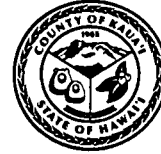


DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

November 12, 2024

Public testimony received by the Planning Department as of November 11, 2024, 9:00 am for the November 12, 2024, Planning Commission meeting regarding the following item:

- F.2.a. SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2025-1)** to allow construction of a new single-family residence and associated site improvements on a parcel situated on the makai side of Kūhiō Highway in Hanalei Town, directly across Hanalei Elementary School, further identified as 5-5428 Kūhiō Highway, Tax Map Key: (4) 5-5-004:023 containing a total area of 7,914 square feet = **BULA TREE HOUSE, LLC.**

Romio Idica

From: Planning Department
Sent: Thursday, November 07, 2024 10:58 AM
To: Romio Idica
Subject: FW: Testimony on SMA(U)-2025-1 (Planning Commission November 12, 2024 Agenda Items F.2.a and L.1)
Attachments: HHCA Testimony to Planning Commission re SMA(U)-2025-1.pdf

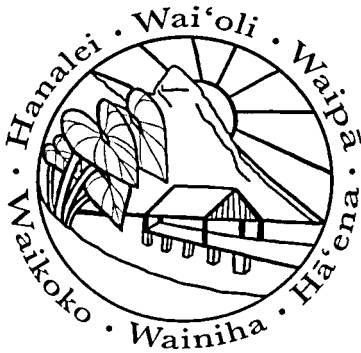
From: carl.imparato@juno.com <carl.imparato@juno.com>
Sent: Thursday, November 7, 2024 10:04 AM
To: Planning Department <planningdepartment@kauai.gov>
Cc: IKJ@kauai-law.com; Romio Idica <ridica@kauai.gov>
Subject: Testimony on SMA(U)-2025-1 (Planning Commission November 12, 2024 Agenda Items F.2.a and L.1)

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

Aloha,

Attached is the Hanalei-to-Ha'ena Community Association's testimony on SMA(U)-2025-1, which is on the agenda of the Planning Commission's November 12 meeting.

Carl Imparato, Chair
Hanalei-to-Ha'ena Community Association Zoning & Development Committee



Hanalei-to-Hā'ena Community Association

Post Office Box 1072
Hanalei, Hawaii 96714

November 7, 2024

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

Re: SMA(U)-2025-1 (Single-Family Residence at 5-5428 Kuhio Highway, Hanalei)

Aloha Planning Commissioners,

The proposed residence would be located at a visually-prominent location in Hanalei, immediately across Kuhio Highway from Hanalei School. The Hanalei-to-Hā'ena Community Association (HHCA) therefore feels that it is very important that the design of the proposed structure be, as much as feasible, "compatible with the low-key, rural Hawaii character of Hanalei Town," as recommended in the North Shore Development Plan Update Report.

We are therefore grateful that the Applicant authorized its legal counsel to meet with a representative of the HHCA's Zoning & Development Committee and that the Applicant supports the six proposed approval Conditions that are listed in Exhibit G of the Applicant's Supplement No. 1 (and duplicated on page 2 of this testimony). Please note that:

- Proposed Condition 1 would expand upon, add important additional specificity, and replace Condition 2 of the Planning Director's Preliminary Recommendation;
- Proposed Condition 2 is identical to Condition 5 of the Planning Director's Preliminary Recommendation;
- Proposed Conditions 3 and 6 are important for mitigating the impacts of the proposed construction activities on the community and neighbors; and
- Proposed Conditions 4 and 5 are important for protecting the usability and integrity of the new Kuhio Highway pedestrian path that is being constructed adjacent to the subject parcel.

Subject to the Planning Commission's incorporation of these proposed Conditions, and that any additional conditions that may be recommended by the Planning Department and Planning Commission are not inconsistent with these proposed Conditions, the HHCA fully supports approval of SMA(U)-2025-1.

We once again thank the Applicant for its willingness to work constructively with the HHCA to mitigate our concerns.

Carl Imperato, Chair
HHCA Zoning & Development Committee

SMA(U)-2025-1: "HHCA and Applicant Proposed Conditions"

Note: the conditions below are those stated in Exhibit G of the Applicant's "Supplement No. 1 to Application for Special Management Area Use Permit."

1. To ensure that the project is compatible with its surroundings and to minimize the visual impact of the structure, the following shall be required:
 - a. The external colors of the proposed new dwelling unit shall be moderate earth-tone colors, such as beige or green, and excluding shades of gray and black.
 - b. The front decking and lanai shall incorporate either vertical pickets or plantation style board and batten railing materials.
 - c. Panex hedging shall be planted and maintained along the western boundary of the subject property.

The proposed design, color, and landscape plan shall be submitted to the County of Kauai, Department of Planning for review and acceptance prior to building permit submittal.

2. The proposed new dwelling unit that is subject to this Application shall not be utilized for any transient accommodation purposes. It shall not be used as a transient vacation rental (TVR) or as a homestay. This restriction shall be incorporated into the deed restrictions of the subject parcel in the event the property is sold to another party, draft copies of which shall be submitted to the Planning Department prior to building permit application approval.
 3. Prior to construction, the Applicant shall install an eight (8) foot dust fence on the east and west boundaries to mitigate construction-related impacts to the adjacent neighbors.
 4. The Applicant shall require all construction-related vehicles to park on the subject property or to park offsite, provided that there shall be no parking in the State of Hawaii Department of Transportation's right-of-way along the Kuhio Highway pedestrian path that is being constructed by the State of Hawaii Department of Transportation
 5. The Applicant is required to provide onsite parking for the two dwelling units of the subject property, with no parking in the State of Hawaii Department of Transportation's right-of-way on or adjacent to the Kuhio Highway pedestrian path that is being constructed by the State of Hawaii Department of Transportation.
 6. The Applicant shall limit construction-related activities to between 8:00 am and 5:00 pm on Mondays through Saturdays.
-

BELLES GRAHAM LLP

IAN K. JUNG 8626-0
3135 Akahi Street, Suite A
Lihue, Kauai, Hawaii 96766
Telephone: (808) 245-2163
Email: ikj@kauai-law.com

Attorney for Applicant,
BULA TREE HOUSE LLC,
a Hawaii limited liability company
MICHAEL RODGER and LEILA RODGER

**BEFORE THE PLANNING COMMISSION
OF THE
COUNTY OF KAUAI**

In The Matter Of The Application
Of

BULA TREE HOUSE LLC, a Hawaii
limited liability company, Application for
Special Management Area Use Permit, for
real property situated at Hanalei, Kauai,
Hawaii, described as Lot 7 of the Sanborn
Subdivision, identified by Kauai Tax Map
Key No. (4) 5-5-004:023 (CPR Nos. 0001
and 0002).

) SPECIAL MANAGEMENT AREA USE
) PERMIT SMA(U)-2025-1
)
)

)
)
) SUPPLEMENT NO. 1 TO APPLICATION
) FOR SPECIAL MANAGEMENT AREA USE
) PERMIT; EXHIBITS "E-1" & "G"
)
)
)
)
)
)
)
)

SUPPLEMENT NO. 1 TO APPLICATION

Comes now, BULA TREE HOUSE LLC, a Hawaii limited liability company, and MICHAEL RODGER and LEILA RODGER, Applicants in the above-captioned proceedings, by and through its undersigned attorney, and hereby submits its Supplement No. 1 to Application for Special Management Area Use Permit for the construction of an Additional Dwelling Unit ("ADU") as described in the Application and herein for which amended sections are as follows:

SECTION 1. APPLICANT/SUBJECT PROPERTY/OWNERS (revised to as follows).

1.1 Applicant. The Applicants are BULA TREE HOUSE LLC, a Hawaii limited liability company and MICHAEL RODGER and LEILA RODGER (hereinafter referred to as the "Applicant"). The Applicant has authorized Ian K. Jung of Belles Graham LLP to file this Application pursuant to the Applicant's Authorization attached hereto as *Exhibit "A" to Application*.

1.2 Subject Property. The property which is the subject matter of this Application is Lot 7 of the Sanborn Subdivision, and is further identified by Kauai Tax Map Key No. (4) 5-5-004:023 (CPR Nos. 0001 and 0002) ("Subject Property"). A legal description of the Subject Property is contained in the Quitclaim Deed attached hereto as *Exhibit "B" to Application*.

1.3 Ownership. The Applicant is the owner of the Subject Property, as shown in the Quitclaim Deed (See, Exhibit "B" to Application).

SECTION 3. PAST, EXISTING AND PROPOSED USES OF SUBJECT PROPERTY (revised to as follows).

3.1 Past Uses. The uses on the Subject Property have been primarily residential in nature.

3.2 Existing Structures. The following described structures ("Existing Structures") have been developed on the Subject Property:

- a. Dwelling Unit
- b. Gallery (vacant)
- c. Perimeter Fence (wood material)
- d. Wood Gate
- e. Related Site Utilities.

3.3 The Applicant proposes a second single-family dwelling unit as shown in *Exhibit "E-1" as revised noting lanai changes*. The proposed second single-family dwelling unit is a two (2) bedroom, two (2) bathroom elevated single-story structure designed in a modern Hawaiian plantation style of architecture. (See, Exhibit "E" as revised noting lanai changes). The second single-family dwelling unit is noted as 1,678 square feet.

In addition to the development of the Project pursuant to the Site Plan, the Applicant proposes to undertake the following new and/or related work that constitutes "Development" for the purposes of the SMA Rules and Regulations, as shown on the Site Plan (See, Exhibit "E" as revised noting lanai changes): (1) Second Single-family Dwelling Unit; (2) Outdoor Shower; (3) Driveway Improvements; (4) Drainage Improvements; (5) Landscaping; and, (6) related site utilities as shown on the enclosed Site Plan (collectively referred to as "Project") (See, Exhibit "E" and "E-1").

3.4 Land Coverage. The Subject Property is 7,914 square feet. The CZO R-4 District allocates a total land coverage of 60%. The total allowable land coverage on the Subject Property is 4,748 square feet in the CZO R-4 District. The Project and existing improvements will establish 3,235 square feet of land coverage. After completion of the Project, the total land coverage on the Subject Property will be approximately 3,235 square feet of 7,914 square feet of the Subject Property, which establishes 41% of the land coverage.

SECTION 5. PERMITS REQUESTED AND REQUIRED (revised to as follows).

5.1 SMA Permit. The construction of the ADU as a second dwelling unit on the Subject Property (the "Development") will take place within the SMA given the Subject Property is located along Kuhio Highway in Hanalei.

Such activity will constitute a "Development" as defined by the Special Management Rules and Regulations of the County of Kauai ("SMA Rules"). The total value of the Development in the SMA exceeds \$500,000.00. Therefore, the Applicant is requesting the Planning Commission to issue a new SMA Use Permit for the Development.

SECTION 6. IMPACTS OF DEVELOPMENT (revised to as follows).

6.7 Wastewater Treatment and Disposal. The Project currently has a private individual wastewater system (septic tank and leach field) as required by the Department of Health in order to dispose of wastewater for both dwelling units to share. There are no sewer facilities available in the area which could service the Subject Property.

SECTION 10. SMA CONSIDERATIONS (revised to as follows).

10.3 Scenic and Open Space Resources. The proposed Development will have only minor impacts on the scenic and open space resources on and around the Subject Property. Any visual impacts from Kuhio Highway will be sufficiently mitigated with light earth tone colors, existing landscaping, new panex hedging, and fencing. The Development will be compatible with and blend into the surrounding area.

SECTION 13. COMMUNITY CONTACT (revised as follows).

13.1 The Applicant's representative met with the zoning committee representative of the Hanalei-to-Haena Community Association to discuss the Project. The Applicant worked closely with the representative of HHCA to develop proposed conditions, which are attached as a new **Exhibit "G"** to mitigate impacts to the surrounding community.

SECTION 14. CONCLUSION (revised as follows).

The Applicant respectfully requests that the Planning Commission:

1. Find that the Development 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 interest.
2. Find that there are no anticipated impacts to customary and traditional practices of Native Hawaiians occurring on the Subject Property.
3. Find that the Development 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.

4. Find that the Development is consistent with permitted uses in the SLUC Urban District, the Kauai General Plan, the North Shore Development Plan, and the CZO R-4 District.

5. Approve the issuance of a SMA Use Permit for the Development on the Subject Property as described herein, subject to such reasonable conditions as the Planning Commission shall impose.

DATED: Lihue, Kauai, Hawaii, 11/6/2024.

BELLES GRAHAM LLP

By 

IAN K. JUNG
Attorney for Applicant,
BULA TREE HOUSE LLC,
a Hawaii limited liability company
MICHAEL RODGER and LEILA RODGER

EXHIBIT LIST

**APPLICATION FOR
SPECIAL MANAGEMENT AREA USE PERMIT**

EXHIBIT

A. AUTHORIZATION

Applicant's AuthorizationA

B. TITLE

Quitclaim DeedB

C. MAPS

Location MapC-1

Tax MapC-2

Land Use District Boundary MapC-3

General Plan MapC-4

CZO MapC-5

SMA MapC-6

Kauai Coastal Erosion StudyC-7

Heritage Resources MapC-8

Flood Insurance Rate MapC-9

Sea Level Rise Viewer MapC-10

D. PERMITS

Stipulated RevocationD-1

Additional Dwelling Unit Facilities Clearance FormD-2

E. PLANS

Plan SetE

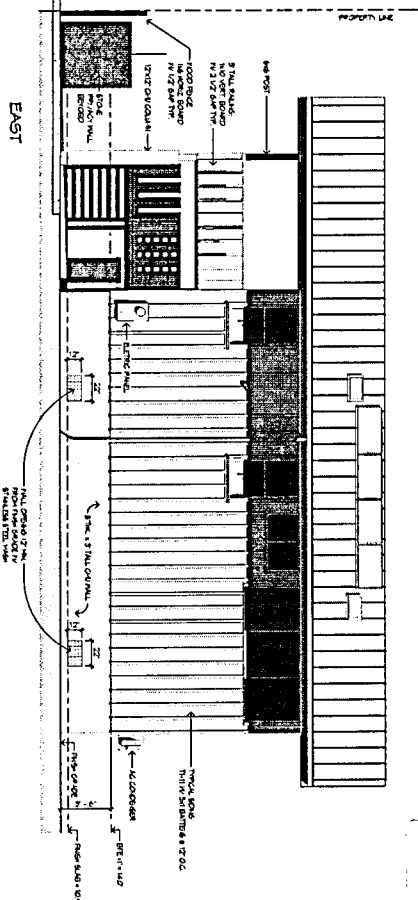
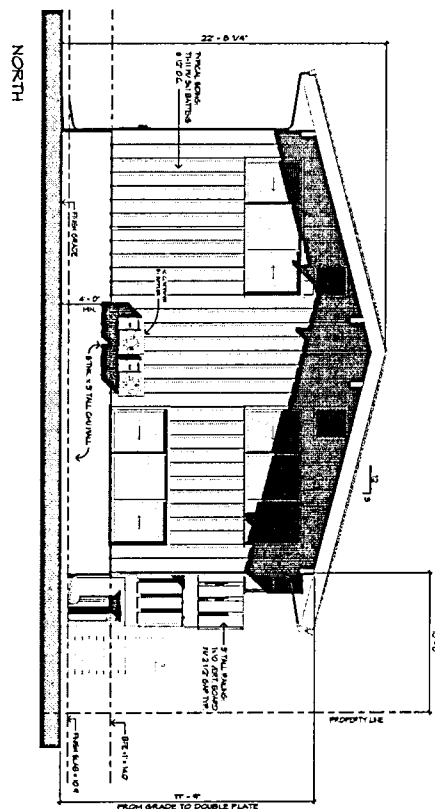
Revised Lanai Plan Set (New Exhibit)E-1

F. STUDIES

Archeological ReportF

G. HHCA Proposed Conditions

HHCA Comments (New Exhibit)G



NOTES:
1. ALL ELEVATIONS ARE TO BE CONSIDERED AS APPROXIMATE. THE ARCHITECT ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF THE DIMENSIONS SHOWN ON THESE ELEVATIONS.
2. THE ARCHITECT HAS NOT CONDUCTED A VISUAL SURVEY OF THE SITE. THE ARCHITECT HAS NOT CONDUCTED A VISUAL SURVEY OF THE SITE. THE ARCHITECT HAS NOT CONDUCTED A VISUAL SURVEY OF THE SITE.
3. THE ARCHITECT HAS NOT CONDUCTED A VISUAL SURVEY OF THE SITE. THE ARCHITECT HAS NOT CONDUCTED A VISUAL SURVEY OF THE SITE. THE ARCHITECT HAS NOT CONDUCTED A VISUAL SURVEY OF THE SITE.

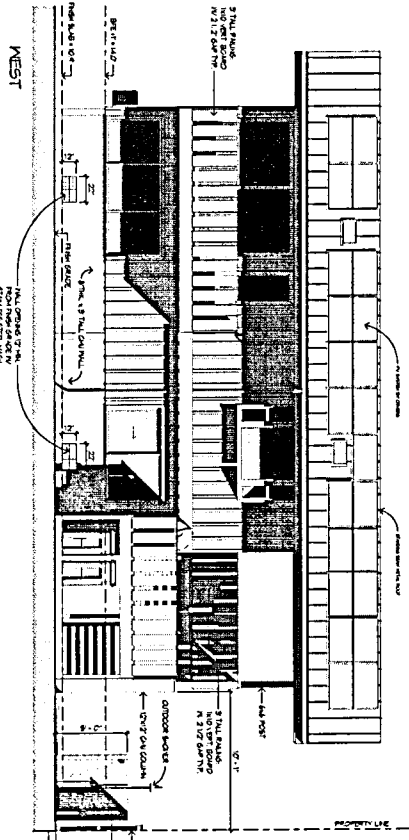
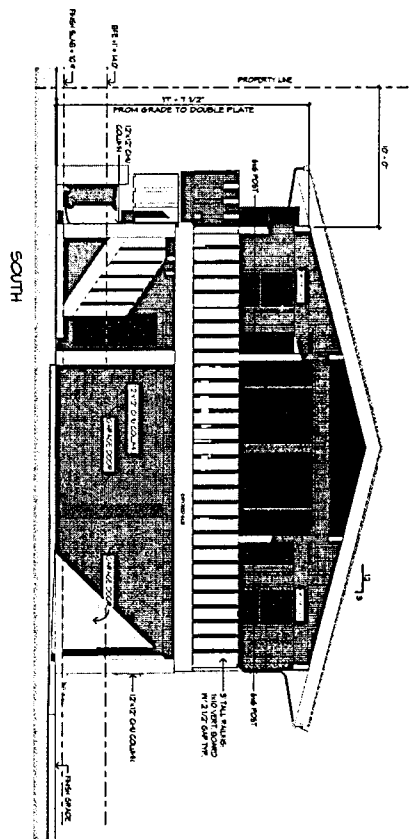
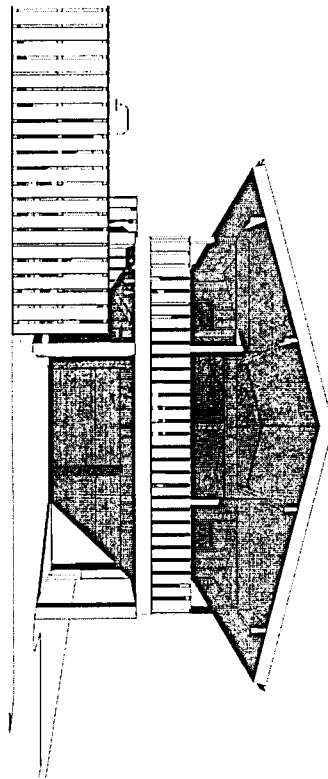
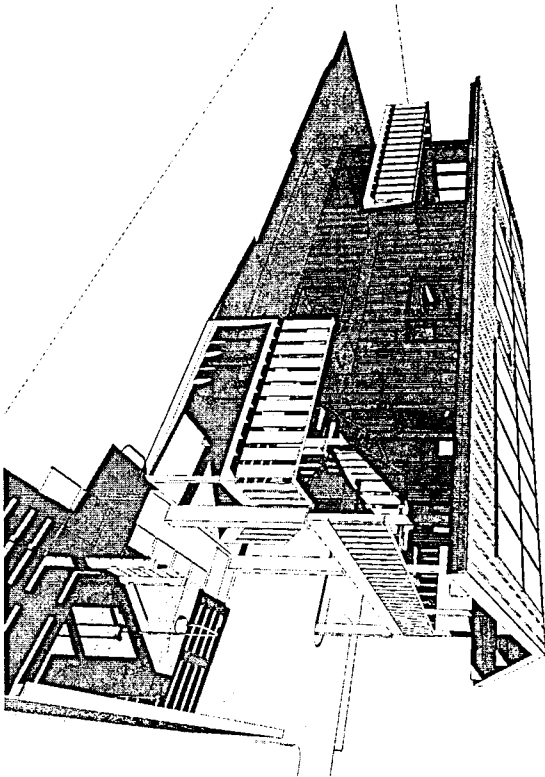
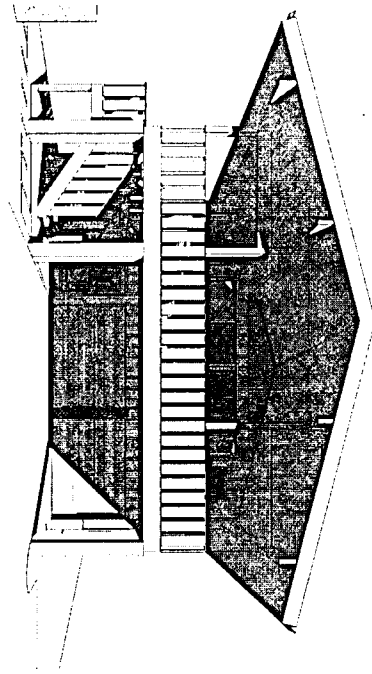
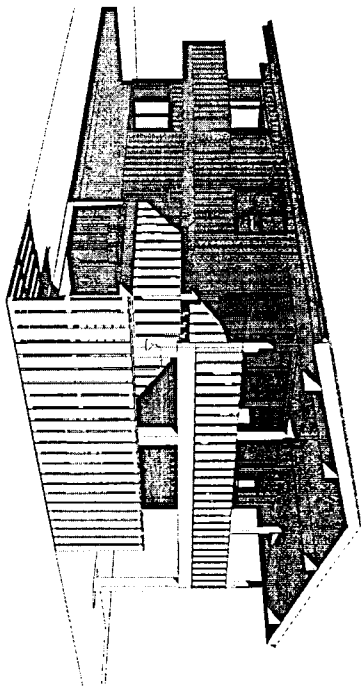


EXHIBIT "E-1"

EXTERIOR ELEVATIONS



HHCA and Applicant Proposed Conditions

1. To ensure that the project is compatible with its surroundings and to minimize the visual impact of the structure, the following shall be required:
 - a. The external colors of the proposed new dwelling unit shall be moderate earth-tone colors, such as beige or green, and excluding shades of gray and black.
 - b. The front decking and lanai shall incorporate either vertical pickets or plantation style board and batten railing materials.
 - c. Panex hedging shall be planted and maintained along the western boundary of the subject property.
- The proposed design, color, and landscape plan shall be submitted to the County of Kauai, Department of Planning for review and acceptance prior to building permit submittal.
2. The proposed new dwelling unit that is subject to this Application shall not be utilized for any transient accommodation purposes. It shall not be used as a transient vacation rental (TVR) or as a homestay. This restriction shall be incorporated into the deed restrictions of the subject parcel in the event the property is sold to another party, draft copies of which shall be submitted to the Planning Department prior to building permit application approval.
3. Prior to construction, the Applicant shall install an eight (8) foot dust fence on the east and west boundaries to mitigate construction-related impacts to the adjacent neighbors.
4. The Applicant shall require all construction-related vehicles to park on the subject property or to park offsite, provided that there shall be no parking in the State of Hawaii Department of Transportation's right-of-way along the Kūhiō Highway pedestrian path that is being constructed by the State of Hawaii Department of Transportation
5. The Applicant is required to provide onsite parking for the two dwelling units of the subject property, with no parking in the State of Hawaii Department of Transportation's right-of-way on or adjacent to the Kuhio Highway pedestrian path that is being constructed by the State of Hawaii Department of Transportation.
6. The Applicant shall limit construction-related activities to between 8:00 am and 5:00 pm on Mondays through Saturdays.

EXHIBIT "G"

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

November 12, 2024

Public testimony received by the Planning Department as of November 11, 2024, 9:00 am for the November 12, 2024, Planning Commission meeting regarding the following item:

- F.2.b. SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2025-2)** to allow construction of two (2) single-family residences, a guest house, and associated site improvements on a parcel identified as Lot 131-A Wainiha Hui Land, situated on the mauka side of Alamihi Road in Wainiha, approximately 500 feet west of the Kūhiō Highway/Alamihi Road intersection, further identified as Tax Map Key: (4) 5-8-012:019 containing a total area of 27,138 square feet = **MATTHEW & PHILLIP C. JOHNSON, TRUSTEES/MANCILLA & JONATHAN D. WICKES.**

Shanlee Jimenez

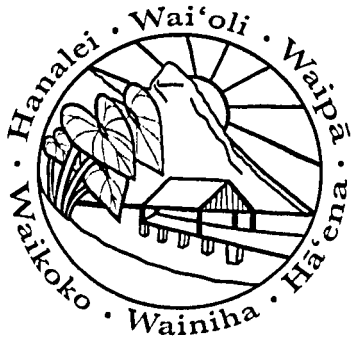
From: carl.imparato@juno.com
Sent: Sunday, November 10, 2024 10:51 PM
To: Planning Department; Romio Idica
Subject: Testimony on SMA(U)-2025-2
Attachments: SMA(U)-2025-2 HHCA Testimony to Plng Cmsn-111124.pdf

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

Aloha,

Attached is the Hanalei-to-Ha'ena Community Association's testimony on SMA(U)-2025-2, which is on the agenda of the Planning Commission's November 12 meeting.

Carl Imparato, Chair
Hanalei-to-Ha'ena Community Association Zoning & Development Committee



Hanalei-to-Hā'ena Community Association

Post Office Box 1072
Hanalei, Hawaii 96714

November 11, 2024

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

Re: SMA(U)-2025-2: Two Single-Family Residences and Guest House, Wainiha,
TMK (4)5-8-012-019

Aloha Planning Commissioners,

1. Significant inconsistencies in the description of this project need to be addressed.

- The public hearing notice and the published Planning Commission agenda state that the SMA Use Permit is for the construction of two single-family residences (SFRs) and a guest house.
- The Director's Report says that the SMA Use Permit would allow one SFR and a guest house.
- The SMA Application and Supplement to the SMA Application are inconsistent with the above and with each other:
 - Section 3.3 of the Application (Proposed Structures) says that the proposal is for two SFRs and a guest house (i.e., an SFR and a guest house on Unit A and conversion of existing "storage" on Unit B to an SFR). But the Application neither proposes nor describes the SFR proposed for Unit A.
 - Section 3.4 of the Application (Land Coverage) does not include any square footage for the SFR on Unit A, nor has it been amended to be consistent with the additional square footage described in the Supplement to the SMA Application.

These inconsistencies should be addressed prior to (or as a condition of) granting the requested permit, to ensure that in the event of future disputes or litigation, it will be clear regarding what was proposed and what was approved.

At a minimum, the SMA Application and Supplement need to be revised to make clear that the proposed project comprises only the guest house on Unit A and the SFR on Unit B, and that any additional residences - regardless of whether they are on Unit A or Unit B - are not a part of this project and would require an additional SMA Use Permit at the time they is proposed.

2. The Planning Director's "no TVR" condition needs to be clarified and strengthened.

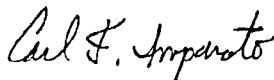
The first two sentences of Condition 5 in the Director's Report state:

"[t]he proposed ADU shall not be utilized for any transient accommodation purposes. It shall not be used as a transient vacation rental (TVR) or as a homestay."

Aside from the fact that the Applicant's proposal is not for an ADU but for one (or is it two?) SFRs and a guest house, Condition 5 needs to be strengthened to make clear that no present or future structures on the parcel may be used as a TVR or homestay. We therefore urge that the sentences cited above be changed to the following:

"No structures on the parcel (including present or future residences, guest houses, or storage units) may be utilized for any transient accommodation purposes, including as transient vacation rentals (TVRs) or as homestays."

Thank you for considering these concerns. If they are addressed, we support approval of the requested SMA Use Permit.



Carl Imperato, Chair
HHCA Zoning & Development Committee

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

November 12, 2024

Public testimony received by the Planning Department as of November 11, 2024, 9:00 am for the November 12, 2024, Planning Commission meeting regarding the following item:

- K.1. Special Management Area Use Permit SMA(U)-2022-1, Class IV Zoning Permit Z-IV-2022-1 and Use Permit U-2022-1 for the Construction of a Farm Dwelling Unit, Guest House, Garage and Associated Site Improvements, within Lot 11-A of the Seacliff Plantation Subdivision in Kīlauea, involving a parcel situated approximately 1,000 feet West of the Pali Moana Place/Makana'ano Place Intersection, further identified as Tax Map Key: (4) 5-2-004: 084 (Unit 1) affecting a Larger Parcel approximately 12.305 acres in size, NĀ KIA'I O NIHOKŪ, Petitioner-Intervenor, vs. PLANNING DEPARTMENT OF THE COUNTY OF KAUAI, Respondent, and **PHILIP J. GREEN and LINDA M. GREEN**, Trustees of the Philip J. Green, Jr., Trust, dated December 4, 2018, and the Linda M. Green Trust, dated December 4, 2018, Applicants. **[Deferred, September 10, 2024.]**

Shanlee Jimenez

From: Patrice Asuncion <tpasuncion@gmail.com>
Sent: Saturday, November 9, 2024 11:01 AM
To: Planning Department
Subject: Re: Agenda Item K-1, Nov. 12, 2024 Hearing

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

Aloha Honorable Members of the Planning Commission:

Nihokū is beloved by Kīlaueans, an important cultural site and place of refuge for community and wildlife. We are grateful to the planning department for all of the time invested in this issue and protecting this undeveloped place since the 1980s.

We ask that the commission uphold the hearing officers recommendations, and the original 1982 setback line.

Thank you!

*Timothy and Patrice Asuncion
residents of Kilauea*

Shanlee Jimenez

From: Peter M Vitousek <vitousek@stanford.edu>
Sent: Saturday, November 9, 2024 12:17 PM
To: Planning Department
Subject: Fwd: Nihoku

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.

----- Forwarded Message -----

Subject: Nihoku
Date: Mon, 9 Sep 2024 11:08:43 -0700
From: Peter M Vitousek <vitousek@stanford.edu>
To: planningdepartment@kauai.gov.

Mahalo Honorable Kaua'i Planning Commission Members.,

I hope that you will follow the recommendation of your hearing officer in the Nihoku contested case. I have taken my Stanford University class to Nihoku 4 times, and we have enjoyed the birds and the landscape together with Mehana Vaughan and Hoku Cody very much. Nihoku is a tremendously valuable resource and I agree that its value would be impaired if the petitioners were allowed to build as they originally planned to.

Sincerely,

Peter Vitousek

Shanlee Jimenez

From: erin dean <erinmckenzie112@hotmail.com>
Sent: Saturday, November 9, 2024 12:29 PM
To: Planning Department
Subject: Agenda Item K-1, Nov. 12, 2024 Hearing

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

*Aloha Honorable Members of the Planning Commision,
Nihokū is beloved by Kīlaueans, an important cultural site and place of refuge for community and wildlife.
We are grateful to the planning department for all of the time invested in this issue and protecting this undeveloped place since the 1980s.
We ask that the commission uphold the hearing officers recommendations, and the original 1982 setback line.
Thank you!
Erin McKenzie
Hanapepe, HI*

Shanlee Jimenez

From: Kahanu Keawe <kahanukeawe@gmail.com>
Sent: Saturday, November 9, 2024 3:38 PM
To: Planning Department
Subject: Re: Agenda Item K-1, Nov. 12, 2024 Hearing

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

Aloha Honorable Members of the Planning Commision,

We love Nihokū. It is one of the few remaining place that you can help to care for and experience that is undeveloped. It is an important place to our 'ohana and community. I hope to continue to take oyr 'ohana, my students, and community there.

Mahalo to the planning department for all of the time invested in this issue and protecting this undeveloped place since the 1980s.

We ask that the commission uphold the hearing officers recommendations, and the original 1982 setback line.

**Mahalo nui loa,
Kahanu Keawe**

Shanlee Jimenez

From: Olan Leimomi Fisher <olan@kuahawaii.org>
Sent: Sunday, November 10, 2024 11:17 AM
To: Planning Department
Cc: Kevin Chang
Subject: 11/12 Public Hearing - KUA Comments on Item K-1 Nihoku
Attachments: KUA Testimony Kauai County Planning Nihoku 11.12.2024.pdf

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

Aloha mai,

Please find attached KUA's comment testimony on Agenda Item K-1 regarding Nihokū, for next Tuesday's meeting 11/12.

Mahalo nui,

Olan

Olan Leimomi Fisher (she/her/'oia), Esq.

Kua'āina Advocate

olan@kuahawaii.org

Kua'āina Ulu 'Auamo (KUA)

grassroots growing through shared responsibility

www.kuahawaii.org



November 10, 2024

ATTN: County of Kaua'i Planning Commission
Līhu'e Civic Center, Mō'īkeha Building
Meeting Room 2A-2B
4444 Rice Street
Līhu'e, Hawai'i 96766
Submitted via Email at planningdepartment@kauai.gov

SUBJECT: Comments Regarding Agenda Item K-1 (Nā Kia'i o Nihokū, SMA(U)-2022-1), Urging the Commission to Adopt the Hearing Officer's Report and Recommendations of Contested Case; Public Hearing, 11/12/2024, 9:00 a.m.

Aloha pumehana kākou:

Kua'āina Ulu 'Auamo ([KUA](http://kua.org)) submits this testimony urging the County of Kaua'i Planning Commission (the Commission) to adopt the Hearing Officer's Report and Recommendations of Contested Case regarding Agenda Item K-1 for permit conditions at Nihokū, Kīlauea, Kaua'i.

"Kua'āina Ulu 'Auamo" stands for "grassroots growing through shared responsibility," and our acronym "KUA" means "backbone." Our mission is to connect and empower communities to improve their quality of life through the collective care for their biocultural (natural and cultural) heritage, serving as a "backbone organization" that supports creative and community-driven solutions to problems stemming from environmental degradation. Hawai'i's biocultural resources continue to be negatively impacted by political, economic, and social changes, and the increasing dangers of climate change make fostering and empowering resilient communities acutely critical.

Currently KUA supports three major networks of: (1) almost 40 mālama 'āina (caring for our 'āina or "that which feeds") community groups collectively referred to as E Alu Pū (moving forward together); (2) over 60 loko i'a (fishpond aquaculture systems unique to Hawai'i) and wai 'ōpae (anchialine pool systems) sites in varying stages of restoration and development, with numerous caretakers, stakeholders, and volunteers known as the Hui Mālama Loko I'a ("caretakers of fishponds"); and (3) the Limu Hui made up of over 50 loea (traditional experts) and practitioners in all things "limu" or locally-grown "seaweed." Our shared vision is to once again experience what our kūpuna (ancestors) referred to as 'ĀINA MOMONA – abundant and healthy ecological systems that sustain our community resilience and well-being.

KUA strongly supports and applauds the years-long efforts of Nā Kia'i o Nihokū (the Kia'i) and their predecessors to protect this beloved wahi pana (sacred place) for generations to come. Some of the Kia'i are active and valued members of our KUA network. Besides being a refuge for treasured seabirds, some of the Native Hawaiian practices conducted at Nihokū include kilo, mele, oli, hula, and 'awa and Makahiki ceremonies. We acknowledge and mahalo the Hearing Officer for properly addressing the valid arguments presented by the Kia'i and applicable Ka Pa'akai analysis to protect the traditional and customary rights of Native Hawaiians in this area.



Based on the evidence presented during the Contested Case process, the Hearing Officer issued permit condition recommendations based on the conclusions that (1) the traditional practice of kilo would be impacted by the proposed development, and (2) the 1982 setback line applies to Lot 11-A and the project must be built in accordance with that lower line. **KUA supports these findings and recommendations of the Hearing Officer, and urges the Commission to adopt them accordingly.**

KUA cannot emphasize enough the amazing impacts that community protectors such as Nā Kia'i o Nihokū have made thus far on their ancestral 'āina. They inspire Hawai'i and the world, and we mahalo them for further expanding our shared movement to reestablish 'āina momona and best mālama and aloha our kō Hawai'i pae 'āina (island home). **Please adopt the Hearing Officer's recommendations to protect Nihokū from overdevelopment and ensure Native Hawaiian traditional and customary rights continue in this place now and forever.**

'O ke aloha 'āina nō,

Kevin K.J. Chang
Executive Director

Olan Leimomi Fisher
Kua'āina Advocate

Shanlee Jimenez

From: Makaala Kaaumoana <kaaumoana@gmail.com>
Sent: Sunday, November 10, 2024 3:25 PM
To: Planning Department
Subject: Testimony 11-12-24
Attachments: HHM testimony_Nihoku_11-10-24_mk.pdf

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

Aloha,
Attached please find testimony from Hui Ho'omalua i ka 'Aina re item K-1.
Mahalo for providing it to the Commissioners for their consideration.

Me ka pono,
Makaala

--

Makaala Kaaumoana
POB 1205
Kilauea, HI 96754
808-828-1205 home
808-346-5458 cell



November 10, 2024

County of Kauai Planning Commission

Testimony: Item K 1: Green application SMAU 2022-1; Class IV Z-IV-2022-1; Use Permit U 2022-1

Aloha Commission members,

Nihoku is a place valued and used in our traditions as cultural practitioners in Halele'a. Our interests were well represented by Na Kia'i Nihoku in the contested case proceedings and we are pleased with the resulting hearing officer recommendations to protect our rights and traditions in this undeveloped land.

We appreciate the effort and commitment of the Kauai Planning Department staff and designated hearing officer in this matter and truly hope this work serves as an instructional example to others striving to protect the practices and values of na kanaka.

Please accept this testimony as evidence of our understandings of the resulting agreements and our intention to respect the Commission's Decision and Order representing the recommendations.

We also thank all the members of our community, kanaka and others, for their dedication to Nihoku over the past several decades. Nihoku plays a critical role in the protection and restoration of our unique seabird population who serve as a critical connection of mauka and Makai.

Mahalo nui kakou,

A handwritten signature in blue ink, appearing to read 'Makaala', followed by a horizontal line.

Makaala Kaaumoana

Vice Chair

Hui Ho'omaluku i ka 'Aina is a taro root organization founded in the early 1980's by traditional practitioners of moku Halele'a to address threats and impacts to the natural and cultural resources of Kaua'i. Founded by farmers and fishermen, weavers and hunters, we seek to provide context for issues related to the ecology of our ahupua'a. The organization is an active advocate for those native things and ways that are disappearing. We are not a nonprofit, we are an activist organization. We do not whine and wait, we act.

Shanlee Jimenez

From: Daniela Casillas <dany.casillas5@gmail.com>
Sent: Sunday, November 10, 2024 4:05 PM
To: Planning Department
Subject: Agenda Item K-1, Nov. 12, 2024 Hearing

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

Aloha Honorable Members of the Planning Commission,

Nihokū is not only of high cultural and environmental value, but is beloved by the local community. Nihokū is an important cultural site and place of refuge for community and wildlife. We are grateful to the planning department for all of the time invested in this issue and protecting this undeveloped place since the 1980s. We ask that the commission uphold the hearing officers recommendations, and the original 1982 setback line.

Mahalo nui,
Daniela Casillas

P: 808-755-8780

Shanlee Jimenez

From: Janelle Peotter <janellepeotter@gmail.com>
Sent: Monday, November 11, 2024 8:32 AM
To: Planning Department
Subject: Agenda Item K - 1, November 12, 2024

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

Aloha Honorable Members of the Planning Commission,

Nihokū is beloved by Kīlaueans. As you know it is an important cultural site and place of refuge for community and wildlife. I am grateful to the planning department for all of the time invested in this issue and protecting this undeveloped place since the 1980s.

I ask that the commission please uphold the hearing officers' recommendations and the original 1982 setback line.

Thank you for your time and consideration,

Janelle Peotter

--
Janelle Peotter
Cell: 920-883-1788