of this zone is to prevent direct flame contact and reduce the risk of ember ignition at the structure's base.

"Zone 1: 30-Foot Defensible Space" means an area that extends from the edge of Zone 0 to 30 feet away from the structure or to the property line, whichever is closer. It requires vegetation management such as pruning lower limbs, spacing trees and shrubs, and removing combustible materials to reduce fuel loads and slow fire spread toward the structure. Fire prone vegetation is prohibited.

"Zone 2: 30-to 100-Foot Resilient Landscape" means an area that extends from the edge of Zone 1 to 100 feet away from the structure or to the property line, whichever is closer. It requires vegetation management such as pruning lower limbs, spacing trees and shrubs, and removing combustible materials to reduce fuel loads and slow fire spread toward the structure.

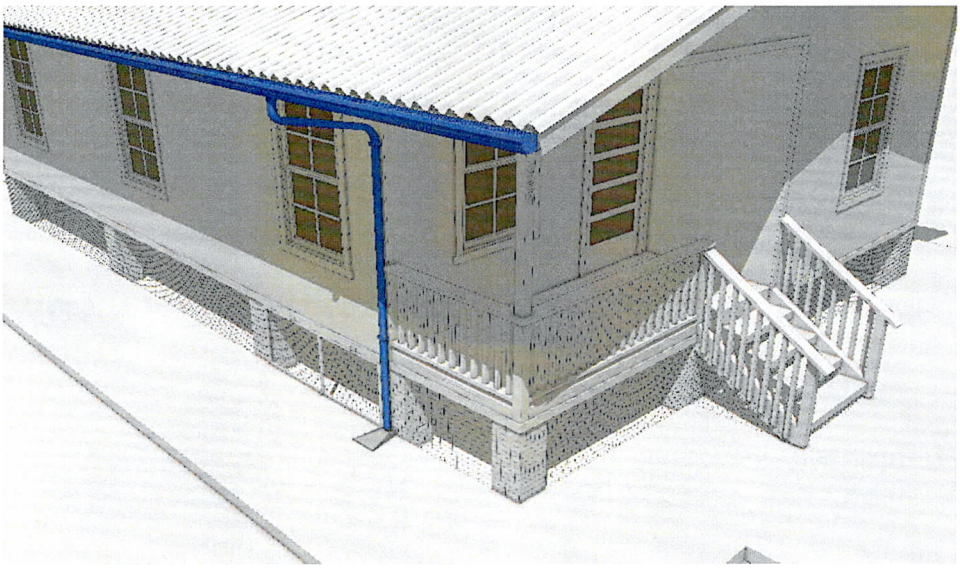
(c) Primary Structure Zone.

(1) Construction Requirements. For any newly proposed primary structures, or substantial improvements of existing structures, the following construction requirements shall be met:

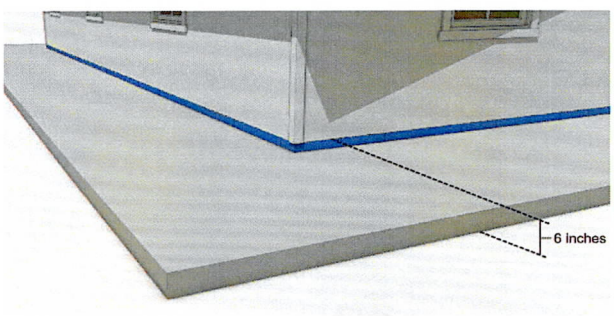


(A) Roofs. Roofs shall have a roof assembly that complies with a Class A rating when tested in accordance with ASTM E108. For roof

assemblies where the profile allows a space between the roof covering and roof deck, the space shall be fire-stopped to prevent entry of flames or embers.

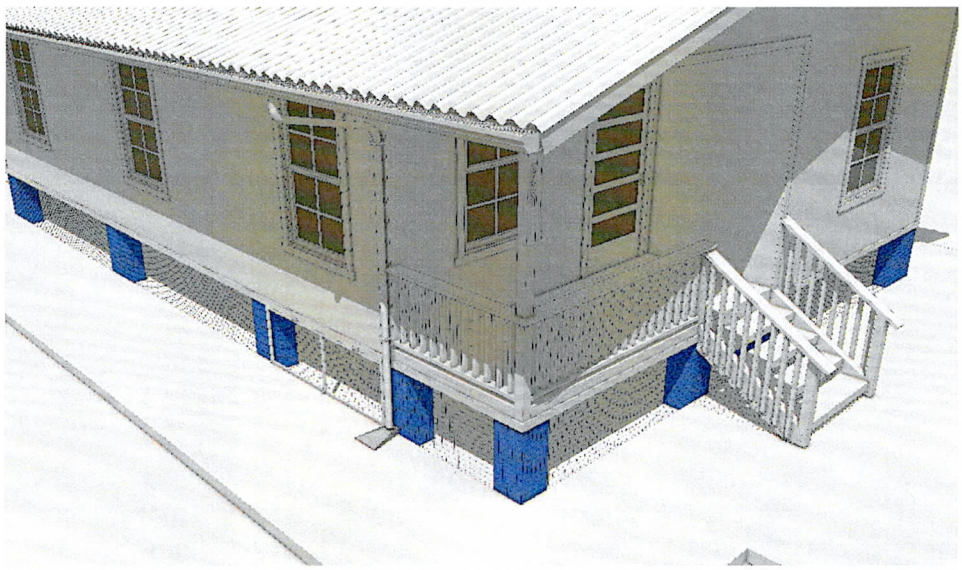


(B) Gutters and Downspouts. Gutters and downspouts shall be constructed of metal material. Gutters shall be covered with a noncombustible material to prevent the accumulation of debris within the gutter.

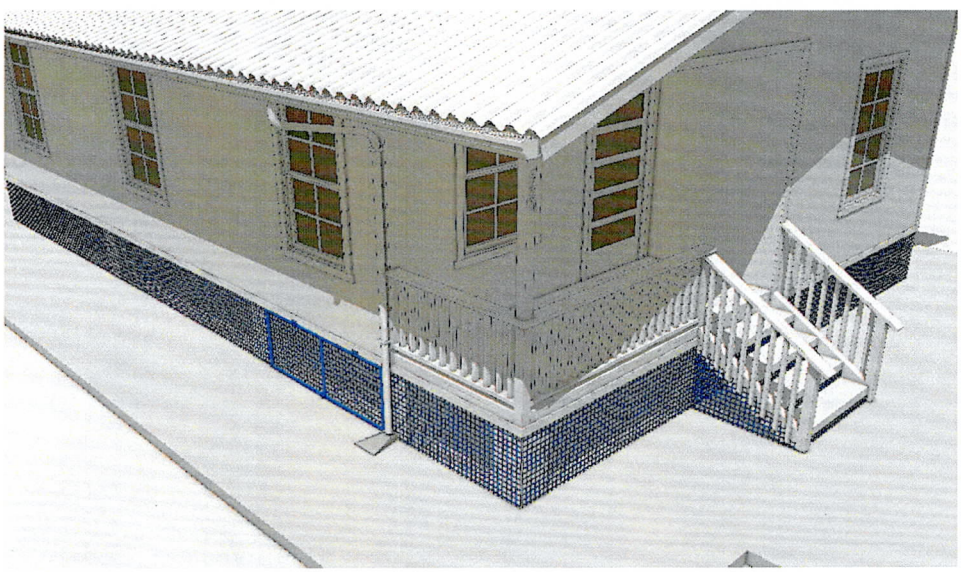




(C) Exterior walls. A minimum of 6 inches of noncombustible material vertically on the exterior of the wall shall be installed at the ground, decking, and roof intersections.



(D) Post and pier. If any primary structure is elevated, the post and pier material shall be noncombustible.



(E) Underfloor Enclosure. Primary structures elevated on post and pier and any attached appendages and projections such as decks, lānais, porches, and stoops elevated on post and pier shall have underfloor areas enclosed to the ground with noncombustible corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm). The mesh shall meet the following additional requirements:

(i) Extended down to be flush with grade and abut against the adjacent 5-foot concrete hardscape groundcover required under Section 8-8A.5(d)(1); and,

(ii) Any associated material including but not limited to framing material or covering material (such as lattice) shall be noncombustible; and,

(iii) At least one area of the underfloor area mesh screening shall be constructed and framed in a manner to allow a minimum 16" x 24" of the mesh screen to be removed for access and maintenance purposes of the underfloor area. The framing and any other associated material for this access section of the mesh screening shall be made of noncombustible material.

(F) Appendages and projections. Unenclosed appendages and projections attached to buildings such as decks, lānais, porches, and stoops elevated on post and pier shall have underfloor areas enclosed to the ground with noncombustible corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm) pursuant to Subsection 8-8A.5(c)(1)(E). Construction of appendages and projections shall meet the following additional requirements:

(i) When elevated, to prevent any ember intrusion beneath the underfloor area, all floorboards shall be flush with each other without any parallel space apart from each other.

(ii) Noncombustible or ignition-resistant material is required for all flooring material.

Exception: if the flooring material, such as floorboards, are comprised of combustible material, at a minimum all floorboards perpendicular to a wall or a post shall be ignition resistant within 6 inches of the deck-to-wall or deck-to-post intersection.

(iii) Noncombustible or ignition-resistant material is required for all walls and posts that are perpendicular to the deck.

Exception: if the wall or post is comprised of combustible material, at a minimum the wall or post shall have 6 inches of noncombustible flashing installed at the wall-to-deck or post-to-deck intersection.

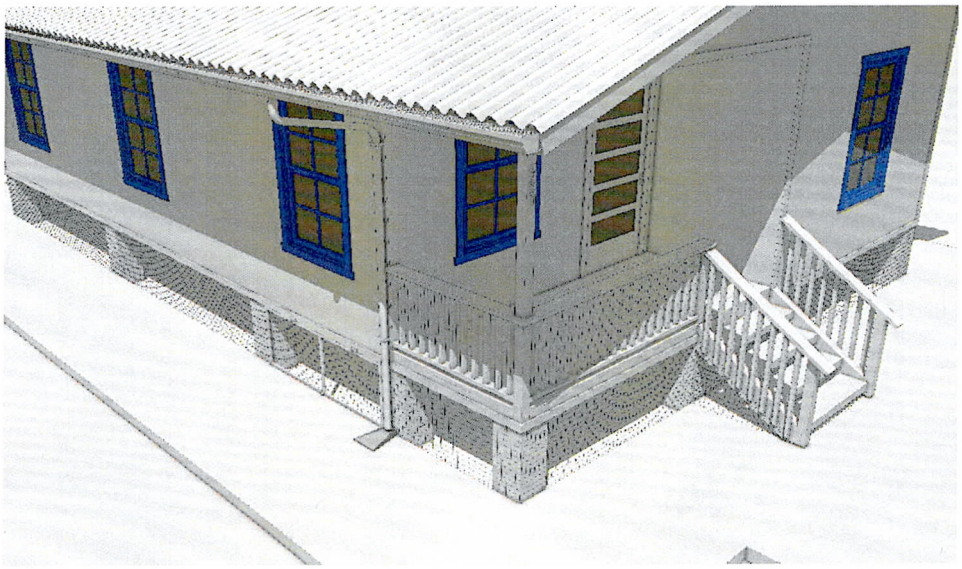


(G) Vents. Ventilation openings for enclosed attics (e.g., gable ends, ridge ends, and enclosed eave soffit spaces), enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, underfloor ventilation, foundations, and crawl spaces; under eaves and cornices; or for any other opening intended to permit ventilation, either in a horizontal or vertical surface, shall resist the intrusion of burning embers and flames by meeting one of the following requirements:

(i) Performance-based requirements: Corrosion-resistant ember and flame-resistant vents tested to conform to ASTM E2886.

(ii) Prescriptive-based requirements: Vents shall be made of a noncombustible material and covered on the exterior with noncombustible corrosion-resistant mesh with openings not to exceed 1/16 inch (1.6 mm).

Exceptions: Dryer vents shall have a properly functioning solid louver or flap in lieu of mesh. Plumbing vents are excluded from these requirements.



(H) Exterior glazing. Each primary structure's exterior windows, window walls, and glazed doors, windows within exterior doors shall be dual pane tempered glassor have a fire protection rating of not less than 20 minutes and tested to conform to ASTM E119.



(I) Addressing. Each primary structure shall have its address marked on its exterior thoroughfare facing wall, and it shall be clearly visible from the thoroughfare.

(2) **Maintenance Requirements.** For all primary structures, the following maintenance requirements shall be met:

(A) The roof shall be kept clear of debris, paying particular

attention to roof intersection area (e.g., roof-to-wall, at entry to through-roof vents, and at the roof edge, if a gutter is installed).

(B) Gutters and downspouts shall be kept clear of debris such as leaves and pine needles.

(C) Unenclosed appendages and projections attached to buildings such as decks, lānais, porches, carports, and stoops shall meet the following requirement:

(i) Only noncombustible items or materials are allowed to be stored or placed within the attached unenclosed appendages and projections. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.

(D) The requirements of Subsection 8-8A.5(c)(2) may be waived for Area B identified in the Plantation Camp WUI Viewer if an alternative maintenance management plan is accepted and approved by the Fire Department.

(d) Zone 0: 5-Foot Noncombustible Zone (NCZ) Requirements.



(1) Construction Requirements. For any newly proposed primary structures, or substantial improvements of existing primary structures, a 5-foot groundcover comprised of concrete hardscape with a depth of at least 4 inches shall be constructed in the NCZ. This is not required for accessory structures.

(A) In Area B, alternative hardscape commensurate to

concrete approved by the Planning Director may be substituted for concrete when the respective slope of the NCZ exceeds 10 percent.

(2) Maintenance Requirements. This zone is the most critical zone of defensible space and requires the most stringent fuel reduction and regular maintenance to protect against wildfire. In the NCZ the following regulations shall apply:

(A) Ground cover within the NCZ shall be noncombustible and free of debris such as leaves and pine needles.

(B) Fire-prone vegetation overhanging the roof is prohibited within the NCZ.

(C) Only noncombustible items or materials are allowed. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.

(3) The requirements of Subsection 8-8A.5(d)(2) may be waived for Area B identified in the Plantation Camp WUI Viewer if an alternative vegetation management plan is accepted and approved by the Fire Department.

(e) Zone 1: 30-Foot Defensible Space Requirements.



(1) Construction Requirements. In Area A, all primary structures shall be setback at least 30 feet from any other primary structures measured from the edge of each primary structure's exterior walls or its unenclosed

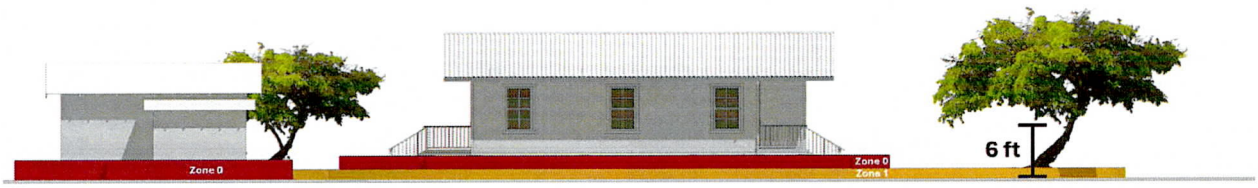
appendages or projections (including but not limited to lānais, porches, and stoops).

(2) Maintenance Requirements. The area beyond the primary structure shall have a regularly maintained defensible space of 30 feet measured from the edge of the exterior walls of the primary structure and its unenclosed appendages and projections (including but not limited to lānais, porches, and stoops). This includes:

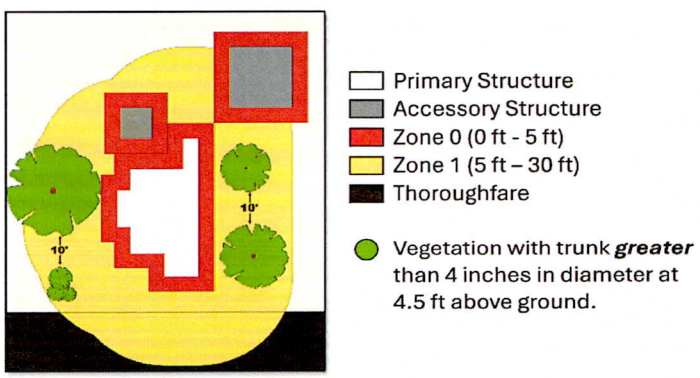
(A) Routine removal of accumulated vegetative debris, which may include but not be limited to fallen pine needles, leaves, twigs, and any dead vegetation, including piles from pruning.

(B) Vegetation with canopies within 30 feet of a primary structure shall be maintained as follows:

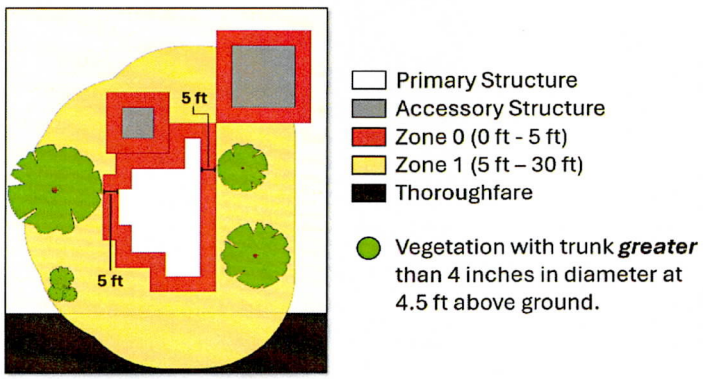
(i) Vegetation with a trunk of 4 inches in diameter or greater when measured at a height of 4.5 feet above the ground:



(a) Shall have limbs and branches pruned to a minimum height of 6 feet off the ground.

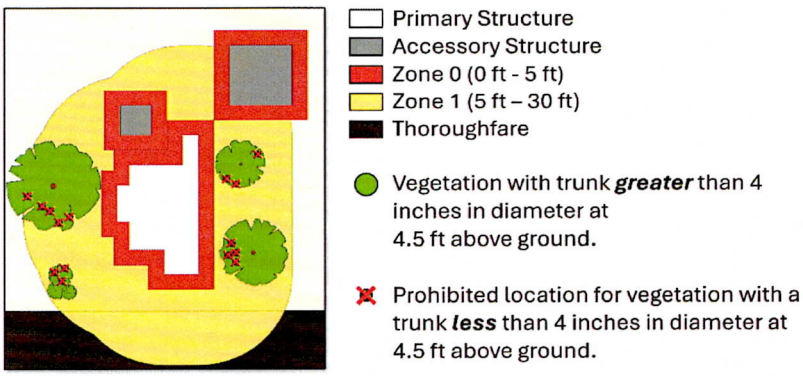


(b) Shall have a minimum of 10 horizontal feet of spacing between the tree canopy and the next closest tree, shrub, or bush canopy, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.

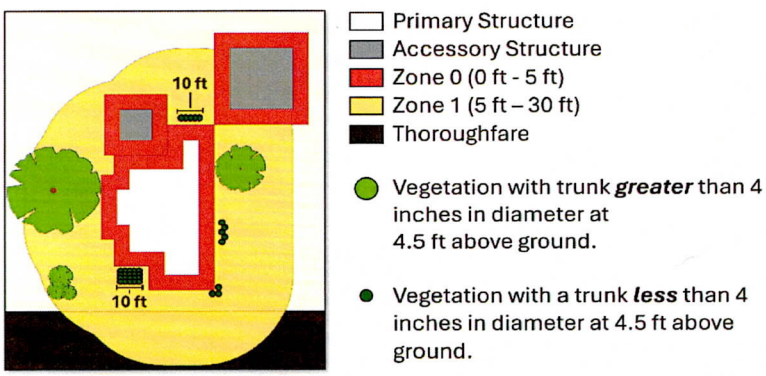


(c) Shall have a minimum of 5 horizontal feet between a tree canopy and the primary structure.

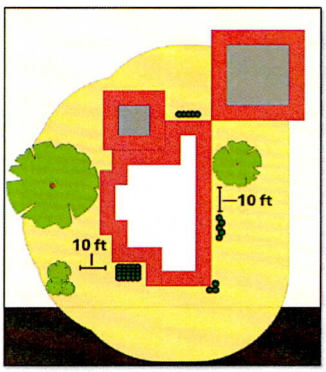
(ii) Vegetation with a trunk less than 4 inches in diameter when measured at a height of 4.5 feet above the ground or less than 4.5 feet tall:



(a) Are prohibited under larger trees.



(b) Are prohibited from having a canopy larger than 10 feet in horizontal diameter, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.



Primary Structure
Accessory Structure
Zone 0 (0 ft - 5 ft)
Zone 1 (5 ft – 30 ft)
Thoroughfare

Vegetation with trunk ***greater*** than 4 inches in diameter at 4.5 ft above ground.

Vegetation with a trunk ***less*** than 4 inches in diameter at 4.5 ft above ground.

(c) Shall have a minimum horizontal space between canopies of at least 10 feet.

(iii) Firewood is prohibited in this 30-foot defensible space area from the primary structure. Firewood is only allowed in this area if it is enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any ember intrusion into the unit during a wildfire event.

(C) Fire-prone vegetation is prohibited 30 feet from any primary structure, measured from the edge of the exterior walls of the primary structure and its unenclosed appendages, and projections (including but not limited to lānais, porches, and stoops).

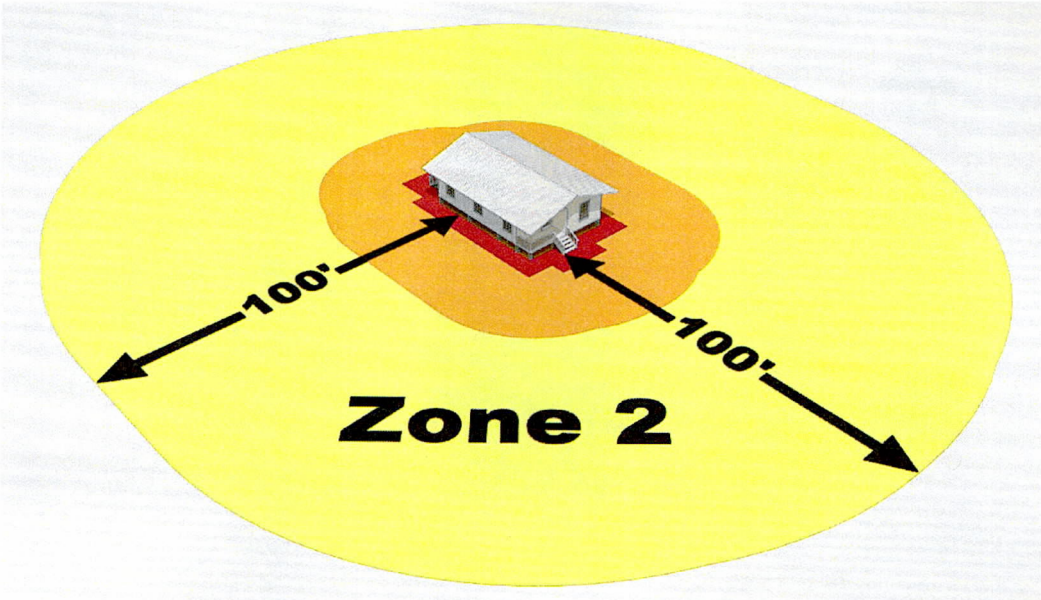
(D) The following plant species are exempt from the requirements of Subsection 8-8A.5(e)(2):

(i) Colocasia esculenta, also known as kalo or taro.

(ii) Musa, also known as banana.

(D) The requirements of Subsections 8A.5(e)(2) may be waived for Area B identified in the Plantation Camp WUI Viewer if an alternative vegetation management plan is accepted and approved by the Fire Department.

(f) Zone 2: 30-Foot to 100-Foot Resilient Landscape Requirements.



(1) Maintenance Requirements: Zone 2 shall be managed as follows:

(A) Fire-prone vegetation shall not exceed eighteen (18) inches in height when located between thirty (30) feet and one hundred (100) feet from any primary structure, measured from the edge of the exterior walls of the primary structure or unenclosed appendages and projections (including but not limited to lānais, porches, and stoops).

(B) Fire-prone vegetation greater than eighteen (18) inches in height shall have a one hundred (100) foot setback from all primary structures, measured from the edge of the exterior walls of the primary structure or unenclosed appendages and projections (including but not limited to lānais, porches, and stoops).

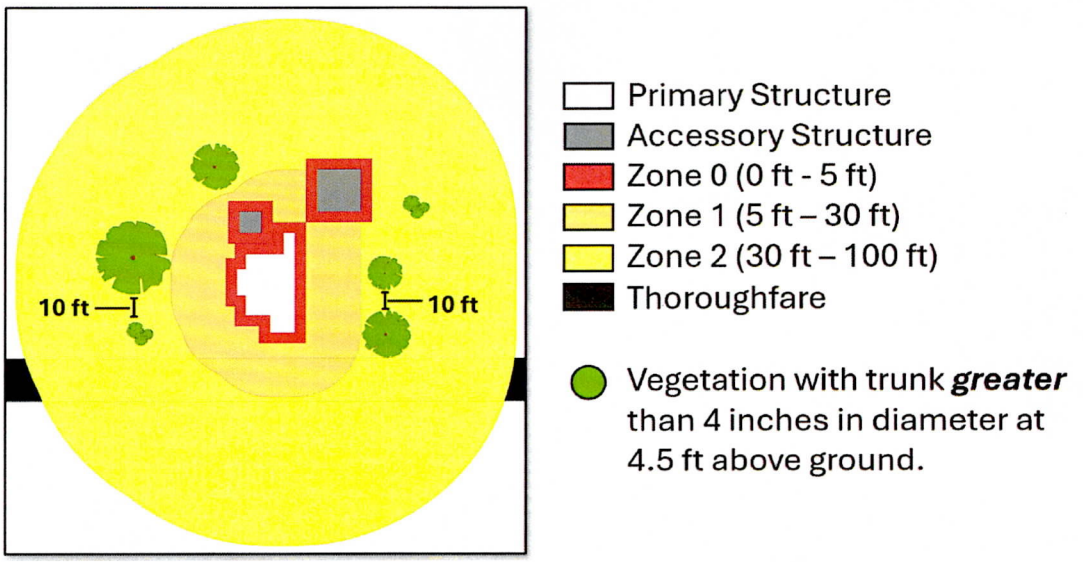
(C) Routine removal of accumulated vegetative debris, which may include but not be limited to fallen pine needles, leaves, twigs, and any dead vegetation, including piles from pruning.

(D) Excluding fire-prone vegetation, vegetation with canopies shall be maintained as follows:

(i) Vegetation with a trunk of 4 inches in diameter or greater when measured at a height of 4.5 feet above the ground:

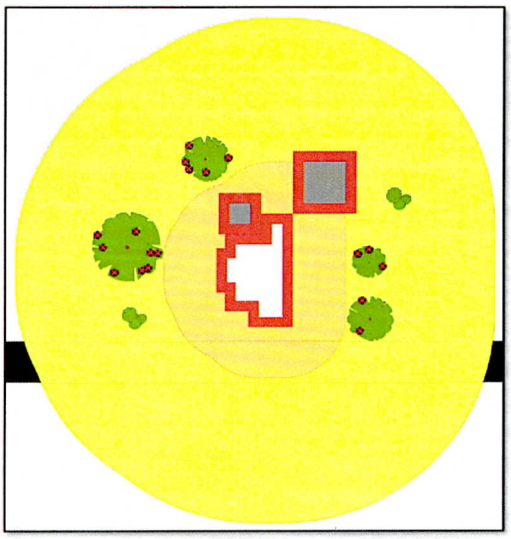


(a) Shall have limbs and branches pruned to a minimum height of 6 feet off the ground.



(b) Shall have a minimum of 10 horizontal feet of spacing between the tree canopy and the next closest tree, shrub, or bush canopy, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.

(ii) Vegetation with a trunk less than 4 inches in diameter when measured at a height of 4.5 feet above the ground or less than 4.5 feet tall:

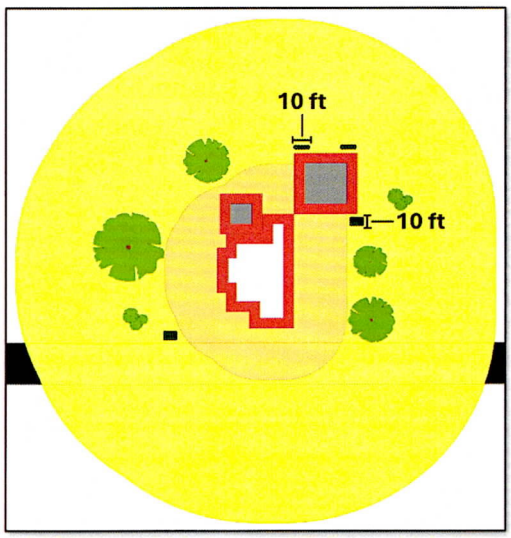


Primary Structure
Accessory Structure
Zone 0 (0 ft - 5 ft)
Zone 1 (5 ft – 30 ft)
Zone 2 (30 ft – 100 ft)
Thoroughfare

Vegetation with trunk ***greater*** than 4 inches in diameter at 4.5 ft above ground.

Prohibited location for vegetation with a trunk ***less*** than 4 inches in diameter at 4.5 ft above ground.

(a) Are prohibited under larger trees.

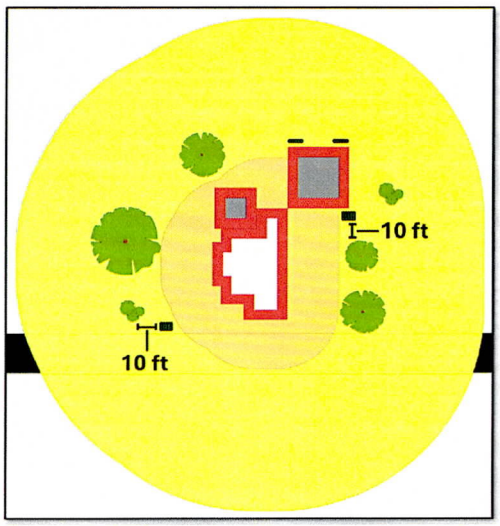


Primary Structure
Accessory Structure
Zone 0 (0 ft - 5 ft)
Zone 1 (5 ft – 30 ft)
Zone 2 (30 ft – 100 ft)
Thoroughfare

Vegetation with trunk ***greater*** than 4 inches in diameter at 4.5 ft above ground.

Vegetation with a trunk ***less*** than 4 inches in diameter at 4.5 ft above ground.

(b) Are prohibited from having a canopy larger than 10 feet in horizontal diameter, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.



(c) Shall have a minimum horizontal space between canopies of at least 10 feet.

(E) The following plant species are exempt from the requirements of Subsection 8-8A.5(f):

(i) Colocasia esculenta, also known as kalo or taro.

(ii) Musa, also known as banana.

(iii) Any species planted for cultivation and sales that is part of an agricultural operation larger than one (1) acre as determined by the Planning Director, and the species are maintained in a manner reviewed and approved by the Fire Chief.

(F) The requirements of Subsection 8A.5(f) may be waived for Area B identified in the Plantation Camp WUI Viewer if an alternative vegetation management plan is accepted and approved by the Fire Department.

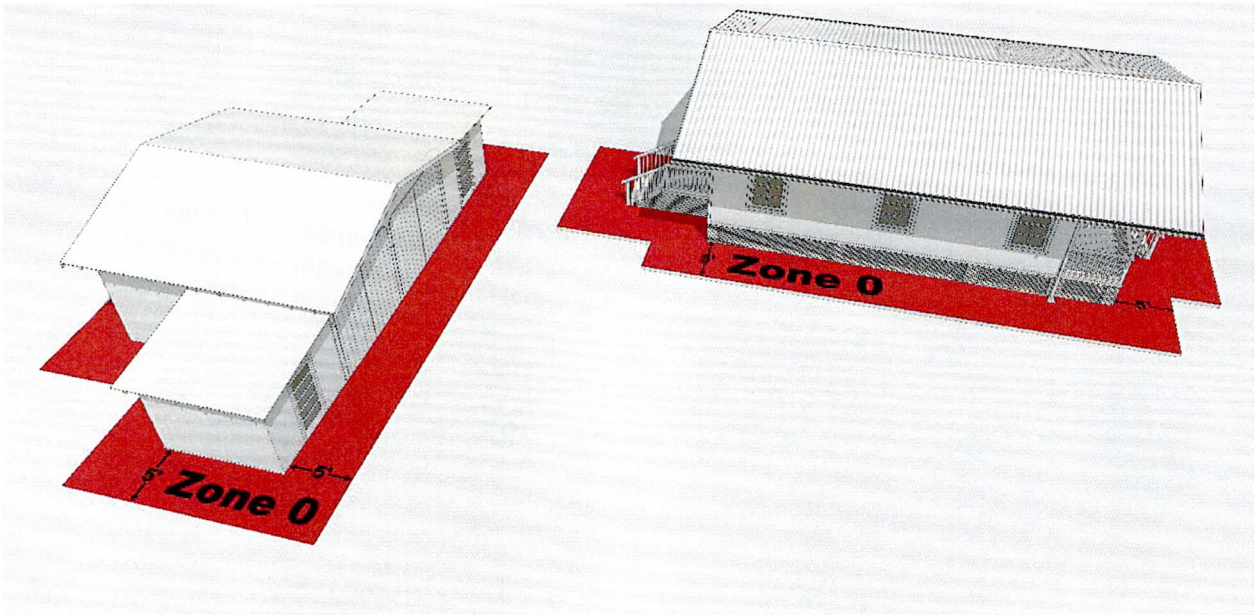
(g) Other Requirements for Accessory Structures.

(1) Construction Requirements. For any newly proposed unattached accessory structures or substantial improvements to unattached accessory structures that are within 30 feet of the primary structure and that have a footprint greater than or equal to 15 square feet (including but not limited to sheds, gazebos, poultry cages, open-covered structures with a solid roof, dog houses, and playhouses), the following construction requirements shall be met:

(A) Not counting noncombustible storage units sealed in a manner that prohibit any ember intrusion into the unit, no more than 3

total accessory structures are allowed within 30 feet of the primary structure.

(B) Fences. All fences within 30 feet of any other structure (accessory or primary) shall be constructed with noncombustible materials.



(2) Maintenance Requirements. Each accessory structure shall have its own 5 feet of NCZ (as prescribed under Subsection 8A.5(d)(2)) that does not overlap the 5-foot NCZ required for a primary structure, appendages and projections (including but not limited to lānais, porches, and stoops), or other accessory structures.

(A) The requirements of Subsection 8A.5(g)(2) may be waived for Area B identified in the Plantation Camp WUI Viewer if an alternative vegetation management plan is accepted and approved by the Fire Department.

(h) Fire Prevention Outreach and Education Requirements.

(1) Conduct a workshop titled "How to Have a Fire Adapted Home and Community." At least once per year, the landowner shall coordinate with the Fire Department, Kaua'i Emergency Management Agency, and Planning Department to set up and conduct at least one workshop for camp tenants that teach the principles of fire prevention and evacuation. Topics for discussion shall include but need not be limited to defensible space, landscaping, and home hardening. The landowner shall demonstrate good faith efforts to ensure that at least one member or representative of each household attends each

workshop. Workshops shall be scheduled for evenings or weekends when most homeowners are available. Material shall be available at the workshops that promote fire risk reduction practices and strategies.

(2) A report on the workshop format and participation shall be provided to the Fire Department and Planning Department no later than June 30 of every calendar year.

(3) Defensible Space Clean-Up Event. At least once per year, and in coordination with the Fire Department and Planning Department, the landowner shall hold a defensible space clean-up of the camp with camp tenants. Clean-up activities shall include but need not be limited to the following:

(A) Remove combustible material from the NCZ.

(B) Remove flammable vegetative material from roofs and gutters.

(C) Trim shrubs and vines to 30 feet away from primary structures.

(D) Trim overhanging limbs.

(E) Remove hazardous or flammable debris from properties.

(4) A report on the clean-up event format and participation shall be provided to the Fire Department and Planning Department no later than June 30 of every calendar year.

(i) Additional Access Roadway Requirements.

(1) Prior to building permit approval within any of the plantation camps, the landowner shall execute an emergency access plan for each of the respective camps approved by the Fire Department, Kaua'i Emergency Management Agency, and State Department of Transportation.

(2) Prior to any final subdivision map approval in Special Planning Area P (SPA-P), the Numila Plantation Camp Walkable Mixed-Use District for Numila Camp, and subject to the approval of the Department of Public Works, Fire Department, Planning Department, and State Department of Transportation, the landowner shall establish at least two publicly available multimodal vehicular access roads and easements to SPA-P. These additional access roads and easements shall connect SPA-P Numila Camp to Kaumuali'i

Highway and provide a right-of-way of sufficient width to accommodate two-way vehicular traffic, as required by the Department of Public Works. The access roads and easements shall be unobstructed and maintained for multimodal and vehicular use. The access roads and easements shall be clearly defined through metes and bounds descriptions, depicted on a map prepared by a Licensed Professional Land Surveyor, and recorded with the Bureau of Conveyances.

(3) Prior to any final subdivision map approval in Special Planning Area O (SPA-O), the Kaumakani Plantation Camp Walkable Mixed-Use District for Kaumakani Camp, and subject to the approval of the Department of Public Works, Fire Department, Planning Department, and State Department of Transportation, the landowner shall establish at least two publicly available multimodal vehicular access roads and easements to SPA-O. These additional access roads and easements shall connect SPA-O Kaumakani Camp to Kaumuali'i Highway and provide a right-of-way of sufficient width to accommodate two-way vehicular traffic, as required by the Department of Public Works. The access roads and easements shall be unobstructed and maintained for multimodal and vehicular use. The access roads and easements shall be clearly defined through metes and bounds descriptions, depicted on a map prepared by a Licensed Professional Land Surveyor, and recorded with the Bureau of Conveyances.

(4) Prior to final subdivision map approval in Special Planning Area Q (SPA-Q), the Kā'awanui Plantation Camp Walkable Mixed-Use District for Kā'awanui Camp (Camp 6), and subject to the approval of the Department of Public Works, Fire Department, Planning Department, and State Department of Transportation, the landowner shall establish at least two publicly available multimodal vehicular access roads and easements to SPA-Q. These additional access roads and easements shall connect SPA-Q Kā'awanui Camp (Camp 6) to Kaumuali'i Highway and provide a right-of-way of sufficient width to accommodate two-way vehicular traffic, as required by the Department of Public Works. The access roads and easements shall be unobstructed and maintained for multimodal and vehicular use. The access roads and easements shall be clearly defined through metes and bounds descriptions, depicted on a map prepared by a Licensed Professional Land Surveyor, and recorded with the Bureau of Conveyances.

(j) Enforcement, Legal Procedures, and Penalties.

(1) The provisions herein shall be enforced in accordance with Section 10-7.2 and Section 8-3.5, Kaua'i County Code 1987, as amended. The Planning Director or the Director's designee shall only commence an enforcement investigation into violations of this Article when a formal

complaint is by the Fire Chief or the Fire Chief's designee.

Section [8-8A.4.] 8-8A.6. Permits Required.

(a) The permits required for repair or rebuild of any new structures located in the Plantation Camp [(PC)] District shall be the same as those in Section 8-8.4.

(b) The permits required for repair or rebuild of any nonconforming non-residential structures located in the Plantation Camp [(PC)] District shall be the same as those in Section 8-8.4.

(c) The permits required for repair or rebuild of nonconforming residential structures located in the Plantation Camp [(PC)] District shall be the same as those in Section 8-4.7."

SECTION 4. Chapter 10, Article 3, Kaua'i County Code, as amended (West Kaua'i Community Plan Implementing Ordinance), is amended as follows:

"**Section 10-3.1. Title and Purpose.**

(a) This Article shall be known and may be cited as the "West Kaua'i Community Plan Implementing Ordinance." It is adopted:

(1) To provide design and development standards in order to implement the detailed planning goals and objectives for the West Kaua'i Planning District;

(2) To establish special planning areas, future growth areas, land uses, and development and design standards to guide and regulate future development;

(3) To protect certain physical characteristics found to be of particular public value, as provided in Chapter 8, Article 11, Section 6, Kaua'i County Code 1987, as amended (Special Planning Areas); and

(4) Establish exceptions, modifications, or additions to the provisions of Chapter 8, Kaua'i County Code 1987, as amended (Comprehensive Zoning Ordinance) and Chapter 9, Kaua'i County Code 1987, as amended (Subdivision Ordinance) in order to more specifically provide for the regulation of land use, subdivision, and development practices within the West Kaua'i Planning District.

(b) Nature of the West Kaua'i Community Plan Ordinance. This Article provides the necessary framework and guidelines to direct future development and capital improvements in the West Kaua'i area, whose boundary is described in the

report entitled "West Kaua'i Community Plan." Additionally, this Article supplements Chapter 8, Kaua'i County Code 1987, as amended (Comprehensive Zoning Ordinance) and Chapter 9, Kaua'i County Code 1987, as amended (Subdivision Ordinance) by regulating use and development standards within the West Kaua'i Special Planning Areas, as identified in the zoning maps or surveyed maps, or both, attached to [Ordinance No. 1083 and Ordinance No. 1138,] Ordinance No. 1083, Ordinance No. 1138, Ordinance No. ****, and Ordinance No. ****, and on file with the Planning Department, County of Kaua'i.

(c) The guidelines of this Article are based on the report entitled "West Kaua'i Community Plan" (Planning Commission draft approved in 2020, as amended by the Kaua'i County Council in 2020, 2022, 2025, and as may be subsequently amended), a booklet whose major components include:

(1) Regional and town plan maps;

(2) Policies for the West Kaua'i region as a whole;

(3) Goals and objectives for Kekaha, Waimea, Hanapēpē, 'Ele'ele, Port Allen, Kaumakani, Pākalā Village, Numila, and other areas; and

(4) Appendices.

Section 10-3.2. Vision and Goals.

The vision and goals for the region referred to in this Article, which shall be known as the West Kaua'i Planning District, and its communities are described in the report entitled "West Kaua'i Community Plan."

Section 10-3.3. Application of Regulations.

(a) [The West Kaua'i Form-Based Code, attached as Appendix "C", and the Plantation Camp Form-Based Code, attached as Appendix "D", to the West Kaua'i Community Plan, are by reference incorporated herein and made a part hereof. The provisions of the West Kaua'i Form-Based Code, the Plantation Camp Form-Based Code] The following West Kaua'i Community Plan appendices are incorporated by reference: the West Kaua'i Form-Based Code (attached as Appendix C), the Plantation Camp Form-Based Code (attached as Appendix D), the Numila Plantation Camp Form-Based Code (attached as Appendix E), and the Kā'awanui Plantation Camp Form-Based Code (attached as Appendix F). These provisions shall apply to all new development located within the Special Planning Areas, as identified in the zoning maps or surveyed maps, or both, attached to [Ordinance No. 1083 and Ordinance No. 1138,] Ordinance No. 1083, Ordinance No. 1138, Ordinance No. ****, and Ordinance No. ****, and on file with the Planning Department, County of Kaua'i.

(b) The regulations and procedures established in Chapter 8, Kaua'i County

Code 1987, as amended (Comprehensive Zoning Ordinance) shall apply within the Special Planning Areas of the West Kaua'i Planning District, except to the extent that such regulations or procedures are changed or modified by the provisions of the [West Kaua'i Form-Based Code.] Form-Based Codes referenced in Section 10-3.3(a). When the provisions of this Article differ with respect to the provisions of Chapter 8, Kaua'i County Code 1987, as amended (Comprehensive Zoning Ordinance) and Chapter 9, Kaua'i County Code 1987, as amended (Subdivision Ordinance), the [West Kaua'i Form-Based Code] Form-Based Codes referenced in Section 10-3.3(a) shall supersede such provisions, as provided in Chapter 8, Article 11, Kaua'i County Code 1987, as amended (Special Treatment Districts (ST)).

Section 10-3.4. Existing Conditions.

(a) This Article does not mandate the immediate modification of structures and uses lawfully in existence upon the enactment of this Article.

(b) The requirements of this Article will not be triggered by routine maintenance not requiring a zoning permit.

(c) Existing Buildings and Structures. Buildings and structures lawfully in existence upon the enactment of this Article that do not conform to the provisions of this Article are subject to the requirements of Chapter 8, Article 13, Section 1, Kaua'i County Code 1987, as amended (Nonconforming Buildings and Structures).

(d) Existing Uses. Uses lawfully in existence upon the enactment of this Article that are not consistent with the Special Planning Areas will be allowed to continue on the parcel of record as provided in Chapter 8, Article 13, Section 2, Kaua'i County Code 1987, as amended (Nonconforming Uses).

Section 10-3.5. Special Planning Areas, Designation, and Procedures.

(a) Designation of Special Planning Areas ["K," "L," "M," "N," and "O."] K, L, M, N, O, P, and Q. The boundaries of the following form-based code districts are hereby adopted as described in the [West Kaua'i Form-Based Code and the Plantation Camp Form-Based Code,] Form-Based Codes referenced in Section 10-3.3(a), attached as Appendix ["C" and] C, Appendix ["D"] D, Appendix E, and Appendix F to the West Kaua'i Community Plan, and shall be referred to as follows:

(1) Special Planning Area ["K,"] K, which shall also be known as the "Kekaha Town Walkable [Mixed Use] Mixed-Use District" and be designated as "SPA-K" as shown on the zoning map attached to Ordinance No. 1083 as Exhibit 1, and on file with the Planning Department, County of Kaua'i.

(2) Special Planning Area ["L,"] L, which shall also be known as the "Waimea Town Walkable [Mixed Use] Mixed-Use District" and be designated as "SPA-L" as shown on the zoning map attached to Ordinance No. 1083 as Exhibit 2, and on file with the Planning Department, County of Kaua'i.

(3) Special Planning Area ["M,"] M, which shall also be known as the "Hanapēpē Town Walkable [Mixed Use] Mixed-Use District" and be designated as "SPA-M" as shown on the zoning map attached to Ordinance No. 1083 as Exhibit 3, and on file with the Planning Department, County of Kaua'i.

(4) Special Planning Area ["N,"] N, which shall also be known as the "'Ele'ele-Port Allen Walkable [Mixed Use] Mixed-Use District" and be designated as "SPA-N" as shown on the zoning map attached to Ordinance No. 1083 as Exhibit 4, and on file with the Planning Department, County of Kaua'i.

(5) Special Planning Area ["O,"] O, which shall also be known as the "Kaumakani Plantation Camp Walkable [Mixed Use] Mixed-Use District" and designated as "SPA-O" as shown on the zoning and surveyed maps attached to Ordinance No. 1138 as Exhibit 1, Exhibit 2a, and Exhibit 2b, and on file with the Planning Department, County of Kaua'i.

(6) Special Planning Area P, which shall also be known as the "Numila Plantation Camp Walkable Mixed-Use District" and designated as "SPA-P" as shown on the zoning map attached to Ordinance No. **** as Exhibit B, and on file with the Planning Department, County of Kaua'i.

(7) Special Planning Area Q, which shall also be known as the "Kā'awanui Plantation Camp Walkable Mixed-Use District" and designated as "SPA-Q" as shown on the zoning map attached to Ordinance No. **** as Exhibit B, and on file with the Planning Department, County of Kaua'i.

(b) Pursuant to Chapter 8, Article 8A, of the Kaua'i County Code 1987, as amended, Special Planning Areas O, P, and Q shall be amended to incorporate the Plantation Camp Wildland Urban Interface regulations. The Planning Department is directed to update all corresponding form-based code booklets to reflect the new Plantation Camp Wildland Urban Interface regulations.

[(b)] (c) Designation of Zoning Maps. In order to carry out the purpose of this Article, the zoning maps ZM-K100 (Kekaha), ZM-W100 (Waimea), and ZM H200 (Hanapēpē) of Chapter 8, Kaua'i County Code 1987, as amended (Comprehensive Zoning Ordinance), are hereby amended. Zoning Map ZM-KV-100 (Kaumakani Village) [and], ZM-KA-100 (Kaumakani Avenue) [is], ZM-NC-100 (Numila Camp), and ZM-KC6-100 (Kā'awanui Village) are hereby adopted.

Section 10-3.6. Implementation of the West Kaua'i Community Plan. The West Kaua'i Community Plan shall serve as a guide for all development within the West Kaua'i area."

SECTION 5. The Planning Department is directed to note the changes on the official Zoning Maps on file with the Department.

SECTION 6 The Planning Department is directed to incorporate the changes into each of the Plantation Camps' respective form-based code booklets.

SECTION 7. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 8. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the following shall be substituted for the *DATE* and various **** placeholders:

- The effective date (Month Day, Year) and designated Ordinance number of this Ordinance in place of: "*DATE* (the effective date of Ordinance No. ****)."
- The designated Ordinance number of the Numila Ordinance (ZA-2025-4) if relating to Numila.
- The designated Ordinance number of the Kā'awanui Ordinance (ZA-2025-6) if relating to Kā'awanui.

SECTION 9. Material to be deleted is bracketed. New 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 need not be included.

SECTION 10. This Ordinance shall take effect upon its approval.

Introduced by:

ADDISON BULOSAN
(By Request)

DATE OF INTRODUCTION:

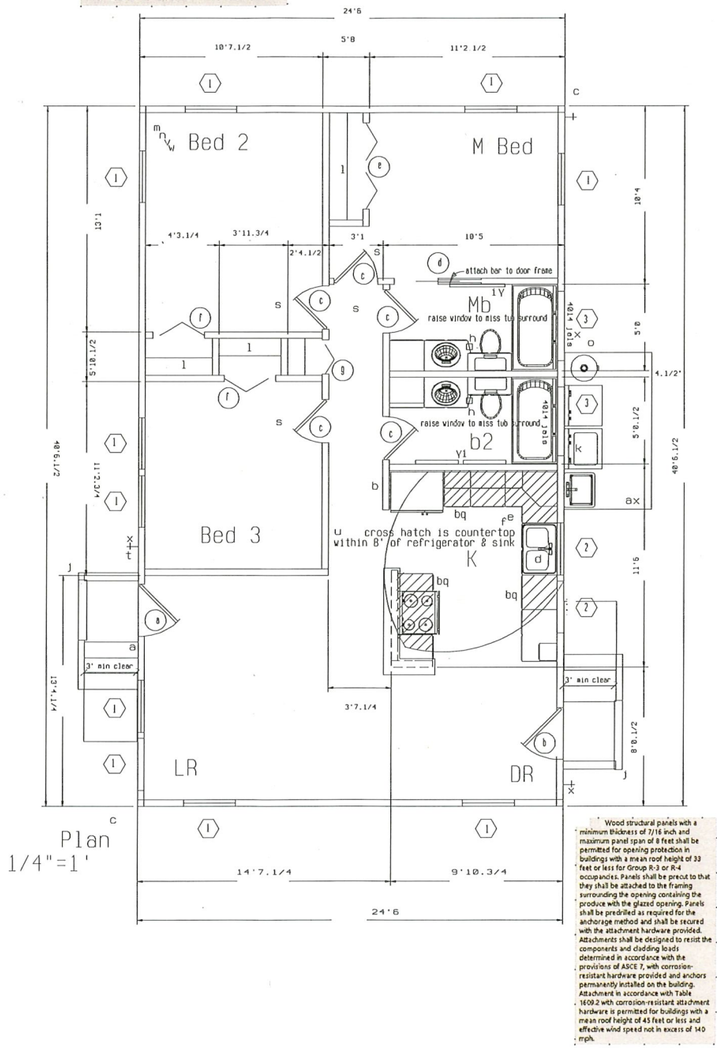
Līhu'e, Kaua'i, Hawai'i
V:\BILLS\2024-2026 TERM\Plantation Camp Bills\Bill 1 - Bill WUI Wildfire and Wildland Urban Interface ZA-2025-11\Bill WUI Wildfire and Wildland Urban Interface ZA-2025-11 (AB) JA_ss.docx

EXHIBIT B
KAUMAKANI VILLAGE
CONSTRUCTION DRAWINGS

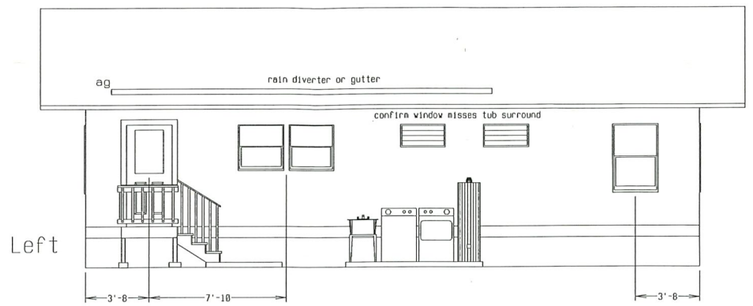
Door & Window Schedule

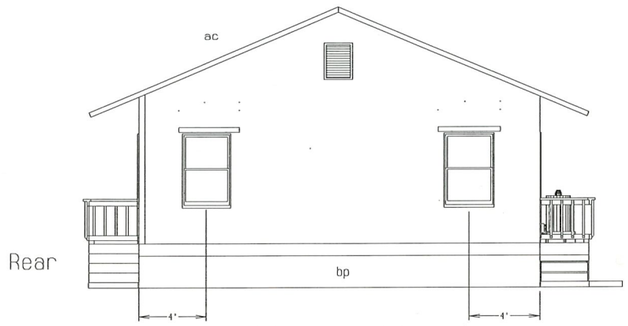
Window		Door	
3050 double hung	1	entry door 3068	a
3030 double hung	2	door w/window/screen 3068	b
4014 double 4 slat	3	swing door 2668	c
		pocket door 2668	d
		bifold 5068	e
		single fold 3068	f
		single fold 2068	g

. EMERGENCY ESCAPE AND RESCUE WINDOWS (IRC R310)
A. every sleeping room shall have at least one operable emergency escape and rescue opening
C. Clear opening requires ALL of the following:
____ minimum 5.7 square feet
____ minimum 24" height
____ minimum 20" width
____ maximum 44" above the finished floor
D. Window must be operable from the inside without the use of keys, tools or special knowledge.

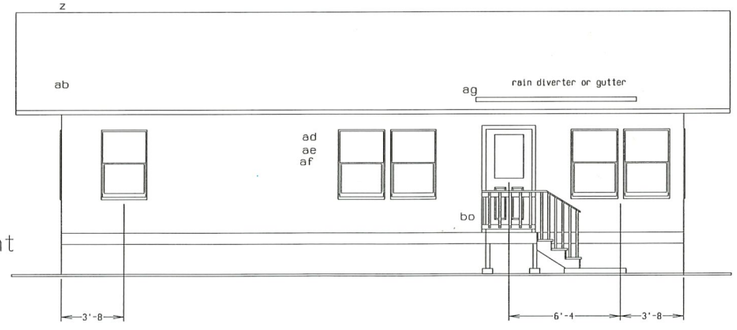


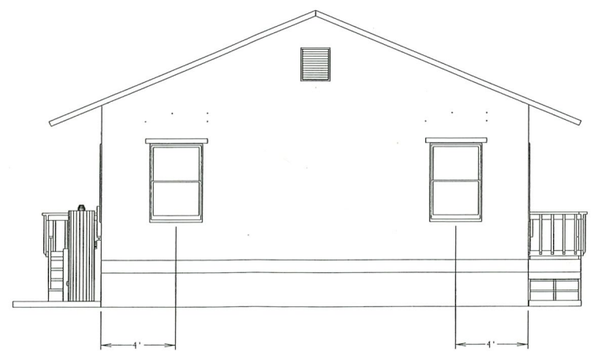
Wood structural panels with a minimum thickness of 7/16 inch and maximum panel span of 8 feet shall be permitted for opening protection in buildings with a mean roof height of 33 feet or less for Group R-3 or R-4 occupancies. Panels shall be precut to that they shall be attached to the framing surrounding the opening containing the produce with the glazed opening. Panels shall be predrilled as required for the anchorage method and shall be secured with the attachment hardware provided. Attachments shall be designed to resist the components and cladding loads determined in accordance with the provisions of ASCE 7, with corrosion-resistant hardware provided and anchors permanently installed on the building. Attachment in accordance with Table 1609.2 with corrosion-resistant attachment hardware is permitted for buildings with a mean roof height of 45 feet or less and effective wind speed not in excess of 140 mph.





1x4 lattice w/3.5" spaces typ. w/16"x24"min.hinged open'g for access bp





a	Door Bell
b	Chime
c	Exterior Adjustable Flood Lights / Spot Lights
d	Garbage Disposal
e	all wood cabinets, no particle board anywhere
f	wet areas: waterproof gyp bd
g	Medicine Cabinet
h	Paper Holder, provide backing
i	Towel Bar @ 4' to 5' for single w/shelf above or 3'-6" and 6' for double, provide backing
j	2x2 pickets: 4" ball can't pass.
k	Recessed Plastic Valve & Drain Box top at +4'
l	Pole & Shelf @ 5'-8"
m	walls & ceilings: ½" gyp. bd
n	vinyl corner beads and L's
o	Water Heater
p	GFI
q	GFI Gang
r	GFI Water Proof
s	Smoke Detector
t	Electric Meter
u	Electric Panel
v	top of switch/outlet above counters: +4'; elsewhere +1'
w	insulation Walls:R-13, Roof: R-19, Windows+: max equiv. U factor per specs
x	Hose Bib
y	Provide backing
z	Provide tie straps @ 48" per specs & details, drill straps for required shear nailing
aa	Tie straps galvt 1.1/8"x20 gauge min.. Drill for any nailing (e.g.shear)
ab	Hurricane clips
ac	5:12 roof pitch
ad	Line up tops of doors & windows (UNO).
ae	siding
af	1x4 trims at doors, windows and corners
ag	rain diverter
ah	Provide saddles
ai	headers: 4x12 unless otherwise noted (UNO)
aj	Trusses per detail and specifications
ak	No seat cut without architect permission
al	5/8" T&G or Hclips CDX staggered pattern nail per specs
am	Roofing & Flashing
an	flashing
ao	Simpson post bases
ap	Posts on termite shields.
aq	3-2x12 stringers 2x12 treads
ar	Midspan blocking
as	Provide rim joists, w/backing and doublers.
at	Double joists under all post locations, conc. loads, and at all floor edges.
au	¾" T&G CDX subflooring laid in staggered pattern
av	knee braces: provide 2,3 ways w/predrilled 3/8x4" lag @ 45 degrees to knee brace (90 degrees into framing member).
aw	knee braces to girders or 2x6 flat face nailed to joists w/3 span minimums brace (all available directions).
ax	4" concrete slab w/6x6 1010 electrically welded wire mesh on 6 mil vapor barrier on compact termite treated base.
ay	8"x8"x8" w/post bases and termite shields w/2 #4's vertical hooked securely into footing.
az	concrete 3000 psi
ba	shovel footing 8" wide, 8" deep w/1 #4 cont.
bb	spread footing #/#=inches square/#of #4 bars each way (B)
bc	Crushed Coral Floor 3" deep rolled and sprinkled with cement powder. Maintain req'd clearance.
bd	Grade Beams 12" deep 12" wide w/2#4's cont (T&B) & # 3 stirrups @ 8" o.c.
be	Provide ventilation
bf	Radiant Barrier between rafters & studs w/3/4" min. air space above and below
bg	vent per specs
bh	Bottom of fascia 7' above FF minimum
bi	2x fascia w/ 1x3 fascia trim
bj	T-1-11 no grooves with 1/16" saw cuts 1/8" deep to replicate single wall look
bk	grabber screws @ 12"O.C. lids & @ 16"OC walls
bl	Fireblocking
bm	Studs @ 16" O.C.
bn	Posts on termite shields.
bo	pickets such that a 4" ball cannot pass thru.
bp	1x4 lattice w/3.5" spaces typ. w/16"x24"min.hinged open'g for access
bq	cross hatch is countertop within 8' of refrigerator & sink

STEFAN P. SCHWEITZER
LICENSED PROFESSIONAL ARCHITECT
No. 3806
HAWAII, U.S.A.
see also bcl WSPS specifications
This work was prepared by me OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY OBSERVATION
Signature
exp 4/30/22

NOTICE TO OWNER/CONTRACTOR

Approval of this plan is given subject to the following conditions:
1. All construction shall be in accordance to this approved plan (i.e., setbacks, height, size, lot coverage, parking, use of structure, etc).
2. If any changes are made to this plan, a revised plan shall be submitted for approval.
3. Use of structure(s) and lot and all minimum requirements shall conform to all State and County rules, regulations, codes and ordinances.

Planning Department
County of Kauai

TMK: (4) 1-7-06-001

SCHWEITZER-ARCHITECTS
Post Office Box 1011, Kalaheo, Kauai, Hawaii 96741

Kaumakani Village
House # 88, 90, 92, & 94

Date	Rev.	Issued for
JOB NO.		

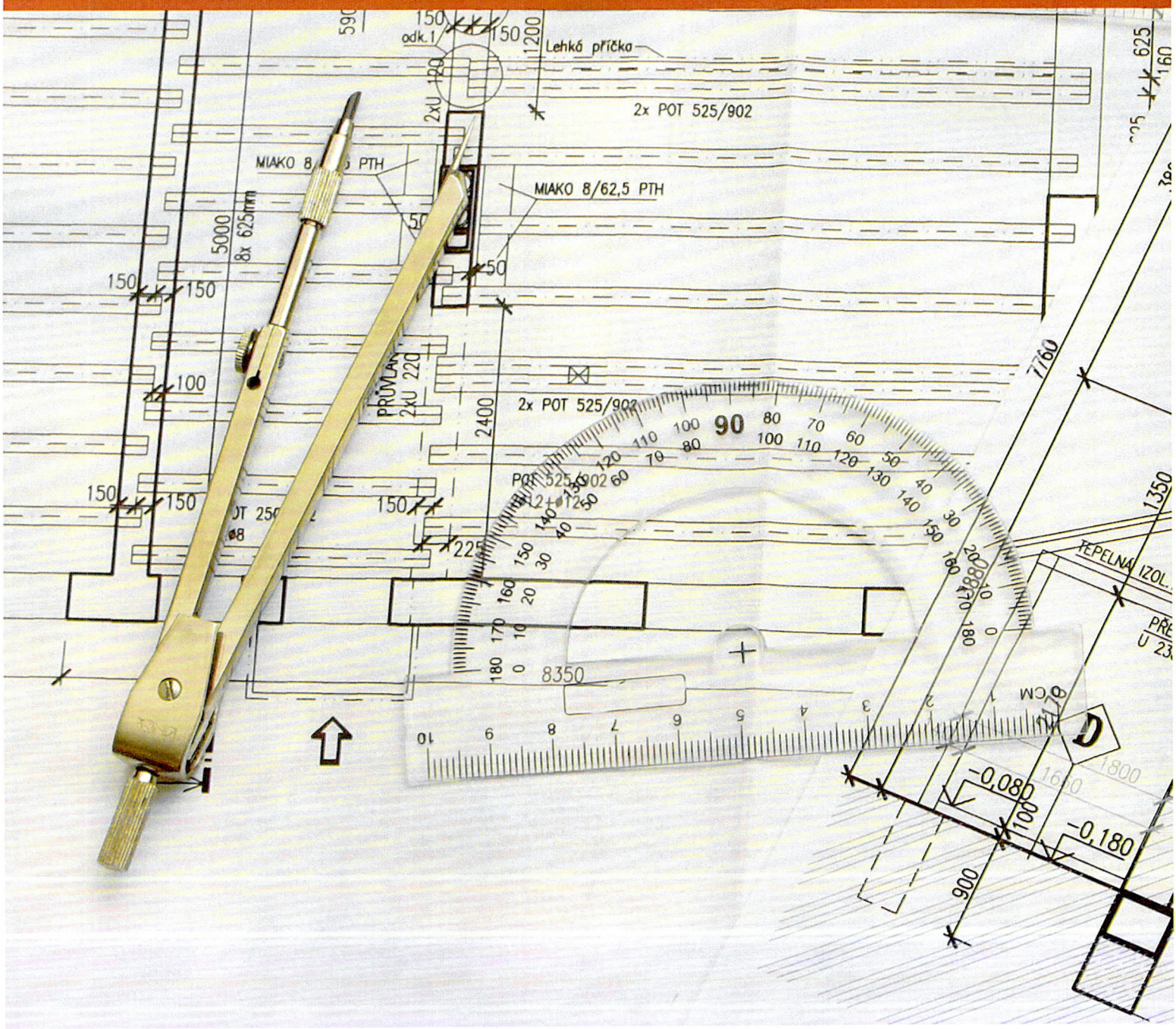
ⓒ Drawing Number
A01
See Also Specifications

EXHIBIT C
MODEL ORDINANCE FOR CONSTRUCTION IN WUI AREA
SEPTEMBER 2023

Insurance Institute for Business & Home Safety®

Model Ordinance For Construction in WUI Area

September 2023



Wildfire-Resistant Construction Codes Supplement

The threat of wildfire has grown across the United States. When wildfires enter a community, catastrophe unfolds far too often. Strongly enforced building and defensible space codes and ordinances provide communities with a critical tool to strengthen resilience to this peril.

To help communities reduce their vulnerability to the embers, flames, and radiant heat associated with wildfires, the Insurance Institute for Business & Home Safety (IBHS) created the Wildfire-Resistant Construction Code Supplement ("Supplement") to provides municipalities and other local jurisdictions with wildfire resistance code/ordinance options for one- and two-family dwellings. The Supplement provides options for both new construction and retrofits of existing housing stock. Each of the three tiers of the Supplement is designed to be adopted and enforced alongside the building code in place within the jurisdiction.

The Supplement bridges wildfire protection gaps between the existing International Code Council's (ICC) model "I-Codes" (International Building Code and International Residential Code), the ICC Wildland-Urban Interface Code, and the IBHS Wildfire Prepared Home standard[1]. The Supplement consists of three tiers:

- **Baseline** – The "Baseline" tier of the Supplement provides a bridge between the existing IRC/IBC residential construction requirements and the IBHS Wildfire Prepared Home "base" designation requirements. Provisions focus on critical areas for ember defense and reducing pathways for fire to reach a home (e.g., roof material, 0–5-foot home ignition zone, also referred to as Zone 0, vents, 5–30-foot defensible space elements). The Baseline tier is specifically tailored for suburban wildland interface environments and is ideal for retrofit provisions.

- **Enhanced –** The "Enhanced" tier of the Supplement increases protections for direct flame and radiant heat (i.e., fire resistant enhancements for windows, doors, wall cover materials) above what is contained in the "Baseline" tier. The Enhanced tier meets the requirements of the IBHS Wildfire Prepared Home "Plus" designation. The Enhanced tier is designed for use in suburban, traditional wildland-urban interface areas, and rural environments.

- **Optimum –** The "Optimum" tier provides the highest level of protection based on current wildfire and fire science knowledge. It goes beyond the Enhanced tier to require fully noncombustible materials, addresses all three ignition mechanisms, and includes provisions to reduce fire spread and conflagration potential. The Optimum tier is designed for use in the most extreme wildfire prone areas and/or environments with dense residential construction near high density wildland fuels.

The Supplement is based on the latest research from both IBHS and the broader wildfire science and engineering communities. To learn more: https://ibhs.org/wildfire/suburban-wildfire-adaptation-roadmaps/

For additional information contact:

Ian Giammanco, PhD
IBHS Managing Director for Standards and Data Analytics
Igiammanco@ibhs.org

ADDENDUM TO THE _____ COUNTY RESIDENTIAL AND BUILDING CODE
APPENDIX A – CONSTRUCTION REGULATIONS IN WILDLAND-URBAN INTERFACE (WUI) ZONE

CHAPTER A1
SCOPE AND ADMINISTRATION

SECTION A101
SCOPE AND GENERAL REQUIREMENTS

A101.1 Scope. The provisions of this appendix shall apply to building materials, systems and/or assemblies used in the construction of new one and two-family dwellings not more than three stories above the grade plane that are located within the WUI zone in _____ County/City/Town.

A101.2 Objective. The purpose of this appendix is to establish minimum requirements to mitigate the risk to life, and structures located in a WUI zone from intrusion of flames, radiant heat and/or burning embers from wildlands and adjacent structures.

A101.3 Retroactivity. The provisions of this appendix shall apply to conditions arising after the adoption thereof, conditions not legally in existence at the adoption of this appendix and conditions that, in the opinion of the code official, constitute a distinct hazard to life or property.
Exception: Provisions of this appendix that specifically apply to existing conditions are retroactive.

A101.4 Additions or alterations. Additions or alterations shall be permitted to be made to any building or structure without requiring the existing building or structure to comply with all the requirements of this appendix, provided that the addition or alteration conforms to that required for a new building or structure.
Exception: Provisions of this appendix that specifically apply to existing conditions are retroactive.
Additions or alterations shall not be made to an existing building or structure that will cause the existing building or structure to be in violation of any of the provisions of this appendix nor shall such additions or alterations cause the existing building or structure to become unsafe. An unsafe condition shall be deemed to have been created if an addition or alteration will cause the existing building or structure to become structurally unsafe or overloaded; will not provide adequate access in compliance with the provisions of this appendix or will obstruct existing exits or access; will create a fire hazard; will reduce required fire resistance or will otherwise create conditions dangerous to human life.

A101.5 Maintenance. Buildings, structures, landscape materials, vegetation, defensible space or other devices or safeguards required by this appendix shall be maintained in conformance to the code edition under which installed. The owner or the owner's authorized agent shall be responsible for the maintenance of buildings, structures, landscape materials, and vegetation.

A101.6 Conflict or inconsistency with Residential Code. In the event of any conflict or inconsistency between the requirements in this appendix and the _____ County/City/Town, the requirements of this appendix shall control with respect to one and two-family dwellings not more than three stories above the grade plane located in a WUI zone.

A101.1.2 Effective date. This appendix shall become effective on _____ and shall apply to all permits applied for after _____.

CHAPTER A2
DEFINITIONS

SECTION A201
GENERAL

A201.1 Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this code, have the meanings shown in this chapter.

A201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural the singular.

A201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in other International Codes, such terms shall have the meanings ascribed to them as in those codes.

A201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have their ordinarily accepted meanings such as the context implies.

SECTION A202
DEFINITIONS

ACCESSORY STRUCTURE. A building or structure used to shelter or support any material, equipment, chattel, or occupancy other than a habitable building.

ACCESSORY DWELLING UNIT (ADU). An attached or detached dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

CERTIFICATE OF COMPLETION. Written documentation that the project or work for which a permit was issued has been completed in conformance with requirements of this appendix.

CRITICAL FIRE WEATHER. A set of weather conditions (usually a combination of low relative humidity and wind) whose effects on fire behavior make control difficult and threaten life safety.

DEFENSIBLE SPACE. An area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared, or modified to slow the rate and intensity of an advancing wildfire and to create an area for structure defense operations to occur.

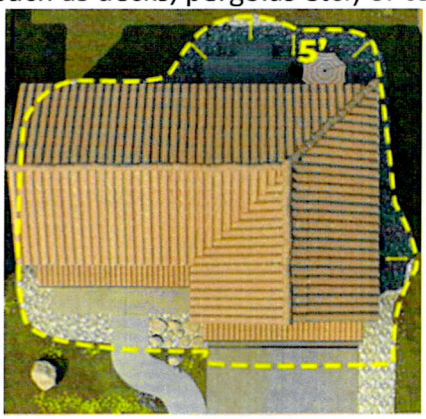
FIRE SEPARATION DISTANCE. [Reserved- *See section of Recommendation of Implementation.*]

FIRE-RESISTANCE-RATED CONSTRUCTION. The use of materials and systems in the design and construction of a building or structure to safeguard against the spread of fire within a building or structure and the spread of fire to or from buildings or structures to the wildland-urban interface area.

FIRE-RETARDANT-TREATED WOOD. Fire-retardant-treated wood is a type of wooden material that resists ignition and shall be identified for exterior use. Fire-retardant-treated wood material shall meet the requirements of Section 2303.2 of the International Building Code.

FLAME SPREAD INDEX. A comparative measure, expressed as a dimensionless number, derived from visual measurements of the spread of flame versus time for a material tested in accordance with ASTM E84.

HOME IGNITION ZONE (HIZ). This zone extends 5 feet out from the edge of the exterior walls of the dwelling and attachments (such as decks, pergolas etc.) or to the property line.



IGNITION-RESISTANT BUILDING MATERIAL. A type of building material that resists ignition or sustained flaming combustion sufficiently so as to reduce losses from wildland-urban interface conflagrations under worst-case weather and fuel conditions with wildfire exposure of burning embers and small flames, as prescribed in Section A502.4.

LOG WALL CONSTRUCTION. A type of construction in which exterior walls are constructed of solid wood members and where the smallest horizontal dimension of each solid wood member is not less than 6 inches (152 mm).

MULTILAYERED GLAZED PANELS. Window or door assemblies that consist of two or more independently glazed panels installed parallel to each other, having a sealed air gap in between, within a frame designed to fill completely the window or door opening in which the assembly is intended to be installed.

NONCOMBUSTIBLE. As applied to building construction material means a material that, in the form in which it is used, is either one of the following:

1. Material of which no part will ignite and burn when subjected to fire. Any material conforming to ASTM E 136 shall be considered noncombustible within the meaning of this section.
2. Material having a structural base of noncombustible material as defined in Item 1 above, with a surfacing material not over 1/8 inch (3.2 mm) thick, which has a flame spread index of 50 or less. Flame spread index as used herein refers to a flame spread index obtained according to tests conducted as specified in ASTM E84 or UL 723.

"Noncombustible" does not apply to surface finish materials. Material required to be noncombustible for reduced clearances to flues, heating appliances or other sources of high temperature shall refer to material conforming to Item 1. No material shall be classified as noncombustible that is subject to increase in combustibility or flame spread index, beyond the limits herein established, through the effects of age, moisture, or other atmospheric conditions.

NONCOMBUSTIBLE ROOF COVERING. A roof covering consisting of any of the following:

1. Cement shingles or sheets.
2. Exposed concrete slab roof.
3. Ferrous or copper shingles or sheets.
4. Slate shingles.
5. Clay or concrete roofing tile.

6. Approved roof covering of noncombustible material.

ROOF ASSEMBLY. A system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly can include an underlayment, thermal barrier, ignition barrier, insulation, or a vapor retarder.

ROOF COVERING. The covering applied to the roof deck for weather resistance, fire classification or appearance.

ROOF DECK. The flat or sloped surface not including its supporting members or vertical supports.

SLOPE. The variation of terrain from the horizontal; the number of feet (meters) rise or fall per 100 feet (30 480 mm) measured horizontally, expressed as a percentage.

UNENCLOSED ACCESSORY STRUCTURE. An accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

WILDFIRE. An uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.

WILDLAND. An area in which development is essentially nonexistent, except for roads, railroads, power lines and similar facilities.

WILDLAND-URBAN INTERFACE AREA. That geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.

CHAPTER A3
WILDLAND-URBAN INTERFACE AREA

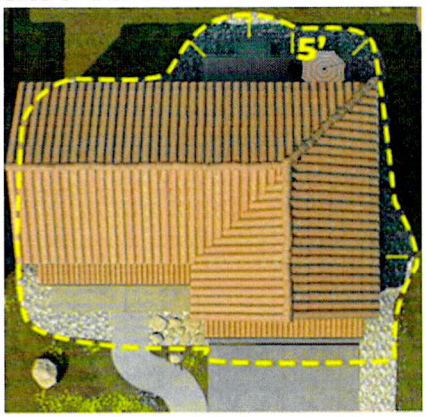
[Reserved- Define wildfire-prone zones in and around your jurisdiction. *See section Recommendation of Implementation.*]

CHAPTER A4
FIRE PROTECTION REQUIREMENTS

SECTION A401
DEFENSIBLE SPACE REQUIREMENTS

A401.1 Home ignition zone (HIZ) requirements. This zone is the most critical zone of defensible space and requires the most stringent fuel reduction and regular maintenance to protect against wildfire. This includes:

- The roof shall be kept clear of debris.
- Gutters and downspouts shall be kept clear of debris such as leaves and pine needles.
- Ground cover shall be *noncombustible* and kept free of debris. *Noncombustible* hardscape such as gravel or paving stones are recommended. Bare soil is also acceptable.
- No vegetation (trees, shrubs, bushes, plants, grass, weeds, etc.) shall exist within or overhang. Any overhanging limbs or branches from nearby trees and bushes must be trimmed back to be outside the HIZ.
- Only *noncombustible* or *ignition-resistant* items are allowed.
- No boats, RVs, or other vehicles are allowed.



A401.2 Other defensible space requirements. The remainder of the property beyond the home must have defensible space that is regularly maintained. This includes:

- Routinely remove fallen pine needles, leaves, and other vegetative debris accumulated in the yard.
- Routinely remove any dead vegetation, including piles from pruning and firewood.
- Vegetation, including plants with canopies within 30 feet of the home:
    - Trees with a trunk of 4 inches in diameter or greater when measured at a height of 4.5 feet above the ground:
        - Must have limbs and branches pruned to a minimum height of 6 feet off the ground.
        - Must have a minimum of 10 horizontal feet of spacing between the tree canopy and the next closest tree, shrub, or bush canopy.

        - May be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.
    - Must have a minimum of 5 horizontal feet between a tree canopy and the home.
- Shrubs, bushes, and small trees with a trunk less than 4 inches in diameter when measured at a height of 4.5 feet above the ground or less than 4.5 feet tall:
    - Must not be placed under larger trees.
    - Must not have a canopy larger than 10 feet in horizontal diameter.
        - May be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.
    - Must have a minimum horizontal space between canopies of at least 10 feet.

A401.3 Other maintenance requirements. For unattached accessory structures and outbuildings that are within 30 feet of the home and that have a footprint greater than or equal to 15 square feet (such as sheds, gazebos, accessory dwelling units (ADUs), open covered structures with a solid roof, dog houses, playhouses, etc.):

- No more than 3 total of these structures are allowed within 30 feet of the home.
- Each structure must have its own 5 feet of defensible space (as prescribed under Home Ignition Zone) that does not overlap the 5-foot HIZ required for the home, decks, or other structures within 30 feet of the home.

CHAPTER A5
WILDLAND-URBAN INTERFACE ZONE CONSTRUCTION REGULATIONS

SECTION A501
GENERAL

A501.1 Scope. Building and accessory structures shall be constructed in accordance with the [Place Local jurisdiction's Title of Building Code here] and this appendix.
Exceptions: Agricultural buildings not less than 50 feet (15 240 mm) from buildings containing habitable spaces.

A501.2 Objective. The objective of this chapter is to establish minimum standards to locate, design and construct buildings and structures or portions thereof for the protection of life and property, to resist damage from wildfires, and to mitigate building and structure fires from spreading to wildland fuels.

SECTION A502
WUI CONSTRUCTION AND MATERIAL

A502.1 General. Buildings and structures hereafter constructed, modified, or relocated into or within wildland-urban interface areas shall be established in accordance with [One or more of these sections A503, A504, or A505]. Materials required to be *ignition-resistant building materials* shall comply with the requirements of Sections A502.2 through A502.6.
A502.2 Fire-resistance-rated construction. Where this code requires 1-hour *fire-resistance-rated construction*, the fire-resistance rating of building elements, components or assemblies shall be determined in accordance with the test procedures set forth in ASTM E119 or UL 263.
Exceptions:

1. The fire-resistance rating of building elements, components or assemblies based on the prescriptive designs prescribed in Section 721 of the *International Building Code*.
2. The fire-resistance rating of building elements, components or assemblies based on the calculation procedures in accordance with Section 722 of the *International Building Code*.

A502.3 Noncombustible material. Material shall comply with the requirements for noncombustible materials in Section A202.
A502.4 Ignition resistant building material. Material shall be tested on the front and back faces in accordance with the extended ASTM E84 or UL 723 test, for a total test period of 30 minutes, or with the ASTM E2768 test. The certification of the flame spread index shall be accompanied by a test report stating that all portions of the test specimen ahead of the flame front remained in position during the test. The materials shall bear identification showing the fire test results. Panel products shall be tested with a ripped or cut longitudinal gap of $^1/_8$ inch (3.2 mm). The materials, when tested in accordance with the test procedures set forth in ASTM E84 or UL 723 for a test period of 30 minutes, or with ASTM E2768, shall comply with Sections A503.4.1 through A503.4.3.

Exception: Materials composed of a combustible core and a noncombustible exterior covering made from either aluminum at a minimum 0.019-inch (0.48 mm) thickness or corrosion-resistant steel at a minimum 0.0149 inch (0.38 mm) thickness shall not be required to be tested with a ripped or cut longitudinal gap.

A502.4.1 Flame spread. The material shall exhibit a flame spread index not exceeding 25.

A502.4.2 Flame front. The material shall exhibit a flame front that does not progress more than 10 ½ feet (3200 mm) beyond the centerline of the burner at any time during the test.

A502.4.3 Weathering. Ignition resistant building materials shall maintain their performance in accordance with this section under conditions of use. The materials shall meet the performance requirements for weathering (including exposure to temperature, moisture, and ultraviolet radiation) contained in the following standards, as applicable to the materials and conditions of use.

A502.4.3.1 Evaluation requirements for weathering. Fire-retardant-treated wood, wood-plastic composite materials, and plastic lumber materials shall be evaluated after weathering in accordance with Method A "Test Method for Accelerated Weathering of Fire-Retardant-Treated Wood for Fire Testing" in ASTM D2898.

A502.4.3.2 Wood-plastic composite materials. Wood-plastic composite materials shall also demonstrate acceptable fire performance after weathering by the following procedure: first testing in accordance with ASTM E1354 at an incident heat flux of 50 kW/m2 in the horizontal orientation, then weathering in accordance with ASTM D7032 and then retesting in accordance with ASTM E1354 and exhibiting an increase of no more than 10 percent in peak rate of heat release when compared to the peak heat release rate of the nonweathered material.

A502.4.3.3 Plastic lumber materials. Plastic lumber materials shall also demonstrate acceptable fire performance after weathering by the following procedure: first testing in accordance with ASTM E1354 at an incident heat flux of 50 kW/m2 in the horizontal orientation, then weathering in accordance with ASTM D6662 and then retesting in accordance with ASTM E1354 and exhibiting an increase of no more than 10 percent in peak rate of heat release when compared to the peak heat release rate of the nonweathered material.

A502.5 Fire-retardant-treated wood. Fire-retardant-treated wood shall be identified for exterior use and shall meet the requirements of Section 2303.2 of the International Building Code.

A502.6 Fire-retardant-treated wood roof coverings. Roof assemblies containing fire-retardant-treated wood shingles and shakes shall comply with the requirements of Section 1505.6 of the *International Building Code* and shall be classified as Class A roof assemblies as required in Section 1505.2 of the *International Building Code*.

SECTION A503
OPTIMUM WILDFIRE RESISTANT CONSTRUCTION

A503.1 General. Optimum wildfire resistant construction shall be in accordance with sections A503.2 through A503.14.

A503.2 Roof assembly. Roofs shall have a roof assembly with an approved *noncombustible* roof covering. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space at the eave ends shall be firestopped to preclude entry of flames or embers or have one layer of cap sheet complying with ASTM D3909 installed over the combustible roof deck.

A503.2.1 Roof valleys. Where provided, valley flashings shall be not less than 0.019-inch (0.48 mm) (No. 26 galvanized sheet gage) corrosion-resistant metal installed over a minimum 36-inch-wide (914 mm) underlayment consisting of one layer of 72-pound (32.4 kg) mineral-surfaced, nonperforated cap sheet complying with ASTM D3909 running the full length of the valley.

A503.3 Protection of eaves. Eaves and soffits shall be protected on the exposed underside with materials approved for not less than 1-hour *fire-resistance-rated construction* on the exterior side. The exterior covering of such assembly shall be constructed with *noncombustible* materials. Fascia is required and shall be constructed with materials approved for not less than 1-hour *fire-resistance-rated construction*. Such fascia shall be protected on the backside by *noncombustible* materials.

A503.4 Gutters and downspouts. Gutters and downspouts shall be constructed of *noncombustible* material. Gutters shall be covered with a *noncombustible* material to prevent the accumulation of debris within the gutter.

A503.5 Exterior walls. Exterior walls of buildings or structures shall be constructed with materials approved for not less than 1-hour *fire-resistance-rated construction* on the exterior side. The exterior siding of such wall shall be constructed with *noncombustible* materials. Such material shall extend from the top of the foundation to the underside of the roof sheathing.

A503.6 Underfloor enclosure. Buildings or structures shall have underfloor areas enclosed to the ground, with exterior walls in accordance with Section A503.5.

Exception: Complete enclosure shall not be required where the underside of exposed floors and exposed structural columns, beams and supporting walls are protected as required for exterior 1-hour *fire-resistance-rated construction* and the exterior covering of such assembly is protected with *noncombustible* materials.

503.7 Appendages and projections. Unenclosed accessory structures attached to buildings such as decks shall be constructed with *noncombustible* walking surface. Where there is gap in

walking surface, the horizontal surface between walking surface and joists and girders (beams) shall be covered with a *noncombustible* material (such as foil-faced tape products).
Exception: Coated materials shall not be used as the walking surface of decks.

A503.7.1 Underfloor areas. The underfloor area of appendages and projections shall be enclosed to the ground, with exterior walls construction in accordance with Section A503.5.

Exception: underfloor areas enclosure shall not be required for appendages and projections where the underside of exposed floors and exposed structural columns, beams and supporting walls are constructed with materials approved for not less than 1-hour *fire-resistance-rated construction* on the exterior side. The exterior siding of such assembly shall be constructed with *noncombustible* materials.

A503.8 Exterior glazing. Exterior windows, window walls and glazed doors, windows within exterior doors, and skylights shall have a fire protection rating of not less than 45 minutes.

Exception: Exterior windows, window walls and glazed doors, windows within exterior doors, and skylights with multipaned glass with at least two tempered panes, glass blocks (windows only) are permitted when such an exterior glazing is protected with fire-resistant-rated shutters constructed in accordance with section A503.10 on the exterior side.

A503.9 Exterior doors. Exterior doors shall be approved noncombustible construction, solid core wood not less than 13/4 inches thick (44 mm) or have a fire protection rating of not less than 20 minutes. Windows within doors and glazed doors shall be in accordance with Section 503.8. Such an exterior door assembly shall be protected with fire-resistant-rated shutters constructed in accordance with section A503.10 on the exterior side.

Exception: Vehicle access doors.

A503.9.1 Vehicle access door perimeter gap. Exterior vehicle access doors shall resist the intrusion of embers from entering by preventing gaps between doors and door openings, at the bottom, sides, and tops of doors, from exceeding 1/8 inch (3.2 mm). Gaps between doors and door openings shall be controlled by one of the following methods:

1. Weather-stripping products made of materials that: (a) have been tested for tensile strength in accordance with ASTM D638 (Standard Test Method for Tensile Properties of Plastics) after exposure to ASTM G155 (Standard Practice for Operating Xenon Arc Light Apparatus for Exposure of Non-Metallic Materials) for a period of 2,000 hours, when the maximum allowable difference in tensile strength values between exposed and non-exposed samples does not exceed 10%; and (b) exhibit a V-2 or better flammability rating when tested to UL 94 (Standards for Tests for Flammability of Plastic Materials for Parts in Devices and Appliances).
2. Door overlaps onto jambs and headers.
3. Vehicle access door jambs and headers covered with metal flashing.

A503.9.2 Vehicle access door automatic openers. Residential vehicle access door automatic openers must have a battery backup function so that the vehicle access door automatic opener is operational without interruption during an electrical outage.

A503.10 Fire-resistant-rated shutters. The fire-resistant shutter shall:

- Protect the entire window or door assembly including framing and glazing; and
- Consist of *noncombustible* material; and
- Be fixed to the building and be non-removable; and
- Be capable of being closed manually from either inside or outside or motorized shutter systems, where they are not reliant on main power to close; and
  Note: if power-assisted shutter systems are used then that system is powered with continuous back-up energy such as a battery system.
- When in the closed position, have no gap greater than 1/8-in (3.2 mm) between the shutter and the wall, frame, or sill; and
- Where perforated, have uniformly distributed perforations with a maximum aperture of 1/8 inch and a perforated area no greater than 20% of the shutter.

A503.11 Vents. Attics and enclosed rafters shall be unvented in accordance with Section 1202.3 of the *International Building Code* or Section R806.5 of the *International Residential Code*. In residential buildings underfloor spaces shall be unvented in accordance with Section R408.3 of *International Residential Code*.

Exception: In existing buildings, ventilation openings for enclosed attics, gable ends, ridge ends, enclosed eave soffit spaces, enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, underfloor ventilation openings, foundation or underfloor vents or other ventilation openings in vertical exterior walls and vents through roofs shall not exceed 144 square inches (0.0929 m2) each. Gable end, crawl space and other vents that mount on a vertical wall or in the under-eave area shall be tested in accordance with ASTM E2886 and approved to prevent flame or ember penetration into the structure. Those vents that are excluded from the scope of ASTM E2886 such as roof ridge and off-ridge (field) vents shall be protected with *noncombustible* corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm).

A503.12 Detached accessory structures. Detached accessory structures shall be constructed in accordance with Sections A503.2 through A503.11.
Exception: Accessory structures not exceeding 120 square feet (11 m2) in floor area where located not less than 50 feet (15 240 mm) from buildings containing habitable spaces.

A503.13 Spark arrestor. Chimneys serving fireplaces, barbecues, incinerators, or decorative heating appliances in which solid or liquid fuel is used, shall be provided with a spark arrestor. Spark arrestors shall be constructed of woven or welded wire screening of 12 USA standard gage wire (0.1046 inch) (2.66 mm) having openings not exceeding 1/2 inch (12.7 mm).

The net free area of the spark arrestor shall be not less than four times the net free area of the outlet of the chimney.

A503.14 Fences. All fences within the property line shall be constructed with noncombustible materials.

SECTION A504
ENHANCED WILDFIRE RESISTANT CONSTRUCTION

A504.1 General. Enhanced wildfire resistant construction shall be in accordance with sections A504.2 through A504.14.

A504.2 Roof assembly. Roofs shall have a roof assembly that complies with a Class A rating when tested in accordance with ASTM E108 or UL 790, or an approved *noncombustible* roof covering. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space at the eave ends shall be firestopped to preclude entry of flames or embers or have one layer of cap sheet complying with ASTM D3909 installed over the combustible roof deck.

A504.2.1 Roof valleys. (Reserved

A504.3 Protection of eaves. Eaves and soffits shall be protected on the exposed underside by *ignition-resistant building materials*, *noncombustible* materials, materials approved for not less than 1-hour *fire-resistance-rated construction*, or 2-inch (51 mm) nominal dimension lumber.

A504.4 Gutters and downspouts. Gutters and downspouts shall be constructed of *noncombustible* material. Gutters shall be covered with a *noncombustible* material to prevent the accumulation of debris within the gutter.

A504.5 Exterior walls. Exterior wall covering (siding or cladding) of buildings or structures shall be *noncombustible, ignition-resistant building material* or *fire-retardant-treated wood.* Decorative shutters mounted on exterior wall covering shall be *noncombustible, fire-retardant-treated wood or ignition-resistant building material.* A minimum of 6 inches of *noncombustible* material applied vertically on the exterior of the wall shall be installed at the ground, decking, and roof intersections.

A504.6 Underfloor enclosure. Buildings or structures shall have underfloor areas enclosed to the ground, with exterior walls in accordance with Section A504.5 or with *noncombustible* corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm).

A504.7 Appendages and projections. Unenclosed *accessory structures* attached to buildings such as decks shall be constructed in accordance with one of the following methods:

A504.7.1 New construction. All the components including posts, joists, railings, stairs, and walking surfaces are constructed with *noncombustible, fire-retardant-treated wood* or *ignition-resistant building materials*.

A504.7.1.1 underfloor areas. Reserved.

A504.7.2 Existing structures.

- Deck walking surfaces constructed with a solid core, *noncombustible* material without any gap;
- Railings within 5 feet of the building constructed of a *noncombustible* material, including where railings attach to the building.
- Deck posts with a minimum of 6 vertical inches of *noncombustible* material at grade.
- For staircases 4 feet in width or less that attach to a deck and open underneath shall have one of the following requirements:
  - Open risers (no solid risers)
    - Shall have a minimum of 6 vertical inches of the bottom of stairs constructed with *noncombustible* material.
    - Stair treads shall be a solid core without any gaps, *noncombustible* material.
  - Closed risers
    - Shall have a minimum of 6 vertical inches of the bottom of stairs made from *noncombustible* material.
    - Stair treads and risers should be a solid core without any gaps, noncombustible material.
- For staircases wider than 4 feet that attach to a deck, the staircase shall be cleared underneath and enclosed with noncombustible material with openings not to exceeded 1/8-inch, such as 1/8-inch or finer metal mesh and include the following requirements:
  - Closed risers
    - Shall have a minimum of 6 vertical inches of the bottom of stairs made from *noncombustible* material.
    - Stair treads and risers shall be a solid core without any gaps, *noncombustible* material.

A504.7.2.1 Underfloor areas. For appendages and projections 4 feet or less above the ground when measured nominally from the walking surface to the ground at the location where this distance is maximum, the underfloor area shall be fully enclosed to the ground, with exterior walls constructed in accordance with Section A504.5 or fully enclosed with *noncombustible*, corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm).

A504.8 Exterior glazing. Exterior windows, window walls and glazed doors, windows within exterior doors, and skylights shall be multipaned glass with at least two tempered panes, glass blocks (windows only), or have a fire protection rating of not less than 20 minutes.

surface, shall resist the intrusion of burning embers and flames by meeting one of the following requirements:

Performance-based requirements: Corrosion-resistant ember and flame-resistant vents conforming with the ASTM E2886 test requirements.

Prescriptive-based requirements: Vents must be made of a noncombustible material and covered with noncombustible corrosion-resistant mesh with openings not to exceed 1/8 inch.

Exceptions: Dryer vents shall have a solid louver or flap in lieu of mesh. Plumbing vents are excluded from these requirements.

A505.12. Detached accessory structures. Detached accessory structures such as sheds, gazebos, open covered structures with solid roofs, dog houses, playhouses, etc. within 30 feet of a building that have a footprint greater than or equal to 15 square feet shall constructed with underfloor areas in accordance with Section A505.12.1.

A505.12.1 Underfloor Areas. The underfloor area of all detached accessory structures shall be enclosed to the ground with exterior walls in accordance with Section A505.5.

Exception: Complete enclosure shall not be required where the underside of exposed floors and exposed structural columns, beams and supporting walls are protected in accordance with Section A505.5.

A505.13 Spark Arrestor. Reserved.

A505.14 Fences. All fences within 5 feet of the structure shall be constructed with noncombustible materials.

A505.1 General. Baseline wildfire resistant construction shall be in accordance with sections A505.2 through A505.14.

A505.2. Roof. Roofs shall have a roof assembly that complies with a Class A rating when tested in accordance with ASTM E108 or UL 790, or an approved noncombustible roof covering. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space at the eave ends shall be firestopped to preclude entry of flames or embers.

A505.2.1 Roof valleys. Reserved.

A505.3 Protection of eaves. Reserved.

A505.4. Gutters and Downspouts. Gutters and downspouts shall be constructed of *noncombustible* material.

A505.5 Exterior walls. A minimum of 6 inches of *noncombustible* material applied vertically on the exterior of the wall shall be installed at the ground, decking, and roof intersections.

A505.6 Underfloor enclosure. Buildings or structures shall have underfloor areas enclosed to the ground with exterior walls in accordance with Section A505.5 or with *noncombustible* corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm).

505.7 Appendages and projections. Unenclosed *accessory structures* attached to buildings such as decks shall be constructed with underfloor areas protected in accordance with Section A505.7.1.

A505.7.1 Underfloor areas. For appendages and projections 4 feet or less above the ground when measured nominally from the walking surface to the ground at the location where this distance is maximum, the underfloor area shall be enclosed with exterior walls constructed in accordance with Section A505.5 or with *noncombustible* corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm).

A505.8 Exterior glazing. Reserved.

A505.9 Exterior doors. Reserved.

A505.9.1 Vehicle access door perimeter gap. Reserved.

A505.9.2 Vehicle access door automatic doors. Reserved.

A505.10 Fire-resistant-rated shutters. Reserved.

A505.11. Vents. Ventilation openings for enclosed attics, gable ends, ridge ends, enclosed eave soffit spaces, enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, underfloor ventilation, foundations, and crawl spaces; under eaves and cornices; or for any other opening intended to permit ventilation, either in a horizontal or vertical

A504.9 Exterior doors. Exterior doors shall be solid core with an exterior surface with *noncombustible* or *ignition-resistant building material* or have a fire protection rating of not less than 20 minutes. Exterior doors threshold shall be *noncombustible* material. Glazing within doors shall be in accordance with Section A504.8. Doors constructed with combustible material are allowed where a *noncombustible* exterior storm door is installed as the outermost door.
Exception: Vehicle access doors.
A504.9.1 Vehicle access door perimeter gap. Reserved.
A504.9.2 Vehicle access door automatic openers. Reserved.

A504.10 Fire-resistant-rated shutters. Reserved.

A504.11 Vents Ventilation openings for enclosed attics, gable ends, ridge ends, enclosed eave soffit spaces, enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, underfloor ventilation, foundations, and crawl spaces; under eaves and cornices; or for any other opening intended to permit ventilation, either in a horizontal or vertical surface, shall meet one of the following requirements:

Performance-based requirements: Corrosion-resistant ember and flame-resistant vents conforming with the ASTM E2886 test requirements:

- No flaming ignition of the cotton material during the Ember Intrusion Test.
- No flaming ignition during the Integrity Test portion of the Flame Intrusion Test.
- Temperature of the unexposed side of the vent does not exceed 662°F.

Prescriptive-based requirements: Vents must be made of a noncombustible material and covered with noncombustible corrosion-resistant mesh with openings not to exceed 1/8 inch.

Exceptions: Dryer vents shall have a solid metal louver or flap in lieu of mesh. Plumbing vents are excluded from these requirements.

A504.12 Detached accessory structures. Detached accessory structures located less than 50 feet (15,240 mm) from a building containing habitable space and all detached accessory structures exceeding 120 square feet (11 m^2) in floor area shall be constructed in accordance with Sections A504.2 through A504.11. All detached accessory structures greater than or equal to 15 square feet in floor area shall be located at least 30 feet away from the building.

A504.13 Spark arrestor. Reserved.

A505.14 Fences. All fences within 5 feet of the structure shall be constructed with noncombustible materials. Back-to-back fencing (separate fences that are closer than 5 feet apart) are not allowed.
Exceptions: Back-to-back fencing is allowed when one of the fences is constructed with *noncombustible* materials.

SECTION A505
BASLINE WILDFIRE RESISTANT CONSTRUCTION

RECOMMENDATION OF IMPLEMENTATION

CHAPTER A3
WILDLAND-URBAN INTERFACE AREA

SECTION A301
GENERAL

A301.1 Scope. The provisions of this chapter provide methodology to establish and record *wildland-urban interface areas* based on the findings of fact.

A301.2 Objective. The objective of this chapter is to provide baseline criteria for the classification of *wildland-urban interface areas* in accordance with the severity of fire hazard expected to prevail in those areas.

SECTION A302
WILDLAND-URBAN INTERFACE AREA

A302.1 Declaration. The legislative body shall declare the wildland-urban interface areas within the jurisdiction. The wildland-urban interface areas shall be based on the findings of fact. The wildland-urban interface area boundary shall correspond to natural or man-made features.

A302.2 Mapping. Classification of land into *wildland-urban interface areas* shall be based on fuel loading, slope, *critical fire weather*, and other factors present that influence the potential intensity of uncontrolled wildfires. For the purpose of this appendix, the *wildland-urban interface area* shall include such territory or portions of the County/City/Town as shown in Figure A301, the *Wildland-Urban Interface Area* Map. The *Wildland-Urban Interface Areas* Map shall be available for inspection by the public.

A302.3 Review of wildland-urban interface areas. *Wildland-urban interface areas* shall be reevaluated in accordance with Section A302.1 on a 3-year basis or more frequently as deemed necessary by the legislative body.

[County/City/Town WUI MAP]

Figure A301. The Wildland-Urban Interface Area Map.

CHAPTER A5
WILDLAND-URBAN INTERFACE ZONE CONSTRUCTION REGULATIONS

A502.1 General. Buildings and structures hereafter constructed, modified, or relocated into or within *wildland-urban interface areas* shall be established in accordance with Table A502.1 and Sections A503, A504, and A505, respectively. Materials required to be *ignition-resistant building materials* shall comply with the requirements of Section A502.2.

FIRE SEPARATION DISTANCE. [Reserved- If you are adopting this table, add this definition to section A202] The distance measured from the building face to one of the following:
1. The closest interior lot line.
2. To the centerline of a street, an alley or public way.
3. To an imaginary line between two buildings on the lot.

The distance shall be measured at right angles from the face of the wall.

Table A502.1
WUI CONSTRUCTION

Minimum Fire Separation Distance (ft)	Construction Classification
> 100 ft	BASELINE
30 ft < Fire Separation =< 100 ft	ENHANCED
Fire Separation =< 30 ft	OPTIMUM

Note: In case when the intention is to adopt all three different classes Section A502.1 shall be replaced with provided section above.

Exhibit G:

June 2026 Wildfire Wildland-Urban Interface (WUI) Ordinance Cost Impact Analysis for Alternative Residential Foundation Configurations

WUI ORDINANCE COST IMPACT STUDY

June 2026

Prepared by:



Lance Delos Reyes - Senior Project Manager

Overview

This report for the County of Kaua'i's proposed islandwide Wildland Urban Interface Ordinance builds upon the original Plantation Camp Wildland Urban Interface (WUI) Ordinance Cost Study completed in September 2025. The original study evaluated the comparative cost impacts between a standard residential construction model, a Plantation Camp WUI-compliant model, and an IBHS Optimum wildfire-resistant model for ten residential homes located in Kaumakani Village.

Following discussions regarding alternative foundation systems and practical implementation strategies for future development within Kaua'i communities, Unlimited Construction Services prepared three additional comparative pricing models. These updated studies are intended to further evaluate how varying foundation conditions influence the overall cost impacts associated with the proposed WUI ordinance requirements.

The updated studies maintain many of the same assumptions utilized in the original report, while introducing alternate structural configurations including slab-on-grade construction and elevated post-and-pier systems at varying heights.

Project Scope

This supplemental analysis was prepared to further evaluate the financial implications associated with a Wildland Urban Interface (WUI) ordinance by studying how different residential foundation systems affect overall construction costs.

The study is based on a previously developed residential building originally designed for Kaumakani Village by Schweizer Architects in 2021. The study consists of ten detached residential homes, each containing three bedrooms, two bathrooms, and a full kitchen configuration with an approximate gross covered floor area of 993 square feet per unit.

While the original September 2025 report evaluated wildfire hardening costs using a single conventional structural approach, this updated report was developed to compare multiple commonly used residential foundation systems found throughout workforce housing developments on Kaua'i.

Three separate structural configurations were analyzed:

- Slab-on-grade construction
- Elevated post-and-pier construction at approximately 2 feet above grade
- Elevated post-and-pier construction at approximately 4 feet above grade

For each configuration, Unlimited Construction Services prepared comparative pricing between a standard residential construction approach and a WUI-compliant version incorporating the proposed ordinance hardening requirements.

The objective of these additional models is to further evaluate how the WUI ordinance impacts other common residential building types found throughout Kaua'i, with particular focus on the

relationship between the structure and finished grade. The study specifically examines how varying foundation configurations influence underfloor protection requirements, exterior hardening measures, and the overall cost implications associated with WUI compliance.

Design Assumptions and Qualifications

To maintain consistency across all comparisons, the same architectural layout, general building dimensions, and core material assumptions were carried through each model wherever practical. The primary variables adjusted between studies were foundation type, elevation above grade, and associated exterior and site interface conditions.

The estimates assume that each lot is already prepared for vertical construction and therefore exclude infrastructure improvements, utility extensions, roadway work, large-scale grading, drainage systems, and landscaping improvements unrelated to WUI hardening requirements. Pricing was developed using a combination of current supplier pricing from Kaua'i vendors, subcontractor budget input, and historical labor production rates based on similar residential construction projects performed by Unlimited Construction Services. The estimates also include standard indirect project costs such as general conditions, contractor overhead, insurance, Hawai'i General Excise Tax (GET), and contractor fee.

Several assumptions were consistently applied throughout the supplemental studies, including:

- A 5-foot-wide gravel maintenance strip installed around the perimeter of each residential structure for WUI hardening purposes.
- CMU pier systems utilized at primary support locations for elevated structures.
- Wood structural posts limited primarily to deck and exterior appendage areas.
- WUI glazing for fire protection rating of not less than 20 minutes.
- A 6-inch concrete curb incorporated into the slab-on-grade model.

These supplemental comparisons are intended to provide additional technical and financial context for ongoing discussions regarding the practicality, constructability, and economic impact of implementing WUI hardening requirements for residential developments across Kaua'i.

Design documents were available only for the standard build. No formal designs were provided for the 3 WUI structural configurations. Therefore, assumptions were made to reflect the appropriate scope of work for each tier. These assumptions should be verified by a licensed architect or engineer to ensure compliance with applicable codes and wildfire ordinances.

Pricing Analysis

The supplemental studies demonstrate that the cost impact associated with the proposed WUI ordinance requirements varies depending on the selected foundation and structural configuration. The tables below represent the final estimates for each building type aligned with the design qualifications listed.

TABLE 1
SLAB ON GRADE CONSTRUCTION OVERALL COMPARISON

Div	Description	Standard Build	WUI Ordinance
3.0	Concrete	$ 752,899.48	$ 752,899.48
6.0	Rough Carpentry	$ 1,363,968.42	$ 1,385,504.38
6.1	Finish Carpentry	$ 497,670.79	$ 497,670.79
7.0	Thermal Moisture Protection	$ 210,892.84	$ 210,892.84
8.0	Openings	$ 263,499.48	$275,108
9.0	Finishes	$ 427,528.61	$ 427,528.61
11.0	Equipment	$ 58,067.32	$ 58,067.32
22.0	Plumbing	$ 258,754.04	$ 258,754.04
26.0	Electrical	$ 294,851.80	$ 294,851.80
31.0	Earthwork	$ 124,491.32	$ 158,237.12
	Total	**$ 4,252,624.09**	**$ 4,319,514.53**

TABLE 2
SLAB ON GRADE CONSTRUCTION COST PER SQUARE FOOT COMPARISON

Div	Description	Standard Build	WUI Ordinance
3.0	Concrete	$ 75.88	$ 75.88
6.0	Rough Carpentry	$ 137.46	$ 139.63
6.1	Finish Carpentry	$ 50.16	$ 50.16
7.0	Thermal Moisture Protection	$ 21.25	$ 21.25
8.0	Openings	$ 26.56	$ 27.73
9.0	Finishes	$ 43.09	$ 43.09
11.0	Equipment	$ 5.85	$ 5.85
22.0	Plumbing	$ 26.08	$ 26.08
26.0	Electrical	$ 29.72	$ 29.72
31.0	Earthwork	$ 12.55	$ 15.95
	Total	**$ 428.58**	**$ 435.33**

TABLE 3
SLAB ON GRADE CONSTRUCTION PERCENT INCREASE

Div	Description	PERCENT INCREASE*
3.0	Concrete	0.0%
6.0	Rough Carpentry	1.6%
6.1	Finish Carpentry	0.0%
7.0	Thermal Moisture Protection	0.0%
8.0	Openings	4.4%
9.0	Finishes	0.0%
11.0	Equipment	0.0%
22.0	Plumbing	0.0%
26.0	Electrical	0.0%
31.0	Earthwork	27.1%
	Total	**1.6%**

** Comparing increase from Standard build to WUI*

TABLE 4
POST AND PIER CONSTRUCTION AT 2 FT ABOVE FINISH GRADE
OVERALL COMPARISON

Div	Description	Standard Build	WUI Ordinance
3.0	Concrete	$ 266,505.92	$ 266,505.92
6.0	Rough Carpentry	$ 1,522,070.56	$ 1,593,955.25
6.1	Finish Carpentry	$ 497,670.79	$ 497,670.79
7.0	Thermal Moisture Protection	$ 210,892.84	$ 210,892.84
8.0	Openings	$ 263,499.48	$275,108
9.0	Finishes	$ 427,528.61	$ 427,528.61
11.0	Equipment	$ 58,067.32	$ 58,067.32
22.0	Plumbing	$ 258,754.04	$ 258,754.04
26.0	Electrical	$ 294,851.80	$ 294,851.80
31.0	Earthwork	$ 61,233.29	$ 94,979.09
	Total	**$ 3,861,074.64**	**$ 3,978,313.81**

TABLE 5
POST AND PIER CONSTRUCTION AT 2 FT ABOVE FINISH GRADE
COST PER SQUARE FOOT COMPARISON

Div	Description	Standard Build	WUI Ordinance
3.0	Concrete	$ 26.86	$ 26.86
6.0	Rough Carpentry	$ 153.40	$ 160.64
6.1	Finish Carpentry	$ 50.16	$ 50.16
7.0	Thermal Moisture Protection	$ 21.25	$ 21.25
8.0	Openings	$ 26.56	$ 27.73
9.0	Finishes	$ 43.09	$ 43.09
11.0	Equipment	$ 5.85	$ 5.85
22.0	Plumbing	$ 26.08	$ 26.08
26.0	Electrical	$ 29.72	$ 29.72
31.0	Earthwork	$ 6.17	$ 9.57
	Total	**$ 389.12**	**$ 400.94**

TABLE 6
POST AND PIER CONSTRUCTION AT 2 FT ABOVE FINISH GRADE
PERCENT INCREASE

Div	Description	Percent Increase*
3.0	Concrete	0.0%
6.0	Rough Carpentry	4.7%
6.1	Finish Carpentry	0.0%
7.0	Thermal Moisture Protection	0.0%
8.0	Openings	4.4%
9.0	Finishes	0.0%
11.0	Equipment	0.0%
22.0	Plumbing	0.0%
26.0	Electrical	0.0%
31.0	Earthwork	55.1%
	Total	**3.0%**

** Comparing increase from Standard build to WUI*

TABLE 7
POST AND PIER CONSTRUCTION AT 4 FT ABOVE FINISH GRADE
OVERALL COMPARISON

Div	Description	Standard Build	WUI Ordinance
3.0	Concrete	$ 294,778.77	$ 294,778.77
6.0	Rough Carpentry	$ 1,522,070.56	$ 1,543,606.52
6.1	Finish Carpentry	$ 497,670.79	$ 497,670.79
7.0	Thermal Moisture Protection	$ 210,892.84	$ 210,892.84
8.0	Openings	$ 263,499.48	$275,108
9.0	Finishes	$ 427,528.61	$ 427,528.61
11.0	Equipment	$ 58,067.32	$ 58,067.32
22.0	Plumbing	$ 258,754.04	$ 258,754.04
26.0	Electrical	$ 294,851.80	$ 294,851.80
31.0	Earthwork	$ 61,233.29	$ 94,979.09
	Total	**$ 3,889,347.49**	**$ 3,956,237.92**

TABLE 8
POST AND PIER CONSTRUCTION AT 4 FT ABOVE FINISH GRADE
COST PER SQUARE FOOT COMPARISON

Div	Description	Standard Build	WUI Ordinance
3.0	Concrete	$ 29.71	$ 29.71
6.0	Rough Carpentry	$ 153.40	$ 155.57
6.1	Finish Carpentry	$ 50.16	$ 50.16
7.0	Thermal Moisture Protection	$ 21.25	$ 21.25
8.0	Openings	$ 26.56	$ 27.73
9.0	Finishes	$ 43.09	$ 43.09
11.0	Equipment	$ 5.85	$ 5.85
22.0	Plumbing	$ 26.08	$ 26.08
26.0	Electrical	$ 29.72	$ 29.72
31.0	Earthwork	$ 6.17	$ 9.57
	Total	**$ 391.97**	**$ 398.71**

TABLE 9
POST AND PIER CONSTRUCTION AT 4 FT ABOVE FINISH GRADE
PERCENT INCREASE

Div	Description	Percent Increase
3.0	Concrete	0.0%
6.0	Rough Carpentry	1.4%
6.1	Finish Carpentry	0.0%
7.0	Thermal Moisture Protection	0.0%
8.0	Openings	4.4%
9.0	Finishes	0.0%
11.0	Equipment	0.0%
22.0	Plumbing	0.0%
26.0	Electrical	0.0%
31.0	Earthwork	55.1%
	Total	**1.7%**

** Comparing increase from Standard build to WUI*

The slab-on-grade model reflected the lowest overall WUI-related increase at approximately 1.6% over the standard construction baseline. The 4-foot elevated post-and-pier model reflected a similar increase of approximately 1.7%. The 2-foot elevated post-and-pier model showed a slightly higher overall cost increase of approximately 3.0%, driven primarily by additional earthwork requirements and the added underfloor protection measures associated with the elevated foundation configuration. Because the structure remains below the 4-foot threshold, the model is subject to more stringent underfloor protection requirements compared to taller elevated configurations.

Consistent with the original September 2025 study, the most notable direct hardening cost impacts continue to stem primarily from upgraded glazing requirements and rough carpentry modifications associated with WUI compliance. The studies also reinforce that certain WUI-related hardening measures can be implemented with relatively modest impacts to the total overall project cost when incorporated early into project planning and design.

Cost Impacts of WUI Hardening Materials

The table below summarizes the estimated material-only cost impacts associated with implementing WUI hardening requirements across the additional residential foundation models evaluated as part of this supplemental study.

TABLE 10
SUMMARY OF ESTIMATED WUI MATERIAL COST IMPACTS (% INCREASE)

Div	Description	ESTIMATED DIRECT MATERIAL COST IMPACTS OF WUI REQUIREMENTS (% INCREASE)		
		SOG	P&P @ 2 FT	P&P @ 4 FT
6.0	Rough Carpentry	0.10%	1.27%	0.09%
8.0	Openings	4.41%	4.41%	4.41%
31.0	Earthwork	5.42%	11.03%	11.03%
	Total Construction Cost	**0.46%**	**0.98%**	**0.51%**

TABLE 11
SUMMARY OF ESTIMATED WUI MATERIAL COST IMPACTS ($/SF)

Div	Description	ESTIMATED DIRECT MATERIAL COST IMPACTS OF WUI REQUIREMENTS ($/SF)		
		SOG	P&P @ 2 FT	P&P @ 4 FT
6.0	Rough Carpentry	$ 0.13	$ 1.95	$ 0.13
8.0	Openings	$ 1.17	$ 1.17	$ 1.17
31.0	Earthwork	$ 0.68	$ 0.68	$ 0.68
	Total Construction Cost	**$ 1.98**	**$ 3.80**	**$ 1.98**

Across the supplemental foundation models evaluated, the estimated WUI hardening material cost increases ranged from approximately 0.46% to 0.98% of the overall construction value, equating to an estimated direct material impact of approximately $1.98/SF to $3.80/SF depending on foundation configuration. These results generally align with the findings of the original WUI study and continue to indicate that the direct material impacts associated with WUI compliance remain relatively modest in relation to total project cost. The higher impacts observed in the elevated post-and-pier configurations were primarily driven by additional underfloor protection requirements, as structures elevated below the 4-foot threshold are subject to more stringent underfloor hardening provisions under the WUI ordinance, while the 4-foot elevated configuration demonstrated reduced impacts due to the increased clearance between the structure and grade.

Conclusion

These supplemental models were developed to provide additional context regarding the practical cost implications of the draft islandwide WUI ordinance across varying residential construction methods. The updated comparisons further support the conclusion reached in the original study that many baseline WUI hardening measures can be incorporated into residential construction

with relatively limited overall project cost escalation when evaluated at the full-building scale.

As with the original report, these estimates are intended for comparative and conceptual planning purposes only. Final pricing may vary depending on site-specific conditions, final design documents, permitting requirements, market conditions, and procurement timing.

Disclaimer: The cost figures presented in this report are intended solely for preliminary study and comparative analysis. They are based on estimated material and labor pricing, historical data, and assumed design specifications. These values do not represent a formal quote, bid, or commitment by Unlimited to perform the described scope of work. Final pricing may vary significantly depending on site-specific conditions, finalized design documents, and contractual terms.

Exhibit H:

Wildfire & Insurance Challenges & Opportunities for Kaua'i County

WILDFIRE & INSURANCE

Challenges & Opportunities for Kaua'i County

Written Testimony by Kimiko Barrett, PhD | Planning Commission

Alliance for Wildfire Resilience | June 2026

Overview of Wildfire and Insurance Crisis

Insurance providers are facing escalating costs as wildfire disasters increase across the country. As a result, many providers may raise rates, issue nonrenewals, or exit markets in high-risk locations. For Kaua'i County, where invasive grasses in dry leeward areas create real ignition risk and where private insurance options are already limited, this national trend hits close to home.

The erosion of available coverage is creating instability in the broader risk transfer market, with downstream effects on housing markets, reinsurance availability, municipal bond ratings, and equity — particularly around who can afford to remain in high-risk areas.

In addition to building codes and regulations, risk reduction measures to individual homes, properties, and neighborhoods are critical in bringing down a community's risk curve. For mitigation efforts to actually move the needle, they need to be consistently implemented, maintained, and connected to tangible insurance outcomes.

The alignment between risk reduction on-the-ground and the insurance market requires coordination across county agencies, insurers, and homeowners. A county-wide home assessment and certification program — backed by dedicated staff, funding, and tools — can create that infrastructure, giving homeowners a clear pathway to demonstrate their risk reduction efforts and, in turn, encourage an accessible, affordable, and available insurance market.

Impact

When insurance is lacking or inadequate, homeowners struggle to recover and rebuild after disaster. As the protection gap widens, a community's ability to financially rebound weakens, municipal revenue including property taxes may decline, the housing market becomes unstable, and significant federal investment may be needed to offset recovery and rebuilding costs.

Key Talking Points

Insurance transfers risk — it doesn't reduce it. Risk is pooled across policyholders, and premiums reflect the hazard already present on the ground. Insurance is not a predictive tool; it responds to conditions that already exist.

Insurance alone cannot solve the wildfire crisis. Proactive mitigation must come first. The underlying risk must be addressed to stabilize the insurance market. Waiting until insurance market failure signals a problem means the window for cost-effective intervention has already closed.

The State regulates insurance. Insurance is regulated at the state level, so county-wide efforts must align with DCCA and Hawai'i's Insurance Division. Many states have Fair Access to Insurance Requirements (FAIR) programs that are state-mandated insurance pools providing basic property coverage to homeowners and businesses unable to secure insurance in the private market due to high risk, funded through assessments on private insurers operating in the state. However, FAIR plans are a stopgap, not a strategy. Long-term and financially sustainable strategies should be considered before FAIR plans become indefinite safety nets.

Not every homeowner can meet mitigation standards on their own. County, state, and federal investment is needed to support property- and neighborhood-level risk reduction through financial incentives, grants and subsidies, and technical assistance programs.

Public-private partnerships at the community scale work. Collaborating with partners within both the public and private sector, such as Hawai'i Wildfire Management Organization (HWMO), are essential in building the foundational components needed for a county-wide wildfire mitigation program.

Mitigation must be a full-systems approach. Effective strategies span both the natural and built environments — from strategic fuel breaks and fuel continuity between parcels, to defensible space and structural hardening. No single intervention is sufficient; the entire continuum matters. A layered, adaptive, and equity-focused framework will be essential to building long-term resilience and insurance stability.[1]

Option: Voluntary Certification Programs

Definition

Initiatives that assess and certify properties or neighborhoods based on their preparedness for wildfire risks, aiming to reduce losses by encouraging best practices in property mitigation and risk management.

Kauai County Relevance

A county-anchored program, which actively integrates and builds upon Kaua'i County's home assessment program, can additionally certify individual homes and properties for wildfire risk mitigation. Approved certifications can be submitted to participating insurance providers for homeowner benefits, such as policy retainment, continued adequate coverage, and potentially, reduced insurance rates. Ensuring there is dedicated funding, staffing, resources, and administrative support for a certification program is essential for long-term success and implementation. Certification options include the Insurance Institute for Business & Home Safety (IBHS) Wildfire Prepared Home or locally-grown programs similar to Boulder County's Wildfire Partners Program.

Contact

Kimiko Barrett, Ph.D. (2026). Principal Researcher, Alliance for Wildfire Resilience (https://alliancewr.org/)

kimi@alliancewr.org | 406.224.1837

Dale, L. & Barrett, K. (2025). Wildfire and Insurance: Options for Homeowner Coverage. Headwaters Economics. Available at: headwaterseconomics.org/natural-hazards/wildfire/wildfire-and-insurance-options-for-homeowner-coverage/

Watkins, N., Brinkmann, P., & Siddique, R. (2025, August). State of insurance for wildfires: Issue brief on behalf of Alliance for Wildfire Resilience. Milliman, Inc. https://alliancewr.org/wp-content/uploads/2025/09/9-2-25_State-of-Insurance-for-Wildfires.pdf


The Wildfire Insurance Crisis
Home insurance in areas with high wildfire risk is becoming more expensive and harder to obtain, with potential consequences for state and local budgets.
Wildfires contribute to more costly insurance
The rising costs of wildfire recovery and rebuilding are among the reasons home insurers are raising rates, issuing non-renewals, and exiting risky locations.
High insurance costs lead to underinsured homes
In some western states, insurance has increased more than 50% in the last five years. A growing number of homeowners are underinsured or uninsured.
The underinsured struggle to recover from disasters
After wildfires, uninsured and underinsured households lack the resources to rebuild, extending the period of displacement.
DENIED
Without insurance, home financing is unavailable
Inadequate insurance leads lenders to deny mortgage applications, reducing home ownership and impacting property values.
Inaction raises costs for local and state budgets
Delays in rebuilding increase the demand for temporary housing and social services, adding billions to recovery costs.
Declines in home values reduce local services such as police, schools, and street maintenance that rely on property tax revenue.
The need for revenues increases the frequency of emergency allocations, unplanned tax increase and may threaten bond ratings.
What needs to happen:
Reduce community risk
Investing in community-scale wildfire-resistant construction, vegetation management, and neighborhood planning can minimize damages from wildfire and improve the accessibility and affordability of insurance.
https://headwaterseconomics.org
HEADWATERS ECONOMICS
CPAW

CADES SCHUTTE
A Limited Liability Law Partnership

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Attorneys for Appellant
HPM BUILDING SUPPLY

MAY 15 '26 PM2:02
PLANNING DEPT

BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUA'I

In the Matter of the Petition Of HPM BUILDING SUPPLY, appealing Third and Final Notice of Violation & Order dated April 15, 2026, Tax Map Key No. (4) 2-9-001:001 Koloa District.	**PETITION TO APPEAL OF THE DECISION OF THE PLANNING DIRECTOR;** **EXHIBITS "1"** **CERTIFICATE OF SERVICE** **Planning Commission Hearing:** **Date:** _____ **Time:** _____ **Place:** _____

PETITION TO APPEAL OF THE DECISION OF THE PLANNING DIRECTOR

Comes now, HPM BUILDING SUPPLY ("**HPM**" or "**Appellant**"), by and through its undersigned counsel, pursuant to Chapters 6 and 9, et seq., of the Rules of Practice and Procedure of the Planning Commission ("**Planning Commission Rules**"), hereby appeals the Third and Final Notice of Violation & Order of the Planning Director dated on or about April 15, 2026 (the "**NOVO**"), a copy of which is attached hereto and incorporated herein as Exhibit "1".

I.1.a.
JUN 09 2026

I. NAME, ADDRESS AND TELEPHONE NUMBER OF THE APPELLANTS.

As stated above, Appellant is HPM BUILDING SUPPLY. Appellant may be contacted via undersigned counsel at the address P.O. Box 1205, Lihu'e, HI 96766, and telephone number (808) 521-9297.

II. IDENTIFICATION OF THE PROPERTY AND APPELLANTS INTEREST THEREIN.

The subject property is owned by Mahaulepu Farm LLC ("**Mahaulepu**") and identified as Tax Map Key ("**TMK**") (4) 2-9-001-001 (the "**Property**"). The Property is in the State Land Use Commission ("**SLUC**") Agricultural District, the Kauai General Plan ("**General Plan**") Industrial Designation, and the County of Kauai Agriculture (A) zoning district. The Property is within the Industrial land use area of the South Kauai Planning District. The Property is not within the Special Management Area ("**SMA**") or any Constraint of Special Treatment District. According to General Plan Figure 5-11, South Kaua'i Heritage Resource Map, the Property does not contain any registered historical sites or cultural features.

HPM has a license agreement with Mahaulepu to use approximately 60,000 square feet of yard space, approximately three (3) acres of yard space, and 25,000 square feet of building structures on the Property (the "**Premises**"). The building structures within the Premises includes the pre-existing office, warehouse and electrical shop in the Old Sugar Mill in the ahupua'a of Pa'a, moku of Koloa, that was built after 1974 (the "**Mill**"). HPM uses the Mill to manufacture wooden trusses and wall panels. The Mill is currently the only on island production facility of wall panels and trusses on Kaua'i, and any interruption to HPM's production would be detrimental to the construction and overall affordability of homes on Kauai.



Figure 1. Location and size of the Mill.

III. THE PARTICULAR PROVISIONS OF THE REGULATIONS IN QUESTION.

The particular provision of the regulations in question is Comprehensive Zoning Ordinance ("**CZO**") §8-2.4. According to the Notice & Order:

> "Operation of a truss manufacturing facility within the Agriculture Zoning District without the proper zoning permit(s) constitutes a violation. The truss manufacturing facility is not a generally permitted use within the Agriculture Zoning District."

IV. FACTS.

HPM is a local business that was founded by local contractors Kametaro Fujimoto and Sanzo Kawasaki in 1921 as a lumber milling operation on the Big Island of Hawai'i. HPM has been doing business in Hawaii for 100 years and is 100% employee owned through an Employee Stock Ownership Plan. HPM employs local residents at all of its locations throughout the state and provides competitive wages for all of its employees based upon the cost of living on each island and reviews its wages annually to ensure competitive wages are maintained.

The Property is approximately 1,076 acres, and as stated supra HPM's uses are limited to a small portion of the Property including the Mill. The NOVO concerns uses in pre-existing buildings adjacent and accessory to the Mill.

The Mill was the third and final mill site used by the Koloa Sugar Company. Work was started on portions of the Mill in early 1913 and the Mill was completed that same year. From its inception, the Koloa Sugar Company's plantation was a self-sufficient town with commerce, housing, and plantations buildings all in one place.

Like all sugar plantations, the Mill had housing adjacent to it. During the late 1920s, plantation housing was located both mauka and makai of the Mill. In the late 1970s, plantation housing was located mauka of the Mill. HPM is of the information and belief that plantation housing continued to be used surrounding the Mill until at least the mid-to-late 1990s.

In 1948, Grove Farm acquired Koloa Sugar Company, thereby doubling its acreage planted in cane and coming into possession of the Mill.

Following the mid-20th century, the sugar cane industry in Hawaii began a steady decline and never recovered. In the early 1970s Kahuku on Oahu, Kohala on the island of Hawaii, and Kilauea on Kauai, ceased operations, and in 1974 Grove Farm decided to close as well, and leased the Mill and surrounding lands to McBryde Sugar Company ("**McBryde**"), while leasing its original Grove Farm lands to Lihue Plantation. McBryde shifted its milling operations to Koloa, as its own mill was in need of major improvements. McBryde closed its Numila mill near Eleele and transferred its best equipment to Koloa and also upgraded and expanded the Mill so that it could handle all of the company's harvest. The Mill continued in operation for another twenty-two years, but Hurricane Iniki destroyed much of the company's fields in 1991, and McBryde gradually phased out of sugar production, concluding its sugar operations in 1996, when it closed the Mill.

The Buildings that are housing HPM's operations were built by McBryde post-1974. The Buildings are under fifty (50) years old and are not eligible to be historic properties.

As stated above, the Buildings were constructed to serve as industrial facilities including an office, machine/welding shop, warehouse, and electrical shop buildings. The machine and welding shop were used to fabricate and repair the unique industrial machinery required to run a sugar mill. The warehouse was used to store all the plantation's construction materials. And the electric shop was used to fabricate, manufacture, and repair the plantation's industrial engines, motors and electrical equipment. The plantations had to be self-sufficient and therefore did all their carpentry, fabrication, and repair work.

After McBryde ceased its operations in 1996, the Mill, the Buildings, and the surrounding lands have been continuously used for light industrial purposes by large and small companies. Including but not limited to, Pioneer Hi Bred Intl. ("**Pioneer**"), Hawaii Dairy Farms ("**HDF**"), Ajar, Inc., CJR Enterprises, and Wa'alani Ent. Presently, the Buildings are surrounded by other commercial, light industrial and renewable energy activities, including KIUC's renewable solar energy facility and small local businesses also engaged in light industrial and commercial activities and uses.

V. THE ACTION OF THE DIRECTOR.

On or about October 20, 2023, the Planning Department ("**Department**") issued Mahaulepu a First Notice of Violation ("**FNOV**") regarding HPM's use of the Premises. The FNOV required the provision of a remedial action plan within fifteen (15) calendar days upon receipt.

On November 9, 2023, HPM timely provided the Department with its response remedial action plan as requested in the FNOV.

On May 8, 2024, the Department issued a Notice of Recission to Mahaulepu finding that, "the truss manufacturing facility within the Agriculture Zoning District is a continued and ongoing ("Nonconforming Use") use and not a violation of Chapter 8 of the Kauai County Code.

Pacific Resource Partnership ("**PRP**") appealed the Department's Notice of Recission to the Fifth Circuit Court without naming or serving HPM or Mahaulepu, despite both entities being interested parties. Later, upon learning about PRP's administrative appeal, HPM attempted to intervene in PRP's administrative appeal, but its motion for intervention was denied. HPM appealed the denial of its motion for intervention in the administrative appeal, which is currently pending before the Intermediate Court of Appeals.

Pursuant to the "Findings of Fact, Conclusions of Law and Order" filed, August 4, 2025, in the matter of Pacific Resource Partnership vs. County of Kaua'i Planning Department; Case No. 5CCV-24-0000068, whereby the Honorable Kathleen N.A. Watanabe ORDERED, ADJUDGED AND DECREED that, "the Planning Department clearly erred when it found that HPM's manufacturing operations constitute a valid nonconforming use. Therefore, the Planning Department's May 8, 2024, recession of the First Notice of Violation issued October 20, 2023 is hereby reversed and vacated."

On or about December 2, 2025, the Department issued Mahaulepu a Second Notice of Violation ("**SNOV**") based upon the Fifth Circuit Court's August 4, 2025, Findings of Fact, Conclusions of Law and Order. The SNOV required the provision of a remedial action plan within fifteen (15) calendar days upon receipt.

On December 23, 2025, HPM timely provided the Department with its response remedial action plan as requested in the SNOV. Pursuant to §8-3.5 of The Comprehensive Zoning Ordinance for the County of Kaua'i ("**CZO**") and the options provided by the Department on page

2 of the SNOV, HPM respectfully elected to obtain the proper zoning permits for its use of the Mill, including but not limited to after-the-fact permits pursuant to CZO §8-3.1(h), which allows an applicant to obtain zoning permits, "for a structure partially or fully constructed without the required approvals and/or a use that has commenced prior to the required approvals" while being allowed to operate, so that HPM may continue to provide Kauai's community with much needed housing materials. HPM has also been diligently exploring opportunities to integrate bona fide agricultural activities into its operations as provided in Hawai'i Revised Statutes ("**HRS**") §205-2(d) et seq. and CZO Article 8 and requested to meet with the Department to discuss how to best integrate such activities into its remedial action plan.

Although a meeting took place with the Department during the early months of 2026, the Department did not provide a response to HPM's proposed remedial action plan.

On April 16, 2026, the Director issued the NOVO.

VI. REASONS FOR THE APPEAL.

Appellant appeals the Director's decision for the following reasons:

1. It was improper for the Director to issue the NOVO based upon the Fifth Circuit Court's August 4, 2025, Findings of Fact, Conclusions of Law and Order.

2. HPM's operations are legal and outright permitted under the CZO as a continuous use of "accessory structures and uses" pursuant to CZO §8-2.4(q)(1), and "any other use or structure which the Planning Director finds to be similar in nature to those listed in [the CZO] and appropriate to the district" pursuant to CZO §8-2.4(r)(20).

3. HPM's use can be permitted under a Special Use Permit pursuant to HRS §205-6 and or after-the-fact permits issued pursuant to CZO § 8-3.1(h) and HRS §205-2(d)(7).

4. The NOVO is: (a) based on erroneous findings of material fact relating to HPM's use of the Premises; (2) the Director acted in an arbitrary or capricious manner relating to HPM's use of the Premises compared to other similar uses in the area and due to pressure from PRP; and/or (c) manifestly abused his discretion given HPM's use of the Premises compared to other similar uses in the area and undue pressure from PRP.

5. Pursuant to County Charter section 14.13(B), the Planning Commission does not have jurisdiction to hear this appeal.

WHEREFORE, Appellant prays that the Planning Commission:

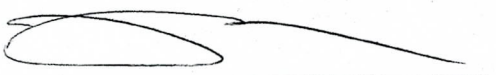
A. Reverse and set aside the NOVO;

B. Determine that Appellant is not in violation of either the CZO or corresponding state law; and

C. Grant such further relief as may be just.

DATED: Lihue, Kauai, Hawaii, May 15, 2026

CADES SCHUTTE LLP



MAUNA KEA TRASK

Attorneys for Appellant
HPM BUILDING SUPPLY

APR 20 2026

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

APR 16 2025

VIA CERTIFIED MAIL

MAHAULEPU FARM LLC
3-1850 KAUMUALII HWY
LIHUE, HI 96766

THIRD AND FINAL NOTICE OF VIOLATION

SUBJECT: COMPREHENSIVE ZONING ORDINANCE (CZO) VIOLATION ON:
Weliweli Road, Koloa, HI
TMK: (4) 2-9-001:001 Koloa District

On October 20, 2023, the Planning Department issued you a First Notice Of Violation (1st NOV) regarding violations on the subject property.

On November 9, 2023 HPM requested the Department consider that its operations are legal pursuant to CZO §8-2.4(q)(l), and CZO §8-2.4(r)(20).

Subsequent to that communication, the Planning Department found the truss manufacturing facility within the Agriculture Zoning District as a continued and ongoing ("Nonconforming use") use and not a violation of the KCC chapter 8 and a Notice of Rescission was sent on May 8, 2024.

Pursuant to the "Findings of Fact, Conclusions of Law and Order" filed, August 4, 2025, in the matter of Pacific Resource Partnership vs. County of Kaua'i Planning Department; Case No. 5CCV-24-0000068, whereby the Honorable Kathleen N.A. Watanabe ORDERED, ADJUDGED AND DECREED that, "the Planning Department clearly erred when it found that HPM's manufacturing operations constitute a valid nonconforming use. Therefore, the Planning Department's May 8, 2024 rescission of the First Notice of Violation issued October 20, 2023 is hereby reversed and vacated":

A Second Notice Of Violation (2nd NOV) is sent on December 2, 2025 vacating the Notice of Rescission dated, May 8, 2024

To date, April 15, 2026, the Planning Department has verified the ongoing violations of the Kaua'i County Code (KCC) Chapter 8, known as the Comprehensive Zoning Ordinance (CZO), specifically:

EXHIBIT 1

§ 8-2.4 Uses in Districts.
The following table designates allowable uses in the various zoning districts, and whether the specific uses require a Use Permit within the zoning districts permitted.

Pursuant to Section 8-2.4 of the Kauai County Code:
Operation of a truss manufacturing facility within the Agriculture Zoning District without the proper zoning permit(s) constitutes a violation. The truss manufacturing facility is not a generally permitted use within the Agriculture Zoning District.

SECOND AND FINAL NOTICE:
On April 15, 2026, the operation of a truss manufacturing facility within the Agriculture Zoning District without the proper zoning permit(s) violation is present on the subject property. Thus, the operation of a truss manufacturing facility within the Agriculture Zoning District without the proper zoning permit(s) violation present on the subject property remain after reasonable notice was given and requests to correct the violation were made.

Pursuant to Hawai'i Revised Statutes Section 46-1.5(24) and KCC Section 8-3.5, you are hereby subject to the enforcement, legal procedures, and penalties specified in the Order that accompanies this Third and Final Notice of Violation.

Should you have any questions, please feel free to contact Bambi Emayo of my staff at 241-4051, or email at aemayo@kauai.gov.

KA'ĀINA S. HULL
Director of Planning

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

APR 16 2026

MAHAULEPU FARM LLC
3-1850 KAUMUALII HWY
LIHUE, HI 96766

ORDER

Pursuant to Hawai'i Revised Statutes Section 46-1.5(24) and Kaua'i County Code Section 8-3.5,

IT IS HEREBY ORDERED that you shall:

1. Pay a fine of ten thousand dollars ($10,000.00 for the noted violation(s).

2. Immediately cease and desist or remove the violation(s).

This Order shall become final thirty (30) calendar days after the date of its delivery, posting on the property, or publication in a newspaper of general circulation in the County of Kaua'i. Failure to correct the violation or pay the total amount of the civil fine imposed within ninety (90) days of this Order's delivery, posting, or publication may result in a lien placed on the subject property.

Pursuant to Chapter 9 of the Rules of Practice and Procedure of the Planning Commission (RPPPC), you have a right to appeal this Order to the Planning Commission. The form of an appeal must conform to the RPPPC. An appeal to the Planning Commission shall not stay any provision of this Order. The RPPPC are available online at the Planning Department's website: https://www.kauai.gov/Planning.

DATED: Lihu'e, Kaua'i, Hawai'i, April 15, 2026.

KA'ĀINA S. HULL
Director of Planning

BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUA'I

In the Matter of the Petition Of HPM BUILDING SUPPLY, appealing Third and Final Notice of Violation & Order dated April 15, 2026, Tax Map Key No. (4) 2-9-001:001 Koloa District.	**CERTIFICATE OF SERVICE**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 15, 2026, the foregoing document was duly served upon the following parties in the manner indicated below:

COUNTY OF KAUA'I PLANNING COMMISSION — **VIA HAND-DELIVERY**
County of Kaua'i
4444 Rice Street, Suite A473
Lihue, Hawai'i 96766

DENNIS M. LOMBARDI, ESQ. — **VIA U.S. MAIL**
DAVID G. BRITTIN, ESQ.
Case Lombardi
Pacific Guardian Center, Mauka Tower
737 Bishop Street, Suite 2600
Honolulu, Hawaii 96813

Attorneys for
MAHAULEPU FARM LLC

DATED: Lihue, Kauai, Hawaii, May 15, 2026

CADES SCHUTTE LLP

MAUNA KEA TRASK

Attorneys for Appellant
HPM BUILDING SUPPLY