

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

June 23, 2025

Public testimony received by the Planning Department as of June 23, 2025, 9:00 am for the June 24, 2025, Planning Commission meeting regarding the following item:

- G.2.a. CLASS IV ZONING PERMIT (Z-IV-2025-12), USE PERMIT (U-2025-8), and SPECIAL PERMIT (SP-2025-5)** to conduct agricultural tours and special events, construct a pavilion, and operate an agricultural retail shop on a parcel situated at the terminus of Kapuna Road in Waipake, situated along the mauka side of Kuhio Highway approximately $\frac{3}{4}$ -mile of the Kapuna Road/Kuhio Highway intersection, further identified as Tax Map Key: (4) 5-1-002:010, Unit 5, affecting an area approximately 22.982 acres of a larger parcel = **CAROL CASSIDAY ORR (KEALA RANCH TOURS)**. [Director's Report Received, 6/10/2025].

Shanlee Jimenez

From: may mariani <mayhem4530@yahoo.com>
Sent: Saturday, June 21, 2025 5:32 PM
To: Dale Cua
Cc: Kaaina Hull; Planning Department; Duke Nakamatsu
Subject: Carol Cassidy Orr U-2025-8, Z-IV-2025-12, SP-2025-12

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.

20 June 2025

To Whom It May Concern:

I am strongly opposed to any new uses and or commercial activities of the Keala Ranch land Kauai TMK No.

(4) 5-1-002:010 (CPR No. 0005) or the family neighborhood more commonly known as Waipake.

Our road is 1.5 lanes wide. There are regular exercisers that include pet walkers , parents with babies and Kupuna. Their safety is already compromised with the existing number of nonresident drivers who speed through here. Additionally, who will be responsible for improving and maintaining the roadway that is already ridden with potholes?

What about sanitation? Runoff? Plans for expansion after this phase of development? Regulation and enforcement?

I am a working class Kama'aina who is heartbroken to see monied outsiders taking over Kauai for their own profit. Please do not abet them.

[Sent from Yahoo Mail for iPad](#)

May Mariani
4530 Kapuna Rd.
Kilauea HI

Shanlee Jimenez

From: Philip Green <pjgreen.jr@gmail.com>
Sent: Monday, June 23, 2025 1:08 AM
To: Planning Department
Subject: Carol Orr

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.

Please forward this email to the Planning Commission.

I am writing in regard to the Application of Carol Cassiday Orr for a Use Permit No. U-2025-8, Class IV Zoning Permit No. Z-IV-2025-12, and Special Permit No.SP-2025-5.

My wife Linda & myself are adjoining neighbors with Carol & Steve Orr's property. We acquired our property in 2014. We have had many conversations and mutual property and Common Easement maintenance issues with the Orrs. In all our years being neighbors and friends, we had not had any problems with them reaching agreements.

Initially when I saw the proposal and application for permits, I was very concerned. I spoke with Steve Orr (Carol's husband) on two occasions after receiving the notice. On Saturday, June 21st on our second phone conversation Steve put most of my fears to rest.

Steve agreed to the following:

There will be no weddings.

There will be walking tours only...no ATV or UTV tours.

There will be a shuttle only to bring guests in for the tours, in a pickup with four paying guests in the vehicle. A vehicle or vehicles will shuttle people to dinners once a month with no more than 20 guests attending. No paying guests will drive onto the property or leave parked vehicles on Kapuna Road.

Tours will start mid-late morning three days per week.

Pavilion size will be downsized.

These tours and dinners will be primarily for Hotel One guests.

Any retail will be for tour and dinner guests only...not the general public.

In closing, we will be affected by this new activity as well, but knowing the Orr's as we do, I am confident that they will minimize the effects of the tours and dinners. Carol & Steve have owned this property years before our purchase and I know that they will respect the other property owners as well. I would urge the Planning Commission to look at the above concessions and to grant the Permits.

Thank you,
Philip & Linda Green
Owners of TMK 5-1-002-010-0004



FW: Formal Objection to Proposed Rezoning of Keala Ranch Farms

From Planning Department <planningdepartment@kauai.gov>

Date Mon 6/23/2025 8:31 AM

To Shanlee Jimenez <sjimenez@kauai.gov>; Dale Cua <dcua@kauai.gov>

From: Mariola Hall <mariola2205@gmail.com>

Sent: Monday, June 23, 2025 8:29 AM

To: Kaaina Hull <khull@kauai.gov>; Duke Nakamatsu <DNakamatsu@kauai.gov>; Planning Department <planningdepartment@kauai.gov>

Subject: Formal Objection to Proposed Rezoning of Keala Ranch Farms

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PLEASE FORWARD TO PLANNING COMMISSION CHAIR DEGRACIA AND VICE-CHAIR AKO.

RE: Concerns Applications For Use Permit (U-2025-8), Class IV Zoning Permit; (Z-IV-2025-12)- and Special Permit (SP-2025-5)

Jarek and Mariola Hall
4704 Kapuna Rd.
Kilauea, HI 96754

Dear Members of the Kauai Planning Commission,

We, Mariola Hall and Jarek Hall, residents of 4704 Kapuna Road, Kilauea, HI 96754, are writing to strongly oppose the application submitted by Carol Cassiday Orr of Washington, D.C., for the property identified as Tax Map Key No. (4) 5-1-002-010: CPR #5.

This project would have a serious and negative impact on our daily lives and on the safety of our community. Our driveway is located directly across from the proposed access point to the project. We already face problems due to increased traffic, tourists using a private road with no way to turn around, blocked access to our home, and major safety concerns. Large vehicles have completely blocked the road before—we can't even imagine how emergency services would get through if someone's life were on the line.

This easement is only a one-lane road. It is absolutely not built for regular use by guests attending events or large gatherings. The idea of turning this space into a commercial event venue is unacceptable. The risk to neighbors, including children, elderly residents, and animals, is too high. This is not a safe or appropriate location for such activities.

Other CPR owners, especially those in the mauka lots, share our concerns. When we bought our home, we hired a lawyer to review the easement. It was clearly understood that another access route, from Kuhio Highway, should be used once the other lots were developed. That access should be the one

used, not the narrow shared road that runs through our neighborhood and is our only access to our homes.

The County Water Department may have agreed to maintain the easement and assume liability, but are they ready to take responsibility if 100 guests at a private event cause damage, injury, or worse? Is the County prepared to be sued if an accident happens due to overcrowding, alcohol use, or blocked access?

There appears to be no plan to address parking, first responders, or wastewater. This is a critical issue that must be considered before any further development is approved. The lack of these basic services adds even more risk to our already vulnerable situation.

The applicant has not provided any information about insurance, security, or responsible alcohol use. It is unreasonable to assume there will be events and parties with no alcohol. This adds another layer of serious risk to our neighborhood.

We fully support the HUI's petition to intervene, and we ask the Commission to deny this application in full. It is deeply troubling that commercial activities have already taken place on the property before approval was granted. This demonstrates a disregard for County rules and for the surrounding community.

We already submitted written testimony at the June 10, 2025, hearing and stand by what we said. Today, June 24, 2025, we repeat our concerns and ask the Commission to consider the impact of this application on our community.

We respectfully give our remaining speaking time to the HUI.

Sincerely,

Mariola Hall and Jarek Hall

Shanlee Jimenez

From: Planning Department
Sent: Monday, June 23, 2025 8:32 AM
To: Shanlee Jimenez; Dale Cua
Subject: FW: Testimony on Petition to Intervene Public Hearing 20250624
Attachments: 20250623 Final ORR RESPONSE PC.docx; Talking points handout.docx; Petition to Intervene-Orr.pdf; Waipake 2795705.pdf; Hoomano-SCWC-17-0000181dis.pdf

Importance: High

From: mkr@mykauairealty.com <mkr@mykauairealty.com>
Sent: Monday, June 23, 2025 8:18 AM
To: Planning Department <planningdepartment@kauai.gov>; Kaaina Hull <khull@kauai.gov>; Dale Cua <dcua@kauai.gov>; Duke Nakamatsu <DNakamatsu@kauai.gov>
Cc: mkr@mykauairealty.com
Subject: Testimony on Petition to Intervene Public Hearing 20250624
Importance: High

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 Mr. Cua, et al,
Please find attached our Hui's testimony supporting our motion to intervene as a Word Document (20250623 Final ORR RESPONSE PC.docx) and integral attachments for inclusion in the Commissioner's agenda packet. Please confirm your receipt 😊

Mahalo Piha!!

Me ka 'oia'I'o,

John & Kristin

John F. Friedman RB-22460
REALTOR, SFR, ECOBroker
Phone: 808-651-1276

Kristin M. Zimmerman RS-57897
REALTOR, AHWD, CRS
Phone: 808-651-9506



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Hui Kapuna Mauka

A REVIEW OF PERMIT REQUESTS; FOR TAX MAP KEY (4)/5-1-002 :010 CPR NO. 5

John Friedman , Authorized Representative

HUI KAPUNA MAUKA 4690 KAPUNA ROAD , KILAUEA, HI 96754

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1. Summary of Application Document

Applicant's Statement: Carol Cassiday Orr proposes to add farm tours (walking & UTV), a pavilion for events, an Ag Shop, and a food hub on a 2-acre portion of her 22.982-acre Keala Ranch farm in Pila'a. The goal is to diversify farm revenue, support agricultural sustainability, and provide educational and recreational opportunities.

Hui Kapuna Mauka Response: No additional commentary is provided at this time.

Boilerplate Disclaimer: In the spirit of full disclosure, the members of Hui Kapuna Mauka come from diverse backgrounds and are not attorneys. Our interpretations regarding "law," "ordinance," "legal," "illegal," "justified," or "misleading" are our lay assessments only. Any errors in our interpretation of legal requirements are unintentional and without malice.

Additional Overall Concern: We believe the proposed use is incompatible with the surrounding area. Given questionable access through a subdivision serving residents from toddlers to centenarians, a large-scale commercial enterprise would impair our right to quiet enjoyment and adversely affect property values. Furthermore, the project appears designed to circumvent legal requirements governing commercial activities on "Agriculture" and "Open" zoned lands.

2. Section 1: Applicant/Subject Property/Owner

Applicant's Statement: Owner is Carol Cassiday Orr; the property is Unit 5 of Keala Ranch Condominium (22.982 acres), TMK (4) 5-1-002:010; legal counsel is authorized.

Hui Kapuna Mauka Response: No comments are provided regarding this section.

3. Section 2: Location & Land Use Designations

Applicant's Statement: The site lies in the SLUC Agricultural District; is designated under the Kaua'i General Plan as "Agriculture"; falls within the CZO Agriculture & Open Districts; is part of the North Shore Development Plan's "Ag/Open" area; is within the CZMA but outside the SMA; there are no alleged zoning violations; and it is not designated as Important Agricultural Land.

Hui Kapuna Mauka Response: We acknowledge the accuracy of the location and designation details. However, we dispute the assertion that no violations exist. Evidence of unpermitted commercial activity has been forwarded to the County of Kaua'i Planning Department. Moreover, the activity appears to breach the existing agricultural dedication previously agreed upon, and a potential wastewater violation remains unaddressed.

Additionally, although ownership details and the Tax Map Key are acceptable, there is uncertainty regarding the recorded land size. The Final Public Report and Supplemental Report (Registration Number 4873, effective September 8, 2003, and May 30, 2017) list the Limited Common Element as 30.78 acres. Because amendments occurred only prior to the Supplemental Report, an official determination by SLUC or this Planning Commission is imperative.

4. Section 3: Past, Existing & Proposed Uses

Applicant's Statement:

- **Past Uses:** Sugar cane, cattle
- **Existing Uses:** “Keala Farm” since 2017—avocado, coconut, mango, citrus, banana orchard; honey hives; LLC formed in 2019; rising income
- **Proposed Uses:**
 - Farm tours (maximum of 2 per day; 5 guests per tour)
 - Monthly dinners (maximum 40 guests) and quarterly events (maximum 100 guests)
 - Construction of a 2,238-square-foot pavilion with an additional 1,000-square-foot lanai
 - Establishment of an Ag Shop and food hub; operations to be by pick-up/drop-off only, with no on-site parking

Hui Kapuna Mauka Response: While historical uses are consistent with local agricultural practices (with the note that some uses, such as pineapple cultivation, may have been inadvertently omitted), the proposed future uses are overly broad and lack essential detail. For example, the 3,238-square-foot pavilion is of a scale that could host 150–190 guests for weddings or events—far exceeding what one would expect of a modest agricultural operation.

Additional Concern: Recent information indicates that the Applicant's representatives have already initiated marketing efforts and coordinated with vendors—including arrangements for shade tents and other event necessities—as part of a “first of many events” strategy. These activities, taking place on June 10, 2025 (coinciding with the submission of the Director's Report), occurred prior to any formal community engagement or permitting. This premature promotion reinforces our concern that the Applicant intends

to operate a commercial venue unrelated to agriculture without securing the required permits.

Section 4: Description of Property & Adjacent Lands

Applicant's Statement: The property is described as a sloping farm (with elevations between 500–650 feet) featuring existing roads, soils (Puhi, Ioleau, Rough Broken) classified as Class B–D, an approximate annual rainfall of 75 inches, predominantly invasive-dominated flora with occasional native birds, and is located in Flood Zone X. It has a private well with an individual water system (IWS), is near Waipake tributaries, and has no known archaeological sites.

Hui Kapuna Mauka Response: The property is dual-zoned for both Open and Agricultural uses. The agricultural zone comprises at least 14 productive acres with predominantly Class B soils. Notably, the Waipake area is a nesting site for the Nene (historically observed in groups as high as 20, now averaging 8–10) and supports seasonal nesting of the Pueo. The Applicant's description neglects these critical environmental features.

6. Section 5: Permits Requested & Required

Applicant's Statement: The Applicant requests:

- A County Use Permit (with triggers for both CZO Agriculture and Open Districts)
- A Class IV Zoning Permit
- A SLUC Special Permit (for parcels below the 2-acre Ag Special Permit threshold, given a total area under 15 acres)

Hui Kapuna Mauka Response: We strongly reject the Applicant's claim that State Land Use review is unnecessary. Although the stated purpose focuses on "Farm Tours," the operational definition of "Farm" here includes 14 agriculturally dedicated acres within an almost 23-acre parcel. Standard practice by the State Land Use Commission would require consideration of the entire area—including common element roadways and easements (for example, Easement C covering 1.277 acres).

Additional Concern: The Applicant's premature marketing and event coordination—actions clearly aimed at launching operations before undergoing proper permitting—underscore the urgent need for a complete review prior to any further action.

Section 6: Impacts of Development

Applicant's Statement: The Applicant asserts that impacts are minimal, noting:

- Negligible botanical/wildlife impacts (as the habitat is largely invasive in character)
- Implementation of Best Management Practices (BMPs) for waterbirds and bats
- No historic resources are affected
- Noise and air quality remain within established standards
- No significant flood or drainage impacts
- Utilities are adequate
- The project will create only 3 new jobs, will not generate new housing, and will result in negligible traffic increases

Hui Kapuna Mauka Response: We recognize the habitat value for endemic species such as the federally protected Pueo and the threatened Nene—both of which are highly vulnerable to habitat loss, disease, and adverse impacts from human activities. We emphatically disagree with the characterization of “negligible traffic.”

New Safety Considerations: The projected increase in vehicular activity—including vendor deliveries, shuttle drop-offs, and service vehicles—is of significant concern. The Applicant asserts that no guest vehicles will access the property due to the use of shuttles; however, no verifiable documentation regarding shuttle pick-up points or routes has been provided. We have credible information that the Applicant's representatives are seeking to secure a parking area on a neighboring agriculture-zoned lot for this purpose—a measure that would, in itself, violate HRS 205. In addition, these shuttle operations would require vehicles to traverse multiple privately owned easements and areas in close proximity to a school zone, creating unacceptable safety hazards for residents and school children while potentially impeding emergency response access.

Additional Land Size Considerations: Both the total land area and the area designated for agriculture plus common elements exceed the 15-acre threshold. If the project is approved by the Planning Commission, it must also be reviewed by the State Land Use Commission—a second review layer that further underscores the need for transparent, two-way communication.

Section 7: SLUC Agricultural District Considerations

Applicant's Statement: The Applicant contends that the project fits within HRS §205-12(d)(15) (supportive agriculture-based commercial operations such as farm tours, retail, and food hubs) and HRS §205-14.5(a) (permitted Ag District uses including open-air recreation and agricultural education).

Hui Kapuna Mauka Response: We do not agree that the project complies with HRS §205-12(d)(15) and §205-14.5(a). Although some aspects might nominally fall within these provisions, the inclusion of a special events venue is entirely inconsistent with the intended use of Grade B agricultural land. In particular, HRS §205-14.5(b) clearly provides that "uses not expressly permitted in subsection (a) shall be prohibited."

Additional Legal Point: The attached Hawaii Supreme Court decision in Ho'omoana (2023) confirms that the special use permit process cannot legitimize a use that is not expressly permitted by law. This precedent further reinforces that the Applicant's proposal is not legally sustainable.

Section 8: Kaua‘i General Plan Considerations

Applicant’s Statement: The Applicant asserts that the proposed project aligns with Kaua‘i General Plan Goals 1–4—emphasizing sustainability, rural character, public health, and economic opportunity—by supporting diversified agricultural activities, recreational uses, and educational programming.

Hui Kapuna Mauka Response: We respectfully contest the Applicant’s assertion of alignment with the Kaua‘i General Plan. The updated Kaua‘i County General Plan (adopted in Spring 2018 under the theme “Kaua‘i Kākou” or “we’re all in this together”) represents a robust, transparent effort built on extensive community engagement. In this regard, we note:

- **Community and Cultural Integrity:** Our land is more than a commodity—it is a carrier of Native Hawaiian cultural legacy and traditional ahupua‘a principles. Recharacterizing high-quality agricultural land for transient commercial uses undermines these intrinsic values and the communal memory behind “Kaua‘i Kākou.”
- **Sustainable Land Use and Resource Optimization:** The Plan prioritizes the preservation of productive agricultural lands (particularly those with Class B soils) and open spaces. Converting this land to nonagricultural uses jeopardizes long-term environmental integrity and the county’s sustainable growth vision.
- **Transparent Public Engagement and Collaborative Decision-Making:** The comprehensive planning process—through public visioning charrettes and advisory bodies like the Kakou Committee—ensures community input is central to decision-making. In contrast, the Applicant has advanced its proposal without proactively engaging local stakeholders.
- **Long-Term Benefits Versus Short-Term Gains:** The planning process emphasizes long-term community benefits over immediate commercial advantages. Short-sighted proposals that redefine agricultural usage threaten the enduring values captured in the General Plan.

Conclusion for Section 8: The proposed project does not align with the cultural, environmental, and procedural priorities outlined in the Kaua‘i General Plan. It notably undermines community stewardship, a cornerstone of the “Kaua‘i Kākou” vision.

Section 9: CZO Agriculture & Open District Considerations

Applicant's Statement: The Applicant asserts that the proposed farm tours, pavilion, and ancillary components satisfy the permitted operations under Agriculture and Open District standards (Sections 8–12.4(r) and 8–12.4(t)).

Hui Kapuna Mauka Response: The Applicant's submission is notably sparse—critical details regarding operational methods, traffic management, environmental safeguards, and logistical protocols are either superficially noted or entirely absent. Furthermore, no proactive community consultations have been conducted. This lack of engagement is particularly concerning, given the importance of learning from and incorporating local perspectives, as required by the aloha spirit.

Section 10: Use Permit & Zoning Permit Standards

Applicant's Statement: The Applicant contends that the project meets all relevant Use Permit and Zoning Permit standards, asserting full compatibility with community norms, public safety, and local zoning regulations.

Hui Kapuna Mauka Response: In stark contrast, the submission is deficient in essential details and transparency. There is no verifiable documentation such as comprehensive traffic studies, safety protocols, or an operational plan. Equally concerning is the complete absence of any outreach or dialogue with local stakeholders. This omission runs directly counter to the inclusive, transparent processes that epitomize the aloha spirit.

Section 11: North Shore Development Plan

Applicant's Statement: The Applicant maintains that the project is consistent with the North Shore Development Plan's goals of preserving rural character, promoting economic opportunity, and safeguarding open spaces.

Hui Kapuna Mauka Response: The proposal falls short in addressing integration with the North Shore Development Plan. There is a marked absence of detailed discussion on enhancing the rural character of the area. More importantly, there has been no proactive outreach or engagement with local community stakeholders—a clear departure from the aloha spirit's commitment to inclusiveness and cooperative stewardship.

Section 12: SLUC Special Permit Standards

Applicant's Statement: The Applicant asserts compliance with HRS §205-16 by promoting agricultural objectives, ensuring that development causes no adverse effects, does not overburden local infrastructure, and satisfies certain economic viability conditions.

Hui Kapuna Mauka Response: We are gravely concerned by the Applicant's lack of transparency. Key information is either ambiguous or missing, and critical adverse impacts—including those on threatened wildlife and community infrastructure—are not adequately addressed. Moreover, the premature marketing and event coordination activities indicate an attempt to circumvent proper permitting procedures, thereby undermining both safety and procedural fairness.

Section 13: HRS Chapter 343 (Environmental Impact Statements)

Applicant's Statement: The Applicant claims that the project does not trigger an environmental impact statement under HRS §343-15 on the grounds that no state/county funds or lands are involved, and because it is not in designated Conservation or SMA areas.

Hui Kapuna Mauka Response: We dispute this assertion. For instance, the agreement whereby the County's Board of Water Supply agrees to indemnify certain easement owners introduces complex liability issues. Additionally, deficiencies in the documentation for the private well and expired waste system permits further emphasize the need for an exhaustive environmental review to ensure community safety and ecological integrity.

Section 14: Native Hawaiian Issues

Applicant's Statement: The Applicant indicates that no known traditional or customary practices or historically significant sites exist on the subject property and commits to following inadvertent-find protocols if any are discovered.

Hui Kapuna Mauka Response: While we commend the Applicant's initial efforts, determining historical traditional or customary practices and identifying culturally significant sites is a complex, time-consuming process. It requires structured interviews with dozens of individuals who possess familial ties to the area. We assert that further, in-depth investigation is warranted to conclusively determine if local Kuleana owners or other indigenous groups historically utilized the proposed project area for ceremonial practices, gatherings, or other customary activities. Such diligence is essential to protect Native Hawaiian cultural heritage.

Section 15: Community Contacts

Applicant's Statement: The Applicant states that the application materials will be provided to the local neighborhood association and that meetings will be arranged upon request.

Hui Kapuna Mauka Response: We are deeply concerned by the Applicant's passive approach to community engagement. By only offering to provide materials and conduct meetings upon request, the Applicant misses a vital opportunity to actively learn from—and involve—the local community. This reactive stance neglects the collective wisdom and lived experiences of community members and runs counter to the proactive, inclusive spirit of aloha expected from responsible development.

Section 16: Conclusion and Attachments

Conclusion

In summary, our review of the Applicant's proposal reveals several critical deficiencies:

- **Lack of Detail & Transparency:** The submission is missing comprehensive documentation on operational logistics, safety protocols, and environmental safeguards, leaving key questions unanswered.
- **Premature Marketing & Pre-Permit Activity:** Efforts to promote the project and coordinate events have commenced before proper permits are secured, indicating an intent to circumvent regulatory processes.
- **Deficient Community Engagement:** By failing to proactively engage local stakeholders, the Applicant foregoes the opportunity to learn from the community and to honor the collaborative, respectful principles underpinning the aloha spirit.
- **Safety, Environmental, and Zoning Concerns:** There are significant risks associated with increased vehicular activity in narrow access areas, potential impacts on local ecosystems and culturally significant sites, and an inherent incompatibility with the intended use of Grade B agricultural land.
- **Noncompliance with Statutory and Planning Mandates:** The proposal is inconsistent with the Kaua'i General Plan, North Shore Development Plan, SLUC Special Permit Standards, and HRS requirements—all of which mandate rigorous community involvement and careful planning for the preservation of our cultural and environmental heritage.

Based on these salient points, we strongly urge the Commission to:

- **Deny the current Permit Requests** due to the overwhelming adverse impacts.
- **Grant Hui Kapuna Mauka Full Intervenor Status** to ensure that all concerns are thoroughly represented during the contested case hearing.
- **Mandate a Comprehensive Review by the State Land Use Commission** to ensure full compliance with state agricultural, environmental, and land use policies.

Attachments and Acknowledgements

We would like to express our heartfelt thanks to the Commission—and to the Applicant—for listening to our concerns. We appreciate your commitment to a transparent and thorough review process that safeguards our community’s integrity, safety, and cultural heritage.

Attachments Included:

- **Attachment A:** Talking Points Handout – Preserving Our Community’s Character *(Further details on community concerns, including the project’s impact on local traffic, noise, environment, and zoning issues.)*
- **Attachment B:** Petition to Intervene – Orr (PDF) *(A formal petition outlining our objections, including concerns related to incomplete application information and the potential loss of critical agricultural land.)*
- **Attachment C:** Hoomana Supreme Court of the State of Hawaii: A Declaratory Ruling
- **Attachment D:** Waipake Subdivision: Access Document

Prepared by: John Friedman Authorized Representative for Hui Kapuna Mauka

Thank you for your careful consideration of our detailed submission and for your ongoing commitment to ensuring that all projects serve the best interests of our community.

PRESERVING OUR COMMUNITY'S CHARACTER

OPPOSING THE SPECIAL PERMIT APPLICATION FOR A COMMERCIAL EVENTS VENUE

UNDERSTANDING THE PROPOSAL

- Proposed Building Size: 3,238 sq ft under roof
- Industry-Standard Allocation:
- 70% Guest-Facing Event Space: ~2,267 sq ft
- 30% Kitchen, Storage, and Support: ~971 sq ft

CAPACITY REALITY CHECK

- Use Type: Weddings/Events
- Space Per Guest: 12–15 sq ft
- Capacity Estimate: 150–190 guests

KEY CONCERNS

- Impact on Community: This commercial venue may significantly alter the local character and serenity of the area.
- Traffic and Noise: Hosting large-scale events for up to 190 guests could lead to increased traffic flow and noise pollution.
- Environmental Concerns: The proposed infrastructure may strain local resources and disrupt the surrounding ecosystem.

WHY PRESERVATION MATTERS

Maintaining the charm and integrity of our community is essential for long-term sustainability. Introducing a commercial events venue in this area may lead to irreversible changes that compromise the quality of life for current residents and future generations.

CALL TO ACTION

Your voice matters. Join us in opposing the special permit application by attending upcoming community hearings, signing petitions, and spreading awareness among friends and neighbors. Together, we can protect our community's unique character and ensure a harmonious future for all.

! CAPACITY REALITY CHECK

Proposed Building Size: 3,238 sq ft under roof; **Industry-Standard Allocation:**

- 70% Guest-Facing Event Space → ~2,267 sq ft
- 30% Kitchen, Storage, & Support → ~971 sq ft

Use Type	Sq Ft per Guest Capacity Estimate	
Weddings/Events	12–15 sq ft	150–190 guests
Restaurant Operation	15–20 sq ft	110–150 diners

➡ This size supports **commercial-scale operations**, not casual or occasional use.

Access, Traffic, & Safety Impacts

- 150–190 guests = **60–75+ vehicles** during events
- Even with shuttle vans or buses, the **increased frequency and volume of traffic** would overwhelm local infrastructure
- **Agricultural lot access roads** were never designed or built for **regular high-volume gatherings**
- Vendor deliveries, service vehicles, and resident traffic would all compete for limited access, creating unsafe congestion
- Emergency vehicle access and everyday safety would be compromised

Environmental & Wildlife Concerns

- Noise, lighting, and vehicle activity threaten native species such as **Nēnē** and **Pueo**
- Recurring events bring increased erosion, waste generation, and runoff, jeopardizing sensitive ecosystems
- These impacts violate the intent of the **Hawai‘i Environmental Policy Act (HEPA)** and run counter to our island’s ecological priorities

Zoning & Precedent Concerns

The proposed venue **conflicts with the intended agriculture and residential use of our neighborhood**. The structure, its guest capacity, and its use resemble a **commercial business model**, not occasional residential hosting.

Approval of this permit would set a dangerous **precedent**, inviting similar commercial ventures into Kaua‘i’s agricultural zones and fundamentally altering the rural identity of our communities.



SUMMARY TALKING POINTS FOR WRITTEN OR VERBAL TESTIMONY)

- The venue's size and guest volume **exceed limits compatible with residential/agricultural zoning**
- **Traffic volumes, shuttle service logistics, and road limitations** create serious health and safety concerns
- **Wildlife habitat and natural resources** face ongoing disruption
- The project undermines **community planning principles and long-term neighborhood integrity** and is **not compatible** with the intent of **Hawai'i Revised Statute §205**, the **Kaua'i General Plan**, or the **North Shore Development Plan**—all of which emphasize **maintaining the rural character of our island, keeping agricultural lands in agricultural production, and preserving large amounts of open undeveloped space**
- Additionally, **this proposal does not fulfil an unmet community need**. There are **several established wedding venues within five miles** of the property, including *Common Ground*, *Nā 'Āina Kai*, *'Āina Hou*, and the *Kilauea Farmer's Cooperative*.
- *Common Ground*—on a far larger agricultural parcel—already offers everything this project proposes without resorting to environmentally harmful activities such as UTV rides. Yet, **Common Ground continues to struggle financially**, which casts doubt on the viability of duplicative venues in this area
- Lastly, **the applicant has provided no business plan**: There is **no mention of total investment vs. annual return**, nor any **breakdown of revenue sources and expenses**. These omissions are critical—**without them, the planning commission cannot determine whether agriculture or the events operation is the primary use**, as required under the criteria for a special permit

Petition to Intervene

Petition to Intervene

Monday, June 16, 2025

BEFORE THE PLANNING COMMISSION

COUNTY OF KAUAI

Public Hearing scheduled on June 24, 2025

Applicant: Carol Cassiday Orr (Keala Ranch Tours)

In the Matter of the Requests for:

- **Class IV Zoning Permit No.:** Z-IV-2025-12
- **Use Permit No.:** U-2025-8
- **Special Permit No.:** sp-2025-5

Properties Affected:

- A parcel located in Pilaa, Hanalei, HI
- The parcel known as Keala Ranch Condominium CPR Unit No. 5, Kilauea, HI
Identified as Tax Map Key No. (4)/5-1-002:010 (CPR No. 0005)

Petition to Intervene as an Opposing Party by: Hui Kapuna Mauka An unincorporated community neighborhood group of property owners

1. Introduction

Pursuant to the Rules of Practice and Procedure of the Planning Commission of the County of Kaua'i, **Hui Kapuna Mauka** hereby submits this Petition to Intervene as an Opposing Party regarding the requests for a Class IV Zoning Permit, a Use Permit, and a Special Permit, as described above. We are an unincorporated community neighborhood group comprised of property owners with homes and/or land on the mauka side of the highway on Kapuna Road.

2. Interest in Proceeding

Hui Kapuna Mauka consists primarily of owner-occupants who have resided in their homes for periods ranging from five to over twenty-four years. As long-standing residents and property owners in the vicinity, we hold a substantial interest in this proceeding. The issuance of these permits threatens to adversely affect our property rights, quality of life, and the environmental, cultural, and rural character intrinsic to our community.

Petition to Intervene

3. Basis for Opposition

The permit requests and the associated development activities raise several significant concerns, including, but not limited to:

- **Incomplete, Erroneous, or Misleading Application:** The permit application is incomplete, contains significant errors, and presents information that is misleading. This undermines confidence in the review process and fails to provide a reliable basis for evaluating the full range of potential impacts.
- **Loss of Agricultural Land and Local Resources:** Converting these parcels for commercial or mixed use jeopardizes local food security and undermines community sustainability by displacing vital agricultural resources.
- **Increased Traffic and Strained Infrastructure:** Commercial development is anticipated to generate considerable additional vehicle and pedestrian traffic, likely straining existing roadways and infrastructure and potentially compromising public safety. Alternate access routes should be used or acquired to ensure safe entry and exit for the applicant's guests without affecting the safety of residents and school-goers. Furthermore, an emergency “first-responder plan of action” must be established to address potential traffic impacts and facilitate rapid response in the event of an emergency.
- **Environmental Impacts:** The proposed permits may lead to increased runoff, habitat destruction, and degradation of watershed health, which could result in long-term negative effects on local environmental quality.
- **Disruption of Rural and Cultural Character:** Altering current land uses risks undermining the rural and cultural identity that has long defined our community, thereby harming our traditional heritage and adversely impacting quality of life.
- **Inconsistency with the Kaua‘i General Plan:** The proposed changes conflict with established community development objectives and planning guidelines designed to protect local resources and foster balanced growth.
- **Breach of Agricultural Dedication and Procedural Violations:** The Applicant agreed in 2018 to maintain an agricultural dedication for the property. However, the current proposed use of the property—requiring the Class IV Zoning Permit, the Use Permit, and the Special Permit—is being advanced without a proper public hearing and full regulatory review. This represents a flagrant violation of the agreed-upon conditions and applicable rules and regulations.

4. Inadequate Community Input and Environmental Review

The permit application process has not provided sufficient opportunities for robust public engagement, nor does it comprehensively address the cumulative environmental, cultural, and socioeconomic impacts associated with these proposed changes. Furthermore, the Applicant has shown no proactive attempts at community engagement. This oversight severely limits the community’s ability to contribute meaningful input into the decision-making process.

Petition to Intervene

5. Conclusion and Request

For the reasons stated above, the Petitioner respectfully urges the Planning Commission to:

- **Deny the Permit Requests:** Approving the Class IV Zoning Permit, Use Permit, and Special Permit would result in adverse impacts that far outweigh any potential benefits to our community.
- **Grant Full Intervenor Status:** We request the right to participate fully as an opposing party in this proceeding. This will enable us to present evidence, question witnesses, and submit briefs to thoroughly represent our community's perspective.
- **Acknowledge the State Land Use Commission Review Requirement:** We believe that regardless of the decision on intervenor status, the applicant and this project remain subject to review and approval by the State Land Use Commission. This additional layer of state-level oversight is essential to ensure full compliance with state agricultural, environmental, and land use policies.

6. Benefits of Granting Intervenor Status

Allowing Hui Kapuna Mauka intervenor status will strengthen the Commission's commitment to inclusivity by ensuring that all stakeholders have a voice in this process. It will promote public engagement, facilitate greater agency input, and enable those most affected by this project to seek answers to specific aspects of the plan which the applicant has not fully elaborated on or communicated. This essential component of honest, two-way, and meaningful communication between the applicant and those directly impacted is critical for the integrity and success of the planning process.

7. Contact Information

Hui Kapuna Mauka
c/o John F Friedman
4690 Kapuna Rd
Kilauea HI 96754
Call or text (808) 651-1276 or (808) 651-9506
Email mkr@mykauairealty.com

Respectfully submitted,



John F. Friedman
Authorized Representative

Date: June 16, 2025

91-024029

RECEIVED
ELECTRONIC REGISTRATION SYSTEM

FEB 25 AM 8 01

S. FURUKAWA, REGISTRAR

LAND COURT

R83UIM SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICK-UP ()

Lowenthal, August, Graham
Kokua Professional Building
2959 Umi Street, Ste. 202
Lihue, Kauai, Hawaii 96766

TGA 109842 B
- R15 ①

Loka Partners II, as Grantee. recorded in the Bureau of Conveyances of the state of Hawaii as Document No. 90-137983, incorporated herein by reference (hereinafter "Loka Partners Deed"); and

WHEREAS, the Declarant is developing the Waipake Property into an agricultural subdivision to be known as the Waipake Subdivision, Unit I (hereinafter "Subdivision Unit I"); and

WHEREAS, the county of Kauai Planning Commission ("Planning Commission") has required, in Subdivision Application S-90-10, as a condition for final subdivision approval, that the lots in said Subdivision Unit I be subject to certain restrictive covenants and conditions as hereinafter contained and that such conditions and covenants be recorded in the Bureau of Conveyances of the State of Hawaii as conditions running with the land; and

WHEREAS, the Declarant intends to impose certain Easements, Reserves, and other Restrictions upon the lots in the Subdivision Unit I in order to provide for access, utilities, setbacks and other such uses, and to limit and control the uses to which the lots might be put and the nature and types of structures which might be constructed;

NOW, THEREFORE, the Declarant does hereby declare that Lots 1 through 14, inclusive, in Subdivision Unit I, resulting from the subdivision of the Waipake Property, shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to the following limitations, restrictions, covenants, conditions, reserves and easements, which shall run with the land and shall be binding upon all persons, entities or corporations

having, or who may acquire, any right, title or interest in and to said lots and shall inure to the benefit of the Declarant, the county of Kauai, the owners and beneficiaries of the easements and reserves granted herein, and each person who becomes an owner of any said lots:

SECTION I.

DECLARATION OF
RESTRICTIVE COVENANTS AND CONDITIONS

1. PUBLIC REGULATIONS. The owner of each Subdivision Unit I lot is responsible for being informed of and complying with any and all appropriate Federal, State and County laws, rules, regulations, codes and ordinances which are applicable to the lot. No owner, nor the owner's invitees, guests, tenants or lessees shall commit any act or cause or keep, nor suffer to be caused or kept, anything or object which would constitute a violation of any law, rule, regulation, code or ordinance of any governmental agency or body. If a standard set forth herein differs from standards established by a governmental agency, the stricter standard shall apply.

2. DESIGN REVIEW CONSULTANT. Declarant shall select, as a consultant to review plans and proposals for construction on Subdivision Unit I lots, an architect licensed by the State of Hawaii. For a period of three (3) years subsequent to the sale of the last lot within Subdivision Unit I by Declarant, any owner of any lot who proposes to construct any structures shall present to a Design Review consultant, as from time to time selected by the Declarant, any and all plans for the construction

of any improvements prior to securing governmental permits to construct the same and prior to constructing the same.

In order to avoid conflicts in situations where a lot owner has retained an architect who may have been selected by the Declarant to be a Design Review Consultant to prepare the lot owner's plans, the Declarant may designate one or more licensed architects to be a Design Review Consultant. No architect who has been retained by a lot owner to prepare plans can review, in the capacity as Design Review Consultant, said lot owner's plans.

Each lot owner so required to present construction plans to a Design Review Consultant shall be responsible for the payment of any and all reasonable fees and costs incurred for such design review and assessed by the Design Review Consultant.

After the expiration of the three (3) year period of time following the sale of the last of the Subdivision Unit I lots by Declarant, a homeowners' association of the owners of Subdivision Unit I may be formed by registering a Hawaii non-profit corporation for the purposes of design review of structures and improvements, if the owners of no less than 75% of all of the Subdivision Unit I lots so provide in writing.

3. DESIGN REVIEW CONSULTANT APPROVAL: THE "OWNER" No person shall develop, use, modify, alter, construct, erect, place or maintain any building, structure, facility, utility, improvement, or other object on any lot except in strict accordance with the approved plans and specifications previously submitted to and approved by the Design Review Consultant. The Design Review consultant shall either deny, approve or approve

with modifications such plans presented within thirty (30) working days of submittal of all necessary documents, otherwise such plans shall be deemed to be approved. Such plans and specifications shall contain such information, diagrams, maps and drawings as may be required by the Design Review Consultant, including, but not limited to: floor, elevation, plot and grading plans; specifications of construction materials and techniques and color schemes; the location, character and method of utilization of all utilities; landscape plans; all driveways and automobile or other parking provisions; any outside lighting plans and a construction schedule for any such work. The Design Review Consultant may require that any or all of such plans and specifications be prepared by a registered architect or professional engineer licensed in the State of Hawaii. If any person shall fail to obtain or follow such approved plans or specifications, the Declarant, the owners of other lots in subdivision unit I, and/or the county of Kauai may bring suit as provided in paragraph 23 herein, to enforce this provision.

4. DESIGN REVIEW CONSULTANT GUIDELINES. In passing upon all such plans and specifications presented, the Design Review consultant shall take into consideration: the size, configuration, location and natural features of the lot in question; the location of the proposed improvements on the lot; the effect the improvements will have on other existing or planned improvements on other lots in Subdivision Unit I; and the visual impact the proposed improvements will have when viewed from other lots in Subdivision Unit I. The Design Review

Consultant shall use reasonable judgment in passing upon all such plans and specifications, and may, if necessary, consult with the Declarant for the purposes of determining whether plans and specifications should be denied, approved, or approved with modifications, but shall not be liable to any person for its actions in connection with submitted plans and specifications, unless it can be shown that the Design Review consultant acted with the actual intent to commit a wrongful act.

5. DEVELOPMENT STANDARDS The following standards shall apply to any and all construction, use or development within Subdivision Unit I:

(a) Every structure, including accessory structures, buildings or other improvements, shall be located a minimum of 25 feet from the front, rear and side boundaries of each lot.

(b) With the exception of sky lights and roof windows, the roofs of every structure, including accessory structures, buildings or other improvements, shall have a pitch of no less than one foot vertical to three feet horizontal and no more than one foot vertical to one foot horizontal, and shall be constructed or made of wood shake or shingle, clay tile, composition shingle or other material of minimum reflectivity. The use of any roofing material which is highly reflective, such as corrugated iron, tiles with smooth shiny finishes and the like or which is inappropriately colored, shall be prohibited.

(c) Geodesic domes and structures which incorporate

geodesic dome shapes in their external design are prohibited. Quonset hut structures are prohibited in the external design of farm dwellings and guest houses.

(d) Except when utilized on solar panels, no highly reflective finish, other than glass, shall be used on exterior surfaces, including without limitation, roofs, exterior walls, doors, trim, fences, pipes, permanent outdoor equipment, mailboxes and newspaper delivery tubes. Windows may not be mirrored to reflectivity in excess of thirty percent (30%).

(e) Each farm dwelling which consists of more than a single-story which is erected, constructed or maintained on any lot shall have a total first (ground) floor living area containing not less than 1,000 square feet, exclusive of lanais, patios, attached guest house or facility, garage, carport, storage space and workshop areas. The first (ground) floor shall not be placed, erected, constructed or maintained at a level higher than three (3) feet above the highest finished grade or ground elevation of the lands immediately below said structure.

(f) Notwithstanding the foregoing provision, a lot owner may erect, construct or maintain a guest house with a floor area of 500 square feet or less, for temporary use as a farm dwelling, subject to receiving in advance approval from all necessary governmental agencies for the installation of a kitchen as defined by Chapter 8 of the Kauai county code, during such period of time that such

owner is in the process of erecting and constructing his farm dwelling and for such period as may be allowed by said governmental agencies, but in no case to exceed a period of five (5) years.

(g) Every improvement constructed on a lot shall be completed in accordance with the construction schedule approved by the Design Review Consultant.

(h) No farm dwelling may be erected, constructed or **maintained** which has a height exceeding 25 feet measured vertically from grade at all points along the structure to the roof peak. No other accessory structure, building or improvement may be erected, constructed or maintained which has a height exceeding 18 feet measured vertically from grade at all points along the structure to the roof peak.

6. UTILITY FACILITIES No overhead power lines or wires may be erected, installed or maintained on or above any lot except by the Declarant, or by a public or private utility authorized to do so by the Declarant. No wind generators shall be erected, installed, constructed or maintained on any lot. No antennae, aerials, satellite discs or dishes or other devices for the reception or transmission of radio or television broadcast signals or other means of communication shall be erected, installed, constructed or maintained on any lot unless such devices are reasonably screened from adjoining properties and roadways. All other utilities within a lot shall be placed underground or screened from view from adjoining properties and roadways.

7. TEMPORARY STRUCTURES No house trailer, mobile home, temporary building, structure, outhouse, shed or tent of any kind shall be erected, constructed, placed or maintained on any lot, except as expressly provided herein. Subject to prior Design Review Consultant approval, temporary structures or trailers may be erected, constructed or placed on any lot during the period of construction of permanent improvements, in no case to exceed twelve (12) months, for use as a construction office and supply shelter, but in no event as a residence. The temporary construction structures or trailers shall remain upon the lot only during the period of construction of permanent improvements thereon, and must be removed within thirty (30) days after completion of such construction. Any surplus material from construction shall be removed within said thirty (30) day period of time.

B. NOXIOUS OR OFFENSIVE ACTIVITIES No noxious or offensive activity shall be carried out on any lot, nor shall anything be done or placed on any lot which is or may become a nuisance or cause embarrassment, disturbance or annoyance to owners of other lots. Any planting or vegetation which cannot be effectively limited from encroaching upon or infesting neighboring property shall be deemed a noxious activity, and each owner shall take positive steps to eliminate such planting or vegetation from his lot. No hunting is permitted. Lot owners shall not allow any unreasonable odor, smoke, dust, light, electronic wave emissions, or noise which is noxious or offensive to any other Subdivision Lot owner to emit or emanate from their

lot.

9. INSIGHTLINESS. No unsightly structure or condition which may substantially diminish the value or quiet enjoyment of other Subdivision lots shall be caused or permitted on any lot. Without limiting the generality of the foregoing, all unsightly structures, facilities, equipment, objects and conditions shall be reasonably screened from view from neighboring lots or roadways. No lot shall be used or maintained as a dumping ground or landfill area for rubbish, trash, garbage or other waste (with the exception of well and sanitarly maintained compost piles). All equipment for the storage or disposal of such material shall be kept in clean and sanitary condition and containers. Rubbish, trash, garbage or other waste, including their containers, shall not be left for refuse pickup or disposal more than 24 hours prior to any scheduled pickup.

10. - No sound shall be permitted to emit or emanate from any lot which is unreasonably loud or annoying or which violates any applicable governmental rule, law or ordinance. security devices used exclusively for the protection of persons or property are permitted.

11. LIGHTING. No exterior lighting on any Subdivision Lot may be installed without prior approval of the Design Review Consultant. All exterior lighting which is unreasonably bright or causes unreasonable glare must be shielded from view by neighboring lots. High intensity discharge exterior lights, including, without limitation, mercury or sodium vapor lamps or lamps which emit light of a similar nature and character, strobe

lamps, and neon lamps and tubing, are not permitted. All exterior lights shall have shields which deflect light towards the ground.

12. - All animals kept or maintained on any lot, whether domestic pets, livestock, poultry, game and fish, or any other animal or aquatic life propagated for economic or personal use, shall be kept and maintained only in numbers and at a density compatible with neighboring residential or agricultural uses within the Subdivision, and shall receive care in conformance with practices of good animal husbandry, including but not limited to:

(a) prompt removal of excess amounts of manure and other waste;

(b) disposal, in an ecologically sound manner, of any effluent from the practice of aquaculture or other processes;

(c) control of flies, insects, worms, and other pests and parasites;

(d) adequate fencing and animal housing or shelter facilities, sufficient to restrict and confine such animals and poultry to the lot upon which they are kept and maintained; and

(e) control of noxious or offensive odors to levels which are customary under practices of good animal husbandry, and which are compatible with neighboring residential and agricultural uses.

Notwithstanding the foregoing or any other provision herein

contained, no more than five (5) dogs, five (5) pigs, and twenty-five (25) wild or domestic fowl may be kept or maintained, for each dwelling unit to which each lot is entitled.

13. - Prior to commencing any site improvements in the nature of grading or grubbing, the owner of each lot shall obtain a grading or grubbing permit, as the case may be, from the county of Kauai if the same is required by any governmental rule, regulation, law or ordinance. Excessive cuts or filling shall be avoided. In the event of any excavation on a lot, the owner doing or causing such excavation to be done shall provide such artificial lateral support as may be necessary to support adjacent lots. Each owner shall control dust during the grading or grubbing process to minimize damage, annoyance or inconvenience to other lot owners.

14. FLOODING AND EROSION The drainage control ordinances of the County of Kauai are explicit and each lot owner shall comply with the same. No owner shall permit or cause to be constructed on his lot any improvements which create a problem of flooding, erosion or interference with the natural flow of water, or which will damage his lot or other properties, nor shall any owner fail to act to minimize runoff damage or interference with the natural flow of storm waters and surface runoff. Lot Owners shall maintain existing drainage patterns to the extent reasonably possible and shall be solely responsible for resolving any offsite drainage or flooding problems accused by the owner's development or use of his lot.

15. MAINTENANCE OF LOTS AND LANDSCAPING Each lot, whether

occupied or unoccupied, and all improvements or structures placed, erected, constructed, installed or maintained thereon, shall at all time be kept and maintained in good, clean and attractive condition and in such manner as to prevent the lot and its improvements or structures from becoming unsightly, unsanitary, or a hazard to health. Each owner shall, at his own expense, trim and maintain all trees, shrubs and plantings to prevent overhang or other encroachment above or upon any adjoining property or roadway, and to prevent material interference with the view across such lot from other lots in Subdivision Unit I. Windbreak plantings or vegetation which are growing, planted, placed or aligned in a dense and linear trend shall be trimmed regularly and maintained at heights not to exceed twelve (12) feet.

16. - No signs or advertising devices of any nature or kind shall be erected, placed, installed, constructed or maintained on any lot, except:

(a) such signs as may be required to be posted by order of any court of competent jurisdiction;

(b) signs which have a combined total face area of not more than 1 1/2 square feet, necessary to identify the owner or occupant of any lot and his address;

(c) a maximum of one (1) sign not exceeding 1 1/2 feet by 2 feet in size, indicating or advising that the lot on which it has been installed, placed or situated is for sale or for rent;

d) signs which are necessary or desirable to give

direction, advise of rules or regulations, or caution or warn of hazard or danger;

(e) a maximum of one (1) job identification sign per contractor or subcontractor having a maximum face area of six (6) square feet, during the period of actual construction on a lot;

(f) not more than one (1) commercial sign having a maximum face area of six (6) square feet, and which can only refer to the sale of agricultural or related products produced on the lot on which the said sign is installed, placed or situated.

17. PROHIBITED USES AND ACTIVITIES. The following uses and activities are prohibited on any lot in Subdivision unit I, unless the owner of the lot on which such use or activity is proposed shall have first obtained written authorization to commence such use or activity from no less than all of the owners of record of at least 75% of the lots in said Subdivision, and all necessary governmental authority or permission:

- (a) animal hospitals;
- (b) cemeteries;
- (c) churches and monasteries;
- (d) commercial recreation;
- (e) construction and worker temporary housing;
- (f) development campgrounds;
- (g) mineral extraction and quarries;
- (h) private and public utility facilities;
- (i) transportation terminals;

- (j) communications facilities;
- (k) slaughter houses.

18. STATE LAND USE RESTRICTIONS. As long as a lot in subdivision Unit I shall remain in the State Land Use Agriculture District, then such lot shall be subject to the following conditions:

(a) Pursuant to Chapter 205, Hawaii Revised statutes, the use of the lots shall be primarily in pursuit of agricultural activities and only for those uses permissible in an agricultural district as contained in Section 205-4.5, Hawaii Revised Statutes ("HRS"), as amended from time to time, which lists permissible uses as follows:

"Within the agricultural district all lands with soil classified by the Land Study Bureau's Detailed Land Classification as overall (Master) Productivity Rating Class A or B shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage and timber;
- (2) Game and fish propagation;
- (3) Raising of livestock, including but not limited to poultry, bees, fish or other animal or aquatic life that are propagated for economic or personal use;
- (4) Farm dwellings, employee housing, farm buildings, or activity or uses related to farming and animal husbandry;
- (5) Public institutions and buildings which are necessary for agricultural practices;
- (6) Public and private open area types of recreational uses including day camps, picnic grounds, parks and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;
- (7) Public, private and quasi-public utility lines and roadways, transformer stations, solid waste transfer stations, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage repair or maintenance, treatment plants and major storage tanks not ancillary to agricultural practices, or corporation yards or other like structures;

(8) Retention, restoration, rehabilitation or improvement of buildings or sites of historic or scenic interest:

(9) Roadside stands for the sale of agricultural products grown on the premises:

(10) Buildings and uses, including but not limited to mills, storage and processing facilities maintenance facilities that are normally considered direct accessory to the above-mentioned uses: or

(11) Agricultural parks."

(b) Notwithstanding the foregoing provisions of section 205-4.5, Hawaii Revised Statutes, the uses and structures described above in HRS Section 205-4.5(a)(5), (6) and (9) are not permitted on any of the subdivision lots.

(c) Dwellings on such lots shall be limited to farm dwellings, defined in the State Land Use District Regulations as single-family dwellings located on and used in connection with a farm where agricultural activity provides income to the family occupying the dwelling.

19. HEALTH REQUIREMENTS. In the development and use of any of the lots, the owner shall at all times meet County of Kauai requirements and State of Hawaii, Department of Health, requirements with regard to the availability of potable water: the raising of livestock, domestic fowl and other animals: and nuisances related to odor, noise, rodents and insects or, if applicable, any more stringent requirements herein contained.

20. RELEASE OF RIGHTS TO THREE-PHASE POWER INSTALLATION. All of the lots of Subdivision Unit I are subject to that certain Agreement to Release Rights to Three-Phase Power Installation which shall be entered into by and between Declarant and Citizens Utilities Company (hereinafter "Citizens"), and to be recorded in the Bureau of Conveyances of the State of Hawaii, by which the

owners waive, and release Citizens from, any responsibilities that Citizens might have to provide three-phase electrical power to the lots, and hold Citizens harmless from any claims that may arise as a result of Citizens' refusal or failure to supply three-phase electrical power to said lots.

21. DOMESTIC WATER Domestic water service will not be available until the required construction improvements for this subdivision have been completed and accepted by the Department of water, County of Kauai.

22. PERMANENT RESTRICTIVE COVENANTS The covenants and conditions contained in paragraph 18 shall continue and be in full force and effect as to any particular lot until such time as the subject lot is reclassified to a State Land Use District classification other than the "Agricultural" district classification. The covenants and conditions contained in paragraph 17 shall continue and be in full force and effect as to any particular lot until such time as the subject lot is rezoned to a County zoning district other than the "Agricultural" or the "Open" zoning districts. The restrictive covenants and conditions contained in paragraph 19 shall remain in full force and effect so long the county of Kauai and State of Hawaii, Department of Health requirements shall remain in full force and effect. The covenants and conditions contained in paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 shall remain in full force and effect until December 31, 2015. The covenant and condition contained in paragraph 20 shall remain in full force and effect until Citizens Utilities Company executes and records

a release or cancellation of the Agreement to Release Rights to Three-Phase Power Installation. The covenant and condition contained in paragraph 21 shall remain in full force and effect until the Department of Water, County of Kauai, has accepted the water facilities construction improvements for the subdivision.

23. . Any breach of any of the provisions of this Declaration may be enforced by injunctive or other legal remedies by the Declarant, the owner of any lot within Subdivision Unit I, or the County of Kauai. If any of such person or entities shall be successful in preventing or enforcing against such breach, then such person or entity shall be entitled to recover its attorney's fees and costs of enforcement from the offending party.

SECTION II

EASEMENTS, RESERVATIONS AND RESTRICTIONS.

Lots 1 through 13, inclusive, of Subdivision Unit I shall be subject to the following described easements, reservations and restrictions:

1. Subdivision Unit I lots 1 through 14, or portions thereof, are within the Flood Zone as defined by the County of Kauai and as shown on the Final Subdivision Map approved by the Planning Commission, a reduced copy of which is attached hereto and incorporated herein as Exhibit "A" (hereinafter the "Final Subdivision Map"), and shall be subject to all county of Kauai restrictions concerning construction, development and uses within such zone.

2. Subdivision Unit I lots 1 through 14 are subject to the condition that the owners thereof allow for free flowage of storm water runoff.

3. Subdivision Unit I lot 23 is subject to the condition that the lot is restricted to use for roadway purposes only. Upon written request by the County of Kauai, the owner of said lot 23 shall, at no cost to the County of Kauai, dedicate and convey said lot 23, in fee, to the county of Kauai for roadway purposes.

4. Subdivision Unit I lots 6, 7, B, 9, 12 and 13 shall be subject to the restriction of access along Kuhio Highway as shown on the Final Subdivision Map.

5. Subdivision Unit I lot 23 is subject to Easement "A", as described in Exhibit "B" attached hereto and incorporated herein, Easement "A" being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, fifty-six (56) feet in width, together with the right to construct, install, repair and maintain said access and utility facilities, in favor of Subdivision Unit I lots 1, 10 and 14, and those certain parcels of real property identified as Kauai Tax Map Key Nos.: 5-1-02-1 and 5-1-02-10.

6. Subdivision Unit I lot 5 is subject to Easement "C", as described in Exhibit "C" attached hereto and incorporated herein, Easement "C" being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, fifteen (15) feet in width, together with the right to construct, install, repair and maintain said access and utility facilities, in favor

of Subdivision Unit I lots 4, 8 and 9.

7. Subdivision Unit I lot 6 is subject to Easement "B", as described in Exhibit "D" attached hereto and incorporated herein, Easement "B" being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, fifty-six (56) feet in width, together with the right to construct, install, repair and maintain said access and utility facilities, in favor of Subdivision Unit I lots 5 and 7 and that certain real property identified as Kauai Tax Map Key No.: s-1-02-s.

a. Subdivision Unit I lot 8 is subject to Easement "D", as described in Exhibit "E" attached hereto and incorporated herein, Easement "D" being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, fifteen (15) feet in width, together with the right to construct, install, repair and maintain said access and utility facilities, in favor of Subdivision Unit I lots 4, 5 and 9.

9. Subdivision Unit I lot 10 is subject to Easement "E", as described in Exhibit "F" attached hereto and incorporated herein, Easement "E" being an exclusive easement for water facilities and drainage purposes, twenty (20) feet in width, together with the right to construct, install, repair and maintain said water and drainage facilities, in favor of Subdivision Unit I lot 14.

10. subdivision Unit I lot 7 is subject to Easement "F", as described in Exhibit "G" attached hereto and incorporated herein, Easement "F" being a non-exclusive easement for roadway return radius purposes containing 193 square feet, together with the

right to construct, install, repair and maintain said roadway return radius improvements, in favor of Subdivision Unit I lots 5 and 7 and Kauai Tax Map Key No.: s-1-02-s.

11. Subdivision Unit I lots 1 through 13 shall be subject to the exception and reservation unto the Oeclarant, of easements for roadway, electrical, gas, communications and other utility purposes and for sewer, drainage and water facilities, over, under, along, across and through said lots, together with the right to grant to the United States of America, the State of Hawaii, the County of Kauai, the Board of Water Supply of the County of Kauai, or any other appropriate governmental agency or public utility, or to any other public or private corporation or association, or to any individual, easements for such purposes over, under, across, along and through said real property under the usual terms and conditions required by the oecclarant or the grantee for such easement rights; provided, however, that such easement rights must be exercised in such manner as will not unreasonably interfere with the use of said lots by the owner or owners thereof, their successors and assigns, and in connection with the installation, maintenance or repair of any facilities pursuant to any of said easements said lots shall be promptly restored by and at the expense of the persons owning and exercising such easement rights to the condition of said lot immediately prior to the exercise thereof. Oeclarant shall have the right to grant any such easements without the consent or joinder of the person or persons then owning any such lot affected for a period of five (5) years subsequent to the sale of

the last lot within Subdivision Unit r.

12. The easements, reserves, rights, duties, restrictions and obligations conferred or imposed pursuant to paragraphs 1 through 11 above shall inure to the benefit of, and/or be binding upon, the owners or beneficiaries of such easements or reserves, the owners of Subdivision Unit r Lots 1 through 13, and 23, the Declarant, and/or the county of Kauai, as the case may be, together with their respective estates, heirs, personal representatives, successors, assigns, successors in interest, or any person or entity claiming by or through them.

SECTION III

GRANT OF EASEMENTS TO LOTOWNERS AND OTHERS

The Declarant, having reserved certain easements in the Subdivision as previously described in Section II, above, hereby declares, gives, grants and conveys to the following described persons in perpetuity the following easements:

1. To the owner of Subdivision Unit I lots 1, 10 and 14 and the owner of Kauai Tax Map Key Nos: s-1-02-1 and s-1-02-10, and to Declarant, Easement "A", as described in Exhibit "B", attached hereto and incorporated herein, being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, together with the right to construct, install, repair and maintain said access and utility facilities; provided that the owner of lot 23 shall retain the right to use said easement area for vehicular and pedestrian access purposes, and to construct, install, repair and maintain said access

facilities.

2. To the owner of Subdivision Unit I lots 4, 8 and 9 and to Declarant, Easement "C", as described in Exhibit "C", attached hereto and incorporated herein, being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, together with the right to construct, install, repair and **maintain** said access and utility facilities; provided that the owner of lot 5 shall retain the right to use **said** easement area for vehicular and pedestrian access to his lot, and to construct, install, repair, and maintain said access facilities.

3. To the owner of Subdivision Unit I lots 5 and 7, to the owner of Kauai Tax Map Key No. 5-1-02:5 and to Declarant, **Easement "B"**, as described in Exhibit "D", attached hereto and incorporated herein, being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, together with the right to construct, install, repair and maintain said access and utility facilities; provided that the owner of lot 6 shall retain the right to use said easement area for vehicular and pedestrian access to his lot, and to construct, install, repair, and maintain said access facilities.

4. To the owner of Subdivision Unit I lots 4, 5 and 9 and to declarant, Easement "D", as described in Exhibit "E", attached hereto and incorporated herein, being a non-exclusive easement for vehicular and pedestrian access and underground utility purposes, together with the right to construct, install, repair and maintain said access and utility facilities; provided that the owner of lot 8 shall retain the right to use **said** easement

area for vehicular and pedestrian access to his lot, and to construct, install, repair, and maintain said access facilities.

5. To the owner of Subdivision Unit I lot 14, Easement "E", as described in Exhibit "F", attached hereto and incorporated herein, being an exclusive easement for water and drainage facilities purposes, together with the right to construct, install, repair and maintain said water and drainage facilities.

6. To the owner of Subdivision Unit I lots 5 and 7 and Kauai Tax Map Key No.: s-1-02-s, Easement "F", as described in Exhibit "G", attached hereto and incorporated herein, being a non-exclusive easement for roadway return radius purposes, together with the right to construct, install, repair and maintain said roadway return radius improvements.

TO HAVE AND TO HOLD the same unto the respective persons above-named for so long as the respective Easements shall be used for the purposes stated herein.

PROVIDED, THAT, these grants of easements are made on and subject to the following conditions:

1. Neither the owner of any Subdivision Unit I Lot subject to an easement (hereinafter "Lot Owner"), nor the owner or beneficiary of the above-described easements, or any of them, (hereinafter "Easement Owners"), shall at any time during the term of this indenture erect any building, structure or improvement of any kind, above or on the surface of any of the lands subject to the above described easements (hereinafter "Easement Areas"), except as provided in this Declaration.

2. Any utility structures or equipment constructed, reconstructed or installed by any Easement owner within the Easement Area shall be and remain the property of the person constructing the same.

3. If at any time an Easement Area, or any part thereof, shall be condemned or taken for any public project by any governmental authority, the Easement Owner shall have the right to claim or recover from the condemning authority, but not from the Declarant, such compensation as is payable for the said Easement and the rights granted herein.

4. Any Easement owner that installs, repairs or removes any structures or equipment on or in an Easement Area will restore the surface of the ground to its original condition to the extent that such restoration is reasonably possible.

5. After the original installation of any structure or equipment on or in an Easement Area, the expense of any removal or relocation thereof shall be the responsibility of any person requesting or desiring same.

6. Each Easement Owner shall have the right, as reasonably necessary, to install, repair, maintain or remove any structures or equipment on or in an Easement Area and to repair and maintain the Easement Area as may be necessary to exercise his rights as granted herein.

7. Each Easement Owner will exercise his rights hereunder in such manner as to occasion as little interference as reasonably necessary with the use of said Easement Area by the Lot owner or any other Easement owner.

8. Each Easement owner agrees to indemnify and hold harmless the Declarant and the Lot owner against all claims, suits and actions by whomsoever brought on account of injuries or damages to persons or property resulting from either the Easement owner's exercise of his rights as granted herein or from any other person's use of the Easement Area pursuant to the rights granted to the Easement owner.

9. Each individual Easement owner agrees to use due care in exercising his rights hereunder so as to avoid any damage to the Lot owner's real property, and improvements and personal property located thereon, and to be absolutely liable to the Lot owner for the full extent of any damages which the Easement owner may cause to the Lot Owner's real property or improvements or personal property located thereon, resulting from the Easement owner's exercise of his rights as granted herein.

10. Each Easement Owner shall give the other Easement owners and the Lot owner at least forty-eight (48) hours prior notice of his intent to enter onto the Easement Area in order to install, repair, maintain or remove any structures or equipment in the Easement Area in accordance with the provisions of paragraph (6), which entry shall be restricted to reasonable daylight hours. However, the restrictions of this paragraph shall not be required for the making of emergency repairs necessary to protect the Easements or any of the Easement owner's personal and real property or improvements located thereon.

11. These easements and the rights granted hereunder shall run solely in favor of the Easement owners described above and

may not be assigned, granted or otherwise given for the purpose of benefitting any other person, entity, or real property, except to a successor in ownership; provided, however, that this restriction shall not apply to Declarant, who reserves the right and power as an Easement Owner to grant or assign such further easements or easement rights as Declarant in its sole judgment deems appropriate.

12. The Easement Owners' rights shall be strictly limited to those necessary to allow them to utilize the Easement Area for the purposes intended and described above. The Easement Owners shall have no right to utilize an Easement Area for purposes unrelated to the exercise of their rights hereunder.

13. For the purposes of this document, the term "utility" shall include services for water, telephone, gas, electric, cable television and other services employing electrical or electronic means of transmission.

14. The Easement Owner's rights hereunder shall be limited to those uses legally permitted on their lots and for no other purposes.

15. The Easement Owners shall be responsible for (a) maintaining the Easement Area in which they have easement rights in a good, clean, safe, sanitary and well-kept condition, and (b) maintaining and repairing any facilities or improvements which they own, in whole or in part, in any Easement Area in which they have easement rights in good and safe repair and condition. The Easement owners shall share the cost of constructing, installing, maintaining, repairing and operating any facilities or

improvements in any Easement Area (including, but not limited to, road, access, driveway, waterline, utilities, irrigation, and drainage facilities) in proportion to their individual use thereof.

IT IS AGREED AND UNDERSTOOD that the rights and obligations set forth herein shall be binding upon, and inure to the benefit of, the Easement owners and the Lot owners and their respective estates, heirs, personal representatives, successors, successors in trust and assigns.

IT IS FURTHER AGREED AND UNDERSTOOD that the terms "Declarant", "Easement owner", "Lot owner", and "Owner", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine or feminine, the singular or plural number, individuals or corporation and their and each of their respective successors, heirs, personal representatives and assigns, according to the context thereof.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed on this 20th day of February, 1991.

LOKA PARTNERS II

By F,

UNITED DAIRY FARMERS DEVELOPMENT
AND LEASING CO., INC.

Its General Partner


JEFFREY S. LINDNER

Its General Partner

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

on this 4th day of JANUARY, 1991, before me personally appeared PAUL M. BRUNNER, to me personally known, who being by me duly sworn, did say he is the Treasurer of UNITED DAIRY FARMERS DEVELOPMENT AND LEASING COMPANY, INC., an Ohio corporation, one of the general partners of LOKA PARTNERS, an Ohio general partnership registered in the State of Hawaii, that the seal affixed to the foregoing instrument is the corporate seal of the said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors and in behalf of said partnership, and PAUL M. BRUNNER acknowledged the instrument to be the free act and deed of said corporation and said partnership.


Notary Public, State of Ohio

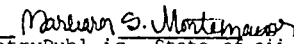
My commission expires:

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

DOREEN RAMSEY
Notary Public, State of Ohio
My Comm. Ex. W. 13, 1994

on this 20th day of _____, 1991, before me appeared JEFFREYS. LINDNER, personally known, who, being by me duly sworn, did say that he is a general partner of LOKA PARTNERS, an Ohio general partnership registered in the state of Hawaii, and that the foregoing instrument was executed in the name and on behalf of said LOKA PARTNERS, and the said JEFFREYS. LINDNER acknowledged said instrument to be the free act and deed of LOKA PARTNERS.

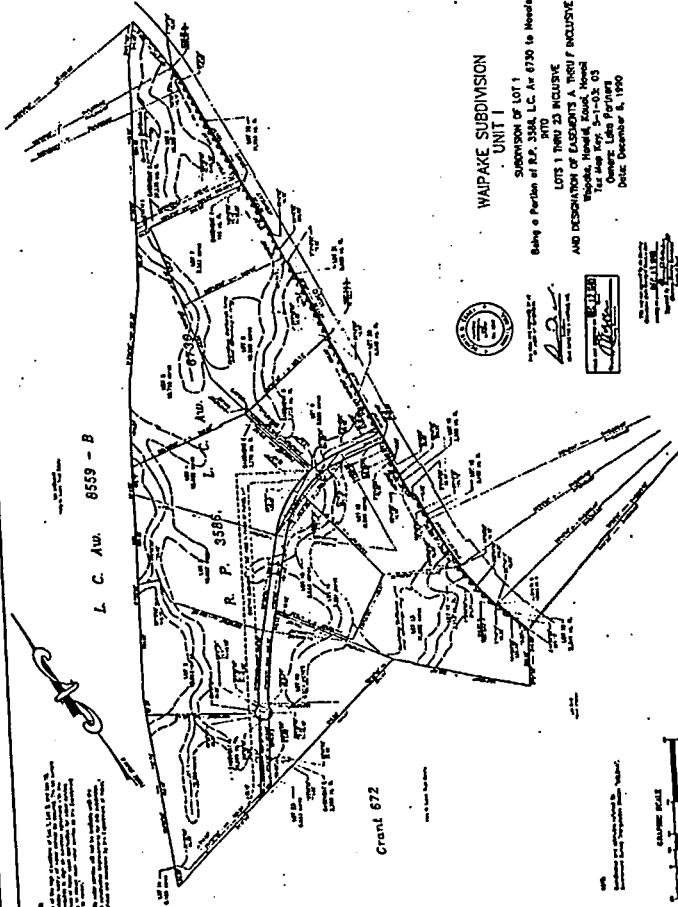
16


Notary Public, State of Hawaii

My commission expires: 6/1/94.

RECORDER'S MEMO: Legibility of Writing, Typing or Printing UNSATISFACTORY
In this Document when received.

EXHIBIT "A"



EASEMENT "A"
WAI PARE SUBDIVISION, UNIT I

LAND SITUATED AT WAI PARE, HANAIEI, MAUI, HAWAII

Being all of Lot 23, Waipake Subdivision, Unit I

Being Also a Portion of R.P. 3586, L.C. Aw 6730 to Naeole

Beginning at the East corner of this parcel of land, at the Southwest end of Roadway Lot 15, the coordinates of said point of beginning referred to Government survey Triangulation Station "MOLOAA" being 378.11 feet south and 15,347.20 feet West, thence running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|--------|--|
| 1. | 32° 55' | 443.69 | thence along the remainder of R.P. 3586, L.C. Aw 6730 to Naeole (Lot 10, Waipake Subdivision, Unit I); |
| 2. | 74° 31' | 84.35 | thence along Grant 672; |
| 3. | 212° 55' | 506.76 | feet along the remainder of R.P. 3586, L.C. Aw 6730 to Naeole (Lot 1, Waipake Subdivision, Unit I); |
| | | | Thence along the remainder of R.P. 3586, L.C. Aw 6730 to Naeole (Lot 15, Waipake Subdivision, Unit I), on a curve to the left with a radius of 48.00 feet, the chord azimuth and distance being: |
| 4. | 302° 55' | 56.00 | feet, to the point of beginning and containing an area of 0.603 acres. |

Said Easement (56 feet wide) for access and utility purposes in favor of Grant 672, Grant 758, Lot L-3-A-1 and Lot 14 (Waipake Subdivision Unit I).



Lihue, Hawaii
October 1990

DESCRIPTION PREPARED BY:
ESAKI SURVEYING AND MAPPING, INC.

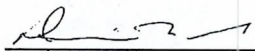

Dennis M. Esaki
Registered Professional Surveyor
Certificate Number 4383

EXHIBIT "B"

EASEMENT "C"
WAI PAKE SUBDIVISION, UNIT I

LAND SITUATED AT WAI PAKE, HANAIEI, KAUAI, HAWAII

Being a Portion of Lot 5, Waipake Subdivision, Unit I

Being Also a Portion of R.P. 3586, L.C. Aw 6730 to Naeole

Beginning at the southeast corner of this parcel of land, coordinates of said point of beginning referred to Government survey Triangulation Station "MOLOAA" being 751.23 feet North and 14,298.52 feet West, thence running by azimuths measured clockwise from true South:

		Along the remainder of R.P. 3586, L.C. Aw 6730 to Naeole (Lot 15, Waipake Subdivision, Unit I), on a curve to the left with a radius of 696.00 feet, the chord azimuth and distance being:
1.	78° 12' 57"	15.00 feet;
2.	168° 50'	518.60 feet along the remainder of R.P. 3586, L.C. Aw 6730 to Naeole (Lot 4, Waipake subdivision, Unit I);
3.	258° 50'	15.00 feet along the remainder of R.P. 3586, L.C. Aw 6730 to Naeole (Lot 5, Waipake Subdivision, Unit I);
4.	348° 50'	518.43 feet along the remainder of R.P. 3586, L.C. Aw 6730 to Naeole (Lot 8, Waipake subdivision, Unit I), to the point of beginning and containing an area of 7,778 square feet.



Lihue, Hawaii
December 15, 1990

DESCRIPTION PREPARED BY:
ESAKI SURVEYING AND MAPPING, INC.

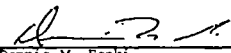

Dennis M. Esaki
Registered Professional surveyor
certificate Number 4383

EXHIBIT "C"

EASEMENT 1B
WAIPAKE SUBDIVISION, UNIT I

LAND SITUATED AT WAIPAKE, HANAIEI, KAUAI, HAWAII

Being a Portion of Lot 6, Waipake subdivision, Unit I

Being Also a Portion of R.P. 3586, L.C. Aw 6730 to Naeole

Beginning at the Southeast corner of this parcel of land, coordinates of said point of beginning referred to Government Survey Triangulation Station "HOLOM" being 2,439.85 feet North and 13,658.18 feet West, thence running by azimuths measured clockwise from true south:

- | | | | |
|---|----------|--------|---|
| 1 | 95° 43' | 674.79 | feet along the remainder of R.P. 3586, L.C. Aw 6730 to Naeole (Lots 5 and 7, Waipake Subdivision, Unit I): |
| 2 | 211° 20' | 621.0 | feet along the Northeast side of L.C. Aw. 8559-B; |
| 3 | 275° 43' | 617.94 | feet along the remainder of R.P. 3586, L.C. Aw 6730 to Naeole (Lot 6, Waipake subdivision, Unit I): |
| | | | Thence along the remainder of R.P. 3586, L.C. Aw 6730 to Naeole (Lot 6, Waipake Subdivision, Unit I), on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being: |
| 4 | 230° 43' | 42.43 | feet: |
| 5 | 5° 43' | 86.00 | feet along the remainder of R.P. 3586, L.C. Aw 6730 to Naeole (Lot 22, Waipake Subdivision, Unit I), to the point of beginning and containing an area of 37,230 square feet. |



Lihue, Hawaii
December 15, 1990

DESCRIPTION PREPARED BY
ESAKI SURVEILING AND MAPPING, INC.

11)
DeIn#M, Esaki
Registered Professional surveyor
Certificate Number 4383

EXHIBIT "D"

EASEMENT "D"
WAIPAKE SUBDIVISION, UNIT I

LAND SITUATED AT WAIPAKE, HANAIEI, KAUAI, HAWAII

Being a Portion of Lot 4, Waipake subdivision, Unit I

Being Also a Portion of R.P 3586, L.C. Aw 6730 to Naeole

Beginning at the Southwest corner of this parcel of land, coordinates of said point of beginning referred to Government survey Triangulation Station "MOLOAA" being 751.23 feet North and 14,298.52 feet West, thence running by azimuths measured clockwise from true south:

- | | | | |
|---|-------------|--------|--|
| 1 | 168° 50' | 518.43 | feet along the remainder of R.P 3586, L.C. Aw 6730 to Naeole (Lot 5, Waipake Subdivision, Unit I): |
| 2 | 259° 50' | 15.00 | feet along the remainder of R.P 3586, L.C. Aw 6730 to Naeole (Lot 8, Waipake Subdivision, Unit I): |
| 3 | 349° 50' | 518.60 | feet along the remainder of R.P 3586, L.C. Aw 6730 to Naeole (Lot 9, Waipake Subdivision, Unit I):

Thence along the remainder of R.P 3586, L.C. Aw 6730 to Naeole (Lot 15, Waipake Subdivision, Unit I), on a curve to the left with a radius of 696.00 feet, the chord azimuth and distance being: |
| 4 | 79° 27' 03" | 15.00 | feet, to the point of beginning and containing an area of 7,778 square feet. |



Lihue, Hawaii
December 15, 1990

DESCRIPTION PREPARED BY:
ESAKI SURVEYING AND MAPPING, INC.

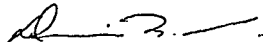

Dennis M. Esaki
Registered Professional surveyor
certificate Number 4383

EXHIBIT "E"

EASEMENT "E"
WAI PAKE SUBDIVISION, UNIT I

LAND SITUATED AT WAI PAKE, HANAIEI, KAUAI, HAWAII

Being a Portion of Lot 10, Waipake subdivision, Unit I

Being Also a Portion of R.P 3586, L.C. Aw 6730 to Naeole

Beginning at the North corner of this parcel of land, coordinates of said point of beginning referred to Government survey Triangulation Station "MOLOKAI" being 587.14 feet south and 15,482.52 feet West, thence running by azimuths measured clockwise from true South:

1.	302° 55'	115.00	feet along the remainder of R.P 3586, L.C. Aw 6730 to Naeole (Lot 10, Waipake Subdivision, unit I);
2.	32° 55'	20.00	feet along the remainder of R.P 3586, L.C. Aw 6730 to Naeole (Lot 10, Waipake Subdivision, Unit I);
3.	122° 55'	115.00	feet along the remainder of R.P 3586, L.C. Aw 6730 to Naeole (Lot 10, Waipake Subdivision, Unit I);
4.	212° 55'	20.00	feet along the remainder of R.P 3586, L.C. Aw 6730 to Naeole (Lot 23, Waipake Subdivision, unit I), to the point of beginning and containing an area of 2,300 square feet.



Lihue, Hawaii
December 15, 1990

DESCRIPTION PREPARED BY:
ESAKI SURVEYING AND MAPPING, INC.

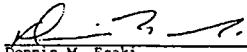

Dennis M. Esaki
Registered Professional surveyor
Certificate Number 4383

EXHIBIT "F"

EASEMENT "F"
WAIPAKE SUBDIVISION, UNIT I

LAND SITUATED AT WAIPAKE, HAWAII, KAUAI, HAWAII

Being a Portion of Lot 7, Waipake Subdivision, Unit I

Being Also a Portion of R.P. 3586, L.C. Aw 6730 to Naeole

Beginning at the Northeast corner of this parcel of land, coordinates of said point of beginning referred to Government survey Triangulation Station "KOLQA" being 2,439.85 feet North and 10,658.18 feet West, thence running by azimuths measured clockwise from true South:

- | | | | |
|---|----------|-------|---|
| 1 | 00° 47' | 30.00 | feet along the remainder of R.P. 3586, L.C. Aw 6730 to Naeole (Lot 22, Waipake subdivision, Unit I) |
| | | | Thence along the remainder of R.P. 3586, L.C. Aw 6730 to Naeole (Lot 7, Waipake Subdivision, Unit I), on a curve to the left with a radius of 10.00 feet, the chord azimuth and distance being: |
| 2 | 140° 43' | 42.43 | feet; |
| 3 | 275° 43' | 30.00 | feet along the remainder of R.P. 3586, L.C. Aw 6730 to Naeole (Lot 6, Waipake Subdivision, Unit I), to the point of beginning and containing an area of 193 square feet, |



Lihue, Hawaii
December 15, 1990

DESCRIPTION PREPARED BY:
ESAKI SURVEYING AND MAPPING, INC.

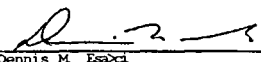

Dennis M. Esaki
Registered Professional surveyor
certificate Number 4383

EXHIBIT "G"

Electronically Filed
Supreme Court
SCWC-17-0000181
10-MAR-2023
08:49 AM
Dkt. 35 OPD

IN THE SUPREME COURT OF THE STATE OF HAWAII

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HO'OMOANA FOUNDATION,
Respondent/Respondent/Appellant-Appellee,

vs.

LAND USE COMMISSION, STATE OF HAWAII
Respondent/Petitioner/Appellee-Appellant,

and

PU'UNOA HOMEOWNERS ASSOCIATION, INC.; AND COURTNEY L. LAMBRECHT,
Petitioners/Respondents/Appellees-Appellees.

SCWC-17-0000181

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CAAP-17-0000173 consolidated with CAAP-17-0000181;
CIV. NO 16-1-0160)

MARCH 10, 2023

DISSENTING OPINION BY McKENNA, J.,
IN WHICH RECKTENWALD, C.J., JOINS

I. Introduction

Today, the majority chooses to overrule Maha'ulepu v. Land Use Commission, 71 Haw. 332, 790 P.2d 906 (1990).¹

In doing so, the majority avoids our own stare decisis jurisprudence. Maha'ulepu was decided more than thirty years ago. Whether or not we agree with its reasoning, we have repeatedly held that where the legislature fails to act in response to our statutory interpretation, that statutory interpretation must be considered to have the legislature's tacit approval. See, e.g., State v. Hussein, 122 Hawai'i 495, 529, 229 P.3d 313, 347 (2010) (citing Gray v. Admin. Dir., 84 Hawai'i 138, 143 n.9, 931 P.2d 580, 585 n.9 (1997)); State v. Dannenberg, 74 Haw. 75, 83, 837 P.2d 776, 780 (1992) (citations omitted), superseded by statute on other grounds as stated in State v. Klie, 116 Hawai'i 519, 174 P.3d 358 (2007). In addition, we have held that when we decide a matter of statutory interpretation, and the legislature does not alter what we have done, "[c]onsiderations of stare decisis have special force[.]" See State v. Garcia, 96 Hawai'i 200, 206, 29 P.3d 919, 925 (2001) (quoting Hilton v. S.C. Pub. Rys. Comm'n, 502 U.S. 197, 202 (1991)). These principles govern this case.

¹ Maha'ulepu held that golf courses, which are deemed an impermissible use on class A and B agricultural lands by Hawai'i Revised Statutes ("HRS") § 205-4.5(a)(6) (1985), can still be authorized by special permit pursuant to HRS §§ 205-4.5(b) (1985) and 205-6 (1985). Maha'ulepu, 71 Haw. at 336-37, 790 P.2d at 908-09.

The majority holds that because Ho'omoana Foundation's ("the foundation") "proposed campground project includes a public or private recreational overnight camp use, the project requires a district boundary amendment." Majority op. at Introduction. The majority thus acknowledges that with respect to unsheltered persons,² the foundation's proposed project is not a "recreational" use prohibited by HRS § 205-4.5(a)(6) (Supp. 2015), which would require a district boundary amendment based on the majority's overruling of Maha'ulepu. Even with respect to "recreational" overnight campers, however, HRS § 205-4.5(a)(14) (Supp. 2015) specifically permits "agricultural tourism activities, including overnight accommodations of twenty-one days or less[.]"

But the foundation was precluded from fully explaining why a district boundary amendment is not required because the Land Use Commission ("LUC") denied the foundation's intervention petition as moot after granting Pu'unoa Homeowners Association and Devonne Lane's (collectively, "the homeowners")³ petition for

² As I said in my dissent in State v. Keanaaaina, 151 Hawai'i 19, 508 P.3d 814 (2022) (McKenna, J., dissenting), "I use the term 'unsheltered persons' to mean those 'without traditional housing.' I avoid the terms 'homeless' and 'houseless' because for an increasing number of our citizens, tent-like structures have become their homes and houses." 151 Hawai'i at 29 n.1, 508 P.3d at 824 n.1.

³ Like in the Majority opinion, reference to "the homeowners" includes Devonne Lane until Ross Scott, and then Courtney L. Lambrecht, were substituted for Devonne Lane during the proceedings before the ICA and this

a declaratory order. The foundation is not precluded from submitting a revised proposal. But because the majority chooses to overrule Maha'ulepu while ignoring our precedent on stare decisis principles, and chooses to do so in this case, I respectfully dissent.

II. Discussion

A. Overruling Maha'ulepu violates our stare decisis precedent

Our foremost obligation in interpreting HRS § 205-4.5(a)(6) is "to ascertain and give effect to the intention of the legislature[.]" See Gillan v. Gov't Emps. Ins. Co., 119 Hawai'i 109, 115, 194 P.3d 1071, 1077 (2008) (citation omitted). We have held that "[w]here the legislature fails to act in response to our statutory interpretation, the consequence is that the statutory interpretation of the court must be considered to have the tacit approval of the legislature and the effect of legislation." Hussein, 122 Hawai'i at 529, 229 P.3d at 347 (citation omitted).

Also, when this court decides a matter of statutory interpretation, and the legislature does not alter what we have done, "[c]onsiderations of stare decisis have special force[.]" Garcia, 96 Hawai'i at 206, 29 P.3d at 925 (citation omitted).

court; it then includes the respective substituted parties. See Majority op. at note 3.

"While there is no necessity or sound legal reason to perpetuate an error under the doctrine of stare decisis, . . . a court should not depart from the doctrine of stare decisis without some compelling justification." Id. (cleaned up). Stare decisis "maintain[s] public faith in the judiciary as a source of impersonal and reasoned judgments." 96 Hawai'i at 205, 29 P.3d at 924 (citation omitted).

This court decided Maha'ulepu over thirty years ago. In Maha'ulepu, we interpreted chapter 205 and held it provides authority for the issuance of special use permits for golf courses on class A and B rated agricultural lands. See 71 Haw. at 336-37, 790 P.2d at 908-09. We reviewed HRS § 205-4.5(a)(6), which provides that golf courses, along with dragstrips, airports, drive-in theaters, golf driving ranges, country clubs, and overnight camps, are not a permitted use on class A and B agricultural lands. See id.; HRS § 205-4.5(a)(6). We stated that "Section 205-4.5(b) nonetheless allows those uses for which special permits may be obtained under § 205-6." Maha'ulepu, 71 Haw. at 336, 790 P.2d at 909.⁴ Maha'ulepu thus held that uses expressly deemed impermissible under HRS § 205-4.5(a)(6),

⁴ Maha'ulepu also addressed whether the authority to issue a special use permit for golf courses on class B lands was negated by language in HRS § 205-2 (1985). See Maha'ulepu, 71 Haw. at 337-39, 790 P.2d at 909-10.

including overnight camps, can be authorized by a special use permit. See id.

Whether or not this reasoning was faulty, our precedent clearly states the legislature is "presumed to be aware" of this court's interpretation of HRS § 205-4.5(a)(6) in Maha'ulepu. See State v. Nesmith, 127 Hawai'i 48, 60, 276 P.3d 617, 629 (2012). The legislature then "has had abundant opportunities to amend the statute if it intended" for the uses expressly excluded from subsection (a)(6) to not be available through special use permits. See id.

Since 1990, the legislature has amended the relevant sections of chapter 205 dozens of times.⁵ And although the

⁵ Since this court published the Maha'ulepu opinion in 1990, the legislature has made the following amendments to HRS § 205-4.5: 1991 Haw. Sess. Laws Act 281, § 3 at 674-75; 1997 Haw. Sess. Laws Act 258, § 11 at 572-73; 2005 Haw. Sess. Laws Act 205, § 3 at 670-71; 2006 Haw. Sess. Laws Act 237, § 4 at 1052-53; 2006 Haw. Sess. Laws Act 250, § 2 at 1082-83; 2006 Haw. Sess. Laws Act 271, § 1 at 1124-26; 2007 Haw. Sess. Laws Act 159, § 3 at 295-96; 2007 Haw. Sess. Laws Act 171, § 1 at 332-34; 2008 Haw. Sess. Laws Act 145, § 3 at 388-90; 2009 Haw. Sess. Laws Act 53, § 1 at 93-96; 2011 Haw. Sess. Laws Act 217, § 3 at 703-05; 2012 Haw. Sess. Laws Act 97, § 7 at 211-13; 2012 Haw. Sess. Laws Act 113, § 3 at 409-11; 2012 Haw. Sess. Laws Act 167, § 2 at 592-95; 2012 Haw. Sess. Laws Act 329, § 4 at 1113-16; 2014 Haw. Sess. Laws Act 52, § 1 at 133-36; 2014 Haw. Sess. Laws Act 55, § 3 at 144-47; 2015 Haw. Sess. Laws Act 228, § 3 at 661-65; 2016 Haw. Sess. Laws Act 173, § 3 at 551-55; 2017 Haw. Sess. Laws Act 12, § 1 at 20; 2018 Haw. Sess. Laws Act 49, § 4 at 174-78; 2021 Haw. Sess. Laws Act 77, § 2 at 247-52; 2022 Haw. Sess. Laws Act 131, § 3 at 308-12.

In addition, since 1990, the legislature has made the following amendments to HRS § 205-2 (which classifies the four major agricultural land districts): 1991 Haw. Sess. Laws Act 191, § 1 at 462; 1991 Haw. Sess. Laws Act 281, § 2 at 674; 1995 Haw. Sess. Laws Act 69, § 8 at 105-06; 2005 Haw. Sess. Laws Act 205, § 2 at 669-70; 2006 Haw. Sess. Laws Act 237, § 3 at 1051-52; 2006 Haw. Sess. Laws Act 250, § 1 at 1081-82; 2007 Haw. Sess. Laws Act 159, § 2 at 294-95; 2008 Haw. Sess. Laws Act 31, § 2 at 138-39; 2008 Haw. Sess. Laws Act 145, § 2 at 387-88; 2011 Haw. Sess. Laws Act 217, § 2 at 702-

legislature amended chapter 205 to specifically disallow golf courses on agricultural lands, it did not do so for other unpermitted uses in HRS § 205-4.5(a).⁶ In other words, none of

03; 2012 Haw. Sess. Laws Act 97, § 6 at 209-11; 2012 Haw. Sess. Laws Act 113, § 2 at 407-09; 2012 Haw. Sess. Laws Act 167, § 1 at 591-92; 2012 Haw. Sess. Laws Act 329, § 3 at 1112-13; 2014 Haw. Sess. Laws Act 55, § 2 at 143-44; 2015 Haw. Sess. Laws Act 228, § 2 at 660-61; 2016 Haw. Sess. Laws Act 173, § 2 at 550-51; 2017 Haw. Sess. Laws Act 12, § 15 at 28-30; 2017 Haw. Sess. Laws Act 129, § 2 at 500-02; 2018 Haw. Sess. Laws Act 49, § 3 at 174; 2022 Haw. Sess. Laws Act 131, § 2 at 306-08.

Finally, since 1990, the legislature has made the following amendments to HRS § 205-6 (which authorizes special use permits): 1998 Haw. Sess. Laws Act 237, § 6 at 815-16; 2005 Haw. Sess. Laws Act 183, § 5 at 589; 2021 Haw. Sess. Laws Act 153, § 8 at 584.

⁶ The LUC argues that the legislature's 2005 and 2006 amendments to chapter 205 rejected Maha'ulepu.

The 2005 and 2006 amendments clearly established that golf courses and driving ranges are prohibited on all classes of agricultural lands, except for legacy golf courses and driving ranges approved before July 1, 2005. See 2005 Haw. Sess. Laws Act 205, §§ 2-3 at 669-71; 2006 Haw. Sess. Laws Act 250, § 1 at 1082. The 2005 amendment amended HRS § 205-2(d) to include the following sentence: "For the purposes of this chapter, golf courses and golf driving ranges are prohibited in agricultural districts, except as provided in section 205-4.5(d)." 2005 Haw. Sess. Laws Act 205, § 2 at 670. It also added a new subsection (d) to HRS § 205-4.5: "(d) Notwithstanding any other provision of this chapter to the contrary, golf courses and golf driving ranges approved by a county before July 1, 2005, for development within the agricultural district shall be permitted uses within the agricultural district." Id. § 3 at 671. In 2006, the legislature amended HRS § 205-2(d) to read in part: "Agricultural districts shall not include golf courses and golf driving ranges, except as provided in section 205-4.5(d)." 2006 Haw. Sess. Laws Act 250, § 1 at 1082.

Even though the amendments expressly addressed only golf courses and driving ranges, and not the other excluded uses in HRS § 205-4.5(a)(6), the LUC contends the amendments show the legislature's disapproval of all the excluded uses in subsection (a)(6), including overnight camps. The LUC invokes the maxim noscitur a sociis, which means "words of a feather flock together," or, "the meaning of a word is to be judged by the company it keeps." See State v. Aluli, 78 Hawai'i 317, 321, 893 P.2d 168, 172 (1995) (quoting State v. Deleon, 72 Haw. 241, 244, 813 P.2d 1382, 1384 (1991)).

The maxim noscitur a sociis falls flat here. The plain language of the 2005 and 2006 amendments addresses only golf courses and driving ranges, not overnight camps -- overnight camps do not "keep company" with golf courses in the amendments. See id. "[T]he contrast between a specific subject matter which is expressed and one which is not mentioned leads to an inference that

the amendments rejected Maha'ulepu's statutory interpretation that the list of uses expressly excluded from permitted open area recreational uses in HRS § 205-4.5(a)(6) could be authorized through a special use permit. Thus, although legislative inaction can be a poor barometer of legislative intent,⁷ in this case, the nature and sheer number of post-Maha'ulepu legislative amendments buttress the legislature's tacit approval of this court's statutory interpretation. See

the latter was not intended to be included within the statute." State v. Choy Foo, 142 Hawai'i 65, 74, 414 P.3d 117, 126 (2018) (quoting Int'l Sav. & Loan Ass'n v. Wiig, 82 Hawai'i 197, 201, 921 P.2d 117, 121 (1996)). Here, we must infer that if the legislature intended to prohibit the authorization of overnight camps through a special use permit as well as golf courses and driving ranges, it would have done so. See id. Maha'ulepu's reasoning applied to all the uses excluded in HRS § 205-4.5(a)(6), and we must presume the legislature knew this. See Nesmith, 127 Hawai'i at 60, 276 P.3d at 629.

Moreover, the legislative history indicates the legislature was specifically concerned with golf courses and driving ranges as part of its efforts to address "gentlemen's estates" and other luxury estates developed on agriculturally-zoned lands under the guise of permitted "farm dwellings." A House Conference Committee Report, for example, indicates, "[t]he original intent of this bill is primarily to prohibit luxury estates[] on agriculturally classified lands[.]" H. Conf. Comm. Rep. No. 135, in 2005 House Journal, at 959. And a Senate Standing Committee Report noted the bill would protect "Hawaii's farmers and agricultural lands from increased land speculation and development of fake farms or gentlemen's estates[.]" S. Stand. Comm. Rep. No. 1278, in 2005 Senate Journal, at 1637. Indeed, an earlier draft of the 2005 amendment established a rebuttable presumption that subdivisions are not agricultural, and do not consist of farm dwellings, if they include certain enumerated features, including a golf course or private country club facilities. See H.B. 109, H.D. 1, 23rd Leg., Reg. Sess. (Haw. 2005). It is clear that in making the foregoing 2005 and 2006 amendments, the legislature was not concerned with rejecting Maha'ulepu's statutory interpretation – or primarily concerned with special use permits at all.

⁷ "[L]egislative inaction is a notoriously poor barometer of legislative intent--even when we can assume the legislature is aware a statute is being misinterpreted." Goran Pleho, LLC v. Lacy, 144 Hawai'i 224, 250, 439 P.3d 176, 202 (2019) (citation omitted).

Hussein, 122 Hawai'i at 529, 229 P.3d at 347. Maha'ulepu

therefore has the effect of legislation. See id.

B. The foundation was precluded from fully explaining why a district boundary amendment is not required

The foundation was precluded from fully explaining why a district boundary amendment is not required because the LUC denied the foundation's intervention petition as moot after granting homeowners' petition for declaratory order. Perhaps the foundation could have made the following arguments.

1. A campground for unsheltered persons is not a "recreational" use

The majority's holding and LUC's declaratory order are premised on HRS § 205-4.5(a)(6), which restricts class A and B agricultural lands to, inter alia, "[p]ublic and private open area types of recreational uses, including day camps, picnic grounds, parks, and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps["]

(Emphases added.) The majority holds that "[b]ecause the foundation's proposed campground project includes a public or private recreational overnight camp use, the project requires a district boundary amendment." Majority op. at Introduction.

According to the LUC's findings of facts, the foundation's proposed project consists of "an overnight campground for

homeless and commercial campers with an agricultural field for possible future uses by the campers[.]”

An overnight campground for unsheltered persons is not a “recreational” use. See HRS § 205-4.5(a)(6). The majority acknowledges that with respect to unsheltered persons, the foundation’s proposed project is not a “recreational” use prohibited by HRS § 205-4.5(a)(6). See Majority op. at Section III.B (holding the foundation’s project cannot be authorized by a special permit because it “includes a recreational use” by commercial overnight campers).

In this regard, “the fundamental starting point for statutory interpretation is the language of the statute itself.” Ito v. Invs. Equity Life Holding Co., 135 Hawai‘i 49, 61, 346 P.3d 118, 130 (2015) (quoting Haw. State Tchrs. Ass’n v. Abercrombie, 126 Hawai‘i 318, 320, 271 P.3d 613, 615 (2012)). “[W]here the statutory language is plain and unambiguous, our sole duty is to give effect to its plain and obvious meaning.” Id. “In conducting a plain meaning analysis, ‘this court may resort to legal or other well accepted dictionaries as one way to determine the ordinary meaning of certain terms not statutorily defined.’” State v. Guyton, 135 Hawai‘i 372, 378, 351 P.3d 1138, 1144 (2015) (quoting State v. Pali, 129 Hawai‘i 363, 370, 300 P.3d 1022, 1029 (2013)).

The phrase "recreational uses" in HRS § 205-4.5(a)(6) is clear and unambiguous. See id. As such, "its plain language must control." See id. (citations omitted). Oxford Advanced Learner's Dictionary defines "recreational" as "connected with activities that people do for pleasure when they are not working[.]" Recreational, Oxford Advanced Learner's Dictionary (10th ed. 2020) (emphasis added).⁸

Shelter is a basic human necessity; it is not used for "pleasure." See id. Tent-like shelters used as house and homes for living are no more "recreational" than traditional homes, regardless of how they are structured or labeled, or whether located on a "campground." Thus, if the project consisted purely of campgrounds for unsheltered persons, it would not be a "recreational" "overnight camp[]" excluded by HRS § 205-4.5(a)(6).

Based on the limited factual record before the LUC,⁹ however, the commercial camping aspect of the foundation's project appears to constitute a recreational overnight camp. The LUC found "there is no . . . current requirement placed upon

⁸ Similarly, Webster's Unabridged Dictionary defines "recreation" as "a pastime, diversion, exercise, or other resource affording relaxation and enjoyment." Recreation, Random House Webster's Unabridged Dictionary (2d ed. 2005).

⁹ See Majority op. at note 6 (explaining that the homeowners presented only excerpts of the foundation's special permit application as an exhibit before the LUC).

the campers to engage in agricultural pursuits." The foundation did not challenge this finding on appeal, so we are bound by it.

See In re Doe, 99 Hawai'i 522, 538, 57 P.3d 447, 463 (2002)

("Unchallenged findings are binding on appeal." (quoting Poe v.

Haw. Lab. Rels. Bd., 97 Hawai'i 528, 536, 40 P.3d 930, 938

(2002))).

2. Even for commercial campers, "agricultural tourism" is expressly allowed

With respect to recreational overnight campers, subsection (a) (14) of HRS § 205-4.5 expressly permits:

Agricultural tourism activities, including overnight accommodations of twenty-one days or less, for any one stay within a county; provided that this paragraph shall apply only to a county that includes at least three islands and has adopted ordinances regulating agricultural tourism activities pursuant to section 205-5; provided further that the agricultural tourism activities coexist with a bona fide agricultural activity. For the purposes of this paragraph, "bona fide agricultural activity" means a farming operation as defined in section 165-2[.]

(Emphasis added.)¹⁰

¹⁰ Under its plain language, HRS § 205-4.5(a) (14) applies to Maui County.

HRS § 165-2 (2011 & Supp. 2012) defines a "farming operation" as:

[A] commercial agricultural, silvicultural, or aquacultural facility or pursuit conducted, in whole or in part, including the care and production of livestock and livestock products, poultry and poultry products, apiary products, and plant and animal production for nonfood uses; the planting, cultivating, harvesting, and processing of crops; and the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment. "Farming operation" includes but shall not be limited to:

(1) Agricultural-based commercial operations as described in section [205-2(d) (15)];

Hence, subsection (a)(14) expressly permits "overnight accommodations" of 21 days or less in connection with agricultural tourism. Id. HRS § 205-4.5(a) does not prohibit commercial camping where the camping qualifies as agricultural tourism in compliance with subsection (a)(14). Webster's Unabridged Dictionary defines "accommodations" broadly as "lodging." Accommodations, Random House Webster's Unabridged Dictionary, supra. It defines "lodging," in turn, as "a temporary place to stay; temporary quarters." Lodging, Random House Webster's Unabridged Dictionary, supra. Pursuant to the plain language of the statute, tent-like structures can be "overnight accommodations." See HRS § 205-4.5(a)(14); Guyton, 135 Hawai'i at 378, 351 P.3d at 1144.

3. A modified version of the project could comply with chapter 205

The foundation was not given a full opportunity to make these types of arguments due to the denial of its petition for intervention. But a modified version of the foundation's project could potentially comply with chapter 205. The

-
- (2) Noises, odors, dust, and fumes emanating from a commercial agricultural or an aquacultural facility or pursuit;
 - (3) Operation of machinery and irrigation pumps;
 - (4) Ground and aerial seeding and spraying;
 - (5) The application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and
 - (6) The employment and use of labor.

majority's opinion does not prohibit the foundation from amending and resubmitting its proposal. The majority merely reverses the ICA's June 24, 2022 judgment on appeal and, consequently, reinstates the LUC's March 3, 2016 declaratory order that the project as constituted cannot be permitted by a special use permit. See Majority op. at Part IV. The foundation could present a modified project consisting only of campgrounds for unsheltered persons, but not commercial campers. A special use permit application could be authorized because, as explained above, the proposed use would not be a "recreational" use under HRS § 205-4.5(a)(6). If a modified proposal includes uses expressly permitted by section 205-4.5(a), that portion of the project should not require a district boundary amendment or a special use permit. Thus, if the foundation proposes a campground with bona fide agricultural activity, commercial camping in the same project area could potentially comply with subsection (a)(14) as agricultural tourism. See HRS § 205-4.5(a)(14).

III. Conclusion

Today, the majority overrules Maha'ulepu while ignoring important stare decisis principles. It does so in a case involving a proposed overnight campground development for unsheltered people in our community brought by adjoining homeowners, some of whom asserted "not in my backyard"

concerns.¹¹ Respectfully, in my view, our resolution of this case should be guided by the motto enshrined in the Constitution of the State of Hawai'i, "Ua mau ke ea o ka 'āina i ka pono."¹²

For all these reasons, I respectfully dissent.

/s/ Mark E. Recktenwald

/s/ Sabrina S. McKenna



¹¹ Homeowner testimony before the LUC on the petition for declaratory order included statements such as "we feel that [the proposed development is] very detrimental to our property values, and to our safety."

¹² The Preamble to the Constitution of the State of Hawai'i provides:

We, the people of Hawaii, grateful for Divine Guidance, and mindful of our Hawaiian heritage and uniqueness as an island State, dedicate our efforts to fulfill the philosophy decreed by the Hawaii State motto, "Ua mau ke ea o ka aina i ka pono."

We reserve the right to control our destiny, to nurture the integrity of our people and culture, and to preserve the quality of life that we desire.

We reaffirm our belief in a government of the people, by the people and for the people, and with an understanding and compassionate heart toward all the peoples of the earth, do hereby ordain and establish this constitution for the State of Hawaii.

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

June 23, 2025

Public testimony received by the Planning Department as of June 23, 2025, 9:00 am for June 24, 2025, Planning Commission meeting regarding the following item:

G.4.b. COUNTY ZONING AMENDMENT (ZA-2025-11) - A bill for an ordinance amending Chapter 8 and Chapter 10 of the 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 Districts (PC), and Chapter 10, Article 3, to incorporate provisions addressing wildfire hazards = **COUNTY OF KAUAI, PLANNING DEPARTMENT.**



Hawaii Wildfire Management Organization
65-1279 Kawaihae Rd. Ste 211, Kamuela, HI 96719
Hawaiiwildfire.org

To: County of Kaua'i, Department of Planning

Attn: Ka'aina Hull, Director

Aloha Mr. Hull,

To protect lives, homes, and landscapes, Hawai'i must shift toward proactive wildfire risk reduction. As wildfires grow in frequency and intensity—driven by climate change, land use patterns, and the spread of fire-prone vegetation—clear, enforceable, and science-informed standards are needed to make communities more fire-resilient.

The Hawai'i Wildfire Management Organization (HWMO) commends your efforts. We are grateful for the work you are putting in as a County to ensure the protection of our people and places. We have some recommended updates, provided below, that may better align local policy with nationally recognized wildfire mitigation practices and the realities of Hawaii's rapidly changing fire risk.

These proposed changes bolster what we understand are your aims: to reduce ignition potential around structures, support defensible space, and clarify expectations for both property owners and land managers. They incorporate practical setbacks, fuel height limits, and maintenance standards that can significantly lower the likelihood of fire spreading from vegetation to structures. At the same time, the recommendations honor important cultural and agricultural practices by exempting traditional food crops like kalo and banana and providing flexibility for approved vegetation management alternatives.

We recommend that Section 8-8A.5(e) be amended as follows to include two new subsections:

...

(C) Fire prone vegetation is prohibited 30 feet from any structure, measured from the edge of the exterior walls of the structure and its unenclosed appendages, and projections (including but not limited to lanais, porches, and stoops).

(D) The following plant species are exempt from the requirements of Section 8-8A.5(e):

(1) *Colocasia esculenta* also known as kalo or taro.

(2) Musa also known as banana.

~~{{(C)}}(E)~~ Subsections 8A.5(e)~~{{(2)}(B)}(1)(c)}~~ 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.

...

We also recommend that Section 8-8A.5(g) be amended as follows:

(1) The Plantation Camp District shall manage ~~[fuel-prone-vegetation]~~ Zone 3 as follows:

~~{{(A)}} Fire prone vegetation is prohibited 30 feet from any dwelling unit, measured from the edge of the exterior walls of the dwelling unit and its unenclosed appendages and projections (including but not limited to lanais, porches, and stoops).}~~

~~{{(B)}}(A)~~ Fire prone vegetation ~~[18 inches to 6 feet in height shall have a]~~ shall not exceed eighteen (18) inches in height when located between thirty (30) [foot setback] feet and one hundred (100) feet from [all] any structure[s], measured from the edge of the exterior walls of the structure or unenclosed appendages and projections (including but not limited to lanais, porches, and stoops).

~~{{(C)}}(B)~~ Fire prone vegetation greater than ~~[6 feet]~~ eighteen (18) inches in height shall have a one-hundred (100) foot setback from all structures, measured from the edge of the exterior walls of the structure or unenclosed appendages and projections (including but not limited to lanais, porches, and stoops).

(C) Excluding fire prone vegetation, vegetation with canopies shall be maintained as follows:

(1) Vegetation with a trunk of 4 inches in diameter or greater when measured at a height of 4.5 feet above the ground:

- a. Must have limbs and branches pruned to a minimum height of 6 feet off the ground.
- b. Must 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 grouping with a combined canopy not larger than 10 feet in horizontal diameter.

(2) 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 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. Must have a minimum horizontal space between canopies of at least 10 feet.

(D) The following plant species are exempt from the requirements of Section 8-8A.5(g):

- (3) *Colocasia esculenta* also known as kalo or taro.
- (4) *Musa* also known as banana.
- (5) Any species planted for cultivation and sales that is part of an agricultural operation larger than an acre is as determined by the Planning Director, and the species are maintained in a manner reviewed and approved by the Fire Chief.

(E) Subsections 8A.5(g) 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.

Please contact us at any time with questions or for further discussion. Thank you for your partnership in building wildfire resilience in our high risk areas.

Aloha,



Elizabeth Pickett
Co-Executive Director
Hawaii Wildfire Management Organization

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

June 23, 2025

Public testimony received by the Planning Department as of June 23, 2025, 9:00 am for the June 24, 2025, Planning Commission meeting regarding the following item:

- K.2. **GENERAL PLAN AMENDMENT (GPA-2025-2)** for a General Plan Future Land Use Map Amendment from "Agriculture" to "Plantation Camp" for a parcel located immediately adjacent to Kaua'i Coffee Visitor Center and the Numila Sugar Mill, situated along the makai side of Halewili Road, in Wahiawa, Tax Map Key: (4) 2-2-001:001 and affecting an area approximately 14.9 acres = **COUNTY OF KAUAI, PLANNING DEPARTMENT. [Director's Report Received, Hearing Closed, Deferred, 3/11/2025, Deferred, 4/8/2025].**



EXECUTIVE CHAMBERS

Kaua'i County Council
4444 Rice Street, Suite A473
Lihue, HI 96766

Subject: Support for Plantation Camp Rezoning – ZA-2025-3, ZA-2025-4, GPA-2025-2, A-2025-2

Dear Members of the County Council,

I respectfully submit this letter in support of the proposed zoning and land use amendments (ZA-2025-3, ZA-2025-4, GPA-2025-2, and A-2025-2) concerning the 14.9-acre parcel near the Kaua'i Coffee Visitor Center and Numila Sugar Mill.

The proposed transition from Agriculture to a thoughtfully planned Residential district offers a unique opportunity to preserve and honor the legacy of plantation-era communities. These lands hold deep cultural and historical significance and revitalizing them with respectful development ensures that our past remains a living part of our island's future.

By formalizing the area into the County's West Kaua'i Community Plan and General Plan as a "Plantation Camp," this initiative recognizes and protects the cultural identity that shaped our families, labor history, and land-use traditions. At the same time, it helps address modern-day housing challenges with a design that encourages a walkable lifestyle.

This plan honors our roots while building for the next generation. I fully support the proposal and urge the Council to advance it.

Mahalo for your consideration,

Dana Hazelton
Governor's Representative, Kauai
[Office of the Governor | Ke Ke'ena O Ke Kia'āina](#)
State of Hawai'i

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

June 23, 2025

Public testimony received by the Planning Department as of June 23, 2025, 9:00 am for the June 24, 2025, Planning Commission meeting regarding the following item:

- K.3. STATE LAND USE DISTRICT BOUNDARY AMENDMENT (A-2025-2)** for a State Land Use District Boundary Amendment from the Agricultural District to the Urban District for a parcel located immediately adjacent to Kaua'i Coffee Visitor Center and the Numila Sugar Mill, situated along the makai side of Halewili Road, in Wahiawa, Tax Map Key: (4) 2-2-001:001 and affecting an area approximately 14.9 acres = **COUNTY OF KAUAI, PLANNING DEPARTMENT. [Director's Report Received, Hearing Closed, Deferred, 3/11/2025, Deferred, 4/8/2025].**



EXECUTIVE CHAMBERS

Kaua'i County Council
4444 Rice Street, Suite A473
Lihue, HI 96766

Subject: Support for Plantation Camp Rezoning – ZA-2025-3, ZA-2025-4, GPA-2025-2, A-2025-2

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This plan honors our roots while building for the next generation. I fully support the proposal and urge the Council to advance it.

Mahalo for your consideration,

Dana Hazelton
Governor's Representative, Kauai
[Office of the Governor | Ke Ke'ena O Ke Kia'āina](#)
State of Hawai'i

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

June 23, 2025

Public testimony received by the Planning Department as of June 23, 2025, 9:00 am for the June 24, 2025, Planning Commission meeting regarding the following item:

- K.4. **COUNTY ZONING AMENDMENT (ZA-2025-3)** A bill for an ordinance amending Zoning Map ZM-200 (Hanapēpē) to rezone approximately 14.9 acres from the Agriculture District (A) to the Residential District (R-1) involving a parcel located immediately adjacent to the Kaua'i Coffee Visitor Center and the Numila Sugar Mill, situated on the makai side of Halewili Road in Wahiawa, further identified as Tax Map Key (TMK): (4) 2-2-001:001 = **COUNTY OF KAUAI, PLANNING DEPARTMENT. [Director's Report Received, Hearing Closed, Deferred, 3/11/2025, Deferred, 4/8/2025].**



EXECUTIVE CHAMBERS

Kaua'i County Council
4444 Rice Street, Suite A473
Lihue, HI 96766

Subject: Support for Plantation Camp Rezoning – ZA-2025-3, ZA-2025-4, GPA-2025-2, A-2025-2

Dear Members of the County Council,

I respectfully submit this letter in support of the proposed zoning and land use amendments (ZA-2025-3, ZA-2025-4, GPA-2025-2, and A-2025-2) concerning the 14.9-acre parcel near the Kaua'i Coffee Visitor Center and Numila Sugar Mill.

The proposed transition from Agriculture to a thoughtfully planned Residential district offers a unique opportunity to preserve and honor the legacy of plantation-era communities. These lands hold deep cultural and historical significance and revitalizing them with respectful development ensures that our past remains a living part of our island's future.

By formalizing the area into the County's West Kaua'i Community Plan and General Plan as a "Plantation Camp," this initiative recognizes and protects the cultural identity that shaped our families, labor history, and land-use traditions. At the same time, it helps address modern-day housing challenges with a design that encourages a walkable lifestyle.

This plan honors our roots while building for the next generation. I fully support the proposal and urge the Council to advance it.

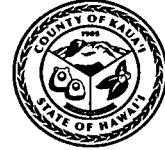
Mahalo for your consideration,

Dana Hazelton
Governor's Representative, Kauai
Office of the Governor | Ke Ke'ena O Ke Kia'āina
State of Hawai'i

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

June 23, 2025

Public testimony received by the Planning Department as of June 23, 2025, 9:00 am for the June 24, 2025, Planning Commission meeting regarding the following item:

- K.5. COUNTY ZONING AMENDMENT (ZA-2025-4)** A bill for an ordinance amending Chapter 10, Article 3, Kauai County Code 1987, as amended, relating to the West Kauai Community Plan. The proposal amends Section 10-3 of the Kauai County Code relating to text and mapping requirements to establish a Special Planning Area "P", which shall be referred to as the "Numila Plantation Camp Walkable Mixed Use District", and be designated as "SPA-P" as shown on Zoning Maps ZM-N-100 (Numila) involving a portion of a property further identified as Tax Map Key 2-2-001:001. The proposal also amends the West Kaua'i Regional Map to reflect land use designation updates from "Agriculture" to "Plantation Camp" within the SPA-P boundaries = **COUNTY OF KAUAI, PLANNING DEPARTMENT**. [Director's Report Received, Hearing Closed, Deferred, 3/11/2025, Deferred, 4/8/2025].

Shanlee Jimenez

From: Kaaina Hull
Sent: Friday, June 20, 2025 2:40 PM
To: Shelea Koga
Cc: Alan Clinton; Shanlee Jimenez
Subject: FW: Written Testimony for June 24th Hearing - Proposed Numila Camp Zoning Amendment (ZA-2025-4)
Attachments: Kauai Coffee Formal Written Testimony Numila Camp Zoning Amendment (ZA-2025-4).pdf

From: Alexandre Bossard <abossard@kauaicoffee.com>
Sent: Friday, June 20, 2025 1:46 PM
To: Kaaina Hull <khull@kauai.gov>
Subject: Written Testimony for June 24th Hearing - Proposed Numila Camp Zoning Amendment (ZA-2025-4)

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

Dear Director Hull,

On behalf of the Kauai Coffee Company, please find attached our formal written testimony regarding the proposed zoning amendment (ZA-2025-4) to establish the "Numila Plantation Camp Walkable Mixed Use District" and the accompanying Numila Camp Form-Based Code.

We are submitting this testimony for your consideration in advance of the Planning Commission hearing scheduled for June 24th.

Our testimony outlines our support for the overall project, given its potential to contribute to affordable housing and provide essential housing for agricultural workers, while also detailing specific concerns regarding certain designated areas within the plan.

We are available to provide any further information or answer any questions the Commission may have.

Thank you for your time and consideration.

Sincerely,

Alexandre Bossard
General Manager

KAUAI
COFFEE®





TO: Kaua'i Planning Commission

FROM: Alexandre Bossard, General Manager, Kauai Coffee Company, LLC

DATE: June 20, 2025

SUBJECT: Proposed Zoning Amendment and Numila Camp Form-Based Code (ZA-2025-4)

Dear Esteemed Members of the Planning Commission,

On behalf of Kauai Coffee Company, LLC (Kauai Coffee), I am writing to provide our formal testimony regarding the proposed zoning amendment (ZA-2025-4) to establish a Special Planning Area "P" (SPA-P), also known as the "Numila Plantation Camp Walkable Mixed-Use District," and the accompanying Numila Camp Form-Based Code.

Kauai Coffee is largely in favor of and supportive of SPA-P as it is proposed in ZA-2025-4, and its stated purpose of providing "affordable housing stock that can support agricultural activity". We believe it represents a significant opportunity to create more affordable worker housing options within our community and provides a crucial avenue for Kauai Coffee to secure year-round rental housing for our seasonal workers, which is vital for maintaining optimal farming operations.

While we support the amendment's overall intent, we do have a few specific items within the application that we wish to bring to your attention for consideration during the hearing on June 24th.

Areas of Agreement:

1. **Transect 3 Numila (T3N):** We are in full agreement with the proposed designation for Transect 3 Numila (T3N). Its location - right on the existing plantation house and direct road access - makes it a suitable area for worker housing development.
2. **Transect 3 Numila Luna (T3NL):** We also agree with the proposed designation for Transect 3 Numila Luna (T3NL). This area is appropriately situated as it is part of the existing plantation house camp, directly across from T3N.



Areas of Concern:

1. **Transect 3 Numila - HSPA Plantation Camp (T3H):** We have significant concerns regarding the proposed development in the Transect 3 Numila - HSPA Plantation Camp (T3H) area. This section is located immediately adjacent to our milling building and wastewater treatment plant and is currently utilized for storing containers essential to our operations. Furthermore, active electrical lines run through this area. Developing this specific parcel for residential use likely would lead to potential conflicts with our ongoing farm operations, posing challenges related to safety, logistics, and efficiency. For these reasons, **we reject the proposed designation of the T3H area for residential development** as it is unsuitable given its proximity to active industrial farm operations.

2. **Transect Numila Flex - Plantation Camp (T3NF):** Our most substantial concern pertains to the proposed addition of land for the Transect Numila Flex - Plantation Camp (T3NF). This area, a lot of just under 15 acres, currently encompasses our Fields 216/218, which are home to approximately 18,000 Yellow Catai coffee trees. Based on a yield of 5,000 lbs of cherry per harvest, this field produces roughly 12,000 lbs of green coffee, representing, if taken, an estimated \$300,000 in annual revenue loss for Kauai Coffee. If the purpose of the proposed zoning amendment is “to provide affordable housing stock that can support agricultural activity”, it should not be accomplished by reducing agricultural activity.

Beyond the significant financial impact, this particular field is strategically located in the very center of our farming operations. It is adjacent to our wet plant and administration building, and is bordered by a private high-traffic road and surrounded by other high-yield coffee fields. Introducing residential housing in this area would severely disrupt our ongoing farming activities. The increased noise and dust from farming operations undoubtedly would adversely impact on the quality of life for residents, and vehicle access to this area would necessitate passage through active farm roads, creating logistical challenges and safety concerns for both residents and farm personnel. Furthermore, housing on this field will directly affect farming operations on the adjacent coffee fields to the point of reducing their yields. Therefore, we firmly reject the proposed inclusion of the T3NF area (specifically Fields 216/218) for residential housing development.

3. **Uncertainty Regarding Predominant Use for Agricultural Workers:** While we strongly support the creation of affordable housing, a key aspect underlining our support for this development is our understanding that it will primarily benefit agricultural workers. We wish to express our concern created by the absence of assurances, at least as of now, that the housing will predominantly be allocated to, or reserved for, those working in the agricultural sector. Clarity and mechanisms



to ensure this focus are crucial for this development to truly meet the needs of the agricultural community and for Kauai Coffee to secure housing for its seasonal workforce.

Opportunity for the Community and Kauai Coffee:

This housing development presents a truly significant opportunity for Kaua'i's west side community by increasing the availability of Ag workers and affordable housing for them. For Kauai Coffee, this project also represents a vital chance for continuity. In the past, Kauai Coffee utilized eight houses in this area to accommodate its workforce. This new development offers a critical opportunity to re-establish and secure much-needed housing for our seasonal workforce, which is essential to ensure both the maintenance of our optimal farming operations and the continuation of Kauai Coffee's many contributions to the local economy. We, Kauai Coffee, would be keenly interested in ensuring our ability as well to lease a share of these new houses from the property's owner to support our workforce's needs.

We appreciate the Planning Commission's dedication to thoughtful development on Kaua'i and thank you for considering our perspective. We are available to provide further information or clarification as needed and look forward to collaborating on a solution that benefits all stakeholders and the broader Kaua'i community.

Sincerely,

Alexandre Bossard



EXECUTIVE CHAMBERS

Kaua'i County Council
4444 Rice Street, Suite A473
Lihue, HI 96766

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