PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISSION

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

RECEIVED
26 OCT -7 P3:09
OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUA'I

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

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

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

- **Written testimony** indicating your 1) name or pseudonym, and if applicable, your position/title and organization you are representing, and 2) the agenda item that you are providing comment on, may be submitted on any agenda item in writing to planningdepartment@kauai.gov or mailed to the County of Kaua'i Planning Department, 4444 Rice Street, Suite 473, Līhu'e, Hawai'i 96766. Written testimony received by the Planning Department at least **24 hours prior** to the meeting will be posted as testimony to the Planning Commission's website prior to the meeting (https://www.kauai.gov/Government/Boards-and-Commissions/Planning-Commission). Any testimony received after this time will be retained as part of the record, but we cannot assure the Commission will receive it with sufficient time for review prior to the meeting.

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

RECEIVED
26 OCT -7 P3:09
OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUA'I

PLANNING COMMISSION MEETING NOTICE AND AGENDA
Tuesday, October 13, 2026
9:00 a.m. or shortly thereafter
Līhu'e Civic Center, Moikeha Building
Meeting Room 2A-2B
4444 Rice Street, Līhu'e, Kaua'i, Hawai'i

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF AGENDA

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

1. June 9, 2026
2. July 14, 2026
3. August 11, 2026

E. RECEIPT OF ITEMS FOR THE RECORD

F. HEARINGS AND PUBLIC COMMENT

1. **Continued Agency Hearing**

   a. None for this meeting.

2. **New Agency Hearing**

   a. **SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2027-1), CLASS IV ZONING PERMIT (Z-IV-2027-1), and USE PERMIT (U-2027-1)** involving the construction of a single-family residence, guest house, garage, and associated site improvements on a parcel located on the makai side of Kaumualii Highway in Kekaha, situated approximately 500 feet west of its intersection with Mamo Road, further identified as Tax Map Key: (4) 1-3-005:053, and containing a total area of 1.681 acres = **MONICA C. EVSLIN TRUST. [Director's Report Received, 8/25/2026].**

      1. Supplement No. 1 to Special Management Area Use Permit, Use Permit, and Class IV Zoning Permit Application; Exhibit List; New Exhibit List; new Exhibit "D-4", and revised Exhibit "E".
      2. Director's Report pertaining to this matter.
      3. Petitioner Juan Pablo Garcia-Neveu and Pamela Garcia-Neveu's Petition to Intervene; Declaration of Juan Pabo Garcia-Neveu; Exhibits "01"-"04"; Certificate of Services (Received 8/3/2026).
      4. Transmittal of public testimony to Planning Commission.

b. **CLASS IV ZONING PERMIT (Z-IV-2027-2), PROJECT DEVELOPMENT USE PERMIT (PDU-2027-1)** to allow construction of an affordable residential housing project containing sixty (60) multi-family units, community building, and associated site improvements, and **VARIANCE PERMIT (V-2027-1)** to deviate from Section 8-10.2 of the Comprehensive Zoning Ordinance (CZO) relating to lands that qualify for a Project Development, involving a parcel situated along the makai side of the Kaumualii Highway in Puhi, situated immediately west of its intersection with Nani Street, further identified as Tax Map Key: (4) 3-3-004:020 and containing a total area of 2.5169 acres = **IKENAKEA DEVELOMENT LLC. [Director's Report Received, 9/22/2026].**

1. Director's Report pertaining to this matter.
2. Transmittal of public testimony to Commission.

3. **Continued Public Hearing**

a. **ZONING AMENDMENT (ZA-2026-3):** A bill (2973) for an ordinance amending Chapter 8, Article 1 of the Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to further clarify the definition of "Family" and "Dwelling Unit" = **KAUAI COUNTY COUNCIL. [Director's Report Received, Deferred, 03/10/2026; Deferred, 05/26/2026; Deferred, 08/11/2026].**

1. Director's Report pertaining to this matter.
2. Supplement #1 to Director's Report pertaining to this matter.
3. Supplement #2 to Director's Report pertaining to this matter.
4. Transmittal of agency comments to Commission.

b. **ZONING AMENDMENT (ZA-2026-4):** A bill (2979) for an ordinance amending Chapter 8, Article 1 of the Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to introduce new definitions for "Employee Dormitory" and "Group Housing Dormitory" = **KAUAI COUNTY COUNCIL. [Director's Report Received, Deferred, 03/10/2026; Deferred, 05/26/2026; Deferred, 08/11/2026].**

1. Director's Report pertaining to this matter.
2. Supplement #1 to Director's Report pertaining to this matter.
3. Supplement #2 to Director's Report pertaining to this matter.
4. Transmittal of agency comments to Commission.

c. **ZONING AMENDMENT (ZA-2026-8)** A bill for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to establish apiaries as a permitted use within the County Residential and other zoning districts, as well as introduce new definitions in Section 8-1.5 of the CZO to recognize this activity **= KAUAI COUNTY COUNCIL. [Director's Report Received, Deferred, 8/11/2026].**

1. Public testimony pertaining to this matter.
2. Supplemental Director's Report pertaining to this matter.
3. Transmittal of agency comments to Commission.

4. **New Public Hearing**

a. **ZONING AMENDMENT (ZA-2026-7):** Amendment to the West Kauai Community Plan (WKCP), Waimea Town Walkable Mixed Use District Map (SPA-L) from T4 Village Neighborhood Flex – West Kaua'i "T4VN/F-WK" to T4 Village Center Flex – West Kaua'i "T4VC/F-WK" designation, Located immediately west and adjacent to the Waimea Hawaiian Church, situated along the makai side of Kaumuali'i Highway in Waimea Town, approximately 80 feet east of the Moana Road/Kaumuali'i Highway intersection, further identified as 1-9814 Kaumuali'i Highway containing a total area of 6,799 square feet, TMK: (4) 1-6-007:029 Waimea, Kaua'i = **KAMASHITA INVESTMENTS, LLC. [Hearing Postponed, 7/14/2026; Hearing Postponed, 8/11/2026].**

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

b. **ZONING AMENDMENT (ZA-2027-1):** A bill for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to amend the Comprehensive Zoning Ordinance reinstating the Additional Rental Unit program. The program will allow the construction of Additional Rental Units throughout the County's Residential Zoning Districts **= COUNTY OF KAUAI, PLANNING DEPARTMENT.**

1. Director's Report pertaining to this matter.
2. Transmittal of agency comments to Commission.
3. Transmittal of public testimony to Commission.

c. **ZONING AMENDMENT (ZA-2027-2):** A bill for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to amend the Comprehensive Zoning Ordinance's civil fines for zoning violations **= COUNTY OF KAUAI, PLANNING DEPARTMENT.**

1. Director's Report pertaining to this matter.
2. Transmittal of agency comments to Commission.
3. Transmittal of public testimony to Commission.

d. **ZONING AMENDMENT (ZA-2027-3):** A bill for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to amend the Comprehensive Zoning Ordinance to regulate third party hosting platforms for the vacation rentals and transient accommodations **= COUNTY OF KAUAI, PLANNING DEPARTMENT.**

1. Director's Report pertaining to this matter.
2. Transmittal of agency comments to Commission.
3. Transmittal of public testimony to Commission.

e. **STATE LAND USE BOUNDARY AMENDMENT (A-2027-1):** A bill for a State Land Use District Boundary Amendment from the Agricultural District (AG) to the Urban District (U) involving approximately 14.9 acres located on the makai side of the Halewili Road/'Iluna Street intersection in Wahiawā, further identified as Tax Map Key (4) 2-1-001:003 **= COUNTY OF KAUAI, PLANNING DEPARTMENT.**

1. Director's Report pertaining to this matter.
2. Transmittal of agency comments to Commission.
3. Hearing postponed to November 10, 2026, to allow the Applicant's compliance with KCC §8-3.1(f)(4).

f. **ZONING AMENDMENT (ZA-2027-4):** 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-10) involving a parcel located on the makai side of the Halewili Road/'Iluna Street intersection in Wahiawā, identified as Tax Map Key (4) 2-1-001:003 **= COUNTY OF KAUAI, PLANNING DEPARTMENT.**

1. Director's Report pertaining to this matter.
2. Transmittal of agency comments to Commission.
3. Hearing postponed to November 10, 2026, to allow the Applicant's compliance with KCC §8-3.1(f)(4).

g. **ZONING AMENDMENT (ZA-2027-5):** A bill for an ordinance amending Chapter 10, Article 3, Kaua'i County Code (1987), as amended, relating to the West Kaua'i Community Plan. The proposal amends Zoning Map ZM-H-200 Special Planning Area "N," also known as the "'Ele'ele Port Allen Walkable Mixed Use District" involving a portion of a parcel further identified as Tax Map Key: (4) 2-1-001:003 = **COUNTY OF KAUAI, PLANNING DEPARTMENT.**

1. Director's Report pertaining to this matter.
2. Transmittal of agency comments to Commission.
3. Hearing postponed to November 10, 2026, to allow the Applicant's compliance with KCC §8-3.1(f)(4).

G. CONSENT CALENDAR

1. Status Reports

a. 2026 Annual Report on the progress and status of compliance and conditions of the subject permits for **Hokuala Resort (formerly Kauai Lagoons LLC. & MORI Golf (Kauai) LLC.)** in accordance with Condition No. 28 of Special Management Area Use Permit SMA(U)-2005-8, Class IV Zoning Permit Z-IV-2005-30, Project Development Use Permit PDU-2005-26, and Use Permit U-2005-25, Tax Map Keys: (4) 3-5001: 027 (Por.), 168, 169, 171 (Por.), 172, 175 & 176.

1. Director's Report pertaining to this matter.

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

    a. None for this meeting.

3. **Class III Zoning Permits**

    a. None for this meeting.

H. GENERAL BUSINESS MATTERS

1. **GENERAL PLAN AMENDMENT (GPA-2025-2)** for a General Plan Future Land Use Map Amendment from "Agriculture" to "Plantation Camp" for a parcel 70 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; Approved, 6/24/202].**

    a. Supplemental Director's Report pertaining to this matter.

2. **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; Approved, 6/24/2025].**

    a. Supplemental Director's Report pertaining to this matter.

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; Approved, 6/24/202].**

    a. Supplemental Director's Report pertaining to this matter.

4. In the Matter of Shoreline Setback Determination Application SSD-2027-3 for repairs to existing home/work deemed unsubstantial (25.6%), Tax Map Key: (4) 5-8-011:011, Wainiha, Kauai = **THERON & GENEIL VINES**.

    a. Request to not accept approval of SSD-2027-3 Exemption submitted by Caren Diamond (8/8/2026). [Appeal of the Director's Determination].

5. Planning Director Kaaina S. Hull's Petition to Revoke Applicant David and Elayne Larimer's Non-Conforming Use Certificates TVNCU #5104 (Ileina's Hanalei Cottage) and TVNCU #5166 (Ileina's Hanalei House), 5277 Malolo Place and 5277-A Malolo Place, TMK No. (4)5-5-002:113, Hanalei, Kauai 96714, and Issue an Order to Show Cause and Set Hearing, for referral to Boards & Commissions as Contested Case File No. CC-2027-3.

    a. Appeal and Request for Contested Case Hearing Regarding Cease & Desist and Forfeiture of Non-Conforming Use Certificates TVNCU Nos. 5104 (Ileina's Hanalei Cottage) and 5166 (Ileina's Hanalei House).

I. COMMUNICATIONS

1. None for this meeting.

J. UNFINISHED BUSINESS (For Action)

1. None for this meeting.

K. NEW BUSINESS (For Action)

1. **SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2027-1), CLASS IV ZONING PERMIT (Z-IV-2027-1), and USE PERMIT (U-2027-1)** involving the construction of a single-family residence, guest house, garage, and associated site improvements on a parcel located on the makai side of Kaumualii Highway in Kekaha, situated approximately 500 feet west of its intersection with Mamo Road, further identified as Tax Map Key: (4) 1-3-005:053, and containing a total area of 1.681 acres = **MONICA C. EVSLIN TRUST. [Director's Report Received, 8/25/2026].**

2. **CLASS IV ZONING PERMIT (Z-IV-2027-2), PROJECT DEVELOPMENT USE PERMIT (PDU-2027-1)** to allow construction of an affordable residential housing project containing sixty (60) multi-family units, community building, and associated site improvements, and **VARIANCE PERMIT (V-2027-1)** to deviate from Section 8-10.2 of the Comprehensive Zoning Ordinance (CZO) relating to lands that qualify for a Project Development, involving a parcel situated along the makai side of the Kaumualii Highway in Puhi, situated immediately west of its intersection with Nani Street, further identified as Tax Map Key: (4) 3-3-004:020 and containing a total area of 2.5169 acres = **IKENAKEA DEVELOMENT LLC. [Director's Report Received, 9/22/2026].**

L. COMMITTEE REPORTS

1. **Subdivision Committee Report**

    a. Subdivision Application No. S-2027-1
    Grove Farm Company, Inc. / State of Hawai'i – Agribusiness Development Corporation
    Proposed 2-Lot Consolidation and Re-Subdivision into 3-Lots
    TMKs: (4) 3-8-018: 001 and 009
    Hanamā'ulu, Līhu'e, Kaua'i

M. EXECUTIVE SESSION

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

1. **SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2027-1), CLASS IV ZONING PERMIT (Z-IV-2027-1), and USE PERMIT (U-2027-1)** involving the construction of a single-family residence, guest house, garage, and associated site improvements on a parcel located on the makai side of Kaumualii Highway in Kekaha, situated approximately 500 feet west of its intersection with Mamo Road, further identified as Tax Map Key: (4) 1-3-005:053, and containing a total area of 1.681 acres = **MONICA C. EVSLIN TRUST. [Director's Report Received, 8/25/2026].**

2. **CLASS IV ZONING PERMIT (Z-IV-2027-2), PROJECT DEVELOPMENT USE PERMIT (PDU-2027-1**) to allow construction of an affordable residential housing project containing sixty (60) multi-family units, community building, and associated site improvements, and **VARIANCE PERMIT (V-2027-1)** to deviate from Section 8-10.2 of the Comprehensive Zoning Ordinance (CZO) relating to lands that qualify for a Project Development, involving a parcel situated along the makai side of the Kaumualii Highway in Puhi, situated immediately west of its intersection with Nani Street, further identified as Tax Map Key: (4) 3-3-004:020 and containing a total area of 2.5169 acres = **IKENAKEA DEVELOMENT LLC. [Director's Report Received, 9/22/2026].**

3. **ZONING AMENDMENT (ZA-2026-3):** A bill (2973) for an ordinance amending Chapter 8, Article 1 of the Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to further clarify the definition of "Family" and "Dwelling Unit" = **KAUAI COUNTY COUNCIL. [Director's Report Received, Deferred, 03/10/2026; Deferred, 05/26/2026; Deferred, 08/11/2026].**

4. **ZONING AMENDMENT (ZA-2026-4):** A bill (2979) for an ordinance amending Chapter 8, Article 1 of the Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to introduce new definitions for "Employee Dormitory" and "Group Housing Dormitory" = **KAUAI COUNTY COUNCIL. [Director's Report Received, Deferred, 03/10/2026; Deferred, 05/26/2026; Deferred, 08/11/2026].**

5. **ZONING AMENDMENT (ZA-2026-8)** A bill for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to establish apiaries as a permitted use within the County Residential and other zoning districts, as well as introduce new definitions in Section 8-1.5 of the CZO to recognize this activity **= KAUAI COUNTY COUNCIL. [Director's Report Received, Deferred, 8/11/2026].**

6. **ZONING AMENDMENT (ZA-2026-7):** Amendment to the West Kauai Community Plan (WKCP), Waimea Town Walkable Mixed Use District Map (SPA-L) from T4 Village Neighborhood Flex – West Kaua'i "T4VN/F-WK" to T4 Village Center Flex – West Kaua'i "T4VC/F-WK" designation, Located immediately west and adjacent to the Waimea Hawaiian Church, situated along the makai side of Kaumuali'i Highway in Waimea Town, approximately 80 feet east of the Moana Road/Kaumuali'i Highway intersection, further identified as 1-9814 Kaumuali'i Highway containing a total area of 6,799 square feet, TMK: (4) 1-6-007:029 Waimea, Kaua'i = **KAMASHITA INVESTMENTS, LLC. [Hearing Postponed, 7/14/2026; Hearing Postponed, 8/11/2026].**

7. **ZONING AMENDMENT (ZA-2027-1):** A bill for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to amend the Comprehensive Zoning Ordinance reinstating the Additional Rental Unit program. The program will allow the construction of Additional Rental Units throughout the County's Residential Zoning Districts **= COUNTY OF KAUAI, PLANNING DEPARTMENT.**

8. **ZONING AMENDMENT (ZA-2027-2):** A bill for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to amend the Comprehensive Zoning Ordinance's civil fines for zoning violations = **COUNTY OF KAUAI, PLANNING DEPARTMENT.**

9. **ZONING AMENDMENT (ZA-2027-3):** A bill for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to amend the Comprehensive Zoning Ordinance to regulate third party hosting platforms for the vacation rentals and transient accommodations = **COUNTY OF KAUAI, PLANNING DEPARTMENT.**

10. **STATE LAND USE DISTRICT BOUNDARY AMENDMENT (A-2027-1):** A bill for a State Land Use District Boundary Amendment from the Agricultural District (AG) to the Urban District (U) involving approximately 14.9 acres located on the makai side of the Halewili Road/'Iluna Street intersection in Wahiawā, further identified as Tax Map Key (4) 2-1-001:003 **= COUNTY OF KAUAI, PLANNING DEPARTMENT.**

11. **ZONING AMENDMENT (ZA-2027-4):** 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-10) involving a parcel located on the makai side of the Halewili Road/'Iluna Street intersection in Wahiawā, identified as Tax Map Key (4) 2-1-001:003 = **COUNTY OF KAUAI, PLANNING DEPARTMENT.**

12. **ZONING AMENDMENT (ZA-2027-5):** A bill for an ordinance amending Chapter 10, Article 3, Kaua'i County Code (1987), as amended, relating to the West Kaua'i Community Plan. The proposal amends Zoning Map ZM-H-200 Special Planning Area "N," also known as the "'Ele'ele Port Allen Walkable Mixed Use District" involving a portion of a parcel further identified as Tax Map Key: (4) 2-1-001:003 **= COUNTY OF KAUAI, PLANNING DEPARTMENT.**

13. 2026 Annual Report on the progress and status of compliance and conditions of the subject permits for **Hokuala Resort (formerly Kauai Lagoons LLC. & MORI Golf (Kauai) LLC.)** in accordance with Condition No. 28 of Special Management Area Use Permit SMA(U)-2005-8, Class IV Zoning Permit Z-IV-2005-30, Project Development Use Permit PDU-2005-26, and Use Permit U-2005-25, Tax Map Keys: (4) 3-5001: 027 (Por.), 168, 169, 171 (Por.), 172, 175 & 176.

14. **GENERAL PLAN AMENDMENT (GPA-2025-2)** for a General Plan Future Land Use Map Amendment from "Agriculture" to "Plantation Camp" for a parcel 70 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; Approved, 6/24/2025).**

15. **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; Approved, 6/24/2025).**

16. **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; Approved, 6/24/2025).**

17. In the Matter of Shoreline Setback Determination Application SSD-2027-3 for repairs to existing home/work deemed unsubstantial (25.6%), Tax Map Key: (4) 5-8-011:011, Wainiha, Kauai = **THERON & GENEIL VINES**.

18. Planning Director Kaaina S. Hull's Petition to Revoke Applicant David and Elayne Larimer's Non-Conforming Use Certificates TVNCU #5104 (Ileina's Hanalei Cottage) and TVNCU #5166 (Ileina's Hanalei House), 5277 Malolo Place and 5277-A Malolo Place, TMK No. (4)5-5-002:113, Hanalei, Kauai 96714, and Issue an Order to Show Cause and Set Hearing, for referral to Boards & Commissions as Contested Case File No. CC-2027-3.

19. Subdivision Application No. S-2027-1
    Grove Farm Company, Inc. / State of Hawai'i – Agribusiness Development Corporation
    Proposed 2-Lot Consolidation and Re-Subdivision into 3-Lots
    TMKs: (4) 3-8-018: 001 and 009
    Hanamā'ulu, Līhu'e, Kaua'i

N. ANNOUNCEMENTS

1. Topics for Future Meetings.

   The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter, on November 10, 2026. The Planning Commission anticipates this meeting to be held in-person at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, Hawaii. The Commission will announce its intended meeting method via an agenda electronically posted at least six days prior to the meeting date.

O. ADJOURNMENT

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

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

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

OCTOBER 13, 2026

SHORELINE SETBACK DETERMINATIONS

Application No.	Name of Applicant(s)	Property I.D. (Tax Map Key)	Location	Development/Reasons
SSD-2027-7	Virts Family Trust c/o Ian Jung Esq.	5-8-008:026	Hā'ena	Repair and renovations to existing residence installation of an individual wastewater system and related site utilities./ Proposed project is located an additional 120 feet from setback of 110 feet.
SSD-2027-8	Monica C. Evslin Trust c/o Ian Jung Esq.	1-3-005:053	Waimea	Construction of residence, guest house, garage, pool, grading, landscaping, IWS, and related site utilities./ Proposed project occurs 212 feet away from the certified shoreline. Required shoreline setback 207 feet.
SSD-2027-9	Kauai Beach Villas c/o Debbie Freeman	3-7-003-014	Līhu'e	Repairs to existing hotel deemed unsubstantial (40%) per DPW letter dated February 24, 2026.

SSD-2027-10	Cynthia Frey	5-8-008-007	Hā'ena	Construction of 200' ceder fencing along property line./ Fencing is located an additional 335' from the required 99' setback.
SSD-2027-11	Kauai Coast Resort c/o Debbie Freeman	2-8-019-003 CPR Unit 10	Po'ipū	Repairs to existing hotel deemed unsubstantial (13.37) by DPW letter dated April 30, 2026.
SSD-2027-12	Michael Shaff, President of AOAO Kauai Beach Resort	3-7-003-015	Līhu'e	Renovations to existing commercial kitchen and snack shop./ Renovations occur 231' from the certified shoreline. Required shoreline setback 188 feet.
SSD-2027-13	Michael Shaff, President of AOAO Kauai Beach Resort	3-7-003-015	Līhu'e	Removement of existing pool bar and equipment. Structure to remain as a pavilion./ Renovations occur 189' from the certified shoreline. Required shoreline setback 188
SSD-2027-14	Zona Urdina	5-8-010:025 CPR Unit 1	Wainiha	Construction of Single-Family Dwelling/ Development setback 120 feet from certified shoreline.

SSD-2027-15	Debra Schoenberg c/o Andre Freitas	5-8-012:032	Wainiha	Renovations to existing home./ Proposed project is located an additional 185 feet from the required setback area of 69 feet.
SSD-2027-16	Erik Larson & Natalie McCullough c/o Santo Giorgio	5-5-010:031	Hanalei	Renovations to existing home./ Proposed project is located an additional 375 feet from the required setback area of 60 feet.

KAUA'I PLANNING COMMISSION
REGULAR MEETING
August 11, 2026
DRAFT

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair Gerald Ako at 9:28 a.m. - Webcast Link: https://www.kauai.gov/Webcast-Meetings

The following Commissioners were present:

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

Excused or Absent

Ms. Helen Cox

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

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Chair Gerald Ako: Good morning. Sorry for the little delay or maybe a lot of the delay. But today is Tuesday, August 11, 2026, and I'd like to call to order the Planning Commission meeting and with that, if we can have a roll call, Mr. Clerk.

ROLL CALL

Planning Director Ka'aina Hull: Roll call, Mr. Chair. Commissioner Cox is excused. Commissioner Giovanni?

Commissioner Dan Giovanni: Here.

Mr. Hull: Commissioner Santos?

Commissioner Kuulei Santos: Here.

Mr. Hull: Commissioner Streufert?

Commissioner Glenda Nogami Streufert: Here.

Mr. Hull: Chair Ako?

Chair Ako: Here.

Mr. Hull: You have quorum, Mr. Chair. 4:0.

APPROVAL OF AGENDA

Mr. Hull: Next, for the approval of agenda, the department will recommend two amendments to the agenda. One, we did receive testimony concerning SSD-2027-3, which is part of the agenda packet. This testimony is potential appeal of the director's action, and so we'd recommend that SSD-2027-3 be placed on Receipt of Items for the Record, as well as General Business Matters. And then the department is also recommending that all Agency Hearing and General Business Matters be subsequently reviewed on their respective agenda, so the business item would follow the hearing.

Chair Ako: So, two changes to the agenda?

Mr. Hull: Two changes to (inaudible).

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

Ms. Santos: I second.

Chair Ako: We've got a motion, and we've got a second. No questions, so all those in favor say aye. Aye (unanimous voice vote). All those opposed? Our agenda has been amended. 4:0.

MINUTES OF THE MEETING OF THE PLANNING COMMISSION (None)

Mr. Hull: Next, we, oh, we don't have any minutes of the meeting for the Planning Commission.

RECEIPT OF ITEMS FOR THE RECORD

Mr. Hull: So, receipt of items for the agenda is the recently amended agenda, which is SSD-2027-3. Ms. Diamond is the transmitter of this communication. Ms. Diamond, are you available for testimony?

Ms. Caren Diamond: Yes.

Mr. Hull: If you could state your name for the record and three minutes for testimony.

Ms. Diamond: Good morning, commissioners. Caren Diamond.

Chair Ako: Morning.

Ms. Diamond: I'm testifying this morning on agenda item that are the shoreline setback determinations. And this is SSD-2027-3. And the reason I'm testifying on it is because it actually takes our public beach, gives it to a landowner, takes responsibility and authority that belongs to the state, gives the beach to the landowner. So, just for some history, recent history on this

project, a landowner bought a little classic and a style cottage, it's right on the beach with a big lawn and it was a house that had no issues ever. The landowner came in and got a SMA minor permit to put a fence up. Once he put the fence up, he proceeded to rebuild the house with no permits. So, this is an after-the-fact exemption. So, the house was built with a seaward addition of a patio and covering over it in the shoreline setback area. That's considered development. It never should get exemption number two, because exemption number two doesn't allow new development to be included in it. It's for repairs to existing structures. And so, the landowner has this fully rebuilt house. He applied for a shoreline certification from the state. The state came out and told him he had to remove all the vegetative encroachments that were seaward of the shoreline. And once he did that, then they would continue processing the certified shoreline. The landowner never removed any of the vegetation encroachments, refused to. The state sent him letters. He still did not do it. The shoreline was officially rejected by the state. That's the shoreline you guys are using in this application. So, I don't know how the county can use the shoreline that was officially rejected from the state. And because it was development, he should have an SMA permit, which he does not because he rebuilt stuff, he should have a building permit, he does not. He has an old cesspool which he did not convert. There's no certified shoreline. There's no, and so then this before you is just a exemption. And I feel like the exemption is very inappropriate. So, when the fence went up, the fence blocked our public views from the highway to the ocean that were always there. When you come around the Kepuhi stretch in Wainiha, there's incredible views of the ocean and you can smell it and it's just amazing. And that fence blocked the views. And then by the landowner refusing to remove the vegetation seaward of the shoreline, he's impinged on our public access, safety, and so an exemption is really not appropriate for this.

Deputy County Attorney Laura Barzilai: Ms. Diamond, Ms. Diamond, I'm sorry, if I may, Chair, I believe that Ms. Diamond is making an appeal right now to this shoreline setback, determination. And that's the subject of her general business item. So, right now she's making a substantive presentation. The landowner has not seen her appeal, which was submitted as late testimony. And I would suggest that you defer so that the landowner can be copied on this document. You haven't read the document yet. We are deeming it as an appeal, but I think it might be best to put it on next month's agenda, so that both parties can appear and the department can state their position, and you can determine if you want to send it to a hearing officer for a contested case, because that's what I believe Ms. Diamond is asking for.

Ms. Diamond: That does work. I was hoping that actually the permit could be pulled, it not receive approval on today and that, but if, but if you prefer to do the appeal route that that works.

Ms. Barzilai: I would deem the document and a request for an appeal under your rules, which means that the other party has an opportunity to present.

Ms. Streufert: Just for clarification purposes, is that this one that we just got this morning?

Ms. Barzilai: Yes.

Ms. Streufert: Okay.

Ms. Barzilai: That's up to you, Chair.

Chair Ako: Would that be agreeable for you, Ms. Diamond? I mean, I'm sure you have other preferences, I know you have other preferences out there.

Ms. Diamond: That's fine. That works as well.

Chair Ako: Okay.

Mr. Hull: And, you know, the department would welcome the opportunity to further look at the SSD, Shoreline Setback Determination that was made to go over with Ms. Diamond the concerns and perhaps within the 30 days of the deferral, we're able to warrant out a common agreed upon approach between both parties. We may be able to put it to rest, otherwise, when concerning the shoreline demarcation and public interest, the department generally is not to, in objection to appeals concerning the public realm.

Chair Ako: Hearing that, we (inaudible) to entertain a motion, motion to defer.

Ms. Streufert: To defer? I move to defer Shoreline Setback Determination SSD-2027-3 to September.

Mr. Hull: That works.

Chair Ako: Okay, we got a motion to defer until September.

Mr. Hull: September 8th would be the next.

Ms. Streufert: September 8th, 2026.

Ms. Santos: I second.

Chair Ako: We got a motion. It's been seconded. Last comment. Any comments? If not, if we can have a roll call vote?

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

Mr. Giovanni: Aye.

Mr. Hull: Commissioner Santos?

Ms. Santos: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Morion passes, Mr. Chair. 4:0.

Ms. Streufert: Could I ask that we get ten minutes because we had all of these things that came in this morning that I have not reviewed.

Chair Ako: Sure.

Ms. Streufert: So, before we get into any more of these.

Mr. Hull: The commission's going to take a ten-minute recess to review and to review testimony submitted after the posting of the agenda.

Ms. Diamond: Thank you, commissioners.

The Commission went into recess at 9:36 a.m.
The Commission reconvened from recess at 9:47 a.m.

Chair Ako: We can reconvene. We are on Item F.

COMMITTEE REPORTS

Subdivision Committee Reports

Mr. Hull: Item F. Subdivision Committee Reports. I'll turn it over to the Subdivision Committee Chair.

Ms. Streufert: This morning…

Mr. Hull: Glenda? Commissioner?

Ms. Streufert: This morning, the Subdivision Committee met and we reviewed many different applications. We approved two Preliminary Subdivision maps and deferred one. We approved four Subdivision Extension Requests and also a Final Subdivision Map Approval.

Chair Ako: Any questions for the subdivision report?

Ms. Santos: No.

Chair Ako: Okay, if not, I can entertain a motion to accept.

Ms. Barzilai: Motion to approve, please.

Chair Ako: Motion to approve.

Ms. Streufert: I move to approve the Subdivision Committee Report.

Ms. Santos: I second.

Chair Ako: Motion to approve and a second. Any further questions? If not, all those in favor, say aye. Aye (unanimous voice vote). All those opposed?

Mr. Hull: Motion passes, Mr. Chair. 4:0.

HEARINGS AND PUBLIC COMMENT (None)

Continued Agency Hearing (None)

New Agency Hearing

Mr. Hull: Moving on to New Agency Hearing.

> CLASS IV ZONING PERMIT (Z-IV-2026-17), PROJECT DEVELOPMENT USE PERMIT (PDU-2026-13) to allow construction of an affordable housing project containing eight (8) single-family residences and associated site improvements, and VARIANCE PERMIT (V-2026-4) to deviate from Section 8-10.2 of the Comprehensive Zoning Ordinance (CZO) relating to lands that qualify for a Project Development, involving a parcel situated along the mauka side of the Koloa Road, approximately 450 feet east of the Koloa Road/Horita Road intersection in Lawai, further identified as 4049 Koloa Road, Tax Map Key: (4) 2-5-010:034 and containing a total area of 1.097 acres = **KAUAI HABITAT FOR HUMANITY. [Director's Report Received, 07/28/2026.]**
>
> 1. Director's Report pertaining to this matter.
> 2. Transmittal of public testimony to Planning Commission.

Mr. Hull: We have two individuals signed up to testify. First individuals, Amy Blaskstad. You can approach the microphone and you have to turn it on. And then if you could, if you could state your name for the record and you have three minutes for testimony.

Ms. Amy Blackstad: My name is Amy Blackstad. I live on Blackstad Road off of Kōloa Road, and I am opposing this project. (Inaudible) property is above me. After Horita Road, there is an unpaved, single lane road. So, from below that road is a valley, it's like a valley that comes between (inaudible) property and the Blackstad property. So, near the end of this valley is my boat garage, next to my boat garage, maybe about 15ft or so away, is my split level house. So, when it rains, the rain is going to come down through the valley, go around my boat garage and end up in the lowest spot of my yard. So, when it keeps on raining, all that rain is going to be collecting in my yard. So, when the level of that water reaches the road, and it's going to be inches before it'll go into my house garage, so the water will flow on Blackstad Road, flood Blackstad Road and drop into Caires' property. On Caires' property, there's a ditch, but the ditch is not wide enough to hold all this water that is coming down, so it floods. Caires' property. (Inaudible) property, that's above me slopes down and they want to build eight homes on it. All that water from that property is going to end up in my yard because there's no drainage. In 2021, I took pictures of the flooding that is happening in our area. These pictures will show you how bad of a flooding problem we have. That's all I have to say.

Chair Ako: Thank you.

Mr. Hull: Next, we have signed up is Jeff Olsen.

Mr. Jeff Olsen: Hi, my name is Jeff Olsen. I'm a resident, a 25-year resident, homeowner on Blackstad Road, at the very, very end of the road. I am opposed to this variance permit for multiple reasons. First of all, let me say that I think Habitat for Humanity is an incredible, put people in homes. I think it's a great project opportunity, but I don't believe this is the right spot to do a variance, where we're going to add four more houses to a property. I think this is zoned for four. I don't know if any of you turned in and out of Kōloa Road near Blackstad. Nobody...it's tough getting in and out of the road over the 25 years, it's getting very difficult to make left turns, right turns, school bus, trash things, and we got major traffic problems just right there. So, adding another four houses, I'm against that. I think they should be allowed to do what their zoning allows them to do, but they should not be allowed to do more houses there. Also, what Amy said, I drive by Amy's property all the time. It floods every time it rains. And we do have a drainage problem. This project, if you look at the...do you guys have this? Does anybody have this?

Mr. Hull: There's no questioning of the commission right now, Mr. Olsen…

Mr. Olsen: No?

Mr. Hull: …this is for your testimony to provide.

Mr. Olsen: Okay. I'm against it for drainage reasons, traffic reasons, and I don't think we should be adding more houses to existing zoning in areas that are already maxed out. There's plenty of other places to do that. And that's it. Thank you for your time.

Chair Ako: Thank you.

Mr. Hull: I don't have anyone else signed up for this agenda item, but is there any member of the public that is here that would like to testify on this agenda item? If so, you may approach the microphone.

Ms. Kagawa: Good morning. Kanani Kagawa for the record, I just wanted to, I had a chance to go over the application and look, and with this particular project and the layout, I just wanted to say that I support this project and Habitat's efforts to create eight residential units in this area. I am aware of the concerns that the neighbors share. However, we are faced with an incredible challenge of providing housing for our island and these homes in particular are for local residents. These aren't going to be homes that are going to be for non, you know, these are for our Kaua'i residents. These are going to be affordable homes. And, you know, these are going to be for families that intend to grow here, stay here, I can go on and on about the success of habitat. I have experienced many, many years working with them. They are responsible developers. They are good neighbors. I've worked with them for many years. So, I know and I understand that they will be very good neighbors. They take care while they build, and you know, the concerns that are being heard today about drainage already exists. So, it's not something that building these homes are going to build. So, I just want to say that I support and commend the efforts that habitat is doing to increase housing units on this island. They're one of the few developers happening right now that are building residential homes for our island residents. So, thank you for that. Thank you for the time.

Chair Ako: Thank you.

Mr. Hull: Any other members of the public that did not sign up, but would like to testify on this agenda item? Seeing none, we'll be moving directly into the agenda item itself as adjusted to the agenda. So, I'll turn it over to Dale for the report pertaining to this item.

Staff Planner Dale Cua: Good morning, Chair, and members of the Commission.

> Mr. Cua read the Summary, Project Data, Project Description and Use, Additional Findings, Preliminary Evaluation, and Preliminary Conclusion sections of the Director's Report for the record (on file with the Planning Department).

Chair Ako: Thank you. Questions?

Ms. Streufert: I have a couple. Can I ask what, when there's flooding, how much of that water is coming from the land and how much of it is coming from the reservoir that's right above their…

Mr. Cua: Without a drainage report, I won't be able to answer that. I think as the property is developed, I think one of the requirements generally required by the Department of Public Works Engineering is a drainage report to study the drainage in the area.

Ms. Streufert: Okay, because I…as I looked at the map, it appears that there is a…

Mr. Cua: What used to be ditch, yeah.

Ms. Streufert: …a stream or something like that, that goes through it, which does not, which is not part of that property, but it's coming from the reservoir, I think.

Mr. Cua: Yeah, that ditch system was part of the sugar cane operation when Kukui'ula was under sugarcane cultivation. So, at this time it's a non-active ditch right of way.

Ms. Streufert: So, who takes care of that right now? You said it used to be McBryde.

Mr. Cua: Yeah.

Ms. Streufert: What is it now? Is it Kukui'ula?

Mr. Cua: If the ditch right of way hasn't been conveyed to the property owner, it's probably likely under Kukui'ula ownership.

Ms. Streufert: So, could Kukui'ula be responsible for at least mitigating that portion of the water flow or the flooding?

Mr. Cua: That I'm not sure. Yeah. Because without fully understanding the drainage in the area.

Ms. Streufert: And it is an R-4, but there are, we have a…ordinances that would allow for residences to have ADUs and ARUs, could you kind of explain a little bit about that?

Mr. Cua: Sure. Yeah. The property is zoned residential R-4, being an acre in size, outright, the property would qualify for four single-family residences. The property can also qualify, could qualify for ARUs, provided that they can satisfy the infrastructure requirements. And if qualified,

each single-family residence would be able to accommodate one additional ARU. So, potentially you can have a total of eight, provided that all the necessary infrastructure is in place.

Ms. Streufert: So, would this qualify for an eight because they would be ARUs or ADUs? Four of them would be ARUs.

Mr. Cua: If the property can meet the wastewater requirements. I think it's been the department's practice that we defer that to the State Department of Health. However, we've come to understand that for those properties that have access to sewer, it shouldn't be an issue. But in this area, they don't have sewer. So, if they provide the necessary wastewater treatment system, then they could conceivably allow eight homes.

Mr. Hull: Just to for that question, Commissioner, you are correct that the property outright qualifies for four dwelling units and four ARUs. The ARUs are by law, need to be associated specifically with one of the dwelling units, so you can't CPR an ARU off, you can't have separate ownership of the ARU from its respective dwelling unit. So, the right to have eight habitable units is already outright permitted on this property. What Habitat's application is doing is saying, we'd like to have the opportunity for each of those eight to have individual home ownership rights, deeds, essentially. So, the use is outright permitted. The ownership structure is part of what that habitat application is, is proposing today.

Mr. Giovanni: So, I heard the comment that four of them were like three bedrooms with one and a half bath. Sorry, if I understood correctly, four of the homes would be three bedrooms, one and a half bath and four would be two-bedroom, one bath. In my mind, that sounds equivalent to a ADU connected with a larger home. Is that…am I looking at that correctly?

Mr. Hull: Yeah, four of them are two bedrooms, one bath and are 834 square feet. So, they're just about at the ARU level. ARU is technically 800 square feet.

Mr. Giovanni: But more or less.

Mr. Hull: They're by design and by function, they would function like an ARU with the one caveat being they couldn't be separately owned.

Mr. Giovanni: Okay. Thank you.

Ms. Santos: So, when does the, when does the drainage study come into play? Is it after…is it…

Mr. Hull: Generally, it's done during the building permit review with engineering. However, if the commission as a body wanted to look more at drainage, that certainly is something that can be requested, I mean we'd want a deferral, of course, but certainly can be analyzed at the commission level should the commission want to take that on.

Ms. Santos: Does it does the commission normally take that on or not really?

Mr. Hull: It's case specific. I mean, generally the commission will defer to the engineering division and drainage laws and implementation on part of the engineering division. But if there

are certain cases that the commission would like to have more information before it takes action, that's solely at the commission's discretion.

Ms. Santos: One of the people testified today said they had pictures of the all the flooding. Do we have that or no? Or is that…did they submit the pictures?

Mr. Hull: I don't believe that's been submitted as a packet.

Ms. Streufert: But the mitigation for that kind of flooding can be…would be part of the building permit, would it not?

Mr. Hull: Yes. It's part of the building permit. The engineering division standards are that all drainage be kept, all drainage created by the improvements need to be kept on site.

Ms. Streufert: And as I, as I was reading the report and I was trying to do my calculations here, this is a little over one acre parcel and which is about 48,000 square feet, 45,000, 48,000 square feet. All of the residences in total, if you add it up, would be about 8,400, no more than 8400 square feet, actually, it's 7480 square feet. But the driveways and the…there are no driveways…there are no carports or garages associated with this. So, it would all be on the ground, it would not be...there's not going to be any covering or no cement or anything that would hinder any kind of water...what do I want to say…that the water would not be hindered from entering in the ground, groundwater, is that correct? So, it would not necessarily all be flowing out.

Mr. Cua: Okay.

Ms. Streufert: Okay. So, that is within 8400 square feet out of 4800, 48,000 would still be appropriate. Is that correct?

Mr. Cua: Correct. In the Director's Report, I noted that permissible land coverage would be 60%. And I think what you have is a little over 20% land coverage right now.

Ms. Streufert: Yeah. Right now, it's 29 allowable, excuse me, allowable coverage at 60% would be about 29,400 square feet, and right now, according to this, there's about only 14,000. So, it's about half of that, it's about 30% coverage.

Mr. Cua: Okay.

Chair Ako: Well, we can always come back to the staff again. At this time do we have the applicant?

Mr. Ian Jung: Good morning, Chair. Ian Jung on behalf of the applicant but not as the attorney this time but as a board member. So, with me is Milani Pimentel, our executive director, as well as Doug Haigh, who's going to deal with the construction side of things, as well as address the drainage issue. Just for context, I kind of want to walk the commission through our thinking on this project, just because I think it's a unique approach compared to what we could have easily done through a subdivision process. So, at the outset, we were trying to think of what the community would look like, right, so we could have done using the 48,000 square feet, a four-lot

subdivision to get a house on ADU on each lot, which then would equate to eight units total. But with that approach, we'd come down to a scenario where we'd have four separate condominium property regimes. So, rather than create the four separate condominium property regimes, we thought, let's create one community. So, then we would create one condo, use the PDU process, and use the variance process to deviate from the typical standard of ten units or more through the PDU process. Now this project is an affordable housing project. It is 80% and below of AMI, so, there will, there will be a housing project for affordable standards and we have as attached Exhibit D to our application, the housing agreement we entered into with the county for this particular project. And if you look at the exhibits in the housing agreement, it outlines the subsidies that come along with the requirements of going forward with affordable housing project, certain things as fee waivers and whatnot that come, come with these types of housing projects. One of the issues we're working through as an organization is, is our loan process. We used to get loans through the USDA with certain federal cuts that have occurred recently, where we're trying to reassess how to approach that lending process. So, there is the potential for federal subsidies as well, beyond just typical state and county. So, we're working through that and will work with the federal government to try and get additional subsidies for the project. But that was the thinking in terms of going through the process of creating the eight units. If we were to do a subdivision again, we'd get a four-lot subdivision, have one fit well, sorry, five lot subdivision, one roadway, lot for 10,000 square foot units, right, and in those units, we would have a house and an ADU, but the way the format would work is we'd have to do an individual CPR in each of those lots. So, there would be four CPR units versus what we're asking for is one. Now, from a drainage standpoint, one of the things we've evaluated in Exhibit E.2, has our drainage report or our grading plan. We did create swales on the side of the ingress road, right, so, that additional road that will go in is, is hard pavement either going to be asphalt or concrete. And there is grass swales along the side, and I'll let Doug address that. So, we did put into drainage, into mind on this matter. And as the planning director noted, typically, you know, the grading requirements do trigger drainage flows and we have to go through Department of Engineering, Department of Public Works, Engineering Division to navigate the drainage requirements to get ultimately a project approved through the grading permit process. So, that's one step that we still have to take. We did include our grading plan just for information to the commission, but it has not yet been approved as far as I'm aware. And it's not to say we're willing to work with neighbors. We've already worked with one neighbor that has an encroachment on the property. So, you know, we're happy to take the two testifiers information and try and work through any drainage issues that might come, come by way of the project. To address the issue of traffic, our design does meet county standards for ingress and egress for a eight unit project. As you know, there are heightened requirements for projects that are 20 units or more, but for less than 20 units, there are lessened requirements for access for ingress and egress, and it's going to be up to the Department of Public Works to decide the traffic measures for the adjacent Blackstad Road. But this will be a hard pavement with the driveway approach and the work. So, it's not like it's going to be just a standard, you know, gravel driveway. It's going to be a fully developed driveway. So, with that, I'll turn it over to Doug and he can talk about the drainage and construction side of things.

Mr. Doug Haigh: Good morning. Doug Haigh, Chair of the Land Development Committee for Kaua'i Habitat for Humanity. I am a licensed civil, Hawai'i licensed civil engineer. For this project, we hired one of the premier engineers, Micah Kajimoto, from the premier engineering family, the Kajimotos. And not only have we done a drainage study for the increased flows of

our improvements, we've also done a drainage study of the flows coming to the property. So, we've done extensive drainage study work, which has all been submitted and reviewed by Engineering Division, Department of Public Works. We're right now, we're, I believe we have our, we're always hoping it's our final submission for approval to the engineering division for our grading permit. So, we're well along the way. It's very interesting here, you know, you have that irrigation ditch, but it's been long abandoned. And where it discharges from our property goes right into, almost a neighbor's house, so, clearly it hasn't been active. And so, it's kind of a, it's not that large of a drainage area that's feeding this property, but there is a drainage area. And Micah Kajimoto has done the flood study to identify what those flows are and what our flood elevations are on our property, and we needed that to site our houses to make sure that we weren't putting them in the floodway. It's not a FEMA floodway. It's a…just a kind of a, you know, one of these small floodways, but the engineering, you know, we need to do the flood study. That's the responsible thing to do. So, we are not increasing flows from the property to our downstream neighbors. And that's part of, you know, a requirement with the engineering division. So, we do have detention, retention capabilities to retain any increased flows from our development. So, it's been a challenge moving this this forward and the engineering works taking quite some time. We've had quite a bit of back and forth with the engineering division, but it's like I said, we're hopefully, we're at our final submittal and grading permit, hopefully will be ready to issue in the near future.

Mr. Jung: Maybe I'll just jump in real quick before Milani gives her side of our story. The drainage ditch was an issue that we, when we were acquiring the property that we needed to deal with. So, we did acquire by quitclaim deed the interest from McBryde. So, we are technically the owner of it, as Dale knows, we don't, we're not considering it a de facto subdivision as a separate legal lot of record, but we're willing to go through the process to consolidate it if that's what the Planning Department wants us to do. So, there is that ditch, it's noted as a right of way. We're not arguing that it's a separate lot. We're just going forward with the condo process versus a subdivision process. And if we need to consolidate it later, we can do that. But we're not trying to assert additional density based on the ditches, I guess the point.

Mr. Haigh: And one thing I forgot to mention is, since this parcel is over an acre, we do have an NPDES permit. So, we have that further regulations on our drainage issues for us to comply with the NPDES permit requirements.

Ms. Milani Pimental: Aloha, commissioners, I'd like to take a minute to go back a bit and just explain some of the background leading up to the acquisition and hopeful development of this property. We, several years ago, we were coming up to the closing of our longtime subdivision project that some of you might be familiar with the Ele'ele Iluna Subdivision, in total, among all the homes there, we have 125 homes. So, you can imagine for quite some time our staff prior to me had been working on that project. I became Interim Executive Director in 2020 and took the permanent position after that. So, as you know, the years went by, we found we were coming to a quick close on that subdivision, really needed to work to acquiring additional land for our mission and to serve the community. So, the board was well committed at that time to make sure that we had additional land parcels to put into our lineup so that we could produce these homes. When this property came up, luckily, we have the expertise of folks like Ian and Doug that can that could really help shape the future opportunities for the property. Now, in general, with our program, again, we, we, our clientele is the 80% AMI and below. You know, habitat encourages

us to go, you know, even to the low the very low-income bracket, which is about 60% and below. To do that, we have to sort of layer financing. And like Ian mentioned, in brief, the primary tool that we utilize with our homebuyers is using programs from the USDA rural development. In particular one of the things that have, has been proven quite strong for us to turn over homes and keep continuing our mission is the USDA 502 direct loan to homebuyers, with that, the home buyers achieve an affordable, low interest mortgage, with that product they also have the ability to, depending on where they are in the income bracket, extend the term of the loan from the typical 30 years to 38 years, for example, at most we see on average, we see extension to 33 years. So, that really helps folks be able to qualify for the program and keep things affordable for them through their lifetime. So, we see sometimes average of like, between 900 to 1200 a month in mortgage payment for the, for the buyers. They put in, the gist of our program is that we try as much as possible to have them participate in the sweat equity facet of, of the build. And with that, we are among the highest in the nation among habitat affiliates for the required sweat equity hours production. So, right now we're averaging about 30 hours per week from these households, individuals and families, in addition to their normal day to day to help self-build these homes. We'll market the offering publicly through various sources, partner agencies, radio, newspaper, that sort of thing. All the available marketing opportunities that we have here for the island. We'll offer a period of time for folks to compile their data and submit a program application. And at that point, we review them, each candidate for program eligibility. And so, for us, again, they must be 80% and below, either the individual or the whole household, 80% and below, they must have a willingness to partner with us as, as pertains to our mission and a need for housing. So, typically we see folks that apply that are in overcrowded conditions rarely, sometimes we will see houseless candidates as well.

Chair Ako: Questions?

Ms. Streufert: I just have a question. What does 80%, below 80% mean?

Ms. Pimental: So, if you were to consider a household of four, I think currently the 80% is just above 100,000, last I checked...total household income, gross.

Ms. Streufert: Thank you.

Chair Ako: When we speak about AMI, is that limited to a specific amount for a community or is it an island wide amount or is it statewide? We trying to figure out what AMI is.

Ms. Pimental: So, the AMI, I believe stems from HUD, and then as it's passed to the states and counties gets adjusted for those communities. I'm not sure the particulars of that, but I can check and get back to you.

Chair Ako: So, the AMI for west side might be different for the AMI for the east side.

Ms. Pimental: No, it's a county wide.

Chair Ako: It's a county wide thing?

Ms. Pimental: Yes.

Chair Ako: But it might be different for various counties?

Ms. Pimental: Correct.

Chair Ako: Please, shoot away.

Mr. Giovanni: So, I understand different topic. I understand that the, no sewer available. So, what is the specific plan on the wastewater?

Mr. Jung: Sure. Yeah. So, the way we do our projects is, we do kind of a 2 to 3 bedroom split of a single five-bedroom max individual wastewater system. So, there will be four individual wastewater systems with these. And that's why they're split three-bedroom and two-bedroom. So, two homes will share one. And to get to the four.

Mr. Giovanni: Septic?

Mr. Jung: Septic system, which is the IWS.

Mr. Giovanni: Thank you.

Mr. Jung: Sure. And there will be, you know, when you set up the condos on this, you designate septic easements that we layered in on the condo map. So, there's joint control over them.

Chair Ako: You know, when we talk about doing a drainage study, what does that mean? Does that mean, that I guess right now water is already going, right, to Mrs. Blackstads property already. So, when you do a drainage study, does that mean you're studying whether more water is going to go there? Or are you trying to stop water from going over? And will your project create more water into the neighbor's yard?

Mr. Haigh: Okay, basically we have two studies. One study is on the increased flows associated with the development, okay. And by ordinance, we have to control that and retain it, so it doesn't increase the flow discharging off the property, okay. So, that's one study. Then since we are in an area where there's clearly, you know, a low point and water flowing through, we needed to do a separate flood study, which analyzed the water coming to the site and how it flows through the site, because we need to make sure that the houses are above the elevation where that water will come through the, you know, through the site. So, that's two separate studies that are done. So, the end result is the project will not increase the flows downstream. But we have identified what those current flows are from upstream coming to our property and how much, you know, there's already a natural existing flow coming off the property. So, the existing flows off the property plus the upstream property equals the flows that will, we're allowed to send downstream, but we have to retain the additional flows that our project would create.

Chair Ako: So, allowing for the water to flow downstream would mean into the neighbor's yard?

Mr. Haigh: Correct. And that's where historically it has always flown, flowed.

Mr. Jung: I think, Chair Ako, that one of the things that we haven't mentioned yet, but this is a post on pier project, right, so all the, all the structures will be elevated on post on pier. So, even

though our land coverage is relatively small compared to what's typically allowed at 60%, there is still the possibility water will flow in these structures won't deviate water from going in their natural course. So, if you look at Exhibit E to our application, E.1., it has all the sections of the structures that show it on post and pier.

Mr. Haigh: And a clarification on that too, is we're not changing the natural flow and where it's discharging. Basically, our project has a steep slope going down, and then it has a slope going up the other side. So, we have six homes on the road side of the property on the first, the steep, longer slope, and then we have two homes on the other side, and in between we have the discharge channel, which is the same, we have not modified that channel from what it already was to what it's going to be when we're done with the project, we're keeping the same flow, the same pattern, and the same path of the water that's discharging from the site.

Chair Ako: So, essentially, there is no effect to the neighbor?

Mr. Haigh: That is…

Chair Ako: Because of the development.

Mr. Haigh: …that's our requirement for engineering division to assure, and that's what they check for, is to assure that we aren't increasing flows to the neighbor property. And in addition, on this particular project, we're not changing the flows at all. You know, some projects you end up changing flows because you grade and change the flow, with this one, we're not changing the existing flow pattern at all.

Chair Ako: So, the fact that you have a solid driveway, does that have any impact on water flow or…

Mr. Haigh: Well…

Chair Ako: …the amount of water that will flow?

Mr. Haigh: Yeah. I mean, the driveway is impervious, so it's not going to absorb water where it would absorb before, but we put, you know, drainage swales on the side to collect that water. And then we detain, you know, we have a retention system so that where that water is, you know, not flowing out beyond what, you know, in a flood, in a, in a normal rain condition that it's retained and not increasing the flows to the downstream properties. And then the driveway actually, because it's not that much water coming through the property. So, the driveway is designed, that water will flow over it during, you know, heavy rain periods.

Chair Ako: I think what's going through my mind right now is the fact that I don't know of anybody that does not agree with habitat. You guys do a great job, in terms of building homes. And you know, we all know about the shortage and stuff. And at that big bubble, I think we all agree when we get to the small bubble, when it's right next to our house, then I think we get kind of nervous, yeah, now it's really impacting me, myself over there. So, I think for me, I just need that assurances that the building of this development will not, well, apparently that it's not going to increase water flow to our neighbors there because you're not going to stop the water flow, right, it's going to continue to go, but that we're not increasing water flow to go.

Mr. Haigh: And that's the law.

Chair Ako: Is that a true statement?

Mr. Haigh: That's the law, that's the engineering ordinance. And we have to comply with that. And we do these studies. We hire professional engineers to design the project to assure that it doesn't. And the Engineering Division, professional engineers review the project and review designed to assure it doesn't. So, we have that obligation not to increase flows and we're regulated by Engineering Division to assure we don't.

Chair Ako: For whatever reason, those plans don't work, there's a way to address it. I mean, I don't know whether it be with the counties or...

Mr. Haigh: I mean, you can always increase your detention area, potentially. We cannot reduce the amount of flow coming onto the property that's upstream, we have no control over that. But we could, you know, increase the detention capacity because that's basically the solution to the increased flow from your development is detention capacity.

Mr. Giovanni: So, the schematics show that all eight of the structures will be built on piers. Is that traditional habitat? Is that the way you did it in Ele'ele or is that specific to accommodate water flows under the structures in this?

Mr. Haigh: That is the way that we do…at this point, I think almost 100% of our homes are post and pier, it's cheaper. It's more economical than slab on grade.

Mr. Giovanni: So…

Mr. Haigh: And particularly this property, it makes more sense because we're building on slopes. So…

Mr. Giovanni: Correct.

Mr. Haigh: …post and pier allows us to adapt to the slope with minimum grading.

Mr. Giovanni: So, my point is, is that it's normal for you to build for habitat to build on piers. This is not a one off.

Mr. Haigh: Yeah.

Ms. Pimental: It has been our standard for the last 30 years.

Mr. Giovanni: That's what I wanted to know. Thank you.

Chair Ako: Anything else? If not, if we can have a recommendation from staff?

Mr. Cua: All right, commission. The department is recommending approval of this project. There are a total of 13 conditions in the Director's report. I'm available to answer any questions that you may have or if you want to have any discussions regarding any constraints.

Ms. Streufert: Is there some way to convey from the Planning Department to the Building Department that there is some concern with the water flow retention, because we, I can see that there might be, I was looking at the grading plan, and it appears that there, it is pretty steep land. I assume it's all in one direction. Is that correct? It's not as though it goes up and down because I…if I'm looking at this with the gradations that it looks like it's pretty steep in certain areas. So is there some way that the Planning Department can convey to the Building Department that there, we have some concerns about…

Ms. Santos: Water.

Ms. Streufert: …water retention or water flow, or whether there should be retention basins or some way of using swales to make it less of an impact, or at least no more of an impact upon the neighbors than they already have now, because that's the standard, right, no more than it is now.

Mr. Cua: Sure. If you note in Condition No. 8, there's an advisory that the applicant comply with all of the agency comments. So, one of the agencies identified in Condition No. 8, would be the Department of Public Works, Engineering Division. So, I mean, they've already started on their own, having discussions and plan review through Engineering Division with Condition No. 8, that would be required to comply with whatever requirements they impose.

Chair Ako: So, whatever happens to the water flow, right now, it's pretty much in the hands of Public Works and not…

Mr. Cua: Between the reports and…

Chair Ako: …or (inaudible) the commission too or no?

Mr. Cua: …and Public Works.

Mr. Hull: Yeah, again, if the commission wants to get more information from the applicant or the Engineering Division, it, that is within our purview.

Ms. Santos: I think I would like more information on the drainage.

Mr. Hull: Outside of that, if you guys are looking at a potential motion for an amendment, motion to defer for additional information to be provided by the applicant, the Engineering Division concerning on site drainage retention. Outside of that, from those, that's one option. The next option, I think, as Commissioner Streufert was saying, is there anything we can be conveyed, if we're talking about folding it into conditions of approval, you know, a condition could be set up that something to the effect of, the subject property shall not increase stormwater drainage impacts greater than the current status today as determined by Public Works, Engineering Division, so that that could be a condition. But then I just see two tracks…

Ms. Santos: Right.

Mr. Hull: …occurring right now. So, the department isn't opposed to either track. It's just...

Ms. Barzilai: I think the result might be similar.

Ms. Streufert: I would prefer the second, that…and the only reason for that is because even if I got the report, I personally can't tell you whether it's going to be appropriate or not or whether it's going to...so I'd rather have experts tell me that that's going to be. And if it is based upon standards that we already have and that you've already agreed to, I can go with what we've got here. That would be my personal perspective, not necessarily anybody else's.

Mr. Giovanni: I guess I got one more question.

Chair Ako: Please.

Mr. Giovanni: So, I believe that the analysis that would be done by the Department of Public Works is based on a 100-year flood condition or rainfall condition or something. Do you know offhand what condition that is?

Mr. Jung: Yeah. My understanding is the drainage reports are based on the 100-year flood standard.

Mr. Giovanni: The 100-year standard?

Mr. Jung: Yeah.

Mr. Giovanni: So, is that standard been the same for the last 50 years or next 50, I mean is that standard applicable, and…from the department's perspective or from what is that…are those standards ever updated, is where I'm going.

Mr. Haigh: Just a clarification on that. We do study the 100-year flood, and that helps us establish the flood elevation.

Mr. Giovanni: Yeah.

Mr. Haigh: As far as the drainage that's generated from the project, I don't believe, and I'm not an expert on this, but the county flood ordinance may not require you to design your system for the 100-year flood. And that's a technical issue and there's a reason why they do it. I'm not an expert on exactly why they do it, but I believe, you know, the actual drainage system doesn't have to be designed, that's the on site improvements now to meet the 100-year flood. Now, what, how much water is allowed? How much has to be retained? I'm not, I don't know exactly, but it may not be the 100-year flood. It's whatever the engineering ordinance says, and that's an engineering ordinance based on scientific studies and based on what's appropriate to manage. And so, and it's pretty much standard throughout the state, what, you know, on how they're regulating this. But I'm not, I cannot confirm that they're regulating totally to the 100-year flood. We do identify the 100-year flood, but our improvements may not necessarily have to meet the 100-year flood. And I wish I was more sure of that, I'm actually going to engineering after this on a different project of ours, but that is, but they have their regulation. It's an ordinance, a county ordinance, right. So, that's what we follow is the law. And the law is developed by a very scientific, thoughtful process that comes up with the standards on it.

Mr. Jung: Yeah. Commissioner Giovanni, I think to your point, one of the larger issues is you want these building setbacks are typically set based on that 100-year flood. So, you have to have

certain buildings outside of that floodway. So, in this case, we don't have that. But in most, like subdivision applications, you might see where they layered in a floodway, that's where the building setback is.

Mr. Haigh: Actually, and we did do that.

Mr. Jung: We do have one?

Mr. Haigh: Yeah. And the two lower houses, what we had to adjust a couple houses.

Mr. Jung: Okay.

Mr. Haigh: Once we determined the flood elevation, we adjusted. They were just like one foot encroachment, and we just had to adjust them a little bit to make sure we were out of the, I mean, we could have gotten a variance because it was so close, but we, hey, we don't want any issues, we'll go ahead and move the building. So, we did identify the 100-year flood, flood fringe line through the property.

Mr. Jung: So, that could be another condition, if that's the pleasure of the commission to look at making sure those setback lines are set on a site plan to ensure we don't encroach into it.

Ms. Streufert: This is just for my edification. But how many people fall into this 80%? What percentage of our local population would fall into being qualified for this?

Ms. Pimental: Commissioner, I don't have that data, that recent data with me, but I can definitely provide it after the meeting.

Ms. Streufert: Can you give me a ballpark? I mean, are we talking about 10%, 20%, 100%?

Ms. Pimental: I'd have to look it up. I'm sorry.

Mr. Jung: Maybe you can share the number of applicants we did.

Ms. Pimental: Yeah. So, maybe to help with the illustration, as far as program applicants, we've seen it drastically increasing year over year. And so, right now for non-duplicated households, we have about 7,000 names on our mailing list that could include, for example, a household where great grandma and great grandpa are living, and there's grandparents below them, parents below them, and the children, and maybe even children's children at this point. Each one of them or each one of their subgroups requiring housing. So, that's just to show some of the dire conditions that we have.

Ms. Streufert: Okay. Thank you. That helps. Just to put this all into perspective of what our needs are on, on the island.

Chair Ako: I think for me, it's just a reassurance, is that somebody is looking out about the drainage situation here, be it the Public Works and set by law. And I think so many times we make this argument about how slow the process is and how long government takes to move things along. And yet, at the same time, I think we could move it along real quick if we take

away all of these regulations, right, but I think they're in place here to protect the people, like Mrs. Blackstad, to make sure that projects like this does not increase water flow, increase damage to the property there. And so, you know, for me, it's just putting at this point, putting the trust in whoever is responsible, I guess, Public Works to go through this drainage study with you guys. So, I just want to thank you for moving a project like this for those who really need housing. So, with that, if we're ready for motion.

Ms. Streufert: I move to approve Project Development Use Permit PDU-2026-13, Class IV Zoning Permit Z-IV-2026-17, and Variance Permit V-2026-4, with the caveat that there are concerns on the commission.

Chair Ako: Second?

Ms. Santos: I'll second.

Chair Ako: Motion and a second. Any concerns, comments, discussions you want to...

Mr. Cua: Chair, just for clarification, did you want that new condition…

Ms. Barzilai: I'm wondering about this. Are we going with the new condition?

Mr. Cua: …included or not? The condition that director wrote, came up with.

Ms. Barzilai: Have to be an amendment.

Chair Ako: Okay, I'll defer to that because my understanding is going to go there anyway, right? It's just…

Ms. Streufert: Right. Yeah. And it is based upon current regulations as it is. Correct? It's not, we're not deviating from we're just sort of restating it, which doesn't seem to make any difference, I don't think. Does it make a difference?

Mr. Giovanni: Would you be amenable to not allow an exemption or a change from the 100-year flood?

Ms. Streufert: To what? What would you change it to?

Ms. Santos: Well, that they have to build. They have to build for the 100-year flood, not just…

Ms. Barzilai: I think Mr. Jung recommended language.

Mr. Giovanni: Well, what I heard was that they don't have to design to the 100-year flood.

Ms. Santos: Right.

Mr. Hull: So, just to clarify, a lot of the 100-year flood, as I understand, Michael Moule was here earlier, but a 100-year flood has to do with how you're constructing homes and what those homes will do to mitigate the flood impact on that home, and therefore, you elevate the structure and, and or the potential for that structure to divert and push water from 100-year flood onto other

properties. That doesn't necessarily account specifically for drainage impacts, whereas you may not experience a 100-year flood, but there are storm and precipitation events that create drainage issues and dependent upon the precipitation event, as well as the saturation content of the soil and what have you, and the granularity of the soil come into play with, don't necessarily have a nexus with the 100-year flood. And so that's why I'm if we're looking at a condition for 100-year flood, I'd kind of need a little bit of direction to try and craft something to that effect.

Mr. Giovanni: So, what you said that at the first part of your, what you just said was that they are looking at the 100-year flood for purposes of designing the structure.

Mr. Hull: Correct.

Mr. Giovanni: I heard that they don't, they may not be looking at that. And I just want to make sure they're looking at the 100-flood for the design and structure.

Mr. Haigh: Let me clarify…

Ms. Santos: Couldn't we ask them to come and do a...couldn't we ask the engineer to come and give us a spiel on what they've done for this project?

Mr. Hull: That is something that is in the purview of the commission.

Mr. Haigh: Let me clarify.

Ms. Santos: That's what I would like.

Ms. Barzilai: It can be tabled until the end of the meeting. Mr. Haigh wants to explain, and Mr. Jung had recommended language that addresses that issue, I think.

Mr. Haigh: Excuse me?

Ms. Barzilai: Please go ahead.

Mr. Haigh: Okay. Let me clarify. Okay. We follow the ordinance as Engineering Division has developed it. The 100-year flood is clearly used to determine, as been mentioned, to make sure we aren't building houses in that, or if we are, we're building them in a way that is allowable within the 100-year flood. If it's in the flood fringe, there are ways to build within the 100-year flood that are allowable per law. As far as I know, engineering division has no provision to give exceptions to their law. So, it's not like we can go to them and say, well, give us an exception. I, my I'm 90% sure they do not have a process for exemptions to the drainage laws. Now in a 100-year flood condition, your soils are so saturated, your flows are so strong that whatever hardening you've done has already been wiped out, and it would be no different than if you had the hardening or not because the water flow is so strong and everything is so saturated. It's at that point anyhow where everything is just flowing, the water coming in. And that's kind of a gross analysis of it. That's and to me, that's kind of my understanding on the philosophy why our actual drainage improvements, such as pipe sizes, curb swale sizes and whatnot, can be designed to a lower standard than the 100-year flood, because that's the way the law is written. And I, I'm not

an absolute expert on this, but the experts are there, and we follow the law, and they've developed the law for best practice. And that's what we do.

Ms. Santos: Well...

Mr. Giovanni: Go ahead.

Ms. Santos: All I know is that you guys have some neighbors with some high anxiety, who are already flooding, and so for me sitting here, I have anxiety for them. And so, I just would like a little bit more, like, I just want a little bit more security in front of them that the engineering guys did a drainage thing and they can explain to at least them in the crowd of what it is, so that maybe their anxiety is not so out of control because every time it rains and if my yard floods, oh man, I start to have a panic attack, sweats the whole, kit and caboodle, so, that would just be me personally. But okay, so.

Mr. Giovanni: So, what would you like to see?

Ms. Barzilai: Chair?

Ms. Santos: I would just like to see the engineering to come and give a little (inaudible) about what they've, because they've done it all, they just got to come here and give a little speech and…so that at least some people in the, well, at least my anxiety will feel better.

Ms. Barzilai: We could table till the end of the meeting, Chair, or until later on in the meeting. Or we could defer. I'm not sure the condition that Ka'aina proposed will address.

Mr. Giovanni: So, if we defer to the end of the meeting, does that mean we'll try to get engineering here in the interim?

Ms. Barzilai: That would be the idea.

Ms. Santos: Okay. Sure.

Mr. Giovanni: That would work.

Ms. Barzilai: We don't know if they're available. We know there's limited guys over there that could come over here to tell us.

Ms. Santos: Okay.

Mr. Giovanni: They were here earlier, maybe they could come back.

Chair Ako: Okay, so we'll check on that. And…

Mr. Hull: I guess we'll check with the applicant. And I think what counsel is getting at, is that she's reading the room of the four commissioners present, and if one wants a deferral and three want action, then it's going to be an automatic move. So…

Mr. Giovanni: You got two deferrals.

Mr. Hull: Yeah. Yeah. So, we can, I can't, Milani, I can't, we can't state that the engineering division will be available to speak today, but we can reach out if you guys are open to tabling that application review, and if engineering is able to provide representation, they can come over. Otherwise, a vote will be made on whether or not it gets deferred or acted upon.

Chair Ako: If the item is deferred, what is the impact upon the project? One month, one meeting, I would think, yeah.

Mr. Jung: I mean it just…one month. I mean, so typically what we go through is we try and get the land use entitlements, and then we can know if we can start spending money on finalizing engineering plans and things like that. So, it's just going to delay the process of getting other requirements complied with. What I was going to suggest because what I've been doing this a long time, I haven't seen engineering come over behind their desk and, and address a specific problem, but hey, there's always new things, right? What I was going to suggest is if there is a concern raised by Commissioner Santos and Commissioner Giovanni about the buildings encroaching into the, what would be a building setback based on 100-year flood, then we could put a condition or craft a condition that says, no structures shall be placed in that area as designated by the Department of Public Works, Engineering Division. And then I think that would satisfy the issue of increased flow. I, you know, one of the other issues I have with at least condition four, we've been working with the Planning Department through the bill on the WUI stuff, and we have certain amendments up. So, I just wanted to put on the record not to amend the condition that if the WUI standards do change, that those current standards that get applied would apply to condition four, rather than what's actually attached as Conditions A and B to the Director's Report. So, I don't think it would need to change, but just to clarify, if the law does change, we comply with that law. Yeah, but if it's the pleasure of the commission to get engineering here, we're happy to defer this to the end of the meeting or whatever you guys want.

Mr. Hull: We can definitely reach out to them right now.

Ms. Santos: Okay. So, a motion to defer?

Ms. Streufert: I have to rescind mine.

Ms. Santos: Oh, sorry.

Ms. Streufert: I will rescind my motion.

Ms. Santos: Okay, then I motion to…

Mr. Hull: To table.

Ms. Barzilai: Motion to table, please.

Ms. Santos: Motion to table.

Mr. Giovanni: I second.

Ms. Barzilai: Second and a voice vote.

Chair Ako: Voice vote and then we decide if Public Works cannot come today, we decide at that time, what happens?

Ms. Barzilai: Yes.

Ms. Santos: Okay.

Chair Ako: How we move forward.

Ms. Santos: Okay.

Chair Ako: Okay? So, we got a motion to table, we got a second. All those in favor, say aye. Aye (unanimous voice vote). All those opposed. Motion is to table. 4:0.

Mr. Jung: Okay. Thank you, commissioners.

Chair Ako: Thanks guys.

Mr. Hull: We're going to take a ten-minute recess. We'll return back at 11:02.

The Commission went into recess at 10:52 a.m.
The Commission reconvened from recess at 11:04 a.m.

Chair Ako: If we can reconvene. Moving on to item…

Continued Public Hearing

Mr. Hull: We're on now Item 3.a. Continued Public Hearing

ZA-2026-3: A bill (2973) for an ordinance amending Chapter 8, Article 1 of the Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to further clarify the definition of "Family" and "Dwelling Unit" = **KAUAI COUNTY COUNCIL. [Director's Report Received, Deferred, 03/10/2026; Deferred, 05/26/2026]**.

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

Mr. Hull: I do not have anyone signed up to testify. Is there any member of the public that would like to testify on this agenda item?

Councilmember Felicia Cowden: This is my agenda item. Sorry. My name is on the list, but I would rather listen for him first if can.

Mr. Hull: Do you want to take testimony out of order? It's up to you, Chair.

Chair Ako: Well, we never have. I would just prefer to go with the public testimony first. Unless (inaudible).

Mr. Hull: We have no objection.

Chair Ako: (Inaudible) anyway?

Mr. Hull: Whatever your preference is, Chair.

Chair Ako: Okay. If not, then maybe we can...

Ms. Barzilai: Maybe Councilmember would like to have three minutes and then possibly an additional three minutes if you are inclined.

Ms. Cowden: My preference is for him to speak first. And you're (inaudible) with that, right?

Unknown Woman: Yeah.

Ms. Barzilai: But then it becomes argument and not testimony.

Chair Ako: Okay. Yeah. So, if you can present it, then you just have your three minutes after he's done.

Mr. Hull: Sorry. Sorry I didn't see the list, but is there any member of the public that would like to testify on agenda in advance of the agenda item being presented? Seeing none, I'll turn it over to the staff planner.

Staff Planner Alan Clinton: Thank you, Ka'aina. Alan Clinton for the record. Morning, Chair and Planning Commissioners.

> Mr. Clinton read the Summary, Project Data, Project Description and Use, Additional Findings, Preliminary Evaluation, and Preliminary Conclusion sections of the Director's Report for the record (on file with the Planning Department).

Mr. Giovanni: Just want to understand what you just said about what is not an issue, and that is that we can, we have constitutional or Supreme Court decisions, federal Supreme Court that says we can regulate ten unrelated or…

Mr. Clinton: So, the to…thanks for the question, Commissioner. The Moore vs. City of East Cleveland case did indicate that we can regulate unrelated individuals. They did not put a number on that, however. So, the number was introduced by Councilmember Cowden in this bill.

Mr. Giovanni: Okay, so the ten came here locally?

Mr. Clinton: Correct. Yeah. And I think the intent of that, I think Councilmember Cowden reflected and also the intent of her bill, as it's organized in front of you, is to also recognize the fluid nature of family, the term family in Hawai'i, considering there is a hanai individuals, different family relations, and so those ten individuals or that number was set at a way to try to identify a balance between accommodating local customs and standards and what is permissible by law.

Mr. Giovanni: So, I'm going to ask a follow-up question…

Mr. Clinton: Sure.

Mr. Giovanni: …and you can defer the answer to when you if you're going to already cover this. But if it's a, if hypothetically, it's approved for ten unrelated, and then you have a situation where you've got four or five people that are related, does that mean you could have 15 in that?

Mr. Clinton: Yes.

Mr. Giovanni: So, they count as one?

Mr. Clinton: So, in that instance, if we were evaluating a dwelling unit, if this ordinance were adopted, you could have as many related individuals as you want in addition to a maximum of ten unrelated individuals. So, if you had, you could have a family of five and you could, if adopted, you could have an additional ten unrelated individuals in that residence, and that would be in compliance.

Mr. Giovanni: What if I had a family of 12? Can I put 22 people there?

Mr. Clinton: Yes.

Mr. Giovanni: Okay.

Mr. Clinton: Yeah. These are good clarification questions because there's a whole variety of ways that this could be interpreted. So, we appreciate that.

> Mr. Clinton continued reading the Summary, Project Data, Project Description and Use, Additional Findings, Preliminary Evaluation, and Preliminary Conclusion sections of the Director's Report for the record (on file with the Planning Department).

Ms. Streufert: If I could ask a couple questions. This has nothing to do with how large the domicile is…

Mr. Hull: Sorry, not to interrupt, just recognizing what occurred earlier on the agenda item. There's a request for the public to testify after the presentation was done.

Ms. Streufert: Right.

Mr. Hull: I don't want to interrupt the questioning, but also to like, is it the intention of the Chair for you to have testimony immediately after the presentation of the department, or do you want to have a discussion and then testimony and then discussion again, sorry.

Chair Ako: Well, no, I think we just plan to have the testimony right after you're done.

Mr. Hull: Okay.

Chair Ako: But then you…because he did ask for questions from the commission.

Mr. Hull: Yeah, yeah, no.

Mr. Giovanni: Just clarifying questions.

Chair Ako: Yeah.

Mr. Hull: Yeah.

Ms. Streufert: Yeah. I wanted to clarify that this is this has nothing to do with square footage, which would be a public health kind of issue. It's just the number of people in a house that are unrelated, has nothing to do with how much space per person. Is that correct? It's just numbers of people in building.

Mr. Clinton: Correct. Right now, that is the way that we are sort of, we are evaluating these for, with regards to…so, I can…let me back up for a second. The incentive or the reason why these sort of two are combined and where there could be some confusion is by not capping that number at ten. No incentive is created for the dormitory right now you could in theory build a single dwelling unit with ten bedrooms, two bathrooms and a kitchen underneath the existing lay of the land right now with our current CZO definitions. And so, by capping the family bill and dwelling unit bill functions as a cap on the number of unrelated individuals, and the dormitory bill would be an incentive that could be, or it would create an incentive to construct the dormitories, whereas right now there is no incentive in place for the dormitories to be constructed, because the current lay of the land, as far as our CZO is organized, you could build a very large square foot structure that could accommodate 20 or 30 bedrooms with two bathrooms in the kitchen.

Ms. Streufert: But you would still be limited to ten.

Ms. Santos: Not, if they're not…

Ms. Streufert: Unrelated, ten unrelated.

Mr. Clinton: Correct.

Ms. Streufert: But if you had, and again, this is a definition kind of thing. A marriage certificate is a legal document, but there are many people who live together in, I'll say it, civil unions that are not, there's no document on it, would those…would that be a couple or would that be considered two individuals, unrelated individuals?

Mr. Clinton: So, that's certainly something we would want to very clearly clarify in a potential amendment is what does constitute relatedness, if we did move forward, because we would want to specify what type of documentation would be sufficient so that our enforcement staff have a very clear list of, a checklist of what type of documentation would be appropriate.

Ms. Streufert: Okay. Thank you.

Mr. Clinton: Yeah. Okay. Are there any other questions on that? Okay.

> Mr. Clinton continued reading the Summary, Project Data, Project Description and Use, Additional Findings, Preliminary Evaluation, and Preliminary Conclusion sections of the Director's Report for the record (on file with the Planning Department).

Chair Ako: And the recommendation is to disapprove both of the zoning amendments, right, at this time?

Mr. Clinton: At this time, and with the conversation with Councilmember Cowden. We are by all means open to defer them for further evaluation.

Ms. Cowden: Councilmember Felicia Cowden, for the record, and I respectfully ask, since there are two bills that I'm allowed up to six minutes. When the family definition was changed in 2023, it had been members of a family related by either blood, marriage or adoption, with up to five additional people. So, this one I tried to make really generous up to ten, but to try and put family back into place because if we don't have family with a definition that actually indicates what is intended by a family, what I believe we might as well just call houses is dwelling units, because when we take family away from it, we remove that intention of what is a family and a neighborhood. And as I explained in my original time, living for about 18 years in Hanalei, we saw, as the vacation rentals took over the use of these houses, what we ended up with is if you live in Hanalei, you're effectively living, you're owning or renting commercial space. And that what I've watched over time is that employer owned housing, as much needed as it is, is doing the same thing to maybe the less quite of expensive or beautiful areas so that when we don't have, we don't have price points that are appropriate for families living somewhere because and I have a business that has houses or my family has a business that has houses to put employees in, when you have that, you can invest more, you can afford to put in a more expensive house because you have to have the people to work your business. And so even in a neighborhood like Kīlauea or Kapa'a or Kekaha, you know, that are typically less vacation zones, people are living in commercial housing. And when we don't have that cap, you really could put a house anywhere that we allow that density, which is most places without any kind of neighborhood input. No, no, Class IV, no, any other type of thing. So, if we have 40 people living on a property, you know, or 25 people that are all basically employed by the same employer, I'm just so cold that's why I'm shaking. It's too cold in this room. Is that it will change the absolute nature of neighborhoods, whether it's the kids playing or especially when we're bringing people in from outside the culture or outside the community. You know, ideally these houses, like a dormitory house is, is bringing our young people in or people who really still yet live on our island and they have access to inexpensive housing that they can have with work. But when we don't have the courage to say what a family is, we should stop using that term, even in single family residences, and just be really clear that these are essentially financial instruments. And that's what happens. These houses are an extension of a business or a business or a financial instrument. If we don't actually have the courage to say what a family is. And I get and I appreciate all the difficulty of going, well, how do you really figure that out, but by not figuring it out, what we come with is either, you know, we don't allow a large house for anybody. Maybe that's a thing, you know, we have to go spill out into a number of other areas. But what we won't have is meaningful neighborhoods where people feel safe and they have play area, and what is typical neighborhood, it is economic and when we talk about short term, like in the dormitory piece, I had to have something in here that says can't be lived in less than, than six months. So, it doesn't become a transient vacation rental. But I'll tell you what, when there are workforce housing that bring the J-1 workers in to harvest or whatever, we don't go after that, you know, and so those are short-term housing units. So, we're choosing which issues to get really particularly difficult on. And I think for the most part, it wouldn't be that hard to actually really look. And these houses, when we had the ICE raids, 40 people in a house, they're all from different countries. That's an example. And what I

see, even sign waving or yeah, when you watch like just last Friday morning, in about an hour's time, I saw seven very similar vans with, 15 passenger vans, all wearing the same clothes, all heading from the east to the north. No slam on any of those people working in there, but probably almost all of them are foreign workers coming. And, you know, with this, they can, they can take over housing in any neighborhood, and they already are, we know that. But I'm concerned. So, that's why when we just say, all right, it's too difficult to enforce so we're not going to, we're not going to have a definition of family anymore. We really probably shouldn't call something a single-family residence, because that's not what we have any longer with this family definition. So, thank you.

Chair Ako: Thank you.

Ms. Cowden: Sorry to be shaking. I'm just too cold. Just freezing.

Chair Ako: Any questions for staff?

Mr. Hull: Sorry. Let me just call to, is there anybody else that would like to testify on this item? Sorry. Seeing none.

Chair Ako: If not, we can entertain a motion.

Mr. Giovanni: So, this is just a question. So, this is, what I'm hearing is this is a work in progress that identified a number of relevant issues. And you want a couple more months to work on it before you could define it and present it for consideration. Is that, is that what we're doing here?

Mr. Clinton: Yeah, I do, I think we would be challenged right now, or eventually our zoning amendments will have to certainly be transmitted back to council.

Mr. Giovanni: Nothing before us now we could approve or disapprove other than an extension.

Ms. Barzilai: I don't think I understood that. Please tell me the question, Commissioner.

Mr. Giovanni: Is there anything before us for consideration other than an extension of time or a deferral?

Ms. Barzilai: Your options today are approval, disapproval, approval with modifications or deferral. And I believe that the department agrees to a deferral. I would like to clarify one point, something that councilmember said is, we're not only talking about the difficulty of enforcement, we're also talking about the constitutionality of enforcement. So, I just wanted to be clear on that. And I can, I can offer more on that at any point.

Ms. Santos: I have a question. So, with what…oh, sorry, I have a question, why is it the your, the, your guys responsibility to figure all this out? Like, how come you don't…why can't we just reject it all until they figure out the theory of life here?

Mr. Hull: The commission can. Our formal recommendation is disapproval. But I think what Alan was getting into is with his report is that, the issue of housing, employee housing and some potential of it having impacts is an identifiable concern. We are advising that the current

proposal solution in using the family vehicle may not be the most appropriate form in addressing this issue. However, we are definitely open to looking at these other areas that could be utilized in response to these impacts being brought up as part of the bill.

Ms. Santos: I guess I'm more curious as to how did the applicant feel like you guys were supposed to determine who's family and who's not family? Like, is that is that your responsibility to come to a theory of that?

Mr. Hull: It was something that the department administered years ago. And as councilmember brought up, it was the definition of an amount of family members was amended a few years ago. Now, granted, when it was amended and it was at our request, is because it was found to be nigh unenforceable in that we get complaints, just like there's no way for us to actually enforce on this.

Ms. Santos: Yeah.

Mr. Hull: And so, that was not the only reason, but that was part of the reason for removing the family number. So, was this historically within the purview of the Planning Department? It was. Were we able to execute and implement it? We were not. And so, you know, jumping forward to a few years after that amendment was made and these new issues arising, we respect the fact that we believe the councilmember has identified a real issue. We have disagreement on, on the proposed solution to it, but we are not just open, but it behooves us to look at what potential vehicles are in our arsenal or not. They could just be strictly state or federal. But are there vehicles in our arsenal that we can use and deploy to address these concerns. I think that's kind of what we're getting at, is that.

Ms. Streufert: If I could. I'm not sure I really understand what the issue is. Is the issue the number of people in a unit? Is it a public health issue? Is it one of temporary versus long term? In other words, if somebody had a house fire and they're living with another family at one point in time, does that constitute over ten? And if you look at all the old plantation homes, they were like 900 square feet, 930 by 30. And they had families that were, you know, 12, ten, 12 kids. Okay. So, and they made it work. I'm not saying that if you're unrelated, you're not going to be able to make it work or you can make it work. But I'm, is there a constitutional definition for what a family is either at the state or at the national level? So, how would you enforce that if there's nothing like that?

Mr. Clinton: I think this was…

Ms. Streufert: Unless it's a public health issue, in which case you could, you could, you could do it that way. But what would be the standing?

Mr. Clinton: That is something we do address. Sort of one of the things, if there was a way to proceed with this, it would be a series of definitions and processes to incorporate that would clearly define what we would organize as related, not just unrelated, so that our team, if they were to enforce this, would have more so of a checklist of things to review, but similarly, I think the department would be very uncomfortable not having the full process in the ordinance articulated from complaint to issuance of NOV and considering the sensitivity of some of the privacy elements and document collection, and whether or not that level of review of those

personal documents is…meets a threshold for, maybe I'm butchering some of the legal terminology here, but I'm there's some challenges with whether or not it is appropriate for us to seek that type of information, private information for a zoning level infraction, so to speak, and whether or not that meets a public interest to enforce upon or collect additional information that similarly can be very sensitive.

Ms. Streufert: Yeah. And I can see some of the perspectives that Councilmen Cowden has about it changes the, it changes the makeup of a residence or a residential area. I can understand that. But then this doesn't seem the vehicle in which to remedy that. It may be zoning would be a different, maybe rezoning or maybe looking at how to enforce zoning would be a better way of doing it, which is more enforceable than family members.

Chair Ako: Go ahead. Very quickly.

Ms. Cowden: A very simple answer is, it's the difference between a commercial use of a dwelling unit and a residential use of a dwelling unit. Commercial use, the business makes money by having those people in it. A family lives in their home in a whole different economic thing. So, a commercial use of the house raises the value of the house, raises the expenses similar to a transient vacation rental. It's how it pushes the pricing up through the neighborhood.

Ms. Streufert: So then, rather than a family, definition of a family, perhaps a commercial use of a residence versus a residential use of a residence would be more reasonable from your, from to address that particular issue, wouldn't it?

Mr. Clinton: We would certainly need to take a further look at how to craft something of that nature.

Chair Ako: You know what? This is what I'm hearing. I agree with the theory and everything about, you know, why you want to limit how you define family. But to me, there are some major issues that needs to be resolved before this comes to fruition here. I mean, how do you define family? I mean, how do you implement procedures? Who's going to do investigation? You know, all those things I think still needs to be addressed first. And to me, it's not just something that's really easy. If not in theory, it should have would have come up in the past. So, I'm kind of wondering right now what is the impact if we just disapprove it right now? You go back when you come back with a…something that is presentable to the commission, then the commission addresses it at that time.

Mr. Hull: Yeah. And, and that's completely within the purview of the commission. And we don't have any objections to that. The one I'll say, you know, departmental resource aspect of it is that we'll give the same report to the full body of the council, and then, you know, the full body of the council is going to say, well, you're agreeing that there's a problem here, Planning Department, what is your solution? And I guess what we're asking for is we agree with the councilmember's initiation of the concern, and we just asked for additional time to further vet out potential other solutions before we go back to council with this package. And more than likely, it would necessitate initiation of another ordinance. It couldn't be necessarily accomplished by amending this ordinance. Perhaps. Perhaps it could. And so, I guess that's all we're kind of asking.

Ms. Santos: Is the, is the issue how many people are in a house?

Chair Ako: I got many issues on this.

Ms. Santos: Who's staying in the house?

Chair Ako: There's too much

Ms. Santos: Well, then, but isn't, but when you, when you have a house, most of the houses are, is it, it's on…doesn't wastewater have a say just on because you build how many, you know what I mean, they base it, you have to build the system based upon how many people are supposed to stay in the house.

Mr. Hull: That's based on the bedroom count. And then to a certain degree, I'll say some of the wastewater rules have been somewhat freed up in order to address some of the infrastructure barriers that housing has had. In theory, even with particularly with the new restrictions being eased up on wastewater. And I'm not saying we're seeing this carte blanche.

Ms. Santos: Right. Yeah.

Mr. Hull: But in theory, could somebody apply for a 20 room house and put two workers in every room getting 40 workers living in a in a single dwelling unit? That could happen today. And we're recognizing that while we are seeing employee housing done on a on a scale and caliber that doesn't necessarily break up the fabric of say, a community, the potential for that and a few applications where that could happen. That's what we're saying, the bill is right in that there are some lanes of restrictions should be put in place. Using the definition of family, as Alan kind of presented, that is not maybe an appropriate vehicle for that, but there may be. So, right, like what Alan presented as far as the FDC and the building type being a possible venue, right, in saying that, oh, we have form based code in some of our town cores that have restrictions on the size of the building itself, and that you would never be able to fit 20 rooms in those buildings, now, set in building type for Waimea Town, for Kōloa Town and that is a possible avenue to ensure that doesn't happen. When talking about vacation rentals and the commercial aspect of it, right, that's exact conversation that council had when the Planning Department wasn't enforcing against vacation rentals pre 2005. This is a business transaction. This is a residential transaction. Why aren't you, why aren't you enforcing it? And the county attorney's office had to come out and say, they are one and the same unless you define them differently. So, the Planning Department is not to enforce against vacation rental usage until you County Council adopt specific rules differentiating between vacation rental and the residential unit. And it did. And enforcement has been, I won't say easy, but there's a path to it. And so, that might be another opportunity as well, as far as defining the business aspect of a residential transaction.

Ms. Streufert: So, then that would be the council that would have to determine that, define that.

Mr. Hull: They ultimately would have to take action on one of those measures. But all to go back again is that, the report is recommending disapproval, but saying that because this is a problem, we think there may be solutions that should be explored before we send it back to council.

Chair Ako: Yeah. My statement was wasn't so much that we should not address the issue here.

Mr. Hull: No.

Chair Ako: My thing was, I don't think we're ready to.

Ms. Streufert: Then what is the issue? I mean, there are so many different parts to this, you know.

Chair Ako: Well, I think that's part of the question, right.

Ms. Streufert: Yeah. You have to identify what it is that you're supposed to be looking at.

Chair Ako: And we're not there yet.

Ms. Streufert: No. So, could we get what the recommendation of the department is right now, please?

Mr. Hull: The recommendation…

Ms. Barzilai: To defer.

Mr. Hull: …is a disapproval on the bills, but it's still asking for…our position is to defer the bills at this time.

Mr. Giovanni: Say that again.

Mr. Hull: Our position is to defer the bills at this time.

Ms. Streufert: Is there a time limit? We're just going to leave it open?

Mr. Clinton: Two months was the conversation that we had with Councilmember Cowden. So, the October meeting.

Chair Ako: I wouldn't have a problem with that. All that means is it's going to be on the, it's going to be alive yet. It's going to be up there. And if you need another extension, then there's another extension.

Mr. Giovanni: Can we hear from Councilmember Cowden on the two month, and what might be accomplished in that?

Ms. Cowden: Well, this was a, Councilmember Cowden, deep concern of mine. When this keep getting deferred and deferred and it's got deferred to a point now where I don't, I don't have much time left in my council term. So, I knew this even when it was deferred to this date, that it's effectively killing it anyway. So, but I would like to work with him. It's, it feels really hard to leave office with such a glaring problem. I started working on this in October and it just keeps being pushed out and pushed out so that I, you know, it's a whole year and I have been, by all the deferrals, not allowed really effectively to address this issue. And I do see it as a very glaring problem. And I think that, you know, we've pushed it this far. So, it's probably is dead in the water. But I, you know, I'm the introducer. So, when we have pushed it out this far, we have effectively chosen to not address the issue. And we have very new council. I can try and find somebody in there that will pick this up, but it's…this is like having the opportunity in 1985 to

have been able to address vacation rentals or maybe more like 1990. But this problem is becoming so profound, and it will just be (inaudible) 2.0. And, you know, people can be happy living in their employer's house, but it really does move us away from being able to retain people. And when we have, is the cost of how much it drives up the houses around them. And very often a business that's owned by a corporate investment company, they can just offer a cash purchase. And the people who are raising their kids. And what we typically think of as a single-family residence, the tenants for that, the people who would live in it, the homeowners, they cannot compete. I even talked with a teacher and somebody who does dialysis this morning, who's going to look at the house, the fifth house they've made an offer on. But before it's done, you know, they get out competed by a cash purchase, you know, above whatever they can, you know, offer. And so, that, it's, we, we're just having this profound problem. And it's, it's difficult to get our hands around. I was very pleased that we had unanimous consent at first read, is a rare moment that something this challenging was recognized by all seven of us as a real problem.

Chair Ako: So, Councilmember, are you asking us today to vote for the approval or disapproval of this amendment, of this zoning amendment?

Ms. Cowden: Well, if it was up to me, I would ask you to approve it. You know, I would ask you to approve it because if you approved it, I believe we can still figure it out. At least there's a pretense, a pretense that family has a meaning. And when we don't approve it, we say family has no meaning. Thank you for that question. Is there another question for me or no?

Ms. Santos: Well, I'm curious as to, like, if you, I mean, everybody's working so hard on this. And so, it's kind of like, well, to kind of come with a thing that's got so many unanswered questions and then have the department try to fill all the holes…

Ms. Cowden: I did.

Ms. Santos: …in a short amount of time.

Ms. Cowden: To me, it wasn't a, wasn't, to me, it wasn't a complex question. To me, a family is pretty clear what a family is.

Ms. Santos: But how do you, how do you know? How can you tell? Like, how, if I had ten people in my house, how would you tell if I, my children don't look like me. How would you tell if we're related?

Ms. Cowden: I think when you can tell is when it's easier to say, how can you tell when it's not a family. How you can tell when it's not a family is when a bus drives up to that that house and picks everybody up and they're all wearing the same uniform, and they drive away in it, when they all work at the same place. And it's pretty generous the size that I put there with any size family, plus ten unrelated people, right. Like most of the time you can tell when it's a family, they got the trikes in the front yard, they've got, you know, everything going on. When it's not a family is when, like I said…

Ms. Santos: Well, I have a question. So, I have, I have two of my people, they live in, I consider them family. They live in one of my homes and they share a grandchild. They share grandchild,

but they're not, they're not related, but they share grandchild. But they're my workers. Would you consider them family?

Ms. Cowden: Family. But I mean, and they fit, they fall within this small number right there. There's less than ten in the house. And I mean, I tried to make it work in as many ways. And what I had in the definition of family, but I was told I had to take it out, was ten, ten people living together by choice. And that's the difference, because you could have five couples that aren't actually married, you know, but they're, they, they're living together by choice. You can have people who all work for the same company, but they choose to live in a house together. The big difference is when the employer owns that place and they decide this person, that person, that person, that person, and they all come in and the tenants haven't decided this is who is living together. If people choose to live together, to me, that is kind of calabash family. There are plenty of single adults that the way they can make life work is they choose to be housemates. That is by choice.

Chair Ako: Commissioner, I think the question that you bring up is a lot of the unanswered questions…

Ms. Santos: Yeah, but…

Chair Ako: …yeah, that we have…

Ms. Santos: …but, but…

Chair Ako: …that we're not going to resolve.

Ms. Santos: …but I'm just a little offended that it's the Planning Commission's department to figure out all the holes and then to get frustrated at the commission to be like, okay, well, now it's your guy's responsibility. We'll figure out all the holes. I'm just…

Ms. Cowden: I'm not frustrated. I just…

Ms. Santos: I'm saying.

(Multiple people talking at once)

Ms. Santos: No, I understand.

Chair Ako: I get your…yeah.

Ms. Santos: I'm menopausing right now. On a level of no tomorrow. And so, you know, I like to protect my fellow commissioners.

Ms. Cowden: I'm not…

Ms. Santos: Because (inaudible)…

Ms. Cowden: I'm not, I'm not…

Ms. Santos: …(inaudible) a little…

Ms. Cowden: …I'm not attacking the commission, I'm attacking the problem.

Chair Ako: Yeah.

Ms. Cowden: And the problem is...

Chair Ako: And I think we will too.

Ms. Cowden: …we won't have community.

Chair Ako: As soon as there's a lot more clarification.

Ms. Barzilai: I think that if we…if we are moving toward a disapproval, it will eliminate any opportunity to address the problem. So, probably a deferral is a good idea with Commissioner Santos's comments noted that it is burdensome on the department, but hopefully with cooperation, some resolution can be reached.

Chair Ako: If we're ready for a motion.

Ms. Barzilai: Because we're not going to reach it today.

Ms. Santos: Yeah.

Ms. Streufert: I move to defer this action until the November meeting in three months' time.

Ms. Santos: I second.

Chair Ako: Okay, we've got a motion to defer until the November meeting. We've got to…

Ms. Streufert: To give them three months' time.

Ms. Cowden: October, October, November I'm gone.

Ms. Streufert: Oh.

Chair Ako: December.

Mr. Giovanni: October.

Ms. Barzilai: What is the wish of the commissioners?

Mr. Giovanni: I'm just asking, I'm not suggesting.

Ms. Barzilai: We'll just vote on one motion at a time.

Ms. Streufert: I was just thinking that it should be after...I was just putting in three months because we've done two months at a time and it hasn't really resolved anything. So, perhaps three

months. But, Councilwoman Cowden has a point that that will be after the elections, which is good and bad, because then it's not a political issue, but it, but then you're not on it and you're the proponent of it. So, I can go either 2 or 3 months doesn't matter to me.

Mr. Hull: We're okay with October.

Ms. Streufert: October?

Mr. Hull: We won't object to November if that's the commission's discretion, but we're okay with October.

Ms. Streufert: I move to defer till the October meeting.

Ms. Santos: I second.

Chair Ako: Okay, (inaudible). Second? Okay.

Mr. Giovanni: My comment…

Chair Ako: Yeah.

Mr. Giovanni: …I'm going to support the motion, but my comment is coming from my engineering background. If you want to solve a problem, you really need to…

Ms. Streufert: Identify the issue.

Mr. Giovanni: You really got to understand the problem. So, we've recognized we have a problem, but we haven't, we don't understand it. We don't have solutions to it. So…

Ms. Streufert: In psychology if you can't…

Mr. Giovanni: …we gotta keep working on it. (Inaudible) I support the motion.

Ms. Streufert: …in psychology, if you can't put the question or the problem in 15 words, you haven't defined it.

Mr. Giovanni: I can appreciate the dilemma that Councilmember Cowden is brought to our attention, that she's been the proponent and she's been working on a long time, and she's going to fall off a cliff in December or November, whenever it is, because she'll be out, and I don't know if somebody's going to take up the mantle of the initiative. I hope so, because it's real.

Ms. Cowden: Just for clarity, I feel like I can define the problem in 15 words. I think it can be easily defined. There's no problem with that. I think…

Chair Ako: As soon as we decide on our motion…

Ms. Cowden: …yes.

Chair Ako: …you can speak again, yeah, so…

Ms. Cowden: Okay, well, I think…

Chair Ako: So, let's just stick to the motion…

Ms. Cowden: …I was going to say it's too late for me anyway.

Chair Ako: Councilmember, thank you so much for coming back up. So, we've got the motion, got a second.

Ms. Streufert: Defer till October.

Ms. Santos: I second.

Chair Ako: We got a second. Okay, last comments, commissioners. Okay, if not, Mr. Clerk, if we can have a roll call vote, please.

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

Mr. Giovanni: Aye.

Mr. Hull: Commissioner Santos?

Ms. Santos: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Commissioner Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 4:0.

Ms. Barzilai: The next bill.

Mr. Hull: Next agenda. Well, I'm just checking with the commissioners. I know we have our next bill.

Ms. Barzilai: Should we disclose that now?

Mr. Hull: So, we have Continued Public Hearing;

> ZA-2026-4: A bill (2979) for an ordinance amending Chapter 8, Article 1 of the Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to introduce new definitions for "Employee Dormitory" and "Group Housing Dormitory" = **KAUAI COUNTY COUNCIL. [Director's Report Received, Deferred, 03/10/2026; Deferred, 05/26/2026].**

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

Mr. Hull: I'm going to ask Alan to stand down from providing any other presentation just because you presented on essentially both, but if there are questions, well, first we're going to call for public testimony, whether there are questions on this bill. Certainly it is a separate agenda item. So, are there any members of the public that would like to testify on this agenda item?

Ms. Barzilai: This is the companion bill.

Mr. Hull: This is a companion bill. Seeing none, are there any questions that the commission has of the department? The department is also recommending deferral as a companion bill to this.

Ms. Streufert: I move to defer this until the October meeting.

Ms. Santos: I second.

Chair Ako: We got a motion to defer until October. We got a second. Comments? Discussion? If not, Mr. Clerk, roll call vote please.

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

Mr. Giovanni: Aye.

Mr. Hull: Commissioner Santos?

Ms. Santos: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Commissioner Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 4:0. And the question is I know we're getting on 12:15. You want to continue through, take a lunch break?

Chair Ako: 1 o'clock, Mike Moule.

Ms. Santos: Well, the guys coming back at 1:30, so we should, right?

Mr. Hull: Yeah. So, yeah, sorry for the tabled item, the Engineering Division…excuse me, for the tabled item, the Engineering Division is coming in at, is available at 1:30. So, the question is did you want to handle the last bill before lunch break…

Chair Ako: There's only one more.

Mr. Hull: …or take the lunch break and then handle the two items after?

Ms. Streufert: And that's the shoreline…

Mr. Hull: I apologize, there's two more bills. So, there's the apiary bill and the CPR bill. And then there's the tabled.

Ms. Barzilai: There's also Kamashita.

Mr. Hull: Kamashita's…it has to be postponed.

Ms. Barzilai: Oh, okay.

Chair Ako: Desire? You want to break now or you want to go through?

Ms. Streufert: I suggest we break.

Chair Ako: Break?

Ms. Santos: Break.

Chair Ako: Okay. Let's recess until 1:30?

Mr. Hull: Well. You might want to do to 1:00 then we can handle, I think we have audience members for the apiary bill. Yeah, for the apiary, you have people for the apiary bill. So, if we convene at one, they're here to testify for the bill.

Chair Ako: Okay. 1:00.

The Commission went into lunch break at 12:15 p.m.
The Commission reconvened from lunch at 1:05 p.m.

Chair Ako: Okay. If we can reconvene this meeting. Thank you for waiting and sticking around.

Mr. Hull: Thank you, Chair. Next, we have on the agenda is item 3.a., but I believe with the exception of the habitat project, everybody in attendance in the audience is here for Zoning Amendment 2026-8, concerning the apiary bill. So, with your approval, we'd like to move that agenda item up so that we can start to take public testimony and hold the hearing.

Chair Ako: Yes, please.

Mr. Hull: So, moving…tabling the other agenda items.

> ZA-2026-8: A bill for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to establish apiaries as a permitted use within the County Residential and other zoning districts, as well as introduce new definitions in Section 8-1.5 of the CZO to recognize this activity = **KAUAI COUNTY COUNCIL.**

1. Director's Report pertaining to this matter.

Mr. Hull: We currently have three members of the public to testify. The first member of the public is Ariel Bishop. If you could state your name for the record. You have three minutes for testimony.

Ms. Ariel Bishop: Thank you. Aloha, Chair and Commissioners. My name is Ariel Bishop. I'm a homeowner, a bee educator, a gardener, and a second-generation Kaua'i beekeeper. I'm here today in strong support of this zoning amendment, and I've had to write this out so I can read it because I get nervous and I'll forget. So, this ordinance is fundamentally a land use update. The question before the commission isn't whether honeybees are beneficial. It's whether responsible apiaries are a compatible residential land use when reasonable standards are met. I believe this bill demonstrates that they are. Beekeeping isn't new on Kaua'i. What's new is the county creating a clear framework for it. The bill replaces uncertainty with objective standards for setbacks, hive density, nuisance prevention, swarm management, water requirements and flyover barriers. And Kaua'i is certainly not asked to experiment with this. The Planning Department's report identifies several cities, including Honolulu, L.A., New York and Boston, that already regulate residential beekeeping. Many are far more densely populated than Kaua'i. We can learn from places that have already figured out how bees and neighbors can coexist. But there is something about Kaua'i that makes this issue particularly important. We are fortunate to still have a Varroa free honeybee population. Varroa is one of the most destructive pests of honeybees in the world. Varroa reached O'ahu in 2007, and Big Island in 2008. Despite the state having a bee import restriction dating back to 1908. That means that the bees we have on Kaua'i are a finite agricultural resource. If we lose our Varroa free status, we cannot simply order a new population of healthy bees from the mainland. So, this is not just about honey either. The HDOA has estimated that approximately 70% of Hawai'i's food crops depend on bee pollination. Crops that we're known for here coffee, macadamia nut, avocado, cucumbers, squash, things like that. So, when we support responsible beekeeping, we're not simply supporting a hobby. We're supporting local agriculture, food security, and the biosecurity of an agricultural resource that Kaua'i is uniquely fortunate to still have. This bill does not change the character of our island or expand development. Yay! It simply recognizes low intensity agricultural activity that already exists and establishes reasonable rules for it. Kaua'i has been fortunate to remain Varroa free, and I hope we can continue to be good stewards of that gift while supporting the people who care for bees and the agriculture that they sustain. I ask, respectfully for your support today. Thank you so much for all you guys do.

Chair Ako: Thank you.

Mr. Hull: Next, we have Ashiya Carter. If you can state your name for the record and you have three minutes for testimony.

Ms. Ashiya Carter: Hi, my name is Ashiya Carter. Let me start my three minutes and I am just kind of here to speak with you in support of this bill, but I kind of speak off the cuff. A beekeeper, a mother of two. I am a teaching artist. I work with kids in schools, with art. I'm a mentor of kids and robotics and, just…anyway, when I came to the meeting this morning and I parked my car, I parked beside an older gentleman that was in his car and I said, good morning, uncle. And he said, aloha. And we got into this brief but profound conversation about aloha, and

the feeling between people that we have on Kaua'i and how that's changing. And it, it brought me back to, I came to the islands over 20 years ago, and I landed in Hana, and they taught me a lot there about malama 'aina. And I see this bee bill as a support of that, the idea of that concept, malama 'aina, how are we taking care of that which feeds us? And I, I am in support of this bee bill because I think it strengthens our ties back to that concept and keeps it fresh in our society. If we are able to make avenues by which the people who are caring for these, these insects, these pollinators that give us our food, give us our, our food is important. But if we are properly taking care of them and making sure that they have safe places to be other than, you know, becoming a nuisance or like we are seeing now a decrease in our population, I think we're going to have a healthier, healthier population, a healthier community. And it ties us to the, to these principles that should underlie every community in Hawai'i. So, I'm speaking on behalf of the bees, on behalf of the ideas of how can we take care of our land if we don't take care of the things that support growth on our land? And this, like the previous person said, this does not require more development. We're not looking for anything that's going to be a danger to anyone else. I work with kids all the time, and usually when I talk to them about the bees, then it's, oh no, I got stung by a bee, I had these interactions, and I understand the first time I ever got stung by a bee, I rode into it on a moped. It's totally my fault. But other than that, I had to, I didn't grow up around them, I had to be introduced to them as well. And I found that my preconceptions about them needed to be adjusted because they are amazing creatures that work together. And that's my time, that work together and cooperate. And there's so much, not only do we benefit from them, but that we can learn from them in that spirit. Thank you guys very much for what you guys do and listening and caring for our island. I've been listening to you guys all morning. Thanks.

Chair Ako: Thank you.

Mr. Hull: Next, we have signed up Robin Maruyama.

Mr. Robin Murayama: Hello, Chair. My name is Robin Maruyama and…

Mr. Jason Maruyama: Jason Murayama.

Mr. Murayama: So, we are here today in strong support of ZA-2026-8 and proposed draft bill number 2997 relating to apiaries and beekeeping. So, Jason and I, in the world of beekeeping, we are beekeepers, we're pollinators, we're hive alive bee rescuers. We have a hive pollinator program partnerships, and we are bee farmers. What we farm is queens and honey bees, specifically the Apis mellifera. And as we know, honeybees are ecological stewards essential to Kaua'i's agriculture, food security and economy. Responsible beekeeping supports pollination, local food production and the many families and small businesses that depend on honey and other related bee products. And also, the bee pollinated products that they pollinate. The proposed ordinance provides a responsible balance between supporting beekeeping and protecting neighboring properties. It establishes clear standards for responsible hive management while recognizing apiaries as an allowable use. It would also provide hobbyists and small business beekeepers with a practical path to compliance. So, beyond that, you know, like the reason why we are here is to be a steward, a voice of the bees, and to be a resource. And the resource that the bees provide is greater than, you know, that greater than the footprint that they that they occupy. And in addition to the resource, why we want to support them is because my son has made a decision that this beekeeping is going to be his life's work. So, we're supporting

bees. So, in order that they can support him as well. And I just want to say respectfully, respectfully asked the Planning Commission to recommend approval of the ZA-2026-8 proposed draft bill, number 2997, without weakening or delaying its balanced standards for responsible beekeeping, the neighborhood protection. Thank you for this opportunity.

Chair Ako: Thank you.

Mr. Hull: We don't have any other members signed up. Are there any members in the audience that haven't testified but would like to testify on this agenda item?

Mr. Max Richardson: Good afternoon. Is it three minutes like council?

Mr. Hull: Yeah.

Mr. Richardson: Okay. Good afternoon, Chair, Director, members of the Planning Commission. My name is Max Richardson. I'm a beekeeper in Wailua, and I am here to enthusiastically support this bill. I think that anytime we're talking about relaxing a standard of the law, you know, you have to look at the potential benefits versus the potential costs. So, what are the potential benefits? Obviously, honey, everybody likes honey. Beeswax is pretty useful, beyond that, though, vastly beyond that, the major benefit that you get from honeybees is their ability as pollinators. One single beehive, which takes up that much space, can pollinate like a 3-to-5-mile circle around it. And you can see the difference between plants that have been pollinated by the wind or have simply not been pollinated versus plants that have been pollinated by animals. A huge concern that I hear talked about a lot. I cover a lot of the county council meetings. I cover these meetings, and people are always talking about food security. It's one of the big things about making our 'aina independent is we want food security, pollination, ensuring the ability of plants to reproduce is a vital part of food security. It has not just a measurable improvement in our ability to be food secure, but it's actually a necessary part. Plants, some plants cannot reproduce without animals pollinating them, right, and for some of those plants, that animal is the honey bee, a lot of them actually. Honeybees are an important pollinator. And then you have the potential costs, which are in terms of this bill, negligible, I would say virtually non-existent. This bill doesn't propose to make it so that you can put a beehive in your window when you, you know, or put a beehive on your fence or, you know, have your bees bothering your neighbor, all it does is just make the zoning law, not what stands in the way of backyard beekeeping. So, to give you an example, I live in the Wailua Homesteads, I have a very small front and backyard. If this law, this bill, were to pass into law, I would still not be able to keep bees in my backyard because there's no way for me to respectfully and responsibly do that. So, I'm not like trying to push you guys to pass this bill along to make my life easier. I would still have to drive out to my apiary on an ag park, but what if I did have one acre, two acres, five acres, ten acres of land, but it was zoned residential? It seems kind of bananas to me that I would still technically not be allowed to keep bees on my property purely because of the zoning ordinance. So, I think bees are good. I think we could all agree that the effect bees have on the environment is good. The effect bees have on the average human is negligible. You probably wouldn't even notice that your neighbor had bees, except for if you had a garden, suddenly your garden would be doing a lot better and you'd be like, wow, I wonder why that is. And the effect on, the bees would have on society directly would be negligible. So, that's why I'm in support of this bill. I think it helps people, and I don't think it hurts anybody. And…

Mr. Hull: Three minutes, Mr. Chair.

Mr. Richardson: I never got stung by a bee ever in my life until I became a beekeeper. I've been stung several times now. Every time it's been my fault. The bees have never picked a fight with me. And as you can see, I've clearly survived every time. So, it's not that big a deal.

Chair Ako: Thank you.

Mr. Hull: Is there any other members of the public that haven't testified that would like to testify on this agenda item? If you could state your name for the record and then you have three minutes for testimony.

Mr. Javed Maksood: Aloha. My name is Javed Maksood. I here to echo with everybody here. So, the only thing I would like to say that you heard everything about the bees. My experience with the bees, with the bee apiary. I'm not sure any of you guys have ever go to check out the bee apiary. I would like to invite you guys to come and check it out and learn more from them, especially Ariel and Robin. I've done it for two years and I would strongly for this bill. So, as a responsible beekeeper, so many good thing comes out of the bee. I'm not sure, you know one bee goes around 1,000 to 10,000 flowers to pollinate. So, that's a good thing and great thing for our agriculture industry like Kaua'i. So, I'm here to say that I'm support this bill with my friends. They're sitting behind me and I like that you guys come and support this bill. Mahalo for your time.

Mr. Hull: Is there any other member of the public that would like to testify on this agenda item? Seeing none, I'll turn it over to the planner, Romio Idica to go over his Director's Report.

Staff Planner Romio Idica: Aloha, Chair and commissioners, for the record, Romio Idica, Department of Planning.

> Mr. Idica read the Summary, Project Data, Project Description and Use, Additional Findings, Preliminary Evaluation, and Preliminary Conclusion sections of the Director's Report for the record (on file with the Planning Department).

Mr. Hull: Some of the…the bill was introduced by Council, and I'll say that…excuse me. So, the bill was introduced by Council, and so if there are some questions that go more into the specifics of beekeeping and the science around them, if the commission, so pleases, the department would like to invite Ariel Bishop from KCC up to be utilized somewhat as a department resource, if you will.

Chair Ako: Okay. Any questions?

Ms. Streufert: Okay, I agree that bees are very helpful and I would love to see bees around because they do pollinate a lot of our fruit trees as well as flowers. And I have had honey from a friend who has an apiary or used to. He no longer lives on Kaua'i, and I love the honey that we get here. But I have a question about a couple questions. One of them is that you can have, according to this, you can have an apiary, as long as it's either 25 feet from your…25-foot setback, or that there is a flyover barrier, what exactly is a flyover barrier and how does that work?

Mr. Hull: I'm certain Romio can answer that, but if I could invite Ariel up at this point as well.

Ms. Bishop: Hi. Yeah, a flyover barrier is I think we're, I think Romio has it defined here, maybe you can want to read the specific wording and then I can tell you how it works. Is that helpful?

Ms. Streufert: That'd be great.

Ms. Bishop: Okay.

Ms. Streufert: I've read the definition, but I'm still not sure as to how this is all supposed to work.

Ms. Bishop: Okay. Sure.

Ms. Streufert: And how it's supposed to keep people who are your neighbors safe.

Ms. Bishop: Okay, sure. So, what if, what the flyover barrier does is that bees enter and exit the hive from a designated entrance in the box, and when they do that, they would go out their entrance, they would run into this barrier that's placed in front of them, and that forces the bees flight up into the air. And once bees are up in the air, they don't drop back down into the landscape until they've identified their nectar source. So, this is what is established kind of all around as a way to mitigate the interaction with humans, you know, cars, whatever is, would be on the other side of that flyover, fly away, fly over barrier. And likewise, when bees return from foraging, they come in at elevation, and then they would come over this barrier and drop down into their home. And so, it helps manage amount of bees that would be kind of in a human's level.

Ms. Streufert: Well, the reason for asking this is because I know several people who are allergic to bee stings, and if they have an, you know, people who already have an apiary or who have beehives and not necessarily an apiary, but just maybe one box doesn't quite qualify for it. I think you're all very responsible, but this does not apply to you. This applies to everyone that may come after you, which may or may not include people who are just as responsible or less responsible than you. There are, and there are lots of people who are allergic to bee stings, just as they are to wasps or everything else. How would you feel if you, if you were to have an apiary, that you would notify your neighbors that live around you within the immediate area that you are having an apiary? It's not to approve it. It's just to notify them so that they can have EpiPens available, especially for kids who may antagonize or activate the bees unintentionally, but they're running around and that can activate the bees. How would you feel about something that would, like a condition that would say that you would have to notify the neighbors within a certain radius? Not, I'm not sure what the radius would be, but within a certain radius that an apiary is going to be in their neighborhood. Would that be acceptable or…

Ms. Bishop: I understand the concern around public safety and having the EpiPen available and things like that. I think that's a wonderful idea. I think the department, it's been an interesting journey. I'm trying to figure out how to phrase this. It's been a really interesting journey working through this bill. I think there's a lot of unfounded fear around bees here, unfortunately, on Kaua'i. And I think that it's a, that's I feel like it's a challenge to have folks understand the science of bees and the behavior of bees without having the firsthand experience. So, I definitely want to recognize that bees are stinging insects. And we're concerned about folks that have an

EpiPen. Usually if you have a known allergy, you have the EpiPen already, right? I think it's a .4% of folks that actually have a bee sting allergy. We were consulting with the Health Department as we were working on this bill and getting kind of their feedback on, does this feel appropriate? What are kind of the ways to issue EpiPens? Should all people that have an apiary have an EpiPen available in case something like that comes up? And so, maybe that's, that's probably outside of my professional ability to judge, but I think I can share with you that bees are not aggressive beyond their hive. A lot of the stings that happen out in, you know, your neighbor's yard or something are more an accident. Bees are out to forage. They're there to gather nectar and water and propolis, and they're not there to go after a human or something like that.

Ms. Streufert: Well, I was, I was chased by bees from my from my friend's apiary. He was, he was harvesting honey way down at the bottom of the, of the hill. And I was standing at the top. And all of a sudden I saw this not swarm, but this group of bees coming after me. I had to retreat into my car and stay in the car until they went away. Okay, so but I also know two people that I had not asked them, they just we were just talking about different things, and, and his neighbor had a bee or an apiary, and she asked to put it on his property. He did, being a nice neighbor. And then he got stung. And every time he got stung, his reaction got even stronger. So, he had to ask her to take it apart, take it away. So, I mean, there, there are enough people like that. If he were to come and visit me and I did not have an EpiPen and there were an apiary next door, I wouldn't know what to do, right, and so, that's the question about the safety of it. I fully support bees. In fact, I would love to have more bees in our area so that we would have more fruit. But the fact of the matter is that there's a safety concern, and I would like to have something that would look at how we can make it safer for everybody else in the community, as well as to allow something like an apiary within a residential area. And so, I'm asking whether either a notification so that you can have an EpiPen if you're a next door, or whether there's something else that can be done so that the public is going to be protected, because the fact is, right now, we haven't had an issue because you have been very responsible. But it's like any ordinance, when you put an ordinance out there, it's anyone who can have it after this. And you cannot always assume that they are going to be as responsible as the people who have it now. So, I'm looking for something in between that would allow apiaries, but also keep the public safe. And that's what I'm looking for right now, if that makes sense to anyone else. And I'm not sure I've found it unless it's, and I didn't think about an EpiPen at the apiary, but that's another possibility. So…or notification of your neighbors that there is an apiary close by. Which is not to say they have to approve. It just needs to be a notification.

Ms. Santos: I kind of liked, did you read the Collins testimony in here? I thought that that was, I love bees too. I have a bee obsession. You're not allowed to go to craft fair unless you buy honey, that's my number one rule. And if you're super cute, I'll buy all your honey. But I got problems. That's number one. Number two is one of my really good friends died of a bee sting riding the bike in Waimea. So, I can't say that just because you never got that…when a bee stings you, nothing's ever happened. But I actually do know a really good friend who passed away riding a bike in a neighborhood. So, but I like this, this kind of limiting the size and the things because to have 15 on a ten, that's a lot for a 10,000 square foot property, I mean…if I had 15 chickens in a 10,000 square foot property, I mean, I don't know if I could do that. People might get mad at me, but I'm just saying, the chicken is just an annoyance. A bee (inaudible), but...I enjoy this what they wrote. I don't know if you guys saw this, they just say up to two hives on a

lot under 10,000 square feet up to four hives on a lot, 10,020 square feet, up to six hives on lots over 20 square foot. And then I have a question who, like, okay, so I'm assuming that…is there a bee club? Who regulates the bees? I mean, the beehive people? Is it the Department of Health? Like, who goes and checks to make sure that they're following all the rules and regulations? And like, if, if you if they were to do it in their yards, is there going to be like a bee police?

Mr. Hull: Well, right now, it's not outright permissible in the residential district. So, I can think of at least one case where the Planning Department was called in and did issue a violation notice to a property owner that had bees in the residential district.

Ms. Santos: Oh, so, you guys would be the checker of this, of this, of this situation?

Mr. Hull: Yeah. Right. And so right now, the, the interpretation of the way our zoning law is set up is that under agricultural districts, we do consider it an agricultural use. So, it's outright permissible in the agricultural district right now. But if we get a complaint currently of an apiary in a residential district, it would be a violation of the existing zoning code. So, what's essentially before this body is a draft proposal of a manner in which beekeeping can occur within the urban districts as an outright ministerial use.

Ms. Streufert: So, if you put a notice requirement. Thank you. If you put a notice requirement, which doesn't require an approval, but just a notice, can that something like that be done?

Mr. Hull: I think we'd be open to the notice requirement. The current standard like process under which notification is required, also has a compelling follow up should a certain amount of neighbors object. So right now, artisanal and farmer's markets are outright permissible in all districts. And that facilitates the farmer's markets that we have. But should you propose one in a district and more than 50% of the neighbors object, it automatically puts it into the use permit process and holding a public hearing. And so, and it's something we can explore a bit more, Commissioner. But you know, my reaction to just having a notification requirement without a proper venue for which the complaining neighbor can resolve their differences, would potentially create a, a bit of a implementation nightmare, if you will, in that like, oh, I was noticed and thank you for noticing me, but I need to have a venue to object, which would then just put them in a situation where then they would have to appeal the director's action. And you could foresee a lot of appeals for director's actions, because the notification requirement doesn't have a venue to vent that frustration. But then if you allow for that, the back side of that, if you will, is if you allow for that process to unfold where the neighbor does object, therefore it triggers a use permit application. I think to Ms. Bishop's point is there is also a clear concern about apiaries in the neighborhood, whereby I would almost expect that every single one would, the notification goes out and then every single one is going to create a response of, oh, wait, wait, if I at least object, then I can stop this from happening and at least push it up to use permit process, which in theory renders much of the, or draft language moot from an implementation standpoint. And this is just my own knee jerk reaction to it, quite honestly, Commissioner, I mean, there's the possibility of us taking a little bit more time in adjusting the specific concerns that you're bringing up, the concern that Commissioner Santos is bringing up from the public testimony standpoint of there may be other ways to put restrictions or safeguards beyond what is originally proposed. Yeah.

Ms. Streufert: You know, so there that safeguard, in addition to the 25-foot setback. But unless you have a flyover barrier. So, it's I, I don't know that you can actually tell bees where to go. I mean, I think they're just going to go wherever they want to go. So, it's more than, more than…as important as allowing this to happen. Because I do really think we need more bees. And is that, I have to also consider public safety. So, I'm not sure where I am on this.

Ms. Santos: Well, did you, did, when you guys did this, come up with this, did you look at the this the O'ahu's, but it didn't, you guys didn't…what was the theory of not kind of taking some of this because like having two hives on an under ten square foot, more than…

Ms. Streufert: 10,000 square foot.

Ms. Santos: Yeah, instead of 15 hives.

Mr. Hull: Yeah. I'll defer to Ariel. Ariel worked directly with the council members who (inaudible) the bill.

Ms. Santos: Oh, sorry.

Ms. Bishop: That's okay. So, that is for Honolulu specifically, which is an urban environment. And so, because Kaua'i does not have the densification similar to that. And I also have a problem with two because you're supposed to have two as a responsible beekeeper so that you can help the health of one with another. But if your hives swarm and you do the responsible thing of capturing that swarm and rehoming it, now you have three and you're out of compliance. So, I feel like the numbers are too strict in Honolulu's, we modeled ours after the Big Islands, which passed in, maybe two years ago. And so, that's what a lot of the language in this bill is written around, is someplace that they've had success with that language and those models. And doing research on the numbers allowed in some of these other very urban places that were on the list from the Planning Department, like L.A. and San Francisco. There's nowhere that's as strict as to. So, I feel like because we have such a valuable resource to protect, I would love to see us not get as strict as that, but…

Ms. Santos: Maybe there's a middle ground.

Ms. Bishop: Yeah.

Ms. Santos: Because the Big Island is, I mean, if you look at the Big Island versus Kaua'i, the Big Island has so much more land per, the houses are much more spread out than they are here, I think.

Ms. Bishop: But this is for all of Big Island. So, even places in downtown Hilo, this applies to. So, and they're implementing it with success. We did reach out to the Big Island to see, you know, after you passed it, what happened. Is there a million new beekeepers? Are you getting a million complaints, things like that. I think there was some bee poop issues, and that was the primary new complaint. But I do, I think that it's smart to be very cautious when we're looking to kind of implement something at this scale. And I just want to reemphasize that we're not experimenting with this here on Kaua'i. There's plenty of urban environments all around the globe that have done this successfully, with measures quite similar to ours. And so, I felt that this

was still pretty conservative while really being proactive in trying to help support the bees. And just to speak to the fact that there are bees in the landscape, right, like we have wild hives already here all over. And so, usually managed bees, you would hope, have a much gentler, sweeter temperament than perhaps a wild hive because your beekeeper is having to go in and deal with them. So, it sounds like that beekeeper maybe needed to requeen his colonies so that you weren't being attacked. But yeah, so I, I hope that…is there anything else I can help kind of provide education on for this?

Chair Ako: Regarding public safety and public health, do you have an opportunity to speak to like maybe the Department of Health, the Department of Agriculture?

Ms. Bishop: Yeah. So, Lauren actually was supposed to be here today from Department of Health, but she was caught up in a storm meeting. So, we did contact them, especially because vector control and all those folks are, I think, the agency that's going to be responding to this. So, just wanted to see with them before proposing this, is this something they feel comfortable managing? Can they do it? Are they concerned? And I don't think I'm in a place to speak for others, but I, they didn't have an issue with it at all...and gave it their support. But don't take my word on it. Please reach out to them if you want.

Ms. Barzilai: Maybe the department knows. Maybe the department knows if they commented.

Mr. Hull: Romio, did they provide formal comment to the application?

Mr. Idica: Department of Health did not submit any formal comments.

Chair Ako: But they got the form to respond.

Mr. Idica: It was routed to the agency, yes.

Ms. Santos: What is the department's recommendation?

Mr. Hull: Tentatively, the preliminarily, it's a recommendation of approval. Hearing the comments that were brought about today, department would have no problem either if the commission wanted to move forward, that's what our preliminary approval is. Hearing that there may be some concerns about possibly looking at additional measures to further ensure safety of the surrounding neighborhood, department is open to a deferral as well, to work with...

Ms. Streufert: At this at this point, although I really support this, I would like to see at least more consideration of public safety and I would like to see a deferral so that more, you can research this a bit more and look at public safety because it's, whether that's increasing the lot size to the number of hives that you have, or whether it's flyover barriers or more robust or whatever, it's not that you're not going to get stung when you're outside, but it's that if I had a visitor who came, a family member who came to visit, and I didn't know that they were allergic to bees and next door there was a, like my friend had a beehive, and I would want to know so that I could at least have an EpiPen or something available to, to help them. I don't want to have something happen to the public in an area like that.

Mr. Giovanni: So…can I…Commissioner, I'm number one, I like bees also, I think they're important element of our community. I'm sensitive to your concerns about safety. I'm not in favor of the notification, a formal notification process, because I think it invites more problems. Just as the planning director was saying, would you be comfortable with, you know, like public signage or something to that effect that just informs neighbors of that, that there's a hive?

Ms. Streufert: I really haven't thought about it. So, that sounds like a good idea. I'm not opposed to it. I just think we need to have a more robust condition or recommendation on this before I would feel comfortable with the, with public safety. And then that is my only concern is public safety right now. Because I do know, as you know, also, people who are highly allergic to bees, it's almost like, you know, you're not going to give peanut butter to someone who's got a peanut allergy.

Ms. Santos: I was just gonna say that. You can't bring peanut butter to preschool anymore.

Ms. Streufert: That's right.

Ms. Bishop: But, you can cook with it in your own home.

Ms. Streufert: Yes.

Ms. Santos: Yes you can.

Ms. Streufert: Yes.

Ms. Santos: But I can't have ten chickens running around my backyard. Somebody will get, I think the rule is two, right? Or the rule is four chicken. I can have four chickens. So, maybe you could have seven beehives in a 10,000 square foot…

Mr. Giovanni: And you can put peanut butter in yard to get the, get the fire ants too.

Ms. Santos: Right.

Mr. Hull: If this is kind of reading the direction of the commission, if that's what the commission…and Commissioner Giovanni, I really appreciate the statement because I…that hadn't crossed my mind either.

Ms. Santos: I like a sign.

Mr. Hull: The signage. While I, sometimes the department does have the ability to craft pop fly conditions on the floor. The apiary environment is so new to us, I would quite honestly, candidly, I wouldn't be comfortable trying to come up with conditions for you folks to address that at this meeting. And I you know, I hope it doesn't put too much distress on the apiary folks that spend time here with us today, but I'd ask for a September deferral.

Ms. Santos: We want, we love you guys.

Mr. Giovanni: Yeah.

Ms. Santos: We want to have bees.

Mr. Giovanni: But we love the (inaudible).

Ms. Streufert: We do.

Ms. Santos: We just want a little bit more, a little bit more.

Ms. Bishop: I think, I think the sign idea is very valid. We use signs at the college to kind of tell people that are wandering around on the property, you know, hey, we've got an apiary. You see them out in public spaces.

Ms. Streufert: And you had a really good idea that I'd never even thought of was to, for every a period have an EpiPen available. I mean, there are different ways of doing it. So, I think I would like to see a deferral so that something can be actually written that would be acceptable to you and all of you out there, as well as for public safety. If that sounds reasonable to defer this for a month for the department to develop something that would satisfy both.

Ms. Bishop: Yeah, I think my only last comment is, you know, I've done a lot of research on the policies that very urban environments have in place, and they don't require a lot of these restrictions or not restrictions that's not the right word, safeguards in this same capacity. So, I don't think I was prepared to provide such strict process for a fairly agriculture, agricultural island. But I have also learned that we have a deep, deep fear, cultural fear of bees here. And so, I think perhaps this is the best way to address it.

Ms. Streufert: To defer it.

Ms. Bishop: Yeah. Thank you.

Ms. Streufert: Okay. So, then I would I will make a motion to defer this for one month to allow the department and the apiarians, is that what you would call beekeepers, apiarians, to work together to come up with some potential public safety safeguards.

Ms. Santos: I second that.

Chair Ako: We got a motion and a second. Any further discussion? In the fact that we put signs with the dogs, we will do it for chickens too.

Ms. Streufert: That's right. We have for dogs too. That's right.

Mr. Giovanni: (Inaudible) dogs, bees and chickens.

Chair Ako: Yeah. If not, can we have a roll call vote please.

Mr. Hull: Roll call and motion to defer. Commissioner Giovanni?

Mr. Giovanni: Aye.

Mr. Hull: Commissioner Santos?

Ms. Santos: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 4:0.

Chair Ako: Thank you very much.

Ms. Streufert: Thank you for understanding that we do have some public safety concerns on this.

Mr. Hull: Going back to the tabled item for Class IV Zoning Permit Z-IV-2026-17, Project Development Use Permit PDU-2026-13. The item was tabled in order to allow the Engineering Division to be able to appear to provide any response or analysis that his department would be applying to the habitat project up before the commission. Also, in the interim, what was circulated, was one of the neighbors photo documentation of the site around during a flooding event. But…so, I don't know if the applicants want to come back up or if the commission would like to hear directly from the Engineering Division.

Ms. Santos: Yeah. Engineering.

Mr. Hull: Michael, are you are you available?

Mr. Moule: Afternoon commission. Michael Moule for the record, Chief Engineering Division, Public Works. Did you have specific questions or you just, I know the general issue is the stormwater runoff from the site here for this project, I can give a brief background of where we are or do you have questions.

Ms. Santos: We just have a very concerned, very concerned community neighbors. And so, I think that, you know, going over kind of your thought process on how you're going to help or at least not add to her situation would be helpful.

Mr. Moule: Okay. Yeah. So, we have a stormwater runoff manual. It's a document that's essentially adopted by county ordinance that we use to manage stormwater and it requires, generally speaking, it depends a bit on a few things, but it requires that the stormwater runoff on a site post development, the flow not be greater than the pre-development flow. And we will, we will, and we are actually in the process of, for this particular project, reviewing their grading plans and reviewing their drainage report. And we will do that independent of what Planning Commission does, right, it's something that we are required to do by the code, and we do it. The stormwater manual, and there is, as I think you heard this morning, as I understand it, there is a bit of a drainage that runs through the site. I did take the time to look at the drainage report. It literally hasn't, it's the most recent version of this plans and drainage report is with Bryan Wienand in my office, and it be sent to me next before we send our comments on those things.

And he and I talked it over just before this meeting, or just before I came over to join you all here today for your meeting, to kind of make sure we were on the same page on it. And we are, but the, the generally speaking, if there's a development larger than two acres, our code requires detaining water for both a two-year storm and a 100-year storm. And those, the size of the storms are as defined by our manual and there's documents in the back that show how much rain, rainfalls are estimated to fall in each of the storms, and over a certain time period. For areas under two acres, it's not quite so clear.

Mr. Giovanni: It's not so what?

Mr. Moule: For project areas under two acres, it's not quite as clear because we, you know, we for example, if you have a quarter acre lot, a typical R4 lot here on the island of Kaua'i, we don't require detention. If you put a house in, we don't require you to detain the water just for a single-family house typically, right, so, this site is, I believe, 1.2 acres roughly, if I recall correctly. So, it's under two, but not as small as a single-family lot, of course. And so, what the current, the current draft of drainage report and plans that we're reviewing based on our comments, we actually in our last comments that we sent back to them. Let me see the date of that real quick. I've got it right here. If my computer lets me. So, it went offline. So, I lost the access to the file. But anyway, the, we…here. Let's see. So, we sent our first set of comments back to them in April 2024. And in those comments, we said that given the size of the site and the situation at the site, that we would require that we would want them to detain for the two-year storm, but not the 100 year storm. And in the most recent submittal that they sent to us, which is, will be arriving at my desk for final review of that round soon. I looked at it today and they added four detention chambers to the project to, to do just that. And the drainage report, haven't reviewed it in detail yet, but assuming it's correct, which we'll check, states that the four detention chambers do meet that requirement of attaining the two-year storm. It will have some detention effect on other sized storms as well. But it's not designed to detain the 100-year storm or any storm larger than two years, although that could be analyzed. At the same post development flows as the predevelopment flows. So, that's the summary of where we are right now with our review. And we'll continue to review that. Bryan will do his review over the next few weeks, and then it'll come to me and we'll send our comments back based on our detailed review of what I've just made a cursory look at today. After hearing that you wanted to hear about it today. Does that help?

Mr. Giovanni: Can I go first?

Ms. Santos: Yeah.

Mr. Giovanni: Yeah. So, you kind of specifically honed in on what my question was because in the testimony of the applicant, they said that they believed that the design was on a 100-year storm or maybe something else. There might have been an exemption. So, I ask further question, is it a 100-year storm or is it something else? And that's prompted. Well, we'll get you in here to actually answer that question. Now you're telling me it's a two-year storm. Is what you've designed the retention basins for? Is that correct?

Mr. Moule: The current design based on our, what we sent back in our previous comments, the design engineer came back with a design that detains the two-year storm and how it affects the 100-year storm, we don't know because it didn't analyze that, but they could analyze that.

Mr. Giovanni: You could analyze that.

Mr. Moule: They could, and we could see how well it detains, or how well it does against 100-year storm. But the I think the challenge, the challenge being this, that the, you know, there's a reason why our code talks about two acres or more for, for the most stringent requirements, because there's just a point at which you don't have the room on a site to provide the detention that's necessary. And so, we can go back to the to the, the engineer and say, you know, can you tell us what it would take to detain the 100-year storm? And how is that even feasible on the site? And we've talked about doing that potentially with Bryan, with my staff.

Mr. Giovanni: And I presume you could you could even invert that process to say what could be accommodated and what magnitude of a storm would that address?

Mr. Moule: Yes, could even potentially do that. I mean, I will say this, I've looked at the site, you know, they have four detention chambers, underground detention chambers sandwiched between two individual wastewater systems. And the site has buildings or entry road and detention chambers and wastewater systems. And there's not a lot, not a lot of additional space around to do anything, even on the current design. So that's, that's the challenge, right.

Mr. Giovanni: Yeah.

Mr. Moule: The other thing I should point out is that the drainage area leading to this, as shown in the study, is only eight acres. You know, one of the other things in our code is when you 100 acres or more, there's a clear indication that you need to do the 100-year storm. It's not that, right. It's only eight acres of water flowing above and through, including this site. Not a large area.

Mr. Giovanni: Yeah. That's (inaudible).

Mr. Moule: And that's the challenge is, you know, you only really see water when you have a really heavy rainfall because it's a small drainage area, right. And we're not even sure that eight acres, based on our quick evaluation of eight acres, might be conservative because they did it based on the contours and there's two roads in the way, right. And the roads may carry the water away from it. This area, right, it might actually catch the water and carry it away. Instead of bringing the water to the site. But it's eight acres is far less than 100 acres that would require, you know, the need to look at 100-year storm.

Mr. Giovanni: Thank you.

Chair Ako: You know, with that development there, would you anticipate that there will be more runoff or less runoff than neighboring properties?

Mr. Moule: It depends on how hard it rains. I mean, that's the thing. So, even when you, if we require for larger projects, a two-year storm evaluation and 100-year storm evaluation. Well, there's literally infinite storms that could be evaluated or considered, right. And you have the 200

year. What that means is that there's a theoretically that there's a, for a 100-year storm, there's a 1% chance that that storm happens during any given year. And for a two-year storm, there's a 50% chance that that big of a storm happens in any given year. But even when you look at a storm, you're looking at a certain, you have to assume a certain amount of rainfall over a certain period of time. And there's any, you know, all gradations of between the 50% to the, to the 2% or the 1% chance. And then, of course, there's different intensities of rain that could happen in a shorter period versus an assumption of the certain intensity over a longer period. So, there's, there's like literally infinite ways you could analyze it. So, there are certainly storms where this will detain all the water, and there'll be no runoff at all, where there would have been runoff before could be less runoff in some cases. But there are absolutely storms that could be bigger than what's analyzed for where there would be more runoff. And so, it just, there's…because, you know, we have to make assumptions on a certain evaluation. There's no way to say yes or no to a question like that, if that makes sense. It just depends on how hard it rains and for how long.

Ms. Streufert: For the entire island of Kaua'i, is it generally based upon a two-year storm or a two year…

Mr. Moule: So, we generally, our code requires evaluating a two-year storm and a 100-year storm. And if the, if the project is over two acres, it requires evaluation of 100-year storm.

Ms. Streufert: So, anything under two acres, anywhere on the island is based upon a two-year storm there.

Mr. Moule: There…

Ms. Streufert: I mean, I'm just trying to see whether there's any, whether this, we're holding this to a more stringent requirement versus anywhere else or less stringent.

Mr. Moule: Yeah, it's under two acres is not that clear cut because there's some and I can read the language if you want, but there's some there's some language in the, in the, in the manual that's subjective. And so, we have to use that subjective language to make our judgment as to what we should require any given project. And again, the challenge is what size it is, we don't know, but there's a certain size of property where it's just not reasonable to say, you have to detain the water because you don't have the room, you don't have the area that you can't really physically do it, right. And so, you know, we use our judgment when you're under two acres on whether, you know, how, how stringent of a storm to, to design to.

Ms. Streufert: So on, on your expertise or on the expertise of your staff, a two-year storm is appropriate for this.

Mr. Moule: Again, we're still, we're still reviewing it. And we're going to, we haven't done a full review of the latest design. We may ask them to do some additional analysis if we think that this isn't sufficient. So, I can't, I can't answer specifically yet because we're, it's still in the review.

Mr. Giovanni: Can you, is it possible for you to do the type of analysis that basically looks at the proposed construction or build out on the property and determine whether the runoff would be more or less or the or the flooding would be more or less for, than it has been historically without the building.

Mr. Moule: You can do that for any series of assumptions on rainfall intensity and duration, yes, but you can't do it as a general answer to will there be more runoff or not, because there's, again, infinite possibilities of rainfall intensity and duration.

Mr. Giovanni: Where I'm coming from is, does the proposed project exacerbate the system to make it worse?

Mr. Moule: As I answered earlier, I think that there are some storms, there are some larger storms where there might be more runoff than before and there are some storms, but there might be less runoff than before. That's, and that's even true if we designed the 100-year storm.

Mr. Giovanni: Sure.

Mr. Moule: So, it's…I can't definitively say there will not be more runoff any time ever, for any project, ever. I can never say that.

Mr. Giovanni: Correct.

Mr. Moule: I can only say that for what was analyzed. And, you know, you can analyze literally infinite scenarios in theory.

Chair Ako: Make a difference whether we were dealing with a private land, uh, private road or county road?

Mr. Moule: No, it's the same.

Chair Ako: The same thing.

Mr. Moule: Yeah, analysis is the same.

Mr. Hull: Oh, sorry. No, I was, I was going to say, depending if the proposals uphill or never mind.

Mr. Moule: I'll tell you this, we will continue to finish our evaluations on this project and recommend any changes if we think they're necessary. As we always do. It's what we do.

Chair Ako: So, pretty much what you're trying to do is make sure that the flow is not greater after the development than prior to the development.

Mr. Moule: Yes. Based on based on a certain assumption, yes, yes, that's exactly right.

Chair Ako: Okay. Anything else? Okay. If not, thank you for coming down.

Mr. Moule: Thank you.

Chair Ako: Now the question is based upon that are we ready to move for a motion?

Mr. Cua: Good afternoon commission. As I mentioned earlier that the department is recommending approval of this project, there are a total of 13 conditions in the Director's Report. Available to answer any questions that you may have.

Chair Ako: Seeing none. Right side of the table, ready to make a motion on the left side.

Ms. Streufert: I move to approve Class IV Zoning Permit Z-IV-2026-17, Project Development Use Permit PDU-2026-13 and Variance Permit V-2026-4.

Chair Ako: Got a motion.

Mr. Giovanni: I'll second that motion.

Chair Ako: It's been seconded. Last discussions?

Mr. Giovanni: Yeah, I just, I think that all parties should understand that there's a real sensitivity to this issue on behalf of the commission, or at least myself as a commissioner. And I look to Public Works and engineering to do a very diligent job to make the best attempt to minimize any potential worsening or increase of impact for the neighbors as a result of the construction should there be a major storm.

Chair Ako: If not, Mr. Clerk, can we have a roll call vote, please.

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

Mr. Giovanni: Aye.

Mr. Hull: Commissioner Santos?

Ms. Santos: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 4:0. Next, we have agenda item, last and final.

> ZA-2026-5: A bill for an ordinance amending Chapter 8, Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO). The purpose of this Ordinance is to introduce a new article to the CZO to administer condominium property regime (CPR) proposals to require public accessways = **KAUAI COUNTY COUNCIL. [Director's Report Received, Deferred, 5/12/2026.]**
>
> 1. Supplement #1 to Director's Report Pertaining to this Matter.

Mr. Hull: I don't have any members signed up to testify. Oh, sorry. We do have one member of the public testify. And after this, I'll turn the meeting, turn it over to Jodi. Jodi, do you want to sit…okay. You have three minutes of testimony. If you could state your name for the record.

Mr. Jung: Ian Jung for the record. And I'm here just on my own because I do condominium property regimes. And one of the things I noticed in the bill, there was no threshold for number of condominium units that would trigger this review, unlike our subdivision ordinance under 9-2.9F, which triggers at six, so six subdivided lots or more, there is a proviso in the bottom that says if the Planning Department feels there's enough need for a additional access nearby, then they could reduce it down below six. So, I was just going to suggest use the subdivision language in the CPR language for consistency. That's all.

Chair Ako: Thank you.

Mr. Hull: Thanks. Thank you for your testimony. Is there any other member of the public would like to testify on this agenda item? Seeing none, I'll turn it over to the deputy for the report pertaining to this matter.

Planning Deputy Director Jodi Higuchi Sayegusa: Good afternoon, Jodi Higuchi Sayegusa for the Planning Department. So, this measure was originally referred to the Planning Commission by the County Council, it's a County Council bill subsequently to from the last meeting that I think Shelea was here to kind of introduce and discuss this, the mechanics of the bill. We got the Open Space Commission reviewed the measure on May 12th and unanimously supported this mechanism to preserve and to create access to the mauka and makai public lands. The Office of County Attorneys had some additional recommendations, which were transmitted to you folks by way of an additional packet. There was an inadvertent error where the supplemental number one transmitted an old version of the bill. So, please refer to the materials that were provided to you most recently and supplemented number two, as the most recent revision. This bill will address CPR in the similar manner to subdivisions as it pertains to establishing public access. Currently, the creation of a CPR may avoid the requirement to provide public access because the creation of the CPR is primarily a mechanism to or to divide ownership of properties versus the subdivision process which subdivides land, and therefore it triggers certain infrastructure requirements, including public access requirements. So, the, but the CPR law under HRS 514B-5, requires explicitly that all CPR is comply with county zoning laws. So, this measure would be that county zoning law that would then require public access to be carved out and preserved to these public lands. So, as I think you've heard previously through Shelea, as part of a final county approval of a CPR, the Planning Department, in consultation with the Office of County Attorney, would require a developer or CPR applicant to dedicate an easement for public, pedestrian public access where public access is not already provided to coastal areas or mountainous recreational areas and trails. The revised language strengthens how access is documented and made enforceable through the recent amendments suggested by the Office of County Attorney. The public access space must be clearly shown on the final CPR map, and the map designation would be a conclusive presumption of dedication of enforceable public access and the developer, CPR applicant and landowner must also complete the record an easement conveyance process by recording with the Bureau of Conveyances, and that provides notice for future owners that the easement is created. The ordinance also includes and clarifies due process, and so any person aggrieved, aggrieved by an order issued by the director may appeal and the Planning

Commission. This body would hear the appeals regarding whether the validity of creating the easement. And so, that's really it in a nutshell, I have, I'm here for additional questions. So yeah, I can leave it for now. Any questions?

Chair Ako: Questions for Jodi?

Ms. Streufert: Is there a contradiction between five, which is about map designation, and you have to convey this within six months of the map dedication and the CPR applicant shall prepare, execute and record a conveyance within 12 months on number F.

Ms. Barzilai: Commissioner, I think you have the wrong version. I'm so sorry. Sorry about this.

Ms. Streufert: This is the wrong version? Okay.

Ms. Barzilai: It should be…

Ms. Higuchi Sayegusa: Is it on the table?

Ms. Barzilai: Supplement No. 2., dated on the 7th.

Ms. Santos: It was on the table in a stack.

Ms. Barzilai: It was in the packet from this morning.

Ms. Streufert: Okay, then I think I…

Ms. Barzilai: If you have your packet from this morning.

Ms. Streufert: I got them all confused at this point, I think…

Ms. Barzilai: Then you'd have the right, the correct version. Does everybody have the correct version? An order to conform to paragraph five.

Ms. Streufert: Then I rescind my comments.

Ms. Barzilai: Totally understandable. There were a couple of different versions circulated.

Ms. Santos: Do you want to see mine? Are you sure?

Ms. Streufert: If it's not here anymore then it doesn't matter. (Inaudible).

Chair Ako: So, did that version include what Mr. Jung was saying?

Ms. Higuchi Sayegusa: Yeah. Our…yeah, Mr. Jung is correct. There is not the threshold for six that would trigger this easement requirement in this CPR process. I think, I think also, though it differs a bit, a little bit where in the subdivision code there's minimum or maximum lot sizes and other measures that could then kind of tailor whether there's a nexus to create the easement. I think, you know, without, we can certainly have more of a discussion on, on if you folks are looking at creating that similarity, we might have to work on it a little bit more in order to truly

tailor it into, you know, the lot sizes, making an analogous situation and trigger. But I think as it stands, we were initially comfortable with, of course, working with it, with the Office of County Attorney, where there's sufficient nexus to require an easement when there's not otherwise available, especially if it's a, a large, large parcel that's not being subdivided, just really divided by ownership and it's adjacent to state lands. I mean, we have that example in many examples like that in Kīlauea, where there's just really no access really designated within this Kīlauea area, where formerly there was a lot of people that would access the mauka lands for hunting and Native Hawaiian gathering rights and things. But so, I can think of other…so it, you know, there could be a possibility where there's a big, big tract of land, but just divided for ownership by the CPR code and very big swaths of ownership parcels, we would still kind of want the flexibility to work it out with the attorney's office to see whether or not we could, we have enough to try to ask and preserve public access. We're constitutionally based.

Ms. Barzilai: So, what Jodi is describing is a case-by-case analysis that would occur by referral from the Planning Department to the County Attorney's Office. There would be an individualized determination by application. And I think with regard to setting a number as a threshold limit, we have to look at the intent of the bill to see, you know, was that the intent of this bill originally? Does that intent match findings and purpose? So, that would be up to you to decide. I think the original intent that came from council is to make it available to make that analysis available for all CPR applications without a threshold.

Chair Ako: And with that. Ready?

Ms. Barzilai: I think a difference also between these bills and the public access for subdivision is that the commission has discretion to address public access where there are no existing mountain trails, whereas our bill here sets conditions for below high water mark, areas of mountains where there are existing facilities for hiking, and where there are existing mountain trails. So, they're already limitations on how does the county attorney start their review with the Planning Department to see if the nexus and proportionality are there.

Ms. Streufert: Do we have to put in the six, the size of it?

Ms. Higuchi Sayegusa: I think that's a, that's a little bit what we're discussing now, where I think we're submitting that we would like the bill in its current form to, again, be able to work it out with the Attorney's Office on a case-by-case basis, whether or not we would be have the nexus and proportionality to be able to condition an approval of a CPR to require an easement versus the six parcels, uh, six lot subdivision type of or six lot CPR division of ownership trigger. Because again, it's not exactly apples for apples, where the subdivision code also has, you know, certain minimum, maximum lot sizes and other measures to then make that nexus and proportionality analysis a little bit more…

Unknown Woman: Stringent.

Ms. Higuchi Sayegusa: Stringent, right. And so, in this, in this scenario, there could be other, there could be CPR, CPRs that are being applied for and analyzed that are, you know, bigger, bigger big parcels that are adjacent to areas that we really want to preserve public access to

coastal areas or public mountainous areas. And so, we would, of course, work that on a case-by-case scenario with the attorney's office.

Chair Ako: The recommendation is still to approve as distributed in the packet that we received?

Ms. Higuchi Sayegusa: Yes.

Ms. Barzilai: Today.

Ms. Streufert: I move that we approve Zoning Amendment ZA-2026-5.

Ms. Santos: I second.

Chair Ako: Okay. Last discussions.

Mr. Hull: Partial nexus.

Chair Ako: (Inaudible) something, (inaudible) something. But if not, Mr. Clerk, if we can have a roll call vote, please.

Ms. Barzilai: Do we need to open up the discussion again based on what you…

Mr. Hull: No, that was, that's been a long day. And you know, CPR is a painless process with attorneys, that's…

Ms. Barzilai: Well, we're also available for additional comment if somebody wants to make any.

Mr. Hull: Oh…here we go.

Ms. Barzilai: But maybe he does want to make a comment.

Mr. Jung: Ian Jung, again, for the record. I just, I just thought Ka'aina's joke was funny, that's all.

Ms. Barzilai: That's the purpose of the review, right, with the attorney's office is to make sure that there is nexus and proportionality.

Mr. Jung: Yeah, absolutely.

Ms. Barzilai: And I believe it's been addressed.

Mr. Jung: Yes, it has.

Ms. Santos: So happy.

Ms. Barzilai: Always. He's fun.

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

Mr. Giovanni: Aye.

Mr. Hull: Commissioner Santos?

Ms. Santos: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 4:0. If the Commission would...I don't know…allow for a little bit of indulgence. I recognized after we just, the Commission took action on the previous application that there's a request from the applicant for clarifying language concerning Conditions 3 and 4 of the Habitat application concerning the Wildfire Ordinance currently at Council, and with the applicant's consent, I've ask that the Commission reconsider the action so that we can speak towards that specific request concerning those conditions, because I recognize that we didn't actually discuss that request even though it had been made on the floor. Mr. Jung made that request on the floor right before we went into tabling the discussion, and when we came back, we certainly discussed the engineering analysis, but we did not discuss the request concerning the wildfire conditions. Do they have to take a motion to reconsider it?

Ms. Barzilai: Sorry, we, Commissioner Streufert and I noticed that there is an issue also that the final of finals, no, I'm sorry, it's bracketed language, Commissioner. So that…sorry. We're okay now. It's bracketed language, motion for reconsideration.

Mr. Hull: Yeah, so we need a…

Ms. Barzilai: From the party who originally moved.

Ms. Santos: Was that me?

Ms. Barzilai: I think so, whomever approved. We're talking about habitat right now, right?

Mr. Hull: Yeah.

Ms. Barzilai: Whomever moved to approve the habitat application.

Commission Support Clerk Lisa Oyama: Commissioner Streufert.

Ms. Barzilai: That was Commissioner Streufert?

Ms. Streufert: Okay, so what am I doing now?

Ms. Barzilai: So, motion for reconsideration, and I guess we need to vote whether it's okay to reconsider her original vote, and then you want a motion to further amend the conditions.

Ms. Streufert: Okay, I rescind the motion.

Ms. Barzilai: Motion for reconsideration.

Ms. Streufert: Motion. I move to reconsider the motion.

Ms. Barzilai: And then you need a second and a voice vote.

Ms. Santos: I second.

Ms. Barzilai: Okay, and then a voice vote.

Chair Ako: All those in favor say aye. Aye (unanimous voice vote). All those opposed.

Ms. Barzilai: So, now you want to move again and include the amendment.

Ms. Santos: But then he has to say…I forgot what he wanted.

Ms. Barzilai: So…

Ms. Streufert: Yeah, I'm not sure what it is now that we're looking at.

Ms. Barzilai: So, come on up and tell us what you want, Ian.

Ms. Santos: I'm confused, but I'm old, so that's okay.

Mr. Jung: Okay, Ian Jung, I'm on behalf of Kaua'i Habitat for Humanity, with me is Milani Pimentel, Executive Director. So, I guess let me first apologize. One of the issues I thought was okay is we have on the attached Condition No. 4…

Ms. Streufert: Yes.

Mr. Jung: …a reference to Exhibit A and B, which has the current iteration of the Wildland Urban Interface proposed bill that's before Council. So, we as an organization, we're willing to accept sort of the measures that were going to be set forth in that bill as sort of, you know, keeping our projects sustainable and defensive, at least from a wildfire standpoint. But if the bill passes with some of the changes that we've been working with the Planning Department on just to minimize some of the costs, like, for example, double pane glass versus single or double pane and single, what is it now?

Mr. Hull: Tempered.

Ms. Pimental: Double pane, double tempered versus…

Mr. Jung: Yeah, the tempered issue. So, just having one pane tempered versus both, which would eliminate significant costs, at least from our built environment standpoint. So, that's one of the issues we're looking at. We were looking at some combustible fencing and things like that. So, we've worked with the Planning Department to propose a slate of amendments to the Council at the upcoming hearing. And this was to kind of reconcile those two, where we have at least not be

stuck with the proposal that's attached to the current Director's Report and be subject to the actual bill as it passes in the future.

Ms. Streufert: I thought that's what we did.

Ms. Barzilai: So, what kind of language amendment do you need?

Mr. Hull: No, so, I have something drafted, so I think we recognize that Ian stated on the record for the minutes, but being that it's not part of the record, our official conditions of approval, I've drafted a amended condition of approval for Conditions 3 and 4, and additional language for both three and four would read, should the County of Kaua'i adopt a Wildland Urban Interface Ordinance, the prevailing ordinance requirements shall supersede this condition of approval, so each Condition 3 and Condition 4 would have that.

Ms. Streufert: Okay.

Mr. Jung: Correct.

Mr. Hull: The department is recommending that amendment to the conditions of approval.

Ms. Barzilai: So, then your vote, you're still inclined to approve would be, to approve as amended.

Ms. Streufert: I move to approve Project Development Use Permit PDU-2026-13, Class IV Zoning Permit Z-IV-2026-17, and Variance Permit V-2026-4, as amended.

Ms. Barzilai: Now.

Ms. Streufert: Period.

Mr. Giovanni: I second.

Chair Ako: And a second. Any discussion on this? We're all good? Mr. Clerk.

Ms. Streufert: Going once, going twice.

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

Mr. Giovanni: Aye.

Mr. Hull: Commissioner Santos?

Ms. Santos: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 4:0.

Mr. Jung: Thank you commissioners and I apologize for that nuance there.

Ms. Streufert: Thank you.

Chair Ako: Thank you.

Mr. Hull: Thanks, you guys. With that we have no further agenda items.

Ms. Barzilai: We do have Freeman.

Mr. Hull: Oh, I apologize.

Ms. Barzilai: No, no.

CONSENT CALENDAR (None)

Status Reports (None)

Director's Report for Project(s) Scheduled for Agency Hearing (None)

Class III Zoning Permits (None)

GENERAL BUSINESS MATTERS

Mr. Hull: I'm going to turn it over to co-counsel for the Freeman petition.

Chair Ako: What about this other one? (Inaudible).

Ms. Barzilai: That's the one. Oh, Kamashita, did you want to postpone that, Ka'aina?

Mr. Hull: Sorry. Yeah.

Ms. Barzilai: No problem.

Mr. Hull: Sorry, Commissioners, I know it's been a long day. I have to read that into the record, actually.

Chair Ako: Nobody's here.

Mr. Hull: Yeah. Before we get into the General Business Matters. Actually, there's one last public hearing;

> **ZA-2026-7:** Amendment to the West Kauai Community Plan (WKCP), Waimea Town Walkable Mixed Use District Map (SPA-L) from T4 Village Neighborhood Flex -West Kaua'i "T4VN/F-WK" to T4 Village Center Flex -West Kaua'i

"T4VC/F-WK" designation, Located immediately west and adjacent to the Waimea Hawaiian Church, situated along the makai side of Kaumuali'i Highway in Waimea Town, approximately 80 feet east of the Moana Road/Kaumuali'i Highway intersection, further identified as 1-9814 Kaumuali'i Highway containing a total area of 6,799 square feet, TMK: (4) 1-6-007:029 Waimea, Kaua'i = **KAMASHITA INVESTMENTS, LLC. [Hearing Postponed, 7/14/2026.]**

1. Hearing postponed to September 8, 2026, to allow the Applicant's compliance with KCC §8-3.1(f)(4).

Mr. Hull: This hearing needs to be postponed because the applicant failed to meet the notification requirements under County Code Chapter 8. It does need to be left on agenda item. We do not have anyone signed up to testify. Is there any member of the public that would like to testify? Let the record reflect there's no one left in the audience with that the agenda item will be postponed to the following commission meeting.

Chair Ako: No action needed.

Mr. Hull: And there's no action necessary because it wasn't properly noticed. And now I will turn to General Business over to counsel and the Chair.

Ms. Barzilai: Okay, that takes us to I.1.

Planning Director Kaaina S. Hull's Petition to Revoke Applicant **Elizabeth Freeman** Non-Conforming Use Certificate TVNCU #4193 (Sea Song/Makana Pomaika'i) and Special Permit SP-2012-8, 4101 Pali Moana, Tax Map Key (4) 5-2-004:96-1, Kilauea, Kauai and Issue and Order to Show Cause and Set Hearing, as **Contested Case File CC-2027-1**.

a. Appeal by Applicant's attorney Laurel Loo for Zoning Violation for Illegal Transient Vacation Rental, 4101 Pali Moana Pl Unit 1, Kilauea, HI 96754, TMK No. (4) 5-2-004-096-0001.

Ms. Barzilai: And I don't see counsel here, but does the department want to take a position on sufficiency of the appeal and referring to a hearing officer, since we don't have any attorneys in the room right now to talk about that.

Mr. Hull: The department has no objections to the petitions form and content and to be referred to a hearings officer.

Ms. Barzilai: Okay. And we don't have counsel here, but we have her letter that she would like an appeal. So, if the appeal is sufficient as to form and content as far as you guys are concerned, then you should refer it out to a hearing officer for a contested case under the number as specified. So, you would need a motion on that.

Ms. Streufert: What constitutes…

Ms. Barzilai: Sufficiency?

Ms. Streufert: Sufficiency.

Ms. Barzilai: There's a rule. It's Rule 9, Decision of the Director. Sorry, I was not expecting your question. Contents, Rule 192 B, name, address, telephone number of appellant. Identification of the property and appellant's interest therein. The particular provision of the zoning ordinance or regulation in question. The pertinent facts, which action the director took and the reasons for the appeal, including a statement as to why the appellant believes that the director's action was based on an erroneous finding of material fact, or that the director had acted in an arbitrary or capricious manner, or had manifestly abused his discretion. If the petition contains the requirements found in this provision, the director shall place the matter on the Commission's agenda and the Commission shall afford the appellant an opportunity to be heard. Such contested case shall be conducted in conformity with the applicable provisions for contested case hearings before the Commission in Chapter 6 of these rules, which is an evidentiary hearing before you, which you can either conduct yourselves or refer out to a hearing officer. So, those are the six factors. And if you don't deem sufficiency, you have (inaudible) to send it out.

Chair Ako: I mean, department got no problem with form and content. Yeah, no, the department had no…

Ms. Barzilai: Department has no problem.

Chair Ako: No problems with the form and content. So, with that, if we're looking for a motion to refer to the Board…

Mr. Giovanni: I'll make the motion.

Chair Ako: Is this your first?

Mr. Giovanni: Am I screwing things up?

Ms. Santos: This is the first time. We're cheering him on.

Chair Ako: All right. Good change.

Mr. Giovanni: This side of the table is getting aggressive. She's got no one, Helen's not here to defend her.

Chair Ako: We'll blame Helen. Okay, let's see, what motion we're going to make.

Mr. Giovanni: I move to refer this to a contested case for addressing the appeal.

Chair Ako: Okay. Shall we give it a number?

Ms. Barzilai: Yes. Motion to refer to Boards and Commissions as Contested Case CC-2027-1 for assignment to a hearing officer.

Chair Ako: Yeah.

Ms. Santos: I second.

Chair Ako: Second. Okay. Last discussion on this and last one for the day. If not, Mrs. Attorney, can we have a roll call vote, please?

Ms. Barzilai: Yes, Chair, roll call. Commissioner Giovanni?

Mr. Giovanni: Aye.

Ms. Barzilai: Commissioner Santos?

Ms. Santos: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Ako?

Chair Ako: Aye.

Ms. Barzilai: Motion carries. 4:0. Director, our clerk will fill us in for September.

COMMUNICATIONS (None)

UNFINISHED BUSINESS (For Action) (None)

NEW BUSINESS (For Action) (None)

EXECUTIVE SESSION (None)

ANNOUNCEMENTS

Topics for Future Meetings

Mr. Hull: Thank you all. That concludes all the agenda items with the exception of Topics for Future Meetings. We have two or three, three zoning amendments now coming before the Commission. One, if you, that was deferred from today, as well as an enforcement zoning amendment concerning vacation rentals. And then there's also a ARU Zoning Amendment. And we can, I'll still be discussing with the county attorney's office whether or not we're able to have this vacation rental, overall investigation practices and processes with the whole body, perhaps during the bill, or if we have to have it in a manner that does not allow for executive session. We'll look at probably scheduling two by twos with you, because there's some investigation techniques we'd prefer not to avail to the public readily on how we hunt out and sleuth some of these illegal practices.

Mr. Giovanni: So, the two by two is a sunshine thing?

Ms. Barzilai: Yeah, it's covered by sunshine. So, that Ka'aina can meet with you individually to discuss confidential investigative methods.

Mr. Hull: Outside of that, we don't have any other agenda items.

Mr. Giovanni: So, is there a potential based on the judge's action in the appeal tomorrow, that we might have an agenda item on that or no?

Mr. Hull: We could.

Mr. Giovanni: Okay.

Mr. Hull: Yeah, we could.

Mr. Giovanni: That's another potential.

Mr. Hull: Yeah.

Chair Ako: Is that Kōloa?

Mr. Hull: Correct. I apologize, more than likely wouldn't be able to be on the September agenda. But depending on the actions of what happens (inaudible), it could come back eventually.

Mr. Giovanni: It could come back to us.

Chair Ako: Okay, so next is September?

Mr. Hull: Next meeting would be September 8th, 2026, here in Līhu'e.

Chair Ako: And then October?

Mr. Hull: October, we do anticipate a meeting in the first two weeks, and we also anticipate one in November.

Chair Ako: 1, 1, 1?

Mr. Hull: 1…I'd say right now, the schedule looks like it's one per month for the rest of the year.

Chair Ako: Until November?

Mr. Hull: December has some issues. Oh, I'm sorry, December may or may not, depending on some of the outcomes of the election, if you will.

Chair Ako: Okay, unless…

Ms. Streufert: You work fast, Gerald.

Chair Ako: Huh? I'm counting down already. I'm counting down. Any last thing, any other announcements or anything?

Ms. Santos: Nope.

ADJOURNMENT

Chair Ako: If not, if we can have a motion to adjourn.

Ms. Streufert: I move to adjourn.

Chair Ako: Second?

Mr. Giovanni: I second.

Chair Ako: All those in favor, say aye. Aye (unanimous voice vote). 4:0. This meeting is adjourned.

Chair Ako adjourned the meeting at 2:43 p.m.

Respectfully submitted by:

_____

Lisa Oyama,
Commission Support Clerk

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

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

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

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

TRANSMITTAL OF PUBLIC TESTIMONY TO

PLANNING COMMISSION

DATE: October 7, 2026

PERMIT NUMBER(S): SMA(U)-2027-1, Z-IV-2027-1, and U-2027-1

APPLICANT(S): MONICA C. EVSLIN TRUST

Attached for the Planning Commission's reference is public testimony pertaining to the permit application referenced above.

F.2.a.4.
OCT 13, 2026

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)
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Shanlee Jimenez

Subject: FW: MONICA C. EVSLIN TRUST / LEE A. & MONICA C. EVSLIN TRUST — TMK (4) 1-3-005:053, KEKAHA, KONA MOKU, KAUA'I — SSD-2023-5; KA-503; AND EVERY SMA, CLASS IV ZONING, USE, SHORELINE, GRADING, BUILDING, SUBDIVISION OR OTHER LAND-USE APPROVAL PRESENTLY PEND...

From: Roslyn Cummings <mana.eolakakouhawaii@gmail.com>
Sent: Thursday, September 17, 2026 9:06 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: MONICA C. EVSLIN TRUST / LEE A. & MONICA C. EVSLIN TRUST — TMK (4) 1-3-005:053, KEKAHA, KONA MOKU, KAUA'I — SSD-2023-5; KA-503; AND EVERY SMA, CLASS IV ZONING, USE, SHORELINE, GRADING, BUILDING, SUBDIVISION OR OTHER LAND-USE APPROVAL PRESENTLY PENDING ...

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.

The County's own records identify the Evslin property as **TMK (4) 1-3-005:053, approximately 1.681 acres on Kaumuali'i Highway in Kekaha, Kona Moku**, and identify the owner as the Monica C. Evslin Trust / Lee A. and Monica C. Evslin Trust in different County records. The Planning Department's shoreline record identifies **SSD-2023-5** for that same TMK and describes a proposed single-family residence, guest house, above-ground pool, and related utilities. A 2026 State shoreline notice also identifies **KA-503**, TMK (4) 1-3-005:053, owner Monica C. Evslin Trust.

The archaeological material

demonstrates a documented **Kekaha archaeological landscape containing cultural layers, multiple recorded human burials, historic properties, heiau, habitation/agricultural features, and burial caves**.

FORMAL PRE-LITIGATION NOTICE, OBJECTION, DEMAND TO PRESERVE THE STATUS QUO, NOTICE OF PROPERTY-RIGHTS CLAIM, DEMAND FOR PROOF OF TITLE AND LAWFUL AUTHORITY, REQUEST TO INTERVENE AND/OR FOR CONTESTED CASE, PRESERVATION-OF-EVIDENCE DEMAND, AND NOTICE OF INTENT TO SEEK JUDICIAL RELIEF

RE: MONICA C. EVSLIN TRUST / LEE A. & MONICA C. EVSLIN TRUST — TMK (4) 1-3-005:053, KEKAHA, KONA MOKU, KAUA'I — SSD-2023-5; KA-503; AND EVERY SMA, CLASS IV ZONING, USE, SHORELINE, GRADING, BUILDING, SUBDIVISION OR OTHER LAND-USE APPROVAL PRESENTLY PENDING OR RELIED UPON FOR THE SUBJECT 'ĀINA

TO: County of Kaua'i Planning Commission; Department of Planning; Planning Director; County Attorney; and all agencies exercising approval, consultation, enforcement, historic-preservation, shoreline, or land-use authority over the subject matter.

FROM: Roslyn Cummings, Wahine Maoli, Nā Kānaka, Ho'oilina, Hoa'āina, Kanaka Maoli

NOTICE IS HEREBY GIVEN:

This submittal is not general public comment and shall not be reduced in the administrative record to generalized cultural concerns.

It constitutes a formal assertion of **property rights, Ho'oilina rights, Hoa'āina rights, Hawaiian usage, customary and traditional practices, due-process rights, rights arising from Hawaiian judicial precedent and the historic title instruments governing the 'āina, and the right to require competent evidence before governmental action impairs those rights.**

It further places the County of Kaua'i, its Planning Commission, Planning Department, officers, employees, agents, applicants and persons acting with actual notice of this filing on notice that **Roslyn Cummings disputes any assumption that a present TMK designation, tax assessment, present possession, modern deed, permit application, shoreline certification, or identification of a modern owner standing alone establishes the complete title history or extinguishes rights arising under the governing Hawaiian property record.**

The County's own public records identify the property now presented as TMK (4) 1-3-005:053 in Kekaha, Kona Moku and approximately 1.681 acres. County records have associated the property with the Evslin trusts for years. Planning's own shoreline-setback records identify SSD-2023-5 for this exact TMK and describe proposed construction of a single-family residence, guest house, above-ground pool and related site utilities.

That governmental identification does **not** resolve the underlying title, palena, inherited rights, Hawaiian usage, archaeology, burials, or legally protected practices.

RULE OF LAW — THE COUNTY MUST ESTABLISH THE LEGAL PREDICATES BEFORE IT ACTS

The fundamental issue is not whether an applicant presently appears in the County tax database.

The issue is whether the County possesses a legally sufficient evidentiary record allowing it to exercise governmental power over this particular ʻāina **without unlawfully impairing preexisting property rights or approving activity on an incomplete understanding of title, palena, archaeology, burials, waiwai, and customary and traditional practices.**

The County must therefore separate and determine:

TITLE. What is the source of the asserted present title?

PALENA. What competent evidence establishes the historical boundaries of the ʻāina?

SUCCESSION. What instruments connect the original Hawaiian title source to each subsequent claimant?

RESERVATIONS. What rights were reserved to Hoaʻāina and what Hawaiian usage or judicial precedent survives the asserted chain?

JURISDICTION. What law authorizes the County to grant the particular land-use entitlement requested?

ARCHAEOLOGY AND BURIALS. What competent investigation establishes what exists within the actual project footprint?

INJURY. What rights and resources may be impaired by grading, excavation, foundations, utilities, pools, access, shoreline work or other disturbance?

DUE PROCESS. What meaningful procedure is being afforded before governmental authorization creates irreversible physical consequences?

A permit cannot supply a missing title element. A TMK cannot supply a missing conveyance. A tax assessment cannot adjudicate a palena. And governmental processing of an application cannot itself establish the applicant's entitlement to extinguish rights that have never been adjudicated.

GREAT MĀHELE — TITLE EVIDENCE, NOT CEREMONIAL HISTORY

The Great Māhele is material here as **real-property law and title evidence**.

I do not concede title in the State of Hawai'i, County of Kaua'i, United States, Monica C. Evslin Trust, Lee A. Evslin Trust, or any other present claimant merely from present possession, regulatory jurisdiction, TMK designation, taxation, permit application or present-day deed.

Where ownership is relied upon as the foundation for governmental approval, I demand production and examination of the actual chain relied upon:

Great Māhele source → original Hawaiian Kingdom title classification → Land Commission Award/Royal Patent/Government Grant or other operative instrument where applicable → legally material succession or conveyance → every subsequent transfer relied upon → present claimant.

No material link should be presumed merely because a later governmental database identifies a modern owner.

The historic documents submitted with this notice are therefore offered as **property evidence**, not decoration.

They contain Hawaiian-language descriptions, 'āpana, palena, adjoining lands, natural and artificial monuments, survey information and other evidence capable of bearing upon the historical identity of the lands.

HAWAIIAN RULE OF EVIDENCE — PALENA CANNOT BE ERASED BY A MODERN PARCEL MAP

Hawai'i land law has a distinctive evidentiary history. *Application of Ashford* explains that Hawaiian land law rests upon ancient tradition, custom, practice and usage and recognizes kama'āina evidence in determining historic boundaries. The decision expressly discusses *Kanaina v. Long* and *In re Boundaries of Pulehunui*.

Accordingly, historical surveys, Boundary Commission testimony, Land Commission testimony, Māhele records, Royal Patents, Government Grants, kama'āina testimony, natural monuments, traditional place names and historical maps cannot simply be displaced by a modern TMK polygon.

The historic evidence must be reconciled with the present parcel.

That is especially important because **TMK is an administrative tax-mapping identifier. It is not itself the originating instrument of title.**

THE NAUMU RECORD MUST BE CONFRONTED, NOT IGNORED

The documents submitted with this notice identify **B. Naumu — Waimea, Kaua'i — L.C.A. 5362 / R.P. 8132**, with four 'āpana and metes-and-bounds information.

Those documents are competent historical property evidence deserving actual title analysis.

I assert Ho'oilina status through the Naumu line and reserve the right to establish the complete succession record in the appropriate proceeding. My complete mo'okū'auhau is private and is not waived merely because the County processes a land-use application.

I am **not asking the Planning Commission simply to accept my genealogy as an adjudicated fact**.

I am giving the Commission actual notice that competing historical property evidence and asserted Ho'oilina rights exist. Once placed on notice, the Commission should not make a dispositive assumption concerning ownership, boundaries or extinguishment without addressing the evidence.

HRS §172-11 is particularly significant to the evidentiary inquiry because Hawai'i law expressly provides that a land patent issued upon an award is issued in the original awardee's name even if deceased or the property has been alienated, and that the patent inures to the benefit of the original award holder's **heirs and assigns**.

That statute makes the historical award and succession inquiry legally material; it does not, standing alone, adjudicate who presently holds title.

THE KEKAHA ARCHAEOLOGICAL RECORD CREATES A SERIOUS NOTICE PROBLEM

The Cultural Surveys Hawai'i material submitted with this notice documents that the broader Kekaha landscape is not archaeologically empty.

The study summary identifies, among other findings, **cultural layers; multiple human burials; burial discoveries during excavation; rock mounds; terraces; historic refuse deposits; heiau; village sites; burial caves; house sites; taro terraces; petroglyphs; and other historic properties.**

That evidence does not establish that every listed resource is physically inside TMK (4) 1-3-005:053.

It does something legally important nonetheless:

it defeats any responsible assumption that subsurface disturbance in this Kekaha landscape can be evaluated as though archaeological and burial resources are merely hypothetical.

The correct question is therefore not:

"Has Roslyn proved there is a burial underneath the proposed house?"

The proper administrative question is:

What competent investigation has the County and applicant performed to determine whether historic properties, cultural deposits, iwi kūpuna, burial features or other protected resources occur within the actual project footprint before irreversible ground disturbance is authorized?

The uploaded archaeological table documents repeated instances in Kekaha where human burials were identified through archaeological investigation or encountered during excavation. That history makes the adequacy of project-specific investigation a material issue.

"KOE NO KULEANA O KANAKA"

The historic reservation of the rights of the people cannot be treated as meaningless language.

Hawai'i cases including *Palama v. Sheehan* discuss the Māhele reservation **"Koe no Kuleana o Kanaka"** and the continuing legal significance of rights reserved to native tenants/tenants of the land.

HRS §§1-1 and 7-1 likewise require the relevant inquiry into Hawaiian judicial precedent, Hawaiian usage, and enumerated practices where their legal elements are met.

This notice does not rest upon characterizing me as a "public-trust beneficiary."

It rests upon asserted **property rights, Ho'oilina rights, Hoa'āina rights, Hawaiian usage, historical title evidence, due process, and the requirement that government act upon a legally sufficient record.**

NOTICE OF INJURY

The threatened injury is not limited to physical destruction after construction begins.

Governmental authorization itself may materially alter the legal and practical position of the parties by allowing grading, excavation, utility trenching, foundations, access improvements, shoreline-related work and other irreversible changes to proceed.

Once subsurface material is excavated, a burial disturbed, a historic deposit displaced, a palena feature destroyed, or the physical condition of the ʻāina materially altered, the pre-disturbance evidence cannot simply be recreated.

That is why the administrative record must be adequate **before irreversible disturbance**, not reconstructed afterward.

FORMAL DEMAND TO PRESERVE THE STATUS QUO

Upon receipt of this notice, I request that the Planning Commission and Planning Department refrain from granting final discretionary approvals authorizing irreversible ground disturbance until the Commission has addressed the material property-rights, title, boundary, archaeology, burial, waiwai and due-process questions placed before it.

If the Commission believes it lacks authority to withhold or condition action on any particular issue, I demand that it identify **in writing the precise statute, ordinance, rule or judicial authority supporting that conclusion**.

REQUEST TO INTERVENE / CONTESTED CASE

To the extent the pending agenda items constitute agency action affecting legally protected rights, this document shall also be treated, to the maximum extent permitted by the Commission's governing rules, as a **request to intervene and/or request for contested-case procedures**.

I request an opportunity to establish the legally material facts through competent evidence rather than having those matters resolved through assumptions embedded in a staff report.

HRS §91-14 provides judicial review to a person aggrieved by a final contested-case decision and expressly recognizes that other forms of review or redress may also exist.

Nothing in this filing waives any argument concerning the availability of judicial review, declaratory or injunctive relief, mandamus, constitutional relief, property remedies, or other relief provided by law.

PRESERVATION OF EVIDENCE

Effective upon actual receipt, preserve the complete governmental record concerning TMK (4) 1-3-005:053, including applications, amendments, plans, shoreline certifications, SSD-2023-5, KA-503 materials received from or transmitted to other agencies, SMA materials, Class IV and Use Permit materials, archaeological submissions, cultural studies, title reports, deeds, surveys, subdivision records, grading records, staff communications, emails, text messages, internal memoranda, applicant communications, consultant communications, GIS layers, maps, photographs, public testimony, agency comments, hearing recordings and all materials presented to individual commissioners.

The State's March 23, 2026 Environmental Notice independently confirms that shoreline-certification file **KA-503** concerns the same TMK, with Esaki Surveying & Mapping as applicant and Monica C. Evslin Trust identified as owner.

No responsive evidence should be destroyed, overwritten or allowed to disappear while the County has actual notice that the legality of the proposed governmental action may be judicially challenged.

NOTICE OF INTENT TO SEEK JUDICIAL RELIEF

This filing constitutes **formal pre-litigation notice**.

If the County proceeds to final governmental action without providing the process required by applicable law, without addressing material evidence placed in the record, or while authorizing irreversible disturbance notwithstanding legally protected rights that required determination beforehand, I expressly reserve the right to seek all judicial relief for which the facts and governing law establish the necessary elements.

That may include, where legally available and supported by the record, **judicial review, declaratory relief, temporary or permanent injunctive relief, mandamus, vacatur or stay of agency action, constitutional remedies, property remedies, preservation orders, and other appropriate relief.**

This paragraph is intentionally a **reservation and notice of contemplated litigation**. It does not assert that every possible cause of action has already accrued, that governmental

immunity has been waived for every remedy, or that this document substitutes for any separate statutory pre-suit notice that a particular claim may require.

The County and applicant are now on actual notice that the administrative record, the adequacy of process, the evidence considered, the findings made, and any decision permitting irreversible physical alteration may become subjects of judicial review.

RELIEF REQUESTED BEFORE ANY FINAL ACTION

I request that the Commission: accept this entire submission into the administrative record; identify every pending permit and agenda item involving TMK (4) 1-3-005:053; preserve the agency hearing rather than close the evidentiary record before these issues are addressed; determine my request to intervene or for contested-case procedures under the governing rules; require production or identification of the applicant's claimed chain of title and operative survey; reconcile the present parcel with the relevant historical property instruments and palena evidence; require competent project-specific archaeological and burial review appropriate to the actual proposed disturbance; identify every discretionary and ministerial authorization necessary for the project; disclose whether any grading, excavation or construction has already been authorized; preserve all evidence; and issue written findings sufficient to permit meaningful review of the Commission's ultimate decision.

Most importantly:

Do not allow a modern TMK designation to substitute for title.

Do not allow a permit application to substitute for proof of authority.

Do not allow absence of visible surface archaeology to substitute for competent subsurface investigation where the evidence establishes an archaeologically sensitive Kekaha landscape.

Do not allow an administrative assumption to extinguish a right that has never been lawfully adjudicated.

I am placing the County of Kaua'i and every decision-maker receiving this filing on actual notice before further governmental action.

Respectfully submitted,

Roslyn Cummings
Wahine Maoli · Nā Kānaka · Ho'oilina · Hoa'āina · Kanaka Maoli

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Kalaheo, Hawai'i 96741
808-652-9918
roslyncummings@ymail.com

ALL RIGHTS RESERVED — WITHOUT PREJUDICE

NOTICE OF INTENT TO SEEK JUDICIAL RELIEF IF NECESSARY

EQUAL APPLICATION OF LAW — GOVERNMENTAL DUTIES CANNOT YIELD TO FAVORITISM OR DEFERENCE TO AN APPLICANT

This proceeding is not a forum for governmental accommodation of an applicant, landowner, consultant, developer, politically connected person, or any other favored participant. Nor may familiarity, professional relationships, institutional preference, economic considerations, personal regard, or a desire to facilitate a particular project displace the legal standards governing the Commission's decision.

I do not allege improper motive merely because County personnel communicate professionally with an applicant. The issue is more fundamental: **the law must govern the decision regardless of who the applicant is.**

The Hawai'i Constitution commands that no person shall be deprived of property without due process of law or denied equal protection of the laws. Hawai'i Constitution article I, section 5 uses mandatory language: "No person shall" suffer those constitutional deprivations. The Constitution further provides that its provisions "shall be self-executing to the fullest extent that their respective natures permit." Haw. Const. art. XVI, §16.

Those commands are not matters of courtesy, preference, convenience, or administrative discretion.

Likewise, where governing land-use law places a determination upon the Planning Commission, the Commission cannot substitute an applicant's assurances for its own legally required determination. In *Alaloa v. Planning Commission of the County of Maui*, the Hawai'i Supreme Court held that the Planning Commission could not leave the determination of compliance concerning historical and archaeological significance essentially to the applicants; the governing statute mandated that the Commission make the required determination before issuing the SMA permit. The Court vacated the permits where the record was insufficient to support the Commission's conclusion regarding historical and archaeological sites.

That principle matters here.

An applicant does not receive a lesser evidentiary burden because County officials know, respect, support, regularly work with, or wish to accommodate that applicant. An objector does not receive a greater burden because her evidence is inconvenient to the proposed approval.

The administrative record must be evaluated according to law.

Hawai'i law also gives substantive meaning to mandatory statutory language. "Shall" is generally regarded as mandatory, although courts examine statutory context, purpose, the rights affected, and consequences of noncompliance. *State v. Toyomura*, 80 Hawai'i 8, 20, 904 P.2d 893, 905 (1995). Importantly, the Hawai'i Supreme Court has explained that a provision is more appropriately regarded as mandatory where substantial rights depend upon compliance or injury can result from disregarding it.

That distinction is critical here because **property rights, due process, historic and archaeological resources, iwi kūpuna, palena, waiwai, and customary and traditional practices can suffer irreversible injury once physical disturbance occurs.**

Accordingly, Commissioners and County personnel should not approach this matter by asking how the County can assist the applicant in obtaining approval. The lawful inquiry is:

What does the governing law require, what material facts must be established, what does the competent evidence demonstrate, what rights may be affected, and have every mandatory prerequisite and required governmental determination been satisfied before approval?

Professional courtesy toward every participant is appropriate.

Preferential administration of governmental power is not.

Cooperation with an applicant is appropriate.

Delegating the government's legal responsibility to the applicant is not.

Considering an applicant's evidence is appropriate.

Accepting that evidence while disregarding competent contrary evidence because it complicates approval is not.

Efficient government is appropriate.

Expediency cannot substitute for due process.

No applicant is above the governing law, and no Ho'oilina, Hoa'āina, or member of the public appearing before the Commission is beneath its protection.

I therefore expressly request that each Commissioner evaluate the Evslin matters solely upon the governing law and the complete evidentiary record; disclose and address legally material conflicts where disclosure is required; apply the same evidentiary and procedural standards to applicant and objector alike; independently make every determination assigned to the Commission; and enter findings sufficiently specific to demonstrate **what evidence was accepted, what material contrary evidence was rejected, why it was rejected, and what law authorized the resulting governmental action.**

This notice is being placed into the administrative record so that, should judicial review become necessary, the reviewing court can determine whether the Commission exercised its governmental authority according to **law and evidence rather than preference, accommodation, favoritism, or predetermined outcome.**

The mandate is compliance with law—not accommodation of a preferred result.

Please attach to evidence on the record for the record

Study	Location	Type	Findings
Folk and Hammatt 1994a	National Guard Rifle Range, Barking Sands	Inventory survey w/ subsurface testing	No historic properties observed
Folk and Hammatt 1994b	Kekaha Town	Inventory survey w/ subsurface testing	No historic properties observed
Masterson et al 1994a	Kekaha Town, TMK [4] 1-2-12:038 and [4] 1-2-02:032, 034, and 038	Inventory survey w/ subsurface testing	2 Cultural layers (SIHP #50-30-05-700, and -703), 2 human burials (SIHP #50-30-05-701 and -702)
Masterson et al 1994b	Proposed agricultural park near Barking Sands	Inventory survey w/ subsurface testing	2 human burials at Limaloa (SIHP #50-30-05-3650)
Hammatt 1996	Kekaha Town	Subsurface Testing	No historic properties observed
Yent 1997	Kekaha Game Management Area; TMK [4] 1-2-002	Reconnaissance Survey	No historic properties observed
Heidel et al. 1997	Kekaha Town; TMK [4] 1-3-003:015, 019, and 023	Inventory survey w/ subsurface testing	4 human burials (SIHP #50-30-05-619)
McGerty and Spear 1997a	Mānā Plain	Inventory Survey	No historic properties observed
McGerty and Spear 1997b	Parcel of land north of Mānā Reservoir; TMK [4] 1-2-002:001	Inventory Survey	SIHP #50-30-05-652 thru 658 including rock mounds ,terraces, and historic refuse dumps
Hammatt and Shideler 1999	Kekaha Town; TMK [4] 1-3-005:015, 019, and 023	Archaeological monitoring	No cultural material observed
Tulchin and Hammatt 2003	'Akialoa Road and Kaumuali'i Highway; TMK [4] 1-3-001:999	Inventory survey w/ subsurface testing	No cultural material observed
Hammatt 2004	Aloha Kaua'i Villas, Kikiaola; TMK [4] 1-2-013:031	Inadvertent burial discovery and treatment report	3–5 individuals discovered during the excavation of a pool and designated as SIHP #50-30-05-3911
Stein and Hammatt 2006	0.23-Acre Parcel within the Kekaha House Lots; TMK: [4] 1-3-005:045	Archaeological monitoring and inadvertent burial recovery report	2 burials designated SIHP #50-30-05-3941

Study	Location	Type	Findings
Hazlett and Hammatt 2008	Kekaha Town, Lot B Kekaha Housing; TMK [4] 1-2-002:032	Archaeological monitoring	1 burial designated SIHP #50-30-05-3937
Wilkinson and Hammatt 2010	Kekaha Elementary School; TMK [4] 1-3-002:001 and 057	Archaeological monitoring	No cultural material observed

The first comprehensive study of the archaeology of Kaua'i was undertaken by Wendell C. Bennett (1931) based on field work conducted in 1928–29. Bennett recorded seven major pre-Contact sites in the vicinity of Kekaha (Sites 10–16). These are listed by Bennett as

> Site 10-Kahelu heiau, at Kahelu near Mānā and described by Thrum as, "A heiau of platform character at the base of the hill, about 6 feet in front, not of large

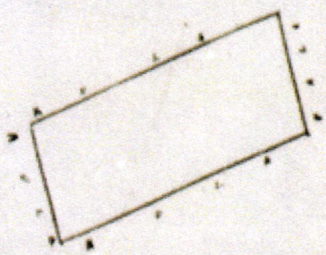
Helu 11318. Kohemalie Kalihiwai Halelea Kauai

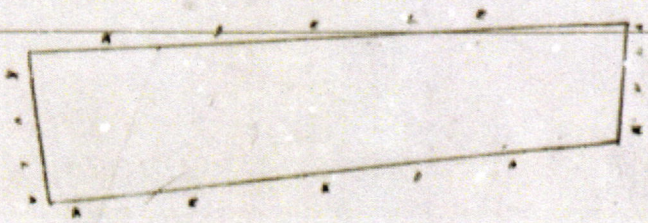
Maloko o ka ahupuaa o Kalihiwai Halelea Kauai.

Apana 1 aha Iwi maloko o "hoorhis" Pemi na Mokuna. E hoomaka ana ma ke kihi A. Ko. o ke kekoa ʻiwi alaila aku A. 66° Ko. 3 Foo kaul o pili ana i ka 2 kekoa alaila aku A. 69° Ko 74 Pauku. o pili ana i ke kula alaila aku A. 25° Ki 1 Foo kaul o pili ana i ke kula alaila aku Ak. 63° Ki 4 Foo. kaul o pili ana i ke kuele alaila aku Ki 34° Ke 88 Pauku o pili ana i ke kula a i kahi o hoomakaia o ia ana i kuai 25 Perka.

Apana 2. Pahale maloko o Pipi. Pemi na Mokuna. E hoomaka ana ma ke kihi ma ka pahale alaila aku Ki 53° Ki 1 Foo kaul o pili ana i ke kula alaila aku Ki 2° Ki 21 Pauku o pili ana i ke pali i Kalimaki Apa alaila aku A. 65° Ki 1 Foo kaul o pili ana i ke kula alaila aku A. 14° Ki 21 Pauku. o pili ana i ke kula a i kahi o hoomakaia o ia ana 24 Perka

Kahili May 29/51
W. A. Pease





Ukupau loa 85

Witness
Jonah Li
J. M. Robertson
J. K. Piikea
S. Kekaulahao

Honolulu Sep. 4, 1851.

Helu 5362 B. Kauwa Kaimua Kona Kauai

Maloko o ka ahupuaa o Kaimua Kona Kauai.

Apana 1 Pahale Loko ia ma ke Kula. Pemi na Mokuna. E hoomaka ana ma ke Kahawai. ma kahi pahu laau alaila aku A. 1° Ki 9 Foo kaul o pili ana i ke kula alaila aku Ke. 85° Ki 10 Foo kaul o pili ana i ke kuele alaila aku Ke. 1° Ke 8 Foo kaul o pili ana i ke kula alaila aku A. 85° Ki 8 Foo kaul o pili ana i ke kahakai a i kahi o hoomakaia o ia ana 9 Eka 3 Kuda 20 Pok

9 E 2 ana
7-1-31
2-1-28
2-2-29
20-1-33

Apan 1 Eia na palena.
Mauka Hoe e Peku
Hanapepe. Poi o W. B. Aka
Makai. Puuloma.
Mana. Maliwai o Waimea.

Ap. 2 Eia na palena.
Mauka. Kulamahale o Manawai.
Hanapepe. Pali o Kamalama.
Makai. Maliwai o Waimea.
Mana.

Apan. 3 Eia na palena.
Mauka. Ruwai o Puuloma.
Hanapepe. Mas o Hoaai.
Makai. Maliwai o Waimea.
Mana.

Apan. 4 Eia na palena
Mauka. Hoe Hoolele.
Hanapepe. Pali.
Makai. Hoe o Hanaui.
Mana Kula o Waimea.
No Hoikis mai a ia ia ao le mea
kea kea a hiki i keia wa
ua kaohiki ia o Palakahiwa
Peku ka olelo a Samuela, no
pono. ua pololei ma ka Apana
ua kea kea ke kono hiki, a ke
manao nei makou ua kuwa
kona kea kea ano.
5 3 62
0 7 1/2 R. Nawaa
ua kaohiki ia o Pelu
ua iki no ai, kona apana ame
Ap. 1 Lai, Loko o Kaapuwa
ili o Pekaa i Waimea.

a me na apana kula o pili ku
ana ma Hanapepe a ma Mana.
ma keia hele ua huikau o Na
Nonohiki, no ka la aole ona ku
leana ma ka la

Apo. 1 Loi o Kapaki me
ke kula a puni e pili
ana, ma koko o Keahu
pua a o Kekaha.

Apo. 2 Pukuhulumui paakai ma
ka ahupuaa no o Kekaha.

" " 3 Pukuhulumui aina a me
ma koko o Kaili o Hakila,
ahupuaa o Kekaha.

Apana 1 Eia na palena.

Mauka. Kehi o Hakila.
Hanapepe . . . Kiki
Makai. Kahakai,
Mana. Kula o Hakila.

Apo. 2 Eia na palena.

Mauka. Ala nui Aupuni.
Hanapepe. Kula o Helelua.
Makai Alanui Aupuni.
Mana. Kula o Hakila.

Apana 3 Eia na palena.

Mauka. Pali o Pohii.
Hanapepe. Kula o Helelua,
Makai. Ala nui Aupuni.
Mana Kula o Hakila.

No Kaumuola 3 o ia ia a ma
he oia, Koi kou no ia Kaumu
ahi 3 o Keia ua ae mai

ua hoohiliia o Poipu
Poheo ka olelo a lalo. ua pono
ua pololei, aole pacewaewa.
Apa 4 Pa hale maloko o Luhi
ihi o Pekauai Waimea.
Eia na palena.
Mauka Ala mui Qupuni
Hanapepe. Pa o Melieke
Makai. Makakai o Luhi
Mana. Pa o Nawaalaau.
No Kaumualii 3 akua ia ia
aole mea kaiga maia wahi.
Feburi 18. 1850
6271 Kahalaia
Oheia kuleana na waiho ia no
he homo ana o ko Keave i koko o
he kuleana pa hale 6270 nolaila
ua paa malaila keia helu. ma
ka apana 3.
6701 Kahalia Pae.
ua hoohiki ia o Poipu
ua ike no ai i kona mau aina.
Ap. 1. Poi maloko o ka moo o Na
maoheli ihi o Pekauai.
" 2. 2 Poi mua ia Hoo no.
" 3 1 Poi ma ia Hoo no a maia
ihi no o Pekauai.
Apan. 1 Eia na palena.
Mauka Poi o Makaia.
Hanapepe Auwai o Pekauai
Makai. — — — Punkapeles
Mana. Kula o Kaiko.

(1°6566.)
" 6682 } Israila Pehu ett

Samuela sworn says I know the land of
as follows, 1°1 is one loi and a Kula ca
in the ili of Pulima Hakauli Kauai. Th
lot called "Kamalama" in the ahupuaa of
1°3 is 3 lois and a Kula in the ili of
Hakauli. It is a mo called "Kapunna
1°1 is bounded, viz by the mo
H — " Aka loi viz — " the large
Mana — " " Waimea River, 1°2 is
by — by "Manauai" H — " the Pal
Waimea River. Hana — " " "
is Bounded, viz by the mauai of "Pul
H — " Honaai mo viz — " Waimia
Mana — " " " — the ett
from Kiki in 1846 and 1°3 from
in 1847 and his title is without dispu
small portion of 1°1. I forgt to mentio
loi which belongs to the ett It is a
"Pali" in the ili of Pualima Hakaue
It is Bounded viz by the mo of
H — " " Pali — viz — " mo Ha
H — " " the Kula of Waimea, th
from Kiki and no title to it is s
Palakalia sworn says The testimony of

the Konohiki he said ass the following land in Kekaha
Waiau ~~Kula~~ No 1 a lo called "Kapaka" " 2 " a salt
patch called "Kalukalauui" " 3 " a Cocoanut Tree " "
these are all in the ili of "Hakila". " No 1 is bounded
E— by A marsh of Balenahe " " " " " " "Kiki"
S— " the Sea Beach, Mana " " Kula of Hakila
" No 2 is bounded. E— by an alanui kupuni
Hanapepe " the Kula of "Kalelua" " Kahai — " " Sea Beach
and " Mana — " " the Kula of "Hakila"
" No 3 is bounded. E— by the Pali of "Kiki"
W " " Kula " "Kalelua" S— " " Alanui
kupuni " Mana — " " Kula of "Hakila"
the Ott used this land from Kaumaeha M and when he
died returned them to the Konohiki who is his heir
Peapea sworn says the testimony of the Ott is true
Kaumea also died possessed of a House lot in
Lahi Pukanai Waimea ~~Kauai~~ It is fenced and bounded
S by the ~~great~~ road road W— " a small water
course seperating it from Kaapeo lot E— " the
sea Beach, Mana— " House lot called "Iloni"
this he rec'd from his Sister and upon his death it
returned to Kaumaeha M.— End of Mr Lees notes

February 13th 1850 Monday

No 6271 } Kahakaia

Ott this Claim is withdrawn, the land Claimed
belonging to Claim No 6270 } & No 6701 } Takaaia Sac Ott
Peapea sworn says I know the lands of the Claimant
they consist of 3 parts. No 1 is a lo in the moo of Namoo
Ekalu in the ili Pukanai. No 2 & 3 lots in the moo
of Namoo Kolu ili of Pukanai. No 3 is lo in
Namookolu. No 1 is Bounded
~~S— Lo Kahaia~~
Hanapepe— ~~Kauai of the moo Pukapele 2~~ Kauai of Pukanai
~~Kahai~~ Kauai of the moo Pukapele 2
Mana— Kula belonging to Kalelua

B. NAUMU - WAIMEA

APANA 1.

N. 1° E.	9.50 chains alo
S. 85° E.	10.50 " "
S. 1° W.	9.50 " "
N. 85° W.	10.50 " "

Area 3

APANA 2.

N. 23° E.	2.50 chains
S. 73° E.	5.15 "
S. 23° W.	2.75 "
N. 71° W.	5.50 "

Area 1

APANA 3.

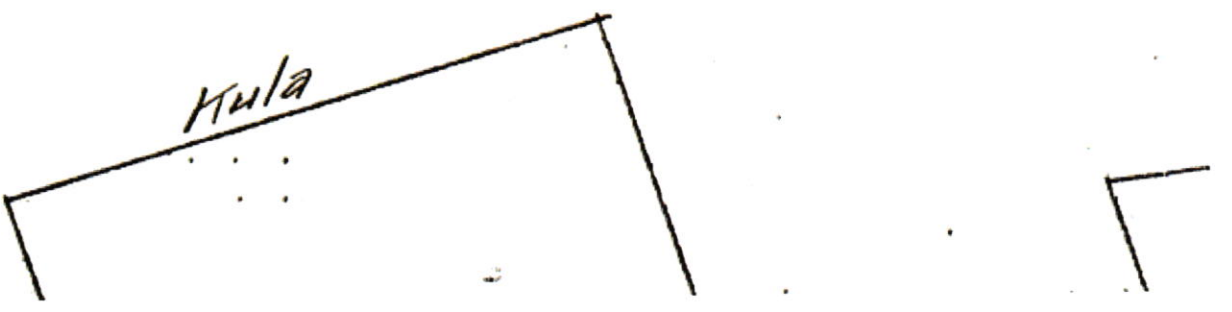
N. 78° W.	7.50 chains
N. 2° E.	10 " alo
S. 78° E.	7.50 chains "
S. 2° W.	10 " "

Area 7

APANA 4.

N. 72° W.	5 chains along
S. 9° W.	5.50 chains alo
S. 72° E.	5 chains along
N. 9° E.	5.50 chains alo

Area 2



P. Naumu. 5362

Maloko o ka ahupuaa o Waimea, Kona, Kauai.

1. Pahale. Loko ia, ma kula, Penei na mokuna, E hoomaka ka kahekai, ma kahi pahu laau, alaila aku, A 1° Hi e pili ana i ka kula, alaila aku, He 85° Hi. 10 50/100 pili ana i ka kula. alaila aku, He 1° Ko. 9 50/100 k ana i ka kula. alaila aku, A 85° Ko. 10 50/100 kaul. e, i ka kahakai, a i kahi i hoomaka ai. e ili ana 3 Kuda. 20 Perka. ——

2 Pahale, Penei na mokuna, E hoomaka ana ma ka k kahi alanui, alaila aku, A 23° Hi. 2 50/100 kaul. ma k alaila aku, He 73° Hi. 5 50/100 kaul e pili ana i ka kuu aku, He 23° Ko 2 50/100 kaul. e pili ana i ka pahale alaila aku, A 71° Ko. 5 50/100 kaul. e pili ana i k a i kahi i hoomaka ai, e ili ana. 1 Eka. 1 Kuda,

3. Aina alu niu. Penei na mokuna, E hoomaka ana, ma ~~kupuna. ma kahi pahu laau. alaila aku, A 78° Ko. 7,~~ e pili ana i ka alanui. alaila aku, A 2° Hi. 10 kaul i ka kula. alaila aku, He 78° Hi. 7 50/100 kaul. e pu pali o Pokii. alaila aku. He 2° Ko. 10 kaul. e pu

P. Naumu. 5362

Maloko o ka ahupuaa o Waimea, Kona, Kauai.

1. Pahale. Loko ia, ma kula, Penei na motuma, E hoomaka ana, ma ka kahakai, ma kahi pahu laau, alaila aku, A 1° Hi. 9 57/100. e pili ana i ke kula, alaila aku, He 85° Hi. 10 57/100 kaul. e pili ana i ke kula. alaila aku. He 1° Ko. 9 57/100 kaul. e pili ana i ke kula. alaila aku A 85° Ko. 10 57/100 kaul. e pili ana i ke kahakai, a i kahi i hoomaka ai. e ili ana, 7 Eka 3 Ruda. 20 Perka. —

2 Pahale, Penei na motuma, E hoomaka ana ma ke kahakai, kahi alanui, alaila aku, A 23° Hi. 2 57/100 kaul. ma ka alanui alaila aku, He 73° Hi. 5 57/100 kaul e pili ana i ke kula. alaila aku, He 23° Ko 2 57/100 kaul. e pili ana i ka pahale o Daniela alaila aku, A 71° Ko. 5 57/100 kaul. e pili ana i ke kahakai a i kahi i hoomaka ai, e ili ana. 1 Eka. 1 Ruda, 31 Perka.

3. Ona ulu niu. Penei na motuma, E hoomaka ana, ma ka alanui. ma kahi pahu laau. alaila aku, A 78° Ko. 7 57/100 kaul e pili ana i ka alanui. alaila aku, A 2° Hi. 10 kaul. e pili i ke kula. alaila aku, He 78° Hi. 7 57/100 kaul. e pili ana i pali o Pokii. alaila aku. He 2° Ko. 10 kaul. e pili ana i ke kula. a i kahi i hoomaka ai. e ili ana, 3 Eka. 1 28 Perka. —

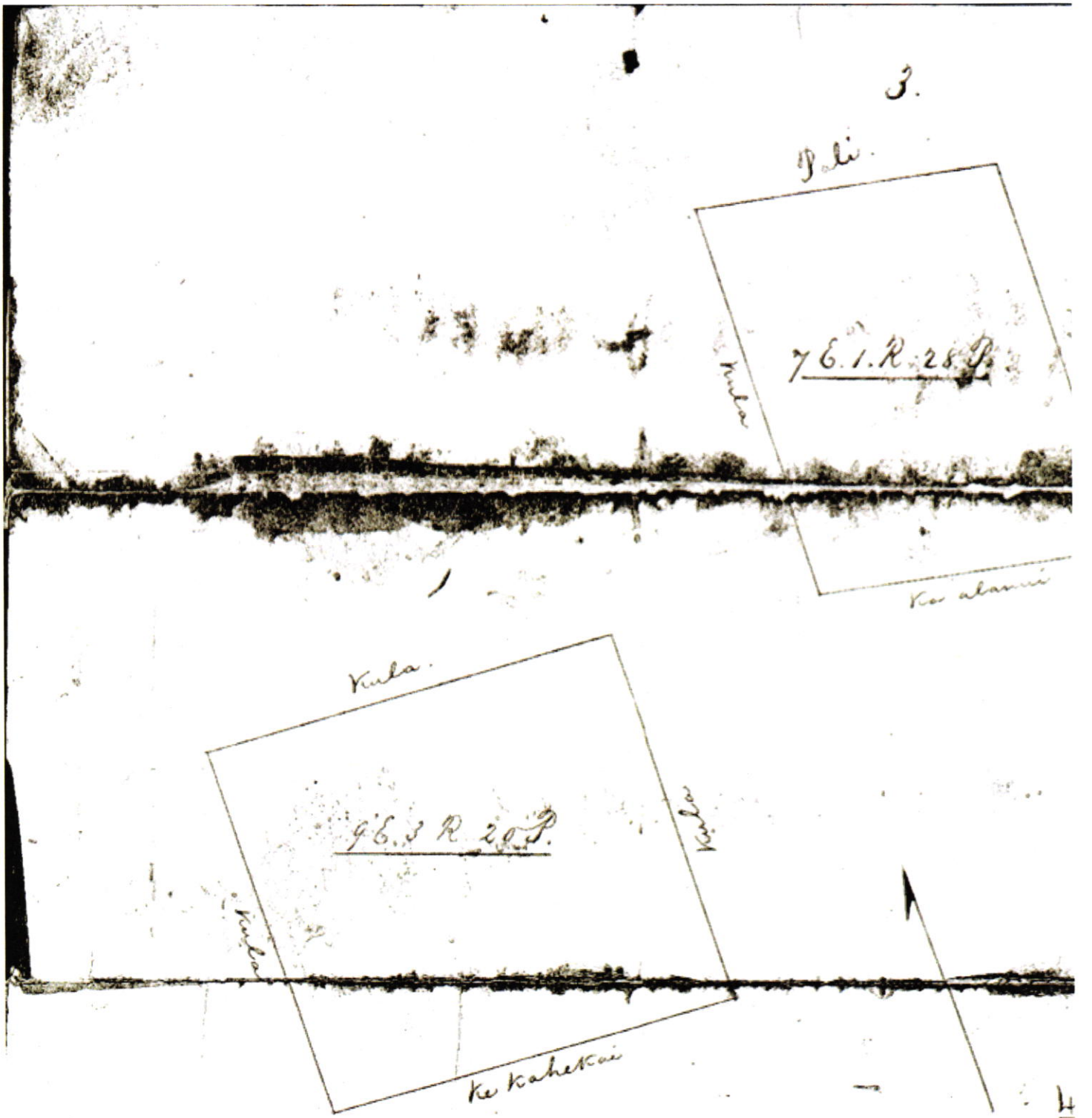
4. Loko pakai. Penei na motuma. E hoomaka ana, ma ke kula kahi pohaku nui. ma ka palena Ko. o na aina o na Mission, alaila aku. A 72° Ko. 5 kaul e pili ana i ke kula. alaila He 9° Ko. 5 57/100 kaul e pili ana i ke kula. alaila He 72° Hi 5 kaul. e pili ana i ke kula. alaila aku, A 9° 5 57/100 kaul. e pili ana i ka aina o ka Mission, a i

These Lands are upon open Sea. The boundaries described in the evidence included a much greater than this Survey. The Cocoa nut grove includes the only upon which it stands. The salt pond a road around the works & the Sahale & fish pond in possession & use according to this Survey

W. H. P.

These Lands are upon open land. The boundaries described in the evidences included a much greater than this Survey. The Cocoa nut grove includes the only upon which it stands. The salt pond a road around the works & the Sabale & fish pond, in possession & use according to this Survey

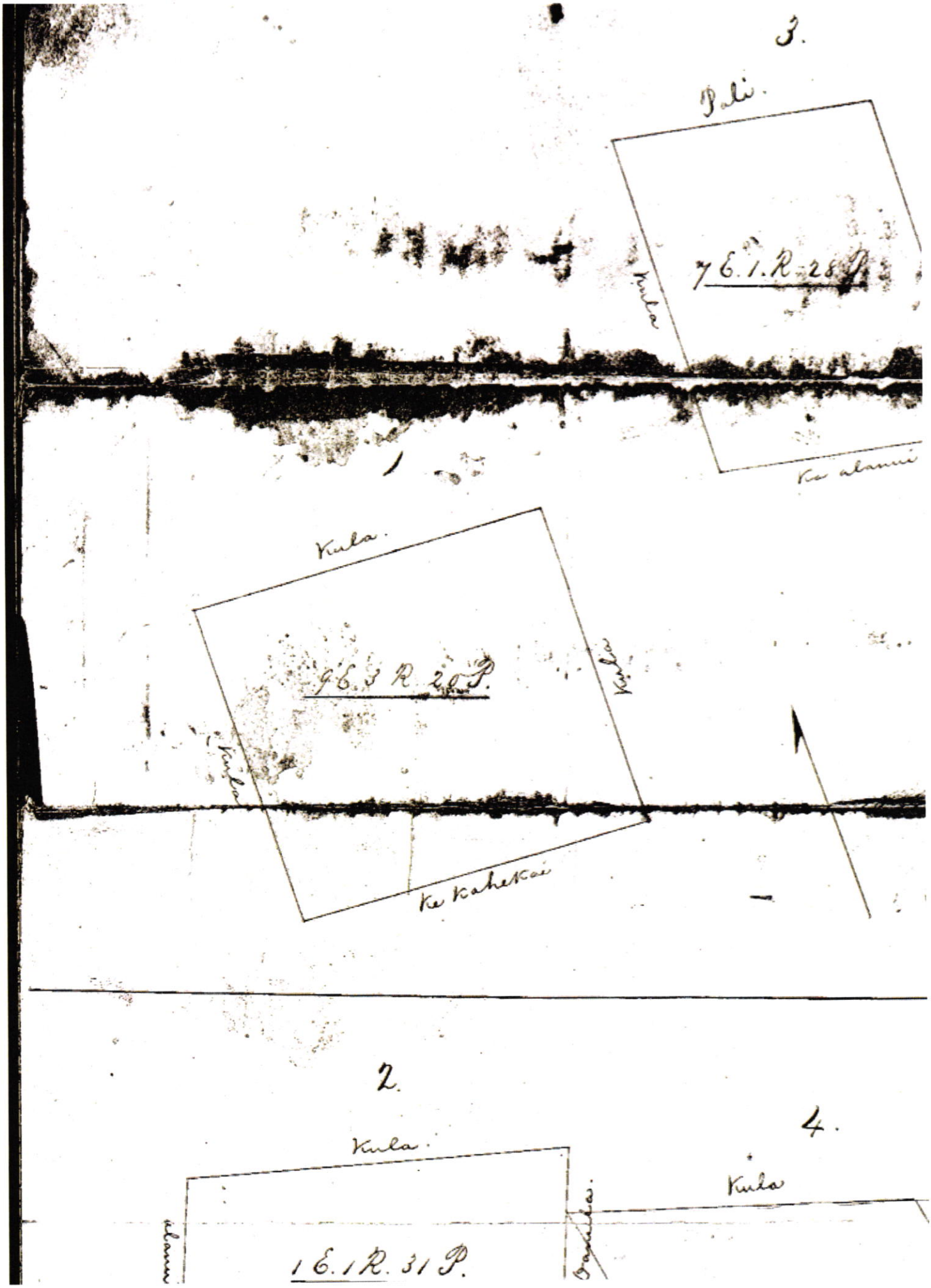
W. H. G.

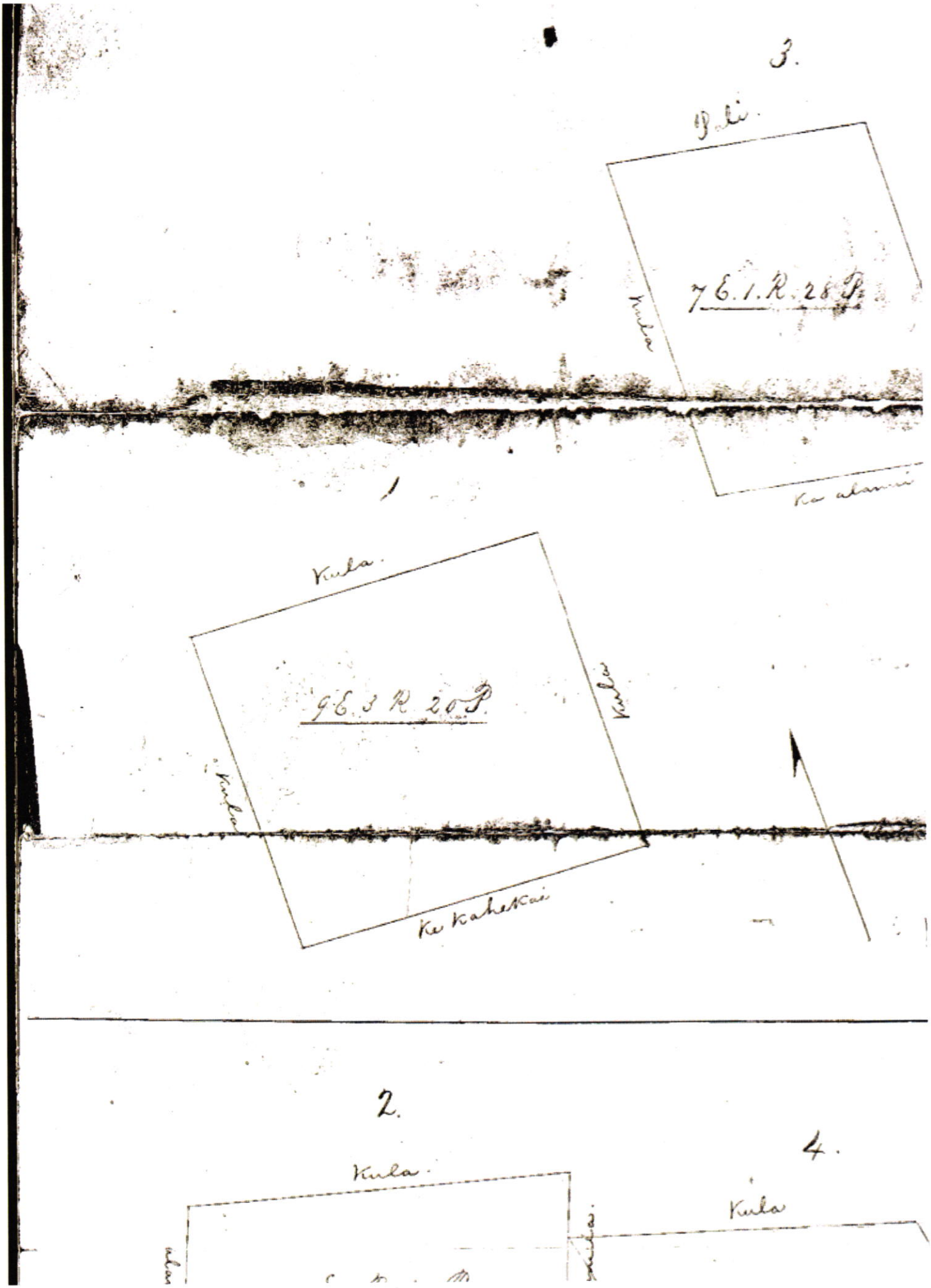

3.
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76.1.R.25.P.
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96.3 R 20 P.
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Kula
Ke kahekai
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2.

4.


Kula.
Kula


3.
Pali.
7 E. 1. R. 28 P.
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9 E. 3 R. 26 P.
Kula
Kula
Ke kahekai
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4.
Kula.
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1 E. 1 R. 31 P.


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76.1.R.28P.
Kula
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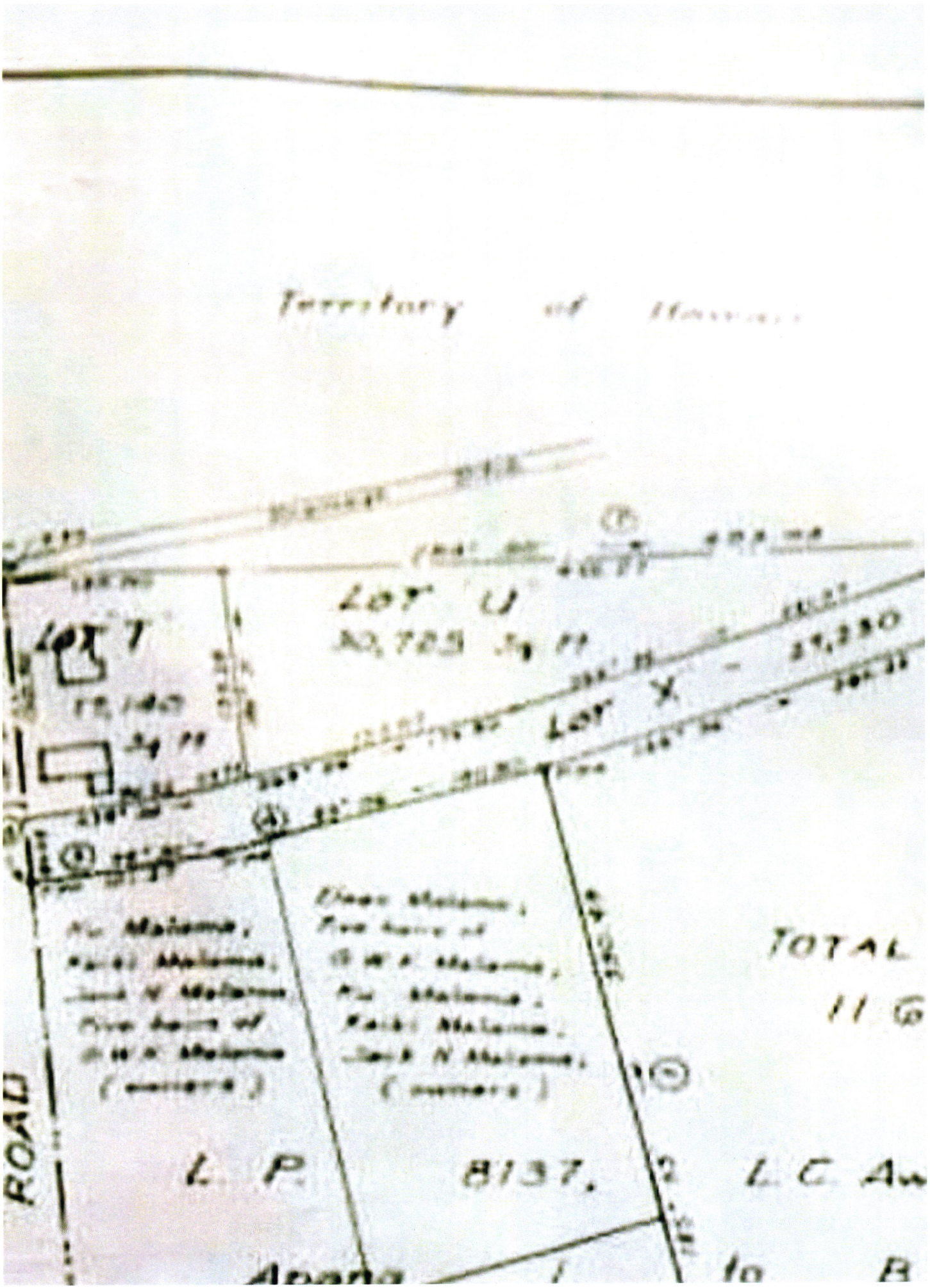

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R. P. 8137

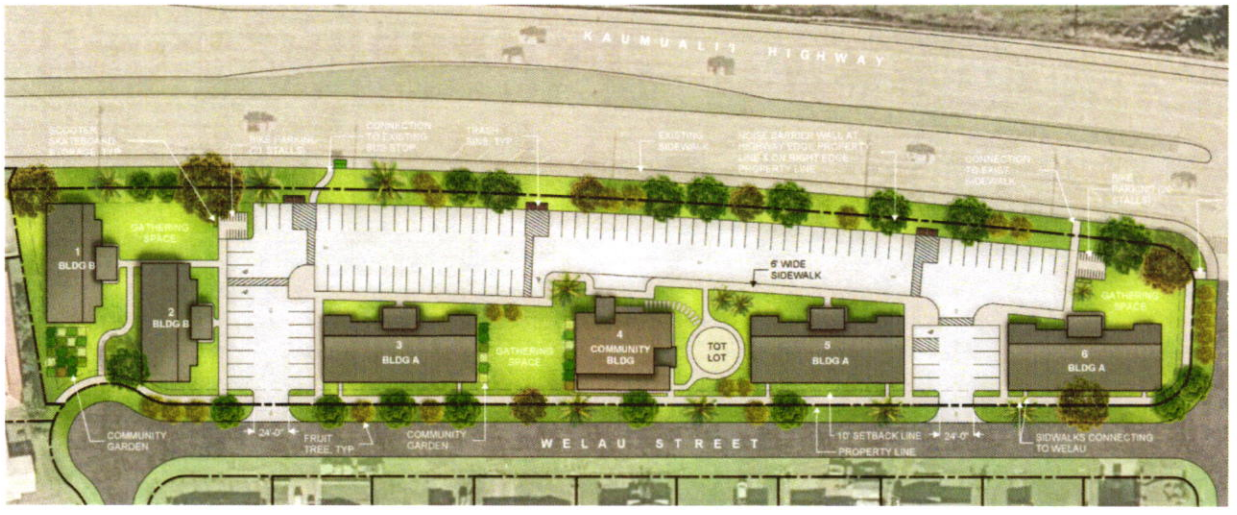
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4

4 39 4


Territory of Hawaii
LOT 7
LOT U
LOT X
ROAD
L. P. 8137.
TOTAL

PROJECT DEVELOPMENT USE PERMIT APPLICATION



KAHUA HO'OULU

AFFORDABLE HOUSING AND COMMUNITY CENTER

Puhi, Līhu'e, Kaua'i, Hawai'i 96766

TMK: (4) 3-3-004:020

SEND TO:

County of Kaua'i Planning Department
4444 Rice Street, Suite A473
Līhu'e, HI 96766

APPLICANT:

'Ikenākea Development, LLC
745 Fort Street, Suite 702, Honolulu, Hawai'i 96813
(808) 529-0404 · www.ikenakea.com

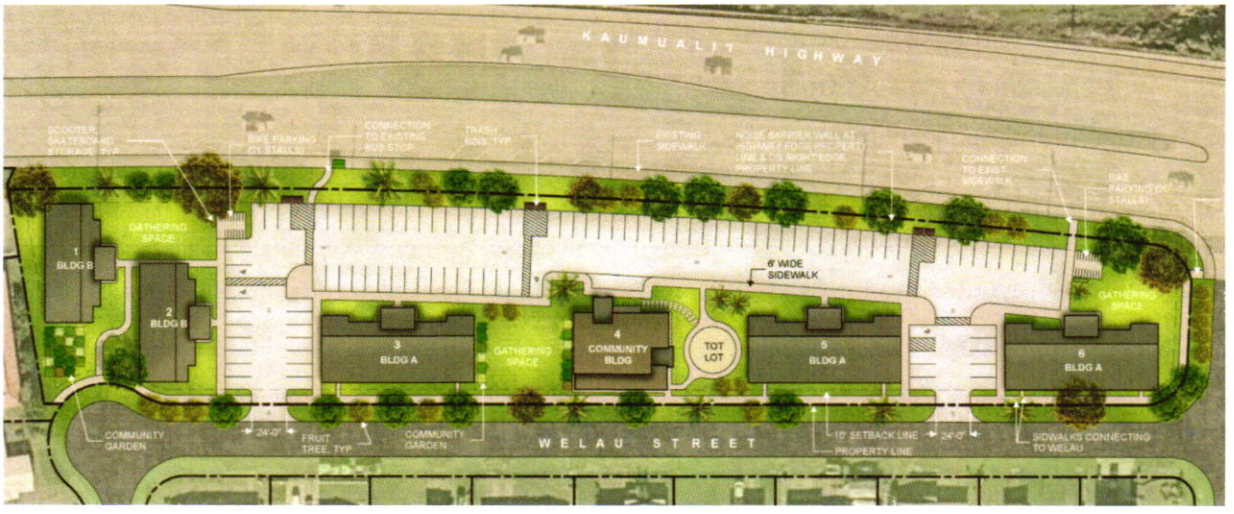
LANDOWNER:

County of Kaua'i (Kaua'i County Housing Agency)

August 31, 2026

F.2.b.
OCT 13, 2026

PROJECT DEVELOPMENT USE PERMIT APPLICATION



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County of Kaua'i (Kaua'i County Housing Agency)

August 31, 2026

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Exhibits

A. Chapter 343 Final Environmental Assessment
B. SHPD Historic Preservation Review Correspondence (HRS 6E/Section 106)
C. Water Will-Serve Letter, County of Kaua'i Department of Water.
D. Sewer Will-Serve Letter, Puhi Sewer and Water Company
E. Cultural Impact Assessment and Ka Pa'akai Analysis
F. Supplemental Report – Variance Permit and Class IV Permit Narrative

SECTION 1

Zoning Applicant Information

DEPARTMENT OF PLANNING
STANDARD ZONING PERMIT APPLICATION
Fees vary based on permits required.

DEPARTMENT USE ONLY				
Zoning				Intake By:
Use				
Variance				Intake Date:
SMA				
PDU				Acceptance Date/By:
TOTAL FEE:				
Additional Fees:				
Receipt Number				
Building Permit No.				

This application shall be filled out by all seeking Class I, II, and III Zoning permits pursuant to the Kauai County Code, Hawai'i Revised Statutes Chapter 205A and all relevant rules and regulations of the Planning Commission and Department.

Permitting fees may be made via cash, check or online payment. All checks shall be made out to: **"Director of Finance"**

Complete Information Below			
Tax Map Key Number	(4) 3-3-004:020	**Condominium Number**	N/A
Property Owner Name(s)	County of Kauai		
Property Owner Mailing Address	4444 Rice Street, Suite A473, Lihue, HI 96766		
Property Owner Email	rduncan@kauai.gov	**Property Owner Phone**	(808) 241-4444

If you are an authorized agent for the property owner, complete the following:			
Authorized Agent Name(s)	Ikenakea Development LLC		
Authorized Agent Mailing Address	745 Fort Street, Suite 702, Honolulu, HI 96813		
Authorized Agent Email	Patti Tancayo	**Authorized Agent Phone**	(808) 358-3633

What is the proposed construction and/or intended use of the structure or parcel (may attach additional info)?

Applicant Declarations (incorrect responses may slow your permit review)
Please place an "X" under Yes or No under the following:

		YES	NO	Staff Verification
1	Is there a structure on the property that is 50 years old or older?		x	
2	Is this a permit for an after-the-fact construction or activity?		x	
3	Are there known burials on the site?		x	
4	Will the project involve ground disturbance?	x		
5	Is this a conversion of a legally existing single-family dwelling unit into a multi-family two dwelling unit?		X	

Submittal Checklist

Please **INITIAL** under "Yes" or not applicable "N/A" regarding each of the statements:

		YES	NA	Staff Verification
1	All plot plans I have submitted are drawn to scale.	x		
2	I have ensured all TMK numbers are visible on all plan sheets.	x		
3	Any plans I have submitted clearly show all structures	x		

Acknowledgements - Please INITIAL next to each of the statements:

I UNDERSTAND:	Initial Here
Additional fees and/or the submittal of other application forms may be necessary to complete this application for acceptance and processing.	
Tender of fees by the County does not imply acceptance of this application.	
Errors in self-declaration or missing or incomplete information will delay acceptance and processing of your application.	
Any purposeful misrepresentations in this application may result in delay, denial, permit revocation, violations, fines and even criminal prosecution.	

The owner and/or authorized representative is hereby made aware that the construction, work, use or activity approved in this permit shall be subject to inspection by the Planning Department personnel. The applicant is advised that inspection may occur prior to or during construction and use to ascertain the activity is conducted in compliance with the law. Further, I am a duly authorized agent or have 100% ownership rights.

WARNING: if you are a property owner of a Unit within a Condominium Property Regime (CPR), you are obligated to acknowledge and understand your rights and duties under the documents governing your CPR. The Kaua'i County Planning Department (Department) has no duty or obligation to enforce CPR Documents. By submitting this application [or, authorization for], you hereby indemnify and hold harmless the Department from any and all liability arising from disputes or actions resulting from the interpretation or enforcement of your CPR documents.

OWNER/AGENT SIGNATURE: _____ DATE: 9/4/2026

FOR PLANNING DEPARTMENT USE ONLY (THIS CONSTITUTES PERMIT IF FILLED OUT BY DEPT.):

APPROVED ☐ DENIED ☐ BY: _____ DATE: _____

DIRECTOR'S CONDITIONS OF APPROVAL (staff to **initial** next to applicable conditions):

This permit shall expire if no building permit is issued within one (1) year after the approval date and/or if construction does not start within one (1) year of building permit issuance.	
Should any archaeological or historic resources be discovered during ground disturbing/construction work, all work in the area of the find shall immediately cease and the Applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division and the Planning Department to determine mitigation measures.	
Additional Conditions (State):	

SECTION 2
Ownership Verification

OLD REPUBLIC
TITLE & ESCROW OF HAWAII

34 Wailea Gateway Pl., Suite A-201
Kihei, HI 96753
(808) 875-9110 Fax: (866) 698-9870

PRELIMINARY REPORT

Our Order Number 6824017655-DD

Customer Reference 6824017655-DD

When Replying Please Contact:

Dawn DeRego
Escrow Officer
dderego@ortc.com
(808) 875-9110

Property Address:

Kaumualii Hwy, Lihue, HI 96766

In response to the above referenced application for a policy of title insurance, OLD REPUBLIC TITLE & ESCROW OF HAWAII, as issuing Agent of Old Republic National Title Insurance Company, hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said policy forms.

The printed Exceptions and Exclusions from the coverage of said Policy or Policies are set forth in Exhibit I attached. Copies of the Policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit I of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.
It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of June 22, 2026, at 8:00 AM

OLD REPUBLIC TITLE & ESCROW OF HAWAII
For Exceptions Shown or Referred to, See Attached

The form of policy of title insurance contemplated by this report is:

CLTA Standard Coverage Policy -1990; AND ALTA Loan Policy of Title Insurance - 2021. A specific request should be made if another form or additional coverage is desired.

The estate or interest in the land hereinafter described or referred or covered by this Report is:

Fee Simple

Title to said estate or interest at the date hereof is vested in:

COUNTY OF KAUAI, a municipal corporation and a political subdivision of the State of Hawaii

The land referred to in this Report is situated in the State of Hawaii, and described as follows:

See Legal Description Exhibit.

At the date hereof exceptions to coverage in addition to the Exceptions and Exclusions in said policy form would be as follows:

1. Taxes and assessments, general and special, which are a lien, whether due, payable, delinquent or otherwise, for the fiscal year 2025 - 2026:

   Tax Map Key : 4-3-3-004-020

2. Mineral and water rights of any nature in favor of the State of Hawaii.

3. Easement and water rights from Aakukui Stream in instruments recorded in the Bureau of Conveyances, State of Hawaii, in Book 313, Page 203 and also in in the Bureau of Conveyances, State of Hawaii, in Book 516, Page 454.

4. Terms and provisions as contained in an instrument,

Entitled	:	DECLARATION OF RESTRICTIVE COVENANTS
Executed By	:	GROVE FARM COMPANY, INCORPORATED, a Hawaii corporation
Dated	:	November 7, 1968
Recorded	:	November 15, 1968 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 458977

5. EASEMENT "42"

For : water pipe lines
As shown on Map 36
As disclosed in Land Court Order recorded in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 29140.

6. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

Instrument	:	GRANT OF EASEMENT
Granted To	:	COUNTY OF KAUAI, BOARD OF WATER SUPPLY
For	:	water pipelines
Dated	:	March 21, 1969
Recorded	:	August 6, 1969 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 480152

7. Designation of Restriction of Access Rights, as disclosed in Map 215 of Land Court Application 1087.

8. Designation of Easement 828 for slope purposes, as disclosed in Map 215 of Land Court Application 1087.

9. Rights of tenants in possession as tenants only under unrecorded leases.

10. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.

11. Any facts, rights, interests, or claims that are not shown by the Public Records at Date of Policy but that could be (a) ascertained by an inspection of the Land, or (b) asserted by persons or parties in possession of the Land.

12. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records at Date of Policy.

13. Any encroachment, encumbrance, violation, variation, easement, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records at Date of Policy.

14. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

15. Any lien or right to a lien for services, labor, material or equipment unless such lien is shown by the Public Records at Date of Policy.

16. Any claim to (a) ownership of or rights to minerals and similar substances, including but not limited to ores, metals, coal, lignite, oil, gas, uranium, clay, rock, sand, and gravel located in, on, or under the Land or produced from the Land, whether such ownership or rights arise by lease, grant, exception, conveyance, reservation, or otherwise; and (b) any rights, privileges, immunities, rights of way, and easements associated therewith or appurtenant thereto, whether or not the interests or rights excepted in (a) or (b) appear in the Public Records or are shown in Schedule B.

17. The requirement that this Company be provided with a suitable Owner's Declaration (form ORT 174). The Company reserves the right to make additional exceptions and/or requirements upon review of the Owner's Declaration.

---------- **Informational Notes** ----------

A. There is hereby omitted from any covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions, any covenants or restrictions, if any, based upon race, color, religion, sex, including gender identity or expression, sexual orientation, handicap, disability, age, marital status, familial status, national origin, ancestry, source of income, etc., as set forth in applicable state or federal law, unless and only to the extent that said covenant or restriction is permitted by applicable law. Lawful restrictions under state or federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

B. We find no open Mortgages. A written statement must be provided by the current owner(s) attesting to whether any outstanding Mortgages exist.

ORDER NO. : 6824017655-DD

LEGAL DESCRIPTION EXHIBIT

The land referred to in this Report is situated in the State of Hawaii, and described as follows:

All that certain parcel of land situate at Lihue, Island and County of Kauai, State of Hawaii, described as follows:

Lot 440-A, area 109,637 square feet, more or less, as shown on Map 215, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1987 of Grove Farm Company, Limited.

Being the premises acquired by:

DEED		
Recorded	:	March 13, 1973 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 621975
Grantor	:	GROVE FARM COMPANY, INCORPORATED, a Hawaii corporation
Grantee	:	COUNTY OF KAUAI, a political subdivision of the State of Hawaii

Being the property described in and covered by Transfer Certificate of Title No. 157092.

Exhibit I

CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990 (11/09/18)

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses which arise by reason of:

1. (a) Any law, ordinance, or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting, or relating to
   (i) the occupancy, use, or enjoyment of the land;
   (ii) the character, dimensions, or location of any improvement now or hereafter erected on the land;
   (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or
   (iv) environmental protection; or the effect of any violation of these laws, ordinances, or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

   (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
   (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
   (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
   (c) resulting in no loss or damage to the insured claimant;
   (d) attaching or created subsequent to Date of Policy; or
   (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing-business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate of interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

EXCEPTIONS FROM COVERAGE

SCHEDULE B - PART I

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.

   Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material unless such lien is shown by the public records at Date of Policy.

AMERICAN LAND TITLE ASSOCIATION
LOAN POLICY OF TITLE INSURANCE – 2021

EXCLUSIONS FROM COVERAGE

The following matters are excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. a. any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) that restricts, regulates, prohibits, or relates to:
   i. the occupancy, use, or enjoyment of the Land;
   ii. the character, dimensions, or location of any improvement on the Land;
   iii. the subdivision of land; or
   iv. environmental remediation or protection.
   b. any governmental forfeiture, police, regulatory, or national security power.
   c. the effect of a violation or enforcement of any matter excluded under Exclusion 1.a. or 1.b.
   Exclusion 1 does not modify or limit the coverage provided under Covered Risk 5 or 6.

2. Any power of eminent domain. Exclusion 2 does not modify or limit the coverage provided under Covered Risk 7.

3. Any defect, lien, encumbrance, adverse claim, or other matter:
   a. created, suffered, assumed, or agreed to by the Insured Claimant;
   b. not Known to the Company, not recorded in the Public Records at the Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
   c. resulting in no loss or damage to the Insured Claimant;
   d. attaching or created subsequent to the Date of Policy (Exclusion 3.d. does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
   e. resulting in loss or damage that would not have been sustained if consideration sufficient to qualify the Insured named in Schedule A as a bona fide purchaser or encumbrancer had been given for the Insured Mortgage at the Date of Policy.

4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business law.

5. Invalidity or unenforceability of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury law or Consumer Protection Law.

6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights law, that the transaction creating the lien of the Insured Mortgage is a:
   a. fraudulent conveyance or fraudulent transfer;
   b. voidable transfer under the Uniform Voidable Transactions Act; or
   c. preferential transfer:
      i. to the extent the Insured Mortgage is not a transfer made as a contemporaneous exchange for new value; or
      ii. for any other reason not stated in Covered Risk 13.b.

7. Any claim of a PACA-PSA Trust. Exclusion 7 does not modify or limit the coverage provided under Covered Risk 8.

8. Any lien on the Title for real estate taxes or assessments imposed by a governmental authority and created or attaching between the Date of Policy and the date of recording of the Insured Mortgage in the Public Records. Exclusion 8 does not modify or limit the coverage provided under Covered Risk 2.b. or 11.b.

9. Any discrepancy in the quantity of the area, square footage, or acreage of the Land or of any improvement to the Land.

AMERICAN LAND TITLE ASSOCIATION
LOAN POLICY OF TITLE INSURANCE – 2021
(Continued)

EXCEPTIONS FROM COVERAGE

Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This policy treats any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document are excepted from coverage.

This policy does not insure against loss or damage and the Company will not pay costs, attorneys' fees, or expenses resulting from the terms and conditions of any lease or easement identified in Schedule A, and the following matters:

NOTE: The 2021 ALTA Loan Policy may be issued to afford either Standard Coverage or Extended Coverage. In addition to variable exceptions such as taxes, easements, CC&R's, etc., the Exceptions from Coverage in a Standard Coverage policy will also include the Western Regional Standard Coverage Exceptions listed as 1 through 7 below:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.

2. Any facts, rights, interests, or claims that are not shown by the Public Records at Date of Policy but that could be (a) ascertained by an inspection of the Land, or (b) asserted by persons or parties in possession of the Land.

3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records at Date of Policy.

4. Any encroachment, encumbrance, violation, variation, easement, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records at Date of Policy.

5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

6. Any lien or right to a lien for services, labor, material or equipment unless such lien is shown by the Public Records at Date of Policy.

7. Any claim to (a) ownership of or rights to minerals and similar substances, including but not limited to ores, metals, coal, lignite, oil, gas, uranium, clay, rock, sand, and gravel located in, on, or under the Land or produced from the Land, whether such ownership or rights arise by lease, grant, exception, conveyance, reservation, or otherwise; and (b) any rights, privileges, immunities, rights of way, and easements associated therewith or appurtenant thereto, whether or not the interests or rights excepted in (a) or (b) appear in the Public Records or are shown in Schedule B.

Updated 1/1/2026

OLD REPUBLIC TITLE

FACTS	WHAT DOES OLD REPUBLIC TITLE DO WITH YOUR PERSONAL INFORMATION?

Why?	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.
What?	The types of personal information we collect and share depend on the product or service you have with us. This information can include: • Social Security number and employment information • Mortgage rates and payments and account balances • Checking account information and wire transfer instructions When you are no longer our customer, we continue to share your information as described in this notice.
How?	All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons Old Republic Title chooses to share; and whether you can limit this sharing.

Reasons we can share your personal information	Does Old Republic Title share?	Can you limit this sharing?
For our everyday business purposes — such as to process your transactions, maintain your account(s), or respond to court orders and legal investigations, or report to credit bureaus	Yes	No
For our marketing purposes — to offer our products and services to you	No	We don't share
For joint marketing with other financial companies	No	We don't share
For our affiliates' everyday business purposes — information about your transactions and experiences	Yes	No
For our affiliates' everyday business purposes — information about your creditworthiness	No	We don't share
For our affiliates to market to you	No	We don't share
For non-affiliates to market to you	No	We don't share

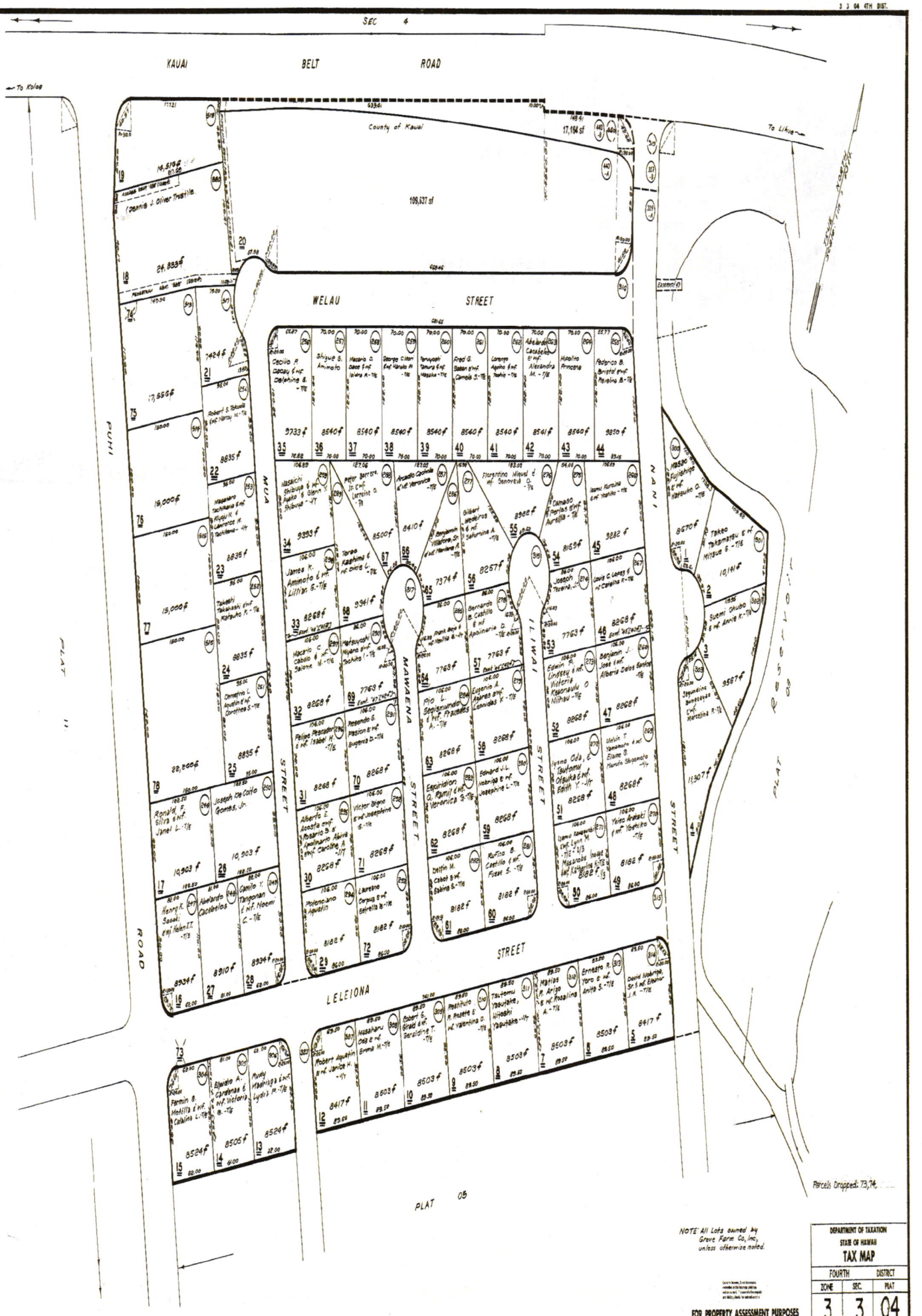
Go to www.oldrepublictitle.com (Contact Us)

Who we are	
Who is providing this notice?	Companies with an Old Republic Title name and other affiliates. Please see below for a list of affiliates.

What we do	
How does Old Republic Title protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings. For more information, visit https://www.oldrepublictitle.com/privacy-policy
How does Old Republic Title collect my personal information?	We collect your personal information, for example, when you: • Give us your contact information or show your driver's license • Show your government-issued ID or provide your mortgage information • Make a wire transfer We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.
Why can't I limit all sharing?	Federal law gives you the right to limit only: • Sharing for affiliates' everyday business purposes - information about your creditworthiness • Affiliates from using your information to market to you • Sharing for non-affiliates to market to you State laws and individual companies may give you additional rights to limit sharing. See the State Privacy Rights section location at https://www.oldrepublictitle.com/privacy-policy for your rights under state law.

Definitions	
Affiliates	Companies related by common ownership or control. They can be financial and nonfinancial companies. • Our affiliates include companies with an Old Republic Title name, and financial companies such as Attorneys' Title Fund Services, LLC, Lex Terrae National Title Services, Inc., and Mississippi Valley Title Services Company
Non-affiliates	Companies not related by common ownership or control. They can be financial and nonfinancial companies. • Old Republic Title does not share with non-affiliates so they can market to you
Joint marketing	A formal agreement between non-affiliated financial companies that together market financial products or services to you. • Old Republic Title doesn't jointly market.

Affiliates Who May be Delivering This Notice				
American First Title & Trust Company	American Guaranty Title Insurance Company	Attorneys' Title Fund Services, LLC	Compass Abstract, Inc.	eRecording Partners Network, LLC
Genesis Abstract, LLC	Guardian Consumer Services, Inc.	iMarc, Inc.	L.T. Service Corp.	Lenders Inspection Company
Lex Terrae National Title Services, Inc.	Lex Terrae, Ltd.	Mississippi Valley Title Services Company	Old Republic Branch Information Services, Inc.	Old Republic Diversified Services, Inc.
Old Republic Escrow of Vancouver, Inc.	Old Republic Exchange Company	Old Republic Title and Escrow of Hawaii, Ltd.	Old Republic National Title Insurance Company	Old Republic Title Company
Old Republic Title Company of Conroe	Old Republic Title Company of Nevada	Old Republic Title Company of Oklahoma	Old Republic Title Company of Oregon	Old Republic Title Company of St. Louis
Old Republic Title Information Concepts	Old Republic Title Insurance Agency, Inc.	Old Republic Title, Ltd.	ORT Ancillary Services, Inc.	RamQuest Software, Inc.
Republic Abstract & Settlement, LLC	Sentry Abstract Company	Surety Title Agency, Inc.	Trident Land Transfer Company, LLC	


3 3 04 4TH DIST.
SEC 4
KAUAI BELT ROAD
To Kilauea
To Lihue
County of Kauai
17,194 sf
109,637 sf
24,883sf
Easement 40
WELAU STREET
PUHI
NIUA
MAWAENA STREET
ILIMAI STREET
NANI
LELEIONA STREET
PLAT 11
PLAT 05
PLAT 08
ROAD
Parcels Dropped: 73,74,
NOTE: All Lots owned by Grove Farm Co., Inc, unless otherwise noted.
FOR PROPERTY ASSESSMENT PURPOSES
SUBJECT TO CHANGE
POR. LIHUE, PUNA, KAUAI, LD. CT. APP. 1087, MAP 36, (FORMERLY POR. 3-3-03-1)
DEPARTMENT OF TAXATION
STATE OF HAWAII
TAX MAP
FOURTH DISTRICT
ZONE 3 SEC. 3 PLAT 04
SCALE: 1 IN. = 60 FT
SOURCE: L.D. C.T. APP. 1087, MAP 36
BY:
DATE: NOV. 1, 1988
DWG. NO.: 3-3-04

234

STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED
May 01, 2018 8:01 AM
Doc No(s) T – 10347107
on Cert(s) 157092
Issuance of Cert(s)

/s/ LESLIE T. KOBATA
ASSISTANT REGISTRAR

1 1/1 VOT
B – 33158492

AFTER RECORDATION, RETURN BY: [X] MAIL [ ] PICKUP

GROVE FARM COMPANY, INC.
3-1850 Kaumualii Highway
Lihue, Hawaii 96766

TITLE GUARANTY OF HAWAII HAS FILED THIS DOCUMENT FOR RECORD AS AN ACCOMMODATION ONLY. THIS DOCUMENT HAS NOT BEEN REVIEWED OR EXAMINED AS TO ITS EFFECT ON TITLE OR ITS

TG ACCOM 498277C

TAX KEY NO.: (4) 3-3-004-020 Total No. of Pages: 4

RELEASE AND CANCELLATION OF
RESTRICTION ON USE

KNOW ALL MEN BY THESE PRESENTS:

That Grove Farm Company, Incorporated, a Hawaii corporation, whose business and post office address is 3-1850 Kaumualii Highway, Lihue, Hawaii 96766 (herein "Grove Farm") in consideration of good and valuable consideration, the receipt of which is hereby acknowledged, does hereby release, discharge and cancel that certain restriction on use contained in that certain Deed dated January 26, 1973 as Land Court Document No. 621975 and noted on Transfer Certificate of Title No. 157,092 of Official Records; and said Grove Farm hereby unilaterally agrees that said restriction on use is and hereafter will be of no further force or effect.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be duly executed this 17th day of April, 2018.

GROVE FARM COMPANY, INCORPORATED

By _____
David Hinazumi
Its: Vice President

By _____
Blanche R. Matsuyama
Its: Treasurer

STATE OF HAWAI'I)
) SS.
COUNTY OF KAUA'I)

On this 17th day of April ,2018, before me appeared David Hinazumi, to me personally known, who being by me duly sworn, did say that he is the Vice President of the GROVE FARM COMPANY, INCORPORATED, a Hawaii corporation; and that said person executed the foregoing instrument identified or described as RELEASE AND CANCELLATION OF RESTRICTION ON USE on behalf of said GROVE FARM COMPANY, INCORPORATED by authority of its Board of Directors and said David Hinazumi acknowledged said instrument to be the free act and deed of said GROVE FARM COMPANY, INCORPORATED .

SHARYL E. LAM YUEN NOTARY 93-723 PUBLIC STATE OF HAWAII

Sharyl E. Lam Yuen
Notary Public, State of Hawai`i

My commission expires: 12/16/2021

Doc. Date: 17th day of April, 2018 # Pages: 4

Doc. Description: Release and Cancellation of Restriction on Use

Notary Name: Sharyl E. Lam Yuen Fifth Circuit

NOTARY PUBLIC SIGNATURE
STATE OF HAWAI`I

APR 17 2018
Date

My commission expires: 12/16/2021

SHARYL E. LAM YUEN NOTARY 93-723 PUBLIC STATE OF HAWAII

NOTARY CERTIFICATION

STATE OF HAWAI'I)
) SS.
COUNTY OF KAUA'I)

On this 17th day of April ,2018, before me appeared Blanche R. Matsuyama, to me personally known, who being by me duly sworn, did say that she is the Treasurer of the GROVE FARM COMPANY, INCORPORATED, a Hawaii corporation; and that said person executed the foregoing instrument identified or described as RELEASE AND CANCELLATION OF RESTRICTION ON USE on behalf of said GROVE FARM COMPANY, INCORPORATED by authority of its Board of Directors and said Blanche R. Matsuyama acknowledged said instrument to be the free act and deed of said GROVE FARM COMPANY, INCORPORATED .

SHARYL E. LAM YUEN NOTARY 93-723 PUBLIC STATE OF HAWAII

Sharyl E. Lam Yuen

Notary Public, State of Hawai`i

My commission expires: _____

Doc. Date: 17th day of April, 2018 # Pages: 4

Doc. Description: Release and Cancellation of Restriction on Use

Notary Name: Sharyl E. Lam Yuen Fifth Circuit

NOTARY PUBLIC SIGNATURE
STATE OF HAWAI`I

Date: APR 17 2018

My commission expires: 12/16/2021

NOTARY CERTIFICATION

SECTION 3
Written Authorization of Owner

KAUA'I COUNTY HOUSING AGENCY
ADAM ROVERSI, DIRECTOR

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

August 18, 2026

Kaaina S. Hull, Planning Director
County of Kauai Planning Department
4444 Rice Street, Suite A473
Lihue, Hawaii 96766

SUBJECT: **KAHUA HO'OULU AFFORDABLE HOUSING DEVELOPMENT (PROJECT)**
CLASS IV AND USE PERMIT APPLICATION
IKENAKEA DEVELOPMENT LLC (APPLICANT)
TAX MAP KEY: (4) 3-3-04-020

Dear Mr. Hull,

The County of Kauai is the owner of the above-mentioned parcel. Ikenakea Development LLC will be provided a long-term lease for the purpose of developing affordable housing on this parcel. As the owner, and in support of the Kahua Ho'oulu Affordable Housing Development project, the Kauai County Housing Agency hereby authorizes Ikenakea Development LLC to submit the Class IV and Project Development Use Permit Application.

In addition, and per the Planning Department's General Submittal Requirements for Zoning Permits, KCHA notes that this project is being developed as a 100% affordable housing project and therefore does not trigger an affordable housing requirement per Ord. 860.

The proposed project aligns with KCHA's strategic plan to address the critical shortage of affordable housing. It is also consistent with our County General Plan, which aims to promote development in existing town cores and commercial areas with the necessary infrastructure, public transportation, and employment opportunities. This Project will be a valuable addition to Kauai and will help meet an essential housing need.

KCHA will be qualifying this Project for an expedited permitting review process and for a waiver or reduction of applicable County fees.

Sincerely,

Adam P. Roversi
Housing Director

cc: Patti Tancayo, Ikenakea Development LLC

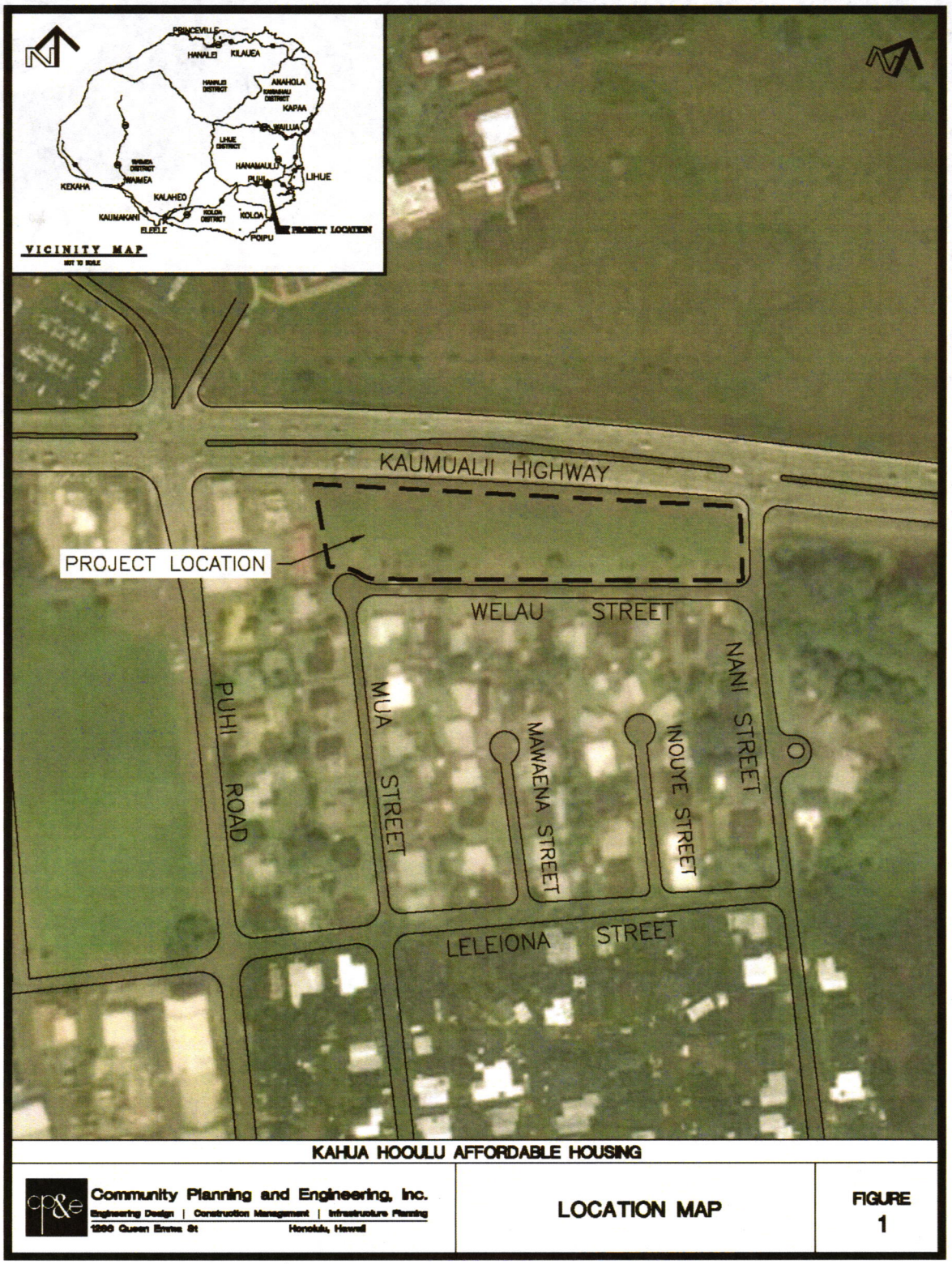
SECTION 4
Property and Applicant Information

4. Property and Applicant Information

Tax Map Key:	(4) 3-3-004:020
Total Area:	2.91-acre parcel
Project Location:	Puhi, Līhu'e, Kaua'i
State Land Use District Designation:	Urban
County Zoning Designation:	Open (O) District
Existing Land Use:	Park
Special District:	None
Flood Zone:	Zone X
Applicant/Lessee:	'Ikenākea Development, LLC 745 Fort Street, Suite 702 Honolulu, HI 96813 (808) 529-0404
Owner/Lessor:	County of Kauai, Housing Agency

SECTION 5
Location Map

5. Location Map



SECTION 6

Schematic Site Development Plans

a. Project Layout



PROGRAM SUMMARY

TOTAL BUILDING COUNT: 6
- (1) Community Building
- (3) Building Type A
- (2) Building Type B

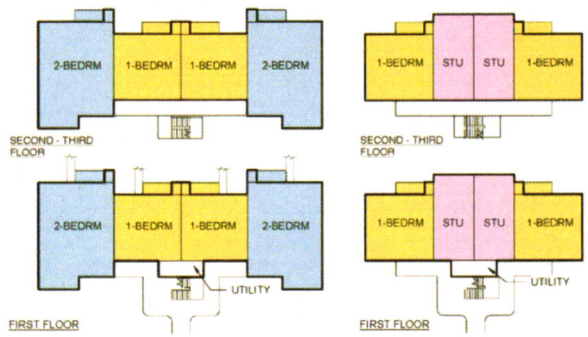
TOTAL UNIT COUNT:
- (12) Studio
- (30) 1-Bedroom
- (18) 2-Bedroom

TOTAL PARKING COUNT: 100 Stalls
- (90) Residential Parking (1.5 stalls / units)
- (4) ADA Parking
- (2) EV Parking
- (4) Guest Parking

LOADING COUNT: 1 Stall

BIKE PARKING: 41

			UNITS				Building Area (GSF)	
Unit Type			Studio	1-Bed	2-Bed	Sub-total	Building Area / Flr (GSF)	Total Building Area (GSF)
Unit Size (SF)			425	617	991			
Building B	3rd Flr	Unit / Flr	2	2		4	2,511	7,533
	2nd Flr		2	2		4	2,511	
	1st Flr		2	2	-	4	2,511	
	Bldg #		2					
	Total		12	12	0	24		15,066
Building A	3rd Flr	Unit / Flr	-	2	2	4	3,620	10,860
	2nd Flr		-	2	2	4	3,620	
	1st Flr		-	2	2	4	3,620	
	Bldg #		3					
	Total		0	18	18	36		32,580
Community Building								2,971
Total Unit Count / Total Area			12	30	18	60	50,617 GSF	
			20%	50%	30%			



(3) Building A @ 12 Units Each
BUILDING 'A'

(2) Building B @ 12 Units Each
BUILDING 'B'

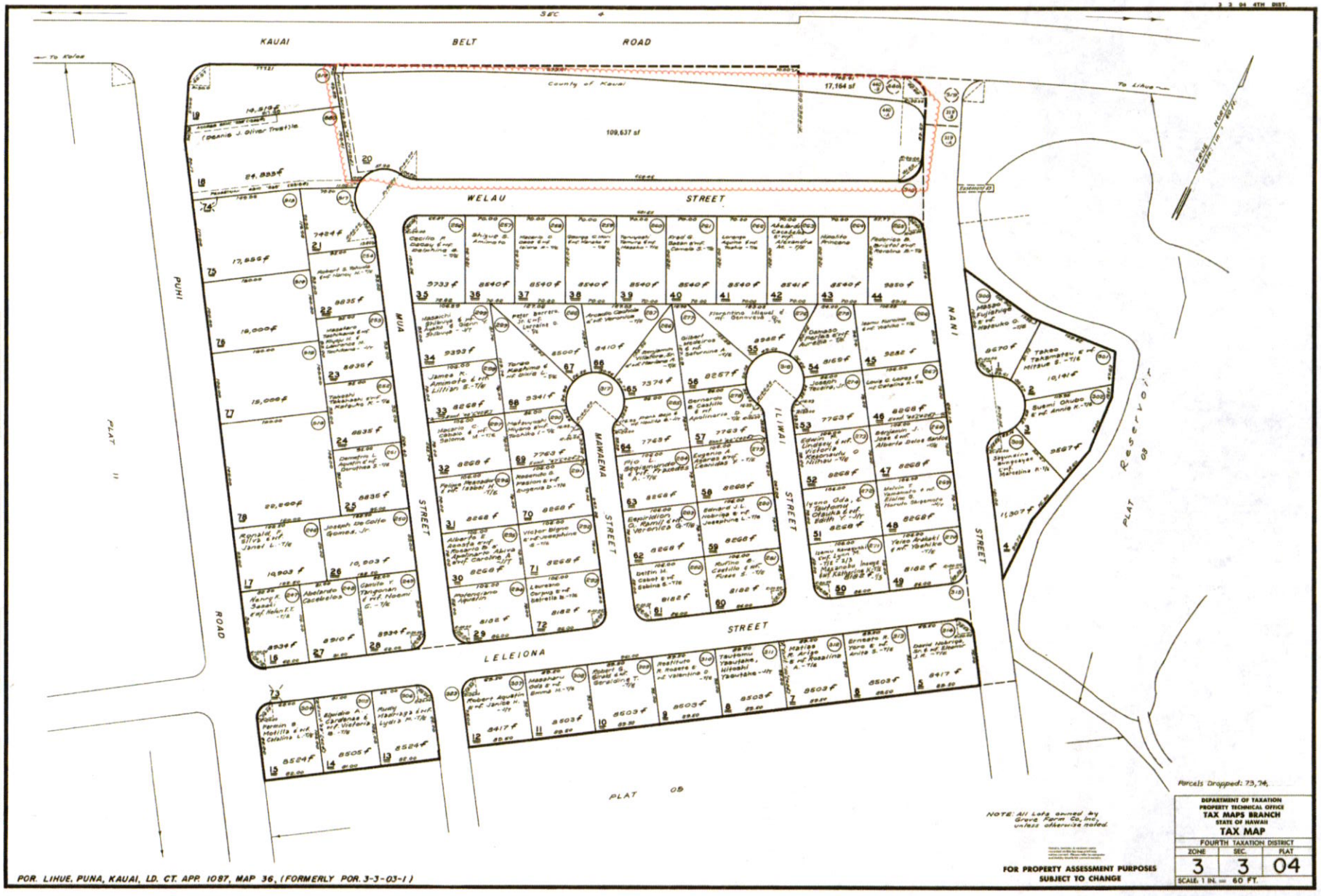
SITE PLAN

MASON

SECTION 6

Schematic Site Development Plans

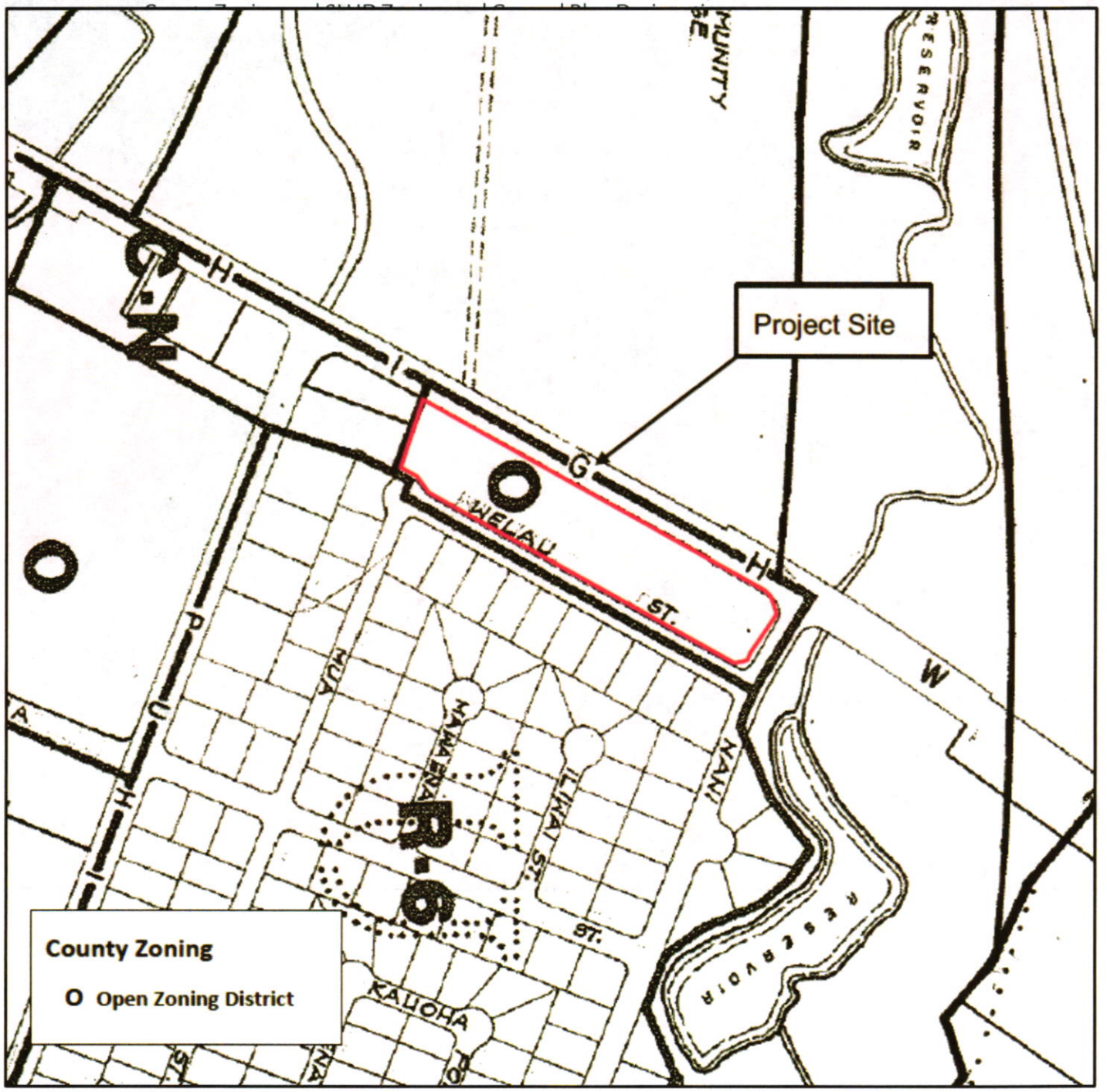
b. Property Lines and Easements

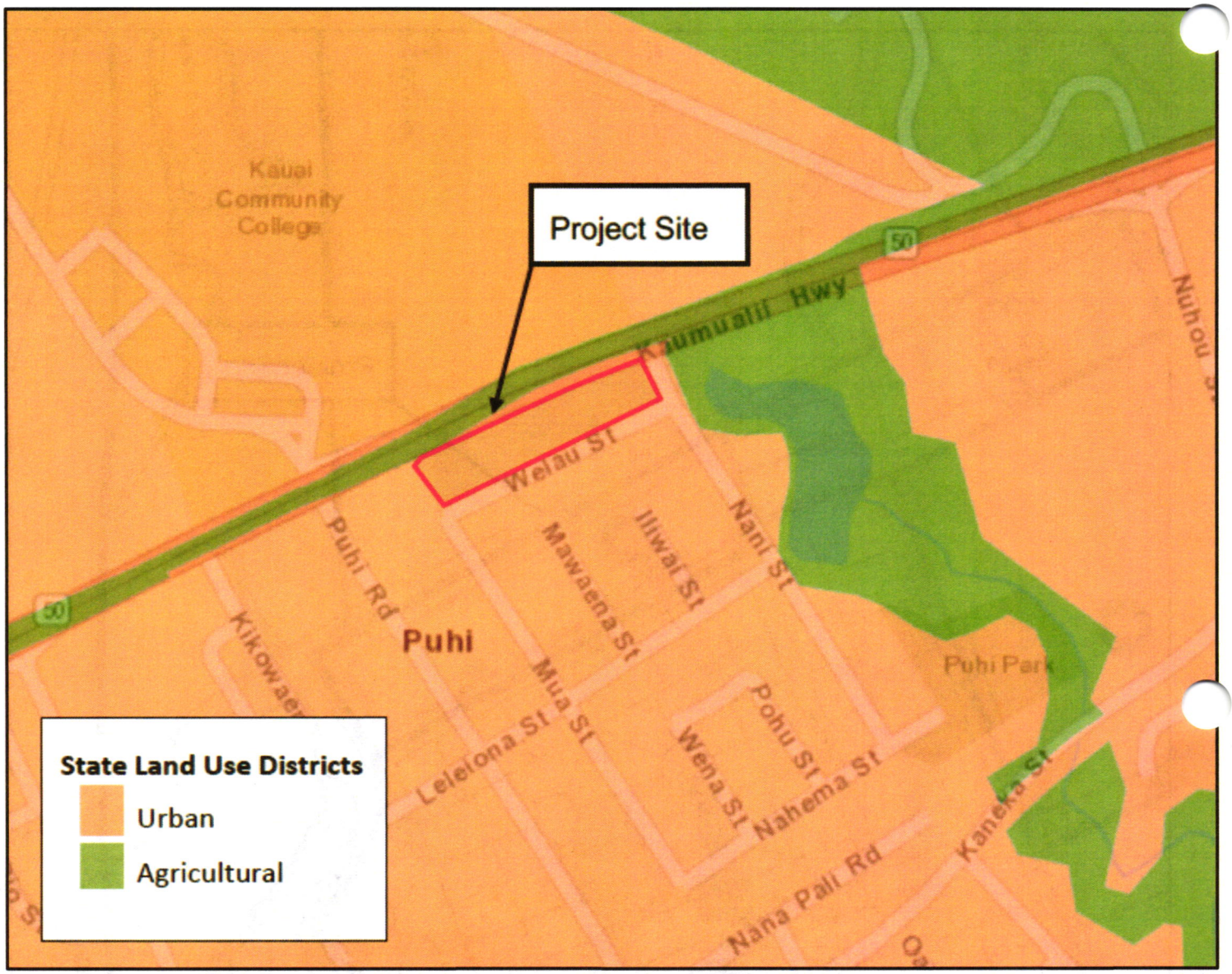

KAUAI BELT ROAD
SEC 4
To Kalaa
To Lihue
County of Kauai
109,637 sf
17,164 sf
WELAU STREET
PUHI ROAD
MUA STREET
MAWAENA STREET
ILIMAI STREET
NANI STREET
LELEIONA STREET
PLAT 11
PLAT 05
PLAT 08
Reservoir
Parcels Dropped: 73,74.
NOTE: All Lots owned by Grove Farm Co., Inc. unless otherwise noted.
FOR PROPERTY ASSESSMENT PURPOSES SUBJECT TO CHANGE
POR. LIHUE, PUNA, KAUAI, LD. CT. APP. 1087, MAP 36, (FORMERLY POR. 3-3-03-1)
DEPARTMENT OF TAXATION
PROPERTY TECHNICAL OFFICE
TAX MAPS BRANCH
STATE OF HAWAII
TAX MAP
FOURTH TAXATION DISTRICT
ZONE 3 SEC. 3 PLAT 04
SCALE: 1 IN. = 60 FT.
DWG NO. 5864
DATE: NOV 7, 1968
BY: J.F.-K.K.
SOURCE: LD. CT. APP. 1087, MAP 36

SECTION 6

Schematic Site Development Plans

c. County and SLUD Zoning and General Plan Designation


Project Site
WELAU
ST.
KAUOHA
County Zoning
O Open Zoning District


Kauai Community College
Project Site
Kaumualii Hwy
50
Nuhou St
Welau St
Puhi Rd
Mawaena St
Iliwai St
Nani St
Puhi
Kikowaena
Mua St
Leleiona St
Puhi Park
Pohu St
Wena St
Nahema St
Kaneka St
Nana Pali Rd
State Land Use Districts
Urban
Agricultural

SECTION 6

Schematic Site Development Plans

d. Flood Maps

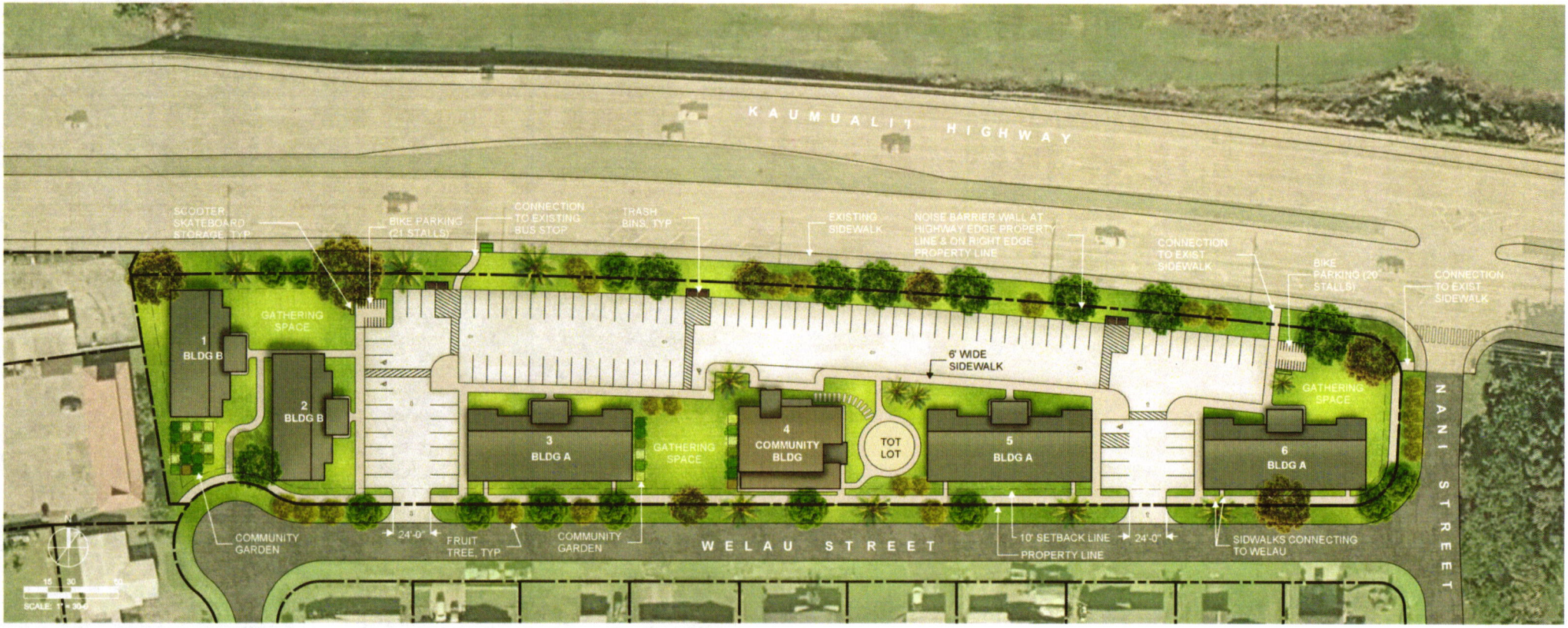

Point Data
Point coordinates: -159.394002, 21.967181
Point within TMK: (4) 3-3-004:020
1943 Welau St
Lihue, Hawaii 96766
FIRM panel at point: 1500020309E
Flood zone at point: X
Flood zone(s) on parcel: X
Zoom
Real Property
FIRMette
LOMC
Print Map
PANEL
0020307E
9/16/2005
PANEL
1500020309E
eff. 9/16/2005
PANEL
1500020326
eff. 11/26/20
Puhi
Zone A


Project Site
Puhi
Lihue
Vidinha Stadium
NAWILIWILI
Sea Level Rise
Exposure Area
3.2 ft scenario
500 m
2000 ft
PacIOOS

SECTION 6

Schematic Site Development Plans

e. Setbacks
f. Lot Coverage
g. Off-street Parking



PROGRAM SUMMARY

TOTAL BUILDING COUNT: 6
- (1) Community Building
- (3) Building Type A
- (2) Building Type B

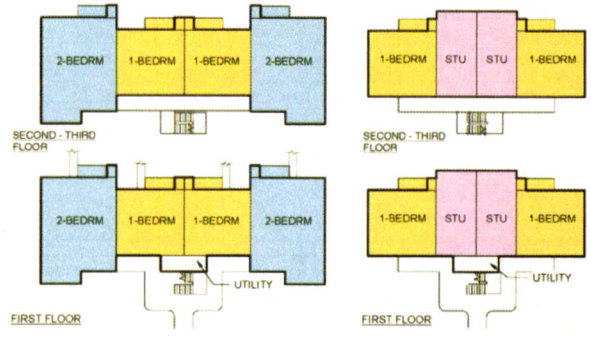
TOTAL UNIT COUNT:
- (12) Studio
- (30) 1-Bedroom
- (18) 2-Bedroom

TOTAL PARKING COUNT: 100 Stalls
- (90) Residential Parking (1.5 stalls / units)
- (4) ADA Parking
- (2) EV Parking
- (4) Guest Parking

LOADING COUNT: 1 Stall

BIKE PARKING: 41

			UNITS				Building Area (GSF)	
Unit Type			Studio	1-Bed	2-Bed	Sub-total	Building Area / Flr (GSF)	Total Building Area (GSF)
Unit Size (SF)			425	617	991			
Building B	3rd Flr	Unit / Flr	2	2		4	2,311	7,533
	2nd Flr		2	2		4	2,311	
	1st Flr		2	2	-	4	2,311	
	Bldg #				2			
	Total		12	12	0	24		15,066
Building A	3rd Flr	Unit / Flr	-	2	2	4	3,620	10,860
	2nd Flr		-	2	2	4	3,620	
	1st Flr		-	2	2	4	3,620	
	Bldg #				3			
	Total		0	18	18	36		32,580
Community Building				-				2,971
Total Unit Count / Total Area			12	30	18	60	50,617 GSF	
			20%	50%	30%			

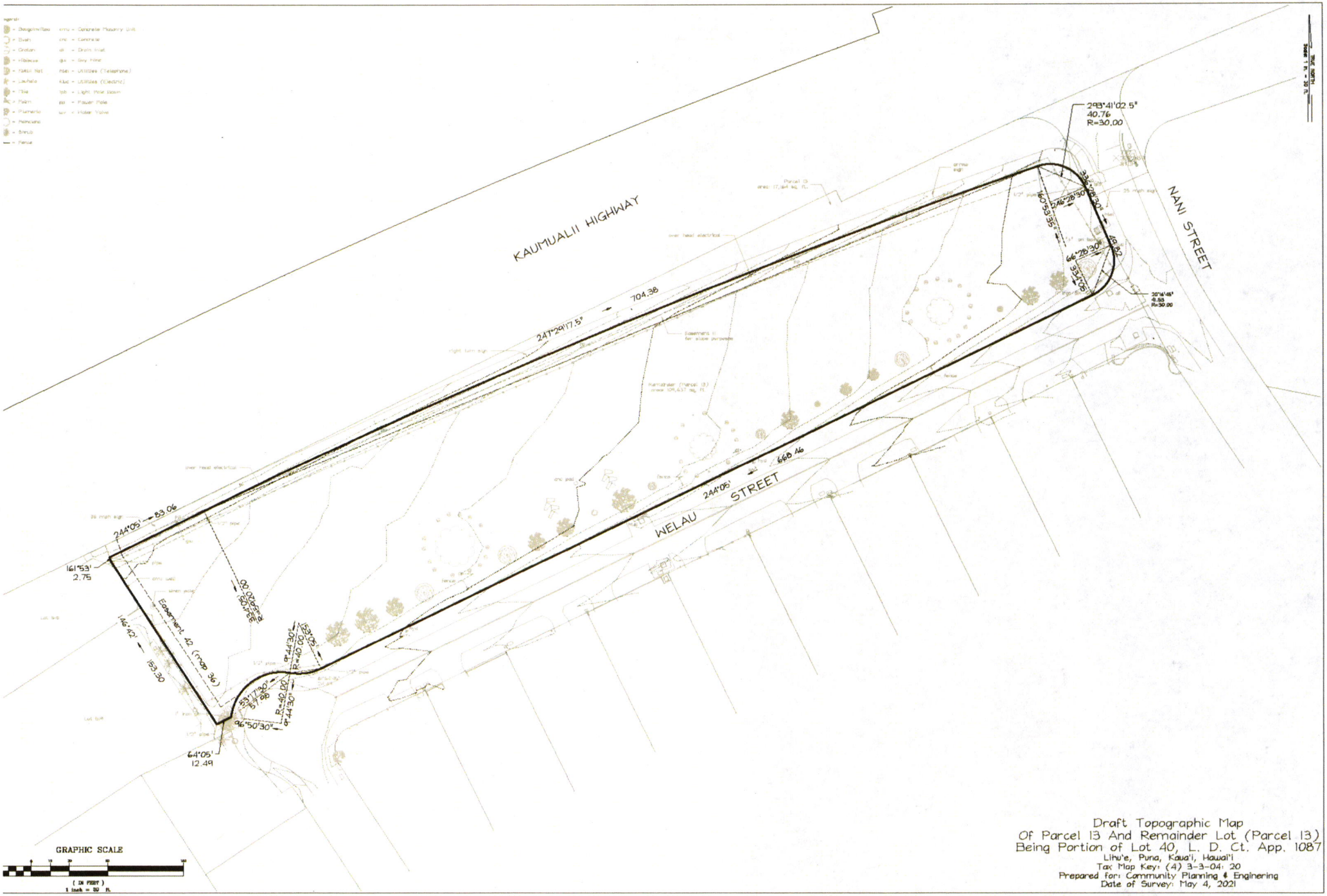


SITE PLAN

SECTION 6

Schematic Site Development Plans

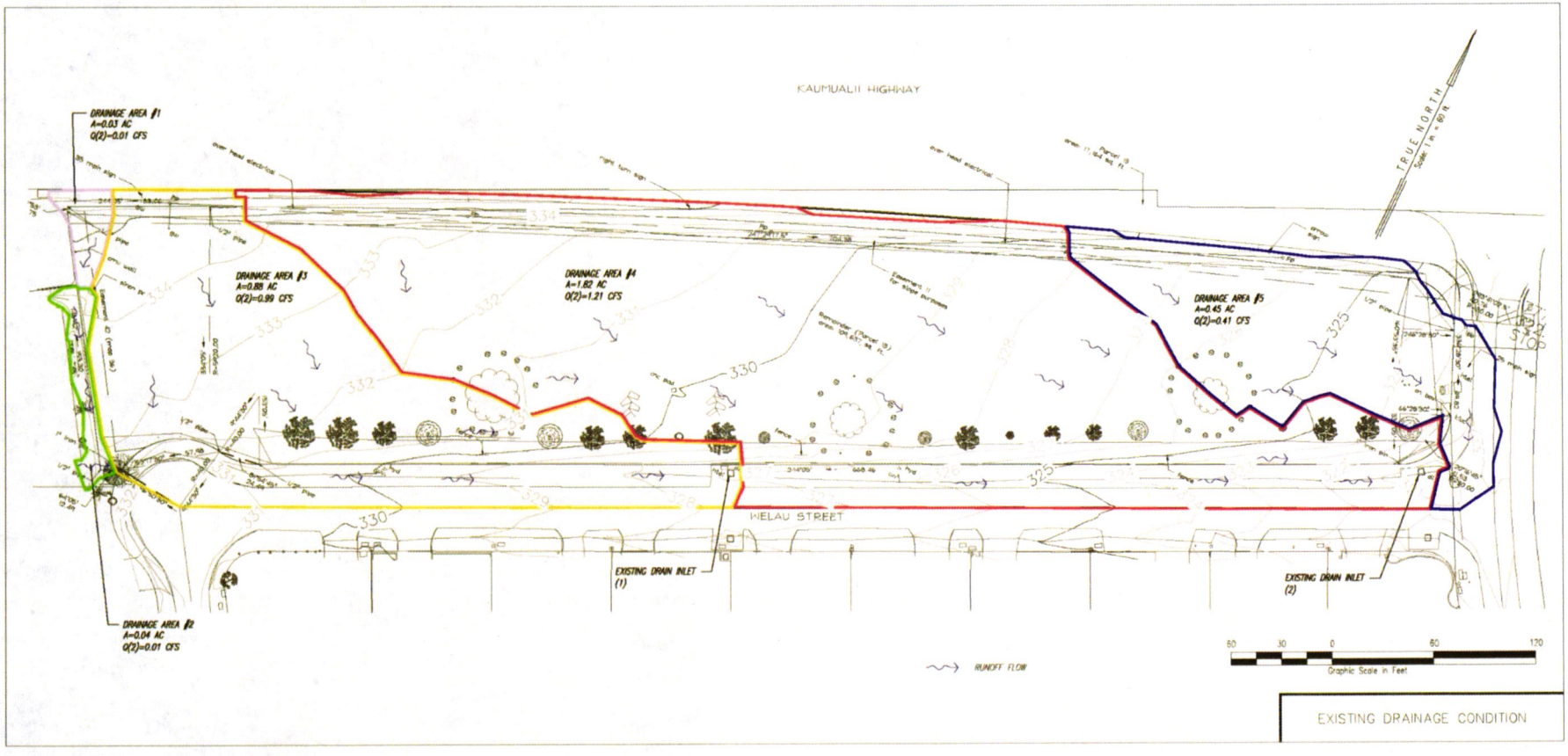
h. Topography and Drainage
i. Roadways and Site Access



Draft Topographic Map
Of Parcel 13 And Remainder Lot (Parcel 13)
Being Portion of Lot 40, L. D. Ct. App. 1087
Lihu'e, Puna, Kaua'i, Hawai'i
Tax Map Key: (4) 3-3-04: 20
Prepared for: Community Planning & Enginering
Date of Survey: May 4, 2021

ESAKI SURVEYING & MAPPING, INC.
Civil Engineers - Land Surveyors - Planners
1610 Haleukana Street
Lihue, Hawaii 96766

EXHIBIT 8

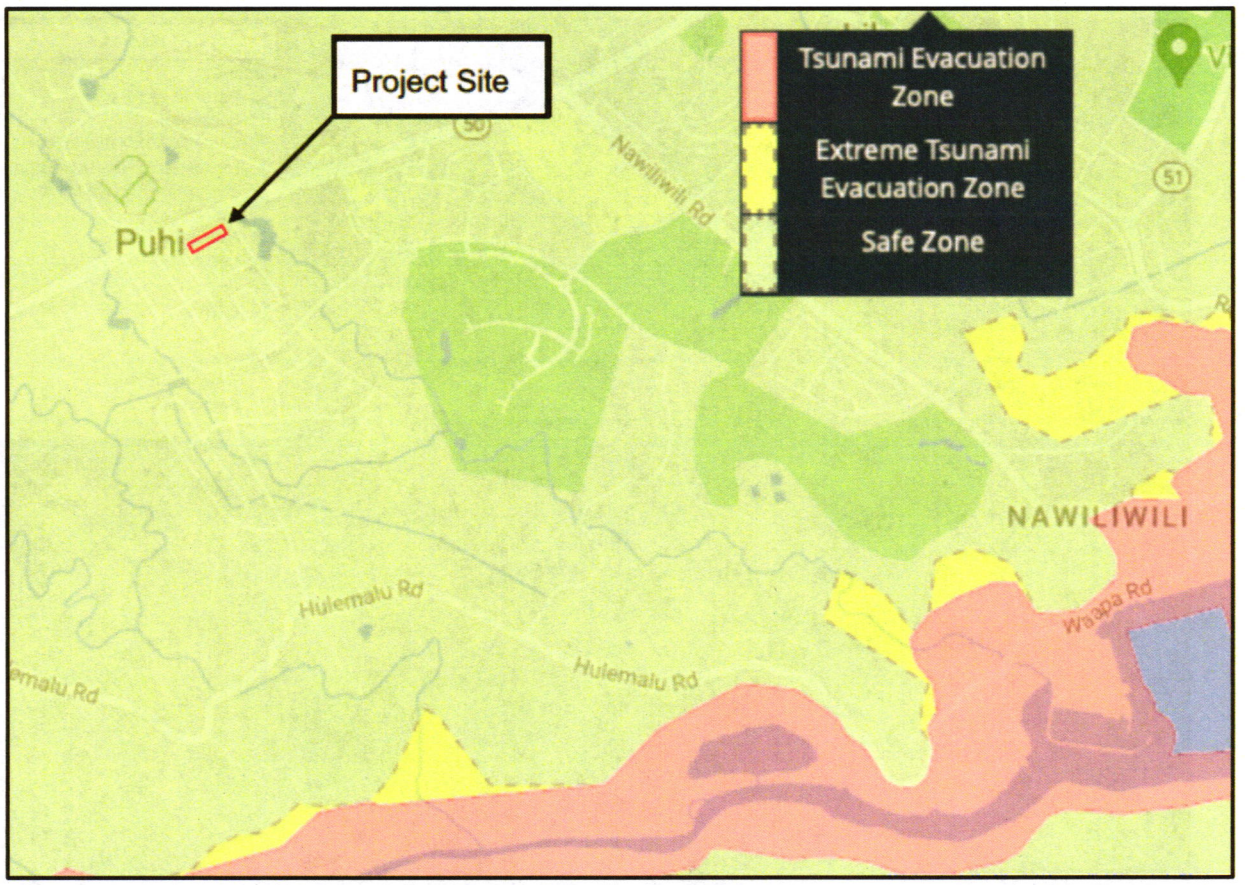

KAUMUALII HIGHWAY
WELAU STREET
TRUE NORTH
Scale: 1in. = 60ft
DRAINAGE AREA #1
A=0.03 AC
Q(2)=0.01 CFS
DRAINAGE AREA #2
A=0.04 AC
Q(2)=0.01 CFS
DRAINAGE AREA #3
A=0.88 AC
Q(2)=0.99 CFS
DRAINAGE AREA #4
A=1.82 AC
Q(2)=1.21 CFS
DRAINAGE AREA #5
A=0.45 AC
Q(2)=0.41 CFS
EXISTING DRAIN INLET (1)
EXISTING DRAIN INLET (2)
RUNOFF FLOW
60 30 0 60 120
Graphic Scale in Feet
EXISTING DRAINAGE CONDITION

SECTION 6

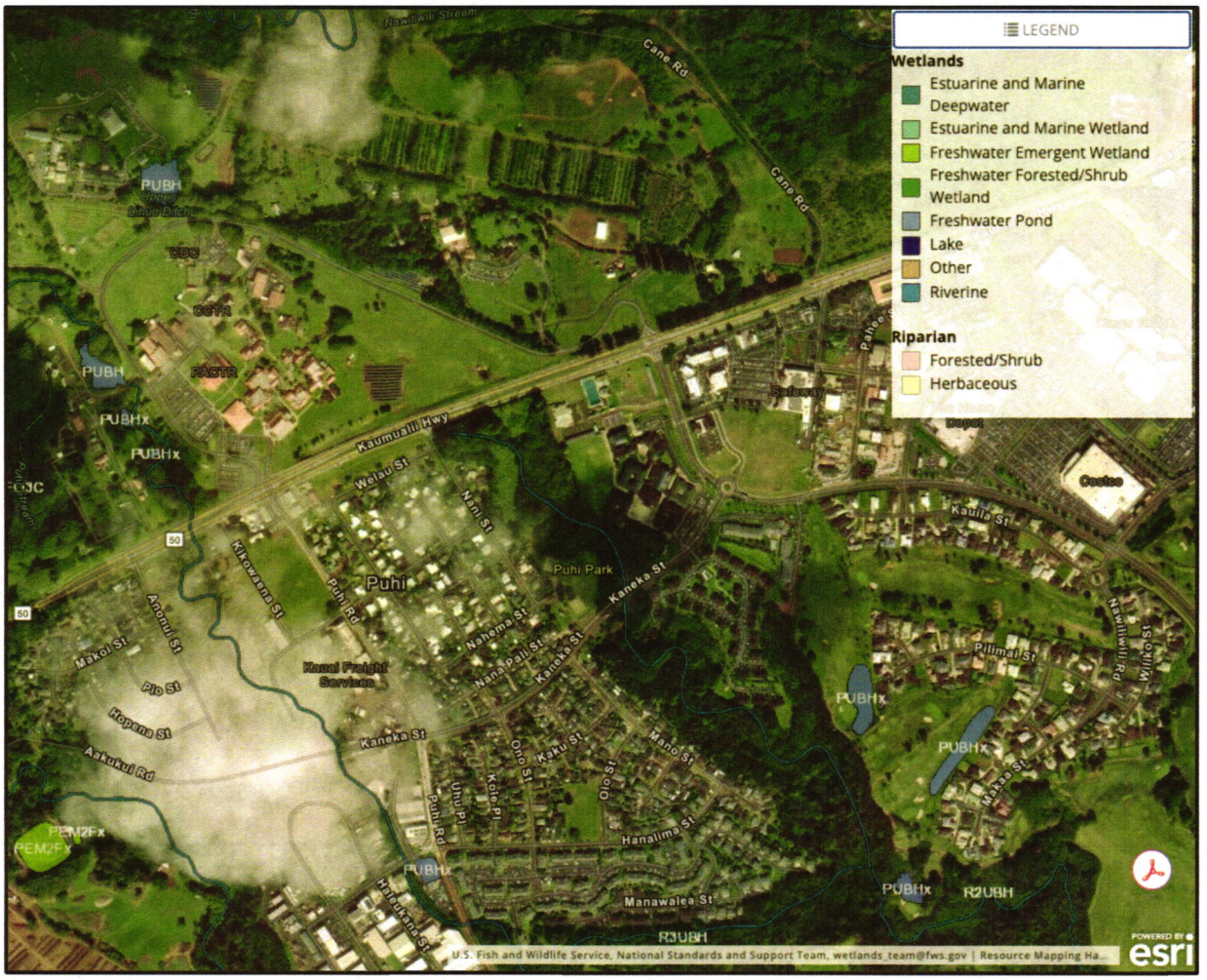
Schematic Site Development Plans

j. Tsunami & Wetlands Maps
k. Landscape Site Plans

j. Tsunami Map & Wetlands Map



k. Landscaping

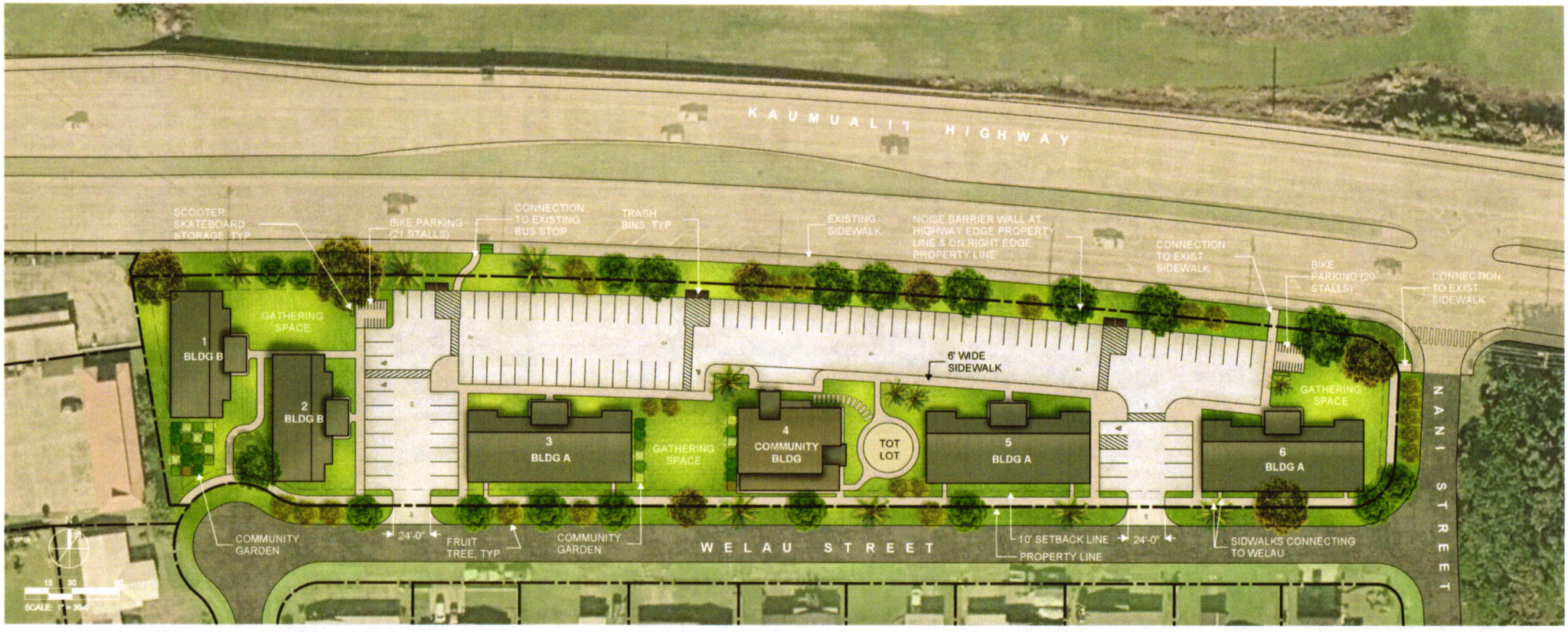


SECTION 6

Schematic Site Development Plans

I. Shoreline Setbacks
NOT APPLICABLE

SECTION 7
Conceptual Building Plans



PROGRAM SUMMARY

TOTAL BUILDING COUNT: 6
- (1) Community Building
- (3) Building Type A
- (2) Building Type B

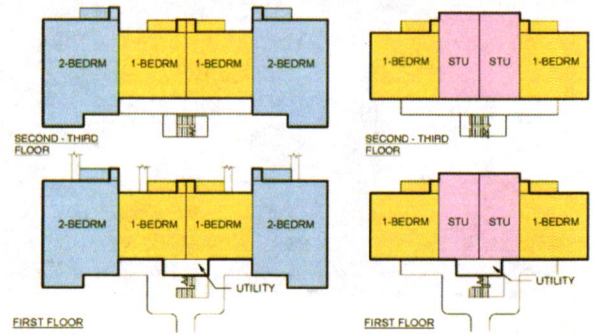
TOTAL UNIT COUNT:
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- (4) Guest Parking

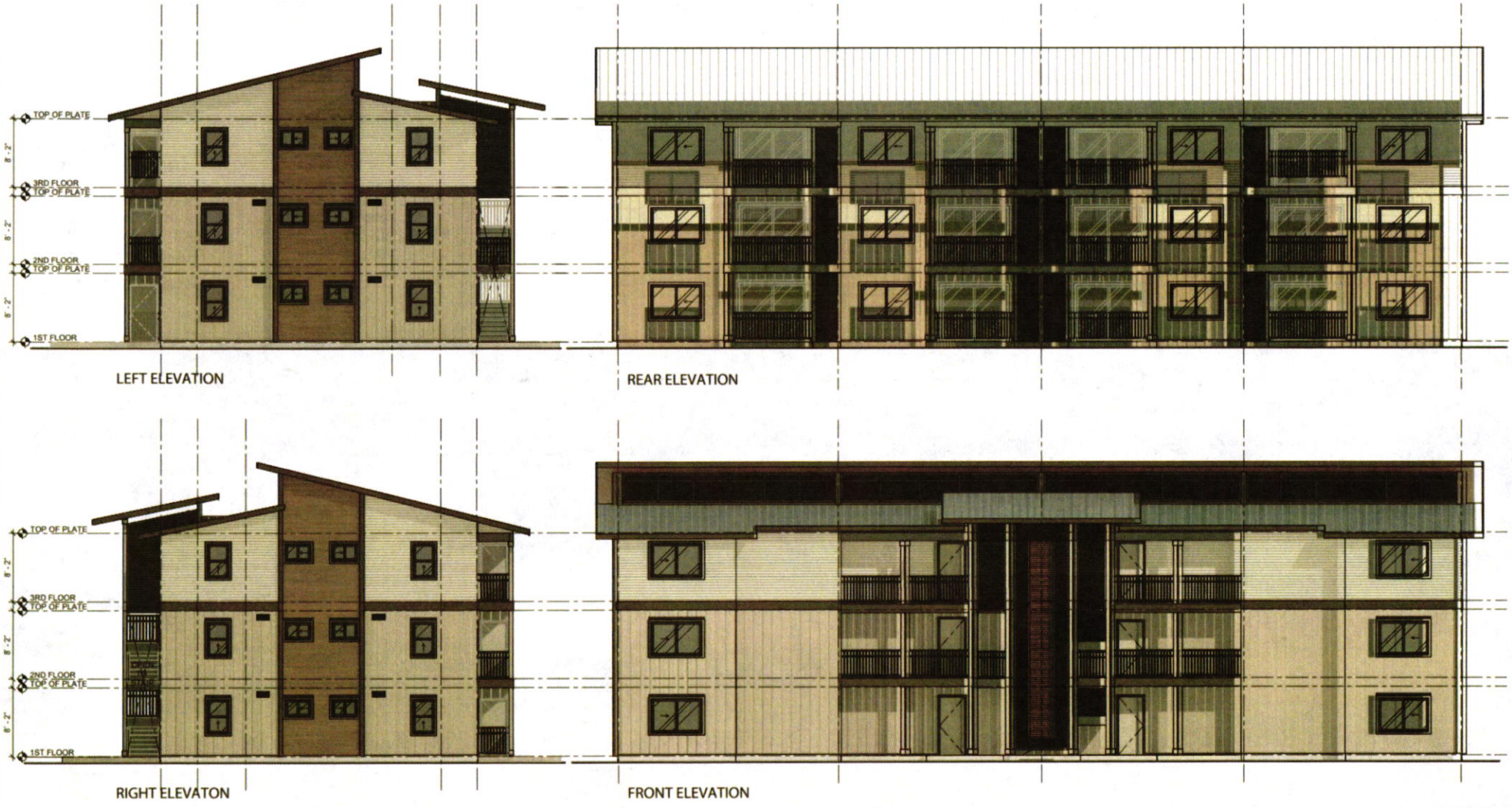
LOADING COUNT: 1 Stall

BIKE PARKING: 41

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	2nd Flr		2	2	-	4	2,511	
	1st Flr		2	2	-	4	2,511	
	Bldg #		2					
	Total		12	12	0	24		15,066
Building A	3rd Flr	Unit / Flr	-	2	2	4	3,620	10,860
	2nd Flr		-	2	2	4	3,620	
	1st Flr		-	2	2	4	3,620	
	Bldg #		3					
	Total		0	18	18	36		32,580
Community Building			-					2,971
Total Unit Count / Total Area			12	30	18	60	50,617 GSF	
			20%	50%	30%			

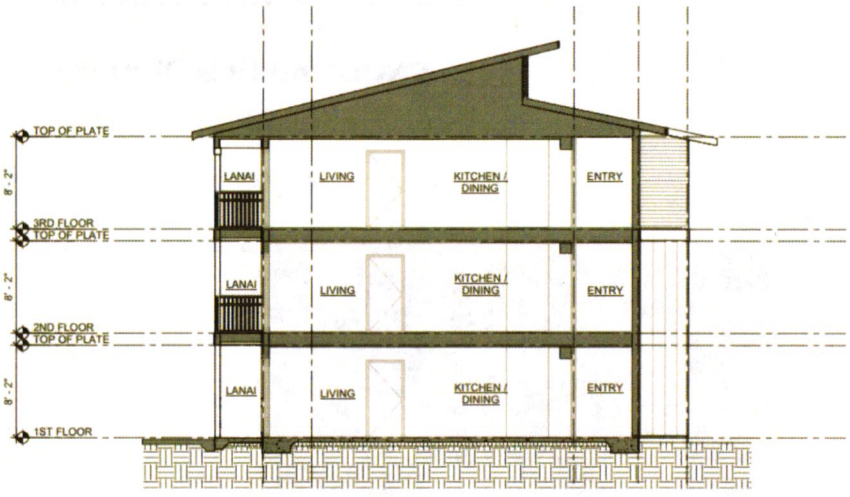


SITE PLAN

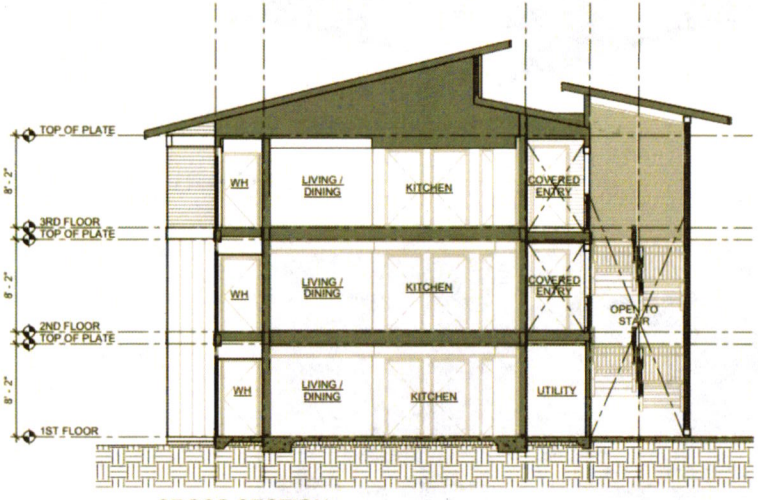


BUILDING A ELEVATIONS

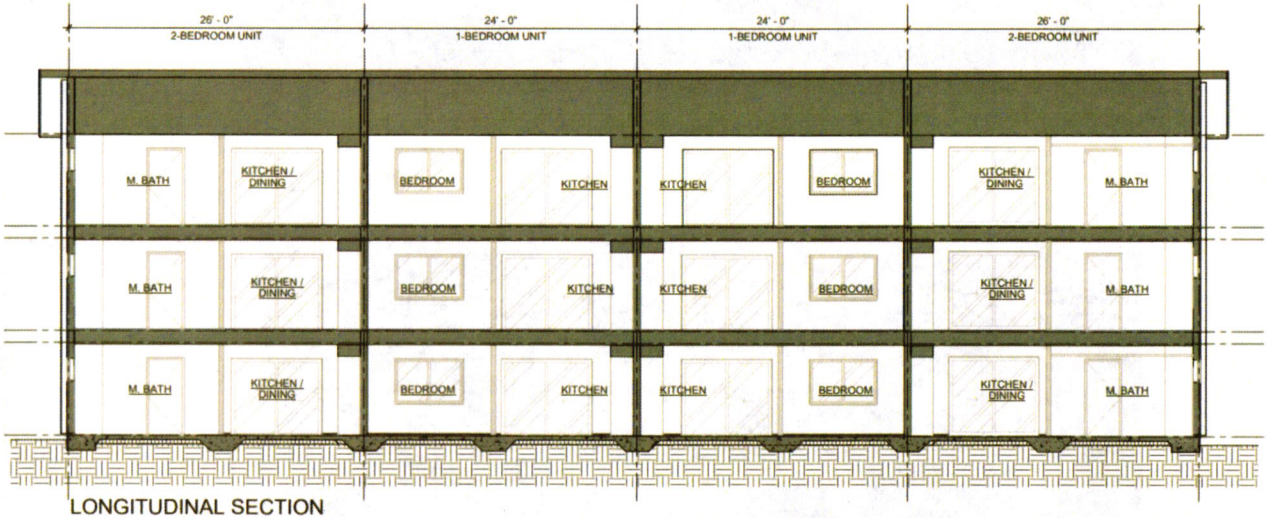
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CROSS SECTION



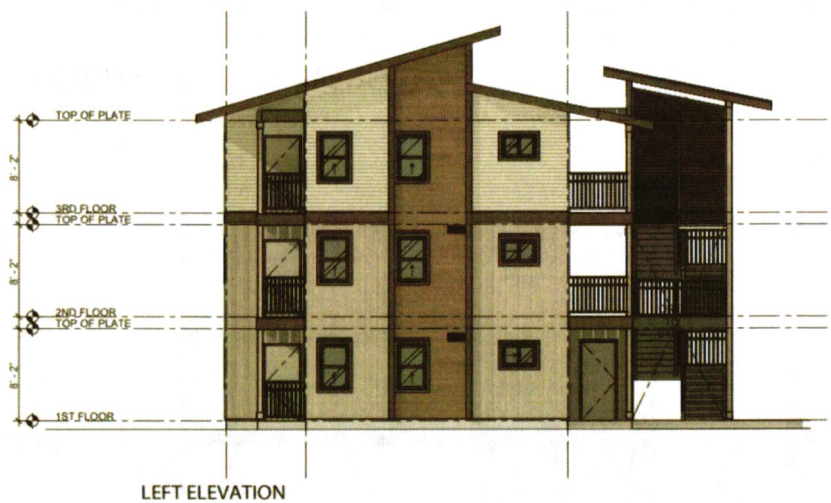
CROSS SECTION



LONGITUDINAL SECTION

BUILDING A _ SECTIONS

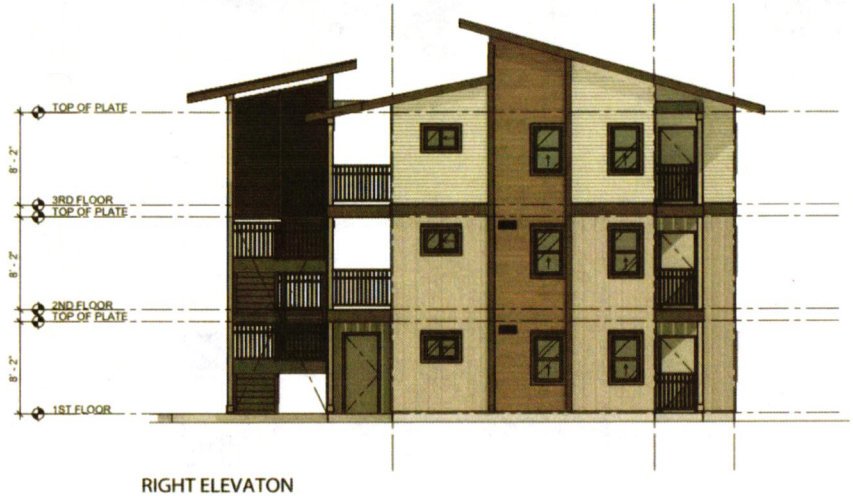
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LEFT ELEVATION



REAR ELEVATION



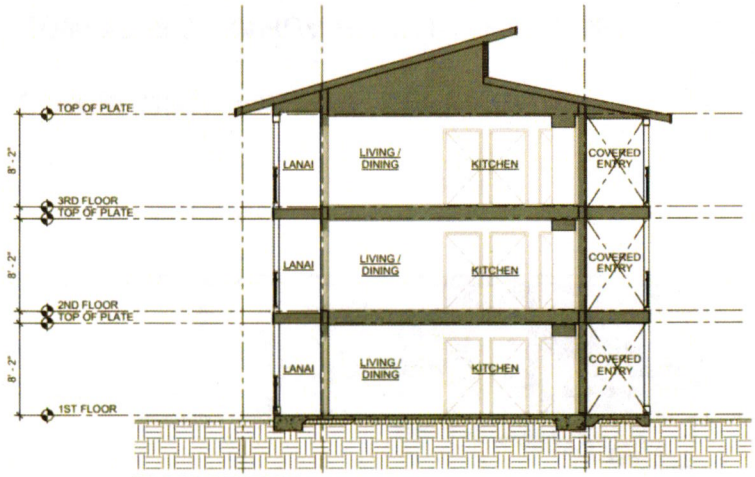
RIGHT ELEVATON



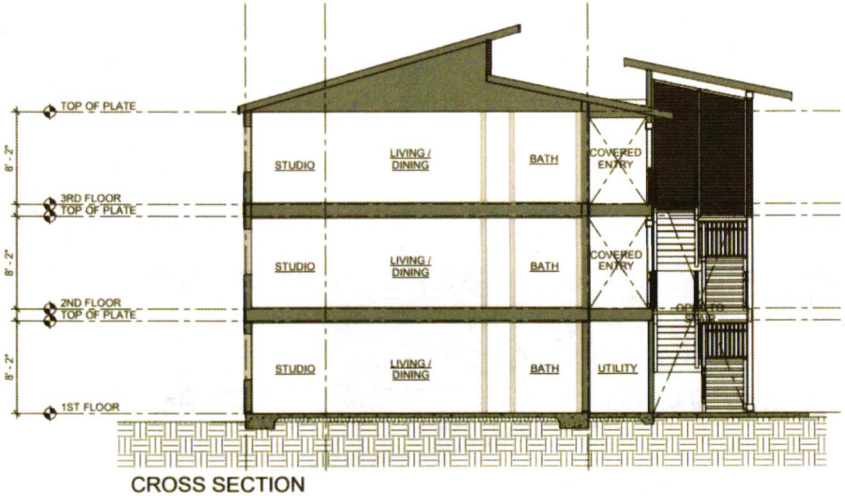
FRONT ELEVATION

BUILDING B ELEVATIONS

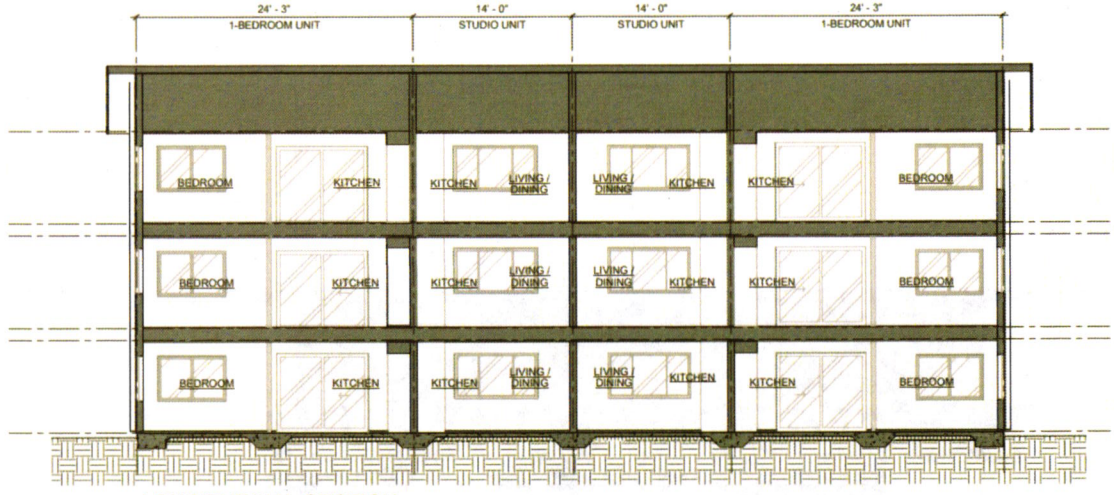
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CROSS SECTION



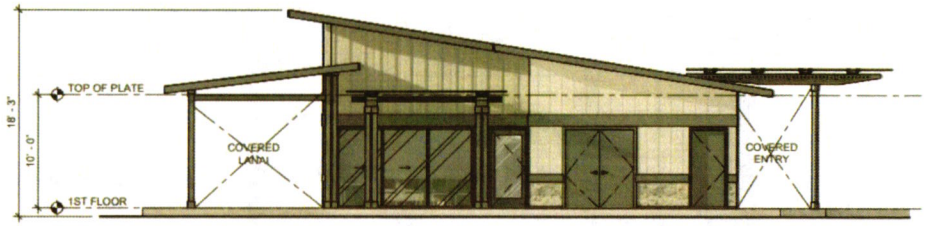
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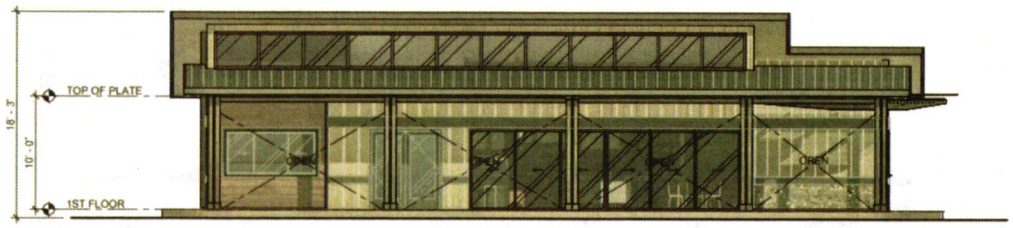
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BUILDING B _ SECTIONS

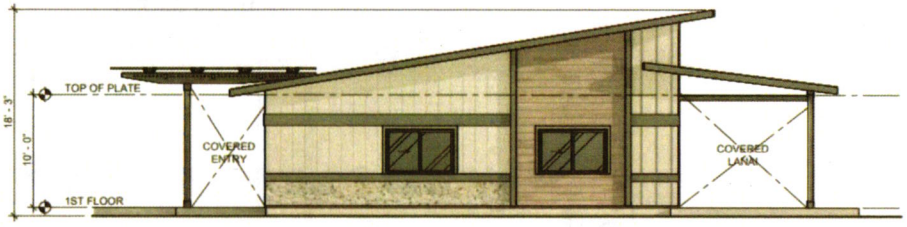
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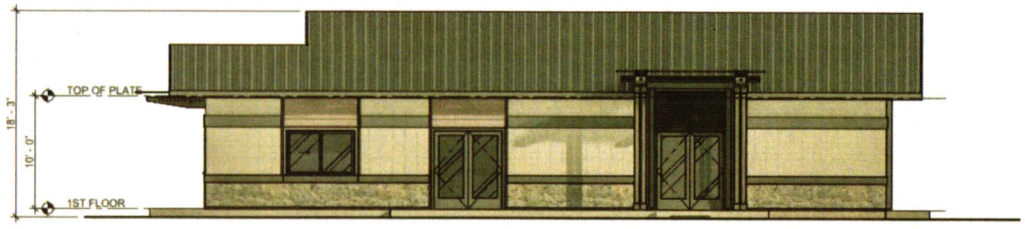
LEFT ELEVATION



REAR ELEVATION



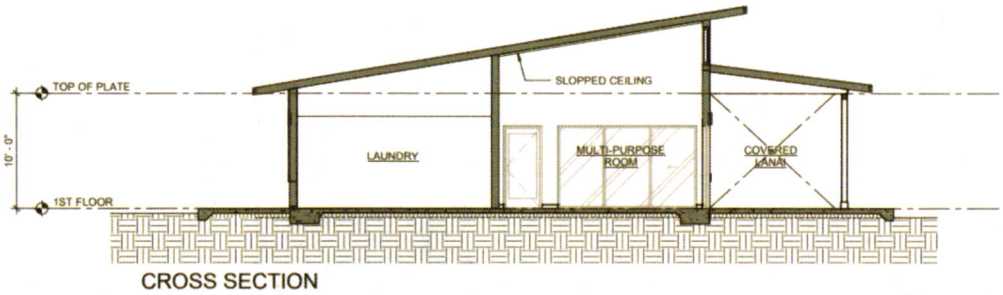
RIGHT ELEVATON



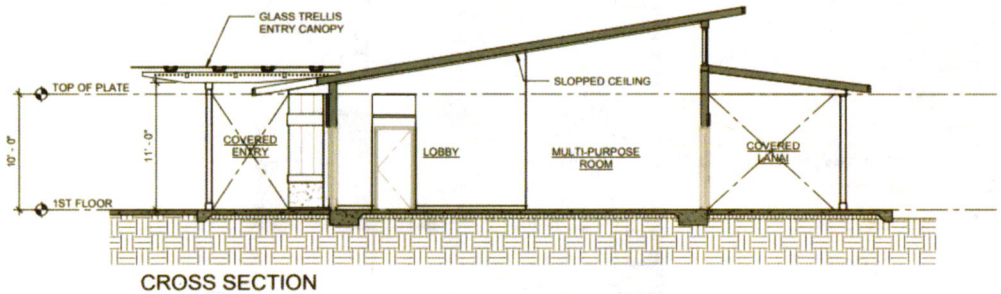
FRONT ELEVATION

COMMUNITY BUILDING ELEVATIONS

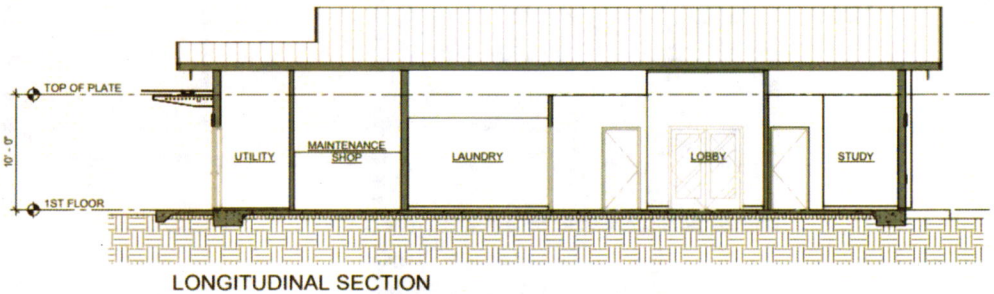
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CROSS SECTION



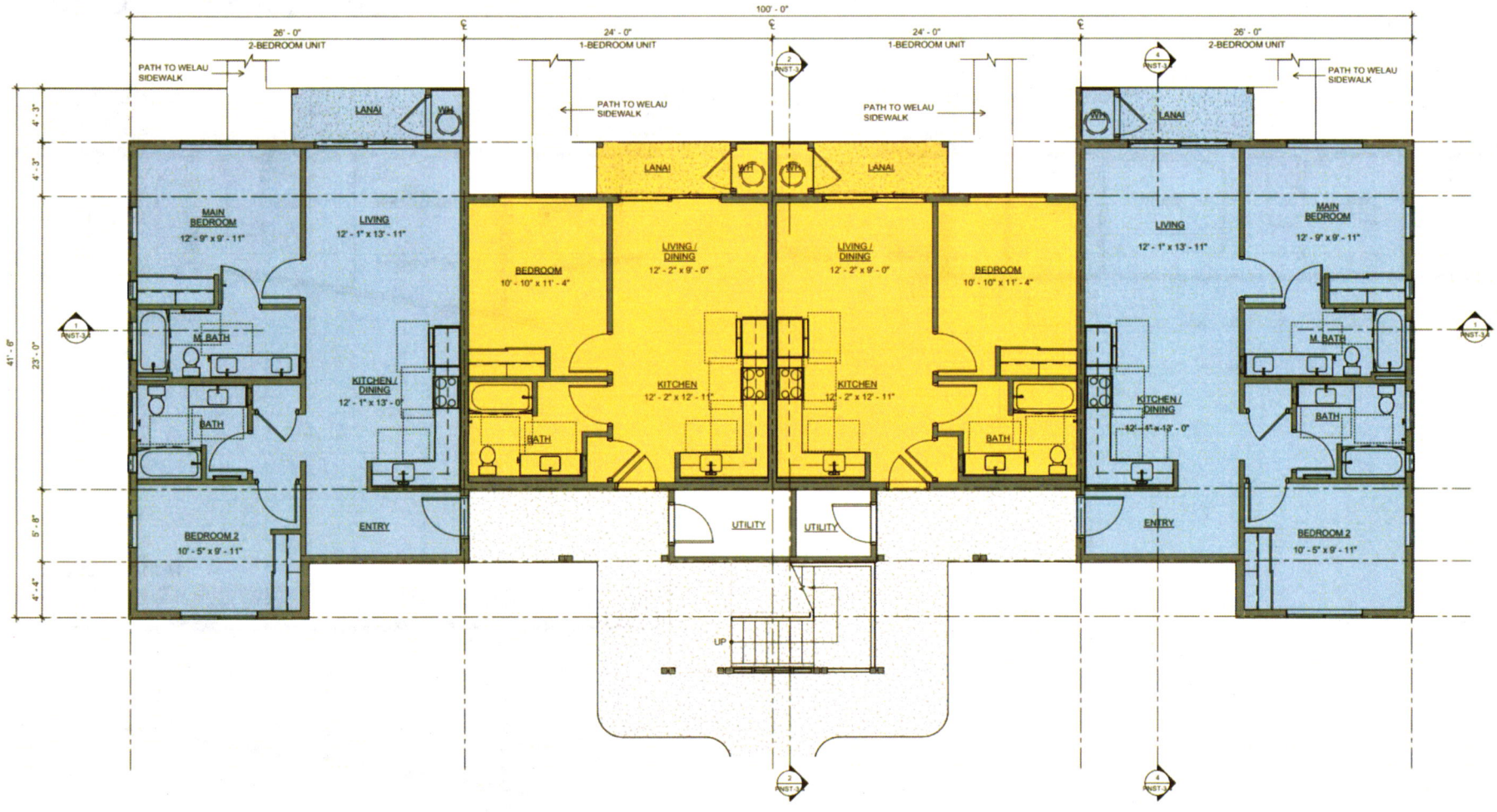
CROSS SECTION



LONGITUDINAL SECTION

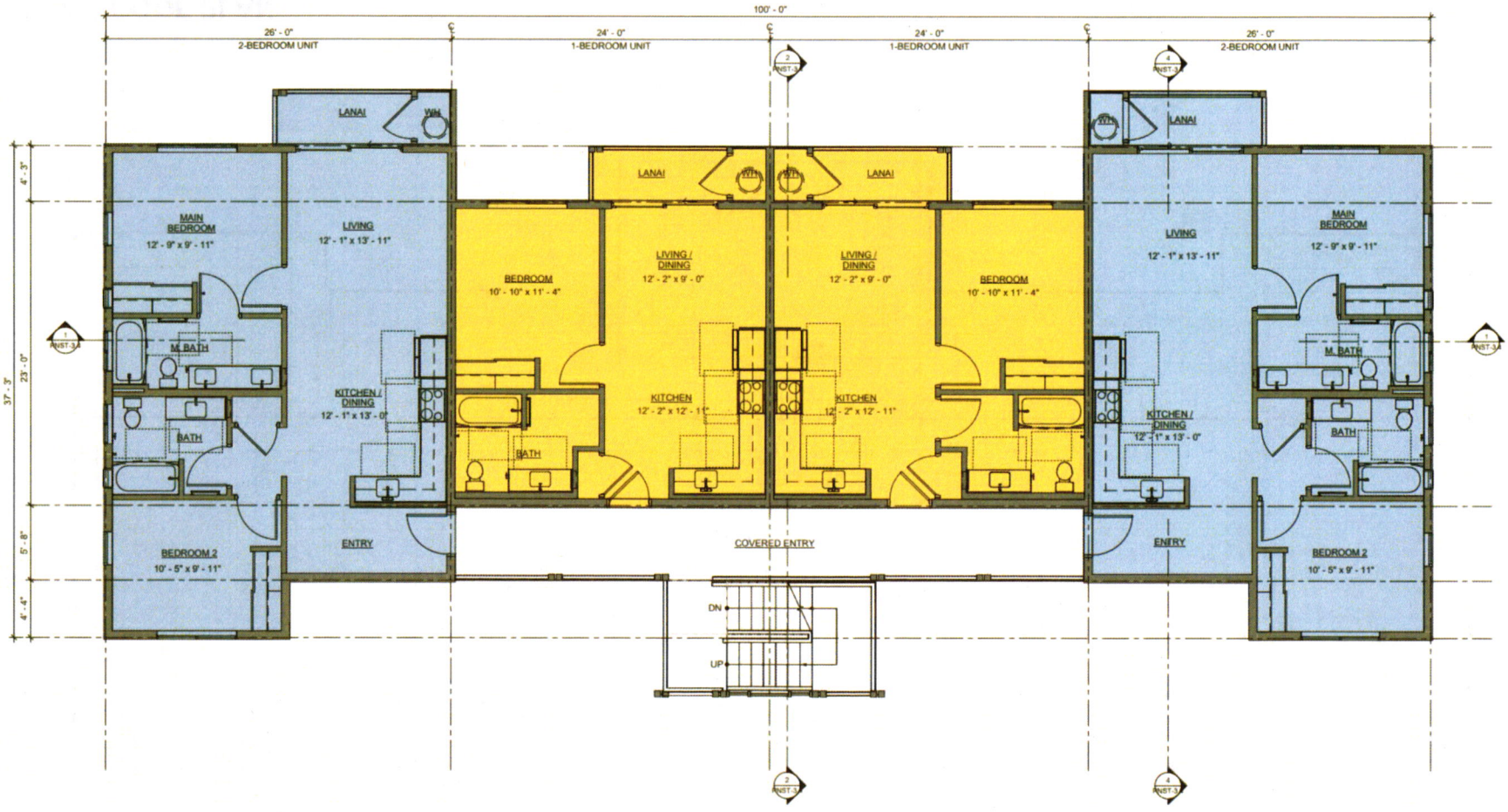
COMMUNITY BUILDING SECTIONS

SCALE: 3/16" = 1'-0



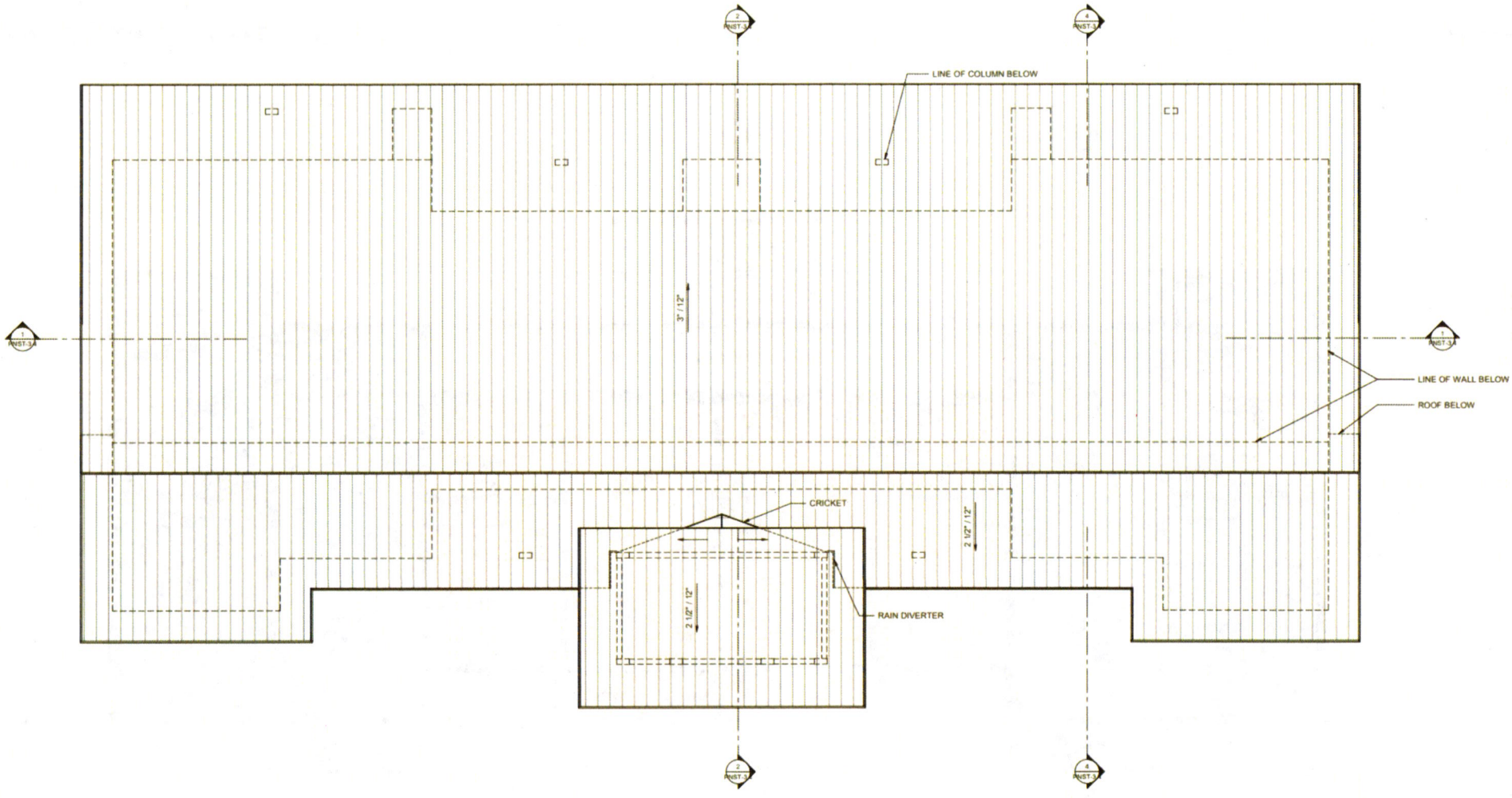
BUILDING A _ GROUND FLOOR PLAN

SCALE: 1/4" = 1'



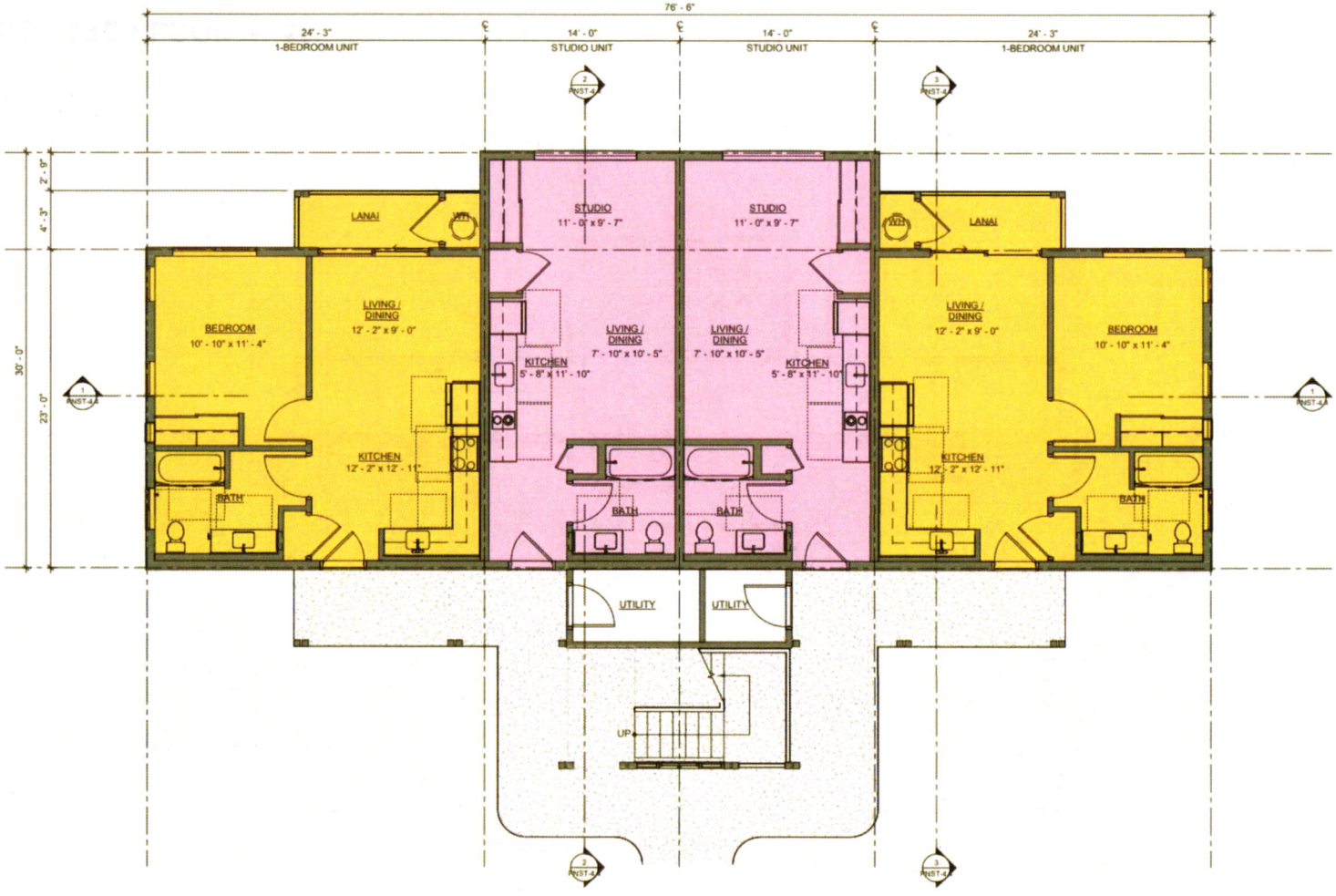
BUILDING A _ 2ND - 3RD FLOOR PLAN

SCALE: 1/4" = 1'-0"



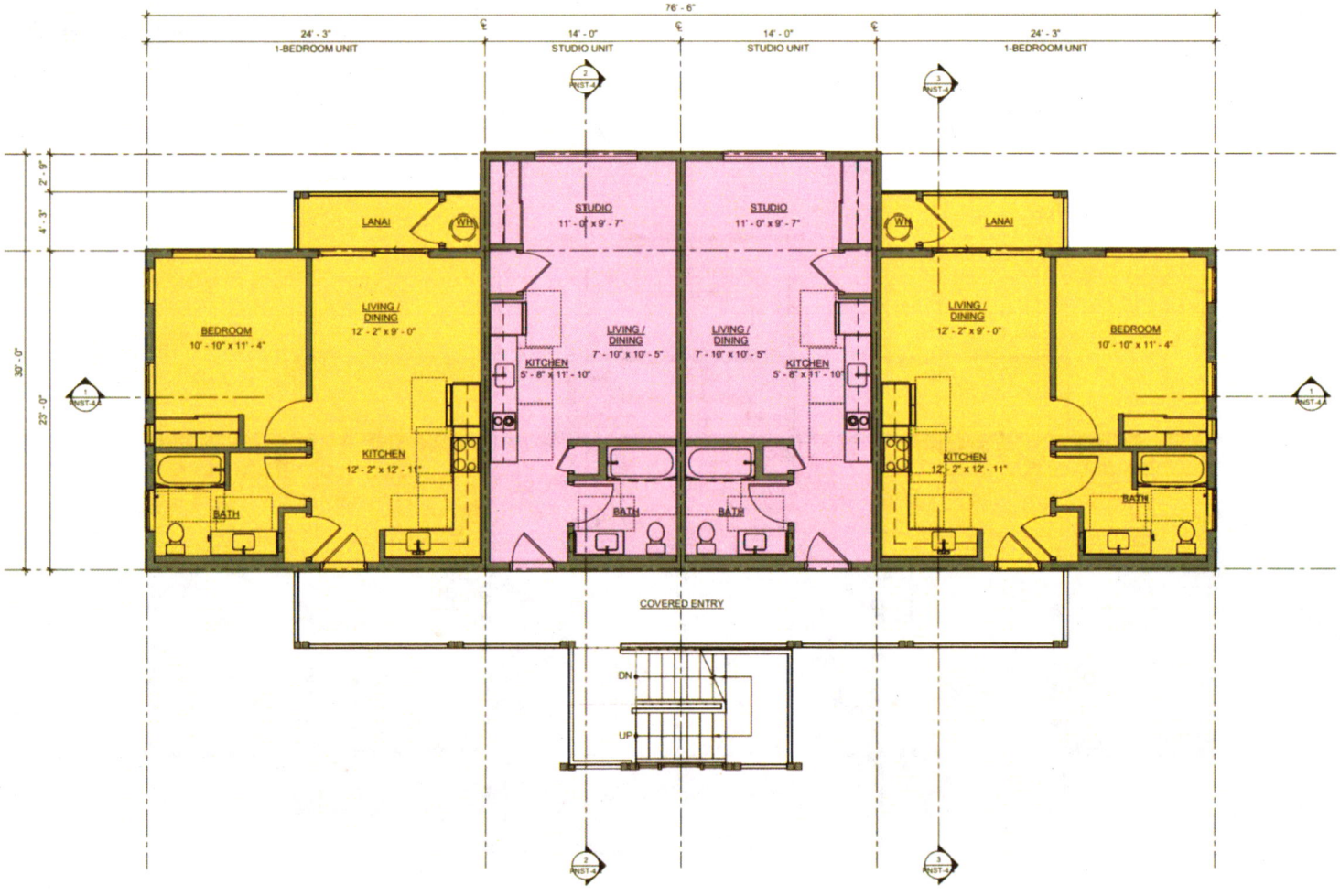
BUILDING A _ ROOF PLAN

SCALE: 1/4" = 1'-0"



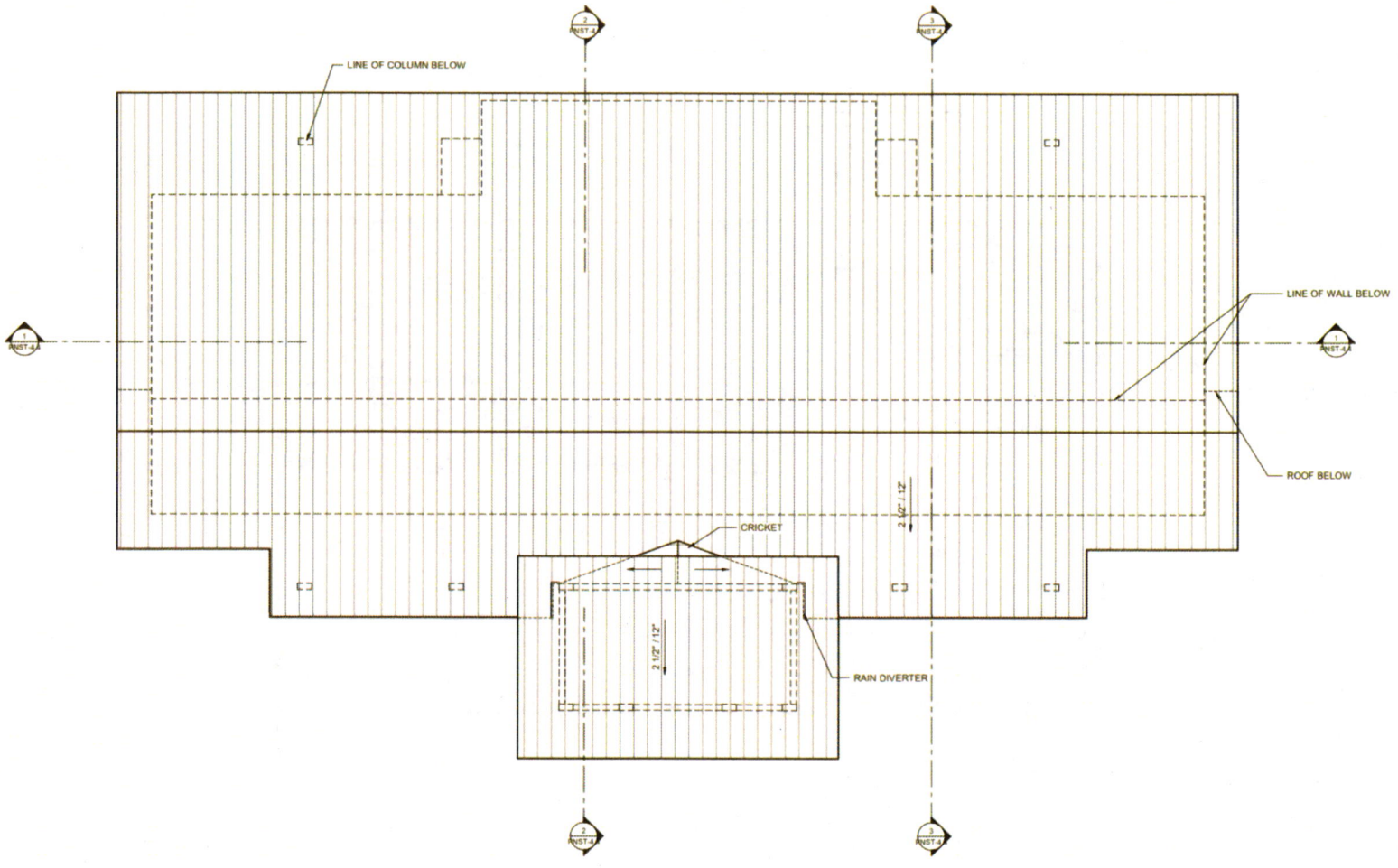
BUILDING B _ GROUND FLOOR PLAN

0 2' 4' 6'
SCALE: 1/4" = 1'-0"



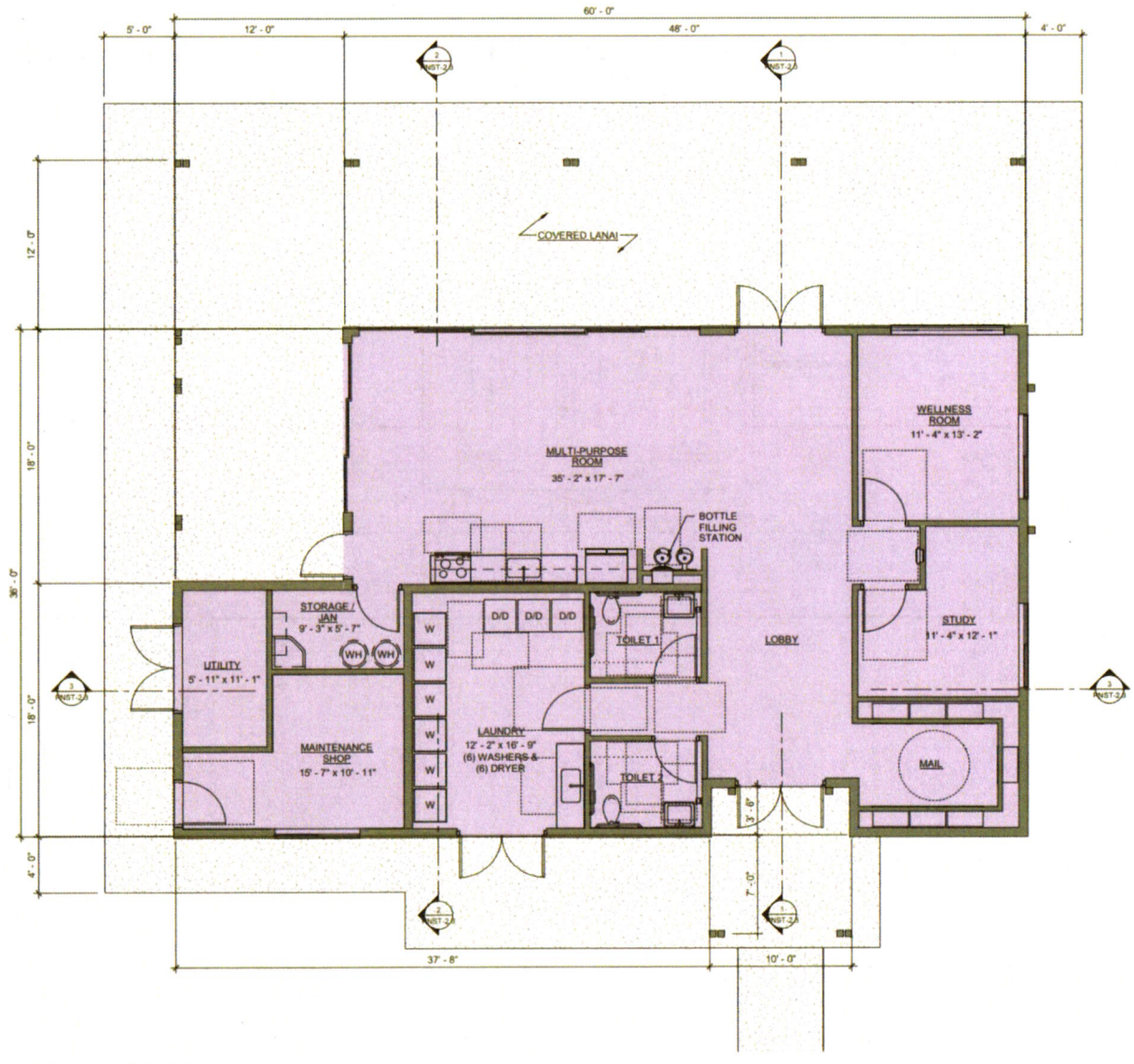
BUILDING B _ 2ND - 3RD FLOOR PLAN

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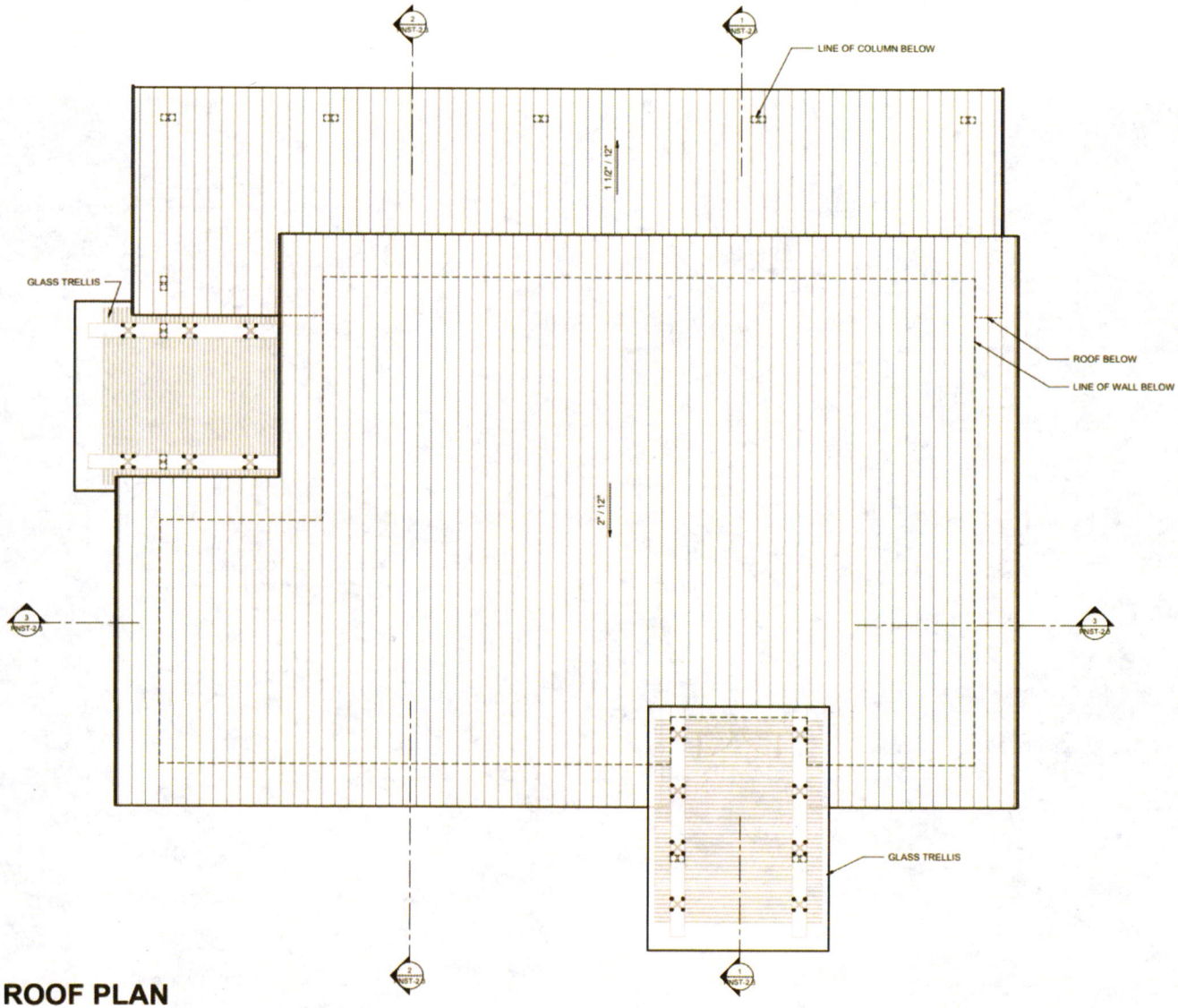
BUILDING B _ ROOF PLAN

SCALE: 1/4" = 1'-0"



COMMUNITY BUILDING FLOOR PLAN

0 2' 4' 6'
SCALE: 1/4" = 1'-0"



COMMUNITY BUILDING ROOF PLAN

SCALE: 1/4" = 1'-0"



VISUALIZATION STUDY



VISUALIZATION STUDY



VISUALIZATION STUDY



VISUALIZATION STUDY



VISUALIZATION STUDY



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VISUALIZATION STUDY

SECTION 8
Written Requirements

8. Written Statements

a. Proposed Project, Uses, Operation and Management

Background

The County of Kaua'i identified this underutilized, County-owned parcel in Puhi as the best available County land for affordable housing: centrally located in an urban area, close to public transportation, job centers, Kaua'i Community College, and existing utilities, and outside any designated flood zone. Following completion of the Chapter 343 environmental review in May 2024, the Kaua'i County Housing Agency selected Ikenākea Development, LLC through a competitive process to develop, finance, construct, and operate the project. The Housing Agency's environmental assessment itself anticipated this application, noting that a Project Development Use Permit would be required to allow the residential density proposed for this affordable housing project. The project site is Lot 440-A, TMK (4) 3-3-004:020, approximately 2.52 acres (109,637 square feet), located in the State Land Use Urban District and the County Open (O) District.

Proposed Project and Uses

Kahua Ho'oulu — "a place to inspire growth" — is a 60-unit mixed-income affordable rental community designed to serve Kaua'i's working families while sustaining long-term affordability and cultural integrity. As shown on the MASON site plan, the project comprises six buildings: five three-story wood-frame-over-concrete-slab residential buildings of twelve units each (three Building Type A, two Building Type B) and one community building, organized around open gathering spaces, community gardens, a tot lot, and fruit trees. The unit mix is 12 studio units at 425 square feet, 30 one-bedroom units at 617 square feet, and 18 two-bedroom units at 991 square feet. Parking totals 100 stalls (90 resident at 1.5 stalls per unit, 4 guest, 4 ADA, 2 EV) with 41 bicycle stalls, a loading stall, and scooter/skateboard storage. Three units will be fully accessible.

Income targeting spans 30% to 120% of the Kaua'i area median income under two coordinated funding tracks within one ownership entity and one ground lease — LIHTC-restricted units and workforce units at 80–120% AMI. There will be approximately 15 units at or below 30% AMI, 29 at or below 60%, 8 at or below 80%, 4 at or below 100%, and 3 at or below 120%. Affordability will be maintained for 65 years through recorded use restrictions. The sixtieth unit is an on-site resident manager's unit, unrestricted as to income, consistent with the current project pro forma.

The community building extends the site's existing community function and its relationship to Kaua'i Community College directly across Kaumuali'i Highway. Site design responds to agency comments received through the Chapter 343 process: buildings organized to reduce area devoted to pavement, common gathering spaces shared with the surrounding community, minimized perimeter walls and fencing, and a pedestrian connection to the existing Kaumuali'i Highway bus stop, subject to a State Department of Transportation permit for work within the highway right-of-way, with noise attenuation along the highway frontage. Consistent with the Land Court subdivision order, which restricts vehicle access along the highway frontage, all vehicular access will be from Welau and Nani

Streets. Development schedule per the RFP submittal: pre-development beginning October 2025, construction start August 2028, completion February 2030, and projected occupancy August 2030.

Affordability and Financing

Total development cost is currently estimated at approximately $54.3 million, financed through Low-Income Housing Tax Credit equity (approximately $28.2 million), Rental Housing Revolving Fund (approximately $14.1 million), HOME Investment Partnerships funds ($3.16 million committed, serving households at or below 60% AMI), National Housing Trust Fund ($2.83 million committed, serving households at or below 30% AMI), a County off-site sewer grant ($2.0 million), a permanent loan (approximately $4.1 million), and deferred developer fee (approximately $618,000). The project is targeting the 2027 Qualified Allocation Plan round. The HOME, HTF, and off-site sewer funds were committed through the County's Notice of Award dated November 10, 2025 (Exempt RFP No. 2026-XRFP-3; Contract No. 10485), in the amounts of $3,158,740.34 (HOME), $2,831,735.88 (HTF), and $2,000,000 (County Housing Development Funds for the off-site sewer). HOME and HTF funds will be structured as a grant to the Hawaiian Community Development Board, which will provide a 0.5% loan to a to-be-formed entity in which 'Ikenākea Development is the managing member.

The applicant intends to pursue a PBV allocation with the Kaua'i County Housing Agency to deepen affordability and strengthen operating stability. Regulatory agreements recorded against the leasehold will secure affordability for the long term.

As reflected in the table below, Kahua Ho'oulu will provide long-term affordable multi-family housing at rents that accommodate a range of households.

Unit Size	30% AMI	50% AMI	60% AMI	80% AMI	100% AMI	120% AMI	Manager's Unit	Total
Studio	6		6					12
1-Bedroom	6		19	4			1	30
2-Bedroom	3		4	4	4	3		18

**Table subject to change*

Operation and Management

The County of Kaua'i will retain fee title and ground-lease the site to a to-be-formed entity with 'Ikenākea Development, LLC, as managing member, ensuring the land remains in public ownership and the housing remains affordable in the long term. 'Ikenākea Development, LLC, as managing member, will oversee development and asset management. Nan, Inc., with extensive affordable housing, infrastructure, and vertical construction experience throughout Hawai'i, will serve as general contractor for both site and vertical construction. Indigo Real Estate will serve as the property manager and will administer income certifications and compliance under LIHTC, HOME, and HTF requirements.

Sustainability Strategies

The project will incorporate energy- and water-efficient design consistent with the County's sustainability objectives, including Energy Star appliances, low-flow plumbing fixtures, LED lighting, and on-site stormwater infiltration in lieu of direct discharge.

b. Summary of Permits or Land Use Amendments

Through the PDU, the Project is seeking flexibility and deviations from the O District use and development standards to develop a Project that is more consistent with the R-20 Residential Zoning District. The details of the variances requested can be found in *Section 8.c* of this application.

Other approvals required to implement the project, to be obtained in accordance with each agency's requirements:

Federal:

- NEPA/HUD environmental compliance under 24 CFR Part 58
- National Historic Preservation Act Section 106 review, together with HUD subsidy layering review associated with HOME/HTF and any Project-Based Vouchers

State of Hawai'i:

- HRS Chapter 343 compliance (complete — FEA-FONSI published May 2024, Section 12);
- HRS Chapter 6E historic preservation review meeting HAR §13-279-4 (Accepted by SHPD with Archaeological Monitoring HICRIS Project No. 2025PR01337)
- DOH Community Noise Permit under HAR Chapter 11-46 as required
- NPDES coverage under HAR Chapter 11-55 for construction stormwater discharges.

County of Kaua'i:

- Grubbing and grading permits
- Building permits for the residential buildings, community center, and infrastructure; and plan approvals for the off-site sewer line within County rights-of-way

Utilities:

- Department of Water approval of water demand calculations, construction drawings, and meter service
- Sewer connection approval from the Puhi Sewer & Water Company / Aqua Engineers

c. Analysis of Policies and Objectives of the General Plan, Community Development Plan, and Zoning District

Kaua'i General Plan

The proposed development directly advances the General Plan's affordable housing objectives. The cost of housing remains among the most significant economic obstacles facing Kaua'i residents, and this project delivers 60 income-restricted rental units on County land in the island's designated growth center, with recorded regulatory agreements ensuring that affordability is monitored and enforced for decades. The project also advances the General Plan's direction to concentrate growth in Līhu'e, to use land within the urban core efficiently rather than expanding onto agricultural lands, and to reduce vehicle dependence by locating housing where residents can walk, bike, or ride transit to jobs, education, and services.

The General Plan for the County of Kaua'i was updated in 2018 and provides broad goals, objectives, policies, and implementing actions that outline the direction of the County's future. The General Plan provides the policy framework for future development within Kaua'i County.

Section 1.4 of the Kaua'i County General Plan includes the following policies to guide future growth that are relevant to the proposed project:

Policy #1: Manage Growth to Preserve Rural Character
Policy #2: Provide Affordable Housing While Facilitating a Diversity of Privately-Developed Housing for Local Families
Policy #4: Design Healthy and Complete Neighborhoods
Policy #6: Reduce the Cost of Living
Policy #10: Help Business Thrive
Policy: 14: Prepare for Climate Change

Discussion: The proposed project would be an urban infill project that would represent sustainable development within the urban core, adjacent to existing housing and public transportation, rather than in outlying rural areas. The proposed action is an affordable housing project that will reduce the cost of living for low-income Kaua'i residents by reducing housing cost. The proposed action would result in new construction jobs/business, and is sited in a location away from the shoreline, and outside flood zones where climate change impacts are generally less severe.

Section 2.1 of the General Plan includes the following Future Land Use Objectives:

1. To accommodate Kaua'i's projected population growth and housing needs.
2. To meet future housing needs through "missing middle" housing types that are affordable by design and located near job centers.
3. To protect rural character by ensuring new growth is designed to be compact and focused around existing town centers.

4. To manage land use and development in a manner that respects the unique character of a place.
5. To locate residential growth in and near major jobs centers.
6. To increase overall community health through design that supports safe and accessible parks, streets, and other shared spaces.
7. To encourage the development of Līhu'e as Kaua'i's primary urban center with an urban edge boundary.
8. To increase resiliency by limiting development in areas impacted by future sea level rise.

Discussion: The proposed project represents a compact development within the primary urban center on Kaua'i: Līhu'e. The project site is located well above the shoreline area, increasing its future resiliency to sea level rise impacts.

Līhu'e Community Plan

The Līhu'e Community Plan, dated June 2015, provides direction for future land use and growth within Līhu'e town. The areas of Puhi, Pu'ali and Nuhou, where the project area is located, are described in the plan as a commercial destination and employment center for the island. An increase in density and mixed use around Puhi Park and Kukui Grove Shopping were recommended in the plan. The plan also states that Līhu'e is expected to experience the largest population growth of any planning district on Kaua'i. As such, Līhu'e is also expected to accommodate nearly half of all new needed housing units between 2010 and 2035.

Discussion: The proposed project is congruent with the goals of the Līhu'e Community Plan since the proposed development represents much needed new housing stock within Līhu'e's urban core. The proposed mixed use aspect of the proposed development also is consistent with the Līhu'e Community Plan.

Zoning District

The property is 2.91 acres in area located in the Open (O) District. The Project proposes an affordable rental multifamily development comprised of 60-units along with other ancillary uses such as a community building, and outdoor gathering spaces, tot lot, and resident and guest parking. These are would not be allowed in O District at the proposed density without deviations from the O District Development Standards, rezoning, variances, and/or 201H, HRS, exemptions. The Project Development Use (PDU) permit is the preferred entitlement process to obtain the necessary development exemptions.

The PDU is a discretionary zoning tool of the Kauai Comprehensive Zoning Ordinance (CZO, Section 8.10-4) that allows flexibility and density deviations for multifamily or affordable housing projects. Qualifying projects include federal/state subsidized lower-income multifamily housing developments which require density or design standard deviations. The PDU application is processed by Kauai County Planning Department and approved by the Kauai County Planning Commission. Though exemptions for the CZO standards may be granted, the Project must comply with applicable health

and safety regulations, and must satisfy environmental, drainage, traffic, and utility requirements set forth by the County.

The Project is consistent with CZO, Section 8.10, Project Development:

- It is consistent with the intended purpose of this article,
- The property is within the State Land Urban district and is large enough to qualify for the development of more than 10 dwelling units,
- It is compatible and complimentary to residential uses near the property,
- The development is located adjacent to an existing transit corridor that can benefit from and enhance multimodal transportation and will not create substantial traffic congestion, that cannot otherwise be mitigated, or interfere with projected public improvements,
- It is generally consistent with intent of the General Plan. The property is located within Puhi, a western urban neighborhood of Lihue, just eight minutes from the Wilcox Hospital, or five minutes from the Lihue Civic Center via Kaumualii Highway and sits across the highway from Kauai Community College; the Project expands housing development in the area,
- The development will occur on a single parcel of land and include an integral design of multiple structures set within a landscaped campus of dwellings, open, recreational, and gathering spaces, walkways and parking, and
- The development's integrated design will fulfil an overarching public need by providing affordable housing; making it worthy of the deviations requested and what would otherwise be developed using the property's underlying zoning.

Through the PDU, the Project is seeking flexibility and deviations from the O District use and development standards to develop a Project that is more consistent with the R-20 Residential Zoning District. The Project will:

- Conform to all applicable residential district development standards as outlined in CZO Section 8.4, including Section 8-4.3, Development Standards for Residential Structures not Involving the Subdivision of Land, Section 8-4.5, Standards Applicable to All Residential Development, and Section 8-4.6, Application of Density and Development Standards,
    - Except that the Project requests CZO Section 8-4.5(a)(4) be waived to allow the Project access to be served by a parking lot constructed pursuant to the Fire Code, and
    - Except that the Project requests general conformance of the R-20 Zoning District density limitations to allow the proposed density. For a project in this area, the maximum density allowed would be 58 units and the project proposes exceeding that limit by 2 units which would allow a total density of 60 units.

The Project is consistent with primary objective of CZO, Section 10, Project Development standards, in that it will develop residential units at a higher density than allowed in the O District, and those

residential units will be leased to persons of lower income. This residential construction in this Project will be developed under a Federal and/or State housing program designed to housing for lower income applicants.

d. Detailed Land Use History of the Parcel

The project area lies in the uplands of Ha'ikū and Niumalu ahupua'a on the gently sloping lands beneath the southeastern flank of Kilohana Crater. During the Māhele, both ahupua'a were awarded to Victoria Kamāmalu as Land Commission Award 7713, 'āpana 2 (Royal Patent 4479), with the exception of several kuleana awards along Puali Stream, on the Niumalu flats, and along the Hulē'ia River. The land was subsequently purchased and consolidated under the Grove Farm sugar plantation in the latter half of the 1800s, and historic maps and aerial photographs show the parcel itself under commercial sugarcane cultivation from the late 1800s through the 1960s. A residential neighborhood was constructed immediately south of the parcel in the late 1960s, and the parcel was designated a community park in its current configuration in the early 1970s. Since then the only changes have been installation of an emergency warning siren along the western boundary and electrical utility boxes along Nani Street. A development restriction placed on the parcel by Grove Farm limiting its use to open parkland was subsequently terminated, a matter raised in public comments on the Draft EA and addressed by the Housing Agency in the Final EA. The parcel is now owned in fee by the County of Kaua'i, lies within the State Urban District and County Open District, and has no known land use violations.

e. Status of Existing Permit and Ordinance Conditions

There are no known zoning amendment ordinance conditions, land use permit conditions, or subdivision application conditions attached to the parcel. The following commitments from the completed environmental and historic preservation reviews function as conditions on the project and their status is reported here:

1. HRS Chapter 343: Final Environmental Assessment and Finding of No Significant Impact published May 2024 (Kaua'i County Housing Agency, proposing agency). Status: complete; mitigation commitments carried into project design – *Exhibit A*
2. HRS Chapter 6E / NHPA Section 106: By letter dated June 10, 2026, SHPD determined Section 106 review as been completed. Regarding 6E, there is insufficient information to conclude the project will not affect historic properties. SHPD concurred with the recommendation for archaeological monitoring, and requires an Archaeological Monitoring Plan meeting HAR §13-279-4 to be submitted, reviewed, and accepted before project initiation (HICRIS Project No. 2025PR01337; Doc. No. 2605LS06). Status: AMP to be prepared by Pacific Legacy, Inc. and submitted with the filing fee to HICRIS Project No. 2025PR01337 – *Exhibit B*
3. Department of Water: Conditional approval dated August 12, 2026 for one 1-inch meter serving the 60-unit development, subject to water demand calculations, DOW-approved construction drawings, payment of the Facilities Reserve Charge, and a Certification of Completion. Status: Complete - *Exhibit C*

4. Standard planning conditions: should any archaeological or historic resources be discovered during ground disturbance, all work in the area of the find will immediately cease and SHPD and the Planning Department will be contacted — a condition the project has already operationalized through the SHPD-required monitoring program.

f. Secondary Impacts on the Surrounding Area

Population and housing: At full occupancy the project will add on the order of 150–200 residents to a Puhi neighborhood already served by urban infrastructure, adding permanent income-restricted housing stock in a district where none of the 60 units will compete with market-rate supply.

Property values: National and local experience with well-managed LIHTC communities, and the County's experience at comparable Līhu'e projects, does not support adverse valuation effects; activation of an underused parcel and new investment along the highway frontage are more likely to benefit adjacent commercial property.

Community services and facilities: Residents will be served by existing schools, parks (including Puhi Park), and the adjacent community college; the on-site community center adds capacity rather than demanding it.

Employment: Construction will generate significant short-term jobs through Nan, Inc. and subcontractors, and operations will create permanent property management, maintenance, and community center positions.

Traffic: A TIAR prepared by Community Planning and Engineering, Inc. and can be found the Environmental Assessment (*Exhibit A*). Data collection and field observations were performed at the five study intersections to analyze the existing traffic and pedestrian movements. For the proposed traffic conditions, an estimated number of generated trips was determined to forecast the proposed affordable housing and early educational development. Based on the traffic analysis done for the proposed traffic conditions, the five intersections will continue to operate at level of service.

Compatibility: three-story-scale residential buildings with landscaped setbacks and a noise barrier along Kaumualiʻi Highway mediate between the commercial uses to the west, the college to the north, and the single-family homes across Welau Street.

The principal community concern raised during the Chapter 343 process — loss of informal park space and the terminated Grove Farm open-space restriction — is addressed through the project's shared common open space, and the community center's community function. A public informational meeting was held at the Kauaʻi Philippine Cultural Center on February 1, 2024, and DEA comments and responses are contained in the Final EA.

g. Water Source, Supply and Distribution Analysis

Potable water will be supplied by the County of Kaua'i Department of Water system serving Puhi/Līhu'e. DOW's August 12, 2026 letter conditionally approved one 1-inch meter for the 60-unit development and confirmed that source, storage, and transmission facilities were adequate at that time. The applicant will submit a new water service request with detailed domestic and irrigation demand calculations, fixture counts, meter sizing worksheets, and floor plans, obtain DOW approval of construction drawings for the domestic service connection, fire service connection if applicable, and interior plumbing with backflow prevention, and pay the applicable Facilities Reserve Charge — calculated under the affordable-housing provisions of DOW's Rules and Regulations Part 5, Item 3 for projects developed in partnership with and certified by the Kaua'i County Housing Agency. Groundwater lies approximately 200 feet below ground surface and will not be encountered by site grading. Irrigation demand will be minimized through a landscaping plan and low-flow fixtures.

h. Sewage Disposal Analysis

Wastewater will be conveyed to the private Puhi sewer system operated by Puhi Sewer & Water Company / Aqua Engineers. Because the parcel is not currently served, the project includes construction of a new underground sewer line within County roadway shoulders and rights-of-way to the nearest system connection at the intersection of Kaneka Street and Puhi Road. The alignment reviewed by SHPD in 2026 totals approximately 3,829 linear feet with sixteen manholes, crossing TMKs (4) 3-3-003:004, (4) 3-3-003:047, (4) 3-3-005:008, and the Kaneka Street/Puhi Road, Welau Street/Nani Street, and Nahema Street/Nani Street rights-of-way, with excavation up to approximately 12 feet deep. A $2.0 million County off-site sewer grant is programmed toward this improvement. The applicant will apply to Puhi Sewer & Water Company / Aqua Engineers for sewer service and will construct the connection to the operator's standards; portable sanitary facilities will serve the construction period. See *Exhibit D* for Sewer Capacity letter.

i. Solid Waste Disposal Analysis

Solid waste in Puhi/Līhu'e is collected and transferred for disposal at the Kekaha Landfill. During construction, green waste and excess native soil from grading, together with construction materials such as concrete, asphalt, and gypsum board, will be recycled where practicable or properly disposed at the Kekaha Landfill or another approved facility in accordance with County rules, and the contractor will maintain equipment to prevent petroleum spills. In operation, the project will provide enclosed refuse and recycling facilities sized for 60 households and the community center, with collection by permitted haulers; the property manager will implement recycling and waste-diversion practices consistent with County programs. The project will not generate or store significant quantities of hazardous materials.

j. Environmentally Sensitive Areas, Habitat, and Botanical Features

A biological survey of the parcel (Tetra Tech, April 2021) characterized the site as a maintained community park of landscaped grass and trees and identified no federally or state-listed threatened or endangered species, no critical habitat, and no wetlands on the parcel. One indigenous species, a milo tree (Thespesia populnea), grows on-site; it is not rare and is commonly planted throughout the islands. Halehaka Stream lies east of the site across Nani Street; all drain inlets discharging off-site, especially toward the stream, will be protected with filter fabric or similar measures to keep petroleum residue and suspended solids out of the stream, and permanent stormwater management will rely on on-site trench drains and infiltration basins. The Hulē'ia National Wildlife Refuge lies roughly 1.3 miles southeast and will not be affected. There are no rock outcroppings or exceptional trees identified on the parcel.

k. Ka Pa'akai Assessment

A Cultural Impact Assessment (CIA) and Ka Pa'akai Analysis was prepared by Honua Consulting in July, 2026 (*Exhibit E*). The Ka Pa'akai analysis applies a three-part framework to the proposed Kahua Ho'oulu Project.

Identification of Valued Cultural, Historical, or Natural Resources and the Extent to Which Traditional and Customary Rights Are Exercised

The first prong of the Ka Pa'akai test requires the identification of valued cultural, historical, or natural resources in the project area, and the extent to which traditional and customary Native Hawaiian rights are exercised there. This involves two elements: the existence of valued resources, and the ability of practitioners to access and use those resources in connection with a traditional or customary practice.

As documented in Sections 3.0 and 4.0 of the CIA, the broader Niumalu–Nāwiliwili landscape of the moku of Puna contains significant valued cultural and natural resources, including the Hulē'ia (Nāwiliwili) River and its tributaries; Halehaka Stream and its reservoir; 'Alakoko (Menehune) Fishpond (SIHP #50-30-11-098; NRHP #73000677); associated wetlands and lo'i lands; the fishing grounds of Nāwiliwili Bay; and the wahi pana and mo'olelo of the Hulē'ia region. Traditional and customary practices historically associated with these resources include kalo cultivation, fishing and aquaculture, freshwater gathering, travel and refuge along the Hulē'ia, and ceremonial use, and contemporary stewardship of the Hulē'ia wetlands and 'Alakoko Fishpond continues today.

These valued resources, and the exercise of the rights associated with them, are located makai of and outside the approximately 2.9-acre project area. The project area itself occupies upland plains that have been extensively disturbed by plantation-era agriculture and subsequent urban and commercial development, and that today function as a maintained county park bounded by Kaumuali'i Highway and developed parcels. The literature review and field investigation (LRFI) and the research

summarized in the CIA did not identify any valued cultural, historical, or natural resources, or any ongoing traditional or customary practices, within the project area itself, and access to the makai resources of the Hulēʻia region is not obtained through the project parcel. The sewer line alignment subsequently added to the project is located entirely within existing, previously disturbed roadway rights-of-way and developed parcels, and no valued cultural, historical, or natural resources or ongoing traditional or customary practices were identified within this expanded area of potential effect. This finding is not represented as an exhaustive inventory; additional resources or practices not documented in the sources reviewed may exist in the project area or adjacent areas.

Extent to Which the Identified Resources and Rights Will Be Affected or Impaired

The second prong of the Ka Paʻakai test considers the extent to which the identified resources and rights will be affected or impaired by the proposed action, including any adverse alteration, destruction, or modification of resources and any interference with access to them.
Because no valued cultural, historical, or natural resources and no ongoing traditional or customary practices were identified within the project area, and because access to the makai resources of the Hulēʻia region is not obtained through the project parcel, the proposed project is not anticipated to directly affect or impair the exercise of traditional and customary Native Hawaiian rights. The addition of the sewer line, located within existing developed roadway rights-of-way, does not alter this conclusion, as no valued resources, ongoing practices, or access routes were identified within the expanded APE. Any tangible or physical impacts to historic properties are addressed separately under HRS Chapter 6E in consultation with the State Historic Preservation Division (SHPD) and are not the subject of this assessment.

The principal pathway for any indirect effect is the potential for construction-phase sediment and erosion, or post-construction stormwater runoff, to migrate from the upland project area toward Halehaka Stream and its reservoir and, ultimately, the downstream Hulēʻia system and ʻAlakoko Fishpond, which sustain culturally important aquatic and agricultural resources. This potential effect is indirect, is expected to be temporary and avoidable, and can be reasonably controlled through the feasible actions described below.

Feasible Actions to Reasonably Protect Native Hawaiian Rights

The third prong of the Ka Paʻakai framework requires the identification of the feasible action, if any, to be taken to reasonably protect Native Hawaiian rights if they are found to exist. The determination of whether an action is suitably "feasible" is reserved by the Court to the State and, here, the County of Kauaʻi as the approving authority.

Because no traditional or customary practices were identified within the project area, no mitigation is required to protect the exercise of such rights within the parcel itself. Nevertheless, to protect the valued resources of the broader Hulēʻia region that lie downstream and makai of the project area, the following feasible actions are recommended: (1) construction-phase sediment and erosion controls to prevent runoff from reaching Halehaka Stream and the downstream Hulēʻia system; (2) post-construction stormwater drainage controls, such as vegetated swales, detention or infiltration

features, and oil/water separators, to capture and treat site-related contaminants before they reach surface waters; (3) incorporation of native, endemic, and indigenous plant species in project landscaping; (4) compliance with HRS Chapter 6E and consultation with SHPD, including implementation of an inadvertent-discovery protocol providing for the engagement of cultural descendants and appropriate cultural practitioners in the event that iwi kūpuna or other cultural materials are encountered during ground disturbance, including trenching for the new sewer line; and (5) continued consultation with Native Hawaiian organizations, descendant families, and community stewardship groups active in the Hulēʻia region, such as Mālama Hulēʻia. It is the responsibility of the State and County to determine and properly implement these feasible actions in their decision-making.

The lands of the ʻili of Puhi and the ahupuaʻa of Niumalu, within the moku (district) of Puna, Kauaʻi, are rich with both pre-contact and post-contact histories tied to the abundant fresh waters of the Hulēʻia (Nāwiliwili) region. While the proposed project is unlikely to have any adverse impact on historic properties or on the exercise of Native Hawaiian traditional and customary practices, it presents an opportunity to enrich the area through interpretive botanical, cultural, and historical programs and through the use of native landscaping. This study examined the available historical, archival, archaeological, and Hawaiian-language records for the region and did not identify any current cultural practices or customs within the project area that would be impacted by the proposed activity. Valuable cultural information documented for the area can nonetheless be respectfully incorporated to enrich the interpretive, landscaping, and community elements of the project design.

While there are certainly such resources and practices within the larger geographic extent of the Niumalu landscape and the broader Hulēʻia region of the moku of Puna, there are none in the immediate project area or within the area that will be impacted by the proposed project, including the sewer line alignment located within existing roadway rights-of-way. Therefore, per Act 50 and under the Ka Paʻakai analysis, potential effects to cultural resources or practices are negligible due to the absence of ongoing traditional and customary practices in the immediate project area.

SECTION 9
County Housing Division Evaluation (Ordinance No. 860)

9. County Housing Division Evaluation (Ordinance No. 860)

Not Applicable. This is an affordable housing project and does not trigger Ordinance No. 860. See Section 3 for letter from the Kauai County Housing Agency.

EXHIBIT 1
Chapter 343 Final Environmental Assessment
Excerpt; Full 487-page FEA available on request

KAUA'I COUNTY HOUSING AGENCY
ADAM ROVERSI, DIRECTOR

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

May 15, 2024

Mary Alice Evans, Director
State of Hawai'i Office of Planning and Sustainable Development
Environmental Review Program
235 S. Beretania Street, Suite 702
Honolulu, Hawai'i 96813

Subject: Publication of the Final Environmental Assessment and Finding of No Significant Impact (FEA-FONSI) for the Proposed
Kahua Ho'oulu Affordable Housing Development
Līhu'e District, Island of Kaua'i, Hawai'i
TMK (4) 3-3-04: 020

Dear Ms. Evans,

With this letter, the Kaua'i County Housing Agency hereby transmits the Final Environmental Assessment and Finding of No Significant Impact (FEA-FONSI) for the proposed Kahua Ho'oulu Affordable Housing Development project situated at TMK No. (4) 3-3-04: 020, in the Līhu'e District, Island of Kaua'i for publication in next available edition of the Environmental Notice.

By completing the online Submittal Form, an electronic Adobe Acrobat PDF file of the FEA-FONSI, and an electronic file containing a shapefile for the action location boundary will be uploaded. Simultaneous with this letter, we have submitted the summary of the action in a text file by electronic mail to your office.

If there are any questions, please contact me at (808) 241-4444.

Sincerely,

Adam P. Roversi
Director
Kaua'i County Housing Agency

From: webmaster@hawaii.gov
To: DBEDT OPSD Environmental Review Program
Subject: New online submission for The Environmental Notice
Date: Wednesday, May 15, 2024 5:28:18 PM

Action Name

Kahua Ho'oulu Housing Development

Type of Document/Determination

Final environmental assessment and finding of no significant impact (FEA-FONSI)

HRS §343-5(a) Trigger(s)

- (1) Propose the use of state or county lands or the use of state or county funds

Judicial district

Līhuʻe, Kauaʻi

Tax Map Key(s) (TMK(s))

(4) 3-3-004:020

Action type

Agency

Other required permits and approvals

HRS 6E Compliance, County Grubbing and Grading Permit, County Building Permit, NPDES Coverage, NEPA / HUD Compliance

Proposing/determining agency

Kauai County Housing Agency

Agency contact name

Adam Roversi

Agency contact email (for info about the action)

aroversi@kauai.gov

Email address or URL for receiving comments

info@kaimanaenv.com

Agency contact phone

(808) 241-4444

Agency address

4444 Rice Street, Suite 330
Līhuʻe, HI 96766
United States
Map It

Is there a consultant for this action?

Yes

Consultant

Kaimana Environmental Solutions LLC

Consultant contact name

Max Solmssen

Consultant contact email

max@kaimanaenv.com

Consultant contact phone

(808) 341-3546

Consultant address

PO Box 11890
Honolulu, HI 96828
United States
Map It

Action summary

The proposed project includes the design and construction of the Kahua Ho'oulu Affordable Housing Development, which also includes a planned educational center. The proposed project would include five 3-story buildings consisting of up to 60 apartment units in total, and associated parking area and driveways. The project would also include construction of approximately 1,700 linear feet of sewer piping that would be installed underground within the County roadway shoulder from the project site to the intersection of Kaneka Street and Puhi Road, where the nearest Puhi Sewer sewer system connection is located.

Reasons supporting determination

See Section 3 of the FEA-FONSI.

Attached documents (signed agency letter & EA/EIS)

- Kahua-Hooulu-FEA_FONSI.pdf
- FEA-FONSI-Publication-Letter.pdf

Shapefile

- The location map for this Final EA is the same as the location map for the associated Draft EA.

Action location map

- Hale_Hooulu.kml_.zip

Authorized individual

Max Solmssen

Authorization

- The above named authorized individual hereby certifies that he/she has the authority to make this submission.

Final Environmental Assessment

for the

County of Kaua‘i Housing Agency

Kahua Ho‘oulu Housing Development

Līhu‘e, Kaua‘i, Hawai‘i

Tax Map Key Parcel (4) 3-3-004: 020

Prepared for:
The County of Kauai Housing Agency

May 2024

Prepared by:

KAIMANA
environmental solutions

www.kaimanaenv.com

EXHIBIT 2
SHPD Historic Preservation Review Correspondence (HRS 6E/ Section 106)

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

CIARA W.K. KAHAHANE
DEPUTY DIRECTOR - WATER

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

June 10, 2026

IN REPLY REFER TO:
Project No. 2025PR01337
Doc. No. 2605LS06
Archaeology
History & Culture

Adam Roversi, Director
Kauai Housing Agency
Pi'ikoi Building
4444 Rice St., Suite 330
Lihue, Hawai'i 96766
Email: housing@kauai.gov

Dear Mr. Roversi:

SUBJECT: **Hawaii Revised Statutes (HRS) §6E-8 Historic Preservation Review and National Historic Preservation Act (NHPA) Section 106 Review – Request Concurrence with a Project Effect Determination**
Kahua Ho'oulu Affordable Housing Development Project
Ha'ikū and Niumalu Ahupua'a, Puna District, Island of Kaua'i
TMK: (4) 3-3-003:004, (4) 3-3-003:047, (4) 3-3-003:999, (4) 3-3-004:020, (4) 3-3-004:999, (4) 3-3-005:008, and (4) 3-3-005:999

This letter presents the State Historic Preservation Division's (SHPD) review of the Kaua'i County Housing Agency's *Kahua Ho'oulu Affordable Housing Development Project*. SHPD received the project submittal on November 26, 2025, which included an agency cover letter requesting concurrence with a project effect determination of *no historic properties affected* pursuant 36 CFR Part 800 and "No historic properties affected" pursuant to HRS Chapter 6E historic preservation review. The submittal also included an HRS 6E Submittal Form, construction plans, site maps, project area photographs, and a supporting cultural resources report titled, *Archaeological Literature Review and Field Inspection for the Puhi Development Project, Ha'ikū and Niumalu Ahupua'a, Puna District, Kaua'i Island, TMK: [4] 3-3-004:020* (DiVito et al. 2021).

This project constitutes a federal undertaking under Section 106 of the National Historic Preservation Act because the Kaua'i County Housing Agency is utilizing federal funding from the U.S. Department of Housing and Urban Development (HUD). Per 24 CFR Part 58, the County has assumed responsibility for these federal environmental requirements as the "responsible entity." Furthermore, the project is subject to review under HRS Chapter 6E historic preservation review.

The project involves the construction of five two-story buildings comprising 60 affordable housing units and an educational health center on a 2.91-acre parcel (TMK: (4) 3-3-004:020) located on the southern side of Kaumuali'i Highway in Līhu'e. The project also includes a 3,829-linear-foot sewer line alignment requiring the installation of 16 manholes across various parcels and rights-of-way (ROW), including TMKs: (4) 3-3-003:004, (4) 3-3-003:047, (4) 3-3-005:008, (4) 3-3-003:999 (Kaneka Street and Puhi Road), (4) 3-3-004:999 (Welau Street and Nani Street), and (4) 3-3-005:999 (Nahema Street and Nani Street). The federal Area of Potential Effect (APE) totals 3.05 acres, with ground disturbance expected to reach depths of up to 12 feet below grade. The federal APE and the HRS Chapter 6E project area are synonymous.

The Kaua'i County Housing Agency initiated consultation with various Native Hawaiian Organizations and stakeholders, including E Ola Kākou Hawai'i, Hui Iwi Kuamo'o, the Ka'imi Na'auao O Hawai'i Nei Institute,

the Native Hawaiian Education Council, and the Office of Hawaiian Affairs. Stakeholder feedback emphasized the necessity of archaeological inventory surveys, the protection of subsurface cultural resources, and transparency regarding land titles and environmental impacts. The agency has acknowledged these comments and continues to coordinate with these parties as part of the ongoing historic preservation review.

The Literature Review and Field Inspection (LRFI) report (DiVito et al. 2021) indicates that while the project area sits within a landscape rich in traditional Hawaiian history and subsequent commercial sugarcane cultivation, no previous archaeological studies had been conducted on the specific parcel. A 100% pedestrian survey identified only modern playground equipment, which the report determined lacks the significance and integrity to be classified as a historic property. Consequently, the report supports a determination of "no historic properties affected." However, in recognition of the project site's proximity to the former Puhi Camp plantation village and other regional resources, the study recommends that ground-disturbing activities be governed by an approved archaeological monitoring plan.

Although the LRFI report does not fulfill the requirements of an AIS report as specified in HAR §13-276-5, it serves to facilitate project planning. Please send two hard copies of the document, clearly marked "LIBRARY COPY," along with a copy of this review letter and a text-searchable PDF version, to the Kapolei SHPD office, attention: SHPD Library. Additionally, please send a digital copy of the final LRFI report (DiVito et al. 2021) to SHPD.Archaeology.Library@hawaii.gov.

Due to the lack of an archaeological investigation that included subsurface testing within the subject parcel and the depth of excavation required for the project, SHPD has insufficient information to determine the project's potential impact on historic properties. **SHPD agrees** with DiVito et al.'s recommendation that archaeological monitoring be conducted for identification purposes to adequately identify if any historic properties are present within the proposed project area. If any are found, monitoring will determine potential impacts and, if necessary, ensure that appropriate mitigation is implemented.

SHPD requests that an archaeological monitoring plan (AMP) meeting the requirements of HAR §13-279-4 be submitted for review and acceptance prior to project initiation. Please submit the draft AMP and associated filing fee to HICRIS Project No. 2025PR01337 in response to the HICRIS request. A list of permitted archaeological firms is available at:
http://dlnr.hawaii.gov/shpd/about/branches/archaeology/.

SHPD will notify the Kaua'i County Housing Agency when the AMP is reviewed and accepted, and the project initiation process may proceed.

The Kaua'i County Housing Agency and HUD are the offices of record for this undertaking; please maintain a copy of this letter within your environmental review record.

Please contact Kauanoe Hoomanawanui, Burial Sites Specialist (Kaua'i and Ni'ihau), at Kauanoe.Hoomanawanui@hawaii.gov for any concerns regarding burials, or Susan A. Lebo, Archaeology Branch Chief, at Susan.A.Lebo@hawaii.gov, for any matters regarding archaeological resources or this letter.

Aloha,

Jessica L. Puff, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

cc: Steven Franco, sfranco@kauai.gov
Kaaina Hull, khull@kauai.gov
Eric Fujikawa, eric.i.fujikawa@hawaii.gov
Koa Duncan, rduncan@kauai.gov
Max Solmssen, max@kaimanaenv.com
Mara Mulrooney, mulrooney@pacificlegacy.com

EXHIBIT 3
Water Will-Serve Letter

Water has no substitute..... Conserve it

ENGINEERING DIVISION
DEPARTMENT OF WATER, COUNTY OF KAUA'I
JASON F. KAGIMOTO, P.E.

Department of Water County of Kaua'i

JOSEPH E. TAIT
MANAGER AND CHIEF ENGINEER

August 12, 2026

Kaua'i County Housing Agency
Attn: Koa Duncan
4444 Rice Street, Suite 330
Līhu'e, Hawai'i 96766

Dear Koa Duncan:

Subject: Water Meter Service Request: One 1-Inch Water Meter for the Proposed 60-Unit Multifamily Affordable Housing Development (One Existing Dwelling; One Existing 5/8-Inch Water Meter) to TMK: 3-3-004:020, Kaumuali'i Highway, Puhi, Kaua'i

This letter is in response to your request dated June 12, 2026. Your request for the 1-inch water meter to service the proposed 60-unit multifamily affordable housing development on TMK: 3-3-004:020 is conditionally approved.

Prior to the Department of Water (DOW) recommending water meter service or building permit approval, the applicant must:

1. Submit detailed water demand calculations (both domestic and irrigation) along with the proposed water meter size. Water demand calculations submitted by your engineer or architect should also include fixture count, water meter sizing worksheets, and floor plans. DOW's comments may change depending on the approved water demand calculations.

2. Hire a professional civil engineer who is licensed in the State of Hawai'i to prepare, submit, and receive DOW's approval on the construction drawings for the necessary water system facilities. These facilities shall include but not be limited to:

   a. The domestic service connection.

   b. The fire service connection, if applicable.

   c. The interior plumbing with the appropriate backflow prevention device.

   All backflow preventer devices require an annual test by a certified tester. For new devices, the first test must be submitted to DOW after installation is complete.

3. Pay the applicable charges in effect at the time of payment to DOW. At the present time, these charges shall include, but not be limited to:

   a. The Facilities Reserve Charge (FRC) which is based on the number of units or the FRC based on the approved water meter size; whichever amount is greater.

      For projects developed in partnership with the County Housing Agency and certified by the County of Kaua'i Housing Agency as affordable housing, the FRC shall be calculated as per DOW's Rules and Regulations Part 5 Item 3.

   The applicant is being made aware that the payment of the FRC will only be accepted after the issuance of the construction Final Inspection Letter necessary water system improvements.

4. Hire a licensed contractor in the State of Hawai'i to construct the necessary water system facilities and receive a "Certification of Completion" notice from the DOW.

This conditional approval is valid for a period of one (1) year from the date of this letter. All conditions in this approval are subject to the Rules and Regulations of the DOW as amended or as will be amended. After this one-year period, this conditional approval will be null and void, and the applicant must re-apply for water service. Any future request for water service will be dependent on the adequacy of the source, storage and transmission facilities existing at that time.

If you have any questions, please contact Jessica-Renee Polk at (808) 245-5459 or wrp@kauaiwater.org.

Sincerely,

Erin T. Doi

Erin T. Doi
Water Resources and Planning Section
Engineering Division

3-3-004-020, 20260812, Koa Duncan - Kauai County Housing Agency, wsr/ETD:jrp

Exhibit 4
Sewer Will-Serve Letter

Puhi Sewer and Water Company

3560 Koloa Road
Kalaheo, HI 96741
Tel (808) 332-7381
Fax (808) 332-7596

August 4, 2026

Bow Engineering & Development, Inc.
1950 S. Beretania Street, PH-A
Honolulu, HI 96826
Attn: Emi Tanitomi

RE: Will Serve Letter
Kahua Ho'oulu Affordable Housing Development
Lihue, Kauai Hawaii
Tax Map Key No. (4) 3-3-004:020

Dear Ms. Emi Tanitomi,

Aqua Puhi, LLC dba Puhi Sewer and Water Company ("PSWC"), a subsidiary of Aqua Engineers, Inc., is certified by the Hawaii Public Utilities Commission (the "Commission") to provide sewer service to certain properties within the Lihue/Puhi area of Kauai. Bow Engineering & Development, Inc. has requested, on behalf of their client, 'Ikenakea Development LLC, a will serve letter for sewer service for County of Kaua'i ("COK") proposed Kahua Ho'oulu Affordable Housing Development (the "Project") within the above referenced tax map key parcel. PSWC understands that the Project is to be comprised of 60 housing units. Based on calculations provided in your July 27, 2026, Sewer Availability Determination letter, the estimated average daily wastewater flow for the Project is 15,000 gpd, with a peak daily flow of 78,150 gpd.

By this letter, PSWC confirms the following: (1) the Project is within PSWC's Commission-authorized service area, (2) PSWC currently has treatment plant capacity to provide sewer service to the Project as described above, and (3) PSWC is prepared to provide sewer service to the Project as described above in accordance with and subject to the terms and conditions of PSWC's rules and requirements as set forth in its Tariff No. 1 and at rates approved by the Commission, as both may be amended or modified from time to time. A copy of PSWC's current Tariff No. 1 can be found on PSWC's website at aquaengineers.com/puhi.

Without limiting the foregoing, PSWC's connection of the Project to PSWC's wastewater system will involve and be subject to, among other matters, (1) COK's satisfaction of the Tariff No. 1 requirements, including without limitation, submittal of the proposed sewer service related plans and specifications for the Project in accordance with Section 6.9 of Tariff No. 1 and COK's responsibility for all sewer system modifications, alterations and/or improvements necessary to serve the Project pursuant to the terms and conditions of PSWC's Tariff No. 1; (2) PSWC's review of the available capacity and layout of the system at the time of that submittal and/or development of the Project; and (3) PSWC's review of any changes to the Project's scope, connection point and/or estimated wastewater flows from that set forth above.

All materials, construction of wastewater facilities, and appurtenances shall comply with the *County of Kaua'i Sewer Design Standards* (including all subsequent amendments and additions) and PSWC's Tariff No. 1.

Prior to the construction of any wastewater facilities and the commencement of sewer service to the Project, all other applicable requirements under PSWC's Tariff No. 1, including without limitation, any contribution in aid of construction payments or improvements and any conditions that PSWC may impose in connection with its approval of connection of the Project to PSWC's wastewater system, shall have been fully satisfied by COK. Nothing in this letter shall be deemed to waive any of PSWC's rights, or release COK of any obligations, under PSWC's Tariff No. 1.

Please indicate your acceptance of the terms of this Will Serve Letter by signing below and returning the fully executed original to the undersigned. If you have any questions concerning the above-stated requirements, please feel free to contact the undersigned.

Sincerely,

Ann Sokei
General Manager
Aqua Puhi, LLC dba
Puhi Sewer and Water Company

AGREED AND ACCEPTED

This _____ day of _____, 2026

COUNTY OF KAUA'I

By _____
Name: _____
Its: _____

EXHIBIT 5
Cultural Impact Assessment & Ka Pa'akai Analysis



Cultural Impact Assessment and *Ka Pa'akai* Analysis for the Puhi Development Project, 'Ili of Puhi, Niumalu Ahupua'a, Puna District, Kaua'i Island, TMK: [4] 3-3-004:020

Prepared for

County of Kaua'i

Prepared by

HONUA CONSULTING

July 2026

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Note on Hawaiian language usage

In keeping with other Hawaiian scholars, we do not italicize Hawaiian words. Hawaiian is both the native language of the pae 'āina (archipelago) of Hawai'i and an official language of the State of Hawai'i. Some authors will leave Hawaiian words italicized if part of a quote; we do not. In the narrative, we use diacritical markings to assist our readers, except in direct quotes, in which we keep the markings used in the original text. We provide translations contextually when appropriate.

Front Cover Credit

U.S. Geological Service

1978 Portion of a 1978 USGS aerial photograph showing the current layout of the project area, residential housing to the south, and the development of Kaua'i Community College to the north

Executive Summary

This Cultural Impact Assessment (CIA) was prepared by Honua Consulting, LLC, at the request of the County of Kaua'i, to identify and evaluate the cultural, historical, and natural resources that may be affected by the proposed Puhi Development Project within the 'ili of Puhi, in the ahupua'a of Niumalu, moku (district) of Puna (Līhu'e), on the island of Kaua'i (TMK: [4] 3-3-004:020) and to fulfill the County of Kaua'i's obligations under *Ka Pa'akai O Ka 'Āina v. Land Use Commission*, 94 Haw. 31 (2000).

The project area is an approximately 2.911-acre parcel located along Kaumuali'i Highway in the town of Puhi, just west of Līhu'e, that currently functions as a County-owned and -maintained community park. The proposed project would develop affordable housing and an educational health center, consisting of five two-story buildings totaling 60 units and associated parking and infrastructure. The project also includes a new sewer line, approximately 3,829 linear feet in length with 16 associated manholes, to connect the development to existing sewer infrastructure; with this addition, the total area of potential effect (APE) is approximately 3.05 acres and extends into adjacent parcels and roadway rights-of-way (TMK: [4] 3-3-003:004, 3-3-003:047, 3-3-003:999, 3-3-004:999, 3-3-005:008, and 3-3-005:999).

Background research for this assessment included the review of Hawaiian- and English-language archival documents, mele, mo'olelo, Māhele records, historic maps, and previously documented oral histories for Niumalu and the Nāwiliwili–Hulē'ia region of the moku of Puna. The research demonstrates that the lands surrounding Nāwiliwili Bay and the Hulē'ia River historically supported a substantial Native Hawaiian population sustained by abundant fresh water, with extensive lo'i kalo, rich fishing grounds, and at least six loko i'a, including the celebrated 'Alakoko (Menehune) Fishpond.

To supplement this documentary record, Honua Consulting conducted ethnographic interviews with five community members possessing genealogical, residential, or professional knowledge of the Puhi–Niumalu landscape: Nicole (Nikki) Cristobal, Sandra Hokulani Kuali'i, Puali'ili'imaikalani Rossi, Pelika Andrade, and Sabra Kauka. Their mana'o affirmed the traditional character of the surrounding ahupua'a—including lo'i kalo and loko i'a cultivation, konohiki-managed fisheries governed by kapu, a hula heiau on Hā'upu, and mo'olelo associated with the vicinity—while consistently indicating that no traditional or customary practices are exercised on the project parcel itself, which participants described as a modern community park. Interviewees also documented the parcel's contemporary value as open and gathering space and offered recommendations for ensuring that the project honors the cultural value of the 'āina and serves the Native Hawaiian and local community.

The valued cultural, historical, and natural resources of the area, including the Hulēʻia River and its tributaries, Halehaka Stream, ʻAlakoko Fishpond, the associated wetlands, and the fishing grounds of Nāwiliwili Bay, lie makai of and outside the project area. The project parcel itself has been extensively disturbed by plantation-era sugarcane cultivation and subsequent urban development and is today a developed community park. The sewer line alignment added to the project is located entirely within existing, previously disturbed roadway rights-of-way and developed parcels. No ongoing traditional or customary practices were identified within the project area or the expanded APE, and access to the makai resources of the region is not obtained through the parcel.

Applying the *Ka Paʻakai* framework and the public trust doctrine, this CIA concludes that the project is not anticipated to adversely affect or impair the exercise of traditional and customary Native Hawaiian rights. The principal pathway for any indirect effect is construction-phase and post-construction runoff toward Halehaka Stream and the downstream Hulēʻia system.

Accordingly, this report recommends culturally informed best management practices, including: (1) sediment and erosion controls during construction; (2) post-construction stormwater drainage controls to protect Halehaka Stream and the Hulēʻia system; (3) incorporation of native and culturally appropriate landscaping; (4) compliance with HRS Chapter 6E and consultation with the State Historic Preservation Division (SHPD), including an inadvertent-discovery protocol engaging cultural descendants; (5) archaeological monitoring guided by an approved archaeological monitoring plan (AMP), given the proximity of Grove Farm–era historic properties and the former Puhi Camp plantation village; and (6) continued consultation with Native Hawaiian organizations and community stewardship groups active in the Hulēʻia region, such as Mālama Hulēʻia or Native Hawaiian groups operating on the nearby Kauaʻi Community College Campus. In addition, the report recommends community-informed measures raised by interviewees, including designing the development to be compatible in scale with the surrounding neighborhood (no taller than two stories and set back from the highway, which would also help address neighborhood traffic concerns); prioritizing families with long, multigenerational ties to Kauaʻi and ensuring the units meaningfully serve Native Hawaiians; structuring the housing and health center to foster reciprocity between residents and the ʻāina; and retaining or replacing publicly accessible community gathering space.

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Abbreviations and Acronyms

AIS: Archaeological Inventory Survey
ALRA: Archaeological Literature Review and Assessment
AMP: Archaeological Monitoring Plan
BMP: Best Management Practice
CIA: Cultural Impact Assessment
CoK: County of Kaua'i
ERP: Environmental Review Program, Office of Planning and Sustainable Development
HAR: Hawai'i Administrative Rules
HRS: Hawai'i Revised Statutes
Ka Pa'akai: Ka Pa'akai O Ka 'Āina v. Land Use Commission, 94 Haw. 31 (2000)
LCA: Land Commission Award
LRFI: Literature Review and Field Inspection
NRHP: National Register of Historic Places
OEQC: Office of Environmental Quality Control
ROI: Range of Influence
RP: Royal Patent
SHPD: State Historic Preservation Division
SIHP: State Inventory of Historic Places
SLH: Session Laws of Hawai'i
TMK: Tax Map Key

1.0 Project Description and Compliance

1.1 Project Description and Proposed Action

This cultural impact assessment (CIA) was prepared by Honua Consulting, LLC at the request of the County of Kaua'i for the Puhi Development Project located in the 'ili of Puhi, Niumalu Ahupua'a, moku (district) of Puna, Kaua'i Island, TMK: [4] 3-3-004:020. The project area is situated on the southeastern portion of Kaua'i along Kaumuali'i Highway in the town of Puhi and measures approximately 2.911 acres (126,801 square feet [sq. ft.] or 11,780 square meters [sq. m.]). It consists of a community park owned and maintained by the County of Kaua'i. The proposed project also includes a new sewer line connecting the development to existing sewer infrastructure, which extends the total area of potential effect to approximately 3.05 acres within portions of adjacent parcels and roadway rights-of-way (TMK: [4] 3-3-003:004, 3-3-003:047, 3-3-003:999, 3-3-004:999, 3-3-005:008, and 3-3-005:999). The project area is shown on a USGS (Figure 1), an Aerial Orthophoto (Figure 2), and a Tax Map Key (TMK) (Figure 3). A site plan of the proposed Puhi Development project is included as Figure 4.

The project proposes to build new affordable housing and an educational health center. The proposed project will construct five 2-story buildings consisting of 60 units total, and an associated parking area. The project also includes installing a new sewer line, approximately 3,829 linear feet in length, with 16 associated manholes (each measuring 4 feet by 4 feet), to connect the development to existing sewer infrastructure. Ground disturbance will require mass grading, excavation for building footings and foundations, installation of associated utilities, landscaping, and excavation for the new sewer line and manholes. Depths of ground disturbance can be expected to reach up to 12 ft. (3.6 m.) in depth.

1.2 Background

The County of Kaua'i proposes to develop the project area to help address the need for affordable housing and health services in the Puhi–Līhu'e area. This cultural impact assessment was prepared in support of the project's environmental review under HRS Chapter 343 and Act 50 (SLH 2000).

1.3 Geographic Extent

Kaua'i is the second oldest and fourth largest of the main Hawaiian Islands and was initially formed by a single large shield volcano (MacDonald 1960). The remainder of the island was formed through many complex eruptions and weathering, which created Waimea Canyon and its many stream-cut valleys. The project area is located in the southeastern portion of Kaua'i and is situated on the gently sloping uplands below the southeast flank of Kilohana Crater. It is just west of Līhu'e, the county seat of Kaua'i, within the town of Puhi.

Although the project area is commonly associated with Līhu'e—the modern town and county seat immediately to the east—it lies within the traditional ahupua'a of Niumalu, in the moku of Puna. "Līhu'e" is a post-contact place name that came into use in the nineteenth century and does not correspond to a traditional ahupua'a. Accordingly, this assessment identifies the project area by its traditional land division—the 'ili of Puhi within Niumalu Ahupua'a—while recognizing its contemporary location within the Puhi–Līhu'e area. The relationship between these two designations is discussed further in Section 3.1.1.

Kaua'i generally receives abundant rain with major stream activity. The project area receives a mean annual rainfall of approximately 1,435 millimeters (mm) (56.5 inches), with wetter months November through March (Giambelluca et al. 2013). The closest water resources include Halehaka Stream, and a plantation-era reservoir created from the stream, approximately 250 ft. (76 m.) to the east of the project area. Nāwiliwili Bay and the ocean are located approximately 2.4 miles to the southeast.



Figure 1. Portion of a 2024 U.S. Geological Survey (USGS) showing the location of the project area



Figure 2. Aerial photo showing the location of the project area.

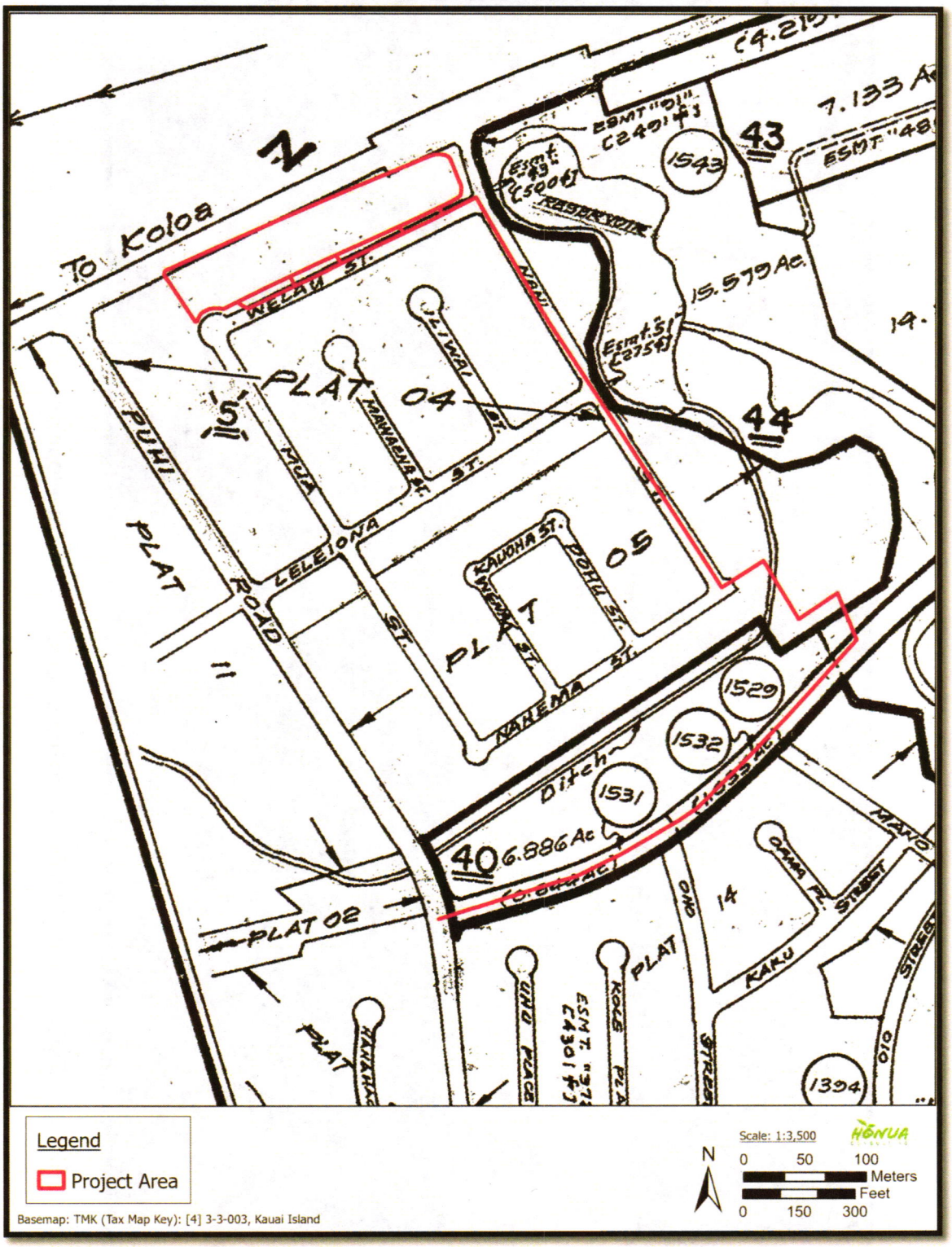


Figure 3. Portion of Tax Map Key (TMK) [4] 3-3-003 showing the location of the project area and sewer line alignment.



Figure 4. Site Plan showing the proposed Puhi Development Project

The project area is at an elevation of 315 to 330 feet above mean sea level and the topography is relatively flat. The soil underlying the project area is characterized as Puhi silty clay loam on slopes ranging from 0 to 3 percent (PnA) in the western half of the project area and 3 to 8 percent (PnB) in the eastern half of the project area (Foote et al. 1972) (**Error! Reference source not found.**). Puhi silty clay loam consists of well-drained soils on the uplands of Kaua'i which developed in material derived from basic igneous rock. PnA soil has moderately rapid permeability, slow runoff, and no erosion hazard, whereas PnB soil has slow runoff and a slight erosion hazard (Foote et al. 1972:115). These soil types are typically used for sugarcane, pineapple, truck crops, orchards, pasture, and homesites. Natural vegetation on Puhi silty clay loam consists of introduced invasive species including guava (*Psidium guajava*), Java plum (*Syzygium cumini*), pangola grass (*Digitaria eriantha*), kikuyu grass (*Pennisetum clandestinum*), *Elephantopus* species, Joe Pye weed (*Eutrochium purpureum*), yellow foxtail (*Setaria pumila*) and rhodomyrtus (*Rhodomyrtus tomentosa*).

The built environment of the project area is entirely developed with manicured lawn grass and landscaped vegetation. Commercial properties exist to the west and residential homes are built to the south. The project area is bordered by Kaumuali'i Highway on the north, Nani Street on the east, Welau Street on the south, and on the west by the Puhi Paint and Gammie Homecare commercial space and a Shell gas station with car wash. The project area currently functions as a community park and is surrounded by a metal chain-link fence with two entrances along Welau Street. Two metal play structures are located in the middle of the park, and the Puhi emergency warning siren is located along the western boundary. Utilities in the area are subsurface and run along the western boundary of the project area and along Nani and Welau Streets.

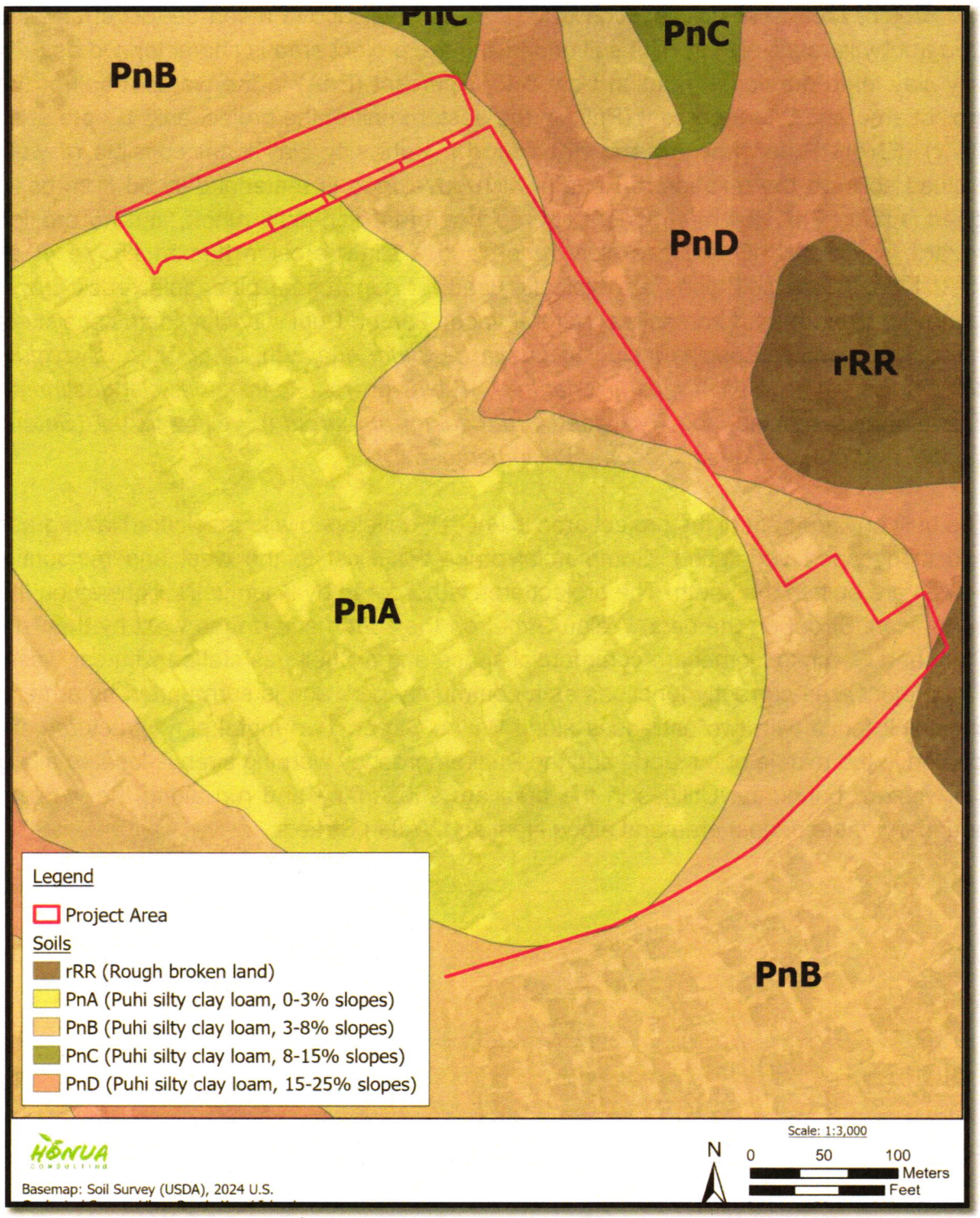


Figure 5. Portion of a ESRI Kaua'i USGS with soil series overlay showing anticipated soils

1.4 Goal of a Cultural Impact Assessment

The goal of a cultural impact assessment (CIA) is to identify and understand the traditional and customary practices and beliefs associated with a project area, to assess the potential effects of a proposed action on those practices and the resources that support them, and to recommend measures to avoid, minimize, or mitigate any adverse effects. Consistent with Act 50 (SLH 2000) and the guidelines of the Environmental Review Program, this CIA gathers the best available information, including archival research, Hawaiian-language sources, oral histories, and community consultation, to inform the decision-making process and to support the protection of Native Hawaiian traditional and customary rights under Article XII, Section 7 of the Hawai'i State Constitution.

1.5 Compliance

Articles IX and XII of the State Constitution, other state laws, and the courts of the state require government agencies to protect and preserve cultural beliefs, practices, and resources of Kanaka 'Ōiwi[1] (Native Hawaiians) and other ethnic groups. To assist decision makers in the protection of cultural resources, Chapter 343, HRS and Hawai'i Administrative Rules (HAR) § 11-200.1 rules for the environmental impact assessment process require project proponents to assess proposed actions for their potential impacts to cultural properties, practices, and beliefs.

This process was clarified by the Hawai'i State Legislature (HSL) in Act 50, HSL 2000. Act 50 recognized the importance of protecting Native Hawaiian cultural resources and required that Environmental Impact Statements (EIS) include the disclosure of the effects of a proposed action on the cultural practices of the community and state, and the Native Hawaiian community in particular. Specifically, the Environmental Council suggested the CIAs should include information relating to practices and beliefs of a particular cultural or ethnic group or groups. Such information may be obtained through public scoping, community meetings, ethnographic interviews, and oral histories.

It is also important to note that while similar in their areas of studies, archaeological surveys and cultural impact assessments are concerned with distinct and different foci. Archaeological studies are primarily concerned with historic properties and tangible heritage, whereas cultural impact assessments look at cultural practices, and beliefs, which can be associated with a specific location, but as also often intangible in nature.

The State and its agencies have an affirmative obligation to preserve and protect the reasonable exercise of customarily and traditionally exercised rights of Native Hawaiians

[1] Article XII, Section 7 of the Hawai'i State Constitution, *Ka Pa'akai O Ka 'Āina v. Land Use Commission*, 94 Haw. 31 [2000] (*Ka Pa'akai*), Act 50 HSL 2000.

to the extent feasible.[2] State law further recognizes that the cultural landscapes provide living and valuable cultural resources where Native Hawaiians have and continue to exercise traditional and customary practices, including but not limited to hunting, fishing, gathering, and religious practices. In *Ka Pa'akai O Ka 'Āina v. Land Use Commission*, the Hawai'i Supreme Court provided government agencies with an analytical framework to ensure the protection and preservation of traditional and customary Native Hawaiian rights while reasonably accommodating competing private development interests. This is accomplished through:

1) The identification of valued cultural, historical, or natural resources in the project area, including the extent to which traditional and customary Native Hawaiian rights are exercised in the project area.

2) The extent to which those resources—including traditional and customary Native Hawaiian rights—will be affected or impaired by the proposed action; and

3) The feasible action, if any, to be taken to reasonably protect Native Hawaiian rights if they are found to exist.

The CIA is presently being prepared under HRS Chapter 343 and Act 50 HSL 2000. The appropriate information has been collected concerning the 'ili of Puhi and the ahupua'a of Niumalu, within the moku of Puna, focusing on areas near or adjacent to the project area, and a thorough analysis of this project and potential impacts to cultural resources, historical resources, and archaeological sites is included in this assessment.

The present analyses of archival documents, oral traditions (including oli or chants, mele or songs, hula or dance, ha'i mo'olelo or storytelling, and kākā'ōlelo or oration), and Hawaiian language sources including published books, unpublished manuscripts, and newspaper articles, are focused on identifying recorded cultural and archaeological resources present on the landscape, including: Hawaiian and non-Hawaiian place names; landscape features (ridges, gulches, cinder cones); archaeological features (kuleana parcel walls, house platforms, shrines, heiau or places of worship, etc.); culturally significant areas (viewsheds, unmodified areas where gathering practices and/or rituals were performed); and significant biocultural resources. Oral histories, including interviews with cultural and lineal descendants, are instrumental in procuring information about the project area's transformation through time and changing uses. Oral histories from previous studies were researched and relevant information from these resources were integrated into the document.

[2] It should be noted that not all resources searched resulted in identification of materials that were used for this report. We reference the collections of materials searched to illustration the due diligence completed in preparation of this report.

2.0 Methodology

The following section provides details on the due diligence and research conducted to identify the information utilized in this assessment.

2.1 Identifying Traditional or Customary Practices

The approach to developing the CIA is as follows:

Gather Best Information Available

- Gather historic cultural information from stories and other oral histories about the affected area to provide cultural foundation for the report;
- Inventory as much information as can be identified about as many known cultural, historic, and natural resources, including previous archaeological inventory surveys, CIAs, etc. that may have been completed for the possible range of areas;
- Update the information with interviews with cultural or lineal descendants or other knowledgeable cultural practitioners.

Identification of Potential Impacts to Cultural Resources

Develop Reasonable Mitigation Measures to Reduce Potential Impacts

- Involve the community and cultural experts in developing culturally appropriate mitigation measures;
- Develop specific Best Management Practices (BMPs), if any are required, for conducting the project in a culturally appropriate and/or sensitive manner as to mitigation and/or reduce any impacts to cultural practices and/or resources.

While numerous studies have been conducted on this area, few have effectively utilized Hawaiian language resources and Hawaiian knowledge about this area. This appears to have impacted modern understanding of this location, as many of the relevant documents are testimonies given by Kanaka ʻŌiwi who lived on this land have been excluded from past studies. Therefore, efforts to identify and include historic accounts, including those from Hawaiian language resources, were included in this methodology.

While hundreds of place names and primary source historical accounts (from both Hawaiian and English language narratives) are cited on the following pages, it is impossible to tell the whole story of these lands in any given manuscript. A range of history, spanning the generations, has been covered. Importantly, the resources herein

are a means of connecting people with the history of their communities—that they are part of that history. Knowledge of place will, in turn, promote appreciation for place and encourage acts of stewardship for the valued resources that we pass on to the future.

While conducting the research, primary references searched for information included, but were not limited to[3]: land use records, including the Hawaiian LCA records from the Māhele 'Āina (Land Division) of 1848; the Boundary Commission Testimonies and Survey records of the Kingdom and Territory of Hawai'i; and historical texts authored or compiled by: David Malo (1987); Samuel M. Kamakau (1964, 1991, 1992); records of the American Board of Commissioners of Foreign Missions (ABCFM) (1820–1860); Charles Wilkes (1845); Alexander & Preston (1892–1894); Abraham Fornander (1916–1919); George Bowser (1880); and many other native and foreign writers. The study also includes several native accounts from Hawaiian language newspapers (primarily compiled and translated from Hawaiian to English by K. Maly), and historical records authored by nineteenth century visitors, and residents of the region.

Historical and archival resources were located in the collections of the Hawai'i State Archives, Survey Division, Land Management Division, Survey Division, and Bureau of Conveyances; the Bishop Museum Library and Archives; the Hawaiian Historical Society and the Hawaiian Mission Children's Society Library; University of Hawai'i-Hilo Mo'okini Library; the National Archives and Records Administration (NARA), Maryland; the Library of Congress, Washington DC; the National Oceanic and Atmospheric Administration (NOAA) National Library, Maryland; the Smithsonian Institution Natural History and National Anthropological Archives libraries, Washington, DC; the Houghton Library at Harvard; the United States Geological Survey (USGS) Library, Denver; private family collections; and in the collection of Kumu Pono Associates LLC. This information is generally cited in categories by chronological order of the period depicted in the narratives.

M. Puakea Nogelmeier (2010) discusses the adverse impacts of methodology that fails to properly research and consider Hawaiian language resources. He strongly cautions against a mono-rhetorical approach that marginalizes important native voices and evidence from consideration, specifically in the field of archaeology. For this reason, Honua Consulting consciously employs a poly-rhetorical approach, whereby all data, regardless of language, is researched and considered. To fail to access these millions of pages of information within the Hawaiian language cache could arguably be a violation of

[3] Traditional historic sites are generally identified by historic sites (over 50 years of age) that are associated with pre-contact activities or of pre-contact origin, as opposed to modern historic sites, which are over 50 years but of post-contact origin.

Act 50, as such an approach would fundamentally fail to gather the best information available, especially considering the voluminous amounts of historical accounts available for native tenants in the Hawaiian language.

Hawaiian culture views natural and cultural resources as largely being one and the same: without the resources provided by nature, cultural resources could and would not be procured. From a Hawaiian perspective, all natural and cultural resources are interrelated, and all natural and cultural resources are culturally significant. Kepā Maly (2001), ethnographer and Hawaiian language scholar, points out, "In any culturally sensitive discussion on land use in Hawai'i, one must understand that Hawaiian culture evolved in close partnership with its natural environment. Thus, Hawaiian culture does not have a clear dividing line of where culture ends, and nature begins" (Maly 2001:1). As a leading researcher and scholars on Hawaiian culture, Maly, along with his wife, Onaona, have conducted numerous ground-breaking studies on cultural histories throughout Hawai'i.

This study also specifically looks to identify intangible resources. Tangible and intangible heritage are inextricably linked (Bouchenaki 2003). Intangible cultural resources, also identified as intangible cultural heritage (ICH), are critical to the perpetuation of cultures globally. International and human rights law professor Federico Lenzerini (2011) notes that, "At present, we are aware on a daily basis of the definitive loss—throughout the world—of language, knowledge, knowhow, customs, and ideas, leading to the progressive impoverishment of human society" (12). He goes on to warn that:

> the rich cultural variety of humanity is progressively and dangerously tending towards uniformity. In cultural terms, uniformity means not only loss of cultural heritage—conceived as the totality of perceptible manifestations of the different human groups and communities that are exteriorized and put at the others' disposal—but also standardization of the different peoples of the world and of their social and cultural identity into a few stereotyped ways of life, of thinking, and of perceiving the world. Diversity of cultures reflects diversity of peoples; this is particularly linked to ICH, because such a heritage represents the living expression of the idiosyncratic traits of the different communities. Preservation of cultural diversity, as emphasized by Article 1 of the UNESCO Universal Declaration on Cultural Diversity, 'is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind'. Being a 'source of exchange, innovation and creativity', cultural diversity is vital to humanity and is inextricably linked to the safeguarding of ICH. Mutual recognition and respect for cultural diversity—and, *a fortiori*, appropriate safeguarding of the ICH of the diverse peoples making up the world—Is essential for promoting harmony in intercultural

> relations, through fostering better appreciation and understanding of the differences between human communities. (Lenzerini 2011:103)

Therefore, tradition and practice, as elements of Hawaiian ICH, are essential to the protection of Hawaiian rights and the perpetuation of the Hawaiian culture.

It is within this context that traditional or customary practices are studied. The concept of traditional or customary practices can often be a challenging one for people to grasp. Traditional or customary practices can be defined as follows:

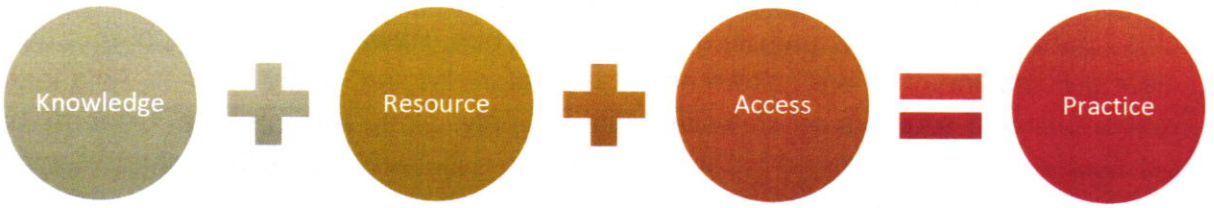


Figure 6. Diagram of elements that contribute to traditional or customary practices.

The first element is knowledge. This has been referred to as traditional ecological knowledge (TEK), Indigenous local knowledge (ILK), or ethnoscience. In the context of this study, it is the information, data, knowledge, or expertise Kanaka ʻŌiwi and/or other local communities possessed or possess about an area's environment. In a traditional context, this would have included information Hawaiians possessed in order to have the skills to utilize the area's resources for a range of purposes, including, but not limited to, travel, food, stories, worship or habitation. This element is largely intangible.

The second element are the resources themselves. These are primarily tangible resources, either archaeological resources (i.e., habitation structures, walls, etc.) or natural resources (i.e., plants, animals, etc.). These can also be places, such as a sacred or culturally important sites or wahi pana. Sometimes these wahi pana are general locations, this does not diminish their importance or value. Nonetheless, it is important to recognize that potential eligibility as a "historic site" on the National Register of Historic Places (NRHP) would require identifiable boundaries of a site.

The third element is access. The first two elements alone are not enough to allow for traditional or customary practices to take place. The practitioners must have access to the resource in order to be able to practice their traditional customs. Access does not just mean the ability to physically access a location, but it also means access to resources. For example, if a particular plant is used for medicinal purposes, there needs to be a sufficient amount of that plant available to practitioners for us. Therefore, an action that

would adversely impact the population of a particular plant with cultural properties would impact practitioners' ability to access that plant. By extension, it would adversely impact the traditional or customary practice.

Traditional or customary practices are, therefore, the combination of knowledge(s), resource(s) and access.

2.2 Traditional Knowledge, Ethnoscience, and Identifying of Cultural Resources

The concept of ethnoscience was first established in the 1960s and has been defined "the field of inquiry concerned with the identification of the conceptual schemata that indigenous peoples use to organize their experience of the environment" (Roth 2019). Ethnoscience includes a wide range of subfields, includes, but is not limited to, ethnoecology, ethnobotany, ethnozoology, ethnomedicine and ethnopedology.

Traditional Kanaka 'Ōiwi practitioners were scientists and expert natural resource managers by necessity. Without modern technological conveniences to rely on, Hawaiians developed and maintained prosperous and symbiotic relationships with their natural environments for thousands of years. Their environments were their families, their homes and their laboratories. They knew the names of every wind and every rain. The elements taught and inspired. The ability of Indigenous people to combine spirit and science led to the formation of unique land-based methodologies that spurred unsurpassed innovation. Therefore, identifying significant places requires a baseline understanding of what made places significant for Hawaiians.

Hawaiians were both settlers and explorers. In *Plants in Hawaiian Culture* (1993), Beatrice Krauss explains: "Exploration of the forests revealed trees, the timber of which was valuable for building houses and making canoes. The forests also yielded plants that could be used for making and dying tapa, for medicine, and for a variety of other artifacts" (4). Analysis of native plants and resource management practices reveals the depth to which Hawaiians excelled in their environmental science practices:

> [Hawaiians] demonstrated great ability in systematic differentiation, identification, and naming of the plants they cultivated and gathered for use. Their knowledge of the gross morphology of plants, their habits of growth, and the requirements for greatest yields is not excelled by expert agriculturists of more complicated cultures. They worked out the procedures of cultivation for every locality, for all altitudes, for different weather conditions and exposures, and for soils of all types. In their close observations of the plants they grew, they noted and selected mutants (sports) and natural hybrids, and so created varieties of the plants they already had. Thus over the years after their arrival in the Islands, the Hawaiians added hundreds of named

> varieties of taro, sweet potatoes, sugarcane, and other cultivated plants to those they had brought with them from the central Pacific. (Krauss 1993:3)

Thus, Native Hawaiians reinforced the biodiversity that continues to exist in Hawai'i today through their customary traditional natural resource management practices.

2.3 Mo'olelo 'Āina: Native Traditions of the Land

Among the most significant sources of native mo'olelo (stories, narratives, histories) are the Hawaiian language newspapers, which were printed between 1838 and 1948, and the early writings of foreign visitors and residents. Most of the accounts that were submitted to the papers were penned by Kanaka 'Ōiwi, area residents, and noted Native historians. Over the last 30 years, Kepā Maly has reviewed and compiled an extensive index of articles published in the Hawaiian language newspapers, with particular emphasis on those narratives pertaining to lands, customs, and traditions. Many traditions naming places around Hawai'i are found in these early writings. Many of these accounts describe native practices, the nature of land use at specific locations, and native mo'olelo. Thus, we are given a means of understanding how people related to their environment and sustained themselves on the land.

2.4 Historic Maps

There are also numerous, informative historic maps for the region. Surveyors of the eighteenth and nineteenth centuries were skilled in traversing land areas and capturing important features and resources throughout Hawai'i's rich islands. Palapala 'āina, or historic maps were carefully studied, and the features detailed therein where aggregated and categorized to help identify specific places, names, features, and resources throughout the study area. From these, among other documents, new maps were created that more thoroughly capture the range of resources in the area.

2.5 Ethnographic Methodology

Information from lineal and cultural descendants is instrumental in procuring information about the project area's transformation over time and its changing uses. As part of this assessment, Honua Consulting conducted public outreach inviting individuals with knowledge of the area's history, cultural resources, or traditional and customary practices to participate.

3.0 Cultural and Historic Background

Background research for the literature review was conducted using materials obtained from the State Historic Preservation Division (SHPD) library in Kapolei and the Honua Consulting LLC. report library. On-line materials consulted included the Ulukau Electronic Hawaiian Database (www.ulukau.com), Papakilo Database (www.papakilodatabase.com), the State Library on-line (http://www.librarieshawaii.org/Serials/databases.html), and Waihona 'Aina Māhele database (http://www.waihona.com). Hawaiian terms and place names were translated using the on-line Hawaiian Dictionary (Nā Puke Wehewehe 'Ōlelo Hawai'i, www.wehewehe.com) and *Place Names of Hawai'i* (Pukui et al. 1974). Historic maps were obtained from the State Archives, State of Hawai'i Land Survey Division website (http://ags.hawaii.gov/survey/map-search/), and UH-Mānoa Maps, Aerial Photographs, and GIS (MAGIS) website (http://guides.library.manoa.hawaii.edu/magis). Maps were geo-referenced using ArcGIS Pro desktop. GIS is not 100% precise and historic maps were created with inherent flaws; therefore, geo-referenced maps should be understood to have some built-in inaccuracy.

3.1 Traditional Period

The project area is situated within the traditional moku (district) of Puna, one of five districts that once divided the island of Kaua'i. These districts were further divided into 54 various ahupua'a. The project area is located in the southeastern portion of Kaua'i on the upland plains within the 'ili of Puhi, in the ahupua'a of Niumalu. Niumalu lies within the moku of Puna and adjoins the ahupua'a of Ha'ikū.

3.1.1 Background on Niumalu

Niumalu is a small ahupua'a in the moku of Puna that is just over 1700 acres in size. Niumalu literally translates as "shade [of] coconut trees" (Pukui et al. 1976:66). Frederick Wichman (1998) attributes its name with a legend, as follows:

> After many adventures on other islands, Kapūnohu traveled to Waimea to begin a tour of Kaua'i. When he reached Kōloa, he was asked to turn back as there was a man named Kemamo that lived on the border of Kona and Puna. He challenged all travelers to a contest. Kemamo was very skillful in the use of the sling. It was said that he never missed a shot and that rocks flung from his sling could go as far as five miles. Kapūnohu continued his journey and was met by Kemamo. The two settled the terms of their bet, Kemamo's sling against Kapūnohu's spear thrown toward Kalalea peak, which was visible from where they were. Kemamo took up his sling and threw his stone. It flew across the uplands of Puna and dropped down near Anahola. Kapūnohu threw his spear. As it flew, it shaded the coconut trees,

> thus the name Niumalu, dipped into the Wailua River, hence the name Waiehu, and finally pierced the mountain at Kalalea leaving a large hole that visible until just a few years ago. (57)

Niumalu Ahupua'a is a rich area of agricultural and aquatic resources, in part because of the abundance of fresh water here. It was known for its rich fishing grounds, a large fishpond along the Hulē'ia (Nāwiliwili) River, and cultivated agricultural terraces fed by the river, as well as the Pū'ali, Papalinahoa, Papakōlea and Koena'awanui streams, along with the Koena'awaiki stream and spring. Due to these factors, and the former heiau present along the coast and on Hā'upu mountain ridges, as well as on a prominent hill in nearby Nāwiliwili Ahupua'a, it is likely that a substantial traditional Hawaiian population was present in the area around Nāwiliwili Bay.

A note on place names is warranted here, because the project area is associated in common usage with both Niumalu and Līhu'e. Niumalu is the traditional ahupua'a within which the 'ili of Puhi lies, as documented in the Māhele record (Appendix A) and in the recorded place names of the ahupua'a (Table 1). "Līhu'e," by contrast, is a comparatively recent name: it was applied in the early nineteenth century by Kaikio'ewa, the governor (kia'āina) of Kaua'i, who named his home in the area Līhu'e, and the name subsequently attached to the plantation, town, and district that developed around Nāwiliwili and today serves as the county seat (see Sections 3.2.1–3.2.3). This history was independently affirmed by interviewee Puali'ili'imaikalani Rossi, a Hawaiian Studies faculty member at Kaua'i Community College, who observed that "the name Līhu'e is a fairly new name that emerged in the 1800s due to Kaikio'ewa … [who] named his home Līhu'e," adding that it "doesn't affect the project area, but it's worth noting." Because "Līhu'e" designates a modern town and district rather than a traditional ahupua'a—and because the outreach and consent materials prepared for this assessment referred to the project area colloquially as part of Līhu'e—this report consistently identifies the project area by its traditional land division, the 'ili of Puhi within the ahupua'a of Niumalu, moku of Puna, for accuracy and consistency with the Māhele and place-name records.

Niumalu Ahupua'a is briefly described by E.S.C. Handy (1940) as follows:

> Niumalu was, in Handy's words, "one of the most important fishing localities on Kauai." The ahupua'a was known for its rich fishing grounds and for at least six loko i'a (fishponds), including 'Alakoko, Kalālālehua, Lokoponu, and Papalinahoa. Hawaiian-language sources celebrate the 'ama'ama (mullet) of Niumalu and the 'ōpae (freshwater shrimp) of its streams, reflecting the productivity of these aquacultural and freshwater systems.

The management of these resources was governed by protocol and belief as well as by ecology. Rossi noted that "the Konohiki of the area also kept certain fish kapu and people weren't allowed to gather those resources," an observation she read as evidence "that there are certain rituals/beliefs associated with the project site." Such kapu reflect the traditional konohiki system of seasonal and species-specific restrictions that sustained the productivity of Niumalu's fisheries. Rossi also identified a contemporary continuation of the area's fishing culture: the vicinity "is where local fisherman sell their catch," a practice that "has occurred for years and ... is a part of today's culture of community selling/sharing." While not a traditional or customary practice in the legal sense, this ongoing exchange reflects the persistence of a subsistence-and-sharing ethic in the Puhi–Līhu'e community.

The Hulē'ia (alternately Hulaia and Nāwiliwili) River is a defining natural feature of Niumalu Ahupua'a; it literally translates as "a kind of soft pumice stone" (Pukui and Elbert 1986:89). In *An Account of the Polynesian Race* (1880), Abraham Fornander briefly mentions Hulē'ia in association with Kahekili's conquest of O'ahu in the early 1780s:

> A number of chiefesses of the highest rank–"Kapumoe"–were killed, mutilated, or otherwise severely afflicted. Kekela-o-kalani, the cousin of Kahahana's mother and of Kahekili, made her escape to Kauai. As an instance of deep affection, of bitterness of feeling, and of supreme hope of return and revenge at some future day, it is said that she took with her when she fled some of the Oahu soil from Apua-kehau, Kahaloa, Waiaula, and Kupalaha at Waikiki, and deposited it at Hulaia, Kaulana, and Kane on Kauai. (227)

In this mo'olelo, Hulē'ia functions as a a pu'uhonua, a sanctuary and place of refuge from war for the ali'i wahine (chiefess) Kekelaokalani.

Pū'ali is a small stream that feeds the flat marshy lo'i lands of Niumalu. Pū'ali refers to warriors but is also an isthmus (Pukui and Elbert 1986:346). As a place name associated with Hālawa, Moloka'i, Pukui, Elbert, and Mo'okini (1976) translate it as "groove" (191). In "A Brief History of the Hulē'ia Region," Jan TenBruggentate notes the presence of four additional streams, Papalinahoa, which was located between Pū'ali and Nāwiliwili streams, but "diverted underground," Papakōlea, which "flows into Hulē'ia above the Alakoko fishpond," Koena'awanui, which flows into the center of Nāwiliwili Bay, and Koena'awaiki, a "stream [located] at the eastern side of the beach" which is also the name of a spring (malamahuleia.org/history-of-the-huleia/).

While there is no translation for Papalinahoa in the standard Hawaiian place name reference sources, it is possible Papalina refers to the type of wet "sticky, clayey" soil in the flat (papa) marsh lands where it is located. Papakōlea can be translated as "Plover [bird] flats," possibly indicating the traditional presence of the migratory bird (Pukui, Elbert and Mo'okini 1976:179). No translation for Koena'awanui or Koena'awaiki is present in the standard Hawaiian place name reference sources, and several possible meanings can be considered—koena means something left over, remaining, ruins, or to rake (Pukui and Elbert 1986:158). In other locations, awanui refers to a large harbor, bay, or passage, while awaiki refers to a small one. Another interpretation of 'awa is the narcotic-like plant alternately known in the Pacific as kava (*Piper methysticum*). 'Awa nui can refer to a large amount of 'awa, which probably grew in abundance in the area because of its rich soil and fresh water resources, and the proximity of the ahupua'a to Wailua, a religious center for the island and the home of many high ranking ali'i, who would have participated in myriad rituals and ceremonies in addition to common partaking of 'awa. 'Awa iki can refer to a small amount of 'awa, and may suggest the dregs of 'awa remaining in a cup or bowl after the consumption (possibly ceremonial) of 'awa. Kāhili is the name of the "rising wind" (pi'i ka makani) of Niumalu (Ho'oulumāhiehie, "Hiiakaikapoliopele," *Ka Na'i Aupuni,* June 20, 1906:3).

It is not surprising that poetic references to the rich natural, agricultural, and aquatic resources are found in Hawaiian mele. One example is a kanikau (chant of mourning) from 1849 mentions the 'ōpae mahiki (a native fresh water shrimp), paired with the wai 'ono (delicious fresh water) of the heights of Kemamo above, "Aloha ka wai ono o Kemamo a me ka opae mahiki o Niumalu" (Love for/greetings to the delicious fresh waters of Kemamo and the mahiki shrimp of Niumalu) (Naoka, "Kahi Mele," *Ka Elele Hawaii,* June 29, 1849:81). An article in *Ka Nupepa Kuokoa* in 1927 describes the "'ama'ama momona" (large, succulent mullet fish) of Niumalu (Kauai Beauty, "Na Anoai o ka Waikea me ka Waiulailiahi e Kaulana nei," *Ka Nupepa Kuokoa,* March 31, 1927:6).

Poetic references to Niumalu are found in other mele (poetry, songs). One example is "No Sweet Emalie," composed by G.R.K. Penigula in 1895, which compares the poet's beloved from the area to the natural beauty of Niumalu. It states in part:

Aloha Niumalu i ka uluwehi,	Greetings/love to verdant Niumalu
Ka maile laulii ku pohai	Surrounded by the small leaf maile
...	
Hiki aku i ke awa Nawiliwili	Arriving from Nāwiliwili harbor
Kulu pakahi iho kuu waimaka	My tears fall one by one
Aloha no oe e Mailekini	Love to you, Mailekini

Olali a o na pali nihoniho	Light of the jagged cliffs
E hoi no au a manao mai	My thoughts return to think about [you]
Aia i Huleia kuu lei nani	There at Hulē'ia is my beautiful beloved lei
Poina aku au i kuu rose	I have forgotten my beloved rose blossom
Me ka manu inu wai pua o Lehua	And the nectar-sipping bird of Lehua

(Penigula, "No Sweet Emalie," *Ka Oiaio,* August 16, 1895:1)

Niumalu and the surrounding lands of Līhu'e are celebrated in other mele as well. A traditional song recorded by Clark (1990:2) pairs the poet's beloved with the gentle Paupili rain and the rustling groves for which the ahupua'a is named:

Aloha 'ia no au Līhu'e	Beloved is Līhu'e
I ka ne'e mai a ka ua Paupili	When the Paupili rain comes
Ua pili no au me ku'u aloha	I cling to my beloved
Me ke kau nehe mai au Niumalu	Under the soft rustling [leaves] of Niumalu

(Clark 1990:2)

Aside from the early historic accounts and mo'olelo, much of the traditional history of the ahupua'a has been obscured or destroyed by clearing and modification for commercial sugar cane cultivation, and numerous construction and development projects conducted before historic preservation became commonplace.

'Alakoko (Menehune Fishpond)

Throughout this assessment, the fishpond is referred to as 'Alakoko. While the spelling 'Alekoko appears widely in published, archival, and governmental records—including the National Register of Historic Places nomination, in which the pond is listed as "Menehune Fishpond"—'Alakoko is the name preferred by the cultural practitioners and lineal community who care for the pond, and is understood to be the pond's true and historically accurate name. This preference is reflected in early Hawaiian-language sources such as Moses (Moke) Manu's mo'olelo, which records the Menehune building "the wall of the Alakoko fish pond at Niumalu." The spelling 'Alekoko is treated here as a variant; where it appears in the title of a cited source, a mo'olelo, a mele, or a direct quotation, the original spelling has been retained for accuracy.

At least six loko i'a (fishponds) in the area have been identified. Kalālālehua, Lokoponu, Papalinahoa and 'Alakoko (Alaloko, Menehune, with the name Alakoko preferred by its practitioners) are four whose names are still known. Of these loko i'a, 'Alakoko is the

largest and best-preserved inland fishpond on the island of Kaua'i, and is the most prominent traditional Hawaiian feature of Niumalu Ahupua'a. 'Alakoko translates as "bloody [colored]-" or "rainbow-hued ripples" (Clark 2002:243). It measures approximately 5 acres in size and is located approximately one-half mile inland along a bend in the Hulē'ia River and three-fourth mile southwest away from the project area. The major defining feature that creates the pond is an approximately 825-meter-long wall that cuts off the bend of the river. It has been constructed of earth and carefully fitted stacked stones with a height of up to 5 feet above the water surface.

The first mention of the 'Alakoko Fishpond in Hawaiian mo'olelo is in Moses (Moke) Manu's "He Moolelo Kaao Hawaii no Laukaieie" (A Legend of Lauka'ie'ie), published in the Hawaiian newspaper *Ka Keo o ka Lahui* in 1894. In the mo'olelo, the hero figure Makanikeoe arrives in Niumalu, where he sees a young beauty of the area, Kaipolia and her sister Kalālālehua, "E noho ai ma hai o ka muliwai o Huleia...kahi e pili akula i ke kuapa a ka Menehune i hana ai, oia o Alakoko" (sitting on the bank of the Hulē'ia river...near the location of the walled [fishpond] that the Menehune had constructed, 'Alakoko) (Manu, "Laukaieie," *Ka Leo o ka Lahui,* January 24, 1894:3). Several English language legends regarding the origins of 'Alakoko Fishpond all center around the mythical menehune. William Hyde Rice's book *Hawaiian Legends* (1923) explains:

> After their return the Menehune built the wall of the Alakoko fish pond at Niumalu. Standing in two rows they passed the stones from hand to hand all the way from Makaweli to Niumalu. Daylight came before they had finished the work, and two gaps were left in the wall. These were filled in by [Chinese laborers] in late years, and the pond is still in use. (36-37)

An unattributed account is provided in Ching et al. (1973) that included 'Alakoko Fishpond and the surrounding area:

> Living in the valley between the Kipu River (Huleia) and Niumalu resided Ale-koko, the brother, and Ka-lala-lehua, the sister, young chiefs of handsome countenance, who agreed together to construct a fishpond each for themselves. The work on these fishponds was done by the menehunes, it was done in one night (during the night of akua, on which there was a full moon). Stones for the walls were gathered from as far away as the sea beach of Makalii.
>
> (The pond of the brother was built on one side of the river, while the pond of the sister was built in the opposite bend in the river below Kalaekapapa Point. The menehune women built the sister's pond, and the menehune

> men built the brother's pond.) As dawn approached the menehunes fled to the mountains. (The sister's pond was never completed.)
> The sister, seeing her fishpond was incomplete, was grieved and wept at its unfinished state, while the brother rejoiced at the completion of his. The stones gathered for the sister's pond still remain to this day. (28)

Lastly, another account of the creation of the fishpond is included in Frederick Wichman's book *Kaua'i: Ancient Place Names and Their Stories* (1998), and is described as follows:

> In Niumalu there is a large fishpond now called Menehune Fishpond. The dam for this pond was built across a large bend in the Hulē'ia River and is a nine-hundred-yard dirt levee faced with stone. The rocks used for the facing, the story goes, came from the plains of Wahiawa and were passed hand to hand down a double row of men and women. The pond was built at the request of Chief 'Alekoko and Chiefess Ka-lālā-lehua, who were brother and sister. The Menehune insisted that these two must remain inside their house and must not peek out at the work in progress. Through the long night and most of the day, the two listened to the voices of the Menehune and heard the sounds of stone falling on stone. At last curiosity won out, and the brother poked his fingers through the grass thatch of the house and peered out. Immediately the Menehune chief ordered his people to drop the stones they were holding and wash their hands in the almost completed fishpond. The rocks were not water polished and there was not a hand that wasn't bleeding from several cuts. The Menehune left the dam unfinished as a reminder to Chief 'Alekoko of his broken promise. The fishpond still bears his name: 'Ale-koko "rippling blood" (57-58).

Although attributed to the pre-contact time period, the age and origin of 'Alakoko Fishpond are as of yet undetermined, although it is estimated to be six hundred years old. The fishpond, SIHP #50-30-11-098, is preserved and was added to the National Register of Historic Places (NRHP #73000677) in 1973 (Martin 1973). According to Kikuchi 1973, the 'Alakoko Fishpond suffered "considerable damage" due to the tsunami of 1946.

'Alakoko has been the subject of archaeological attention since the first island-wide survey of Kaua'i. Wendell Bennett (1931:124–126) recorded the pond as "a stone-faced, dirt wall that runs for over 900 yards and cuts off a large bend in the river for use as a fish pond," noting that the dirt wall ran unfaced for some 145 yards before the stone facing began, that the wall stood about 5 feet above the water and 4 feet wide on top, and that the stone facing—single-course at first, doubling to roughly 2 feet thick as it extended into the current—ran for about 588 yards. Later observers have described at least four distinct

construction techniques along the wall, from an earthen pile at the west end, through single- and double-width stone facing, to an earthen berm at the east, enclosing a pond of approximately 16 hectares (39.5 acres) (Carson 2005:66–68). Nine archaeological features were documented at ʻAlakoko and in its vicinity by Ching et al. (1973), including three fishpond features (a loko kuapā and two loko wai), two ʻauwai, and four loʻi complexes.

Paleoenvironmental research has refined the pond's antiquity. Core samples taken from the pond bottom revealed a distinct change in sediments about 580 ± 30 years before present (calibrated to roughly AD 1305–1420), marked by a layer of wood detritus interpreted as the moment when "this bend in the river became fully enclosed by a man-made wall," with charcoal particles increasing steadily thereafter (Burney 2002:21–23; Burney and Burney 2003:215). On this basis, construction of the fishpond is reasonably placed in the middle AD 1300s to the middle AD 1400s (Carson 2005:69–70)—among the earliest features in the Puna District radiocarbon sequence, and coincident with the period of population growth and expanding chiefly authority around AD 1400 (Kirch 1990). The scale of the undertaking is itself significant: large loko iʻa such as ʻAlakoko required organized labor under chiefly direction and came to serve as symbols of the chiefly right to the land and its resources (Kikuchi 1976:299; Carson 2005:66).

The fishpond is currently under the care of Mālama Hulēʻia, a Kauaʻi-based non-profit organization, whose mission is to advocate for, educate, and lead community efforts to remove red mangrove along the Hulēʻia river, reestablish native wetland ecosystems and create an environmental stewardship program that honors Hawaiian culture and values (malamahuleia.org). In November 2021, Mālama Hulēʻia partnered with the the Trust for Public Land and purchased the 102 acres site.

The wind associated with ʻAlakoko is described in a 1906 Hiʻiakaikapoliopele moʻolelo in the Hawaiian newspaper *Ka Naʻi Aupuni* as "Lawekiupualiʻi," that was capable of "Naha ka maka-ha, lele ka upena a na Akua Ka-ne ame Kanaloa" (smashed the sluice gate(s) [of the fishpond], causing the fishing nets of the deities Kāne and Kanaloa to be swept away) (Hoʻoulumāhiehie, "Hiiakaikapoliopele," *Ka Naʻi Aupuni,* June 20, 1906:3).

3.1.2 Recorded Place Names of Niumalu Ahupuaʻa

The following table compiles recorded place names within the ahupuaʻa of Niumalu—including the ʻili ʻāina, streams, fishponds, kūʻula, and wahi pana that make up the cultural landscape surrounding the ʻili of Puhi—as documented in the Ulukau Hawaiian Place Names database, drawn from Place Names of Hawaiʻi (Pukui, Elbert, and Moʻokini 1974) and related sources. All of the following places are located on the island of Kauaʻi within the ahupuaʻa of Niumalu.

Table 1. Recorded place names within the ahupua'a of Niumalu, moku of Puna, Kaua'i (Island: Kaua'i; Ahupua'a: Niumalu). Source: Ulukau, Hawaiian Place Names database.

Place Name	Type/ Feature(s)	Definition of Name (if available)	Source
Aione	'ili 'āina	—	Ulukau, Hawaiian Place Names database
Alakoko	fishpond	'Alakoko (also recorded as 'Alekoko), "rippling blood" (Pukui, Elbert & Mo'okini 1974); the same feature as the Menehune Fishpond.	Ulukau, Hawaiian Place Names database (after PEM 1974)
Carter Point	point	Post-contact English name; commemorates the Carter family. Not a Hawaiian name.	Ulukau, Hawaiian Place Names database
Hakala	pali, 'auwai, 'ili 'āina	—	Ulukau, Hawaiian Place Names database
Halehaka Stream	stream	—	Ulukau, Hawaiian Place Names database
Hawai'i	stream, 'ili 'āina	Meaning not definitively established (name shared with the archipelago).	Ulukau, Hawaiian Place Names database
Hokunui	pu'u	Hōkū nui, "great star" (literal).	Ulukau, Hawaiian Place Names database
Holilea	'ili 'āina	—	Ulukau, Hawaiian Place Names database

Place Name	Type/ Feature(s)	Definition of Name (if available)	Source
Kaaipo	ʻili ʻāina	—	Ulukau, Hawaiian Place Names database
Kahalehaka	kūʻula	—	Ulukau, Hawaiian Place Names database
Kaipolia	fishpond	—	Ulukau, Hawaiian Place Names database
Kakulua	ʻili ʻāina	—	Ulukau, Hawaiian Place Names database
Kalanipuu	puʻu, wahi pana	Ka-lani-puʻu, "the royal / heavenly hill" (literal).	Ulukau, Hawaiian Place Names database
Kalepa	pali	Kālepa, "to trade, peddle," or ka lepa, "the banner" (Pukui, Elbert & Moʻokini 1974).	Ulukau, Hawaiian Place Names database (after PEM 1974)
Kaluahanu	ʻili ʻāina	—	Ulukau, Hawaiian Place Names database
Kaohia	ʻili ʻāina	—	Ulukau, Hawaiian Place Names database
Kapaeli	ʻili ʻāina	—	Ulukau, Hawaiian

Place Name	Type/ Feature(s)	Definition of Name (if available)	Source
			Place Names database
Kapaihema	ʻili ʻāina	—	Ulukau, Hawaiian Place Names database
Kapalau	ʻili ʻāina	—	Ulukau, Hawaiian Place Names database
Kawahi	stream	Ka wahi, "the place" (literal).	Ulukau, Hawaiian Place Names database
Kawai Point	point	Ka wai, "the water" (literal); "Point" is an English descriptor.	Ulukau, Hawaiian Place Names database
Kawaloa	ʻili ʻāina	—	Ulukau, Hawaiian Place Names database
Keone	ʻili ʻāina	Ke one, "the sand" (literal).	Ulukau, Hawaiian Place Names database
Keopaweo	puʻu, triangulation station	—	Ulukau, Hawaiian Place Names database
Kumulii	ʻili ʻāina	—	Ulukau, Hawaiian Place Names database
Lauakea	ʻili ʻāina	—	Ulukau, Hawaiian

Place Name	Type/ Feature(s)	Definition of Name (if available)	Source
			Place Names database
Menehune Fishpond	pond	English name for the ʻAlakoko (ʻAlekoko) Fishpond; tradition attributes its construction to the Menehune.	Ulukau, Hawaiian Place Names database
Niumalu	ahupuaʻa	"Shade [of] coconut trees" (niu, "coconut" + malu, "shade, shelter") (Pukui, Elbert & Moʻokini 1974).	Ulukau, Hawaiian Place Names database (after PEM 1974)
Niumalu	village	"Shade [of] coconut trees" (niu, "coconut" + malu, "shade, shelter") (Pukui, Elbert & Moʻokini 1974).	Ulukau, Hawaiian Place Names database (after PEM 1974)
Niumalu Flat	place	Descriptive English place name incorporating Niumalu.	Ulukau, Hawaiian Place Names database
Nohiu	bay	—	Ulukau, Hawaiian Place Names database
Pahunui	ʻili ʻāina	Pahu nui, "large drum or box" (literal).	Ulukau, Hawaiian Place Names database
Paiaa	ʻili ʻāina	—	Ulukau, Hawaiian Place Names database
Pakauila	stream, ʻili ʻāina	—	Ulukau, Hawaiian

Place Name	Type/ Feature(s)	Definition of Name (if available)	Source
			Place Names database
Palipaliahi	ʻili ʻāina	—	Ulukau, Hawaiian Place Names database
Papala	ʻili ʻāina	Pāpala, a native tree (Charpentiera spp.) whose light wood was used in ʻōahi (fire-throwing).	Ulukau, Hawaiian Place Names database
Pauma	ʻauwai, ʻili ʻāina	Pauma, "pump"—a Hawaiianized English loanword, likely for a plantation-era water pump.	Ulukau, Hawaiian Place Names database
Puali	ʻili ʻāina	Puali, "constricted, notched; a band of warriors (puali koa)" (literal).	Ulukau, Hawaiian Place Names database
Puali Stream	stream	Puali, "constricted, notched; a band of warriors (puali koa)" (literal).	Ulukau, Hawaiian Place Names database
Pukohikii	kauhale	—	Ulukau, Hawaiian Place Names database
Unulau	place	—	Ulukau, Hawaiian Place Names database
Waikeku	pali	Contains wai, "water"; remainder undocumented.	Ulukau, Hawaiian Place Names database
Waikohenui	stream	Contains wai, "water"; full meaning undocumented.	Ulukau, Hawaiian

Place Name	Type/ Feature(s)	Definition of Name (if available)	Source
			Place Names database
Waikonui	stream	Contains wai, "water"; full meaning undocumented.	Ulukau, Hawaiian Place Names database

3.1.3 Adjacent Ahupua'a of Ha'ikū

Ha'ikū is the ahupua'a immediately adjacent to Niumalu within the moku of Puna, sharing an upland boundary in the vicinity of the 'ili of Puhi. Ha'ikū has multiple meanings, including: haughty, conceited, to speak abruptly, and a sharp break (Pukui and Elbert 1986:47). The ahupua'a of Ha'ikū is unique in that it is cut off from the ocean with its only access through the Hulē'ia River. The Hulē'ia River is a defining feature of the ahupua'a and delineates the southern boundary with Kipu Ahupua'a. Based on the location of Land Commission Awards in Ha'ikū, it is likely that the traditional Hawaiian population of the ahupua'a was focused along the Hulē'ia River and its various tributaries. The uplands of the ahupua'a include the lands on the southern and southwestern flank of Kilohana Crater. Little is known of traditional land use in the uplands of Ha'ikū due to extensive modifications to the land and water resources made during plantation-era commercial sugarcane cultivation.

The remnants of traditional Hawaiian agricultural activities along the Hulē'ia River in Ha'ikū are briefly described by Handy and Handy (1972) in *Native Planters in Old Hawaii: Their Life, Lore and Environment* as follows:

> The broad delta of the Huleia River is 1.5 miles long and a half mile wide and is in the ahupuaa named Haiku, the next to last of the southeasterly valleys of Puna. This area was ideal for wet taro. Terraces continue upriver, and there were terraces up the streams that empty into the river. Old breadfruit and mango trees indicate that there were many Hawaiian kuleana up to 6 miles inland from the delta. (427)

There are several wind names associated with locations in the vicinity of the project area, including Puhi, 'Alakoko, and the uplands toward Kilohana. These are recounted in a wind chant in a 1906 Hi'iakaikapoliopele mo'olelo by author Ho'oulumāhiehie:

> Holomio o Kilohana

He Oni ka makani o Puhi
...
He Hapuku me Alaoli na makani kuehu lepo o Huleia
He Lawekiupualii ka makani o Alekoko
(Ho'oulumāhiehie, "Hiiakaikapoliopele," *Ka Na'i Aupuni,* June 20, 1906:3)

Holomio [is the wind] of Kilohana
Oni is the wind of Puhi
...
Hapuku and Alaoli are the dust-scattering winds of Hulē'ia
Lawekiupuali'i is the wind of 'Alekoko [Fishpond].

The general vicinity of these uplands is briefly mentioned in the "Legend of Uweuwelekehau" in Abraham Fornander's Hawaiian Antiquities and Folklore (vol. V):

> Ku was the father and Hina was the mother of Uweuwelekehau, and Wailua, Kauai was the land [of their birth]. Olopana was the first-born, then Ku came next, and the last of the family was Hina, a girl. They lived in Wailua as chiefs and rulers of Kauai. After a while Olopana became displeased with Ku, so Ku set out and journeyed to Piihonua, Hilo, Hawaii, where he made his home. In this journey Hina, the sister, followed Ku, as she was much attached to him, and thus left Olopana in Kauai by himself.
>
> After they arrived at Hilo, Ku in accordance with the old custom took Hina to be his wife, as he was of too high a rank to take any other woman to wife; and they became king and queen of Hilo. Their bathing place was at the pool called Waianuenue. In course of time Hina conceived and gave birth to a male child, who was called Uweuwelekehau. At the birth of the child a great storm swept over the land; the thunder roared, the earth was shaken by a great earthquake, the lightning flashed, the rivers and streams overflowed, the wind blew and the rain came down in torrents.
>
> After Uweuwelekehau was grown up into manhood it was seen that he was very handsome and pleasant to look upon. He was always accompanied by his two gods, Kane and Kanaloa. His bringing up was surrounded by many restrictions; his house was sacred, people not being allowed to pass near it upon pain of certain death.
>
> In the meantime, Olopana lived on Kauai, and he too in course of time was blessed with a child, a girl, who was called Luukia. Upon hearing that Hina

had given birth to a male child, Olopana made oath that his daughter should marry no one except Uweuwelekehau. Olopana then commanded the people of Kauai that Uweuwelekehau when he comes shall come in a red canoe, having red sails, red paddles, accompanied by large and small men in large and small canoes. When they see such a man come with these different things, then it is the sign of a great chief.

One day near the month of October while Ku and Hina were living in their home, they were possessed with the desire to go up the Wailua river for oopu and shrimps. In this expedition they took all their servants along with them leaving Uweuwelekehau alone with his attendants. After his parents had departed on their way up the stream Uweuwelekehau set out for the Kalopulepule river to sail his canoe. As he was in the river a small cloud appeared from the sea and came on up till it stood directly above the Wailuku stream when it came down in the form of rain, flooding the whole country and causing the stream to flow in a rush to the ocean, carrying Uweuwelekehau along in its flood. This carrying away of Uweuwelekehau by the flood was cause by Kane and Kanaloa. After he was thus carried out to sea, someone went up and informed Ku of the matter and he and his company returned home and a search was made, but the boy could not be found. The parents then mourned for the boy.

While in the sea Uweuwelekehau was changed into a fish through the power of Kane and Kanaloa, and by them taken to Kauai and left in a crevice in the rocks near the shore where the fish of Luukia was generally caught by her attendant, Papioholoholokahakai. The fish into which Uweuwelekehau was changed was of the kind called moa, a short stubby fish.

Early the next morning when Luukia awoke from her sleep she told her attendant, Papioholoholokahakai, to go down and catch her some fish for breakfast, as there was none ready for her morning meal. Papioholoholokahakai took up his net and proceeded to the beach. After three casts of his net he found that he had caught nothing. Thinking that his charge would get with him he again made another attempt, when to his delight he caught a small stubby fish, and upon closer inspection he saw that it was a good fish. He then took the fish and placed it into a calabash with some water and proceeded home. When he arrived in the presence of Luukia, he handed her the calabash which contained the fish. Luukia looked at the fish and was made glad by the shape of the fish and took and gave it to her servants with the order that it be given good care.

After the lapse of one day, one the second day, while Luukia and her attendants were asleep, the fish transformed itself into a human being, through the power of Kane and Kanaloa. When Luukia and her attendants woke up they saw a handsome young man coming to them and immediately Luukia fell in love with him, for he was indeed very comely and pleasant to look upon. Luukia called Uweuwelekehau to come closer, whereupon they came together, though they did not know each other, Kane and Kanaloa disapproved of their living together at this time.

While they were living this way, Olopana heard that Luukia was living with a husband; so he became very angry because of the promise he had made, that Luukia should have no one else but Uweuwelekehau for her husband [not knowing that this very person was the man of his choice]. Olopana then gathered all the people of Kauai and ordered them to come before him to hear what he had to say about Luukia and her lover, and to see for themselves who he was. As soon as the people came together in his presence, he asked Luukia: "Which would you rather have, the husband or your father?" "I will take my husband," said Luukia. Olopana then ordered his chief officer "Take off everything from Luukia and leave her naked; also take off everything from her husband except his malo." Olopana thought they were deserving of this ill treatment because his daughter had disobeyed him. Olopana then told the people of the whole of Kauai not to take these two into their homes nor give them food or clothing. He also commanded that they go to Mana and live, a place of spirits; no human beings lived there.

Luukia and Uweuwelekehau therefore left Wailua and journeyed to the land to which they were commanded to go live. When they reached the plains of Lihue, Luukia began to weep and show signs of complaint against her father for forcing her to go naked. When Uweuwelekehau saw this he said: "Don't weep; have patience until we reach that hill, where you will find a pa-u." When they arrived at the hill, they found several pa-u and all manner of kapas, which furnished them with all their wants and thus covered their nakedness. After they left the place Luukia again began weeping because she was hungry. Her husband then said to her: "Have a little patience until we reach that hill, Kohoaea, where we will find food and meat." Upon arriving at the hill they found food and meat which they ate until they were satisfied. From this place they continued on their way until they came to Mana, where they made their home.

Mana, as has been said, was the land where the spirits lived; no human beings lived there; no food or any description grew in the place; the only things that grew in the place were wild shrubs and weeds. It was also a place avoided by people, lest they be destroyed by the spirits, and it was for these reasons that Luukia and her husband were sent there.

During the night, as they slept, a house was built over them, food was provided, animals were brought to the place and all their need were supplied them. When they woke up the next morning Luukia was surprised to see these different things. The two lived on in peace in the place from this time on.

When the fishermen who were out in their canoes saw the light burning they came ashore and were entertained by Uweuwelekehau, food and meat were given them as well as kapas and other things. Through his great kindness he stole the heart of these people who came to Mana, causing many of them to come and live there, and through their labor turned the waste land into a rich and comfortable place. By this time these doings were reported to Olopana who was still at Wailua. In order therefore to see these things for himself and also to make up with his daughter an son-in-law, for news had also come to him that this person was Uweuwelekehau himself, because the latter had informed his wife and the people in Mana as to his identity. Olopana set out for Mana, with the purpose not only to make up, but to make his son-in-law and daughter the king and queen of Kauai.

The news of Uweuwelekehau being alive and on Kauai was not by any means confined to that island alone, but it was also carried to Hawaii and to Ku and Hina. They therefore came to Kauai with their servants, in large and small canoes, having red sails, red cords, red paddles, red seats, red bailing cups and red men, and with everything needed for the voyage.

When the people from Hawaii arrived they were met by a great host of people at Mana and great festivities were had. That night for the first time the tow covered by the same kapa, for Kane and Kanaloa were pleased to remove the kapu placed over their charge.

Uweuwelekehau and Luukia were at this time declared the king and queen of Kauai. Among their first acts to commemorate their great fortune were the planting of the grove of coconut trees at Kaunalewa and the building of

> the temple of Lolomauna. This is the end of this legend. (Fornander 1918:192-198)

The trail heading west from Wailua mentioned in the legend above is thought to be the approximate location of the Kaua'i Belt Road, located adjacent to the project area to the north and now known as Kaumuali'i Highway.

3.2 Kingdom and Historic Era

Following the landing of British Navy Captain James Cook off Waimea, Kaua'i in 1778, Hawaiian life on Kaua'i began to change at a rapid pace. In the late 18th century, Waimea became a port-of-call for merchants and explorers, and is described in several early historic accounts (Portlock 1789, Dixon 1789 and Vancouver 1798). Beginning in 1810, the sandalwood trade became the driving force of the Kaua'i economy, and by the 1830s the sandalwood forests of Waimea Canyon and Kōke'e were mostly depleted (Joesting 1984).

American Calvinist missionaries from the American Board of Commissioners for Foreign Missions (ABCFM) first arrived and settled on the island in the 1820s, where they documented a widespread influenza epidemic that killed much of the native Kānaka 'Ōiwi population. The native population census records over the next few decades documented the systematic decline of the native population due in part to smallpox and other devastating diseases introduced by foreigners. The village of Nāwiliwili, which eventually developed into a subsection of Līhu'e town, was established in the 1830s by Kaua'i's governor, Kaikioewa. This development coincided with the beginning of the whaling industry and the introduction of commercial agriculture on Kaua'i.

The earliest account of Līhu'e is given by the United States Exploring Expedition in 1840 and it is described as follows by Ethel Damon (1931):

> A settlement lately undertaken by the Rev. Mr. Lafon, for the purpose of inducing the natives to remove from the sea-coast thus abandoning their poor lands to cultivate the rich plains above... Mr. and Mrs. Lafon are very industrious with their large school, to which some of the children come five miles.
>
> The principal village is Nawiliwili, ten miles east of Koloa. The district contains about forty square miles, being 'twenty miles long by two broad. The soil is rich: it produces sugar-cane, taro, sweet potatoes, beans, etc.

> The only market is that of Koloa. The cane suffers somewhat from the high winds on the plains.
>
> The temperature of Lihui (*sic.*) has much the same range as that of Koloa, and the climate is pleasant: the trade-winds sweep over uninterruptedly, and sufficient rain falls to keep the vegetation green throughout the year. No cattle are to be seen, although the pasturage is good.
>
> As yet there is little appearance of increase in industry, or improvement in the dwellings of the natives. There are no more than about seventy pupils in this district, who are taught by natives. There are two houses of worship, and about forty communicants. (Damon 1931:405-406)

No description of Niumalu or the adjacent Ha'ikū is included in the account, but the general area is broadly described as fertile with a native population along the coastline.

The earliest written descriptions of the lands around Līhu'e and Niumalu come from mid-nineteenth-century travelers on the trail between Kōloa and Wailua. Returning to Kaua'i in 1849, six years after his family had left the island, William DeWitt Alexander recorded the ride in his journal: "We then rode through a gap in the hills, leading out from Kōloa. The scenery was very fine, and worthy of Kaua'i. Mauna Kāhili was close on the left, & on the right a beautiful range of hills extending towards the northeast and terminating in an abrupt peak which goes by the name of 'Hoary Head' [Hā'upu]. We rode on over a beautiful undulating table land, dotted with groves of lauhala and kukui. After riding about five miles, we crossed a stream fitly called Stoney Brook. We afterwards crossed many other streams on our way" (Alexander 1991:122). Alexander observed no conspicuous Hawaiian settlements on the open uplands between the gap and the Līhu'e area, though substantial settlement in the Hulē'ia Stream valley below may have been obscured from his view.

A second visitor, William T. Brigham, described the route between Līhu'e and Kōloa in 1865: "From Līhu'e the road led over the plain with the mountains on the left. A ditch crossed and recrossed the road as it wound along the hills from the mountains to the canefields below. Owls (pueo) were very abundant" (Lydgate 1991:143). Brigham's note of abundant pueo—a bird of deep cultural significance as an 'aumakua—is striking for a landscape that by then was already being reshaped by plantation agriculture.

3.2.1 Early Historic Land Tenure in Niumalu Ahupua'a

In the 1840s, the concept of private property was introduced into Hawaiian society through formation of the Board of Commissioners to Quiet Land Titles and the process of the Māhele, a formal division of Hawaiian lands. In 1845, King Kamehameha III waived

his right to full authority over the land, portioning out land for his personal use (crown lands) and then dividing the rest of his territory into land for the government, land for the ali'i (chiefs) and konohiki (land overseers), and land for tenants or working class (kuleana land) (Alexander 1891, Board of Commissioners 1929, Moffat and Fitzpatrick 1995). Following thereafter Land Commission Awards (LCAs) were awarded to working class as kuleana parcels for fee ownership. Kuleana land claims required proof of residency on the land and continued land improvements. LCAs therefore record who resided on the land and how the land was used. Royal Patents were often granted on LCAs awarded from 1847-1853, which finalized the sale and legal title of the lands. Royal Patents (RP) were used until the overthrow of the Hawaiian government in 1892 and thereafter are referred to as Land Patents.

The lands of Niumalu, including the project area, together with the adjacent ahupua'a of Ha'ikū, were awarded to Princess Victoria Kamāmalu as R.P. 4479, LCA 7713 'āpana 2. The remaining lands included kuleana claims by native tenants on the Niumalu Flats (Niumalu Village), along Pū'ali Stream in Niumalu, and along several portions of the Hulē'ia River in Niumalu and adjacent Ha'ikū. Twenty-four LCAs were awarded within Niumalu Ahupua'a (with an additional 35 in adjacent Ha'ikū). No LCAs were awarded within the project area or vicinity.

Land Commission records document the traditional occupation of Niumalu in some detail. Summarizing the Māhele testimony, Stauder (1973) found that Niumalu contained at least 24 Land Commission Awards with at least 80 separate lo'i, distributed among dozens of named 'ili 'āina, with claimants repeatedly describing loko and ki'o wai (ponds and water holes); Niumalu had seven additional ponds in the vicinity of the well-known 'Alakoko Loko. The survey notes for the ahupua'a record that "the fishing privilege of Hulē'ia River belongs to the Ahupua'a of Niumalu from its mouth to the Road crossing it to Kīpū Kai" (Ching et al. 1973:105), underscoring the centrality of the river and its fisheries to Niumalu. The records also reflect a land-use pattern noted as characteristic of the Puna Moku, in which lo'i and kula (drier cultivated) lands are described within the same 'āpana, and in which kula could refer to lands in the valley bottoms rather than the dry sloping lands the term denotes elsewhere in the islands; some claimants further described their lands as trampled by cattle. Following Victoria Kamāmalu's death in 1866, Niumalu passed to Kamehameha V and then to Ruth Ke'elikōlani, who sold the ahupua'a to Paul P. Kanoa in 1883; Kanoa resided in Niumalu and served as Governor of Kaua'i (Stauder 1973:31–34).

3.2.2 Development of Nāwiliwili Harbor

Before the arrival of Europeans, Nāwiliwili Bay was a preferred canoe landing and known for its bountiful fishing grounds, especially in the area where Hulē'ia River empties into

the bay (Figure 7). Nāwiliwili Bay was identified as one of three natural harbors for sailing ships on the island, the other two being Waimea Bay and Hanaka'ape Bay (now known as Kōloa Landing).

In the 1830s, the Governor of Kaua'i established a village at Nāwiliwili that eventually became incorporated into Līhu'e. The catalyst for the development of Nāwiliwili Harbor was the founding of the Lihue Plantation Company in 1849 and the establishment of a sugar mill along Nāwiliwili Stream.[4] In 1851, the plantation sold four acres of land along Nāwiliwili Bay for construction of the harbor. During the latter half of the 19th century, the naturally protected harbor became a key shipping point for the Lihue and Grove Farm plantations.

After being selected as the Federal harbor for the island of Kaua'i, the government authorized the construction of a breakwater, dredging of the bay to a depth of 35 feet, and the construction of several wharfs at Nāwiliwili Harbor under the River and Harbor Act of March 2, 1919. The breakwater was completed in 1926 and dredging of the bay was conducted between 1929 and 1930. The wharf facilities were constructed on imported fill and dredge material.

The approximately 25-acre Nāwiliwili Small Boat Harbor was authorized under Section 107 of the River and Harbor Act of 1960 and was completed in 1974.[5] Since that time, numerous projects have been conducted for facility upgrades and additions. Currently, Nāwiliwili Harbor serves as a center for recreational boating, a port of call for visiting cruise ships, and a major shipping lifeline to the island.

[4] Historic sites are generally identified as those sites over 50 years of age that are of post-contact origin.

[5] Hawaiian Sugar Planters' Association Archives - https://www2.hawaii.edu/~speccoll/p_lihue.html#:~:text=The%20original%203%2C000%20acres%20of,included%20an%20excellent%20water%20source.&text=A%20mill%20was%20built%20at,north%20side%20of%20Hanamaulu%20Gulch.



Figure 7. 1900 photo of Nāwiliwili Bay and the vicinity of the project area (Ching et al. 1973:10-12, Plate 2, Courtesy of the Kaua'i Historical Society)

3.2.3 Grove Farm Plantation

The land that would become Grove Farm Plantation was acquired by Warren Goodall in 1850 and gets its name from the grove of kukui trees that surrounded the original property. It was sold to B. Marshall later that same year and was acquired by Judge H.A. Widemann in 1856. In 1863, George N. Wilcox was hired to construct the irrigation system of the property. This resulted in the excavation of two irrigation ditches, known as the 1st ditch and 2nd ditch, and various other irrigation infrastructure improvements between 1864 and 1865.

The story of the first sugar cane cultivated on the plantation refers to the village of Niumalu, located on the flats to the west of the project area. In the book *Grove Farm Plantation: The Biography of a Sugar Plantation* (1984), Bob Krauss and W. P. Alexander write that:

> [George N. Wilcox] . . . drove an ox cart to the beach and around the bay to a Hawaiian settlement called Niumalu where the natives grew sugar cane, as a supplementary food crop, on the earthen dams that separated their taro patches, George carefully chose stands of healthy cane, making sure that they were the original plantings and not rations. (133)

Based on the description, it is likely that Wilcox visited the former village of Niumalu, comprised of a cluster of LCAs located on the flats adjacent to Nāwiliwili Bay and the Hulēʻia River. It is also likely that he picked his stock from the sugar cane cultivated in the cluster of LCA's comprising the large loʻi (irrigated terraces) complex along Pūʻali Stream in the coastal inlands of Niumalu.

Grove Farm was purchased from H.A. Widemann by George Wilcox in 1870. During this time, the sugar cane was milled at the Lihue Mill and exported via Nāwiliwili Bay. Growth continued, and Wilcox increased his land holdings through a series of deals with Princess Ruth Keʻelikōlani between 1874 and 1881. A 1910 United States Geological Survey (USGS) map shows a road that would become the Kauai Belt Road to the north of the project area.

Additional water rights were obtained in the early 1900s and allowed for the construction of the upper ditch between 1914 and 1917 and the expansion and improvement of the irrigation system through the end of the 1920s (Wilcox 1998).

To accommodate the growth of the plantation and the influx of new workers, Grove Farm built Puhi Camp between 1917 and 1920. Puhi Camp was built as a village-style planned community and originally consisted of 120 new homes; it was expanded to over 600 homes during the height of sugar cultivation in the late 1930s (Riznik 1999). A 1934 map of Land Court Application (LCApp) 1087 shows the project area in relation to the Kauai Belt Road (now known as Kaumualiʻi Highway) and Puhi Camp to the northwest.

In 1948, Grove Farm purchased Koloa Plantation, which gave them access to their own sugar mill. This doubled the land holdings of Grove Farm and eliminated the use of the mill at the Lihue Plantation. The growth of the farm facilitated further improvements which included the construction of the Wilcox Tunnel between 1948 and 1949, the development of an airfield at Haʻikū in 1954, and the construction of the Kuia-Waita Tunnel in the early 1960s. An aerial photograph from 1965 shows the project area under sugarcane cultivation and little change in the vicinity of the project or Puhi town during that time.

In the mid-1960s, Grove Farm donated 200 acres of land that eventually became Kauaʻi Community College. The majority of Puhi Camp was destroyed in the 1970s during construction of the Kauaʻi Community College, and housing in the area was constructed on the makai (ocean) side of Kaumualiʻi Highway. In 1974, Grove Farm ceased its sugar operations and began leasing lands to the Līhuʻe and McBryde plantations. A 1978 aerial photograph shows the project area, a residential neighborhood to the south, and the development of Kauaʻi Community College to the north. In the 1980s, the remainder of

the Puhi housing was destroyed. Aside from additions and upgrades to Kaua'i Community College, little development has occurred in the Puhi since that time.

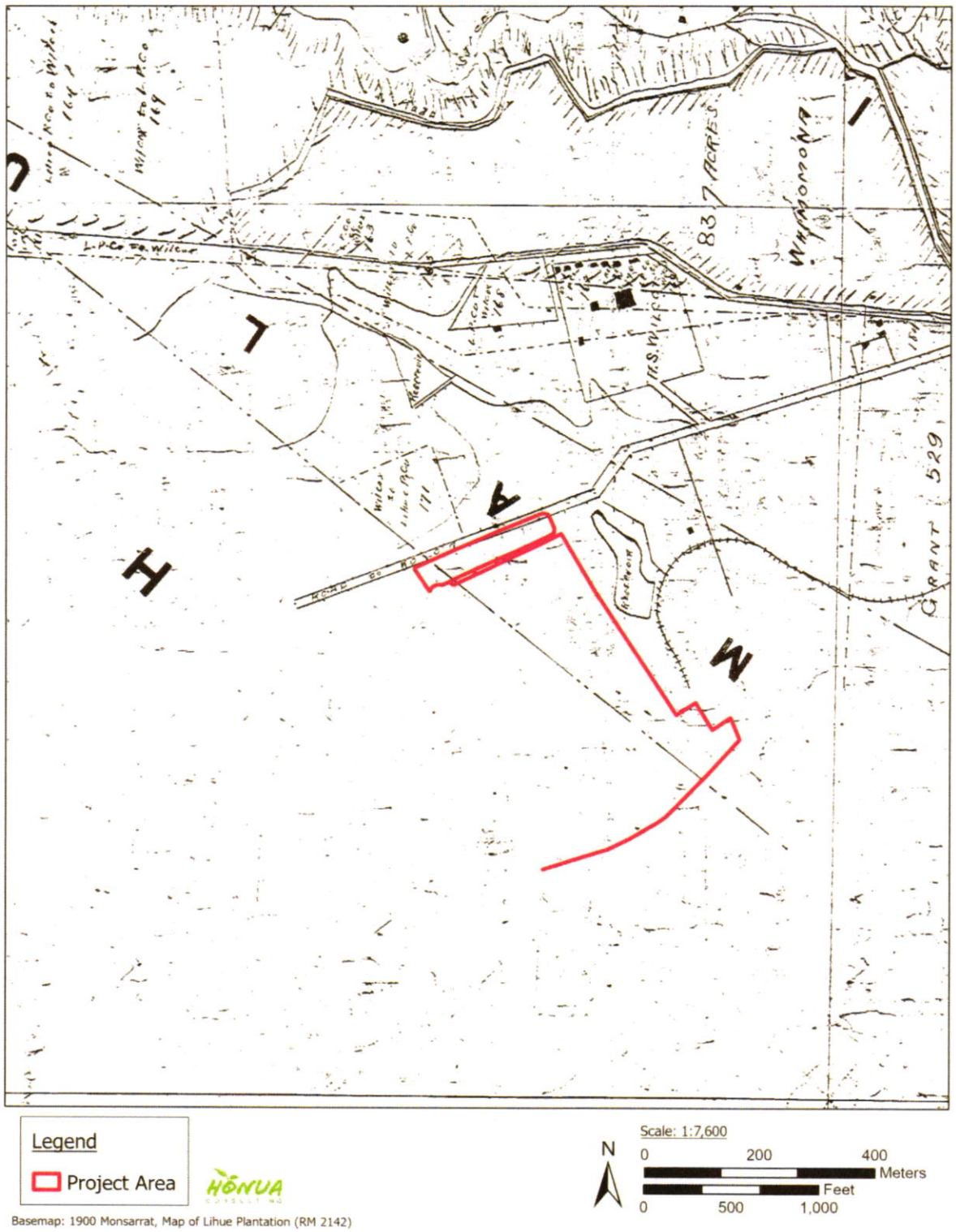


Figure 8. Portion of a 1900 Monsarrat map of Līhu'e Plantation (Registered Map 2142) showing the location of the project area



Figure 9. Portion of a 1901 Newton map of the Territory of Kaua'i showing the location of the project area



Figure 10. Portion of a 1903 Donn and Wall Hawaiian Territory Survey map of Kaua'i showing the location of the project area



Figure 11. Portion of a 1910 USGS survey map showing the location of the project area and the Niumalu Road Bridge crossing

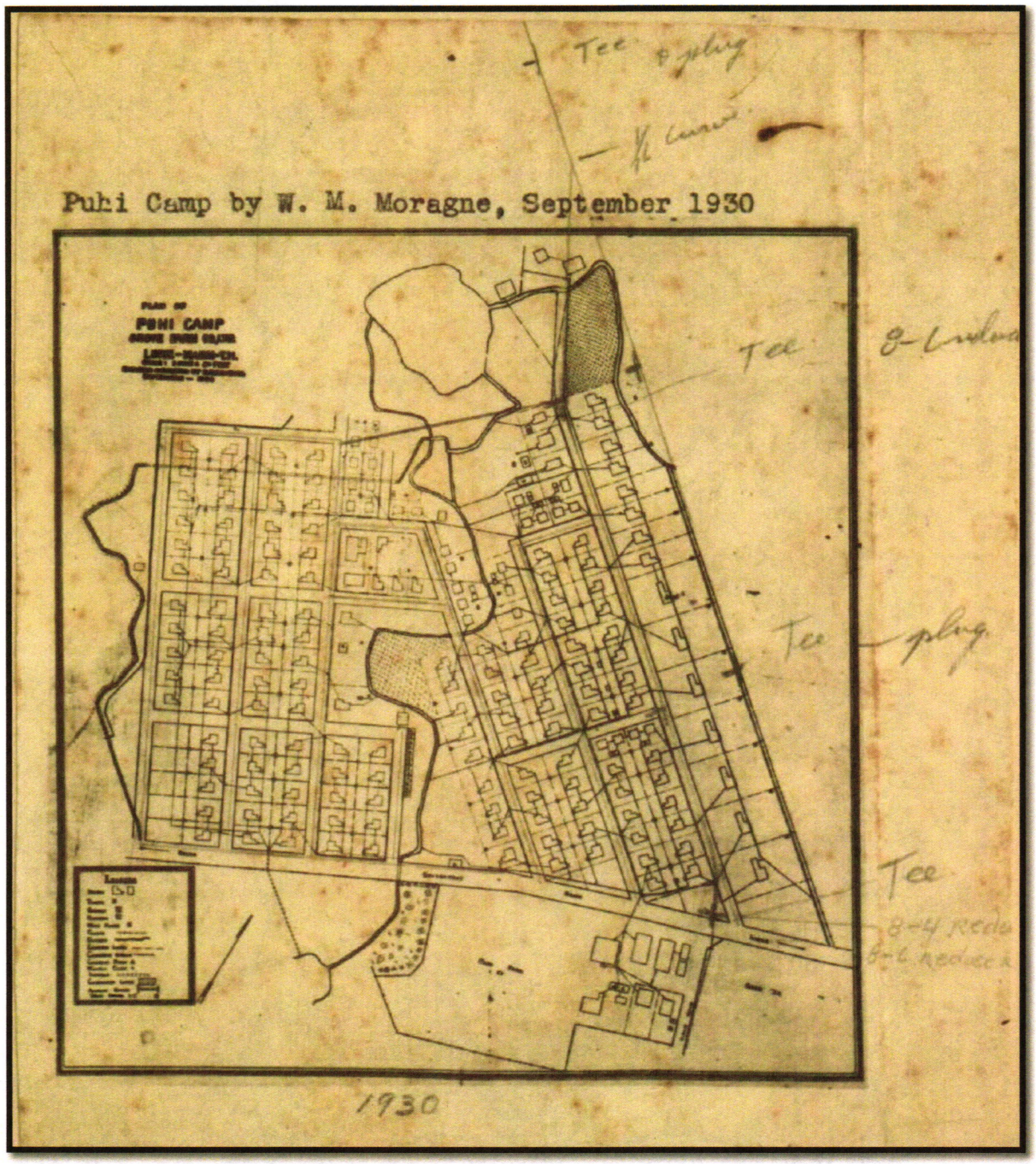


Figure 12. 1930 W.M. Moragne Map showing the layout of Puhi Camp (Kamai et al. 2016:24)

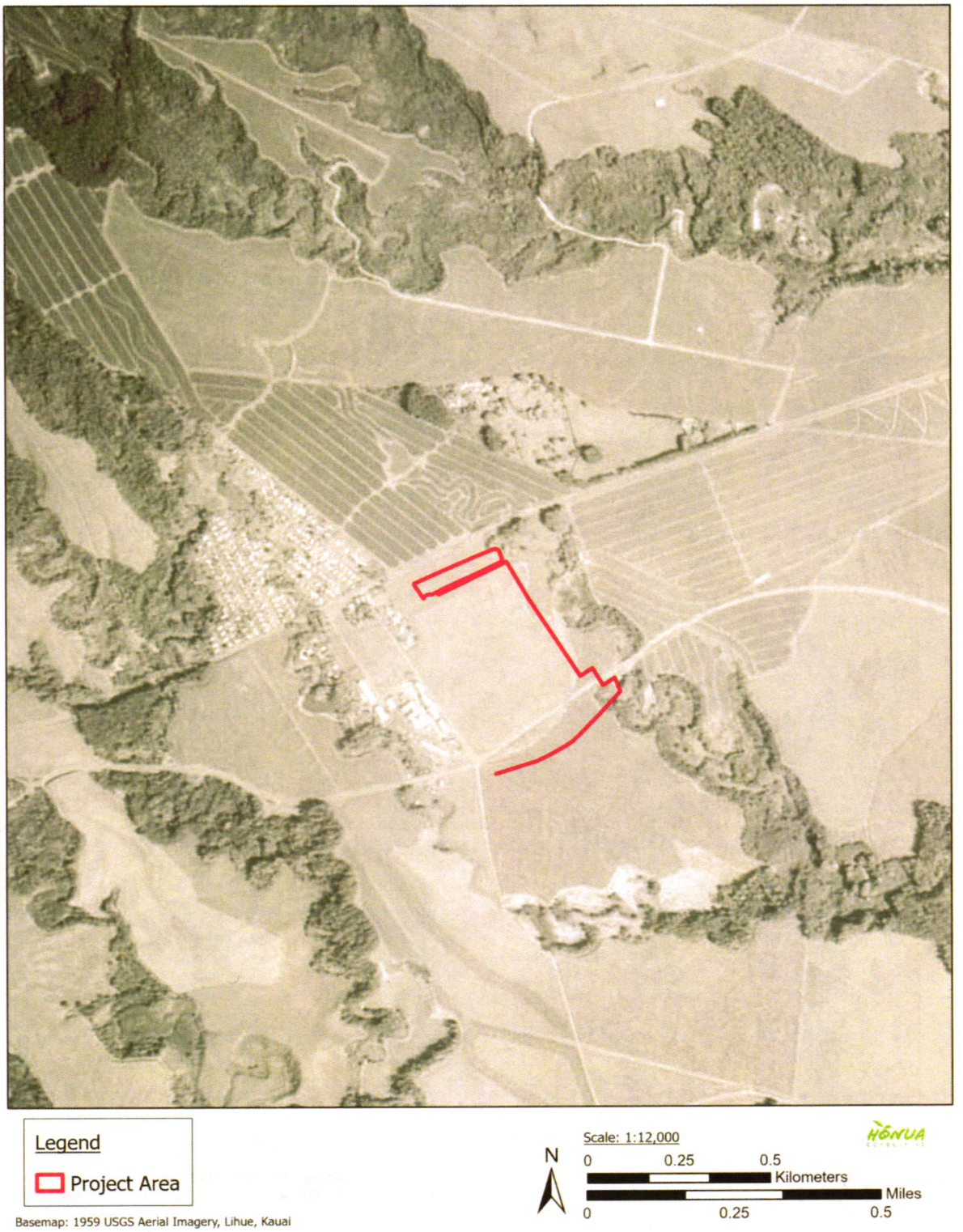


Figure 13. Portion of a 1959 USGS aerial photograph showing the location of the project area



Figure 14. Portion of a 1960 USGS aerial photograph showing the location of the project area



Figure 15. Portion of a 1963 USGS topographic map showing the location of the project area

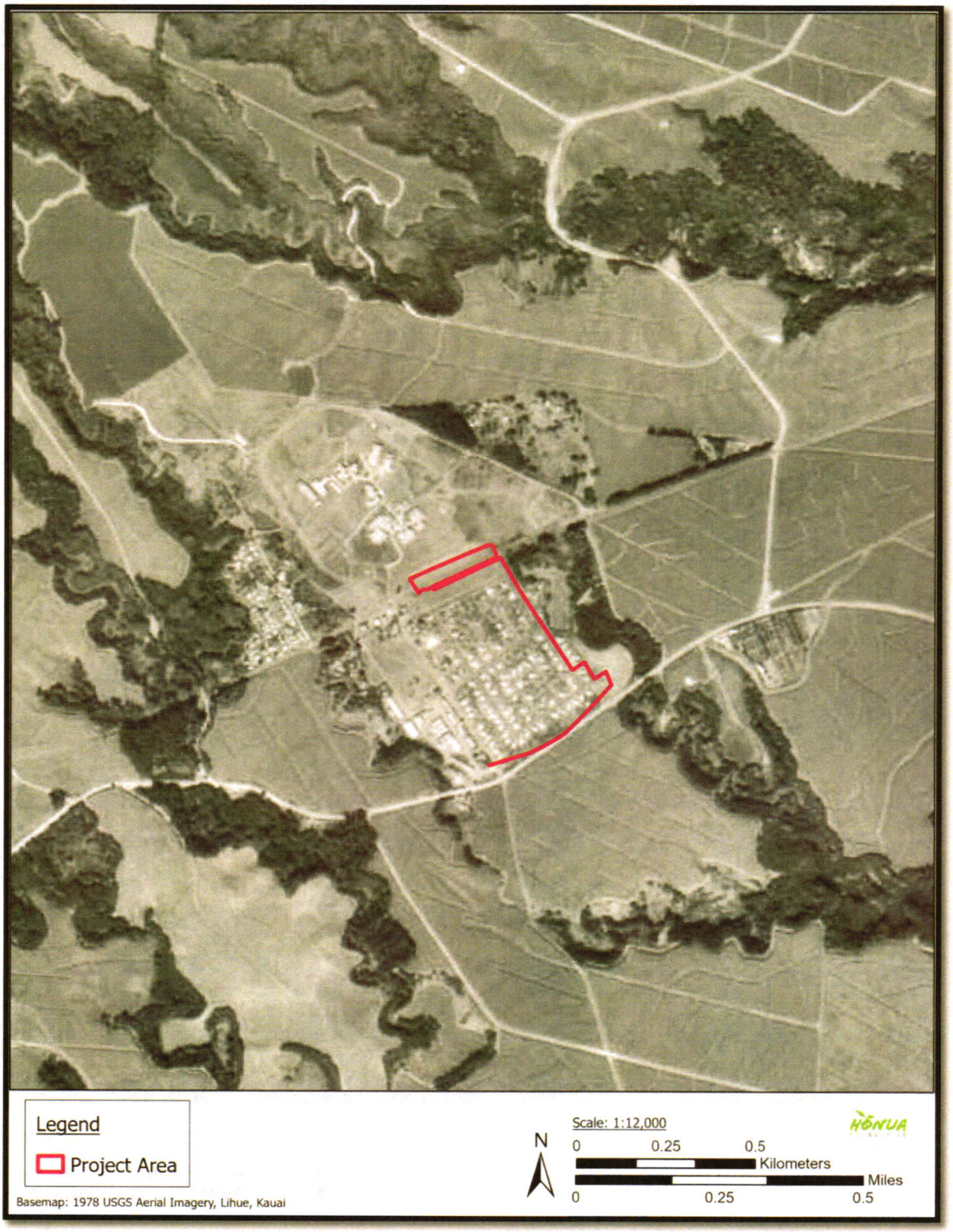


Figure 16. Portion of a 1978 USGS aerial photograph showing the current layout of the project area, residential housing to the south, and the development of Kaua'i Community College to the north

Today, Grove Farm has land holdings of approximately 38,000 acres and has diversified into agricultural land licensing and residential, industrial, and commercial land development. Additionally, the Wilcox plantation homestead now functions as the Grove Farm Sugar Plantation Museum and operates tours and hosts events. The Grove Farm Locomotives are part of the museum and consist of 4 locomotives donated to Ethel Wilcox when the plantation museum opened in 1976 (Schleck and Nāpōkā 1979). The focal point of the property is the Wilcox plantation homestead, the one-story portion of which was constructed sometime in the 1850s. The two-story colonial revival addition to the home was added by Wilcox in 1915 and was designed by Honolulu architect Clinton B. Ripley (Baer et al. 1982). The Wilcox 1930s home at Puhi, located to the northwest of the project area, now operates as the Kilohana Plantation Estate and offers a plantation setting for shops, restaurants, train rides, events and other tourist activities.

3.2.4 Land Division and Development of the Project Area

In 1933, Land Court Application (LCApp) 1087 subdivided the Grove Farm owned lands of Ha'ikū, Hanamā'ulu, Nāwiliwili, Kalapakī and Niumalu into Lots 1 through 10, with the project area being located within Lot 1 containing 14,323.368 acres. Between 1937 and 1971 the land containing the project area was divided, consolidated, and re-subdivided into numerous lots. The LCApp maps indicate the project area was included within Lot 1-B (5,198.260 acres) in 1937, Lot 21 (906.016 acres) in 1949 and Lot 132 (905.074 acres) in 1952.

A 1968 LCApp map shows the development of the residential development to the south, the project area within Lot 244 (3.186 acres), and a Kaua'i Board of Water Supply easement (Easement 42) running within and along the western boundary of the current project area. In 1971, Lot 244 was consolidated and subdivided into Lot 440 (2.911 acres), which is the current configuration of the project area. It is likely the project area was developed as a community park around that time. Since then, there has been little change within the project area except for the installation of an emergency alert and warning siren along the western boundary and the installation of electrical utilities along Nani Road on the eastern-most side.

4.0 Cultural Resources

This section identifies the natural and cultural resources of cultural significance documented for the project area and its vicinity. It draws upon the Cultural and Historic Background (Section 3.0) and provides the factual foundation for the discussion of traditional or customary practices (Section 6.0), the Impact Assessment (Section 7.0), the Public Trust Resource Analysis (Section 7.3), and the Ka Pa'akai Analysis (Section 8.0).

4.1 Natural Resources with Cultural Significance

To employ the Hawaiian landscape perspective and emphasize the symbiosis of natural and cultural resources, Honua Consulting uses the term "biocultural" to refer to natural and cultural resources together, recognizing that in the Hawaiian worldview the two are inseparable. As ethnographer and Hawaiian language scholar Kepā Maly observes, "in any culturally sensitive discussion on land use in Hawaii, one must understand that Hawaiian culture evolved in close partnership with its natural environment. Thus, Hawaiian culture does not have a clear dividing line of where culture ends and nature begins" (Maly 2001:1). Natural, unaltered landscape features—streams, springs, ridgelines, and plains—can carry as much cultural significance as a planted grove or a stone-lined 'auwai (irrigation canal).

The traditional ahupua'a system organized resources along a mauka-to-makai (mountain-to-sea) continuum, allowing the maka'āinana (people of the land) access to the full range of upland and coastal resources in exchange for stewardship of the 'āina and tribute to the ali'i. The most culturally significant natural resource in the vicinity of the project area is wai (fresh water), the element upon which agriculture, aquaculture, and habitation all depended.

The nearest water resources to the project area are Halehaka Stream and an associated plantation-era reservoir, located approximately 250 feet (76 m) to the east. Historically, the lower reach of Halehaka Stream supported lo'i (irrigated taro terraces) where it joined Pū'ali Stream, and the broader Niumalu–Nāwiliwili landscape was sustained by an abundance of fresh water carried by the Hulē'ia (Nāwiliwili) River and the Pū'ali, Papalinahoa, Papakōlea, Koena'awanui, and Koena'awaiki streams and springs. These waters fed extensive lo'i kalo, kula (dryland) cultivation, and the coastal fishponds, embodying the interconnectedness of upland and coastal life.

The most prominent traditional Hawaiian feature of the vicinity is 'Alakoko (Menehune) Fishpond (SIHP #50-30-11-098; NRHP #73000677), the largest and best-preserved inland loko i'a kuapā on Kaua'i. Located along a bend in the Hulē'ia River approximately

three-quarters of a mile southwest of the project area, ʻAlakoko is celebrated in numerous moʻolelo attributing its construction to the Menehune and stands as a testament to Native Hawaiian engineering and cooperative resource management. ʻAlakoko, the Hulēʻia River and its tributaries, the associated wetlands, and the fishing grounds of Nāwiliwili Bay together constitute the principal valued natural resources of cultural significance in the project vicinity. Each of these resources lies makai of and outside the approximately 2.9-acre project area, which occupies upland plains that are today a developed county park.

4.2 Intangible Cultural Resources

In addition to the natural and built resources discussed above, the lands of Niumalu and the surrounding moku of Puna are associated with intangible cultural resources, including moʻolelo, wahi pana (storied places), and mele that celebrate the region's fresh waters, fishing grounds, and aquacultural abundance. These include the moʻolelo of the construction of ʻAlakoko Fishpond by the Menehune, the account of the Hulēʻia River as a puʻuhonua, and mele and kanikau referencing the ʻamaʻama (mullet) of Niumalu, the ʻōpae (freshwater shrimp) of its streams, and the verdant beauty of the ahupuaʻa, as discussed in Section 3.0. No ʻōlelo noʻeau specific to the project area were identified in the sources reviewed.

5.0 Ethnographic Data

5.1 Community Interviews

Ethnographic information supplements the archival, cartographic, archaeological, and Hawaiian-language research presented in the preceding sections. It is one of a range of research tools used to identify traditional and customary practices and the biocultural resources that support them.

Honua Consulting conducted community interviews with individuals identified as possessing knowledge of the Project Area in Puhi, its surrounding lands, or the traditional and customary native Hawaiian practices associated with them. Participants were invited to share their mana'o through a standardized set of interview questions addressing their association with the Project Area; their knowledge of valued cultural, historical, or natural resources; traditional or customary practices exercised in or near the area; mo'olelo and wahi pana; potential project impacts; and recommended conditions or best management practices.

Consistent with the consent and release process established for this *Ka Pa'akai* Analysis, each participant retained ownership of the intellectual property shared during their interview and was provided a written summary for review, editing, and final approval prior to its inclusion. The summaries presented below reflect that review process and preserve, wherever possible, the participants' own words. Five individuals participated in the community interviews: Nicole (Nikki) Cristobal, Sandra Hokulani Kuali'i, Puali'ili'imaikalani Rossi, Pelika Andrade, and Sabra Kauka. The mana'o they provided has been integrated, as appropriate, into the discussion of cultural resources (Section 4.0), traditional or customary practices (Section 6.0), and the impact assessment and Kā Pa'akai analysis (Sections 7.0 and 8.0).

5.1.1 Nicole (Nikki) Cristobal

Nicole "Nikki" Cristobal was born and raised on Kaua'i and currently resides in Līhu'e, where she works as a self-employed grant writer. She holds a direct residential connection to the Project Area, having lived nearby as a young person: "I lived in Puhi (on Wena St.) near the project area for six years when I was in middle school and high school." She attended Chiefess Kamakahelei Middle School, which neighbors the Project Area, noting that she was among "one of the first classes to attend the middle school after it was constructed." Her ties to the surrounding community continue through family and professional connections: her mother-in-law serves as a Board Member of the Kaua'i Philippine Cultural Center, "the organization who built and operates the Philippine Cultural Center in Puhi that neighbors the project area," and Cristobal herself "worked briefly at Kaua'i Community College in 2023."

Asked whether she was aware of valued cultural, historical, or natural resources in or near the Project Area, Cristobal distinguished between the specific parcel and its broader surroundings: "On that specific piece of ʻāina, no. There's historical, natural, and cultural resources surrounding the project area such as Huleʻia, community loʻi and ʻāina education projects at KCC/ Punana Leo/ Island School, and Grove Farm historic property." She deferred to others with deeper knowledge of these resources, observing that "those organizations and people are best to consult about that ʻike as they would know more than me."

Cristobal shared one moʻolelo associated with the area, learned in her youth: "The only moʻolelo I can recall is from the late Kumu Pōhaku Nishimitsu about uhane dwelling in the area." While she did not recall the specifics because "it was told to me when I was an ʻōpio," she noted that documentation may exist, recalling that "there is written ʻike from Kumu Pōhaku about this in the Chiefess Kamakahelei yearbook of either 2002, 2003, or 2004."

Regarding potential impacts, Cristobal stated that she was "not aware of any impacts, but my lack of awareness doesn't mean there isn't any." Her central concern was that the project genuinely serve the Native Hawaiian community. She cautioned that the project "could negatively impact native Hawaiian wellbeing if the educational health center and housing does not best serve native Hawaiians–who experience the highest rates of homelessness and health disparities in Hawaiʻi." She emphasized a broader cultural principle: "All ʻāina is sacred and significant and having native Hawaiians housed, resourced, and empowered to practice native Hawaiian culture at the project site should be a core part of the project."

Drawing on her firsthand experience of the park parcel, Cristobal recalled frequenting it as a youth between roughly 2001 and 2008: "I used to frequent that park as an ʻōpio. It was one of the only spots that were available for youth to hang out at when we didn't want to be at home." She described the park as used but not heavily frequented, recalling that she "would see keiki playing there and ʻohana picnicking" as well as people who would "park their cars on the side of the fenceline and work on their cars." She characterized it as limited by a lack of infrastructure and privacy: "The park wasn't my favorite place to go because there was a lack of infrastructure (no shaded pavilions, no bathrooms, no parking lot) and it lacked privacy since it was so close to the road. It seemed like it would be better as a dog park or something." She added that she had not returned to "that specific plot of ʻāina since I was a teenager." Finally, she recommended that the assessment consult "the Kualiʻiʻs. Generational ʻohana that live directly across the park," along with "cultural practitioners and ʻāina stewards from the surrounding ʻāina."

5.1.2 Sandra Hokulani Kualiʻi

Sandra Hokulani Kualiʻi, a retired hospitality and sales professional, was born and raised on Kauaʻi, in Kīpūkai, then the west side, and then Puhi "for long time. At least for 20

years" on Wena Street, and now lives in Anahola on Hawaiian Home Lands. She holds one of the longest continuous residential connections to the Project Area among the participants. Her parents purchased their Puhi property in 1971 and moved in the following year, in 1972, and she recalled that the neighboring park "was already there, from the subdivision," when they arrived. At that time, she noted, the surrounding lands "used to be all sugarcane."

Kuali'i reported that she was not aware of valued cultural, historical, or natural resources, or of traditional or customary native Hawaiian practices, associated with the Project Area. She described the parcel in community terms rather than as a site of traditional practice: "No, just a community park. There are other parks in this area and these can and do get used also."

Her mana'o reflected the tension many residents feel between preserving open space and meeting the island's pressing housing needs. Recalling her own childhood use of the park, she said: "We played in the park as kids and understand we need housing. Part of me wants to see that stay as a park and yet we need housing and I want to be able to see our people stay home." Should the project proceed, Kuali'i recommended keeping the development modest in scale and sited so as not to overwhelm the neighborhood: "Don't make it taller than two stories and try to keep it back from the road so its not overpowering."

5.1.3 Puali'ili'imaikalani (Pua) Rossi

Puali'ili'imaikalani Rossi was born and raised on Kaua'i, in the moku of Puna, ahupua'a of Wailua, and now lives in Kapa'a. She serves as an Assistant Professor and Program Coordinator for the Hawaiian Studies Department at Kaua'i Community College (KCC). Her association with the Project Area is grounded in her research and teaching: "Because our campus is located across from the area, I've done some research on the 'Āina surrounding KCC for presentations and to share general knowledge for our campus community."

Rossi provided the most detailed account of the traditional land use of the ahupua'a. She described a landscape shaped by freshwater abundance and cultivation: "Traditionally, the ahupua'a of this site was used as an area for lo'i (kalo production) and loko i'a kalo. Because there is an abundance of water (pre-diversion), there was access to freshwater fish and limpets." She also identified evidence of traditional resource management and associated beliefs: "The Konohiki of the area also kept certain fish kapu and people weren't allowed to gather those resources. That tells us that there are certain rituals/beliefs associated with the project site." She noted a nearby wahi pana of ceremonial significance: "Above the area is also a heiau dedicated to hula. It's located on Hā'upu."

Rossi offered historical context on the area's place name and its plantation-era past. On the name Līhu'e, she explained: "The name Līhu'e is a fairly new name that emerged in the 1800s due to Kaikio'ewa. He was a governor of Kaua'i and named his home Līhu'e. It doesn't affect the project area, but it's worth noting." She emphasized the site's significance during the sugar era: "The current project area has a strong history during the plantation years. It is near a housing camp for the sugar workers, and there is a gravesite for the camp residents on our campus property."

She further identified a contemporary practice tied to the area's culture of community exchange: "While not traditional, the area is where local fisherman sell their catch. It's something that's occurred for years and it's a part of today's culture of community selling/sharing." To further document the area's history, Rossi recommended speaking with "current and former residents of the area" and noted that "those who lived in the Puhi camp would have more information." She specifically suggested consulting "the Amimoto, Akagi, and Fritz 'ohana, as well as earlier workers of the camp and college."

5.1.4 Pelika Andrade

Pelika Andrade, an educator and community advocate, was born and raised in Pila'a, Kaua'i; Puna, Hawai'i; and Kalihi, O'ahu, and now lives in Anahola, Kaua'i. She described her personal association with the Project Area as limited to passing familiarity: "None besides driving past it."

Andrade identified the parcel's present-day value primarily as community open space, noting "the availability of a gathering place and open space for families to meet and rest and play." While she was not personally aware of specific traditional or customary practices at the site, she offered important historical context and a caution against assuming absence: "I am unaware but that doesn't mean it didn't happen. That area has been altered for development but historically all lands in that area were kula lands... meant and used for agriculture and providing every-day living needs (building material, medicine, food, etc.)."

Andrade framed the cultural value of the land in terms of reciprocity and long-standing community ties, and her recommendations centered on how the housing is allocated and stewarded. She urged the project to "make sure that the families that these units house are families with long ties to Kauai... and have lived here for at least 3-4 generations. Make sure they are affordable and safe." She articulated a cultural standard against which the project should be measured: "The value of all our lands lies in ensuring they are in reciprocity with those who reside there... and that these lands can still serve that function. That is the cultural value. This project should honor and reflect that." As a best management practice, she recommended that "the health center and rental agreement should include and encourage behaviors that mirror and honor these lands... ensuring they are in reciprocity with the land... and providing mechanisms and support to engage in those relationships."

5.1.5 Sabra Kauka

Sabra Kauka, a Hawaiian Studies kumu, was born in Honolulu, Hawai'i. As the child of an Army officer, she lived in many places during her childhood—including Germany, San Francisco, Saigon, Washington, D.C., and Hawai'i—and attended St. Andrew's Priory in middle school and Kamehameha School for Girls in high school. She returned home to the islands in 1987 and now lives in Līhu'e, Kaua'i. She stated that she has "no personal association with the Project Area in Puhi."

Kauka reported that she was not aware of any cultural, historical, or natural resources, traditional or customary native Hawaiian practices, or mo'olelo associated with the Project Area, stating plainly that "there are no cultural, historical or natural resources in the Project Area that I am aware of" and that "there are none of these issues that I am aware of in the project area."

Her primary concern regarding the proposed action was its effect on local traffic, which she weighed against the recognized need for housing on the island: "There will be a major impact on the traffic in that neighborhood. It would be nice if the project were further away from the highway. But places to build this kind of housing are scarce and we must do the best we can to provide affordable housing." Asked whether additional individuals should be consulted, Kauka indicated that the appropriate people had already been identified: "No, I think you know all the people that you should ask."

6.0 Traditional or Customary Practices Historically in the Study Area and Surrounding Area

The cultural practices historically and contemporaneously associated with the lands of Niumalu and the surrounding moku of Puna fall into three general eras: a traditional pre-contact era, a historic post-contact (plantation) era, and a contemporary era. During the traditional era, access to and use of resources were governed by the kapu system under the island's ali'i and administered locally by the konohiki, and the abundance of fresh water supported a substantial Native Hawaiian population concentrated around Nāwiliwili Bay and the Hulē'ia River. The practices described below are drawn from the archival, cartographic, archaeological, and Hawaiian-language record presented in Sections 3.0 and 4.0 and are further informed by the mana'o of the community members interviewed for this assessment (Section 5.0), several of whom possess direct genealogical, residential, or professional knowledge of the Niumalu–Puhi landscape.

As educator and community advocate Pelika Andrade observed, although the immediate project area "has been altered for development," historically "all lands in that area were kula lands … meant and used for agriculture and providing every-day living needs (building material, medicine, food, etc.)." Her caution that being "unaware" of a practice "doesn't mean it didn't happen" is consistent with the approach of this assessment, which treats the documented record as a partial rather than exhaustive account of the practices once carried out across this landscape.

6.1 Habitation and Agriculture

The freshwater abundance of Niumalu supported dense traditional settlement and extensive cultivation. E.S.C. Handy described Niumalu as containing "a fairly large area of terraces along the lower mile of Puali Stream," with additional terraces at the lower end of Halehaka Stream. Native tenants cultivated kalo (taro) in lo'i fed by 'auwai, along with other crops in kula (dryland) fields; 'awa (Piper methysticum) is also associated with the rich soils and waters of the area through its place names.

This agricultural character was affirmed by community members interviewed for this assessment. Puali'ili'imaikalani Rossi, an Assistant Professor and Program Coordinator for Hawaiian Studies at Kaua'i Community College—whose campus lies directly across from the project area—described the ahupua'a as one "used as an area for lo'i (kalo production) and loko i'a kalo," noting that "because there is an abundance of water (pre-diversion), there was access to freshwater fish and limpets." Andrade similarly characterized the surrounding lands as kula lands that provided "building material, medicine, food" and other everyday necessities. Together these accounts describe a productive agricultural and gathering landscape sustained by the fresh waters of the Niumalu–Hulē'ia system, of which the present project parcel forms an upland margin.

6.2 Farming and Fishing

Niumalu was, in Handy's words, "one of the most important fishing localities on Kauai." The ahupua'a was known for its rich fishing grounds and for at least six loko i'a (fishponds), including 'Alakoko, Kalālālehua, Lokoponu, and Papalinahoa. Hawaiian-language sources celebrate the 'ama'ama (mullet) of Niumalu and the 'ōpae (freshwater shrimp) of its streams, reflecting the productivity of these aquacultural and freshwater systems.

6.3 Travel, Refuge, and Ceremony

The Hulē'ia River functioned in mo'olelo as a pu'uhonua (place of refuge), as in the account of the ali'i wahine Kekela-o-kalani, who fled to Hulē'ia from O'ahu. Heiau formerly present along the coast and on the Hā'upu ridge, together with the wahi pana (storied places) of the Hulē'ia region, attest to the ceremonial and spiritual dimensions of the cultural landscape.

Interviewees reinforced the ceremonial and spiritual dimensions of this landscape. Rossi identified a heiau "dedicated to hula" located above the area on Hā'upu, linking the uplands behind Puhi to the hula traditions of the region. Nicole Cristobal recalled a mo'olelo, learned in her youth from the late Kumu Pōhaku Nishimitsu, concerning "uhane dwelling in the area," and noted that written 'ike on this account may survive in the Chiefess Kamakahelei Middle School yearbook of 2002, 2003, or 2004. Although the details of this mo'olelo were not fully recounted, its existence indicates that the Puhi vicinity carries spiritual associations in living memory that are not exhausted by the documentary record.

6.4 Contemporary Practice and Stewardship

Traditional and customary relationships to this landscape continue today. Community-based stewardship organizations such as Mālama Hulē'ia have revitalized care of the Hulē'ia wetlands and 'Alakoko Fishpond through invasive-species removal, native replanting, and the reintroduction of traditional management practices, reconnecting residents, students, and practitioners to their ancestral waters. These practices are centered on the Hulē'ia River and its associated resources makai of the project area rather than within the developed park parcel itself.

Contemporary practice in the vicinity also includes the 'āina-based education and cultivation carried out by neighboring institutions. As Cristobal noted, the lands surrounding the project area support "community lo'i and 'āina education projects at KCC, Punana Leo, and Island School," as well as the Grove Farm historic property, situating the parcel within a broader landscape of active cultural learning and stewardship. Several interviewees emphasized that the continuation of these relationships depends on how the land is used and by whom: Andrade framed the enduring cultural value of all lands as

lying in their "reciprocity with those who reside there," a standard she urged the project to "honor and reflect."

6.5 Contemporary Community Use of the Project Area

Beyond the traditional and customary practices centered on the Hulēʻia region makai of the parcel, the project area itself has served a documented contemporary community function as open space. The parcel is presently a developed county park, and the community members interviewed for this assessment consistently described it in social and community terms rather than as a site of traditional practice. Sandra Hokulani Kualiʻi, whose family has lived across from the park since 1972, described it as "just a community park," recalling that she and others "played in the park as kids," while noting that "there are other parks in this area and these can and do get used also." Andrade identified the parcel's principal present-day value as "the availability of a gathering place and open space for families to meet and rest and play."

Nicole Cristobal, who lived on Wena Street near the park during her middle and high school years, recalled frequenting it as an ʻōpio (youth) between roughly 2001 and 2008 as "one of the only spots that were available for youth to hang out," where she "would see keiki playing there and ʻohana picnicking." She also observed that the park was used but not heavily frequented and lacked infrastructure and privacy, specifically describing "no shaded pavilions, no bathrooms, no parking lot", owing to its small size and proximity to the highway. These accounts establish the parcel's value as a modest but real community gathering space, a social function that is relevant to the assessment of the proposed project's effects in Section 7.0.

7.0 Impact Assessment and Findings; Act 50 Compliance; Public Trust Analysis

7.1 Impact Assessment and Findings

7.1.1 Impacts to Flora

There is no known endangered flora within the project area, which is presently a maintained county park dominated by lawn grass and introduced landscape vegetation. The biological assessment identified no anticipated impacts to rare flora of cultural significance. Nonetheless, the project should make an effort to incorporate native, endemic, and indigenous plant species into its landscaping in order to help repopulate the area with culturally valued plants and provide opportunities for traditional gathering and education.

7.1.2 Impacts to Fauna

Based on the biological assessment, the project is unlikely to result in any impacts to candidate, threatened, or endangered fauna. The pueo (*Asio flammeus sandwichensis*, the Hawaiian short-eared owl) holds cultural significance as an ʻaumākua on Kauaʻi; however, no pueo have been observed within the project area, and the parcel is poorly suited to nesting or foraging given its small size and surrounding urbanized environment.

Historically, however, pueo were reported as "very abundant" across the Līhuʻe plain in the mid-nineteenth century (Brigham, in Lydgate 1991:143). Incorporating native and culturally appropriate landscaping within the project could help support the return of culturally valued species such as the pueo to the vicinity.

7.1.3 Impacts to Historic Sites

Honua Consulting, LLC conducted an archaeological literature review and field inspection (LRFI) of the project area in support of the project's historic preservation review under HRS Chapter 6E. Fieldwork was conducted on July 7, 2020, by Nathan DiVito, B.A., under the general supervision of principal investigator Rosanna Thurman, M.A., pursuant to archaeological permit number 21- 24 issued to Honua Consulting by the SHPD/DLNR in accordance with HAR Chapter 13-282. The field inspection consisted of a 100% pedestrian survey of the project area, with transects spaced at 2-meter intervals, and included visual inspection for surface architecture and examination of the ground surface and soil exposures for artifacts and cultural deposits.

The survey documented that the project area functions as a developed community park consisting of manicured lawn, landscaped vegetation (including milo, kukui, and Poinciana trees), two metal play structures, a small concrete slab, and the Puhi town emergency warning siren. The play structures, manufactured by Game Time Incorporated and likely installed between the late 1960s and 1979, were recorded and evaluated; this study recommends that they do not possess integrity or significance and are not historic

properties. No other surface architecture, artifacts, or cultural deposits were identified. The lack of significant surface sites is attributed to the area's prior use for commercial sugarcane cultivation and its subsequent development and use as a community park.

Background research and the results of the field inspection support a project determination of "no historic properties affected." However, due to the proximity of multiple historic properties associated with the Grove Farm and Līhu'e Plantations and the former plantation village of Puhi Camp, archaeological monitoring guided by an archaeological monitoring plan (AMP) is recommended for the proposed project. With this measure in place, the project is unlikely to adversely affect historic sites. The sewer line alignment subsequently added to the project is located within existing, previously developed roadway rights-of-way and adjacent disturbed parcels; a records search of the expanded APE and a surrounding 0.5-mile buffer did not identify any historic properties within the expanded APE.

7.1.4 Impacts to Intangible Cultural Resources

The APE has been largely disturbed by previous agricultural and industrial use, including the developed roadway rights-of-way within which the sewer line alignment is located. On this basis, the project activities are unlikely to have a direct physical impact on the intangible cultural resources of the broader Niumalu–Hulē'ia landscape—including the mo'olelo of 'Alakoko Fishpond, the Hulē'ia pu'uhonua tradition, the wind names of the region, and the hula heiau on Hā'upu—which are associated with places makai of and above the project parcel rather than within it.

One intangible association was, however, identified in direct connection with the project vicinity. Cristobal recounted a mo'olelo, learned from the late Kumu Pōhaku Nishimitsu, of "uhane dwelling in the area." Although the specific content of this account was not fully recalled, and no 'ōlelo no'eau or mele specific to the parcel were identified in the sources reviewed, its presence in living memory indicates that the area carries spiritual associations that the documentary record does not fully capture. To avoid inadvertent impacts to such intangible resources, the project proponent is encouraged to (1) seek out the written 'ike attributed to Kumu Pōhaku Nishimitsu in the Chiefess Kamakahelei Middle School yearbooks of 2002–2004 and any related documentation, and (2) engage cultural descendants and knowledgeable kumu during design and construction so that any place-based mo'olelo can be appropriately acknowledged and, where desired by the community, reflected in the project's interpretive and educational elements.

7.1.5 Impacts to Cultural Practices

With respect to traditional and customary native Hawaiian practices in the legal sense, specifically gathering, access, subsistence, and religious or cultural practice, this project is unlikely to have any impact. The literature review and field inspection, the documentary

and Hawaiian-language research, and the community interviews conducted for this assessment did not identify any ongoing traditional or customary practices exercised within the project parcel, and access to the makai resources of the Hulēʻia region is not obtained through the parcel. If historic resources or iwi kūpuna are inadvertently discovered during project work, area cultural descendants should be engaged in decisions regarding the care and treatment of the iwi.

The interviews did, however, document a contemporary community use of the parcel as open space and a youth and family gathering place (Section 6.5). Conversion of the park to housing and a health center would remove this open space—an effect that several interviewees weighed against the island's acute need for affordable housing. Kualiʻi expressed this tension directly, "part of me wants to see that stay as a park and yet we need housing and I want to be able to see our people stay home", while noting that other parks in the area remain available. To address the loss of community open space, the project design should, where feasible, retain or replace publicly accessible gathering space (for example, shaded seating, lawn, or a small play area) and accommodate the community's established patterns of gathering, picnicking, and exchange—including the informal sale and sharing of local fishermen's catch noted by Rossi—rather than foreclosing them.

7.1.6 Cumulative and Indirect Impacts

The proposed project is not anticipated to result in significant indirect or cumulative impacts to cultural resources or practices. The principal indirect pathway is hydrological: construction-phase sediment and erosion, or post-construction stormwater runoff, could migrate from the upland parcel toward Halehaka Stream and its reservoir and, ultimately, the downstream Hulēʻia system, ʻAlakoko Fishpond, and the fishing grounds of Nāwiliwili Bay, which sustain culturally important aquatic and agricultural resources. This effect would be indirect, temporary, and avoidable through the sediment, erosion, and stormwater best management practices identified in Section 7.1.7. Cumulatively, the project represents one increment in the long-term conversion of former plantation and agricultural lands in the Puhi–Līhuʻe area to residential, institutional, and commercial use—a trend that has incrementally reduced open space and altered the setting of the traditional Niumalu landscape. Because the approximately 2.9-acre parcel is already disturbed, functions today as a developed county park, and supports no ongoing traditional or customary practices, its incremental contribution to these regional cumulative effects is negligible. Continued community stewardship of the Hulēʻia watershed, such as that led by Mālama Hulēʻia, further offsets cumulative pressures on the downstream cultural and natural resources.

7.1.7 Mitigation and Best Management Practices

Due to the negligible impacts to cultural resources within the project area, no mitigation measures are required to protect traditional or customary practices at this time, and standard archaeological best practices should be implemented. Compliance with HRS Chapter 6E will require consultation with the State Historic Preservation Division (SHPD), and any additional identification measures deemed appropriate should occur on the basis of that consultation. In the event of the inadvertent discovery of cultural resources, cultural practitioners should be consulted as appropriate to ensure the proper treatment of any cultural resources and the continued allowance of appropriate cultural practices. It is urged that relationships and consultation with Native Hawaiian organizations, descendant families, and community stewardship groups active in the Hulēʻia region, such as Mālama Hulēʻia, be established and maintained throughout the course of the project.

Consistent with the findings of the archaeological literature review and field inspection (Section 7.1), archaeological monitoring guided by an approved archaeological monitoring plan (AMP) is recommended during ground-disturbing activities, given the proximity of Grove Farm–era historic properties and the former Puhi Camp plantation village. Should iwi kūpuna or other cultural materials be encountered, work in the vicinity should halt and SHPD, cultural descendants, and appropriate cultural practitioners should be consulted in accordance with applicable inadvertent-discovery procedures.

Beyond these standard measures, the community members interviewed for this assessment offered a consistent set of recommendations directed at ensuring that the project honors the cultural value of the ʻāina and serves the Native Hawaiian and local community. The project proponent is encouraged to incorporate these recommendations to the extent feasible: (1) designing the development to be compatible in scale with the surrounding neighborhood—"no taller than two stories" and set "back from the road so it's not overpowering" (Kualiʻi)—which would also help address the neighborhood traffic concerns raised by Sabra Kauka; (2) prioritizing occupancy for families with long, multigenerational ties to Kauaʻi and ensuring that the units are genuinely "affordable and safe" (Andrade); (3) structuring the health center and rental agreements to "encourage behaviors that mirror and honor these lands," fostering reciprocity between residents and the ʻāina and providing "mechanisms and support to engage in those relationships" (Andrade); (4) ensuring that the educational health center and housing meaningfully serve Native Hawaiians, who "experience the highest rates of homelessness and health disparities in Hawaiʻi" (Cristobal); (5) incorporating native, endemic, and indigenous landscaping to repopulate the area with culturally valued plants and to create opportunities for gathering and ʻāina-based education, consistent with the ʻāina-education activities of neighboring institutions; and (6) retaining or replacing publicly accessible

community gathering space to preserve the parcel's contemporary social function (Section 6.5).

In addition, the project proponent should continue consultation with the individuals and 'ohana identified by interviewees as holding knowledge of the area, including the Kuali'i 'ohana who live adjacent to the park and as recommended by Rossi, the Amimoto, Akagi, and Fritz 'ohana and former residents and workers of Puhi Camp and Kaua'i Community College. Sustained engagement with these families and with community stewardship groups would allow additional cultural information to be incorporated into project planning as it becomes available, consistent with the good-faith, ongoing nature of the State's and County's obligations under *Ka Pa'akai*.

7.2 Act 50 Compliance

When the Hawai'i State Legislature passed Act 50 in 2000, the purposes of the Act were clear: to require that environmental review documents disclose the effects of a proposed action on the cultural practices of the community and State, and to amend the definition of "significant effect" to include adverse effects on cultural practices (Act 50, SLH 2000). In passing Act 50, the Legislature recognized that "the past failure to require native Hawaiian cultural impact assessments has resulted in the loss and destruction of many important cultural resources and has interfered with the exercise of native Hawaiian culture," and that "due consideration of the effects of human activities on native Hawaiian culture and the exercise thereof is necessary to ensure the continued existence, development, and exercise of native Hawaiian culture" (Act 50, SLH 2000).

As amended by Act 50, HRS § 343-2 defines "significant effect" to include actions that "adversely affect the economic welfare, social welfare, or cultural practices of the community and State." An adverse effect to the cultural practices of the community or State therefore constitutes a "significant effect" under HRS Chapter 343. Consistent with the guidelines adopted by the former Office of Environmental Quality Control (now the Environmental Review Program) in 1997 and readopted in 2012, this assessment identifies the cultural resources and practices associated with the project area, evaluates the potential effects of the proposed action upon them, and recommends feasible measures to avoid, minimize, or mitigate any such effects.

To document how this assessment satisfies the content recommended by the OEQC Guidelines for Assessing Cultural Impacts (adopted 1997; readopted 2012), Table 2 identifies each recommended component of a cultural impact assessment and the corresponding section(s) of this report in which it is addressed.

Table 2. Correspondence between the OEQC Guidelines for Assessing Cultural Impacts (1997) recommended components of a cultural impact assessment and this assessment.

Recommended component of a CIA (OEQC 1997)	**Where addressed in this CIA**
1. Methods and results of consultation with individuals and organizations familiar with the area	Sections 2.0, 2.5, and 5.0; consultation results summarized in 5.1 and carried through Sections 6.0–8.0
2. Methods used to identify, locate, and select the persons interviewed	Sections 2.5 and 5.1 (community outreach, standardized interview questions, and participant review and release process)
3. Ethnographic and oral-history interview procedures and the circumstances of the interviews	Sections 2.5 and 5.1 (interviews recorded/summarized; summaries reviewed, edited, and approved by each participant)
4. Biographical information on the individuals consulted and their relationship to the area	Sections 5.1.1–5.1.5 (each summary opens with the participant's background and association with the project area)
5. Discussion of the historical and cultural background sources consulted and the research effort	Sections 2.1–2.4, 3.0, and 4.0, with sources listed in Section 9.0 (archival, cartographic, Māhele, archaeological, and Hawaiian-language materials)
6. Description of the cultural resources, practices, and beliefs identified, and their location and significance	Sections 3.0, 4.0, and 6.0 (including Section 6.5, contemporary community use)
7. Assessment of the importance of the identified resources, practices, and beliefs	Sections 4.0, 6.0, and 8.1
8. Explanation of any confidential information withheld from public disclosure	Sections 2.5 and 5.1 (consent-and-release process; no participant-identified confidential information required withholding)
9. Discussion of any conflicting information regarding resources and practices	Sections 5.0 and 7.1 (differing participant perspectives on open space versus housing are presented and weighed)
10. Assessment of the proposed action's effects on cultural resources, practices, and beliefs, including direct, indirect, and cumulative effects and changes to setting or access	Sections 7.1.1–7.1.6, 7.3, and 8.2

Recommended component of a CIA (OEQC 1997)	Where addressed in this CIA
11. Recommendations for mitigation, avoidance, or minimization, and for continued consultation	Sections 7.1.7 and 8.3

7.3 Public Trust Resource Analysis

Under Article XI, Section 1 of the Hawai'i State Constitution, all public natural resources are held in trust by the State for the benefit of present and future generations. This public trust extends to water, navigable waters and their beds, fish and wildlife, and other ecologically and culturally important resources. Article XII, Section 7 further mandates the protection of Native Hawaiian traditional and customary rights. Hawai'i Supreme Court decisions, including *In re Water Use Permit Applications* (Waiāhole Ditch, 2000), have clarified that the State's trust obligation is both affirmative and continuing, requiring that governmental actions safeguard water, ecosystems, and the cultural practices that depend upon them. As project proponent, the County of Kaua'i bears a fiduciary responsibility to ensure that the proposed development does not substantially impair public trust resources.

The primary public trust resources in the vicinity of the project area are Halehaka Stream and its associated plantation-era reservoir; the Hulē'ia (Nāwiliwili) River and its tributaries; 'Alakoko (Menehune) Fishpond and the associated wetlands; and the fishing grounds of Nāwiliwili Bay. These waters and the biological and cultural systems they support hold ecological, agricultural, aquacultural, recreational, aesthetic, and spiritual value, reflecting the interconnectedness of ecological health and cultural continuity in the Hulē'ia region. All of these resources lie makai of and outside the project area.

The proposed project is an approximately 2.9-acre affordable housing and educational health center development on upland plains that currently function as a developed county park, together with an associated sewer line connection located within existing, developed roadway rights-of-way. The project does not divert, consume, or impound surface water, and it does not require new stream crossings or the filling of wetlands; long-term effects on water quantity are therefore not anticipated. The principal pathway by which the project could affect public trust resources is the potential for construction-phase sediment and erosion, and post-construction stormwater runoff, to reach Halehaka Stream and the reservoir located approximately 250 feet to the east and, ultimately, the downstream Hulē'ia system and 'Alakoko Fishpond.

These potential effects can be avoided or minimized through standard and culturally informed best management practices, including sediment and erosion controls during

construction; post-construction stormwater drainage controls (e.g., vegetated swales, detention or infiltration features, and oil/water separators) to capture and treat road- and site-related contaminants before they reach surface waters; native and culturally appropriate landscaping; and avoidance of herbicide use near waterways. With these measures in place, the project is not anticipated to cause significant adverse impacts to public trust resources, and it advances the State's and County's obligation to manage natural and cultural resources for collective benefit consistent with the principle of mālama ʻāina.

8.0 *Ka Pa'akai* Analysis

It has long been the law of the land that the State of Hawai'i has an "obligation to protect the reasonable exercise of customary and traditionally exercised rights of Hawaiians to the extent feasible" (*Public Access Shoreline Hawai'i v. Hawai'i County Planning Commission ("PASH")*, 79 Hawai'i 425, 450 n. 43 (1995)). In 2000, *in Ka Pa'akai O Ka 'Āina v. Land Use Commission*, 94 Hawai'i 31 (2000), the Hawai'i Supreme Court established an analytical framework "to help ensure the enforcement of traditional and customary native Hawaiian rights while reasonably accommodating competing ... development interests."

Under *Ka Pa'akai*, in order to fulfill its duty to preserve and protect customary and traditional Native Hawaiian rights to the extent feasible, as required by Article XII, Section 7 of the Hawai'i Constitution, an agency must, at minimum, make findings as to: (1) the identity and scope of valued cultural, historical, or natural resources in the project area, including the extent to which traditional and customary Native Hawaiian rights are exercised in the project area; (2) the extent to which those resources—including traditional and customary Native Hawaiian rights—will be affected or impaired by the proposed action; and (3) the feasible action, if any, to be taken to reasonably protect Native Hawaiian rights if they are found to exist (*Ka Pa'akai*, 94 Hawai'i at 47; see also Mauna Kea II, 143 Hawai'i 379 (2018)). The following analysis applies this three-part framework to the proposed Puhi Development Project.

8.1 Identification of Valued Cultural, Historical, or Natural Resources and the Extent to Which Traditional and Customary Rights Are Exercised

The first prong of the *Ka Pa'akai* test requires the identification of valued cultural, historical, or natural resources in the project area, and the extent to which traditional and customary Native Hawaiian rights are exercised there. This involves two elements: the existence of valued resources, and the ability of practitioners to access and use those resources in connection with a traditional or customary practice.

As documented in Sections 3.0 and 4.0, the broader Niumalu–Nāwiliwili landscape of the moku of Puna contains significant valued cultural and natural resources, including the Hulē'ia (Nāwiliwili) River and its tributaries; Halehaka Stream and its reservoir; 'Alakoko (Menehune) Fishpond (SIHP #50-30-11-098; NRHP #73000677); associated wetlands and lo'i lands; the fishing grounds of Nāwiliwili Bay; and the wahi pana and mo'olelo of the Hulē'ia region. Traditional and customary practices historically associated with these resources include kalo cultivation, fishing and aquaculture, freshwater gathering, travel and refuge along the Hulē'ia, and ceremonial use, and contemporary stewardship of the Hulē'ia wetlands and 'Alakoko Fishpond continues today.

These valued resources, and the exercise of the rights associated with them, are located makai of and outside the approximately 2.9-acre project area. The project area itself occupies upland plains that have been extensively disturbed by plantation-era agriculture and subsequent urban and commercial development, and that today function as a maintained county park bounded by Kaumualiʻi Highway and developed parcels. The literature review and field investigation (LRFI) and the research summarized in this assessment did not identify any valued cultural, historical, or natural resources, or any ongoing traditional or customary practices, within the project area itself, and access to the makai resources of the Hulēʻia region is not obtained through the project parcel. The sewer line alignment subsequently added to the project is located entirely within existing, previously disturbed roadway rights-of-way and developed parcels, and no valued cultural, historical, or natural resources or ongoing traditional or customary practices were identified within this expanded area of potential effect. This finding is not represented as an exhaustive inventory; additional resources or practices not documented in the sources reviewed may exist in the project area or adjacent areas.

8.2 Extent to Which the Identified Resources and Rights Will Be Affected or Impaired

The second prong of the *Ka Paʻakai* test considers the extent to which the identified resources and rights will be affected or impaired by the proposed action, including any adverse alteration, destruction, or modification of resources and any interference with access to them.

Because no valued cultural, historical, or natural resources and no ongoing traditional or customary practices were identified within the project area, and because access to the makai resources of the Hulēʻia region is not obtained through the project parcel, the proposed project is not anticipated to directly affect or impair the exercise of traditional and customary Native Hawaiian rights. The addition of the sewer line, located within existing developed roadway rights-of-way, does not alter this conclusion, as no valued resources, ongoing practices, or access routes were identified within the expanded APE. Any tangible or physical impacts to historic properties are addressed separately under HRS Chapter 6E in consultation with the State Historic Preservation Division (SHPD) and are not the subject of this assessment.

The principal pathway for any indirect effect is the potential for construction-phase sediment and erosion, or post-construction stormwater runoff, to migrate from the upland project area toward Halehaka Stream and its reservoir and, ultimately, the downstream Hulēʻia system and ʻAlakoko Fishpond, which sustain culturally important aquatic and agricultural resources. This potential effect is indirect, is expected to be temporary and avoidable, and can be reasonably controlled through the feasible actions described below.

8.3 Feasible Actions to Reasonably Protect Native Hawaiian Rights

The third prong of the *Ka Pa'akai* framework requires the identification of the feasible action, if any, to be taken to reasonably protect Native Hawaiian rights if they are found to exist. The determination of whether an action is suitably "feasible" is reserved by the Court to the State and, here, the County of Kaua'i as the approving authority.

Because no traditional or customary practices were identified within the project area, no mitigation is required to protect the exercise of such rights within the parcel itself. Nevertheless, to protect the valued resources of the broader Hulē'ia region that lie downstream and makai of the project area, the following feasible actions are recommended: (1) construction-phase sediment and erosion controls to prevent runoff from reaching Halehaka Stream and the downstream Hulē'ia system; (2) post-construction stormwater drainage controls, such as vegetated swales, detention or infiltration features, and oil/water separators, to capture and treat site-related contaminants before they reach surface waters; (3) incorporation of native, endemic, and indigenous plant species in project landscaping; (4) compliance with HRS Chapter 6E and consultation with SHPD, including implementation of an inadvertent-discovery protocol providing for the engagement of cultural descendants and appropriate cultural practitioners in the event that iwi kūpuna or other cultural materials are encountered during ground disturbance, including trenching for the new sewer line; and (5) continued consultation with Native Hawaiian organizations, descendant families, and community stewardship groups active in the Hulē'ia region, such as Mālama Hulē'ia. It is the responsibility of the State and County to determine and properly implement these feasible actions in their decision-making.

The lands of the 'ili of Puhi and the ahupua'a of Niumalu, within the moku (district) of Puna, Kaua'i, are rich with both pre-contact and post-contact histories tied to the abundant fresh waters of the Hulē'ia (Nāwiliwili) region. While the proposed project is unlikely to have any adverse impact on historic properties or on the exercise of Native Hawaiian traditional and customary practices, it presents an opportunity to enrich the area through interpretive botanical, cultural, and historical programs and through the use of native landscaping. This study examined the available historical, archival, archaeological, and Hawaiian-language records for the region and did not identify any current cultural practices or customs within the project area that would be impacted by the proposed activity. Valuable cultural information documented for the area can nonetheless be respectfully incorporated to enrich the interpretive, landscaping, and educational elements of the project design.

The State and its agencies have an affirmative obligation to preserve and protect the reasonable exercise of customarily and traditionally exercised rights of Hawaiians to the extent feasible. Part of the manner in which this is implemented is through the completion

of thorough and appropriately focused cultural impact assessments, which can effectively research and identify these practices so that they can be appropriately protected. *Ka Pa'akai* calls for a good faith effort on the part of the state to identify cultural resources, including traditional and customary practices, in the area. This CIA conducted an exhaustive and good faith effort to identify such resources and practices. While there are certainly such resources and practices within the larger geographic extent of the Niumalu landscape and the broader Hulē'ia region of the moku of Puna, there are none in the immediate project area or within the area that will be impacted by the proposed project, including the sewer line alignment located within existing roadway rights-of-way. Therefore, per Act 50 and under the *Ka Pa'akai* analysis, potential effects to cultural resources or practices are negligible due to the absence of ongoing traditional and customary practices in the immediate project area.

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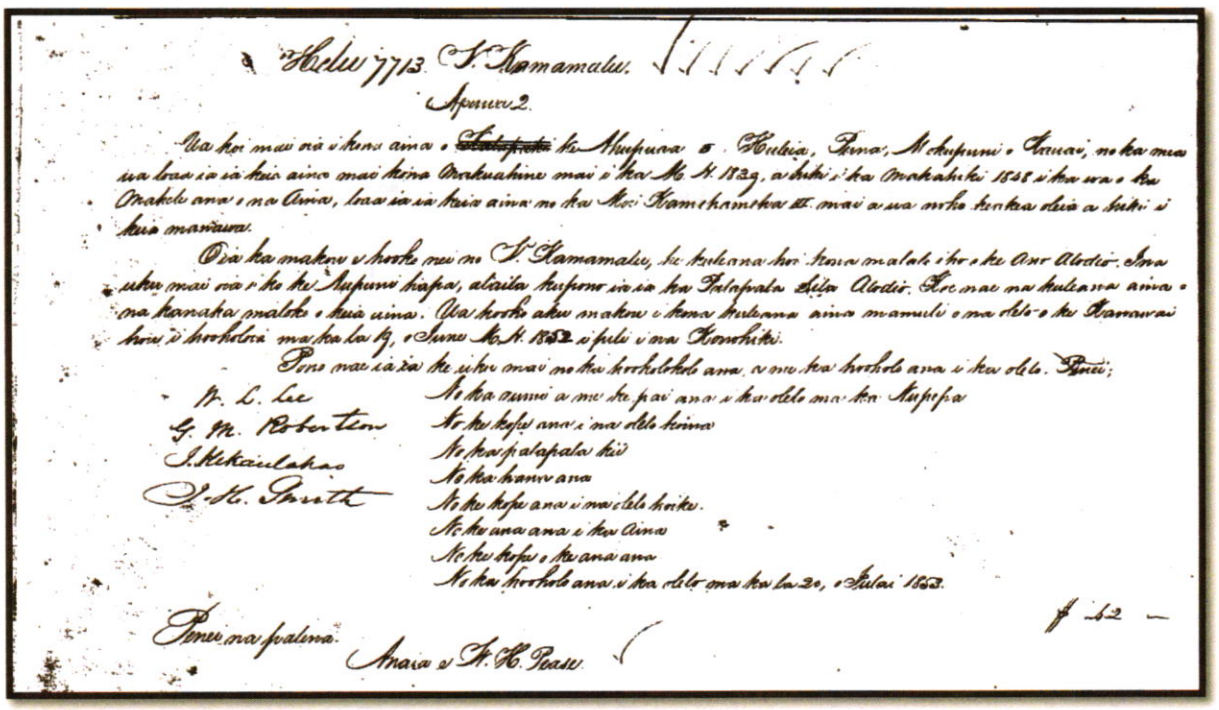
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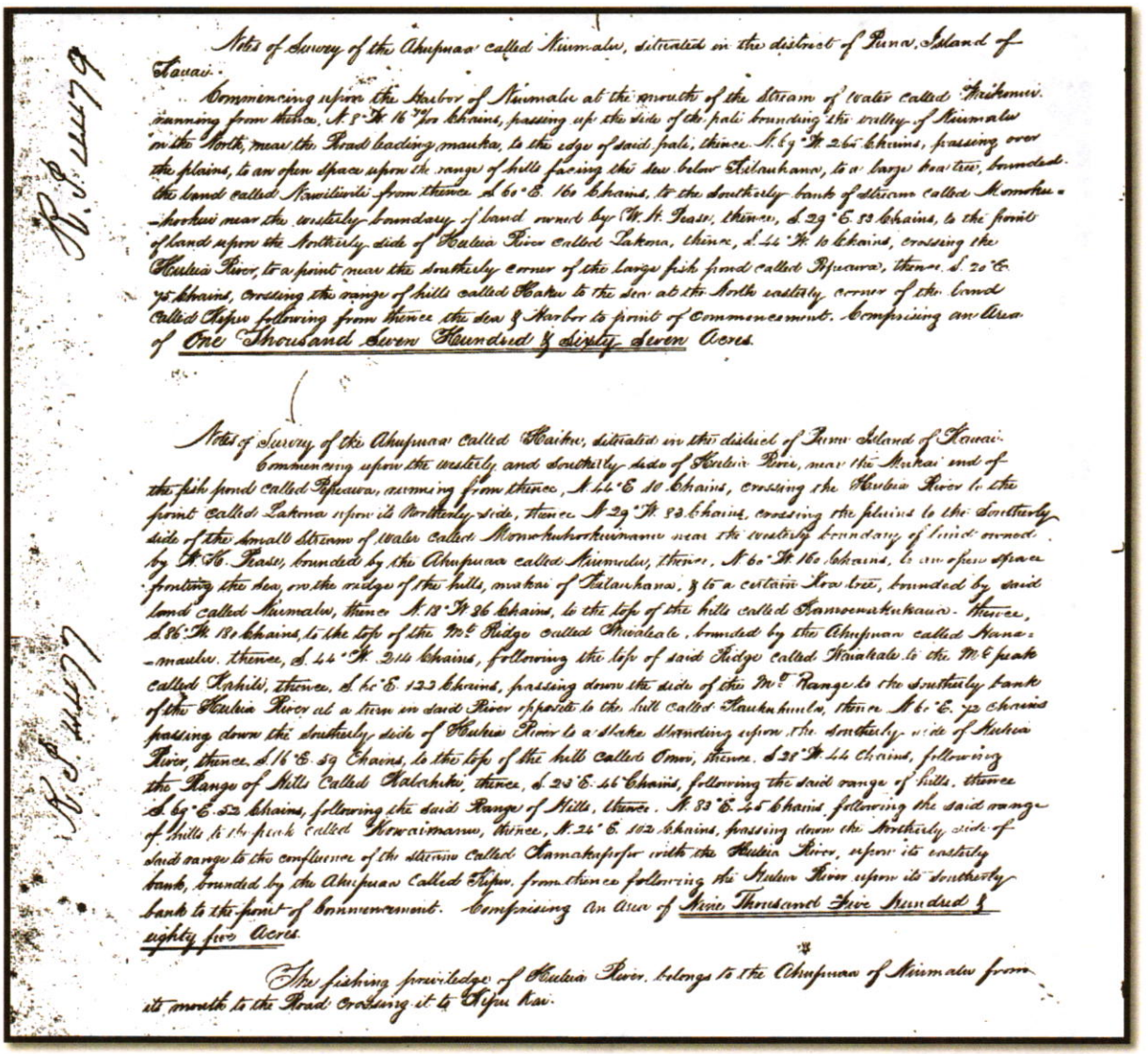
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Appendix A: Māhele Documentation



LCA 7713 ʻāpana 2 to Victoria Kamāmalu (Māhele Award Book Reel 11, Vol. 9 pg. 263)



Notes of Survey of the Ahupuaa called Niumalu, situated in the district of Puna, Island of Kauai.

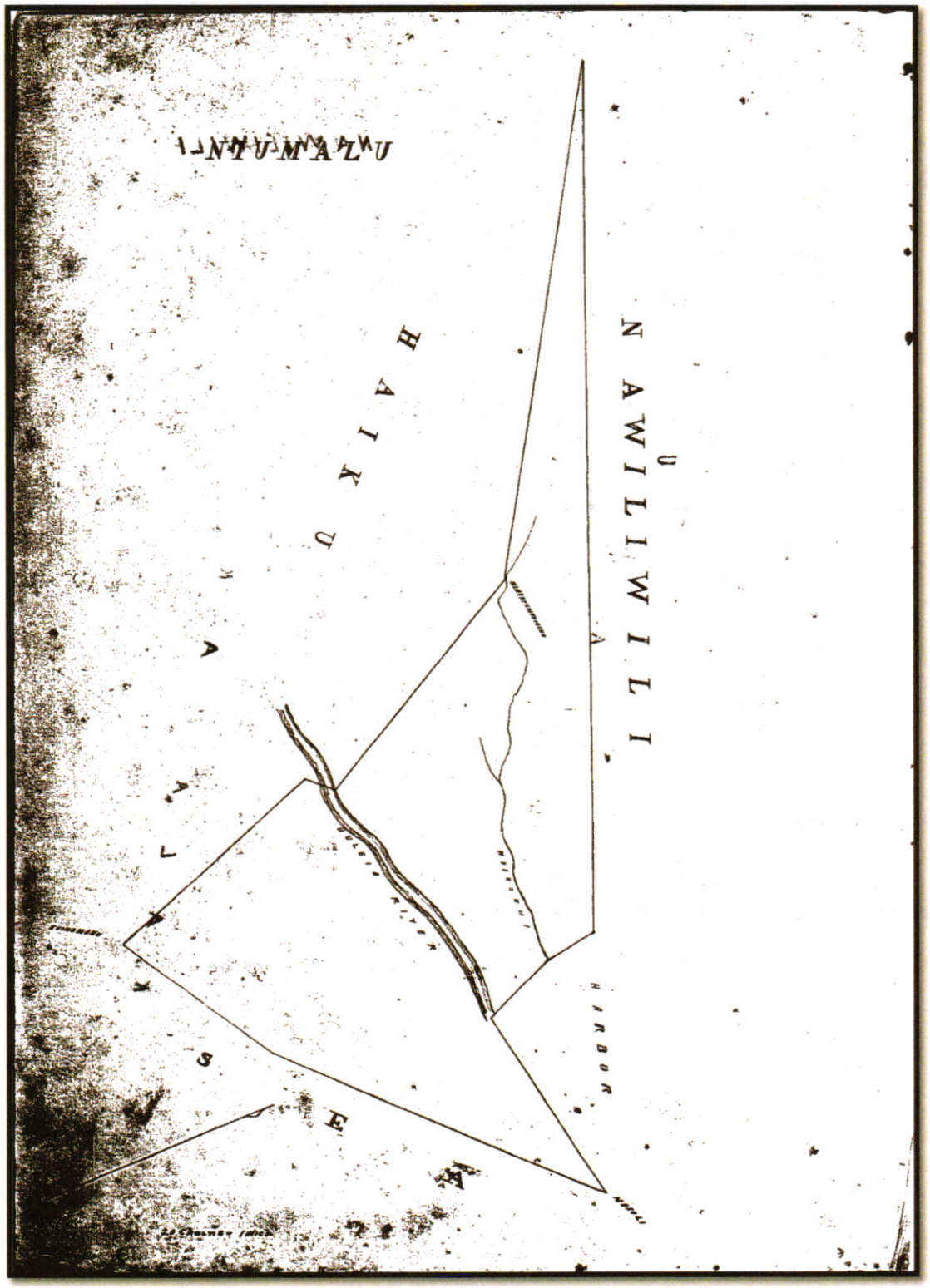
Commencing upon the Harbor of Niumalu at the mouth of the stream of water called Waikomii, running from thence, N. 8° W. 16 70/100 chains, passing up the side of the pali bounding the valley of Niumalu on the North, near the Road leading mauka, to the edge of said pali, thence, N. 69° W. 26 chains, passing over the plains, to an open space upon the range of hills facing the sea below Kalaukana, to a large kou tree, bounded the land called Nawiliwili from thence, N. 60° E. 160 chains, to the southerly bank of stream called Momoku-a-hoheu near the westerly boundary of land owned by W. H. Pease, thence, S. 29° E. 53 chains, to the point of land upon the Northerly side of Hulua River called Lakena, thence, S. 44° W. 10 chains, crossing the Hulua River, to a point near the southerly corner of the large fish pond called Pipeawa, thence, S. 20° E. 75 chains, crossing the range of hills called Kahau to the sea at the North easterly corner of the land called Keapu following from thence the sea & Harbor to point of Commencement. Comprising an Area of One Thousand Seven Hundred & Sixty Seven Acres.

Notes of Survey of the Ahupuaa called Haiku, situated in the district of Puna Island of Kauai.

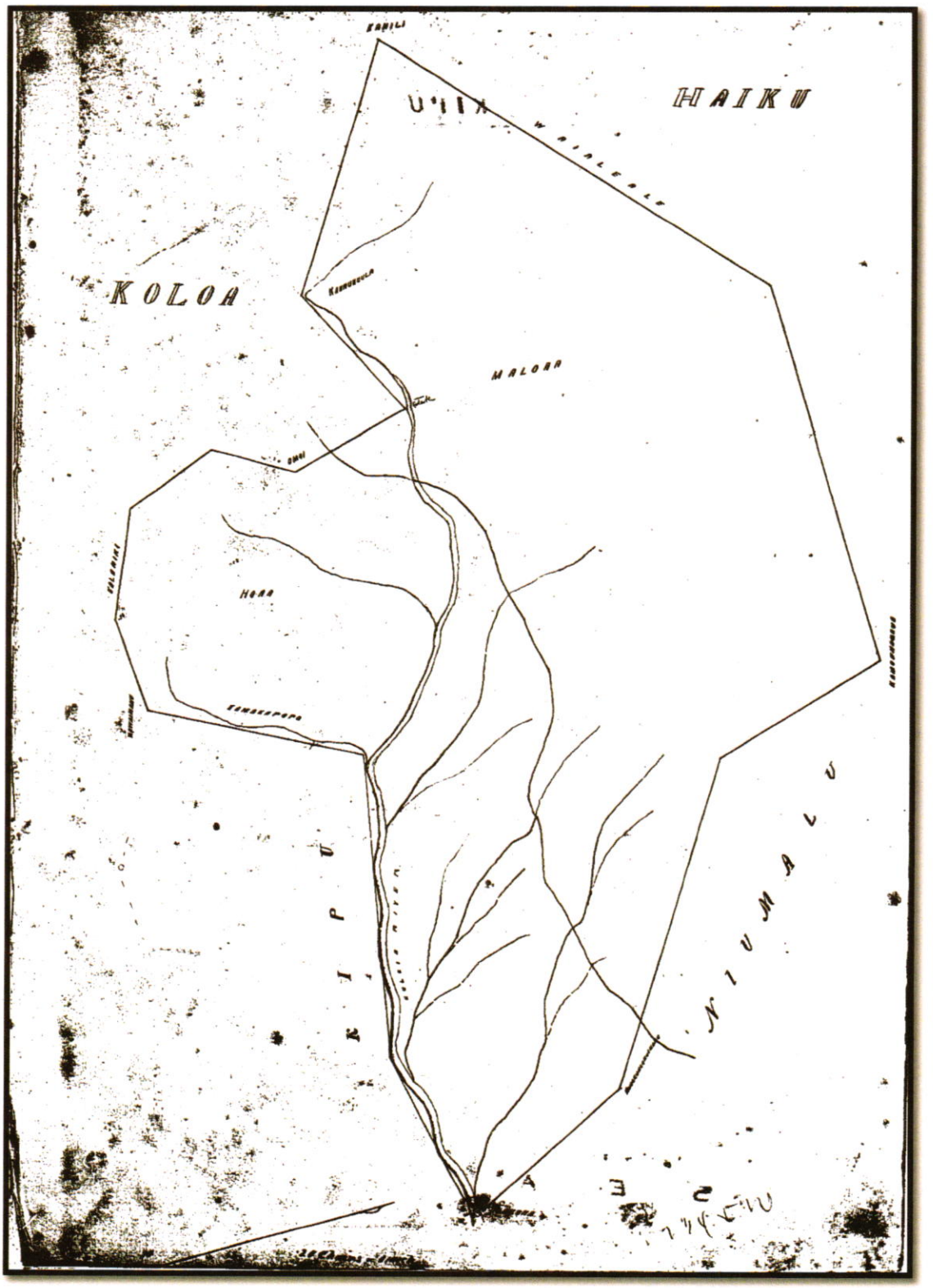
Commencing upon the westerly and southerly side of Hulua River, near the Mukai end of the fish pond called Pipeawa, running from thence, N. 44° E. 10 chains, crossing the Hulua River to the point called Lakena upon its Northerly side, thence N. 29° W. 83 chains, crossing the plains to the Southerly side of the small stream of Water called Momokuhookuwanui near the westerly boundary of land owned by W. H. Pease, bounded by the Ahupuaa called Niumalu, thence, N. 60° W. 160 chains, to an open space fronting the sea, on the ridge of the hills, makai of Kalaukana, & to a certain Koa tree, bounded by said land called Niumalu, thence N. 18° W. 36 chains, to the top of the hills called Kanoenuhukauwa. thence, S. 86° W. 130 chains, to the top of the Mt. Ridge called Puulalale, bounded by the Ahupuaa called Kanaa-maulu. thence, S. 44° W. 216 chains, following the top of said Ridge called Kuakale to the Mt. peak called Kahili, thence, S. 60° E. 123 chains, passing down the side of the Mt. Range to the southerly bank of the Hulua River at a tree on said River opposite to the hill called Kaukuhuula, thence N. 60° E. 72 chains passing down the southerly side of Hulua River to a stake standing upon the southerly side of Wailua River, thence, S. 16° E. 59 Chains, to the top of the hill called Omai, thence. S. 21° W. 44 Chains, following the Range of Hills Called Kalaehiki, thence, S. 23° E. 46 Chains, following the said range of hills. thence S. 69° E. 22 chains, following the said Range of Hills, thence. N. 83° E. 45 Chains, following the said range of hills to the peak called Konaiwanui, thence, N. 24° E. 102 chains, passing down the Northerly side of said range to the confluence of the stream called Kamakupoo with the Hulua River, upon its easterly bank, bounded by the Ahupuaa called Keapu, from thence following the Hulua River upon its southerly bank to the point of Commencement. Comprising an Area of Nine Thousand Five Hundred & eighty five Acres.

The fishing privilege of Hulua River, belongs to the Ahupuaa of Niumalu from its mouth to the Road crossing it to Keapu Kai.

LCA 7713 ʻāpana 2 to Victoria Kamāmalu, Niumalu and Haʻikū survey notes (Māhele Award Book Reel 11, Vol. 9 pg. 264)



LCA 7713 ʻāpana 2 to Victoria Kamāmalu, map of Niumalu Ahupuaʻa (Māhele Award Book Reel 11, Vol. 9)



LCA 7713 ʻāpana 2 to Victoria Kamāmalu, map of Haʻikū Ahupuaʻa (Māhele Award Book Reel 11, Vol. 9

SUPPLEMENTAL REPORT

Kahua Ho'oulu Affordable Housing
Project Development Use Permit Application

SUPPLEMENTAL REPORT

Kahua Ho'oulu Affordable Rental Housing Project

Project Development Use Permit PDU-2027-1
Class IV Zoning Permit Z-IV-2027-2
Variance Permit V-2027-1

Tax Map Key (4) 3-3-004:020
Puhi, Līhu'e, Kaua'i
Applicant: 'Ikenākea Development, LLC
Owner: County of Kaua'i Housing Agency

PURPOSE OF THIS SUPPLEMENTAL REPORT

This Supplemental Report is submitted to add to the Variance Permit discussion and addresses the standards for each of the three permits being processed concurrently. Where this Supplemental Report differs from the Application, this Supplemental Report controls. In particular, the conformance discussion below supersedes the Zoning District discussion in Section 8.c of the Application.

CLARIFICATIONS TO THE APPLICATION

Site area: The project site is Lot 440-A, as shown on Land Court Map 215, identified as TMK (4) 3-3-004:020, and contains 109,637 square feet, or approximately 2.52 acres. References in the Application to approximately 2.91 acres describe the original Lot 440, which included Lot 440-B (17,164 square feet) along the Kaumuali'i Highway frontage. Lot 440-B is committed to the State of Hawai'i for the highway widening and is not part of the project site.

Vehicular access: Consistent with the Land Court subdivision order, no vehicular access will be taken from Kaumuali'i Highway. Vehicular access will be from Welau and Nani Streets. The pedestrian connection to the existing Kaumuali'i Highway bus stop described in the Application will be subject to a State Department of Transportation permit for work within the highway right-of-way.

CONFORMANCE TO CLASS IV ZONING PERMIT STANDARDS

A Zoning Permit (ZP) is required to determine whether the Project, its proposed land use, building sizes, and structures comply with Kauai's Comprehensive Zoning Ordinance (CZO) and are compatible with existing surrounding uses. It is required for new buildings and use changes to lands or buildings. Different classes of permits have been categorized depending on the size and complexity of the project. Because the Project proposes a multifamily development of 60 units that requires a Project Development Use Permit and a Variance Permit, a Class IV ZP is the procedural requirement for those approvals and must be obtained prior to applying for any building permits.

The property, identified as TMK (4) 3-3-004:020 (Lot 440-A), is approximately 2.52 acres (109,637 square feet) in area and is located in the State Land Use Urban District and the County Open (O) District. The Project proposes an affordable rental multifamily development along with other ancillary uses such as a community building, and outdoor gathering spaces, tot lot, and resident and guest parking. These uses and their intensity would not normally be allowed in the O District, and deviations from these standards are needed for the Project. Deviations from the O District and Project Development standards can be considered through a variety of actions, such as Zone Change, Project Development, Variances, and/or 201H, HRS, exemptions. In consultation with the Planning Department, the Project is applying for a combination of a Class IV Zoning Permit, Project Development Use Permit, and Variance Permit to enable the plan.

The above permit applications (PDU-2027-1, Z-IV-2027-2, and V-2027-1) are being processed concurrently and will be considered together by the Kauai Planning Commission after a public hearing is held.

CONFORMANCE TO PROJECT DEVELOPMENT STANDARDS

In accordance with Section 8-10.2(a) of the KCC, any land area designated as Urban District by the State Land Use Commission may be developed in accordance with a use permit provided that the land area is under one (1) ownership or there is an agreement among several owners for the purposes of co-operative or joint development, and the land area is:

- in excess of one (1) acre in a Commercial, Resort, or Industrial Use District; or
- is large enough to qualify for more than ten (10) dwelling units in any Residential District, Open District, or Agriculture District.

It is noted that the project area is within the State Urban Land Use District and contains approximately 2.52 acres within the Open (O) zoning district. Based on the parcel area and zoning, the property would only qualify for two (2) residential units and not be eligible for a Project Development. However, there is a provision noted in Sec. 8-10.4(d) of the CZO that reads:

"d. The Planning Commission shall find that the project development will create an environment of sustained desirability and stability, shall be compatible with the character of the surrounding neighborhood, and shall result in an intensity of land coverage and density of dwelling units not higher than the permitted in the Use District in which the project development is to be located. The Planning Commission may approve a project development containing residential uses, at a density higher than permitted in the District in which the project development is to be located, if the residences to be constructed will be leased or sold at prices that will make them available to persons of lower income. In that case, the applicant shall establish that the residential construction is being undertaken under a federal or State subsidized housing program designed to produce housing for lower income persons."

Consideration of the proposal through a Project Development Use Permit would be necessary to allow the Applicant to develop a project at a higher residential density and to allow comprehensive site

planning and design. In taking the foregoing into consideration, deviation from the land coverage requirement is necessary in order to facilitate a multi-family residential development. While the current zoning allows for 10% coverage of the parcel area, the proposed use would be consistent with the surrounding developments. As such, allowing for similar land coverage would not result in harm to property and improvements in the neighborhood, or harmful environmental consequences.

As previously stated, the intent of the project is to allow construction of affordable multi-family residential units. The Project's Low-Income Housing Tax Credit, HOME, and National Housing Trust Fund financing, together with anticipated Project-Based Vouchers. Details of the subsidized rental housing program are included in Section 8.a, Affordability and Financing, of the Application.

With a Variance from Section 8-10.2(b) enabling consideration of a PDU application, the Project will comply with applicable health and safety regulations, and will satisfy environmental, drainage, traffic, and utility requirements set forth by the County. Through the PDU, and consistent with CZO Section 8-9.2(d), the Project applies the development standards of the Residential District, in which multifamily use is permitted. The Project will:

- Conform to the applicable residential district development standards of CZO Section 8-4, including Section 8-4.3, Development Standards for Residential Structures not Involving the Subdivision of Land, and Section 8-4.5, Standards Applicable to All Residential Development, including building height, setbacks, off-street parking (100 stalls, exceeding the 1.5 stalls per unit required by Section 8-4.5(a)(5)), and screened waste collection areas (Section 8-4.5(c)),
    - Except that the Project requests CZO Section 8-4.5(a)(4) be waived to allow the Project access to be served by a parking lot constructed pursuant to the Fire Code, and
    - Except that residential density will be established through the Project Development pursuant to CZO Section 8-10.4(d), and land coverage through the Variance requested below, and

The Project is consistent with the primary objective of the Project Development provisions, CZO Section 8-10, in that comprehensive site planning will allow residential units at a higher density than otherwise allowed in the O District, and those residential units will be leased to persons of lower income. The Project/Property:

- Is consistent with the intended purpose of this article,
- Is within the State Land Use Urban District and, with the requested Variance from Section 8-10.2(b), qualifies for consideration as a Project Development,
- Is compatible and complementary to residential uses nearby,
- Is located adjacent to an existing transit corridor that can benefit from and enhance multimodal transportation and will not create substantial traffic congestion, that cannot otherwise be mitigated, or interfere with projected public improvements,

- Is generally consistent with intent of the General Plan. The property is located within Puhi, a western urban neighborhood of Lihue inside the Līhu'e Community Plan Urban Edge Boundary, just eight minutes from the Wilcox Hospital, or five minutes from the Lihue Civic Center via Kaumualii Highway and sits across the highway from Kauai Community College. The Project directly promotes General Plan Policies #1, Manage Growth to Preserve Rural Character; #2, Provide Local Housing; #3, Recognize the Identity of Kaua'i's Individual Towns and Districts; and #17, Nurture Our Keiki,
- Will occur on a single parcel of land, with a single landowner, the County of Kauai, and include an integral design of multiple structures set within a landscaped campus of dwellings, open, recreational, and gathering spaces, walkways and parking, and
- Fulfills an overarching public need by providing affordable housing for households earning 30% to 120% of area median income, including gap-group households, making it worthy of the deviations requested from what would otherwise be developed using the property's underlying zone.

This residential construction project will be developed under Federal, State and County subsidized housing programs designed to house lower income applicants, with affordability secured by regulatory agreements recorded against the leasehold. Ensuring that affordable housing is available to Kauai residents is among the highest priorities a government has, especially now. The Project's site was selected by the Kauai County Housing Agency through a competitive process as the best available County land for affordable housing, and the Project will be delivered through a partnership in which the County retains fee title to the land.

CONFORMANCE TO VARIANCE STANDARDS

Section 8-3.3 of the Comprehensive Zoning Ordinance (CZO), Kaua'i County Code (1987), states that a Variance may be granted because of special circumstances (including size, shape, topography, location or surroundings), the strict application of the regulations deprives the property of privileges enjoyed by other properties in the vicinity; and granting the variance will not result in harm to property and improvements in the neighborhood, or harmful environmental consequences.

The Variance Permit is necessary to deviate from the standard that determines whether a project qualifies for a Project Development Permit, and to deviate from the land coverage requirement within the Open zoning district. Pursuant to Sec. 8-10.2(b) of the CZO, the standard currently states:

▫ §8-10.2 Lands that May Be Included in a Project Development.

Any land area delineated as Urban District by the State Land Use Commission may be developed in accordance with a Use Permit issued pursuant to this Article if the land area is under one ownership or there is an agreement among several owners for the purpose of cooperative or joint development, and the land area is:

(a)In excess of one acre in a Commercial, Resort, or Industrial Use District; or

(b) Is large enough to qualify for more than ten dwelling units in any Residential District, Open District, or Agriculture District. (Ord. No. 935, November 14, 2012)

Based on the current size of the parcel and present zoning, it would not qualify for a Project Development. In applying the current development standards, the parcel would be eligible for a maximum of four (2) residential units when applying the Additional Rental Unit (ARU) standards. At present, the CZO allows a total of 2 SFRs. Through the ARU qualification process, each dwelling unit would be eligible for an ARU provided that the infrastructure can support such development.

In consideration of a Project Development, the development would generally involve more than 10 dwelling units. However in this proposal, the requested deviation is not considered to be a minimum departure, however the intent of the project is to provide affordable housing. The approval of the requested variance would not grant the Applicant any special privileges as those already enjoyed by similar projects on the island (i.e. Kawaikini, PDU-2009-7, and Port Allen, PDU-2005-7)

The project is within a community that features multi-family residential units, approximately ¼-mile from the nearest project. The proposed residential project remains consistent with surrounding uses, and it is not expected to create adverse effects to neighboring properties or result in environmental consequences with proper mitigation measures.

The Project meets these standards as follows.

Special circumstances: The circumstances of the Property distinguish it from other O District land. Its O zoning reflects its former dedication as a neighborhood park under the 1973 conveyance from Grove Farm, a park-only restriction that Grove Farm released in 2018, rather than any physical constraint of the land. The parcel was further reduced from approximately 2.91 acres to 2.52 acres by a Land Court subdivision that set aside the highway frontage (Lot 440-B) for the State's Kaumualii Highway widening. What remains is a vacant, previously disturbed urban parcel bordered by Kaumualii Highway, an established residential neighborhood, and commercial development, selected by the Kauai County Housing Agency as the best available County land for affordable housing. It is also important to distinguish this Project from most others because it is a public-private project on County-owned land, developed for a public purpose.

Deprivation of privileges enjoyed by other properties in the vicinity: Strict application of the O District standards would limit this 2.52-acre urban parcel to two residential units, or up to four with Additional Rental Units, well below the residential use of surrounding properties, including the single-family neighborhood to the south and multifamily housing in Puhi approved through a Project Development on O-zoned land (Kawaikini, PDU-2009-7). Granting the Variance would allow the Property to be used for residential purposes consistent with nearby properties and, would not grant the Applicant any special privileges beyond those already enjoyed by similar projects on the island.

Scope of the request: The deviations requested are limited to those needed for the affordable housing project to be considered as a Project Development and to accommodate its buildings, parking, and circulation. All other applicable residential development standards, including height, setbacks, and off-street parking, will be met, and any future expansion of dwelling units or additional accessory structures will remain subject to the land coverage standard. The request arises from the Project's public purpose of providing affordable housing, not from financial hardship.

No harm to the neighborhood or the environment: The Property is a vacant tract of land located between Kaumualii Highway and an existing residential neighborhood. Across Kaumualii Highway is Kauai Community College. It is in a location that makes the most efficient use of existing infrastructure with the least amount of earth movement and the impacts that come with extensive site manipulation. Kaumualii Highway is a major transit corridor providing access to Lihue to the east and as far west as Eleele. The proposed development of three-story residential structures is larger in scale than the existing single-family neighborhood. However, its design is integrated with landscaped open spaces which minimizes the impact new structures may have upon the community. In fact, the proposed new Project will benefit the existing homes by buffering sound and visual impacts from the highway.

The Project will not damage existing development or cause significant environmental damage. The area has been redeveloped for residential subdivision and highway development, and the surrounding natural open spaces will remain unchanged. A Final Environmental Assessment and Finding of No Significant Impact was published in May 2024, and the Project will carry out its mitigation commitments, Best Management Practices, shielded lighting, and archaeological monitoring required by SHPD. In addition, the design of the new structures will be in character with the community as much of the same vernacular will be used. These findings are consistent with the Director's Report, which concludes that, through proper mitigation, the Project is not expected to cause significant adverse impacts to surrounding properties.

Public purpose: Beyond these standards, granting the Variance serves the public interest. Kauai is in a housing crisis, and the Project will provide 60 long-term affordable rental homes, including units for gap-group households earning up to 120% of area median income, on County land in Līhu'e's urban core.

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

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

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission:	Consideration of a Project Development Use Permit, Class IV Zoning Permit, and Variance Permit to allow the construction of an affordable residential housing project containing sixty (60) multi-family units, community building, and associated site improvements.
Permit Application Nos.	Project Development Use Permit PDU-2027-1 Class IV Zoning Permit Z-IV-2027-2 Variance Permit V-2027-1
Name of Applicant(s)	IKENAKEA DEVELOPMENT LLC./COUNTY OF KAUAI HOUSING AGENCY Alicia K. Ruelke, Authorized Representative

II. PERMIT INFORMATION

PERMITS REQUIRED	
☐ **Use Permit**	
☒ **Project Development Use Permit**	Pursuant to Section 8-10(d) of the KCC (1987), as amended, a Project Development Use Permit is required to allow comprehensive site planning that allows deviations from development standards involving a multi-family residential project.
☒ **Variance Permit**	Pursuant to Sec. 8-3.3 of the KCC (1987), as amended, a Variance Permit is necessary to allow a deviation from Sec. 8-10.2 of the KCC relating to lands that qualify for a Project Development Permit, AND to deviate from the land coverage requirements within the Open (O) zoning district.
☐ **Special Permit**	
☒ **Zoning Permit Class** ☒ IV ☐ III	Pursuant to Sec. 8-4.7 of the KCC (1987), as amended, a Class IV Zoning Permit is a procedural requirement when applying for a Project Development Use Permit and Variance Permit.
☐ **Special Management Area Permit** ☐ Use ☐ Minor	
AMENDMENTS	

☐ Zoning Amendment	
☐ General Plan Amendment	
☐ State Land Use District Amendment	

Date of Receipt of Completed Application:	August 27, 2026
Date of Director's Report:	September 22, 2026
Date of Public Hearing:	October 13, 2026
Deadline Date for PC to Take Action (60TH Day):	November 21, 2026

III. PROJECT DATA

PROJECT INFORMATION			
Parcel Location:	Puhi. The parcel is situated along the makai side of Kaumualii Highway, situated immediately west of its intersection with Nani Street, affecting a parcel that is approximately 2.52 acres in size.		
Tax Map Key(s):	(4) 3-3-004 020	**Area:**	2.5169 acres or 109,637 sq. ft. (SF)

ZONING & DEVELOPMENT STANDARDS	
Zoning:	Open (O)
State Land Use District:	Urban
General Plan Designation:	Residential Community
Height Limit:	Thirty (30) feet
Max. Land Coverage:	Residential District = 60%
Front Setback:	10 feet
Rear Setback:	5 feet
Side Setback:	5 feet
Community Plan Area:	Līhu'e Community Plan
Community Plan Land Use Designation:	N/A
Deviations or Variances Requested:	Deviation from density and parcel qualification for a Project Development, AND land coverage requirement within the Open (O) zoning district.

IV. LEGAL REQUIREMENTS

Section 8-3.1(f), KCC:	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Section 8-3.1(f), relating to the provision of the Planning Director's report and recommendation on the subject proposal within sixty (60)

	days of the filing of a completed application. The application was received on August 27, 2026, and the Applicant, through its authorized agent, was notified accordingly of the Planning Department's intent to commence permit processing.
Public Hearing Date:	**OCTOBER 13, 2026**

V. PROJECT DESCRIPTION AND USE

The proposed development involves the construction of five 3-story buildings consisting of up to 60 apartment units in total, community building, and associated site improvements that include parking area & driveways. The project site is situated within a residential neighborhood in Puhi, along the makai side of Kaumualii Highway. The existing site is owned by the County of Kauai and utilized as a park.

While this community is situated within the Līhu'e Community Plan (SKCP), it is not subjected to the design/development standards of the Līhu'e Town Core since it is not within a specified Special Planning District area.

The project involves a mixture of residential units. As represented, the project will entail a total of sixty (60) multi-family units ranging from studios (12 proposed), 1-bedroom units (30), and 2-bedroom units (18). A total of five 3-story buildings will be contrasted onsite as well as a community center. The gross floor area of the community building is approximately 2,971 SF and features:

- Multi-Purpose Room with food preparation amenities (35' X 17');
- Lobby area;
- 2 Offices;
- Laundry Room containing 6 washers, 6 dryers;
- Restrooms;
- Mailroom; and
- Storage

VI. APPLICANT'S REASONS/JUSTIFICATION

Please refer to the Application.

VII. AGENCY COMMENTS

Comments from applicable government agencies are being sought and are expected at the time of the public hearing scheduled for OCTOBER 13, 2026, through separate transmittal.

VIII. FINDINGS

1. Property Information
   Based on the County's tax records, the project site is situated on a 2.5169-acre parcel that is owned by the County of Kaua'i. It is situated within the Open (O) zoning district and State Land Use Urban District. As noted in the Application, there was an existing residence as well as several shed structures on the property, but they have since been demolished and removed. The property currently remains vacant.

2. Surrounding Properties
   The project site is bordered to the north by the Kaumualii Highway, immediately across the Kaua'i Community College campus, to the east by Nani Street, to the south by Welau Street. Situated across the project site are single family residences and commercial development to the west.

3. Access
   Vehicular access is through Welau Street, which is a County roadway that is wide enough to accommodate two-way vehicular traffic. The project features an improved common driveway throughout the project site.

4. CZO DEVELOPMENT STANDARDS & APPLICABLE REQUIREMENTS
   As proposed, the project complies with the building height and setback requirements for development within the Commercial zoning district, as specified in Sections 8-4.3 & 4.5, of the Comprehensive Zoning Ordinance (CZO).

   a. **Off-Street Parking** – Pursuant to Sec. 8-4.5(a)(5) of the CZO, a minimum of one and one-half (1.5) spaces is required per dwelling unit. As represented, the project includes a total of 100 off-street parking stalls and stalls for approximately forty-one (41) bicycles.

   b. **Building Setback & Height** – The proposed development does comply with the development standards contained in Sections 8-4.3 and 8-4.5(b) of the CZO. As such, the proposed development is being evaluated through a Project Development Permit.

   c. **Utilities & Services** – The site plan provided identify a waste collection area for the proposed development, as required by Sec. 8-4.5(c) of the CZO. The standard requires an area for waste collection and these areas *"shall be screened by a fence, wall or hedge from public thoroughfares when serving over two dwelling units."*

   d. **Land Coverage** – As proposed, the development does not comply with the land coverage requirement within the Open zoning district, per Sec. 8-9.2. The CZO specifies that the limitation is 10% of the parcel area. As proposed, the project is being developed utilizing the standards within the Residential zoning district and amounts to approximately 69,825 SF. As such, the Applicant is seeking a Variance to deviate from the land coverage requirement.

IX. PRELIMINARY EVALUATION

In evaluating the proposed development involving the construction of multi-family residential units and associated site improvements, the following aspects are taken into consideration:

1. General Plan

   a. **Vision and Goals- Section 1.3 of the Kaua'i General Plan (2018)**
      - A Sustainable Island
      - A Healthy and Resilient People
      - A Unique and Beautiful Place
      - An Equitable Place, with Opportunity for all

   b. **Policies to Guide Growth – Section 1.4 of the Kaua'i General Plan (2018):**
      Of the 19 policies outlined in Section 1.4 of the Kaua'i General Plan (2018), the proposed project directly promotes the following:

      - Policy #1 Manage Growth to Preserve Rural Character
      - Policy #2 Provide Local Housing
      - Policy #3 Recognize the Identity of Kauai's Individual Towns and Districts
      - Policy #17 Nurture Our Keiki

   c. The proposed project aligns with the vision, goals, and policies of the Kaua'i General Plan in that the proposed project continues to provide local housing while protecting the integrity and character of the town. Further, it provides a great opportunity for residents to live and work in close proximity to employment areas within the Lihue Twon core area.

2. Variance Permit

   Section 8-3.3 of the Comprehensive Zoning Ordinance (CZO), Kaua'i County Code (1987), states that a Variance may be granted because of special circumstances (including size, shape, topography, location or surroundings), the strict application of the regulations deprives the property of privileges enjoyed by other properties in the vicinity; and granting the variance will not result in harm to property and improvements in the neighborhood, or harmful environmental consequences.

   As indicated in the Application, the Variance Permit is necessary to deviate from the standard that determines whether a project qualifies for a Project Development Permit, and to deviate from the land coverage requirement within the Open zoning district. Pursuant to Sec. 8-10.2(b) of the CZO, the standard currently states:

   ☐ **§8-10.2 Lands that May Be Included in a Project Development.**

   Any land area designated as Urban District by the State Land Use Commission may be developed in accordance with a Use Permit issued pursuant to this Article if the land area is under one ownership or there is an agreement among several owners for the purposes of cooperative or joint development, and the land area is:

   (a) In excess of one acre in a Commercial, Resort, or Industrial Use District; or

   (b) Is large enough to qualify for more than 10 dwelling units in any Residential District, Open District, or Agriculture District. (Ord. No. 935, November 14, 2012)

a. Based on the current size of the parcel and present zoning, it would not qualify for a Project Development. In applying the current development standards, the parcel would be eligible for a maximum of four (2) residential units when applying the Additional Rental Unit (ARU) standards. At present, the CZO allows a total of 2 SFRs. Through the ARU qualification process, each dwelling unit would be eligible for an ARU provided that the infrastructure can support such development.

b. In consideration of a Project Development, the development would generally involve more than 10 dwelling units. However in this proposal, the department would not consider the requested deviation to be a minimum departure, however the intent of the project is to provide affordable housing. The approval of the requested variance would not grant the Applicant any special privileges as those already enjoyed by similar projects on the island.

c. Will Not Create Significant Probabilities of Harm – The project is within a community that features multi-family residential units, approximately ½-mile from the nearest project. The proposed residential project remains consistent with surrounding uses, and it is not expected to create adverse effects to neighboring properties or resulting in environmental consequences with proper mitigation measures. As noted earlier, the modest living area of the various units ranges from 425 SFF to 991 SF.

3. Lands that may be included in a Project Development
In accordance with Section 8-10.2(a) of the KCC, any land area designated as Urban District by the State Land Use Commission may be developed in accordance with a use permit provided that the land area is under one (1) ownership or there is an agreement among several owners for the purposes of cooperative or joint development, and the land area is:

- in excess of one (1) acre in a Commercial, Resort, or Industrial Use District; or
- is large enough to qualify for more than ten (10) dwelling units in any Residential District, Open District, or Agriculture District.

Based on the foregoing, the following aspects are taken into consideration:

a. It is noted that the project area is within the State Urban Land Use District and contains approximately 2.52 acres within the Open (O) zoning district. Based on the parcel area and zoning, the property would only qualify for two (2) residential units and not be eligible for a Project Development. However, there is a provision noted in Sec. 8-10.4(d) of the CZO that reads:

"d. The Planning Commission shall find that the project development will create an environment of sustained desirability and stability, shall be compatible with the character of the surrounding neighborhood, and shall result in an intensity of land coverage and density of dwelling units no higher than are permitted in the Use District in which the project development is to be located. The Planning Commission may approve a project development containing residential uses, at

a density higher than permitted in the District in which the project development is to be located, if the residences to be constructed will be leased or sold at prices that will make them available to persons of lower income. In that case, the applicant shall establish that the residential construction is being undertaken under a Federal or State subsidized housing program designed to produce housing for lower income persons."

[emphasis added containing underscored material]

b. Consideration of the proposal through a Project Development Use Permit would be necessary to allow the Applicant to develop a project at a higher residential density and to allow comprehensive site planning and design. In taking the foregoing into consideration, deviation from the land coverage requirement is necessary in order to facilitate a multi-family residential development. While the current zoning allows for 10% coverage of the parcel area, the proposed use would be consistent with the surrounding developments. As such, allowing for similar land coverage would not result in harm to property and improvements in the neighborhood, or harmful environmental consequences.

c. As previously stated, the intent of the project is to allow construction of affordable multi-family residential units.

4. Project Considerations/Development Standards

a. **Building Design/Layout:** As represented, the proposed buildings do not exceed the maximum height limitation within the Residential zoning district involving a multi-family residential project. Based on the exterior elevations provided, the proposed multi-family buildings feature 3-stories and the CZO development standard allows up to 4-story buildings. It is further noted that the property is not situated within any special design control districts, such as Form Based Code, and the site is located outside of the Special Planning Areas within the Līhu'e Town Core area.

b. **Land Coverage:** The proposed development does not comply with the lot coverage requirement within the Open zoning district, which allows a maximum of 10% coverage of the parcel area or approximately 10,977 SF. As proposed, the project involves a total of 69,825 SF of land coverage.

c. **Setbacks:** While the parcel is zoned Open District, the layout of the project complies with the residential zoning district setback standards, as required by Section 8-9.2(d) of the CZO.

d. **Off-street Parking:** Although the project does not involve the construction of a parking garage, the development identifies a total of 100 off-street parking stalls and provision for 41 bicycle stalls, which would comply with Sec. 8-4.5(a)(5) of the CZO.

e. **Lighting:** It is uncertain as to whether the Applicant has made provisions for night illumination with the project, based on the preliminary plans that have been submitted.

If so, night illumination should be designed to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds. Night lighting should be shielded from above and directed downwards and shall be approved by the U.S. Dept. of the Interior Fish and Wildlife Service. If external lighting is to be used in connection with the proposed project, all external lighting should be only of the following types: *downward-facing shielded lights*. Spotlights aimed upward or spotlighting of structures is prohibited.

Though the use is generally permitted, the Applicant should institute the "Best Management Practices" in order to insure that the operation of this facility does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

5. Wildfire Wildland Urban Interface (WUI)

   a. The Wildfire Risk to Communities program created and maintained by the USDA forest Service identifies Kauai County as having a very high risk of wildfire—higher than 91% of counties in the United States.

   b. The Hawaii Wildfire Management Organization's (HWMO) Kauai Wildfire Hazard document identifies the Līhu'e area as a high hazard risk to wildfire.

   c. In consideration of this potential hazard and to further minimize the threat of wildfire to the project and surrounding areas, especially particularly during high wind events, wildfire home hardening and wildfire defensible space maintenance requirements should be considered.

6. Agency Comments
   The Applicant should resolve and comply with all agency requirements as recommended in the permit application review, including but not limited to the fire code requirements as imposed by the County Fire Department, drainage requirements for DPW-Engineering Division, wastewater requirements for the State Department of Health (DOH), and the archaeological/historical requirements of the State Historic Preservation Division (SHPD).

X. PRELIMINARY CONCLUSION

Based on the information contained in the Director's Report Findings and Evaluation, it is concluded that the proposed development meets the standards for a Project Development Use Permit, Class IV Zoning Permit, and Variance Permit in that:

1. The project aligns with the "Residential Community" and "Neighborhood General" designation outlined in the Kaua'i County 2018 General Plan;

2. The overall nature of the project is compatible and complimentary with the residential use of the surrounding parcels and with the existing developments surrounding the project site;

3. Through proper mitigation efforts, the proposed development is not expected to cause any significant adverse impacts to the surrounding properties;

4. The proposed development is appropriate relative to the provision of alternative housing opportunities for the Līhu'e community. Furthermore, the exceptions sought via the Project Development Use Permit would not result in any significant impact to surrounding properties; and

5. Comprehensive site and design can be achieved for the entire parcel prior to any development or subdivision so that a public service and utility system can be anticipated and coordinated. As presented, the proposed Project Development allows the property to be developed in a manner that will provide a mixture of housing opportunities.

The Applicant should institute the "Best Management Practices" to ensure that the development does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

XI. PRELMINARY RECOMMENDATION

Based on the foregoing evaluation and conclusion, it is hereby recommended Class IV Zoning Permit Z-IV-2027-2, PDU-2027-1, and V-2027-1 be **APPROVED** subject to the following conditions:

1. The project shall be constructed as represented. Any changes to the operation and/or the respective structures shall be reviewed by the Planning Director to determine whether Planning Commission review and approval is warranted.

2. The Applicant is advised that any future improvements involving the expansion of the dwelling units or construction of additional accessory structures (ie. carports, garage, storage sheds) shall be in compliance with the land coverage development standard, pursuant to Section 8-4.3 of the CZO.

3. The Applicant shall incorporate Wildfire Wildland Urban Interface (WUI) Construction Standards attached as Exhibit 'A' into the development and construction of all structures on the subject property. Should the County of Kaua'i adopt a WUI ordinance, the prevailing ordinance requirement shall supersede this condition of approval.

4. The Applicant shall incorporate WUI Structure Maintenance and Defensible Space Standards as defined by the attached Exhibit 'B' into the Covenants, Conditions, and Restrictions (CC&Rs) for the subject property. A Homeowners Association (HOA) shall be established that implements the requirements and standards of Exhibit 'B'. Further, should these standards not be implemented, the HOA shall be subject to the Enforcement, Legal Procedures, and Penalties established under Section 8-3.5 of the

Kauai County Code. Should the County of Kaua'i adopt a WUI ordinance, the prevailing ordinance requirement shall supersede this condition of approval.

5. The Applicant shall coordinate an annual inspection of the site by the Planning Department and Fire Department to ensure compliance with Conditions 2. and 3. concerning WUI Construction Standards and WUI Structure Maintenance and Defensible Space Standards.

6. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, all external lighting shall be only of the following types: *downward-facing shielded lights*. Any spotlights aimed upward or spotlighting of structures, landscaping, or the ocean shall be prohibited.

7. The Applicant shall develop and utilize Best Management Practices (BMP's) to ensure that the development does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

8. The Applicant shall resolve and comply with all agency requirements as recommended in the permit application review, including but not limited to the permit requirement for the County DPW-Engineering Division, water requirements for the County Department of Water, and regulations involving environmental concerns as administered by the State Department of Health.

9. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project, such as Leadership in Energy and Environmental Design (L.E.E.D.) standards or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low-energy fixtures, low energy lighting and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for building permit review.

10. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua'i contractors as long as they are qualified and reasonably competitive with other contractors and shall seek to employ residents of Kaua'i in temporary construction and permanent jobs. It is recognized that the Applicant may have to employ non- Kaua'i residents for particular skilled jobs where no qualified Kaua'i resident possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti- competitive restraints on trade or other monopolistic practices.

11. Should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the Applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division (SHPD) to determine mitigation measures.

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

13. The Planning Commission reserves the right to revise, modify, add or delete conditions of approval in order to address or mitigate unforeseen impacts this project may create, or revoke the permits through the proper procedures should conditions of approval be violated or adverse impacts be created that cannot be properly addressed.

The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for October 13, 2026, whereby the entire record should be considered prior to decision-making. The entire record should include but not be limited to:

a. Pending government agency comments;
b. Testimony from the general public and interested others; and
c. The Applicant's response to the staff's report and recommendation as provided herein.

By _____
DALE A. CUA
Planner

Approved & Recommended to Commission:

By _____
KA'ĀINA S. HULL
Director of Planning

Date: 9/22/2026

EXHIBIT A

WILDFIRE WILDLAND URBAN INTERFACE CONSTRUCTION STANDARDS

(a) General Provisions.

(1) Lands Included.

(A) All lands within the subject property.

(2) Other Laws and Regulations. All improvements subject to this Article shall comply with other applicable laws and regulations, including but not limited to the State and County Fire Codes, Building Code, Subdivision Ordinance, and Sediment and Erosion Control Ordinance. In case of a conflict between this Agreement and the requirements of any other Federal, State, or County law, such as the State Fire Code or the County Fire Code, the more restrictive requirements shall apply.

(4) Interpretation. In the interpretation and application of this Agreement, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the County; and

(C) Deemed to neither limit nor repeal any other requirement, power, or duty prescribed under Federal, State, or County law.

(5) Warning and Disclaimer of Liability. The degree of wildfire and wildland urban interface required by this Agreement is considered reasonable for regulatory purposes and is based on wildfire hazard assessment considerations. Wildfires can and will occur on occasion. This Agreement does not imply that land outside the area of the subject property or uses and structures within this area will be free from wildfire risk. This Agreement shall not create liability on the part of the County of Kaua'i or any officer or employee for any damages that result from reliance on this Agreement or any administrative decision lawfully made based on this Agreement.

(b) Definitions.

"Advancing Standards Transforming Markets (ASTM)" means the organization (formerly referred to as the American Society for Testing and Materials) that develops standards and publishes voluntary consensus

technical international standards for a wide range of materials, products, systems, and services.

"County" means the County of Kaua'i.

"Defensible space" means an area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared, or modified to slow the rate and intensity of an advancing wildfire through a wildland area and to create an area for structure defense operations to occur.

"Fire-prone vegetation" means material that in its natural state can readily ignite, burn, and rapidly transmit fire. For the purposes of this Article this definition is limited solely to the three following plant species: 1) Megathyrsus maximus or commonly known as "Guinea Grass," 2) Leucaena leucocephala or commonly known as "Haole Koa," and 3) Cenchrus ciliaris or commonly known as "Buffel Grass."

"Fire Stopped" means the process of filling openings and joints between walls, floors, and roofing material to inhibit the spread of fire between compartments within a structure.

"Firewood" means any kindling, logs, timber, or other portions of a tree of any species four (4) feet or less in length, cut or split, or intended to be cut or split, into a form and size appropriate for use as fuel for fires in an open pit, imu, grill, fireplace, stove, or other wood burning furnace or device.

"Ignition-resistant" as applied to building construction material means a material treated or manufactured to delay ignition and tested to conform to ASTM E84 or ASTM E2768. Examples include but are not limited to fire-treated wood, dense hardwoods like ipe, and fiber-cement boards.

"Noncombustible" as applied to building construction material means a material of which no part will ignite and burn when subjected to fire and tested to conform to ASTM E136. Examples include but are not limited to concrete, metal, glass, and stone.

"Noncombustible roof covering" means a roof covering consisting of any of the following: (1) cement (or fiber-cement) shingles or sheets, (2) ferrous shingles or sheets, or (3) slate shingles.

"Noncombustible zone (NCZ)" means the area of land that extends 5 feet measured perpendicularly from the edge of the exterior walls of a structure and any unenclosed appendages or projections (including but not limited to lānais, porches, and stoops).

"Primary Structure Zone" means an area that applies to the primary structure itself, and it includes requirements for ember ignition mitigation and fire-resistant construction to reduce the risk of structure ignition.

"Roof assembly" means a system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly can include an underlayment, thermal barrier (i.e., insulation), ignition (fire) barrier, insulation, or a vapor retarder.

"Roof covering" means the covering applied to the roof deck for weather resistance or appearance. The roof covering and underlying components are part of the fire rating for the roof assembly.

"Roof deck" means that flat or sloped surface of a roof not including its supporting members or vertical supports.

"Structure, Accessory" means a structure that is subordinate to, and the use of which is incidental to that of the primary structure or use on the same lot or parcel and not used for human occupancy of habitation. An accessory structure is not a primary structure.

"Structure, Primary" means a structure that is used for the principal use permitted in the zoning district. In the Plantation Camp, primary structures include but are not limited to residential dwelling units, commercial buildings, and schools. A primary structure is not an accessory structure.

"Unenclosed Accessory Structure" means an accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

"Wildfire" means an uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.

"Wildland" means an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar facilities.

"Wildland Urban Interface (WUI)" means the zone of transition between unoccupied land and human development. It is the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.

"Zone 0: 5-Foot Noncombustible Zone (NCZ)" means an area that extends five feet horizontally from the exterior of a primary structure and any attached appendages and projections. It shall consist of noncombustible hardscape and

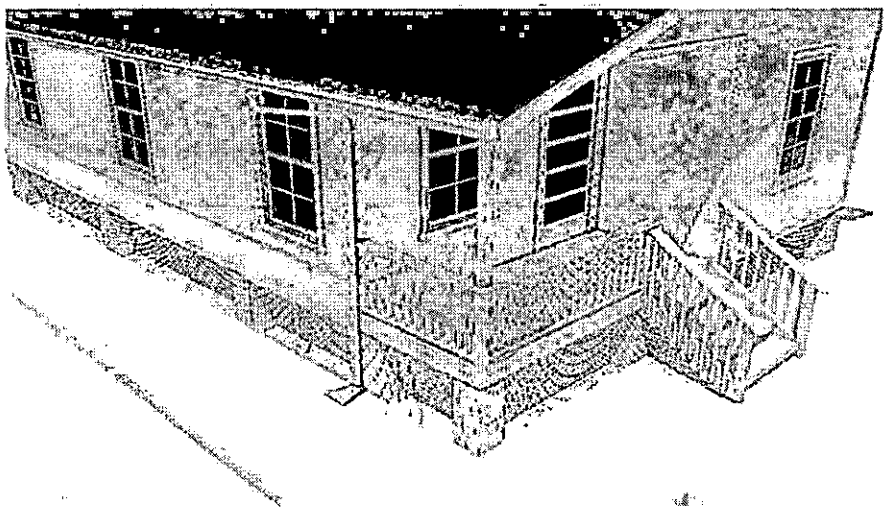
materials. The purpose of this zone is to prevent direct flame contact and reduce the risk of ember ignition at the structure's base.

"Zone 1: 30-Foot Defensible Space" means an area that extends from the edge of Zone 0 to 30 feet away from the structure or to the property line, whichever is closer. It requires vegetation management such as pruning lower limbs, spacing trees and shrubs, and removing combustible materials to reduce fuel loads and slow fire spread toward the structure. Fire-prone vegetation is prohibited.

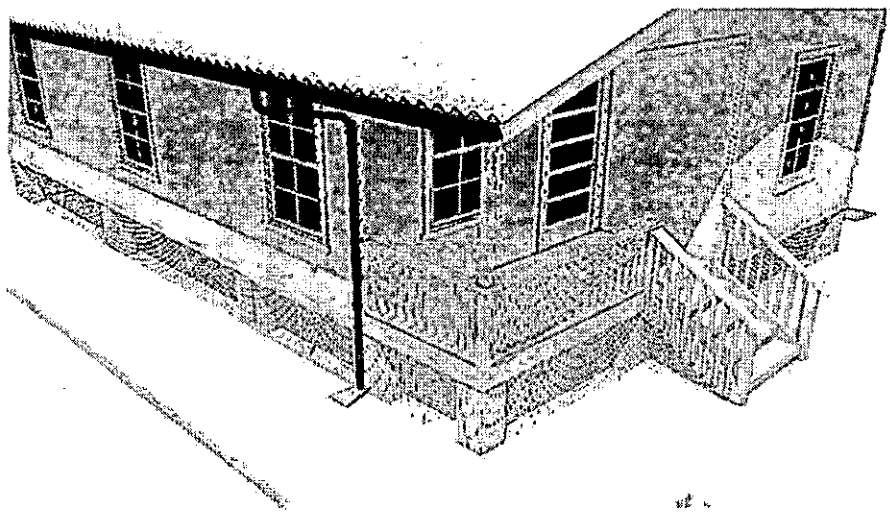
"Zone 2: 30- to 100-Foot Resilient Landscape" means an area that extends from the edge of Zone 1 to 100 feet away from the structure or to the property line, whichever is closer. It requires vegetation management such as pruning lower limbs, spacing trees and shrubs, and removing combustible materials to reduce fuel loads and slow fire spread toward the structure.

(c) Primary Structure Zone.

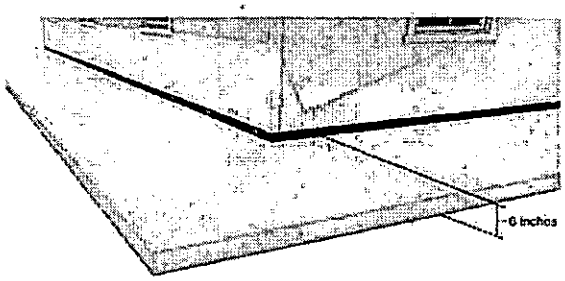
(1) Construction Requirements. For any newly proposed primary structures, or substantial improvements of existing structures, the following construction requirements shall be met:

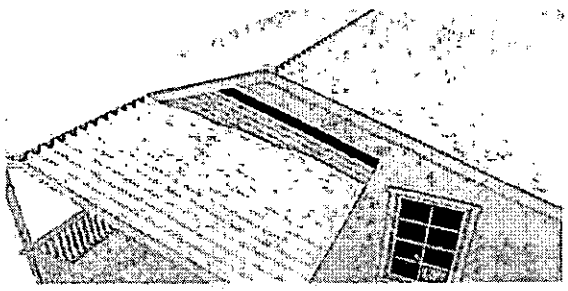


(A) Roofs. Roofs shall have a roof assembly that complies with a Class A rating when tested in accordance with ASTM E108. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space shall be fire-stopped to prevent entry of flames or embers.

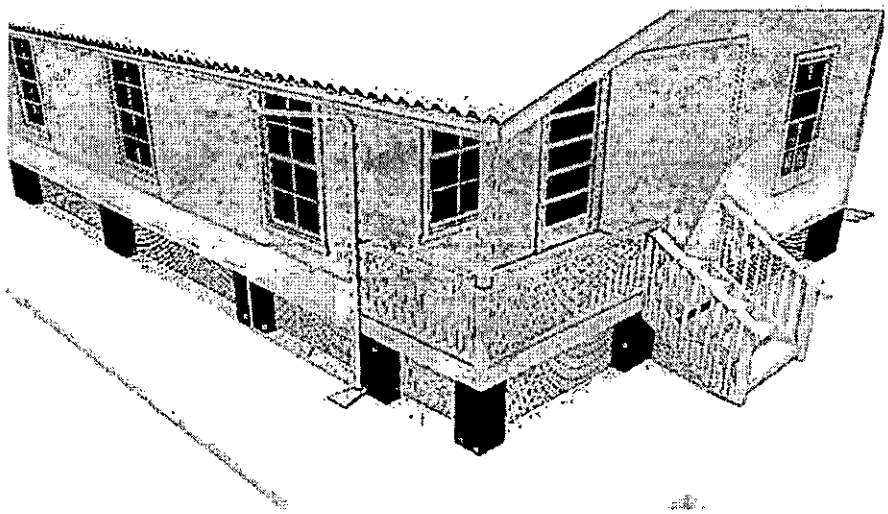


(B) Gutters and Downspouts. Gutters and downspouts shall be constructed of metal material. Gutters shall be covered with a noncombustible material to prevent the accumulation of debris within the gutter.

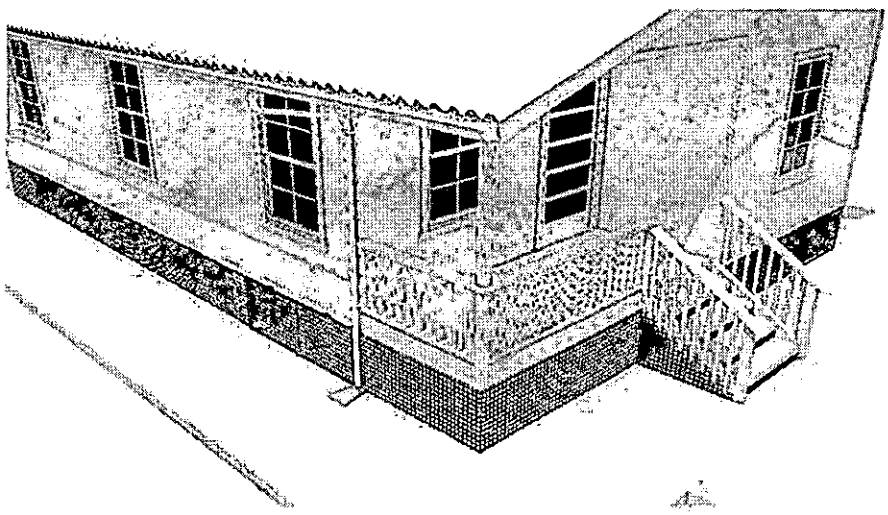




(C) Exterior walls. A minimum of 6 inches of noncombustible material vertically on the exterior of the wall shall be installed at the ground, decking, and roof intersections. This material shall extend behind the associated siding to reduce ember entrapment.



(D) Post and pier. If any primary structure is elevated, the post and pier material shall be noncombustible.



(E) Underfloor Enclosure. Primary structures elevated on post and pier and any attached appendages and projections such as decks, lānais, porches, and stoops elevated on post and pier shall have underfloor areas enclosed to the ground with noncombustible corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm). The mesh shall meet the following additional requirements:

(i) Extended down to be flush with grade and abut against the adjacent 5-foot hardscape groundcover,

(ii) Any associated material including but not limited to framing material or covering material (such as lattice) shall be noncombustible; and,

(iii) At least one area of the underfloor area mesh screening shall be constructed and framed in a manner to allow a minimum 16" x 24" of the mesh screen to be removed for access and maintenance purposes of the underfloor area. The framing and any other associated material for this access section of the mesh screening shall be made of noncombustible material.

(F) Appendages and projections. Unenclosed appendages and projections attached to buildings such as decks, lānais, porches, and stoops elevated on post and pier shall have underfloor areas enclosed to the ground with noncombustible corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm) and shall meet the following additional requirements:

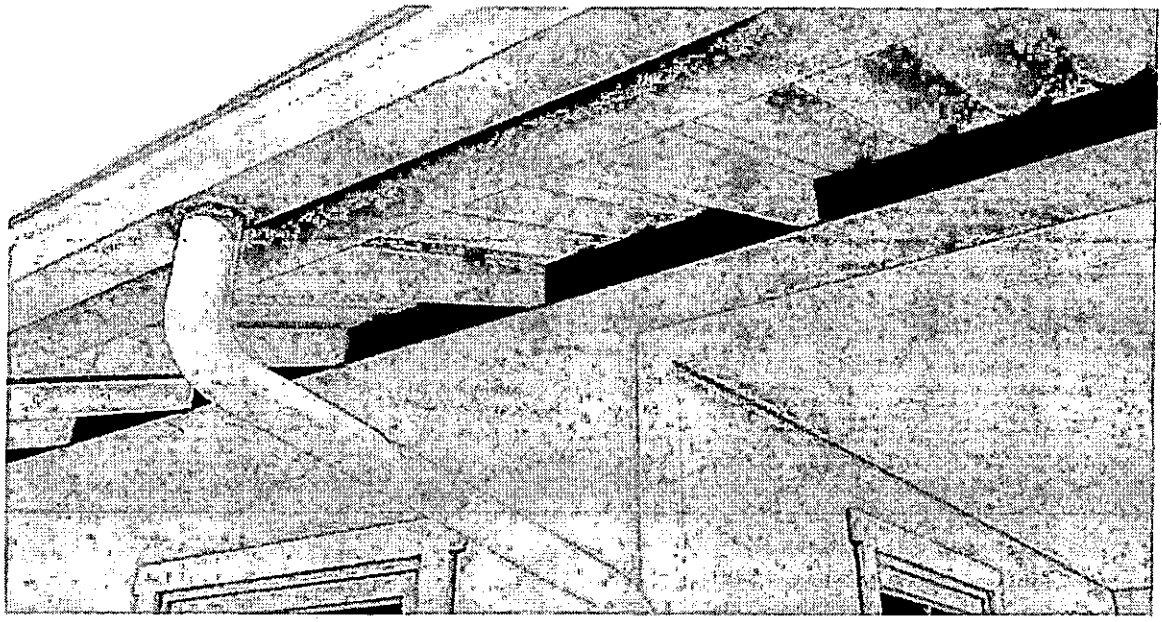
(i) When elevated, to prevent any ember intrusion beneath the underfloor area, all floorboards shall be flush with each other without any parallel space apart from each other.

(ii) Noncombustible or ignition-resistant material is required for all flooring material.

Exception: if the flooring material, such as floorboards, are comprised of combustible material, at a minimum all floorboards perpendicular to a wall or a post shall be ignition resistant within 6 inches of the deck-to-wall or deck-to-post intersection.

(iii) Noncombustible or ignition-resistant material is required for all walls and posts that are perpendicular to the deck.

Exception: if the wall or post is comprised of combustible material, at a minimum the wall or post shall have 6 inches of noncombustible flashing installed at the wall-to-deck or post-to-deck intersection.

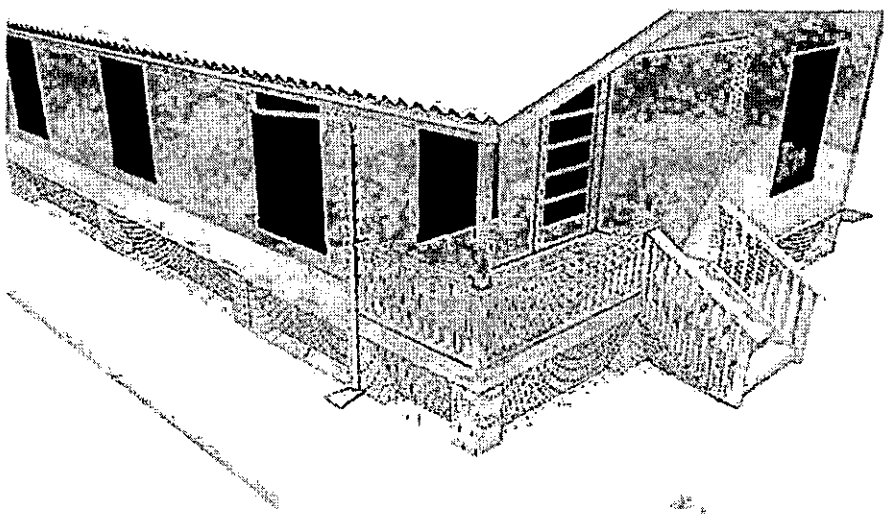


(G) Vents. Ventilation openings for enclosed attics (e.g., gable ends, ridge ends, and enclosed eave soffit spaces), enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, underfloor ventilation, foundations, and crawl spaces; under eaves and cornices; or for any other opening intended to permit ventilation, either in a horizontal or vertical surface, shall resist the intrusion of burning embers and flames by meeting one of the following requirements:

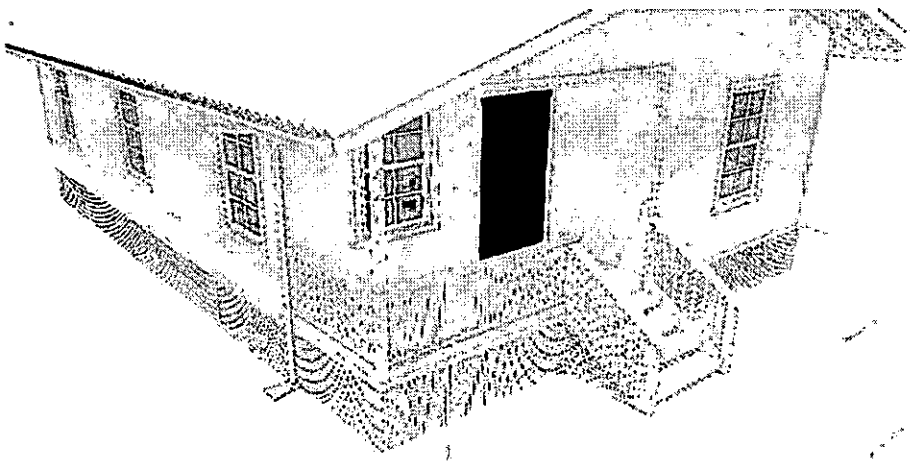
(i) Performance-based requirements: Corrosion-resistant ember and flame-resistant vents tested to conform to ASTM E2886.

(ii) Prescriptive-based requirements: Vents shall be made of a noncombustible material and covered on the exterior with noncombustible corrosion-resistant mesh with openings not to exceed 1/16 inch (1.6 mm).

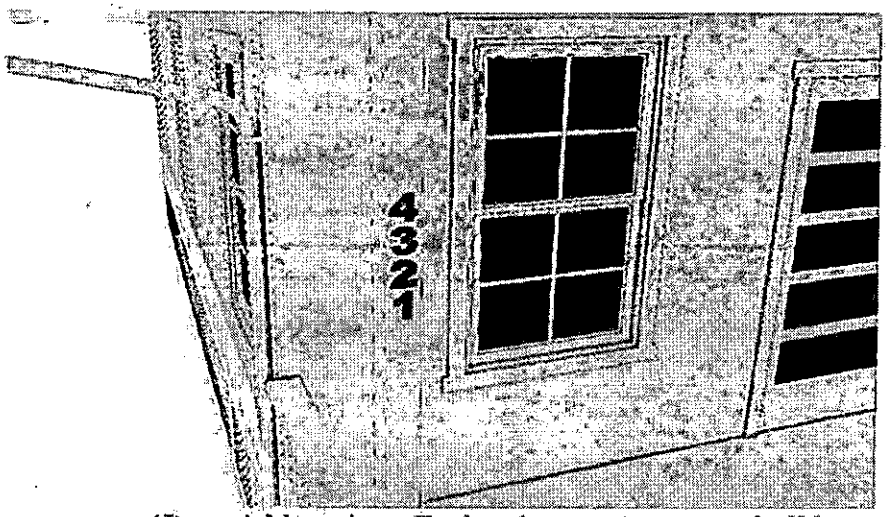
Exceptions: Dryer vents shall have a solid metal louver or flap in lieu of mesh. Plumbing vents are excluded from these requirements.



(H) Exterior glazing. Each primary structure's exterior windows, window walls, glazed doors, and windows within exterior doors shall be dual pane tempered glass or have a fire protection rating of not less than 20 minutes and tested to conform to ASTM E119.



(I) Exterior doors. Exterior doors shall be solid core wood or have an exterior surface with noncombustible or ignition-resistant building material or have a fire protection rating of not less than 20 minutes.



(J) Addressing. Each primary structure shall have its address marked on its exterior thoroughfare facing wall, and it shall be clearly visible from the thoroughfare.

(g) Other Requirements for Accessory Structures.

(1) Construction Requirements. For any newly proposed unattached accessory structures or substantial improvements to unattached accessory structures that are within 30 feet of the primary structure and that have a footprint greater than or equal to 15 square feet (including but not limited to sheds, gazebos, poultry cages, open-covered structures with a solid roof, dog houses, and playhouses), the following construction requirements shall be met:

(A) Not counting noncombustible storage units sealed in a manner that prohibit any ember intrusion into the unit, no more than 3 total accessory structures are allowed within 30 feet of the primary structure.

(B) Fences. All fences within 30 feet of any other structure (accessory or primary) shall be constructed with noncombustible materials.

(C) Each accessory structure shall have its own 5 feet of NCZ that does not overlap the 5-foot NCZ required for a primary structure, appendages and projections (including but not limited to lānais, porches, and stoops), or other accessory structures.

EXHIBIT B

WILDFIRE WILDLAND URBAN INTERFACE STRUCTURE MAINTENANCE AND DEFENSIBLE SPACE STANDARDS

(a) General Provisions.

(1) Lands Included.

(A) All lands within the subject property.

(2) Other Laws and Regulations. All clearing and maintenance subject to this Agreement shall comply with other applicable laws and regulations, including but not limited to the State and County Fire Codes, Building Code, Subdivision Ordinance, , and Sediment and Erosion Control Ordinance. In case of a conflict between this Agreement and the requirements of any other Federal, State, or County law, such as the State Fire Code or the County Fire Code, the more restrictive requirements shall apply.

(3) The County shall not be liable for expenses incurred in the removal or replacement of any material required for the landowner to comply with this Agreement or to allow inspection.

(4) Interpretation. In the interpretation and application of this Agreement, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the County; and

(C) Deemed to neither limit nor repeal any other requirement, power, or duty prescribed under Federal, State, or County law.

(5) Warning and Disclaimer of Liability. The degree of wildfire and wildland urban interface required by this Agreement is considered reasonable for regulatory purposes and is based on wildfire hazard assessment considerations. Wildfires can and will occur on occasion. This Agreement does not imply that land outside the area of the subject property or uses and structures within this area will be free from wildfire risk. This Agreement shall not create liability on the part of the County of Kaua'i or any officer or employee for any damages that result from reliance on this Agreement or any administrative decision lawfully made based on this Agreement.

(b) Definitions.

"Advancing Standards Transforming Markets (ASTM)" means the organization (formerly referred to as the American Society for Testing and Materials) that develops standards and publishes voluntary consensus technical international standards for a wide range of materials, products, systems, and services.

"County" means the County of Kaua'i.

"Defensible space" means an area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared, or modified to slow the rate and intensity of an advancing wildfire through a wildland area and to create an area for structure defense operations to occur.

"Fire-prone vegetation" means material that in its natural state can readily ignite, burn, and rapidly transmit fire. For the purposes of this Article this definition is limited solely to the three following plant species: 1) Megathyrsus maximus or commonly known as "Guinea Grass," 2) Leucaena leucocephala or commonly known as "Haole Koa," and 3) Cenchrus ciliaris or commonly known as "Buffel Grass."

"Fire Stopped" means the process of filling openings and joints between walls, floors, and roofing material to inhibit the spread of fire between compartments within a structure.

"Firewood" means any kindling, logs, timber, or other portions of a tree of any species four (4) feet or less in length, cut or split, or intended to be cut or split, into a form and size appropriate for use as fuel for fires in an open pit, imu, grill, fireplace, stove, or other wood burning furnace or device.

"Ignition-resistant" as applied to building construction material means a material treated or manufactured to delay ignition and tested to conform to ASTM E84 or ASTM E2768. Examples include but are not limited to fire-treated wood, dense hardwoods like ipe, and fiber-cement boards.

"Noncombustible" as applied to building construction material means a material of which no part will ignite and burn when subjected to fire and tested to conform to ASTM E136. Examples include but are not limited to concrete, metal, glass, and stone.

"Noncombustible roof covering" means a roof covering consisting of any of the following: (1) cement (or fiber-cement) shingles or sheets, (2) ferrous shingles

or sheets, or (3) slate shingles.

"Noncombustible zone (NCZ)" means the area of land that extends 5 feet measured perpendicularly from the edge of the exterior walls of a structure and any unenclosed appendages or projections (including but not limited to lānais, porches, and stoops).

"Primary Structure Zone" means an area that applies to the primary structure itself, and it includes requirements for ember ignition mitigation and fire-resistant construction to reduce the risk of structure ignition.

"Roof assembly" means a system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly can include an underlayment, thermal barrier (i.e., insulation), ignition (fire) barrier, insulation, or a vapor retarder.

"Roof covering" means the covering applied to the roof deck for weather resistance or appearance. The roof covering and underlying components are part of the fire rating for the roof assembly.

"Roof deck" means that flat or sloped surface of a roof not including its supporting members or vertical supports.

"Structure, Accessory" means a structure that is subordinate to, and the use of which is incidental to that of the primary structure or use on the same lot or parcel and not used for human occupancy of habitation. An accessory structure is not a primary structure.

"Structure, Primary" means a structure that is used for the principal use permitted in the zoning district. In the Plantation Camp, primary structures include but are not limited to residential dwelling units, commercial buildings, and schools. A primary structure is not an accessory structure.

"Unenclosed Accessory Structure" means an accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

"Wildfire" means an uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.

"Wildland" means an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar facilities.

"Wildland Urban Interface (WUI)" means the zone of transition between unoccupied land and human development. It is the line, area, or zone where

structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.

"Zone 0: 5-Foot Noncombustible Zone (NCZ)" means an area that extends five feet horizontally from the exterior of a primary structure and any attached appendages and projections. It shall consist of noncombustible hardscape and materials. The purpose of this zone is to prevent direct flame contact and reduce the risk of ember ignition at the structure's base.

"Zone 1: 30-Foot Defensible Space" means an area that extends from the edge of Zone 0 to 30 feet away from the structure or to the property line, whichever is closer. It requires vegetation management such as pruning lower limbs, spacing trees and shrubs, and removing combustible materials to reduce fuel loads and slow fire spread toward the structure. Fire-prone vegetation is prohibited.

"Zone 2: 30- to 100-Foot Resilient Landscape" means an area that extends from the edge of Zone 1 to 100 feet away from the structure or to the property line, whichever is closer. It requires vegetation management such as pruning lower limbs, spacing trees and shrubs, and removing combustible materials to reduce fuel loads and slow fire spread toward the structure.

(c) Primary Structure Zone.

(1) **Maintenance Requirements.** For all primary structures, the following maintenance requirements shall be met:

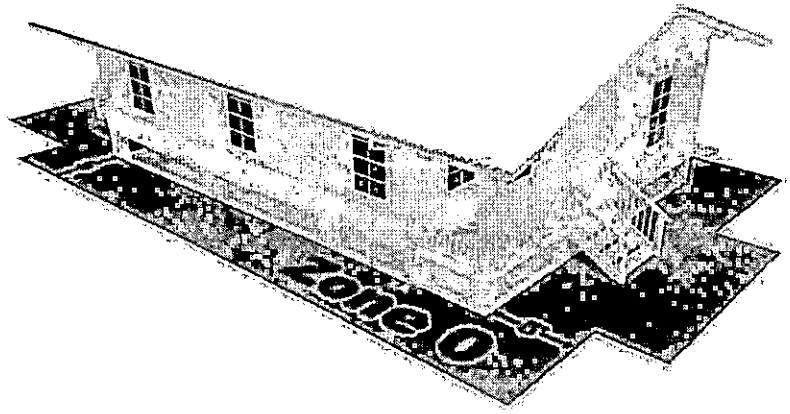
(A) The roof shall be kept clear of debris, paying particular attention to roof intersection area (e.g., roof-to-wall, at entry to through-roof vents, and at the roof edge, if a gutter is installed).

(B) Gutters and downspouts shall be kept clear of debris such as leaves and pine needles.

(C) Unenclosed appendages and projections attached to buildings such as decks, lānais, porches, carports, and stoops shall meet the following requirement:

(i) Only noncombustible items or materials are allowed to be stored or placed within the attached unenclosed appendages and projections. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.

(d) Zone 0: 5-Foot Noncombustible Zone (NCZ) Requirements.



(1) Primary Structure Maintenance Requirements. This zone is the most critical zone of defensible space and requires the most stringent fuel reduction and regular maintenance to protect against wildfire. In the NCZ the following standards shall apply:

(A) A 5-foot groundcover comprised of hardscape (such as brick, gravel, or concrete) with a depth of at least 4 inches shall be maintained in the NCZ. This not required for accessory structures.

(B) Ground cover within the NCZ shall be noncombustible and free of debris such as leaves and pine needles.

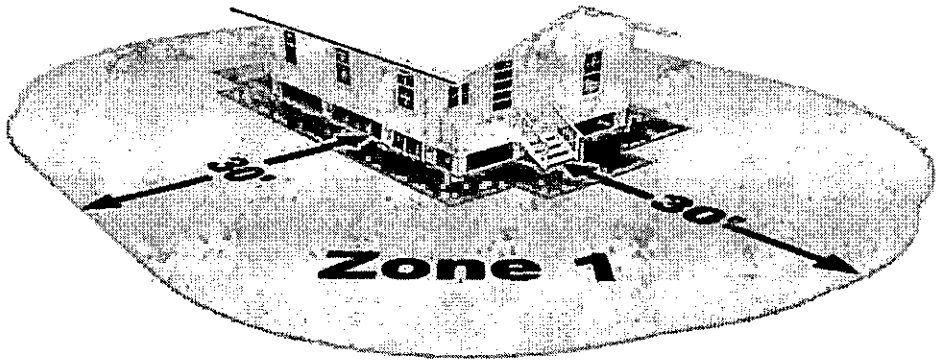
(C) Vegetation growing within or overhanging into the NCZ is prohibited.

(D) Vegetation overhanging the roof is prohibited within the NCZ.

(E) Fences within the NCZ shall be noncombustible.

(E) Only noncombustible items or materials are allowed. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.

(e) Zone 1: 30-Foot Defensible Space Requirements.

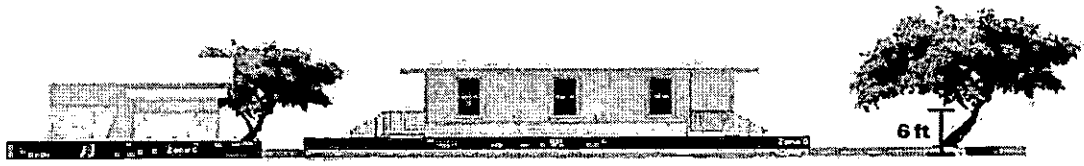


(1) Maintenance Requirements. The area beyond the primary structure shall have a regularly maintained defensible space of 30 feet measured from the edge of the exterior walls of the primary structure and its unenclosed appendages and projections (including but not limited to lānais, porches, and stoops). This includes:

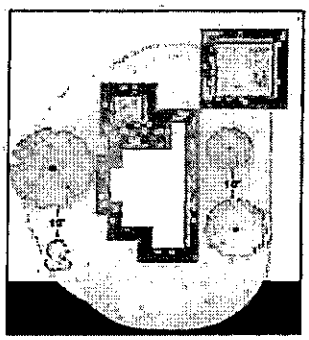
(A) Routine removal of accumulated vegetative debris, which may include but not be limited to fallen pine needles, leaves, twigs, and any dead vegetation, including piles from pruning.

(B) Vegetation with canopies within 30 feet of a primary structure shall be maintained as follows:

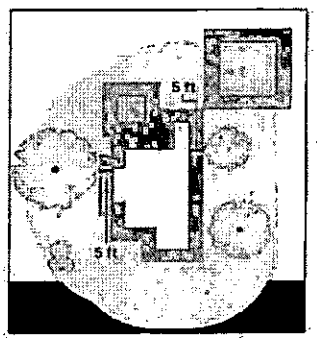
(i) Vegetation with a trunk of 4 inches in diameter or greater when measured at a height of 4.5 feet above the ground:



(a) Shall have limbs and branches pruned to a minimum height of 6 feet off the ground.

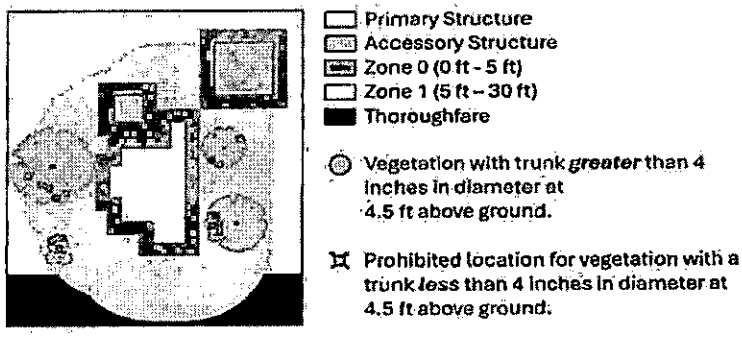


(b) Shall have a minimum of 10 horizontal feet of spacing between the tree canopy and the next closest tree, shrub, or bush canopy, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.

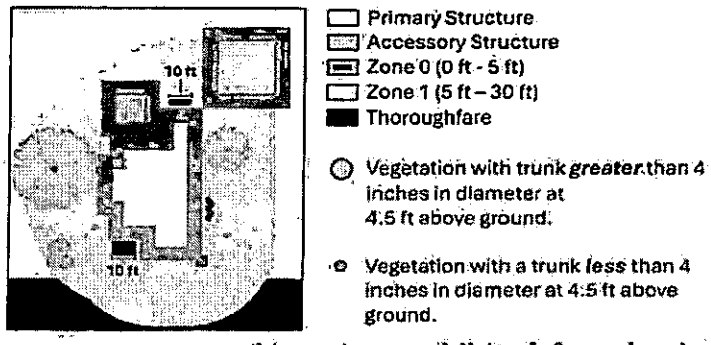


(c) Shall have a minimum of 5 horizontal feet between a tree canopy and the primary structure.

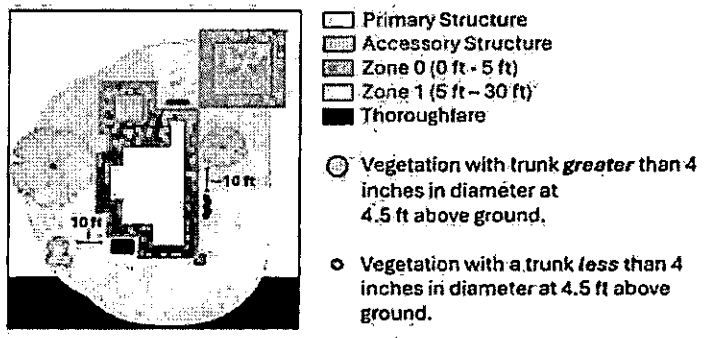
(ii) Vegetation with a trunk less than 4 inches in diameter when measured at a height of 4.5 feet above the ground or less than 4.5 feet tall:



(a) Are prohibited under larger trees.



(b) Are prohibited from having a canopy larger than 10 feet in horizontal diameter, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.



(c) Shall have a minimum horizontal space between canopies of at least 10 feet.

(iii) Firewood is prohibited in this 30-foot defensible space area from the primary structure. Firewood is only allowed in this area if it is enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any ember intrusion into the unit during a wildfire event.

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

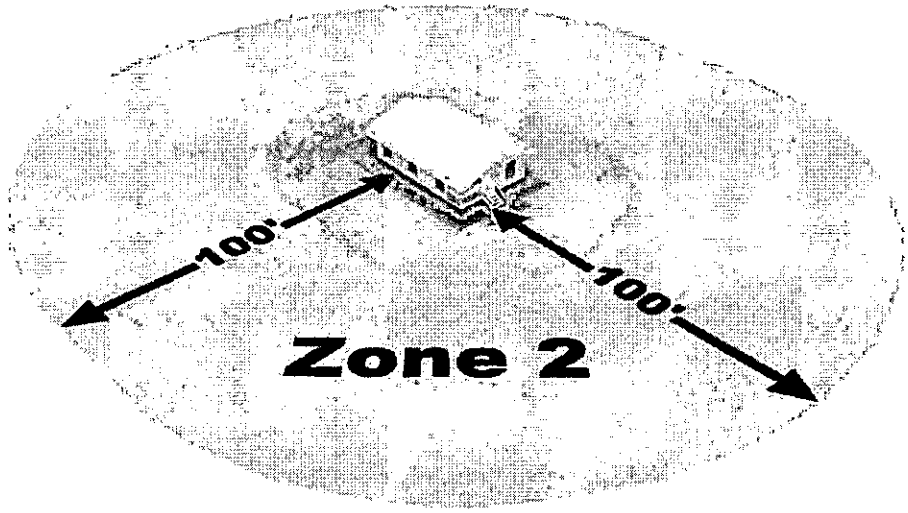
(D) The following plant species are exempt from these requirements:

(i) Colocasia esculenta, also known as kalo or taro.

(ii) Musa, also known as banana.

(E) Fences. All fences within 30 feet of any other structure (accessory or primary) shall be constructed with noncombustible materials.

(f) Zone 2: 30-Foot to 100-Foot Resilient Landscape Requirements.



(1) Maintenance Requirements: Zone 2 shall be managed as follows:

(A) Fire-prone vegetation shall not exceed eighteen (18) inches in height when located between thirty (30) feet and one hundred (100) feet from any primary structure, measured from the edge of the exterior walls of the primary structure or unenclosed appendages and projections (including but not limited to lānais, porches, and stoops).

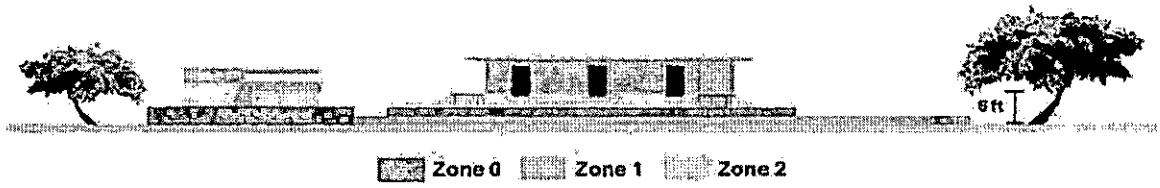
(B) Fire-prone vegetation greater than eighteen (18) inches in height shall have a one hundred (100) foot setback from all primary structures, measured from the edge of the exterior walls of the primary structure or unenclosed appendages and projections (including but not limited to lānais, porches,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

(C) Routine removal of accumulated vegetative debris, which may include but not be limited to fallen pine needles, leaves, twigs, and any dead vegetation, including piles from pruning.

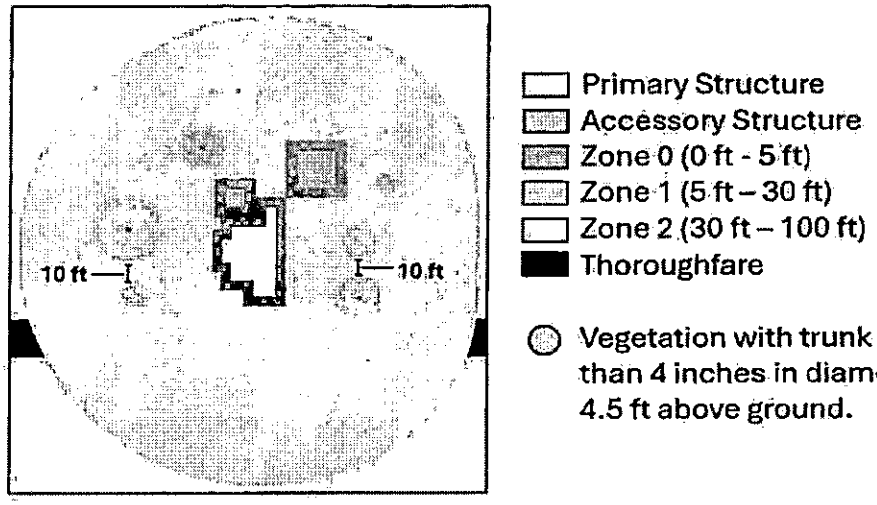
(D) Excluding fire-prone vegetation, vegetation with canopies

shall be maintained as follows:

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



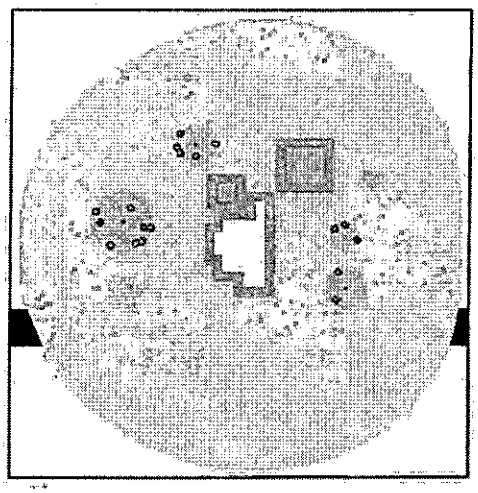
(a) Shall have limbs and branches pruned to a minimum height of 6 feet off the ground.



(b) Shall have a minimum of 10 horizontal feet of spacing between the tree canopy and the next closest tree, shrub, or bush canopy, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.

(ii) Vegetation with a trunk less than 4 inches in diameter when measured at a height of 4.5 feet above the ground or less than 4.5 feet tall:

or less than 4.5 feet tall:

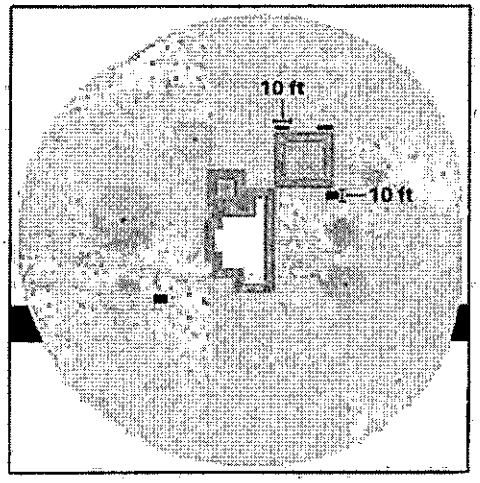


Primary Structure
Accessory Structure
Zone 0 (0 ft - 5 ft)
Zone 1 (5 ft – 30 ft)
Zone 2 (30 ft – 100 ft)
Thoroughfare

Vegetation with trunk ***greater*** than 4 inches in diameter at 4.5 ft above ground.

Prohibited location for vegetation with a trunk ***less*** than 4 inches in diameter at 4.5 ft above ground.

(a) Are prohibited under larger trees.

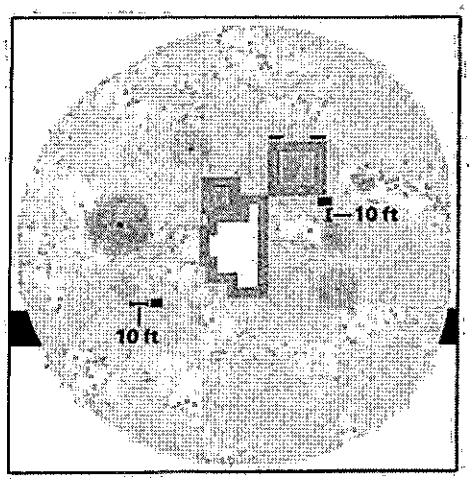


Primary Structure
Accessory Structure
Zone 0 (0 ft - 5 ft)
Zone 1 (5 ft – 30 ft)
Zone 2 (30 ft – 100 ft)
Thoroughfare

Vegetation with trunk ***greater*** than 4 inches in diameter at 4.5 ft above ground.

Vegetation with a trunk ***less*** than 4 inches in diameter at 4.5 ft above ground.

(b) Are prohibited from having a canopy larger than 10 feet in horizontal diameter, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.



(c) Shall have a minimum horizontal space between canopies of at least 10 feet.

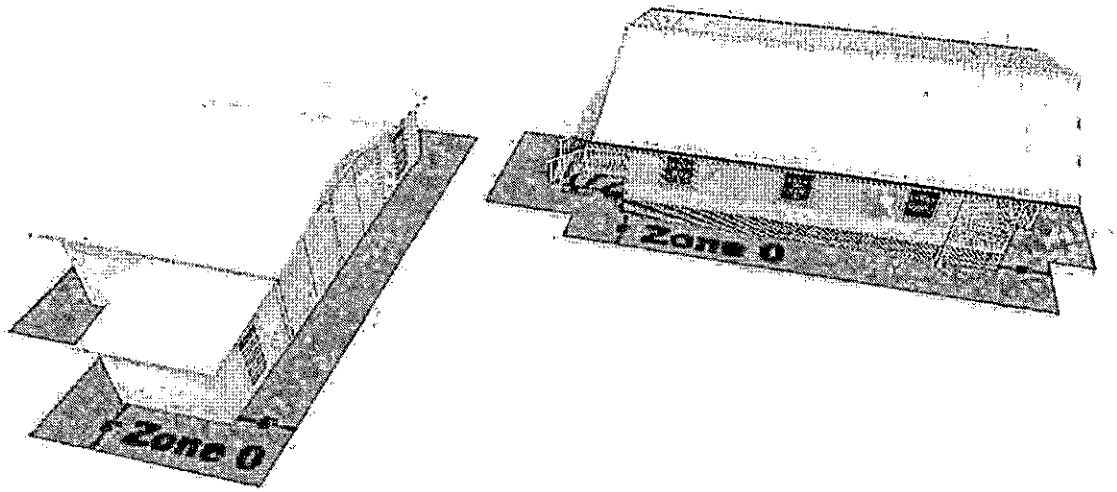
(E) The following plant species are exempt from these requirements:

(i) Colocasia esculenta, also known as kalo or taro.

(ii) Musa, also known as banana.

(iii) Any species planted for cultivation and sales that is part of an agricultural operation larger than one (1) acre as determined by the Planning Director, and the species are maintained in a manner reviewed and approved by the Fire Chief.

(g) Other Requirements for Accessory Structures.



(1) Maintenance Requirements. Each accessory structure shall have its own 5 feet of NCZ that does not overlap the 5-foot NCZ required for a primary structure, appendages and projections (including but not limited to lānais, porches, and stoops), or other accessory structures. In the accessory structure's NCZ, the following standards shall apply:

(A) A 5-foot groundcover comprised of hardscape (such as brick, gravel, or concrete) with a depth of at least 4 inches shall be maintained in the NCZ. This not required for accessory structures.

(B) Ground cover within the NCZ shall be noncombustible and free of debris such as leaves and pine needles.

(C) Vegetation growing within or overhanging into the NCZ is prohibited.

(D) Vegetation overhanging the roof is prohibited within the NCZ.

(E) Fences within the NCZ shall be noncombustible.

(E) Only noncombustible items or materials are allowed. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.

(h) Fire Prevention Outreach and Education Requirements.

(1) Conduct a workshop titled "How to Have a Fire Adapted Home and Community." At least once per year, the Homeowners Association (HOA) shall coordinate with the Fire Department, Kaua'i Emergency Management Agency, and Planning Department to set up and conduct at least one workshop for the HOA board that is open to all residents of the subject property that teaches the principles of fire prevention and evacuation. Topics for discussion shall include but need not be limited to defensible space, landscaping, and home hardening. Workshops shall be scheduled for evenings or weekends when most homeowners are available. Material shall be available at the workshops that promote fire risk reduction practices and strategies.

(2) A report on the workshop format and participation shall be provided to the Fire Department and Planning Department no later than June 30 of every calendar year.

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

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

TRANSMITTAL OF PUBLIC TESTIMONY TO

PLANNING COMMISSION

DATE: October 7, 2026

PERMIT NUMBER(S): **Z-IV-2027-2, PDU-2027-1**, and **V-2027-1**

APPLICANT(S): **IKENAKEA DEVELOMENT LLC.**

Attached for the Planning Commission's reference is public testimony pertaining to the permit application referenced above.

F.2.b.2.
OCT 13 2026

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)
An Equal Opportunity Employer

Shanlee Jimenez

From: Planning Department
Sent: Monday, October 5, 2026 7:03 AM
To: Dale Cua; Shanlee Jimenez
Subject: FW: Testimony for Meeting October 13, 2026
Attachments: County of Kauai Planning Department PDF.pdf

From: Alton Amimoto <altonamimoto@yahoo.com>
Sent: Sunday, October 4, 2026 4:25 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Testimony for Meeting October 13, 2026

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.

Regarding Kahua Hooulu Housing Project

Testimony is attached. Please advise if this is received and will be reviewed by the planning commission prior to the meeting. Thank you

County of Kauai Planning Department
4444 Rice Street Suite 473
Lihue HI 96766

October 4, 2026

RE: Written testimony for Kahua Hooulu Affordable Housing Development

As notified by the developer, this is my response to the notice off public hearing. As a resident of Puhi for many years, I believe that this project is not in the best interest of Puhi, and the Puhi area.

As noted in the County Code regarding use permits:

§ 8-10.3**Uses, Structures and Development Which May Be Permitted.**
Any use, structure or development that is permitted in the Use District in which the land of the applicant is located, and any other use, structure or development subordinate or in support of, those uses may be allowed if it is demonstrated that the subordinate or supportive use, structure or development is:
(a) Compatible and complementary to the generally permitted uses and to public health, safety and welfare; and
(b) Compatible and complementary to uses on lands adjacent to the project development site and to uses in the general vicinity; and will not create conditions that overload existing public transport systems, utility systems or other public facilities.
(Ord. No. 935, November 14, 2012)

As I understand, that the permit applicant needs to fulfil the conditions of 8-10.3. A Draft Environmental Assessment was created by the applicant, and the following was noted:

"2.7 Traffic, Access and Parking Existing Conditions A traffic impact analysis was conducted for the proposed project by Community Planning & Engineering in May 2021. The traffic analysis was conducted to determine existing and future vehicular traffic patterns at key roadway intersections around the project site using both with and without project scenarios to determine traffic impacts from the proposed rehabilitation facility. The traffic impact analysis report (TIAR) is included as Appendix D. The intersection analysis within the project area was performed on **the following intersections due to their proximity to the Project: (1) Kaumuali'i Highway/Puhi** Road (signalized) (2) Puhi Road/Leleiona Street (unsignalized) (3) Leleiona Street/Mua Street **(unsignalized) (4) Kaumuali'i Highway/Nani Street (unsignalized) (5) Nani Street/Welau Street** (unsignalized) The Level of Service (LOS) methodolgy was employed for the traffic study, which is a qualitative measurement method used to describe the conditions of traffic flow at intersections, with values ranging from free-flow conditions at LOS A to congested conditions at LOS F. Volume-to-Capacity ratio data was also collected as part of the study. Existing Traffic Volumes Turning movement counts were collected on Wednesday, May 5, 2021 from 6:00-9:00 AM and 2:30-5:30 PM. **The County of Kaua'i was under an emergency order for the COVID-19** pandemic during this time. This meant travel restrictions were still in place decreasing the number of tourists arriving in the islands, as well as school and work restrictions permitting distance learning and working from home. **The 2019 historical roadway volume along Kaumuali'i** Highway and Puhi Road were compared to the existing traffic data collected for this project to

determine if the traffic volumes collected were significantly different due to the COVID-19 pandemic. However, the traffic volumes collected were similar to the historical traffic volumes along Kaumuali'i Highway and Puhi Road and traffic. A few turning movements at the signalized intersection of Kaumuali'i Highway and Puhi Road operated at LOS D or LOS E. The movements are the eastbound left turn movement, the westbound left turn movement and the northbound left and through movement. All other turning movements operated at LOS C or better and no movements had a volume-to-capacity ratio greater than 1. Refer to Table 3 for the analysis results of the existing traffic conditions. Detailed intersection data reports for the existing conditions are included in the Traffic Report (Appendix D)."

So basically, my understanding is that the traffic study is invalid and the actual traffic patterns were guessed at using outdated historical data. That their conclusions were based on COVID numbers which in no way reflect current patterns.

Not being an engineer or scientist, I have to relate on anecdotal evidence based on personal recollection. In the many years that I have driven from Lihue to Puhi thrice daily to care for my elderly mother (who has since passed) I have noticed a substantial increase in traffic after the pandemic and a healthy tourist economy. There were times it took more than an hour to get from Lihue to the Puhi neighborhood due to traffic jams behind Puhi, through Puhi and around the Community College and Island School. That the traffic congestion has gotten substantially worse to present day with clogging of the traffic regularly two to three times per week, which we call the "Puhi crawl". The state nor county makes any effort to deal with this problem and I do not believe that there is a solution to this in the near future.

This is indicative to me that the applicant has failed to disprove that this project will have no effect on traffic in violation of the use permit requirement: "Compatible and complementary to uses on lands adjacent to the project development site and to uses in the general vicinity; and will not create conditions that overload existing public transport systems,". This project appears to be adding to the traffic congestion in Puhi.

Again using the use permit criteria "complementary to uses on lands adjacent to the project development site" the sewage from this project is planned to be sent down alongside Puhi road eventually reaching a treatment facility line behind Puhi. I understand that this sewer line will be independent of the local neighborhood, which is ripe with cesspools needing replacement with septic systems and sewers. I saw that offering sewer hookups would be costly, but why not invest in infrastructure ahead of the deadline? Certainly a win/win situation for the neighborhood. I was informed unfortunately, that this is "beyond the scope of the project".

The initial design of the park was set as a green area for the children and parents living in the community. I see persons using the park regularly, playing football, soccer and other sports. A Hula Halau would be seen practicing regularly. We appreciated the park growing up in Puhi. The neighborhood has aged as other neighborhoods have on Kauai and elsewhere. It is undergoing revitalizations with newer, younger owners with families. I hope that they would be able to appreciate it as well. I'm sure Grove Farm, which built the community was not consulted on this and I hope that they would be disappointed as this area was also planned as a buffer zone between us and the highway.

In conclusion I see this project with good ideas but it appears to lack analysis on the traffic problems around that same area. It would add so much more congestion to an already bad area. The project does nothing positive to the surrounding community. It could be helping to address sewage problems, but does not. It will add to the neighborhood parking problems in front of the park and around it. I don't know if the County and developers are looking at other neighborhoods to take dedicated park open spaces and convert them into housing projects, I'm sure that all parties that live near public parks would be opposed to six three story buildings being built next to them.

Thank you for the opportunity to comment.

Sincerely,

Alton G. Amimoto

COUNTY COUNCIL
Mel Rapozo, Chair
KipuKai Kuali'i, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
Felicia Cowden
Fern Holland
Arryl Kaneshiro

OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Lyndon M. Yoshioka, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
Email: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Līhu'e, Kaua'i, Hawai'i 96766

August 27, 2025

Francis DeGracia, Chair
and Members of the Planning Commission
c/o County of Kaua'i Planning Department
Via Email Only: planningdepartment@kauai.gov

Dear Chair DeGracia and Members of the Planning Commission:

RE: REFERRAL OF PROPOSED DRAFT BILL (NO. 2973) RELATING TO USES IN DISTRICTS

The Kaua'i County Council, at its meeting on August 27, 2025, referred the following measure to the Planning Commission for review and recommendation:

"Proposed Draft Bill (No. 2973) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO USES IN DISTRICTS"

Thank you for your continued assistance in these planning matters. Should you have any questions, please feel free to contact me at (808) 241-4188.

Sincerely,

JADE K. FOUNTAIN-TANIGAWA
County Clerk, County of Kaua'i

RM:ss
Enclosure

F.2.a.

C.2.a. AUG X 1, 2026

C.8.a. MAY X 28, 2026

C.4.a. MAR X 26, 2026

OCT 1 3 2026

ORDINANCE NO. _____ BILL NO. _____

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO USES IN DISTRICTS

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I:

SECTION 1. Findings and Purpose. The Council finds that amending the definition of "Family" to include a cap on the maximum number of unrelated individuals permitted to coexist in a single housekeeping unit is appropriate in order to protect the character and safety of residential neighborhoods. At the same time, the Council recognizes the existence of many non-traditional living arrangements in the community and, therefore, finds sufficient need to allow up to ten (10) unrelated individuals to coexist within a single dwelling unit. Therefore, the purpose of this Ordinance is to effectuate relevant changes to the definitions of "Family" and "Dwelling Unit," thereby preventing potential exploitative and impermissible uses of single-family residences, which erode the traditional form and character of neighborhoods.

SECTION 2. Chapter 8, Section 8-1.5 (Definitions), Kaua'i County Code 1987, as amended, is hereby amended by amending the definitions of "Dwelling Unit" and "Family" to read as follows:

> ""Dwelling unit" means any building or any portion thereof which is designed or intended for occupancy by one family [or persons living together or by a person living alone] and providing complete living facilities, within the unit for sleeping, recreation, eating and sanitary facilities, including installed equipment for only one kitchen. Any building or portion thereof that contains more than one kitchen shall constitute as many dwelling units as there are kitchens, provided that an additional rental unit is not a dwelling unit."
>
> "Family" means an individual or group of two (2) or more persons [living together in a single residential unit] related by blood, adoption, or marriage, and living together in a single housekeeping unit as a dwelling unit. Family may also include a group of not more than ten (10) individuals unrelated by blood, adoption, or marriage."

SECTION 3. Pursuant to Hawai'i Revised Statutes (HRS) Chapter 91, the Planning Commission may promulgate administrative rules consistent with this Article as may be necessary to implement any of the provisions of this Article.

SECTION 4. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the

invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 5. Ordinance material to be repealed is bracketed. New Ordinance material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 6. This Ordinance shall take effect upon its approval.

Introduced by:

Felicia Cowden

FELICIA COWDEN

DATE OF INTRODUCTION:

Līhu'e, Kaua'i, Hawai'i
V:\BILLS\2024-2026 TERM\Bill Change Family definition for Planning Commission v1 RM_dmc.doc

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

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

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission:	Consideration of a bill for an ordinance amending Chapter 8, Article 1 of the Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO).
Permit Application Nos.	Zoning Amendment ZA-2026-3
Name of Applicant(s)	COUNTY OF KAUA'I, PLANNING DEPARTMENT

II. PERMIT INFORMATION

AMENDMENTS	
☒ **Zoning Amendment**	Pursuant to KCC Section 8-3.4(a), as amended, a Zoning Amendment is necessary when changing the boundaries of districts or by changing text whenever the public necessity and convenience and the general welfare require an amendment.
☐ **General Plan Amendment**	
☐ **State Land Use District Amendment**	

III. LEGAL REQUIREMENTS

KCC Section 8-1.5	
Public Hearing Date:	March 10, 2026
Date of Publication:	February 6, 2026
Date of Director's Report:	February 25, 2025

IV. DESCRIPTION OF PROPOSED BILLS

Zoning Amendment ZA-2026-3 proposes to amend Chapter 8, Article 1, Section 8-1.5 of the Kauai County Code 1987, as amended, by amending the definitions of "Dwelling Unit" and "Family".

Please see exhibit A to view the proposed draft bill.

F.3.a.1. ~~G.3.a.~~ AUG 11, 2026 G.3.a.1. ~~MAY 26~~, 2026 G.1.a.1. ~~MAR 10~~, 2026

OCT 13 2026

DEC 1 2 2003

V. APPLICANT'S REASONS/JUSTIFICATION

Introduced by the County of Kauai County Council, Zoning Amendments ZA-2026-3 seeks to amend the definition of "Family" to include a cap on the maximum number of unrelated individuals permitted to coexist in a single housekeeping unit is appropriate in order to protect the character and safety of residential neighborhoods. At the same time the Council recognizes the existence of many non-traditional living arrangements in the community and, therefore, finds sufficient need to allow up to ten (10) unrelated individuals to coexist within a single dwelling unit. Therefore, the purpose of this Ordinance is to effectuate relevant changes to the definitions of "Family" and "Dwelling Unit," thereby preventing potential exploitative and impermissible uses of single-family residences, which erode the traditional form and character of neighborhoods.

VI. EVALUATION

Initial review of the proposed draft language warrants further consideration, commentary, and collaboration from partner agencies and a broader group of community stakeholders. Points of clarification include legal, procedural and implementation elements contained in the proposed draft bill.

X. RECOMENDATION

Based on the foregoing evaluation, and to provide additional time to consult with stakeholders and partner agencies, it is hereby recommended that Zoning Amendment ZA-2026-3 be **DEFERRED** to the May 2026 Planning Commission meeting.

By _____
ALAN CLINTON
Planner

Approved & Recommended to Commission:

By _____
KA'ĀINA S. HULL
Director of Planning

Date: 2/26/2026

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

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

SUPPLEMENTAL #1 TO PLANNING DIRECTOR'S REPORT

I. ADDITIONAL FINDINGS

The planning department is seeking a second deferral on items ZA-2026-3 and ZA-2026-4 for additional time for fact finding and review of implementation protocols.

The department requested a deferral on item ZA-2026-3, at the March 10, 2026 Planning Commission Meeting, to seek additional information on enforcement investigation protocols for kinship analysis associated with the proposed update to the Comprehensive Zoning Ordinance (CZO) definition of "Family". The department has been headway on this item and is now seeking legal review of protocols for compulsory DNA sampling in the event that an enforcement case requires an investigation and investigation subjects do not voluntarily consent to DNA sampling.

The department requested a deferral on item ZA-2026-4, at the March 10 2026 Planning Commission Meeting, to gauge community sentiments on the appropriateness of dormitory style development in the range of residential zoning districts and further review is underway to evaluate the language of the proposed dormitory uses as it relates to the CZO definition of a "Transient vacation rental" which may require amendments to ZA-2026-4 in order to achieve compliance with current CZO definitions of short-term rentals.

By _____
ALAN CLINTON
Planner

Approved & Recommended to Commission:

By _____
KA'ĀINA S. HULL
Director of Planning

Date: 5/14/2026

F.2.a.2. G.2.a. AUG 11, 2026 G.3.a.1. MAY 26 2026

OCT 13 2026

X

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

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

SUPPLEMENT #2 TO PLANNING DIRECTOR'S REPORT

I. BACKGROUND

Due to the regulatory nature and implications of ZA-2026-3 and ZA-2026-4, the Planning Commission, on recommendation from the Planning Department, has thus far taken action to ensure that these ordinances appear on the same commission agenda through two deferrals. Furthermore, information presented in this supplemental report, for ZA-2026-3, will reference ZA-2026-4, as they can only be understood in context if begin evaluated together.

At its meeting on March 10, 2026, the Planning Commission deferred action on the proposed ordinance, ZA-2026-3, to allow the Planning Department additional time to evaluate the feasibility of implementing the proposed ordinance.

At its meeting on May 26, 2026, the Planning Commission, once again deferred action on proposed ordinance, ZA-2026-3, to give the Planning Department additional time to consult with the Office of the County Attorney on administrative and enforcement protocols as well as to consolidate administrative findings.

II. ADDITIONAL FINDINGS

Kaua'i continues to experience significant strain in its labor market, with employers across sectors reporting persistent challenges in recruiting and retaining workers. The primary driver of these challenges remains the high cost and limited availability of long-term housing. As housing prices and rents have outpaced local wages, many prospective employees are unable to secure stable accommodations on-island, resulting in reduced applicant pools, higher turnover, and unfilled positions across the economy.

In response to these constraints, an emerging trend has become increasingly visible: Kaua'i employers are purchasing residential properties or developing new accommodations directly for their workforce. While data is still developing, informal observations suggest a growing number of employers—particularly in tourism, service industries, construction, and agriculture—are acquiring existing single-family homes and older multifamily structures to house employees. In parallel, other entities are exploring or initiating construction of employer-owned housing complexes, including shared-living or dormitory-type arrangements, to ensure they can reliably staff operations.

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G.P.A.I. AUG 11 2026

F.H.A.H. OCT 13 2026

This phenomenon has historical precedent. During the plantation era, Kaua'i's large agricultural enterprises routinely provided dormitory-style accommodations for workers, commonly in the form of camps or communal barracks. These models were effective for the labor and economic conditions of the time, when centralized housing supported large-scale, on-site workforces comprising both interisland and international laborers. However, even before Hawai'i's sugar industry declined, shared-living worker housing was already decreasing. As labor structures evolved and more workers lived with their families, plantation employers began transitioning away from dormitories and investing in single-family dwellings that could support entire families not just laborers. Many of these homes—built to foster stability and accommodate multigenerational living—became the foundation of the plantation camp communities that persist today, including Pakala, Kaumakani, Numila, and Kaawanui. Broader macroeconomic shifts, particularly the global relocation of industrial agriculture and labor to lower-cost regions, further reduced the viability of plantation operations, and employer-provided dormitories gradually fell out of use. The result is a lasting housing landscape shaped by the cultural preference for single-family homes that can meet the needs of extended families, a characteristic still strongly reflected in Kaua'i's residential environment today.

Today's renewed interest in employer-owned housing differs from the historic model but reflects underlying structural pressures in the modern local economy. Unlike the plantation era, Kaua'i's workforce is distributed across a more diverse range of industries that typically rely on privately developed market housing rather than employer-supplied accommodations. The emerging trend may indicate that the private housing market is no longer able to meet workforce needs at scale. It also raises potential considerations for land-use planning, including the impacts of removing dwellings from the general housing stock, the suitability of dormitory-style units in a contemporary regulatory environment, and possible zoning or permitting pathways for purpose-built employer accommodations.

Overall, while employer-owned housing may offer short-term relief to workforce shortages, it also reflects deeper systemic imbalances between wages, housing supply, and overall affordability on Kaua'i. The Planning Department's review of the proposed ordinances, ZA-2026-3 and ZA-2026-4, is shaped by these broader conditions and the evolving relationship between local employers and island housing trends. In reviewing the Findings and Purpose sections of both ordinances together, the Department observes that ZA-2026-3 proposes a regulatory change—through modifications to the definitions of "Family" and "Dwelling Unit"—designed to enable and incentivize the development of dormitory-style accommodations as further defined in ZA-2026-4. The overarching intent is to create a pathway for employer-provided housing that may reduce pressure on the existing residential housing stock in a manner that safeguards the lifestyle and dignity of the tenants.

Implications of amending the definition of "Family"

In this evaluation, the Planning Department is primarily focusing on the proposed change to the definition of "Family" and not on the definition of 'Dwelling Unit,' as the latter revision is a clerical adjustment intended to align the code with the substantive updates to the definition of "Family".

Amending the definition of "Family" to cap the number of unrelated individuals living together in a single dwelling unit presents several legal and privacy concerns, particularly related to enforcement. To implement the ordinance, the County would need some method to verify the number of unrelated individuals residing within a household. This raises significant privacy issues because determining household composition often requires probing into personal relationships and private living arrangements that residents may not be willing—or legally obligated—to disclose. Any attempt to confirm such information could place enforcement personnel in positions that risk infringing on constitutional protections related to privacy, unreasonable search, and due process.

Enforcement becomes increasingly challenging when considering the practical limits of verifying household relationships. Present living arrangements are often informal or fluid, making it difficult to determine who qualifies as "unrelated" under the ordinance. Compounding this issue is the absence of a clear definition of what constitutes being "related," leaving uncertainty about what forms of evidence would be sufficient to establish relational status and, in turn, how enforcement protocols should be implemented. Efforts to confirm relatedness through documentation can be intrusive, and more extreme methods—such as attempting to require or request biological samples to verify familial connections—would pose serious legal and ethical concerns. Such actions will likely exceed the County's authority, be ripe for constitutional challenge regarding enforcement methods, place an undue burden on residents and government, require court order, and lead to potential safety concerns for County personnel. Lastly, monitoring compliance and conducting investigation could consume substantial enforcement staff time and nighttime monitoring.

III. RECOMMENDATION

Although the Planning Department recognizes the growing workforce housing challenges facing Kaua'i employers, the Department does not recommend adopting the regulatory approach proposed in ZA-2026-3. The reliance on household relationship definitions as a mechanism to enable and incentives dormitory-style construction presents substantial privacy, legal, and enforcement issues, including the difficulty of verifying relational status, the absence of clear standards for determining relatedness, and the potential for intrusive or inappropriate verification methods. Given these concerns, the Department finds that this regulatory pathway is not an appropriate means to address the community's housing needs and recommends exploring alternative strategies that support workforce housing without requiring oversight of household composition. These alternatives could include the following:

1. **State of Hawaii Labor Laws and Practices**
    a. Examining whether State of Hawai'i labor laws—particularly those administered by the Department of Labor and Industrial Relations (DLIR)—offer avenues to better support employer-provided housing. DLIR's existing authority over employment standards may provide a foundation for clarifying how housing can be incorporated into compensation or working conditions in a safe and regulated manner. Such a review could help distinguish between when housing is a voluntary benefit, when it is tied to job duties, and what safeguards are necessary to protect workers in each situation. Clear state-level guidance could also establish baseline expectations for the health and safety of employer-provided accommodation without requiring intrusive local enforcement. Coordination with DLIR may further identify opportunities for incentives or streamlined state processes that encourage responsible workforce housing models. By exploring these state labor law pathways, the County may find more practical and enforceable strategies to support employer-driven housing solutions while avoiding the complications of regulating household composition.

2. **Building Type and Structural Size limitations.**
    a. Currently, Kaua'i's Form-Based establish explicit square-footage thresholds for small-scale residential buildings, and these existing size-based regulatory tools could serve as a foundation for further exploration of the Dormitory Building type in additional Special Planning Areas. This building type is already part of the County's regulatory framework, but its application is currently confined to Plantation Camp communities and restricted by existing square-footage standards that shape the overall form and intensity of development. A broader evaluation could consider whether the Dormitory Building type should be permitted outright in selected SPAs/Zoning districts or introduced through a use-permit process

that allows for context-specific modifications. Expanding its applicability would provide a structured and predictable alternative for workforce housing development without relying on regulatory methods tied to household-composition enforcement. Conducting a targeted planning study could allow the County to identify where infrastructure capacity, community character, and land-use objectives align with dormitory-style housing. This approach could also support coordinated employer housing initiatives by offering a clear regulatory pathway grounded in established design standards. By building upon an existing form-based building type rather than redefining "Family," the County could encourage appropriately scaled workforce housing in suitable locations while maintaining consistency, clarity, and enforceability across districts.

3. **Dwelling Unit Design and Configuration (Single Occupancy Units (SOU), Guest House (GH), Microunits, and Additional Rental Units (ARU))**
    a. The County could explore a broader range of alternative dwelling-unit types, including single-occupancy units, microunits, and reevaluate the guest house and additional rental unit (ARU) paradigm, as a means of expanding flexible and affordable workforce housing options. A focused review could explore opportunities to expand eligible areas or introduce design and utility guidelines that accommodate microunits and guest houses while maintaining neighborhood character. This approach could allow the County to facilitate incremental workforce housing while leveraging existing residential land-use patterns rather than creating new regulatory burdens. The growing interest in single-occupancy units indicates that smaller, more flexible housing types may meet workforce needs without requiring employer-owned dormitories or intrusive verification of household composition. The current ARU program already provides a regulatory mechanism for small-scale, dispersed infill housing, and refining its standards could help align the program with housing trends that achieve affordability by design. By reexamining an expanded dwelling unit program, the County could create a more adaptable and accessible pathway for modest, community-integrated housing options responsive to current economic and demographic pressures.

Based on the review, it is recommended that Zoning Amendment ZA-2026-3 be **DISAPPROVED**.

By _____
Alan Clinton
Planner

Approved & Recommended to Commission:

By _____
KĀĀINA HULL
Director of Planning

Date: 8/4/2027

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

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

TRANSMITTAL OF AGENCY COMMENTS TO

PLANNING COMMISSION

DATE: October 7, 2026

PERMIT NUMBER(S): ZA-2026-3

APPLICANT(S): County of Kauai

Attached for the Planning Commission's reference is agency comments pertaining to the permit application referenced above.

F.3.a.4.
OCT 1 3 2026

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STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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

RYAN K.P. KANAKA'OLE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
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CONSERVATION AND RESOURCES ENFORCEMENT
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

September 27, 2026

Ka'āina S. Hull, Director
County of Kaua'i, Planning Department
4444 Rice St., Suite A-473
Līhu'e, Hawai'i 96766
c/o Alan Clinton
aclinton@kauai.gov

IN REPLY REFER TO:
Project No.: 2026PR00110
Doc. No.: 2609LS33
Archaeology, Architecture
History & Culture

Dear Ka'āina S. Hull:

SUBJECT: **Hawai'i Revised Statutes (HRS) § 6E-42 Historic Preservation Review – Zoning Amendment – ZA-2026-3**
County of Kaua'i Bill / Ordinance Relating to Uses in Districts (Draft Bill No. 2973)
Applicant(s): County of Kaua'i Planning Department
Island of Kaua'i
TMK: (4) Island-wide

This letter provides the State Historic Preservation Division's (SHPD) review of the draft County of Kaua'i bill (Proposed Draft Bill No. 2973) relating to uses in districts. The SHPD received this submission on September 2, 2026, including an agency cover letter and a copy of the draft bill. No ground-disturbing or subsurface work will be conducted under this administrative policy and text amendment.

Proposed Draft Bill No. 2973 amends Chapter 8, Section 8-1.5 of the Kauai County Code 1987 by updating the definitions of "Family" and "Dwelling Unit" to protect residential neighborhood character and prevent exploitative single-family home uses. The bill redefines "Family" as individuals related by blood, adoption, or marriage living in a single housekeeping unit, while accommodating non-traditional arrangements by permitting up to ten (10) unrelated individuals to live together. Additionally, it clarifies "Dwelling Unit" as a building or portion designed for occupancy by one family with complete living facilities and equipment for only one kitchen (excluding approved additional rental units). Originally introduced by Councilmember Felicia Cowden, the measure was formally referred by the County Council to the Planning Commission for review and recommendation.

Based on the information provided and the absence of any subsurface disturbance associated with this text amendment, the **SHPD has no objections** to the proposed bill.

Please contact Mary Kodama, Architecture Branch Chief, at Mary.Kodama@hawaii.gov, for any matters regarding architectural resources, Jordan V. Calpito, History & Culture Branch Chief, at Jordan.V.Calpito@hawaii.gov, for any matters concerning cultural resources, and Susan A. Lebo, Archaeology Branch Chief, at Susan.A.Lebo@hawaii.gov, for any concerns regarding archaeological resources or this letter.

Aloha,

Jessica L. Puff, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

cc: Shanlee Jimenez, sjimenez@kauai.gov

COUNTY COUNCIL
Mel Rapozo, Chair
KipuKai Kualiʻi, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
Felicia Cowden
Fern Holland
Arryl Kaneshiro

OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Lyndon M. Yoshioka, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
Email: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Līhuʻe, Kauaʻi, Hawaiʻi 96766

December 17, 2025

Francis DeGracia, Chair
and Members of the Planning Commission
c/o County of Kauaʻi Planning Department
Via Email Only: planningdepartment@kauai.gov

Dear Chair DeGracia and Members of the Planning Commission:

RE: REFERRAL OF PROPOSED DRAFT BILL (NO. 2979) RELATING TO USES IN DISTRICTS

The Kauaʻi County Council, at its meeting on December 17, 2025, referred the following measure to the Planning Commission for review and recommendation:

"Proposed Draft Bill (No. 2979) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAʻI COUNTY CODE 1987, AS AMENDED, RELATING TO USES IN DISTRICTS"

Thank you for your continued assistance in these planning matters. Should you have any questions, please feel free to contact me at (808) 241-4188.

Sincerely,

JADE K. FOUNTAIN-TANIGAWA
County Clerk, County of Kauaʻi

RM:dmc
Enclosure

F.2.b.
OCT 13 2026

G.3.b. X AUG 11, 2026
G.3.b. X MAY 26, 2026
G.4.b. X MAR 10 2026

ORDINANCE NO. _____ BILL NO. _____

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO USES IN DISTRICTS

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I:

SECTION 1. Findings and Purpose. Based on community and Administration feedback, the Council finds that need exists to establish two (2) new definitions and respective Use categories for "Employee dormitory" and "Group housing dormitory." Additionally, the Council finds safeguards to protect the form and character of existing neighborhoods necessary, so criteria for development of employee dormitories and group housing dormitories are stipulated. Protections are proposed to mitigate against potential exploitation in dormitory settings and ensure that the basic safety and needs of the housed workforce are addressed. Group housing dormitories are designed to facilitate the development of residential quarters for groups of people that achieve a beneficial social purpose. Many organizations may struggle to find a viable pathway to create group housing for populations in need of assistance, so flexibility in structures and applications are permissible to encourage housing production for working residents. Therefore, the purpose of this Ordinance is to create new definitions for "Employee dormitory" and "Group housing dormitory," respectively update the Use Table in Sec. 8-2.4, and outline two (2) new sections describing application requirements that are customized to these new dormitory types.

SECTION 2. Chapter 8, Section 8-1.5 (Definitions), Kaua'i County Code 1987, as amended, is hereby amended by adding new definitions for "Employee dormitory" and "Group housing dormitory" to be alphabetically inserted and to read as follows:

<u>""Employee dormitory" means a building providing sleeping and residential quarters for five (5) or more individuals, provided by the related employer. An employee dormitory contains multiple private or semiprivate single or shared rooms with communal kitchen facilities and recreation areas.</u>

<u>"Group housing dormitory" means a building providing sleeping and residential quarters for five (5) or more individuals, provided by an organization whose mission is to fulfill a beneficial social purpose. A group housing dormitory contains multiple private or semiprivate single or shared rooms with communal kitchen facilities and recreation areas."</u>

SECTION 3. Chapter 8, Section 8-2.4 (Table of Uses), Kaua'i County Code 1987, as amended, is hereby amended to read as follows:

The Use definitions of "Employee dormitory" and "Group housing dormitory" shall be properly inserted as Use categories below "Homestay located in the Visitor Destination Area (VDA), pursuant to Article 18 of this Chapter" and with Use Permits, denoted by the letter "U," required for the Residential, Resort Residential (RR), Agriculture (Ag), and Open (O) Zoning Districts, and being outright permitted, denoted by the letter "P," in Commercial (CN and CG) and University (UNV) districts.

"

Table 8-2.4 Table of Uses											
Sec.	**USE**	**ZONING DISTRICT**									
		Residential		**RR**	**Commercial**		**Industrial**		**AG**	**O**	**UNV**
		R-1 to R-6	R-10 to R-20		**CN**	**CG**	**IL**	**IG**			
	Employee dormitory	U	U	U	P	P			U	U	P
	Group housing dormitory	U	U	U	P	P			U	U	P

"

SECTION 4. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by inserting a new section, Section 8-32, to be titled "Employee Dormitories", which shall read as follows:

"Section 8-32 Employee Dormitories.

Section 8-32.1 Employee Dormitory Application Requirements

Development standards shall be the same as those for single-family detached dwellings in Sections 8-4.5 through 8-4.8, inclusive; but a complete application for an Employee Dormitory shall also include:

(a) Security Plan.

(1) The Security Plan shall address safety risks reasonably foreseeable for the proposed use including, but not limited to, trespassing, vandalism, theft, personal assault, and fire.

(2) As part of the Security Plan, a safety handout for distribution to tenants, which provides essential information to tenants and works to reduce negative impacts on the surrounding neighborhood, shall be created and updated. This safety handout shall be provided to the Planning Department

at the time of application and shall be posted in a conspicuous place in the residential quarters. The handout shall include, but not be limited to, what to do in case of conflict or emergency, best safety practices, and natural disaster preparedness including evacuation route(s).

(3) The safety handout shall include the current designated contact person to whom tenants may report concerns in conjunction with a written tenant complaint reporting procedure. The Applicant shall provide the name and contact information of the contact person to the Planning Department and to all tenants of the development. and the owner is responsible for keeping the information updated with all parties.

(4) The Security Plan shall provide for an on-site resident manager or safety patrol whenever a development includes thirty (30) or more units, or shall otherwise demonstrate how equivalent security coverage will be provided.

(b) Solid Waste Management Plan.

(1) The Solid Waste Management Plan shall project the volume of refuse based on the anticipated number of permitted tenants.

(2) The Solid Waste Management Plan shall identify the number and size of refuse containers sufficient to fully contain the refuse that accumulates on the premises for the duration between regularly scheduled refuse collections.

(c) Parking Plan.

(1) The Parking Plan shall be commensurate with the projected transportation needs of tenants and include the maximum anticipated number of vehicles on-site.

(2) For each bedroom or unit in an employee dormitory development, at least one (1) off-street parking space shall be provided, unless tenants are to be shuttled via a shared vehicle to and from the place of employment and the employee dormitory site and, thus, will not have a personal vehicle on-site, or the development is located in close proximity to public transportation routes, in which case, the standards of development for off-street parking applicable to all developments as outlined in Section 8-4.5 shall apply.

(d) Tenant Agreement.

(1) The Tenant Agreement shall contain the range of rents to be assessed to tenants for habitation in the employee dormitory. If the employee dormitory is being provided as a condition of employment with zero dollars ($0) rent assessed, such shall be stated in the Tenant Agreement.

(2) The Tenant Agreement shall contain a brief position description of the employee role(s) being staffed by the tenant(s) covered by the Agreement as well as the full-time or part-time nature of the job.

(3) In cases where the employer is the owner or landlord, the Tenant Agreement shall clearly state that occupancy by an employee of the owner or landlord whose right to occupancy is conditional upon that employment.

(4) Upon termination of employment, the period during which the tenant, including the tenant's family, if applicable, must vacate the unit shall be stated in the Tenant Agreement, unless otherwise preempted by the State Residential Landlord-Tenant Code.

(e) Infrastructure and Residential Standards.

(1) Applicants shall be assured in writing by the respective departments or agencies that there is appropriate and reasonably consistent water pressure; the proposal complies with the Fire Code of the County of Kaua'i; and there is sufficient wastewater capacity.

(2) There shall be at least one (1) on-site kitchen and, for developments with a projected tenancy of twenty-five (25) or more individuals, there shall be installed a commercial food production facility as permitted by the Hawai'i State Department of Health Sanitation Branch.

(3) At least one (1) laundry facility, communal or private bathrooms, and proper ventilation shall be installed and maintained.

(f) Project Plan.

(1) The project plan shall include a description of the employee dormitory mission, including vision, goals, or measurable objectives.

(2) The project plan shall articulate what, if any, community engagement and outreach have been or will be completed prior to project commencement.

(3) The project plan shall include all relevant site maps and building floorplans necessary for an accurate visual depiction of the intended development."

SECTION 5. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by inserting a new section, Section 8-33, to be titled "Group Housing Dormitories", which shall read as follows:

"Section 8-33 Group Housing Dormitories.

Section 8-33.1 Group Housing Dormitory Application Requirements.

Development standards shall be the same as those for single-family detached dwellings in Sections 8-4.5 through 8-4.8, inclusive; but a complete application for a Group Housing Dormitory shall also include:

(a) Security Plan.

(1) The Security Plan shall address safety risks reasonably foreseeable for the proposed use including, but not limited to, trespassing, vandalism, theft, personal assault, and fire.

(2) As part of the Security Plan, a safety handout for distribution to tenants, which provides essential information to tenants and works to reduce negative impacts on the surrounding neighborhood, shall be created and updated. This safety handout shall be provided to the Planning Department at the time of application and shall be posted in a conspicuous place in the residential quarters. The handout shall include, but not be limited to, what to do in case of conflict or emergency, best safety practices, and natural disaster preparedness including evacuation route(s).

(3) The safety handout shall include the current designated contact person to whom tenants may report concerns in conjunction with a written tenant complaint reporting procedure. The Applicant shall provide the name and contact information of the contact person to the Planning Department and to all tenants of the development, and the owner is responsible for keeping the information updated with all parties.

(4) The Security Plan shall provide for an on-site resident manager or safety patrol whenever a development includes thirty (30) or more units, or shall otherwise demonstrate how equivalent security coverage will be provided.

(b) Solid Waste Management Plan.

(1) The Solid Waste Management Plan shall project the volume of refuse based on the anticipated number of permitted tenants.

(2) The Solid Waste Management Plan shall identify the number and size of refuse containers sufficient to fully contain the refuse that accumulates on the premises for the duration between regularly scheduled refuse collections.

(c) Parking Plan.

(1) The Parking Plan shall be commensurate with the projected transportation needs of tenants and include the maximum anticipated number of vehicles on-site.

(2) For each bedroom or unit in a group housing dormitory development, at least one (1) off-street parking space shall be provided, unless tenants are to be shuttled via a shared vehicle to and from the group

housing dormitory site and, thus, will not have a personal vehicle on-site, or the development is located in close proximity to public transportation routes, in which case, the standards of development for off-street parking applicable to all developments as outlined in Section 8-4.5 shall apply.

(d) Tenant Agreement.

(1) The Tenant Agreement shall contain the range of rents to be assessed to tenants for habitation in the group housing dormitory. If the group housing dormitory is being provided with zero dollars ($0) rent assessed, such shall be stated in the Tenant Agreement.

(2) The period during which the tenant, including the tenant's family, if applicable, must vacate the unit shall be stated in the Tenant Agreement, unless otherwise preempted by the State Residential Landlord-Tenant Code.

(e) Infrastructure and Residential Standards.

(1) Applicants shall be assured in writing by the respective departments or agencies that there is appropriate and reasonably consistent water pressure; the proposal complies with the Fire Code of the County of Kaua'i; and there is sufficient wastewater capacity.

(2) There shall be at least one (1) on-site kitchen and, for developments with a projected tenancy of twenty-five (25) or more individuals, there shall be installed a commercial food production facility as permitted by the Hawai'i State Department of Health Sanitation Branch.

(3) At least one (1) laundry facility, communal or private bathrooms, and proper ventilation shall be installed and maintained.

(f) Project Plan.

(1) The project plan shall include a description of the group housing dormitory mission, including vision, goals, or measurable objectives used to achieve the stated beneficial social purpose.

(2) The project plan shall articulate what, if any, community engagement and outreach have been or will be completed prior to project commencement.

(3) The project plan shall include all relevant site maps and building floorplans necessary for an accurate visual depiction of the intended development."

SECTION 6. Pursuant to Hawai'i Revised Statutes (HRS) Chapter 91, the Planning Commission may promulgate administrative rules consistent with this Article as may be necessary to implement any of the provisions of this Article.

SECTION 7. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 8. Ordinance material to be repealed is bracketed. New Ordinance material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 9. This Ordinance shall take effect upon its approval.

Introduced by:/s/FELICIA COWDEN

DATE OF INTRODUCTION:

December 17, 2025

Līhu'e, Kaua'i, Hawai'i
V:\BILLS\2024-2026 TERM\Amended Bill Employee and Group Dormitory Final 12.17.25 RM_dmc.doc

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

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

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission:	Consideration of a bill for an ordinance amending Chapter 8, Article 1, Article 2, and the addition of Article 32, of the Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO).
Permit Application Nos.	Zoning Amendment ZA-2026-4
Name of Applicant(s)	COUNTY OF KAUA'I, PLANNING DEPARTMENT

II. PERMIT INFORMATION

AMENDMENTS	
☒ **Zoning Amendment**	Pursuant to KCC Section 8-3.4(a), as amended, a Zoning Amendment is necessary when changing the boundaries of districts or by changing text whenever the public necessity and convenience and the general welfare require an amendment.
☐ **General Plan Amendment**	
☐ **State Land Use District Amendment**	

III. LEGAL REQUIREMENTS

KCC Section 8-1.5	
Public Hearing Date:	March 10, 2026
Date of Publication:	February 6, 2026
Date of Director's Report:	February 25, 2025

IV. DESCRIPTION OF PROPOSED BILLS

Zoning Amendment ZA-2026-4 proposes to amend Chapter 8, Article 1, Article 2, including the addition of Article 32, to achieve the following: 1) Define "Employee Dormitories" and "Group Housing Dormitories"; 2) Incorporate "Employee Dormitories" and "Group Housing Dormitories" into the Table of Uses (Table 8-2.4); and 3) Outline Application Requirements and operational standards for "Employee Dormitories" and "Group Housing Dormitories" project review. Please see exhibit A to view the proposed draft bill.

F.3.b.1.
OCT 13 2026

G.3.b. AUG X 1, 2026 G.3.b. MAY 28, 2026 G.4.b.1. MAR 10, 2026

V. APPLICANT'S REASONS/JUSTIFICATION

Introduced by the County of Kauai County Council, Zoning Amendment ZA-2026-4 seeks to establish two (2) new definitions and respective Use categories for "Employee dormitory" and "Group housing dormitory." In addition, safeguards are outlined further to protect the form and character of existing neighborhoods, and therefore, criteria for the development of employee dormitories and group housing dormitories are stipulated. Protections are proposed to mitigate against potential exploitation in dormitory settings and ensure that the basic safety and needs of the housed workforce are addressed. Group housing dormitories are designed to fill a gap in the housing market to facilitate the development of residential quarters for groups of people that achieve a beneficial social purpose.

VI. EVALUATION

Initial review of the proposed draft language warrants further consideration, commentary, and collaboration from partner agencies and a broader group of community stakeholders. Points of clarification include legal, procedural and implementation elements contained in the proposed draft bill.

X. RECOMENDATION

Based on the foregoing evaluation, and to provide additional time to consult with stakeholders and partner agencies, it is hereby recommended that Zoning Amendment ZA-2026-3 be **DEFERRED** to the May 2026 Planning Commission meeting.

By _____
ALAN CLINTON
Planner

Approved & Recommended to Commission:

By _____
KA'ĀINA S. HULL
Director of Planning

Date: 2/26/2026

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

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

SUPPLEMENTAL #1 TO PLANNING DIRECTOR'S REPORT

I. ADDITIONAL FINDINGS

The planning department is seeking a second deferral on items ZA-2026-3 and ZA-2026-4 for additional time for fact finding and review of implementation protocols.

The department requested a deferral on item ZA-2026-3, at the March 10, 2026 Planning Commission Meeting, to seek additional information on enforcement investigation protocols for kinship analysis associated with the proposed update to the Comprehensive Zoning Ordinance (CZO) definition of "Family". The department has been headway on this item and is now seeking legal review of protocols for compulsory DNA sampling in the event that an enforcement case requires an investigation and investigation subjects do not voluntarily consent to DNA sampling.

The department requested a deferral on item ZA-2026-4, at the March 10 2026 Planning Commission Meeting, to gauge community sentiments on the appropriateness of dormitory style development in the range of residential zoning districts and further review is underway to evaluate the language of the proposed dormitory uses as it relates to the CZO definition of a "Transient vacation rental" which may require amendments to ZA-2026-4 in order to achieve compliance with current CZO definitions of short-term rentals.

By _____
ALAN CLINTON
Planner

Approved & Recommended to Commission:

By _____
KA'ĀINA S. HULL
Director of Planning

Date: 5/14/2026

F.7.b.2.
OCT 13 2032

G.3.b.
AUG 11, 2026

G.3.b.1.
MAY 26 2026

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

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

SUPPLEMENT #2 TO PLANNING DIRECTOR'S REPORT

I. BACKGROUND

Due to the regulatory nature and implications of ZA-2026-3 and ZA-2026-4, the Planning Commission, on recommendation from the Planning Department, has thus far taken action to ensure that these ordinances appear on the same commission agenda through two deferrals. Furthermore, information presented in this supplemental report, for ZA-2026-3, will reference ZA-2026-4, as they can only be understood in context if begin evaluated together.

At its meeting on March 10, 2026, the Planning Commission deferred action on the proposed ordinance, ZA-2026-4, to allow the Planning Department additional time to evaluate the feasibility of implementing the proposed ordinance.

At its meeting on May 26, 2026, the Planning Commission, once again deferred action on proposed ordinance, ZA-2026-4, to give the Planning Department additional time to consult with the Office of the County Attorney on administrative and enforcement protocols as well as to consolidate administrative findings.

II. ADDITIONAL FINDINGS

Kaua'i continues to experience significant strain in its labor market, with employers across sectors reporting persistent challenges in recruiting and retaining workers. The primary driver of these challenges remains the high cost and limited availability of long-term housing. As housing prices and rents have outpaced local wages, many prospective employees are unable to secure stable accommodations on-island, resulting in reduced applicant pools, higher turnover, and unfilled positions across the economy.

In response to these constraints, an emerging trend has become increasingly visible: Kaua'i employers are purchasing residential properties or developing new accommodations directly for their workforce. While data is still developing, informal observations suggest a growing number of employers—particularly in tourism, service industries, construction, and agriculture—are acquiring existing single-family homes and older multifamily structures to house employees. In parallel, other entities are exploring or initiating construction of employer-owned housing complexes, including shared-living or dormitory-type arrangements, to ensure they can reliably staff operations.

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This phenomenon has historical precedent. During the plantation era, Kaua'i's large agricultural enterprises routinely provided dormitory-style accommodations for workers, commonly in the form of camps or communal barracks. These models were effective for the labor and economic conditions of the time, when centralized housing supported large-scale, on-site workforces comprising both interisland and international laborers. However, even before Hawai'i's sugar industry declined, shared-living worker housing was already decreasing. As labor structures evolved and more workers lived with their families, plantation employers began transitioning away from dormitories and investing in single-family dwellings that could support entire families not just laborers. Many of these homes—built to foster stability and accommodate multigenerational living—became the foundation of the plantation camp communities that persist today, including Pakala, Kaumakani, Numila, and Kaawanui. Broader macroeconomic shifts, particularly the global relocation of industrial agriculture and labor to lower-cost regions, further reduced the viability of plantation operations, and employer-provided dormitories gradually fell out of use. The result is a lasting housing landscape shaped by the cultural preference for single-family homes that can meet the needs of extended families, a characteristic still strongly reflected in Kaua'i's residential environment today.

Today's renewed interest in employer-owned housing differs from the historic model but reflects underlying structural pressures in the modern local economy. Unlike the plantation era, Kaua'i's workforce is distributed across a more diverse range of industries that typically rely on privately developed market housing rather than employer-supplied accommodations. The emerging trend may indicate that the private housing market is no longer able to meet workforce needs at scale. It also raises potential considerations for land-use planning, including the impacts of removing dwellings from the general housing stock, the suitability of dormitory-style units in a contemporary regulatory environment, and possible zoning or permitting pathways for purpose-built employer accommodations.

Overall, while employer-owned housing may provide short-term relief to workforce shortages, it also reflects deeper systemic imbalances between wages, housing supply, and overall affordability on Kaua'i. The Planning Department's review of the proposed ordinances, ZA-2026-3 and ZA-2026-4, is shaped by these broader conditions and the evolving relationship between local employers and island housing trends. In reviewing the Findings and Purpose sections of both ordinances together, the Department observes that ZA-2026-4 introduces a regulatory framework—including new definitions and standards for "Employee Dormitory" and "Group Housing Dormitory"—intended to enable and incentivize (via the adoption of ZA-2026-3 through an update to the definition of "Family") the development of dormitory-style accommodations. The overarching intent is to create a pathway for employer-provided housing that may reduce pressure on the existing residential housing stock while maintaining safeguards that protect the lifestyle and dignity of tenants.

III. RECOMMENDATION

Although the Planning Department recognizes the growing workforce housing challenges facing Kaua'i employers, the Department does not recommend further evaluation or adoption of ZA-2026-4 in light of its concurrent recommendation to disapprove ZA-2026-3, which would have established the regulatory foundation necessary to incentivize the development of Employee Dormitories or Group Housing Dormitories. Without the adoption of ZA-2026-3 to update the definitions of "Family" and "Dwelling Unit," the inclusion of new definitions for "Employee Dormitory" and "Group Housing Dormitory," along with the associated regulatory requirements for their permitted development, would be unnecessary. Given these concerns, the Department finds that this regulatory pathway is not an appropriate means to address the community's housing needs and recommends exploring alternative strategies that support workforce housing without requiring oversight of household composition. These alternatives could include the following:

1. **State of Hawaii Labor Laws and Practices**
    a. Examining whether State of Hawai'i labor laws—particularly those administered by the Department of Labor and Industrial Relations (DLIR)—offer avenues to better support employer-provided housing. DLIR's existing authority over employment standards may provide a foundation for clarifying how housing can be incorporated into compensation or working conditions in a safe and regulated manner. Such a review could help distinguish between when housing is a voluntary benefit, when it is tied to job duties, and what safeguards are necessary to protect workers in each situation. Clear state-level guidance could also establish baseline expectations for the health and safety of employer-provided accommodation without requiring intrusive local enforcement. Coordination with DLIR may further identify opportunities for incentives or streamlined state processes that encourage responsible workforce housing models. By exploring these state labor law pathways, the County may find more practical and enforceable strategies to support employer-driven housing solutions while avoiding the complications of regulating household composition.

2. **Building Type and Structural Size limitations.**
    a. Currently, Kaua'i's Form-Based establish explicit square-footage thresholds for small-scale residential buildings, and these existing size-based regulatory tools could serve as a foundation for further exploration of the Dormitory Building type in additional Special Planning Areas. This building type is already part of the County's regulatory framework, but its application is currently confined to Plantation Camp communities and restricted by existing square-footage standards that shape the overall form and intensity of development. A broader evaluation could consider

whether the Dormitory Building type should be permitted outright in selected SPAs/Zoning districts or introduced through a use-permit process that allows for context-specific modifications. Expanding its applicability would provide a structured and predictable alternative for workforce housing development without relying on regulatory methods tied to household-composition enforcement. Conducting a targeted planning study could allow the County to identify where infrastructure capacity, community character, and land-use objectives align with dormitory-style housing. This approach could also support coordinated employer housing initiatives by offering a clear regulatory pathway grounded in established design standards. By building upon an existing form-based building type rather than redefining "Family," the County could encourage appropriately scaled workforce housing in suitable locations while maintaining consistency, clarity, and enforceability across districts.

3. **Dwelling Unit Design and Configuration (Single Occupancy Units (SOU), Guest House (GH), Microunits, and Additional Rental Units (ARU))**
    a. The County could explore a broader range of alternative dwelling-unit types, including single-occupancy units, microunits, and reevaluate the guest house and additional rental unit (ARU) paradigm, as a means of expanding flexible and affordable workforce housing options. A focused review could explore opportunities to expand eligible areas or introduce design and utility guidelines that accommodate microunits and guest houses while maintaining neighborhood character. This approach could allow the County to facilitate incremental workforce housing while leveraging existing residential land-use patterns rather than creating new regulatory burdens. The growing interest in single-occupancy units indicates that smaller, more flexible housing types may meet workforce needs without requiring employer-owned dormitories or intrusive verification of household composition. The current ARU program already provides a regulatory mechanism for small-scale, dispersed infill housing, and refining its standards could help align the program with housing trends that achieve affordability by design. By reexamining an expanded dwelling unit program, the County could create a more adaptable and accessible pathway for modest, community-integrated housing options responsive to current economic and demographic pressures.

Based on the review, it is recommended that Zoning Amendment ZA-2026-4 be **DISAPPROVED**.

By _____
Alan Clinton
Planner

Approved & Recommended to Commission:

By _____
KĀĀINA HULL
Director of Planning

Date: 8/4/2026

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

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

TRANSMITTAL OF AGENCY COMMENTS TO

PLANNING COMMISSION

DATE: October 7, 2026

PERMIT NUMBER(S): ZA-2026-4

APPLICANT(S): County of Kauai

Attached for the Planning Commission's reference is agency comments pertaining to the permit application referenced above.

F.3.b.4.
OCT 1 3 2032

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SYLVIA LUKE
LIEUTENANT GOVERNOR
KA HOPE KIA'ĀINA

STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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

RYAN K.P. KANAKA'OLE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DAVE DAY
FIRST DEPUTY

CIARA W.K. KAHAHANE
DEPUTY DIRECTOR - WATER

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

September 27, 2026

Ka'āina S. Hull, Director
County of Kaua'i, Planning Department
4444 Rice St., Suite A-473
Līhu'e, Hawai'i 96766
c/o Alan Clinton
aclinton@kauai.gov

IN REPLY REFER TO:
Project No.: 2026PR00112
Doc. No.: 2609LS34
Archaeology, Architecture
History & Culture

Dear Ka'āina S. Hull:

SUBJECT: **Hawai'i Revised Statutes (HRS) § 6E-42 Historic Preservation Review –**
Zoning Amendment – ZA-2026-4
County of Kaua'i Bill / Ordinance Relating to Uses in Districts (Draft Bill No. 2979)
Applicant(s): County of Kaua'i Planning Department
Island of Kaua'i
TMK: (4) Island-wide

This letter provides the State Historic Preservation Division's (SHPD) review of the draft County of Kaua'i bill (Proposed Draft Bill No. 2979) relating to uses in districts. The SHPD received this submission, including an agency cover letter and a copy of the draft bill on February 2, 2026. No ground-disturbing or subsurface work will be conducted under this administrative action.

Proposed Draft Bill No. 2979 amends Chapter 8 of the Kaua'i County Code 1987, as amended, to establish two new definitions and respective use categories for "Employee dormitory" and "Group housing dormitory." Specifically, the bill adds definitions for employee and group housing dormitories under Section 8-1.5, updates the Table of Uses in Section 8-2.4 to require Use Permits (U) in Residential, Resort Residential, Agriculture, and Open districts while permitting them outright (P) in Commercial and University districts, and creates new regulatory sections (Section 8-32 and Section 8-33) outlining detailed application requirements covering security plans, solid waste management, parking plans, tenant agreements, infrastructure/residential standards, and project plans. Originally introduced by Councilmember Felicia Cowden on December 17, 2025, the measure was formally referred to the Planning Commission for review and recommendation.

Based on the information provided and the absence of any subsurface disturbance associated with this text amendment, the **SHPD has no objections** to the proposed bill.

Please contact Mary Kodama, Architecture Branch Chief, at Mary.Kodama@hawaii.gov, for any matters regarding architectural resources, Jordan V. Calpito, History & Culture Branch Chief, at Jordan.V.Calpito@hawaii.gov, for any matters concerning cultural resources, and Susan A. Lebo, Archaeology Branch Chief, at Susan.A.Lebo@hawaii.gov, for any concerns regarding archaeological resources or this letter.

Aloha,

Jessica L. Puff, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

cc: Shanlee Jimenez, sjimenez@kauai.gov

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

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

TRANSMITTAL OF AGENCY COMMENTS TO

PLANNING COMMISSION

DATE: October 7, 2026

PERMIT NUMBER(S): ZA-2026-8

APPLICANT(S): County of Kauai

Attached for the Planning Commission's reference is agency comments pertaining to the permit application referenced above.

F.3.C.1.
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SYLVIA LUKE
Lt. Governor

SHARON HURD
Chairperson, Board of Agriculture

DEAN M. MATSUKAWA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
KA 'OIHANA MAHI'AI
1428 South King Street
Honolulu, Hawai'i 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

Subject: Testimony in Support of ZA-2026-8 and Proposed Bill No.2997

Aloha Chair Ako and Members of the Kauai Planning Commission,

My name is Stacey Chun (State of Hawaii Department of Agriculture and Bio-security-Entomologist-Hilo Branch). I am associated with the Hawaii Apiary Program from 2011, engaging with commercial Queen bee producers, honey producers, and honey bee hobbyist. Hawaii Island County Planning department revamped their bee keeping ordinance in June 2023, Hawaii Island has the largest number of bee keepers and managed hives in the state. The ordinance was adopted with the assistance of the Hawaii County Planning Department, Council member (Ashley Kierkiewicz), Big Island Beekeeping Association (BIBA), Hawaii Department of Agriculture staff, Department of Heath Staff and several Queen producers. Together we formulated a list of best management practices (BMP) for bee keeping in all zoning districts. Anyone partaking in bee keeping activities should follow the recommended BMP's to reduce the chance of creating a nuisance situation and health hazard to people, pets and livestock.

After passing the Hawaii county ordinance in June 2023, the number of be keepers did not increase dramatically nor did any honey bee nuisances. Currently, I've only received two nuisance complaints, of which, were commercial bee keepers placing hives too close to residential subdivisions. The situation was remedy by relocating hives and providing water for foraging bees. No one got stung.

Kauai, Maui and Moloka'i are only a few places in the world that do not have the parasitic varroa mite, and it is important that we support the apicultural communities in these pristine environments.

I have observed the bee keeping ordinance conversion for three years with no adverse outcomes to Hawaii Island communities. Responsible bee keeping is the key to a positive outcome. If there are any questions or concerns, I can be reached at (808) 974-4146 or Stacey.g.chun@hawaii.gov. **I am in support of ZA-2026-8 and Proposed Bill No. 2997**.

Sincerely,

Stacey Chun

Island Fresh

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

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

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission:	In accordance with Section 10-3.5 of the Kaua'i County Code, a Zoning Amendment is required to modify the figures and maps within the West Kaua'i Community Plan and its associated exhibits.
Permit Application Nos.	Zoning Amendment ZA-2026-7
Name of Applicant(s)	KAMISHITA INVESTMENTS LLC

II. PERMIT INFORMATION

AMENDMENTS	
☒ **Zoning Amendment**	In accordance with Section 10-3.5 of the Kaua'i County Code, a Zoning Amendment is required to modify the figures and maps within the West Kaua'i Community Plan and its associated exhibits.
☐ **General Plan Amendment**	
☐ **State Land Use District Amendment**	

III. LEGAL REQUIREMENTS

KCC Section 8-1.5	
Public Hearing Date:	October 13, 2026
Date of Publication:	September 18, 2026
Date of Director's Report:	October 5, 2025

IV. DESCRIPTION OF PROPOSED BILL

The West Kaua'i Form Based Code (WKFBC) is a regulatory code which was adopted alongside the West Kaua'i Community Plan (WKCP) in 2020. This code was intentionally organized to implement the policies and provisions of the WKCP, particularly within the town cores of West Kaua'i Communities in a manner that could preserve and perpetuate the existing form and character of these communities.

F.4.a.1.
OCT 13 2032

Form Based Codes (FBC) provide an alternative approach to Euclidean Zoning. FBCs outline a regulatory program which prioritize form and character consideration over use considerations which are typical of Euclidean Zoning. Transect Zones, which specify site design parameters and allowable building types, are utilized to implement the FBC and have been codified in the Kaua'i County Code as Special Planning Areas (CZO 8-11.6 Special Planning Areas).

The proposed bill will update the West Kaua'i Form Based Code Transect Zone from T4 Village **Neighborhood** Flex (T4VNF) to T4 Village **Center** Flex (T4VCF) over the extent of the subject parcel, TMK: (4)1-6-007:029 (Figure X). The proposed change would occur on page 2.1-3 (Establishment and Designation of Transect Zones, Article 2) of the West Kauai Form Based Code, to Figure 2.1.020.B Waimea Transect Map (Figure 1), formally codified in the Kaua'i County Code Chapter 10, Article 3, Section 10-3.5 (a) (2) as "Special Planning Area L". The approximate visual representation of T3VNF and T4VCF can be found in Figure 2. The respective Transect Zones are identified through the following descriptions:

> *T4 Village Neighborhood Flex - West Kaua'i (T4VNF) – This Zone integrates appropriate, medium density residential building types such as duplexes and multiplexes: small with limited retail and service uses and an environment conducive to walking and bicycling. The Flex condition provides the same building forms but allows for a more diverse mix of uses on the ground floor.*

> *T4 Village Center Flex – West Kauai (T4VCF) – This Zone integrates main-street commercial and retail environments into neighborhoods, providing access to day-to-day amenities within walking distance, creating potential for a transit stop, and serving as a focal point for the neighborhood. The Flex condition provides the same building forms but allows for a more diverse mix of uses on the ground floor.*

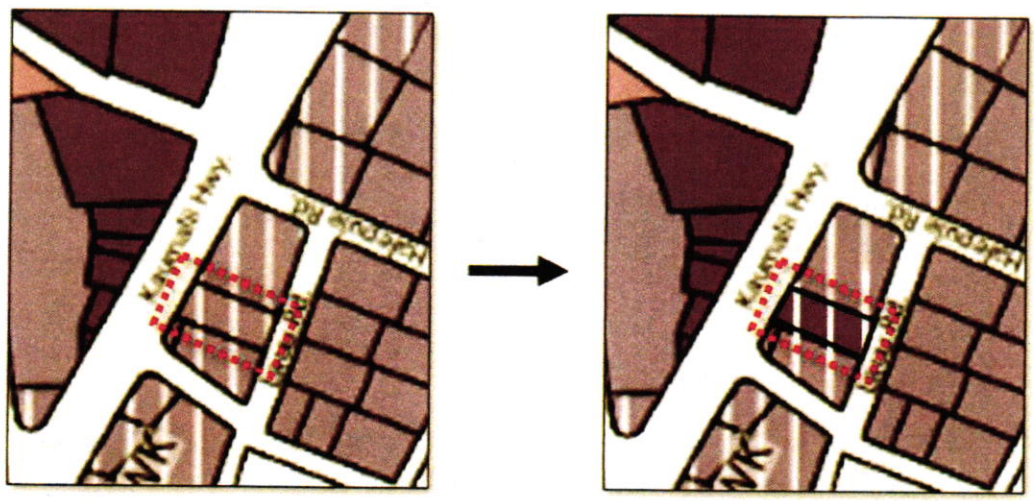


Figure 1. Proposed Transect Zone Change

OCT 13 2026

Figure 2.1.020.B Waimea Transect Map

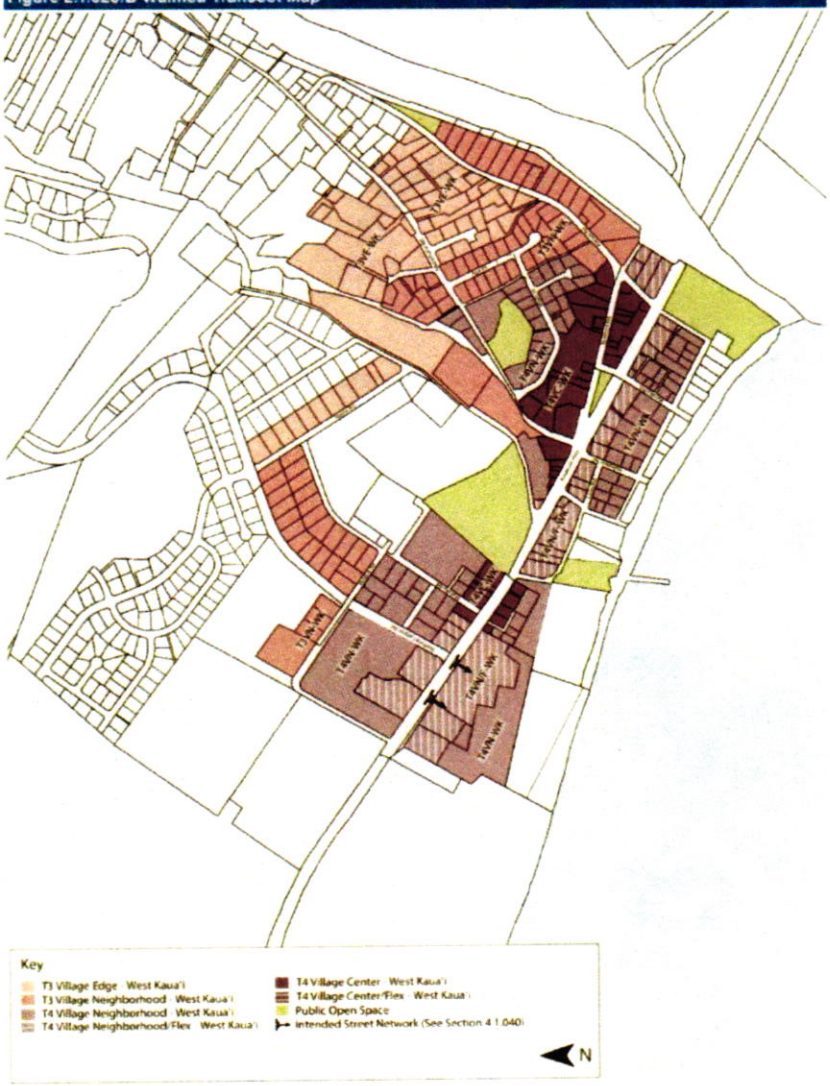


Figure 2. West Kauai Community Plan Appendix C (implementing Ordinance No. 1083 as Exhibit 2, "Waimea Town Walkable Mixed-Use District" codified in Kaua'i County Code Chapter 10, Article 3, Section 10-3.5 (a) (2) as "Special Planning Area L") West Kauai Form Based Code page 2.1-3 (Establishment and Designation of Transect Zones, Article 2).

T4 Village Neighborhood Flex (T4VNF)



T4 Village Center Flex (T4VNF)

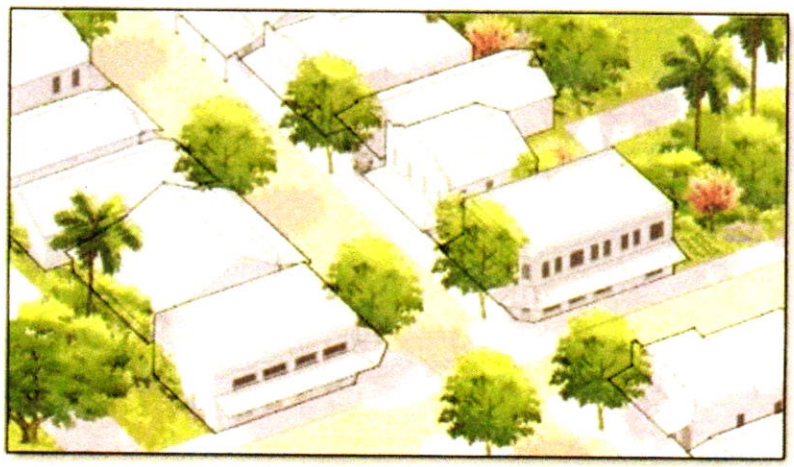


Figure 3. The approximate visual representation of T3VNF and T4VCF

This Transect Zone update from T4VNF to T4VCF modifies the allowable uses, allowable building types, and a range of site planning constraints. Please see proposed bill (Exhibit ZA-2026-7) outlining the spatial extent of this update and the West Kauai Transect Zone descriptions for reference, T4VNF (Exhibit A) and T4VCF (Exhibit B).

V. APPLICANT'S REASONS/JUSTIFICATION

The subject property is designated as "Town Center" under the West Kaua'i Community Plan, which envisions a walkable, mixed-use environment that supports local businesses and community-serving uses. The property is currently zoned Commercial with the Village Neighborhood (T4VNF) overlay, the proposed reclassification to Village Center (T4VCF) is more appropriate for fulfilling this vision. The Village Center (T4VCF) designation allows a broader mix of neighborhood-serving commercial and mixed-use activities consistent with a true Town Center environment, whereas the existing Village Neighborhood zoning is more limited in both intensity and allowable uses. Flood-related considerations that may have influenced earlier zoning decisions are now addressed through updated regulations, including Ordinance 1134, the Sea Level Rise Constraint District (2023), which provides a separate and comprehensive framework for managing such hazards.

Reclassifying the property to Village Center would also yield clear economic benefits by supporting local businesses and strengthening the long-term viability of Waimea's town center. Importantly, pursuing a use permit would not resolve the underlying inconsistency between the property's current zoning and its Town Center designation in the West Kaua'i Community Plan. A zoning amendment is therefore the more appropriate and effective tool for aligning the parcel's regulatory framework with the community's adopted vision.

VI. EVALUATION

The adoption of the West Kaua'i Community Plan (WKCP) in 2020, which included the West Kaua'i Form-Based Code (FBC), established the boundaries for the West Kaua'i FBC. The West Kaua'i Community Vulnerability Analysis—a technical study supporting planning efforts for the region—identified that the 2100 SRL-XA High Wave Run-Up hazard would affect downtown Waimea, particularly the makai side of Kaumuali'i Highway. Because the subject parcel lies within this hazard zone (Figure 4), the West Kaua'i FBC applied the T4 Village Neighborhood Flex (T4VNF) transect to the property, whereby limiting a range of commercial use despite the underlying of Kaua'i Commercial Zoning designation. This transect allows a more limited range of uses compared with parcels located on the mauka side of downtown Waimea because a regulatory program had not been established at the time of adoption (2020) to address future sea level rise hazards.

The subsequent adoption of the Sea Level Rise Constraint District in 2023 established a forward-looking regulatory program for property owners to manage and accommodate future sea level rise related hazards. Therefore, the previous WKCP reasoning, limiting a fuller range of uses, building types, and site planning constraints, is no longer applicable.



Figure 4. Sea Level Rise Constraint District Viewer indicating SLR-XA 2100 High Wave Run Up visualization highlighting the subject parcel (TMK: (4)1-6-007:029).

The Planning Department finds that the draft bill, as proposed, is consistent with the general provisions of the Special Planning Areas, and the vision, goals, and policies outlined in the West Kaua'i Community Plan (2020) and the General Plan (2018).

X. RECOMENDATION

Based on the foregoing evaluation, it is hereby recommended that Zoning Amendment ZA-2026-7 be **APPROVED.**

Attached as Exhibit ZA-2026-7 is the proposed draft bill and map.

By _____
ALAN CLINTON
Planner

Approved & Recommended to Commission:

By _____
KA'ĀINA S. HULL
Director of Planning

Date: 10/5/2026

EXHIBIT ZA-2026-7

ORDINANCE NO. _____ BILL NO. _____

A BILL FOR AN ORDINANCE AMENDING CHAPTER 10 ARTICLE 3, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE WEST KAUA'I COMMUNITY PLAN

(KAMISHITA INVESTMENTS LLC, Applicant) (ZA-2026-7)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I:

SECTION 1. The council finds that the adoption of the Sea Level Rise Constraint District (SLRCD) (2023), an implementing action of the Kaua'i General Plan (2018) and West Kaua'i Community Plan (2020), outlines a regulatory program to mitigate future sea level rise high wave-runup impacts that was not adopted during the drafting of the West Kaua'i Form Based Code and that a zoning amendment is necessary to accommodate development use and design considerations in Waimea Town. Prior to adoption of the SLRCD, these anticipated impacts led the Planning Department to recommend a more constrained set of permissible uses and building types via the West Kaua'i Form Based Code, formally codified in the Kaua'i County Code as "Special Planning Area L".

The purpose of this Ordinance is to amend Section 10-3.5, Kaua'i County Code 1987, as amended, by amending a map-figure within the West Kauai Form-Based Code attached hereto and incorporated here in as Exhibit A.

SECTION 2: The Transect Zone Designation for a parcel, identified as Tax Map Key: (4)1-6-007:029, is hereby amended from "T4 Village Neighborhood Flex (T4VNF)" to "T4 Village Center Flex (T4VCF)". Section 10-3.5, Kaua'i County Code 1987, as amended, is hereby amending Figure 2.1.020.B Waimea Transect Map in the booklet titled "West Kaua'i Form-Based Code.

SECTION 3: The Planning Department is directed to note the changes on the official exhibit, West Kaua'i Form Based Code - Figure 2.1.020, on file with the Department.

SECTION 4: If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the

invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 5: This Ordinance shall take effect upon its approval.

Introduced by: ADDISON BULOSAN

DATE OF INTRODUCTION: XX/XX/XXXX

EXHIBIT A

Figure 2.1.020.B Waimea Transect Map

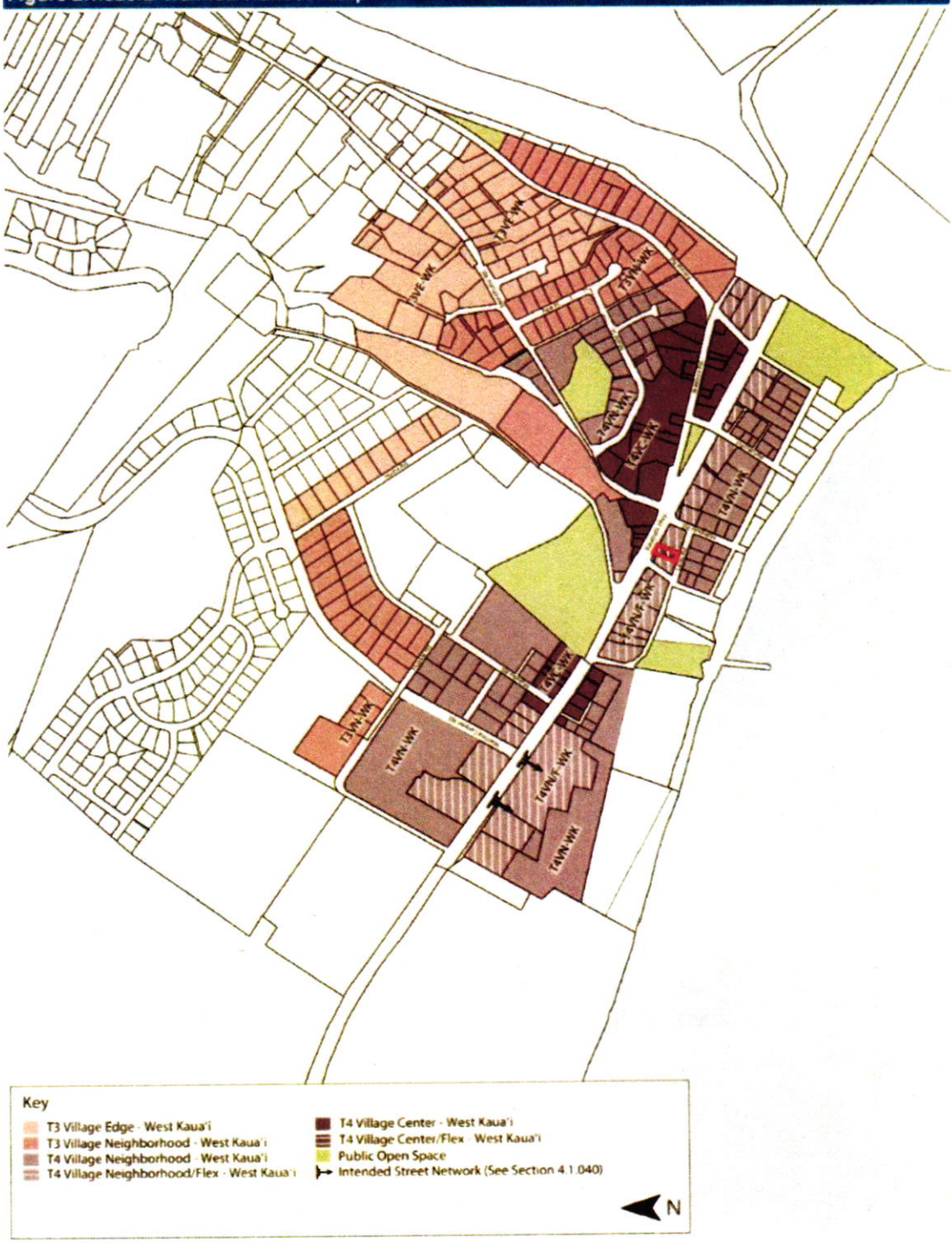


EXHIBIT A

2.2.060 T4 Village Neighborhood - West Kaua'i (T4VN-WK) and Flex (T4VN/F-WK)



General note: the illustrations above are intended to provide a brief overview of the transect zone and are descriptive in nature.

A. Zone Intent and Description

This Zone integrates appropriate, medium-density residential building types such as duplexes and multiplex: small with limited retail and service uses in an environment conducive to walking and bicycling.

Sub-Zone(s)

T4 VN/F-WK

The flex sub-zone provides the same building forms but allows for a more diverse mix of uses on the ground floor.

B. Allowed Building Types

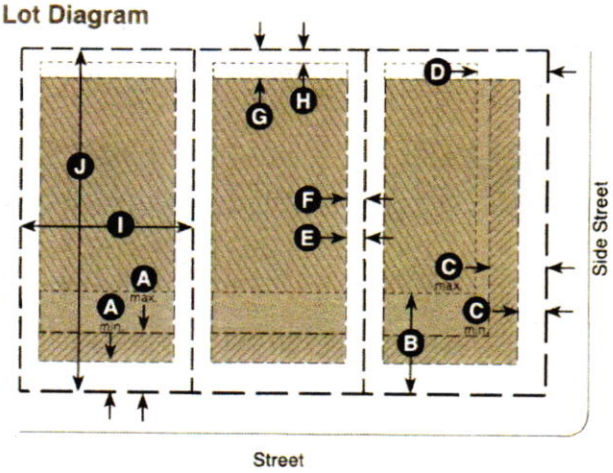
Building Type	Standards
House Village	3.2.040
House Cottage	3.2.050
Duplex	3.2.060
Multiplex: Small	3.2.070
Multiplex: Large	3.2.080

Multiple building types allowed per lot. See Section G. (Multiple Buildings) for additional standards.

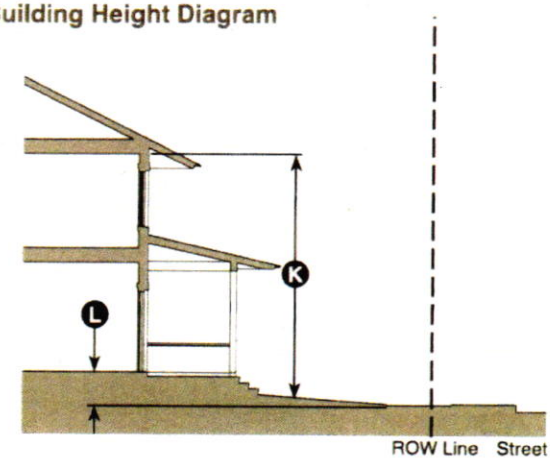
Non-habitable accessory structures do not require a building type.

Accessory structures are allowed throughout the Zone, including on lots where no building exists.

Lot Diagram



Building Height Diagram



Key

--- ROW/ Lot Line

--- Setback Line

Main Building(s) Zone

Acc Structure(s) Zone

Facade Zone

Key

C. Building Placement

Setbacks (Distance from ROW / Property Line)

Front		
Building(s)	10' min.; 20' max.	A
Accessory Structure(s)	35' min.	B
Side Street		
Building(s)	10' min.; 20' max.	C
Accessory Structure(s)	25' min.	D
Side		
Building(s)	5' min.	E
Accessory Structure(s)	5' min.	F
Rear		
Building(s)	10' min.	G
Accessory Structure(s)	5' min.	H
Building within Facade Zone		
Front	70% min.	
Side Street	50% min.	

Lot Size

Width	30' min.	I
Depth	80' min.	J

Where existing adjacent buildings are in front of the front setback, the building may be set to align with the facade of the front most immediately adjacent property.

Fences and walls have no setback requirements and are not subject to the regulations for accessory structures. Their height is regulated in Chapter 8.

C. Building Placement (continued)

Loading docks and other service entries may not be located on street-facing facades.

D. Building Form

Height

Building(s)	2 stories max. 30' to peak max.	K
Accessory Structure(s)	14' to peak max.	
Ground Floor Finish Level [1,2]		L
Residential	12" min.[3]	
Commercial	0" min.	

See Sub-Article 3.2 (Specific to Building Types) for massing standards.

[1] Finished grade at main entry must not be greater than 4' from existing grade per CZO Section 8-4.5.

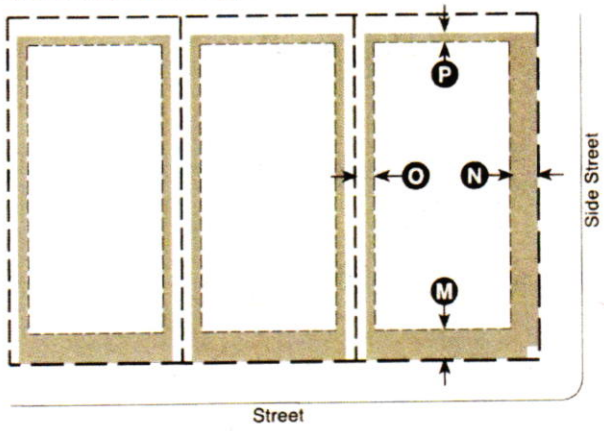
[2] Common entries for Multi-unit buildings may be set at grade in compliance with local and federal accessibility standards.

[3] Required when facing a street and/or public right of way.

Footprint

Lot Coverage	
T4VN-WK	60% max.
T4VN/F-WK	80% max.
Depth, Ground Floor Space	
Commercial	30' min.
Accessory Structure:	36' max. x 30' max.

Encroachment Diagram

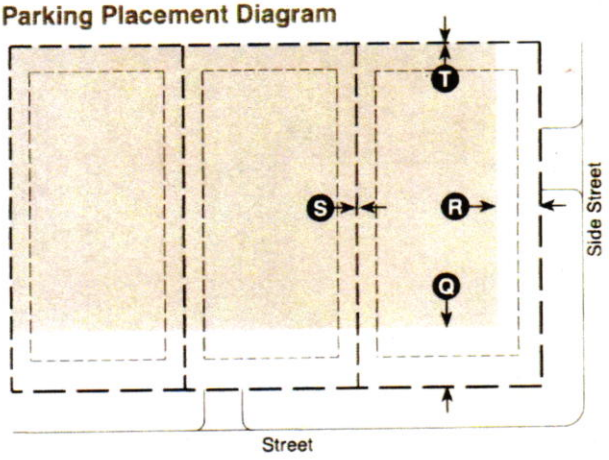


Key

--- ROW / Property Line
--- Setback Line
Encroachment Area

E. Encroachments Into Setbacks		
Architectural Features		
Front	5' max.	M
Side Street	5' max.	N
Side	3' max.	O
Rear	3' max.	P
Encroachments are not allowed within a Street ROW/Alley ROW or across a property line.		
All frontage types are allowable encroachments.		
See Sub-Article 3.3 (Specific to Private Frontages) for description of frontage types and additional standards.		
Non-habitable accessory structures do not require a frontage type.		

Parking Placement Diagram

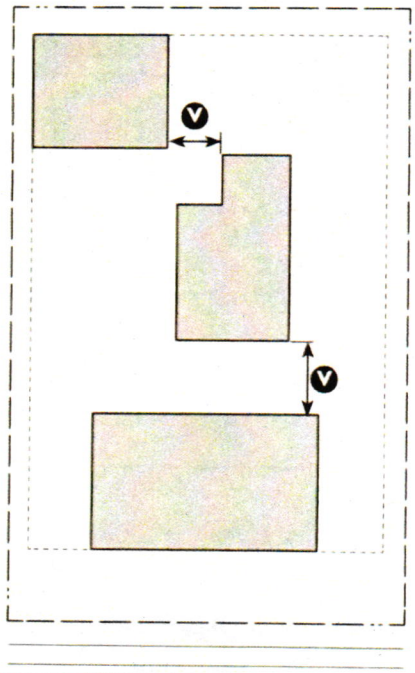


Key

--- ROW / Property Line
--- Building Setback Line
Parking Area

F. Parking		
Required Spaces for Residential Uses		
All Allowed Residential Uses	1 sp/1500 gsf min.	
All Other Allowed Uses	2 sp/1000 gsf min.	
See Section 3.1.010 (Additional Parking Regulations in Transect Zones) for additional parking standards.		
Parking Setbacks (Setback from Property Line)		
Front Setback	30' min.	Q
Side Street Setback	20' min.	R
Side Setback	0' min.	S
Rear Setback	0' min.	T
Miscellaneous		
Carport(s) and associated parking space(s) may encroach into Front and Side Street Parking Setbacks up to the minimum Front and Side Street Building Setbacks. See Sub-Section 3.1.010.H (Carports) for additional design standards.		
Driveways may be shared between adjacent parcels.		

Building Separation Diagram



Key

--- ROW / Property Line ▭ Building

····· Setback Line

G. Multiple Buildings

Standards apply to lots with 2 or more buildings.

Lots ≤100' in width and ≤1.5 acres may have multiple buildings per lot provided all zone and building type standards are satisfied. For lots >100' in width or >1.5 acres see Section 4.1.040 (Design Sites).

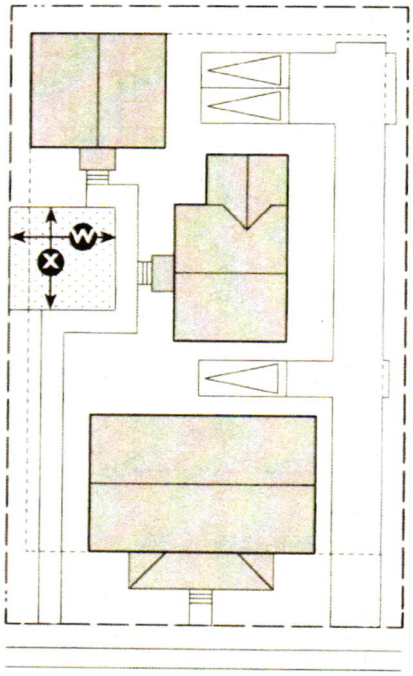
Building Separation		
Clear space between adjacent buildings	10' min.	Ⓥ
Common Open Space for Lot		
Width	20' min.	Ⓦ
Depth	20' min.	Ⓧ

Common Open Space for Lot counts towards some or all Common Open Space for Buildings Types requirement in Sub-Article 3.2 (Specific to Building Types)

All buildings not fronting a street must front Common Open Space

Buildings fronting Common Open Space must provide a frontage along Common Open Space

Common Open Space Diagram



Key

--- ROW / Property Line ▭ Building

····· Setback Line ▭ Comm. Open Space

G. Multiple Buildings (continued)

Units may be accessible directly from Common Open Space

Common Open Space is not allowed to encroach into front setback.

Encroachments into Common Open Space are not allowed

Designated parking shall not occur in any Common Open Space.

All buildings must comply with Table B. (Building Types)

There is no open space requirement for accessory structures.

H. Use Table

Land Use Type[1]	Specific Use Regulations	T4VN	T4VN/F
Residential			
Single Family Dwelling Units			
Detached		P	P
Attached		P	P
Multiple Family Dwelling Units		P	P
Accessory Structures		P	P
Adult Family Boarding and Family Care Homes		P	P
Home Businesses		P	P
Dormitories and Boarding Houses		U	U
Hotels and Motels		—	—
Lodging			
Inn ≤6 units		—	—
Hotel >6 units		—	—
Transient Vacation Rentals		—	—
Residential Care Homes		P	P
Adult Family Group Living Home		P	P

Land Use Type[1]	Specific Use Regulations	T4VN	T4VN/F
Recreation, Education & Public Assembly			
Public and Private Parks		P	P
Zoological Gardens		U	U
Botanical Gardens			
Public		P	P
Private		U	U
Cemeteries, Mortuaries and Crematoriums		U	U
Churches, Temples, and Monasteries		U	U
Clubs, Lodges and Community Centers			
≤3,000 sf		P	P
>3000 sf		U	U
Golf courses.		U	U
Museums, Libraries and Public Services and Facilities		U	U
School		U	U
Day-care Center		P	P
Studio: Dance or Exercise		U	P

Key	
P	Permitted Use
U	Use Permit Required
—	Use Not Allowed

End Notes

[1]Any other unlisted use or structure that the Planning Director finds to be similar in nature to those listed in this Section as requiring a Use Permit may also be allowed with a Use Permit in this Transect Zone.

H. Use Table (continued)

Land Use Type[1]	Specific Use Regulations	T4VN	T4VN/F
Retail			
Bar		—	U
Nightclub		—	U
Retail Shops and Stores, except with the following features:		U	P
Alcoholic beverage sales		—	P
On-site Production of Items Sold >5,000 sf Floor Area >10,000 sf		—	U
Restaurants and Food Services		U	P
Agricultural			
Diversified and Specialized Agriculture and Nurseries		—	U
Pet Keeping		—	—
Pet Raising		—	—
Piggery		—	—
Poultry Raising		—	—
Stock Raising		—	—
Services			
Medical and Nursing Facilities		U	P
Household Services		U	P
Personal Services		U	P
Professional Offices		U	P
Animal Hospital		—	U

Land Use Type[1]	Specific Use Regulations	T4VN	T4VN/F
Vehicle Sales and Services			
Automobile Sales		—	—
Automobile Services		—	—
Automobile Repair		—	—
Automobile Storage		—	—
Transportation & Infrastructure			
Private and Public Utilities and Facilities		U	U
Transportation Terminals and Docks		U	U
Telecommunication Facilities			
Communication Facilities		U	U
Industrial, Manufacturing & Processing			
Construction Material Storage		—	—
Food Processing and Packaging		—	—
Light Manufacturing		—	—
Warehouse		—	—
Other			
Accessory Structures		P	P

Key	
P	Permitted Use
U	Use Permit Required
—	Use Not Allowed

End Notes

[1]Any other unlisted use or structure that the Planning Director finds to be similar in nature to those listed in this Section as requiring a Use Permit may also be allowed with a Use Permit in this Transect Zone.

3.2.060 Duplex



A side-by-side duplex with each unit having its own stoop



A stacked duplex with private lānai



A one and a half-story side-by-side duplex

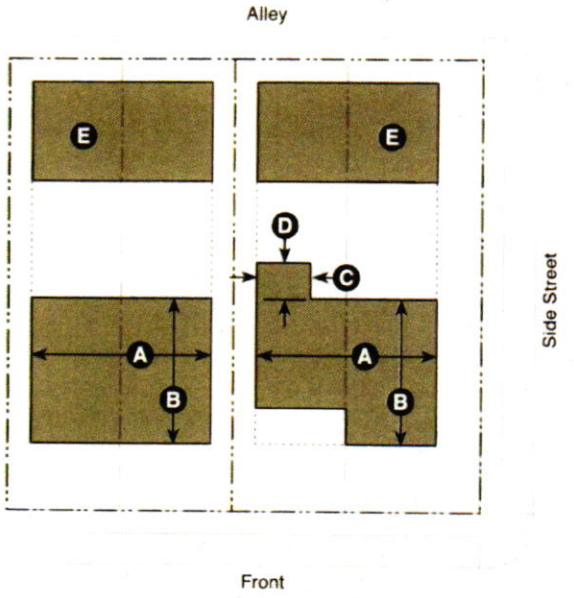
A. Description

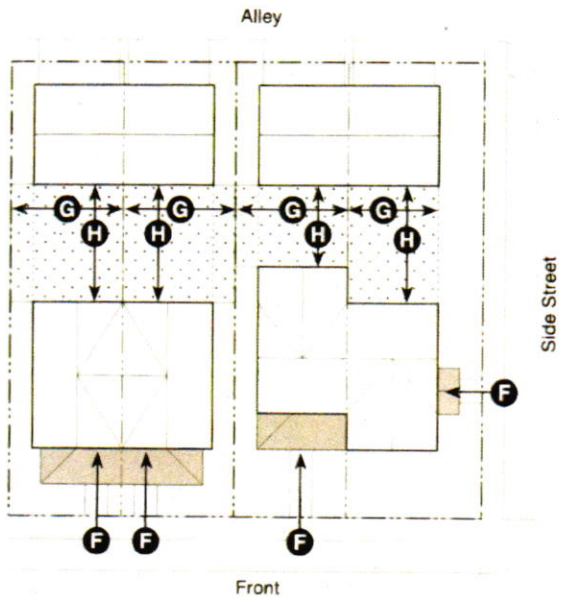
Duplex: This Building Type is a small- to medium-sized structure that consists of two side-by-side or stacked dwelling units, both facing the street, and sharing one common party wall. This Type has the appearance of a medium to large single-family home and is appropriately scaled to fit within primarily single-family neighborhoods or medium density neighborhoods. It enables appropriately-scaled, well-designed higher densities and is important for providing a broad choice of housing types and promoting walkability.

T3VE **T3VN** **T4VN** T4VC

T# Allowed T# Not Allowed

General Note: Photos on this page are illustrative, not regulatory.





Key

--- ROW / Property Line
Shared Property
..... Line[1] Setback Line
Building

Key

--- ROW / Property Line
..... Setback Line
Frontage
Private Open Space

B. Number of Units		
Units in Building	2 max.	
C. Building Size and Massing		
Main Body		
Width	48' max.	A
Width	40' max.	B
Secondary Wing(s)		
Width	15' max.	C
Depth	20' max.	D
Miscellaneous		
Accessory structures shall not be taller or have a larger footprint than the building(s) on the lot.		E

D. Building Frontages (Choose One per Building)	
Front Yard	Lānai, Projecting
Lānai, Engaged	Stoop
E. Pedestrian Access	
Main Entrance Location	Front[1] F
Each unit shall have an individual street-facing entry on the front facade, or no more than 10' behind.	
[1] On corner lots, each unit shall front a different street.	
F. Vehicle Access and Parking	
Parking may be accessed from the front only when there is no adjacent alley or side street.	
G. Private Open Space for Building Type	
Width	15' per unit, min. G
Depth	15' per unit, min. H
Required private open space must be located behind the main body of the house.	
A private open space is not required when there is a designated common open space proposed in conjunction with other House Village, House Cottage, or Duplex building types on the same lot.	

3.2.050 House Cottage



Single story house cottage with side projecting lānai



Single story house cottage with engaged front lānai



Single story house cottage with commercial use

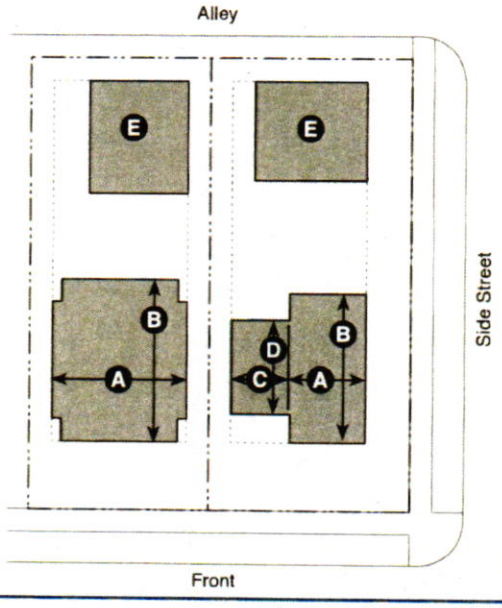
A. Description

House Cottage: This Building Type is a small detached structure on a small lot that incorporates one unit. It is typically located within a primarily single-family neighborhood in a walkable urban setting, potentially near a neighborhood main street. This Type enables appropriately-scaled, well-designed higher densities and is important for providing a broad choice of housing types and promoting walkability.

T3VE **T3VN** **T4VN** T4VC

T# Allowed T# Not Allowed

General Note: Photos on this page are illustrative, not regulatory.

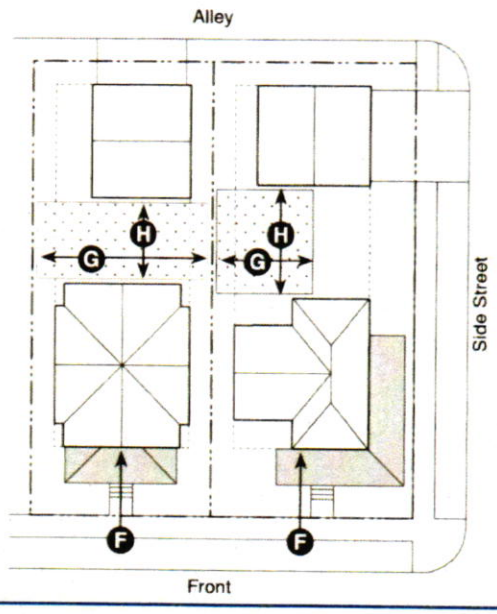


Key

--- ROW / Property Line ▭ Building

····· Setback Line

B. Number of Units		
Units in Building	1 max.	
C. Building Size and Massing		
Main Body		
Width	36' max.	A
Depth	36' max.	B
Secondary Wing(s)		
Width	20' max.	C
Depth	20' max.	D
Miscellaneous		
Accessory structures shall not be taller or have a larger footprint than the building(s) on the lot.		E



Key

--- ROW / Property Line ▭ Frontage

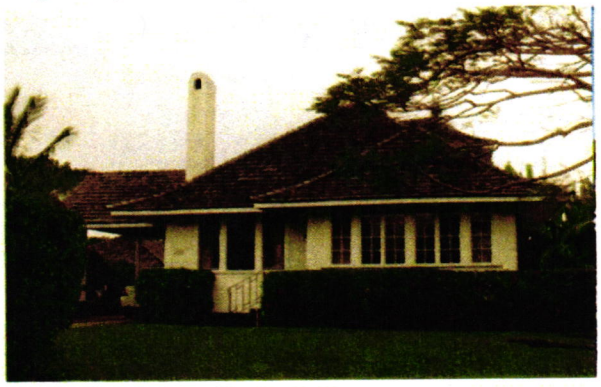
····· Setback Line ▭ Private Open Space

D. Building Frontages (Choose One per Building)		
Front Yard	Lānai, Projecting	
Lānai, Engaged	Stoop	
E. Pedestrian Access		
Main Entrance Location	Front	F
F. Vehicle Access and Parking		
Parking may be accessed from the front only when there is no adjacent alley or side street.		
G. Private Open Space		
Width	15' min.	G
Depth	15' min.	H
Required private open space must be located behind the main body of the House Cottage, except in T4VC when House Cottage building is located behind a street-fronting building.		
A private open space is not required when there is a designated common open space proposed in conjunction with other House Village, House Cottage, or Duplex building types on the same lot.		

3.2.040 House Village



Single-story house village with engaged front lānai



Single-story house village



House village form with commercial use

A. Description

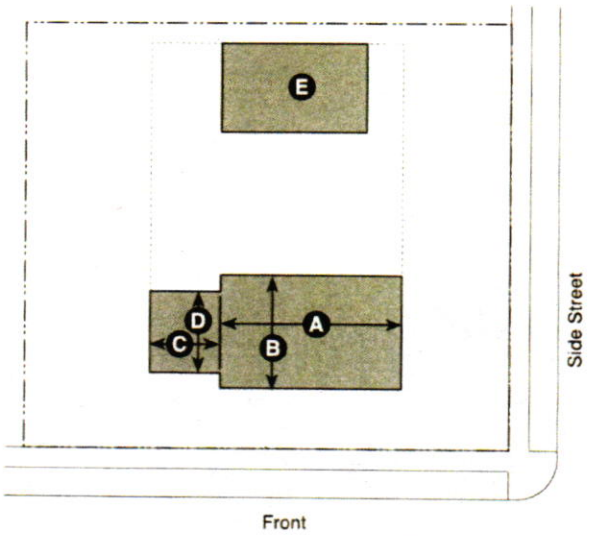
House Village: This Building Type is a medium-sized detached structure on a medium-sized lot that incorporates one unit. It is typically located within a primarily single-family residential neighborhood in a walkable urban setting, potentially near a neighborhood main street.

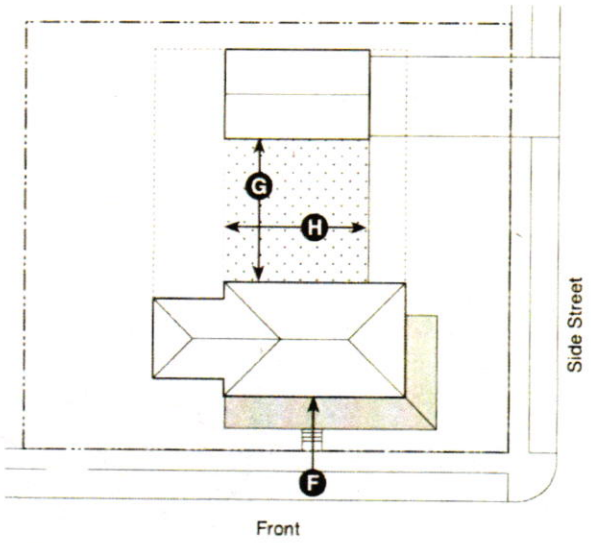
T3VE **T3VN** **T4VN** **T4VC***

T# Allowed T# Not Allowed

* Allowed, but only behind the street fronting building.

General Note: Photos on this page are illustrative, not regulatory.





Key

--- ROW / Property Line
····· Setback Line
Building

B. Number of Units		
Units in Building	1 max.	
C. Building Size and Massing		
Main Body		
Width	50' max.	A
Depth	40' max.	B
Secondary Wing(s)		
Width	30' max.	C
Depth	30' max.	D
Miscellaneous		
Accessory structures shall not be taller or have a larger footprint than the building(s) on the lot.		E

Key

--- ROW / Property Line
····· Setback Line
Frontage
Private Open Space

D. Building Frontages (Choose One per Building)		
Front Yard	Lānai, Projecting	
Lānai, Engaged	Stoop	
E. Pedestrian Access		
Main Entrance Location	Front	F
F. Vehicle Access and Parking		
Parking may be accessed from the front only when there is no adjacent alley or side street.		
G. Private Open Space		
Width	20' min.	G
Depth	20' min.	H
Required private open space must be located behind the main body of the House Village.		
A private open space is not required when there is a designated common open space proposed in conjunction with other House Village, House Cottage, or Duplex building types on the same lot.		

3.2.080 Multiplex: Large



A multiplex: large with all units accessed form a central courtyard which provides communal open space.



A courtyard with communal seating for residents and guests



C-shaped multiplex: large –all units enter from courtyard

A. Description

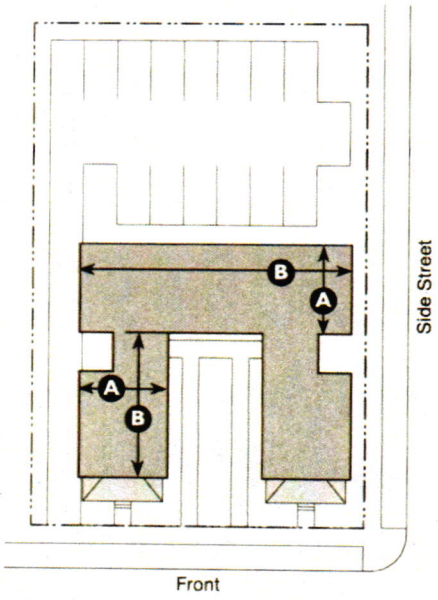
Multiplex Large: This Building Type is a medium- to large-sized structure that consists of multiple side-by-side and/or stacked dwelling units accessed from a courtyard or series of courtyards. Each unit may have its own individual entry, or up to three units may share a common entry. It enables appropriately-scaled, well-designed higher densities and is important for providing a broad choice of housing types and promoting walkability. Use of Optional Secondary Wings, in addition to Main Body massing can create courtyards, such as those depicted in the illustrative photographs for this building type.

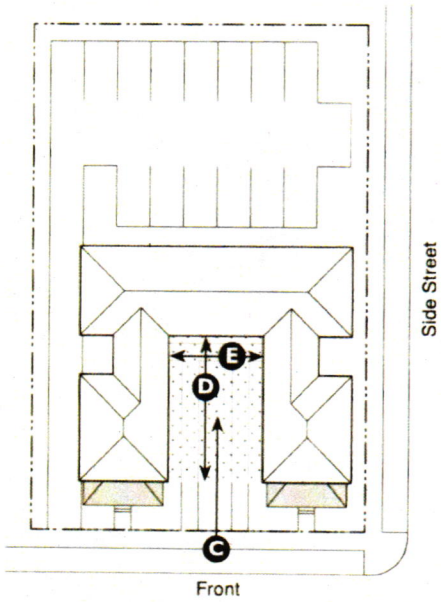
T3VE	T3VN	T4VN	T4VC

T# Allowed T# Not Allowed

T# Allowed in Flex Sub-Zone

General Note: Photos on this page are illustrative, not regulatory.





Key

--- ROW / Property Line
····· Setback Line
Building

B. Number of Units		
Units in Building	7 min.;18 max.	
C. Building Size and Massing		
Main Body / Optional Secondary Wing(s)		
Width	150' max.	A
Depth	65' max.	B
D. Building Frontages (Choose One per Building)		
Lānai, Projecting	Lānai, Engaged	
Stoop	Dooryard	
Forecourt	Shopfront	
Terrace		

Key

--- ROW / Property Line
····· Setback Line
Frontage
Common Open Space

E. Pedestrian Access	
When courtyards are included in building design, at least one courtyard shall be accessible and visible from the front.	C
Units shall be accessed from a courtyard or directly from a street.	
F. Vehicle Access and Parking	
Parking may be accessed from the front only when there is no adjacent alley or side street.	
G. Common Open Space for Building Type	
Width: 20' min.; 50' max.	D
Depth: 20' min.; 150' max.	E
Common Open Space required for this Building Type may count towards Common Open Space requirement for lots with multiple buildings.	
For lots with multiple buildings, Common Open Space for Building Type standards apply per each instance of a building type on the lot.	

3.2.070 Multiplex: Small



A multiplex: small with a single entry accessing all units



A multiplex: small with multiple entries along the front



A multiplex: small with a single entry accessing all units

A. Description

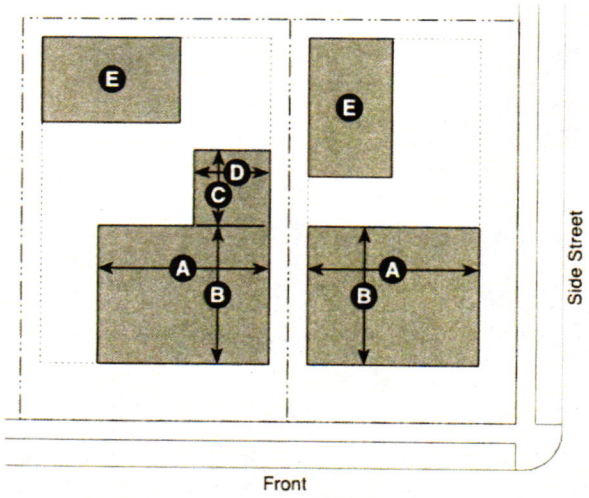
Multiplex Small: This Building Type is a medium structure that consists of three to six side-by-side and/or stacked dwelling units, typically with one shared entry or individual entries along the front. This Type has the appearance of a medium-sized family home and is appropriately scaled to fit in sparingly within primarily single-family neighborhoods or into medium-density neighborhoods. This Type enables appropriately-scaled, well-designed higher densities and is important for providing a broad choice of housing types and promoting walkability.

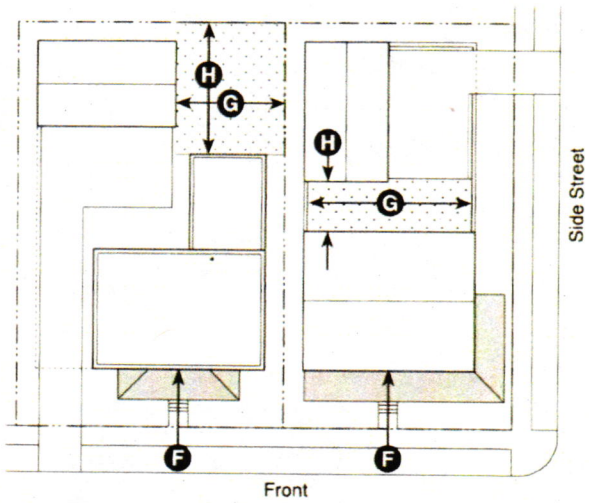
T3VE	T3VN	T4VN	T4VC

T# Allowed T# Not Allowed

T# Allowed in Flex Sub-Zone

General Note: Photos on this page are illustrative, not regulatory.





Key

--- ROW / Property Line
····· Setback Line
Building

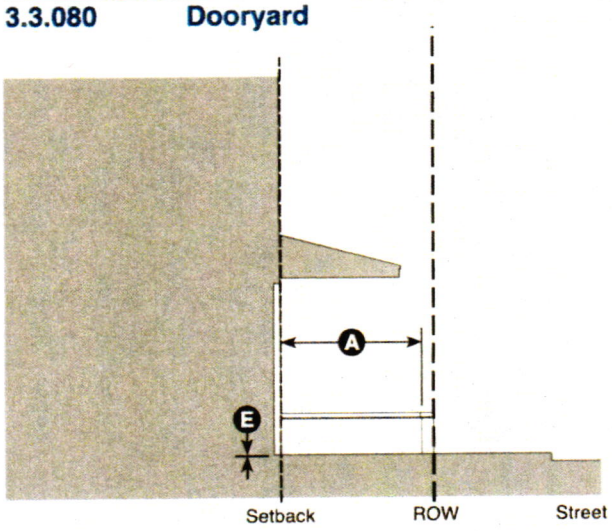
B. Number of Units		
Units in Building	3 min.; 6 max.	
C. Building Size and Massing		
Main Body		
Width	48' max.	A
Depth	36' max.	B
Secondary Wing(s)		
Width	24' max.	C
Depth	24' max.	D
Miscellaneous		
Accessory structures shall not be taller or have a larger footprint than the building(s) on the lot.		E

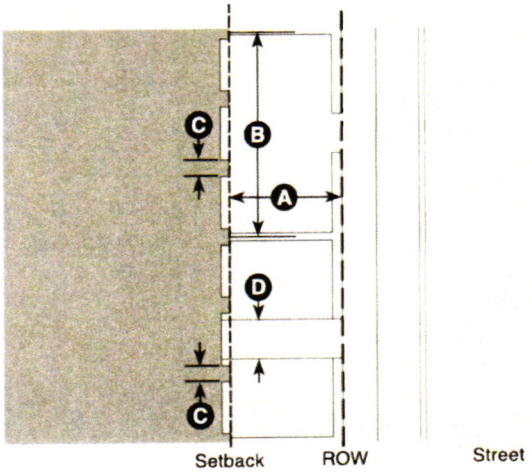
Key

--- ROW / Property Line
····· Setback Line
Frontage
Common Open Space

D. Building Frontages (Choose One per Building)		
Front Yard	Lānai, Projecting	
Lānai, Engaged	Stoop	
Dooryard		
E. Pedestrian Access		
Main Entrance Location	Front	F
Each unit may have an individual entry.		
F. Vehicle Access and Parking		
Parking may be accessed from the front only when there is no adjacent alley or side street.		
G. Common Open Space		
Width	8' min.	G
Depth	8' min.	H
Common Open Space required for this Building Type may count towards Common Open Space requirement for lots with multiple buildings.		
For lots with multiple buildings, Common Open Space for Building Type standards apply per each instance of a building type on the lot.		

3.3.080 Dooryard





Key

--- ROW / Property Line ····· Setback Line

Each street-fronting building shall have at least one frontage type for each street frontage.

A. Description

Dooryard: The frontage line is defined by a low wall or hedge and the main facade of the building is set back to create a dooryard. The dooryard shall not provide public circulation along a ROW. The dooryard may be raised, sunken, or at grade and is intended for ground floor residential in flex transect zones, live/work, and small commercial uses ≤2,500 sf.

B. Size

Depth, clear	8' min.	A
Length	15' min.; 50' max.	B
Distance between Glazing	4' max.	C
Depth of Recessed Entries	5' max.	
Path of Travel	3' wide min.	D
Finish Level above Sidewalk	3'-6" max.	E

C. Miscellaneous

For live/work, retail, service, and restaurant uses, the Shopfront Frontage Type is to be applied in conjunction with this Type.

Low walls used as seating are encouraged.

For front-loaded lot conditions, pedestrian entrance must be separate from vehicle entrance.

Ramps may require additional approval by Director.

These standards are to be used in conjunction with those for the Shopfront Frontage Type. In case of conflict between them, the Dooryard standards shall prevail.

C. Miscellaneous (continued)

Shall not be used for circulation for more than one ground floor entry.

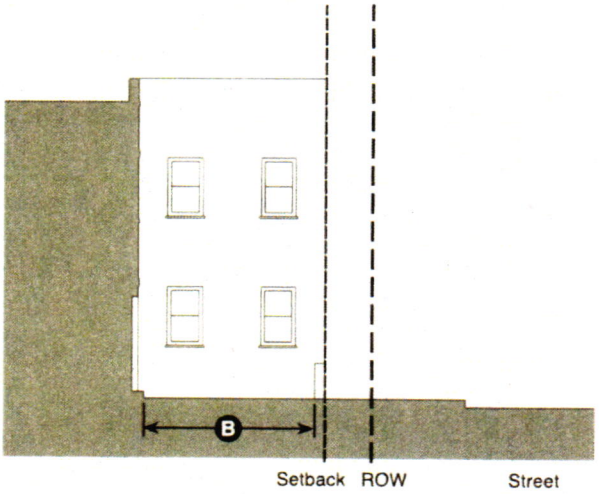


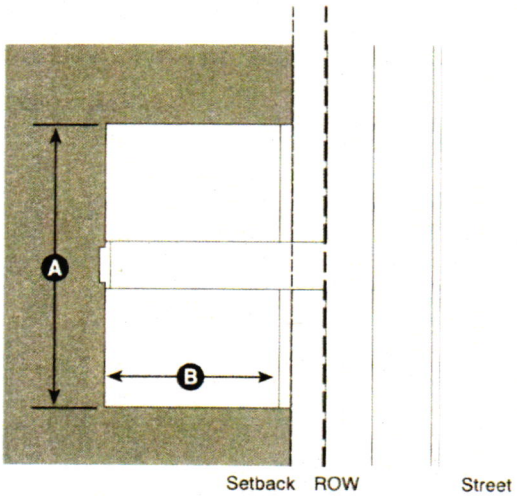
An example of a series of small commercial dooryards



Small Dooryards include low fences to provide a visual transition from the public sidewalk.

3.3.090 Forecourt





Key

--- ROW / Property Line ····· Setback Line

Each street-fronting building shall have at least one frontage type for each street frontage.

A. Description

Forecourt: The main facade of the building is at or near the frontage line and a small percentage is set back, creating a small court space. The space could be used as an entry court or shared garden space for apartment buildings, or as an additional shopping or restaurant seating area within commercial areas.

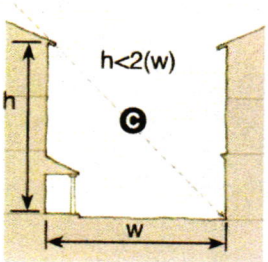
B. Size

Width, clear	12' min.	A
Depth, clear	12' min.	B
Ratio, Height to Width	2:1 max.	C

C. Miscellaneous

Finish level of forecourt above sidewalk may be used to access entries at a common elevation in compliance with Ground Floor Finish Level standards per each applicable zone.

The proportions and orientation of these spaces should be carefully considered for solar orientation and user comfort.



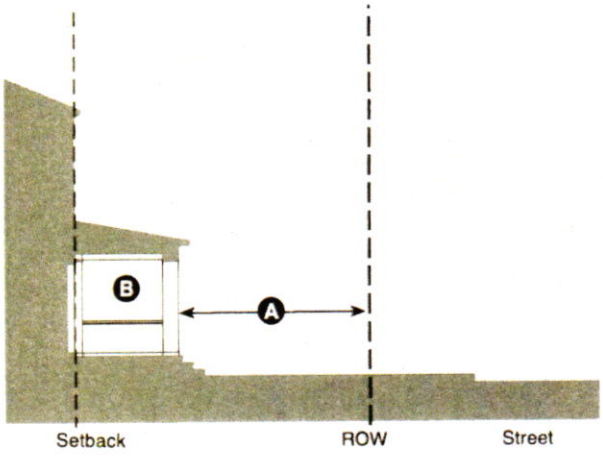


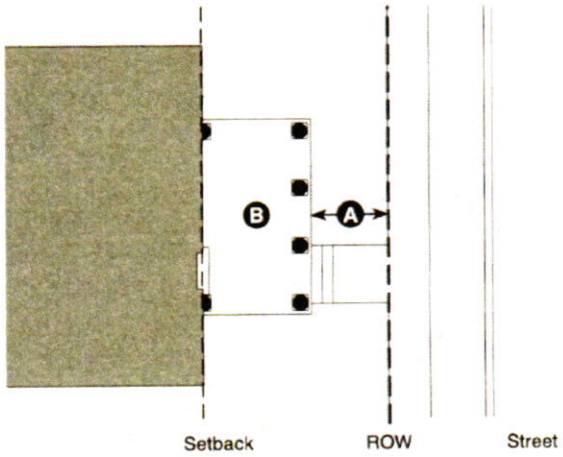
This residential forecourt provides a prominent entry yard and breaks down the overall massing along the street



This commercial forecourt provides an outdoor dining area along a vibrant commercial street. The ROW is defined by a low wall as required by this code

3.3.040 Front Yard





Key

--- ROW / Property Line ····· Setback Line

A. Description

Front Yard: The main facade of the building has a large planted setback providing a buffer from the street. The yard may be fenced or unfenced.

B. Size

Depth	10' min.	A

C. Miscellaneous

Front Yard Frontages shall be used in conjunction with another allowed private frontage type, such as a lānai. B

Each street-fronting building shall have at least one frontage type for each street frontage.

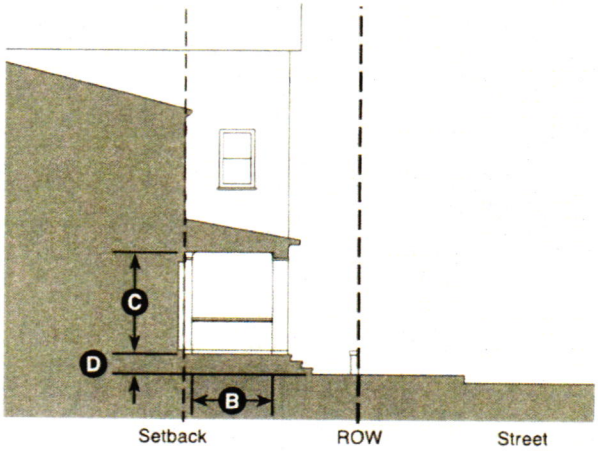


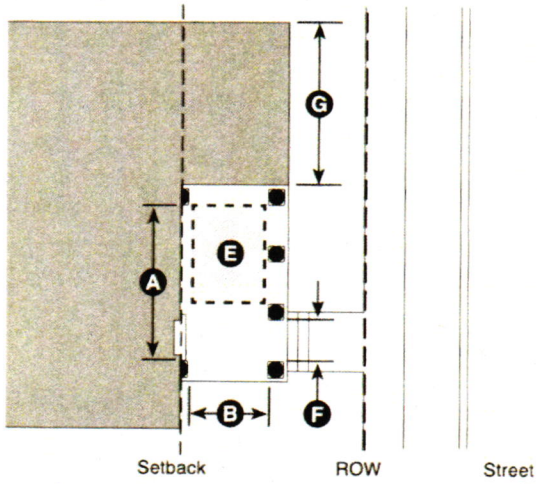
The front yards of these houses form a continuous front yard



An example of a front yard with an engaged Lānai

3.3.060 Lānai: Engaged





Key

--- ROW / Property Line ····· Setback Line

Each street-fronting building shall have at least one frontage type for each street frontage.

A. Description

Lānai, engaged: The main facade of the building has a small to medium setback from the frontage line. The resulting front yard is typically very small and can be defined by a fence or hedge to spatially maintain the edge of the street. The engaged lānai has two adjacent sides of the lānai that are engaged to the building while the other two sides are open.

B. Size

Width, clear	10' min.	A
Depth, clear	8' min.	B
Height, clear	8' min.	C
Height	2 stories max.	
Finish Level above Sidewalk	12" min.	D
Furniture Area, clear	4' x 6' min.	E
Path of Travel	3' wide min.	F

C. Miscellaneous

Up to $^{2}/_{5}$ of the building facade may project beyond the setback line into the encroachment area for this frontage type. G

Any engaged lānai must have a roof.

In transect zones where both lānai and encroachments are allowed, a lānai and up to $^{2}/_{5}$ of the building facade is an allowable encroaching element.

Ramps may require additional approval by Director.

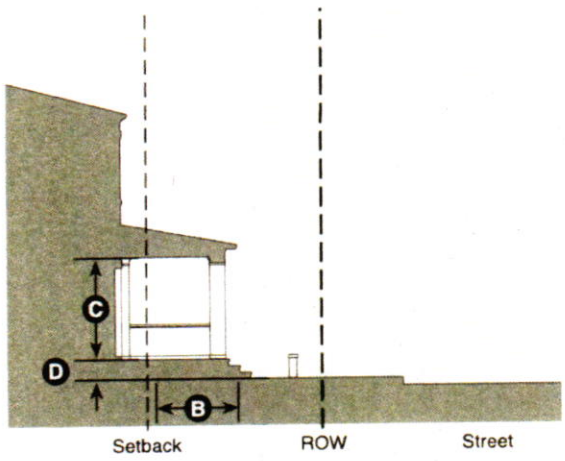


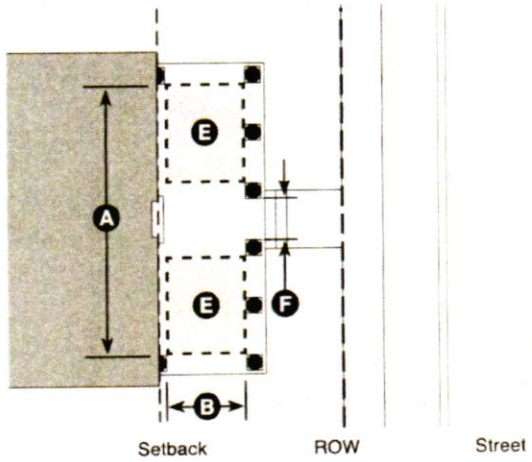
An engaged lānai that slightly projects beyond front facade



An example of an engaged lānai

3.3.050 Lānai: Projecting





Key

--- ROW / Property Line ····· Setback Line

Each street-fronting building shall have at least one frontage type for each street frontage.

A. Description

Lānai, projecting: The main facade of the building has a small to medium setback from the frontage line. The resulting front yard is typically very small and can be defined by a fence or hedge to spatially maintain the edge of the street. The projecting lānai is open on three sides and all habitable space is located behind the setback line

B. Size

Width, clear	10' min.	A
Depth, total	8' min.	B
Height, clear	8' min.	C
Height	2 stories max.	
Finish Level above Sidewalk	12" min.	D
Furniture Area, clear	4' x 6' min.	E
Path of Travel	3' wide min.	F

C. Miscellaneous

Any projecting lānai must have a roof.

A lānai is an allowable encroaching element when allowed per the applicable zone.

Ramps may require additional approval by Director.

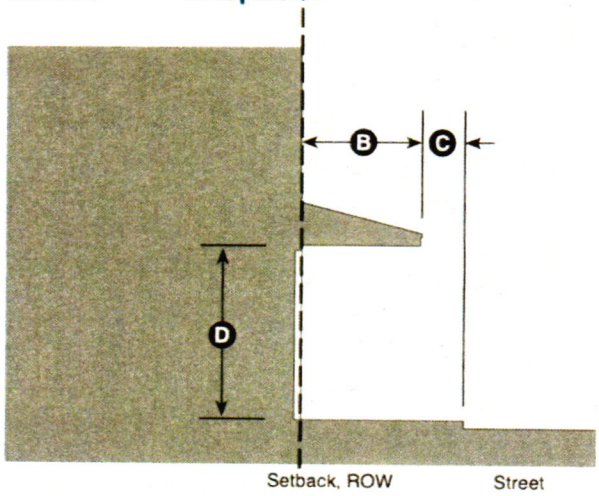


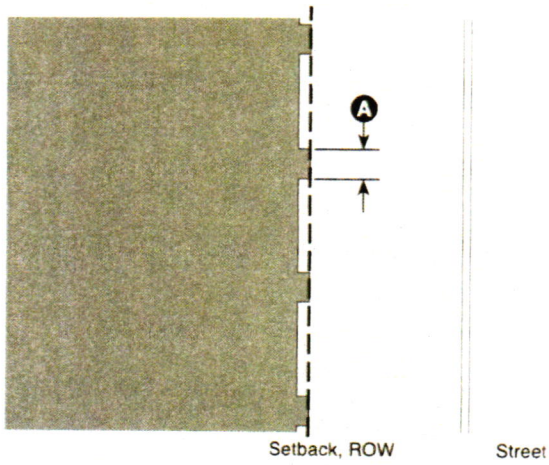
A wrap-around projecting lānai



Projecting lānai integrated into the building's overall roof form

3.3.100 Shopfront





Key

--- ROW / Property Line ····· Setback Line

Each street-fronting building shall have at least one frontage type for each street frontage.

A. Description

Shopfront: The main facade of the building is at or near the frontage line with an at-grade entrance along the public way. This type is intended for retail use. It has substantial glazing at the sidewalk level and may include an awning that may encroach the sidewalk. It may be used in conjunction with dorryard and gallery frontage types.

B. Size

Distance between Glazing	2' max.	A
Ground Floor Transparency	75% min.	
Depth of Recessed Entries	5' max.	

C. Awning

Depth	4' min.	B
Setback from Curb	2' min.	C
Height, clear	8' min.	D

D. Miscellaneous

Residential windows at grade shall not be used.

Operable awnings are encouraged.

Open-ended awnings are encouraged.

Rounded and hooped awnings are discouraged.

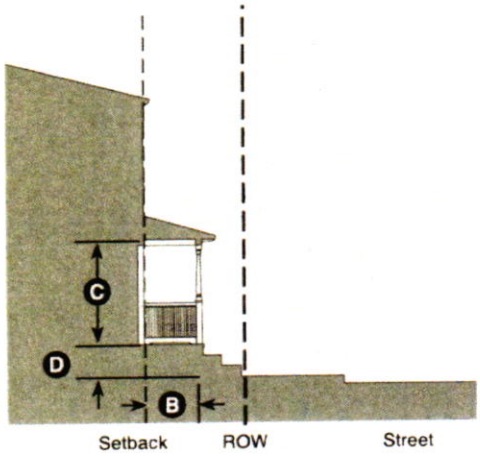


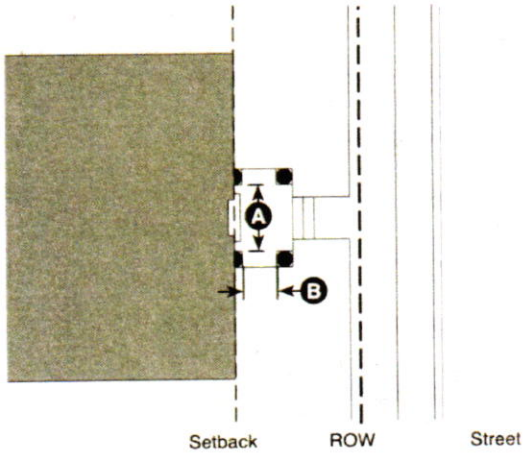
An example of a shopfront with a recessed entry



An example of a shopfront

3.3.070 Stoop





Key

--- ROW / Property Line ····· Setback Line

Each street-fronting building shall have at least one frontage type for each street frontage.

A. Description

Stoop: The main facade of the building is near the frontage line and the elevated stoop engages the sidewalk. The stoop shall be elevated above the sidewalk to ensure privacy within the building. Stairs from the stoop may lead directly to the sidewalk or may be side-loaded. This type is appropriate for residential uses with small setbacks.

B. Size

Width, clear	5' min.; 8' max.	A
Depth, clear	5' min.; 8' max.	B
Height, clear	8' min.	C
Height	1 story max.	
Depth of Recessed Entries	6' max.	
Finish Level above Sidewalk	12" min.	D

C. Miscellaneous

Stairs may be perpendicular or parallel to the building facade.

The entry door shall be covered or recessed to provide shelter from the elements.

All doors must face the street.

Ramps may require additional approval by Director.

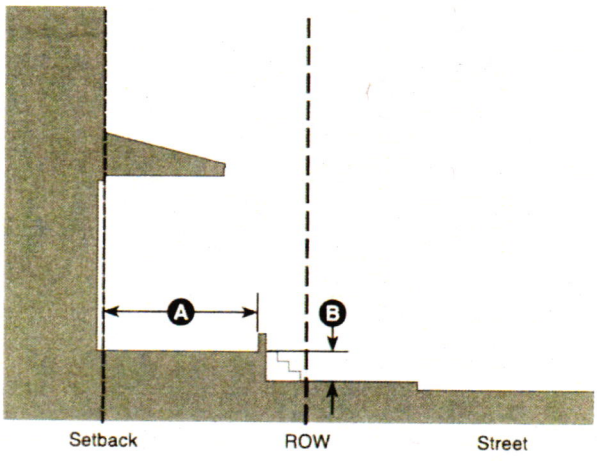


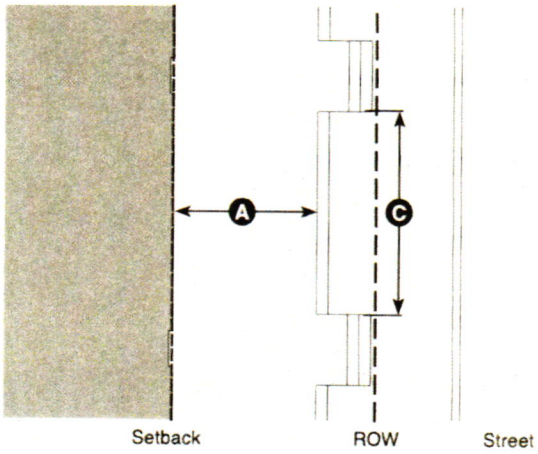
A stoop with a recessed entry door



A stoop with a covered entry door

3.3.110 Terrace





Key

--- ROW / Property Line ····· Setback Line

A. Description

Terrace: The main facade is at or near the frontage line with an elevated terrace providing public circulation along the facade. This type can be used to provide at-grade access while accommodating a grade change. Frequent steps up to the terrace are necessary to avoid dead walls and maximize access. This type may also be used in historic industrial areas to mimic historic loading docks and in areas with floodplain issues to provide usable outdoor space.

B. Size

Depth, clear	8' min.	A
Finish Level above Sidewalk	3'6" max.	B
Length of Terrace	100' max.	
Distance between Stairs	25' max.	C

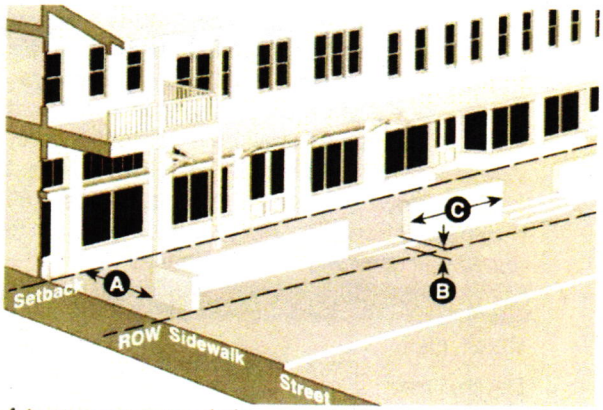
C. Miscellaneous

Finish level of terrace above sidewalk may be used to access entries at a common elevation in compliance with Ground Floor Finish Level standards per each applicable zone.

These standards are to be used in conjunction with those for the Shopfront Frontage Type. In case of conflict between them, the Terrace standards shall prevail.

Low walls used as seating are encouraged.

Each street-fronting building shall have at least one frontage type for each street frontage.



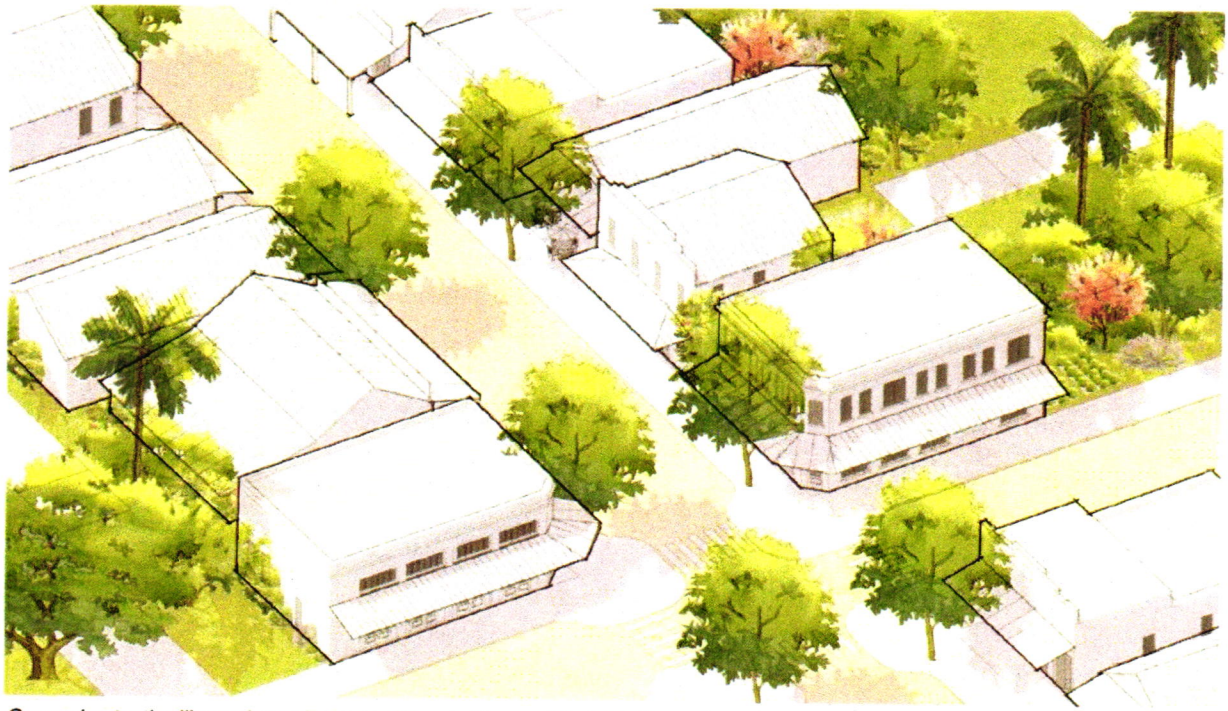
A terrace accommodating a grade change along a series of buildings



An example of a terrace used to accommodate a change in grade. The low walls are used to provide seating

EXHIBIT B

2.2.070 T4 Village Center - West Kaua'i (T4VC-WK) and Flex (T4VC/F-WK)



General note: the illustrations above are intended to provide a brief overview of the transect zone and are descriptive in nature.

A. Zone Intent and Description

This Zone integrates main-street commercial and retail environments into neighborhoods, providing access to day-to-day amenities within walking distance, creating potential for a transit stop, and serving as a focal point for the neighborhood.

Sub-Zone(s)

T4 VC/F-WK

The flex sub-zone provides the same building forms but allows for a more diverse mix of uses on the ground floor.

B. Allowed Building Types

Building Type	Standards
House Cottage[1]	3.2.050
Multiplex: Small (T4VC/F-WK only)	3.2.070
Multiplex: Large (T4VC/F-WK only)	3.2.080
Main Street Mixed-Use	3.2.090

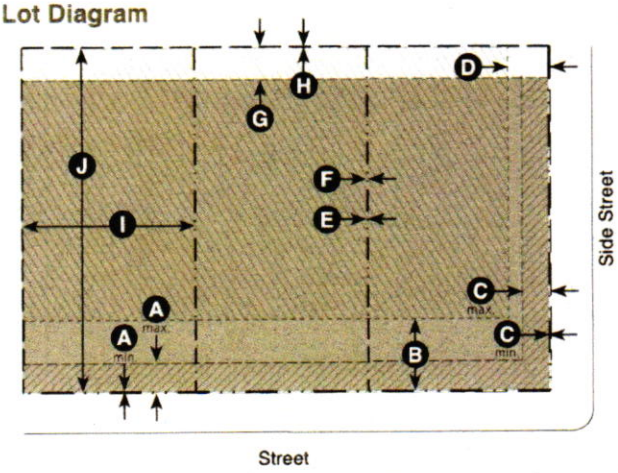
[1] Shall be located behind the street-fronting building.

Multiple building types allowed per lot. See Section G. (Multiple Buildings) for additional standards.

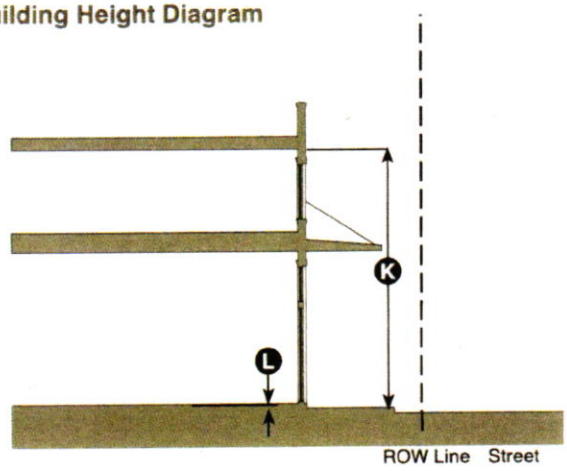
Non-habitable accessory structures do not require a building type.

Accessory structures are allowed throughout the Zone, including on lots where no building exists.

Lot Diagram



Building Height Diagram



Key

--- ROW/ Lot Line

--- Setback Line

Buildable Area

Acc. Structures Only

Facade Zone

Key

--- ROW / Property Line

C. Building Placement

Setbacks (Distance from ROW/Building Site Line)

Front		
Building(s)	0' min.; 10' max.	A
Accessory Structure(s)	25' min.	B
Side Street		
Building(s)	0' min.; 10' max.	C
Accessory Structure(s)	15' min.	D
Side		
Building(s)	0' min.	E
Accessory Structure(s)	0' min.	F
Rear		
Building(s)	10' min.	G
Accessory Structure(s)	0' min.	H
Building within Facade Zone		
Front	80% min.	
Side Street	45% min.	

Lot Size

Width	30'min.	I
Depth	80' min.	J

Fences and walls have no setback requirements and are not subject to the regulations for accessory structures. Their height is regulated in Chapter 8.

Where existing adjacent buildings are in front of the front setback, the building may be set to align with the facade of the front most immediately adjacent property.

C. Building Placement (continued)

Loading docks and other service entries may not be located on street-facing facades.

D. Building Form

Height

Building(s)	3 stories max.	K
	35' to peak max.[1]	
Street Frontage Building(s),	2 stories max.	
within 40' of R.O.W.	30' to peak max.	
Accessory Structure(s)	14' to peak max.	
Ground Floor Finish Level [2,3]		L
Residential	12" min.[4]	
Commercial	0" min.	

See Sub-Article 3.2 (Specific to Building Types) for massing standards.

[1] When set back at least 40' from any property line adjacent to a street, roadway, or highway.

[2] Finished grade at main entry must not be greater than 4' from existing grade.

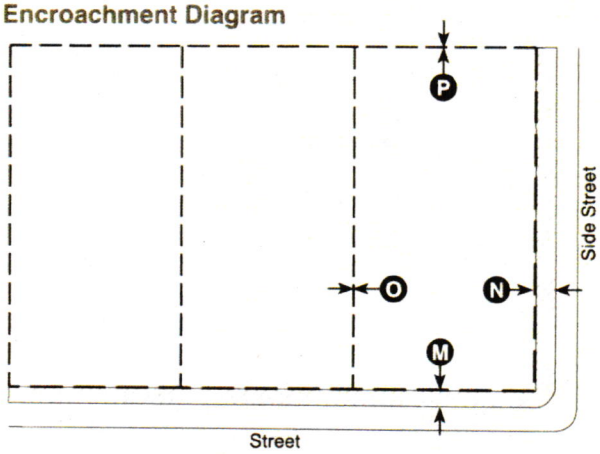
[3] Common entries for multi-unit buildings may be set at grade in compliance with local and federal accessibility standards.

[4] Required when facing a street and/or public right of way.

Footprint

Lot Coverage	80% max.
Depth, Ground Floor Commercial Space	30' min.
Accessory Structure(s):	36' max. x 30' max.

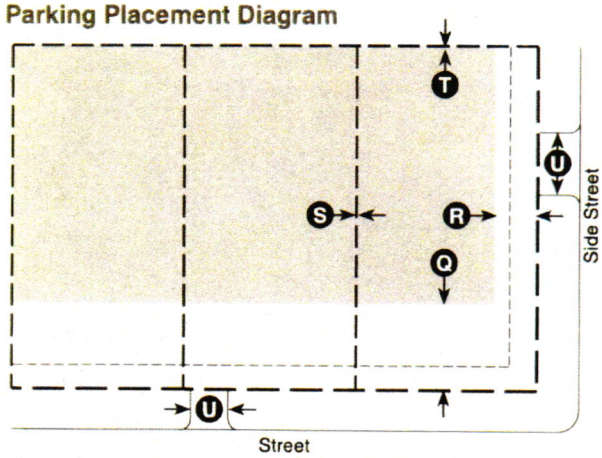
Encroachment Diagram



Key

--- ROW / Property Line
--- Setback Line
Encroachment Area
Gallery Area

Parking Placement Diagram



Key

--- ROW / Property Line
--- Building Setback Line
Parking Area

E. Encroachments and Frontage Types

Encroachments		
Front	2' max.	M
Side Street	2' max.	N
Side	0'	O
Rear	0'	P

Gallery

Except as stated above, encroachments are not allowed within a street ROW/ alley ROW or across a property line.

All frontage types are allowable encroachments.

Galleries and Awnings may encroach further into the street ROW to within 2' of the face of the curb.

See Sub-Article 3.3 (Specific to Private Frontages) for description of frontage types and additional standards.

Non-habitable accessory structures do not require a frontage type.

F. Parking

Required Spaces for Residential Uses	
All Allowed Residential Uses	1 sp/1500 gsf min.
All Other Allowed Uses	2 sp/1000 gsf min.

See Section 3.1.020 (Additional Parking Regulations in Transect Zones) for additional parking standards.

Parking Setbacks (Setback from Property Line)		
Front Setback	30' min.	Q
Side Street Setback	15' min.	R
Side Setback	0' min.	S
Rear Setback	0' min.	T

Miscellaneous		
Parking Driveway Width		U
≤ 40 spaces	14' max.	
> 40 spaces	18' max.	

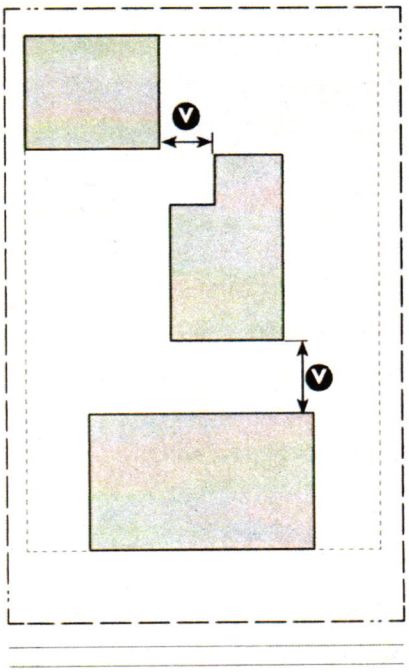
Driveways may be shared between adjacent parcels.

Carports are not allowed on the Main Street Mixed-Use building type.

Carports are not allowed to encroach into parking setbacks. See Sub-Section 3.1.010.H (Carports) for additional design standards.

T4 Village Center - West Kaua'i (T4VC-WK) and Flex (T4VC/F-WK)

Building Separation Diagram



Key

--- ROW / Property Line ▭ Building

····· Setback Line

G. Multiple Buildings

Standards apply to lots with 2 or more buildings.

Lots ≤100' in width and ≤1.5 acres may have multiple buildings per lot provided all zone and building type standards are satisfied. For lots >100' in width or >1.5 acres see Section 4.1.040 (Design Sites).

Building Separation

Clear space between adjacent buildings	10' min.	Ⓥ

Common Open Space for Lot

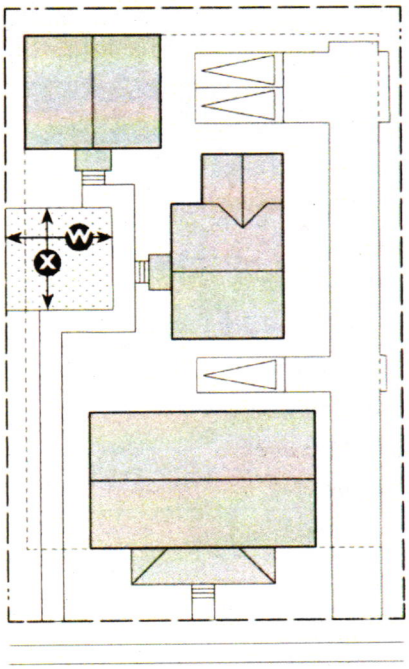
Width	20' min.	Ⓦ
Depth	20' min.	Ⓧ

Common Open Space for Lot counts towards some or all Common Open Space for Buildings Types requirement in Sub-Article 3.2 (Specific to Building Types)

All buildings not fronting a street must front Common Open Space

Buildings fronting Common Open Space must provide a frontage along Common Open Space

Common Open Space Diagram



Key

--- ROW / Property Line ▭ Building

····· Setback Line ▭ Comm. Open Space

G. Multiple Buildings (continued)

Units may be accessible directly from Common Open Space

Common Open Space is not allowed to encroach into front setback.

Encroachments into Common Open Space are not allowed

Designated parking shall not occur in any Common Open Space.

All buildings must comply with Table B. (Building Types)

There is no open space requirement for accessory structures.

H. Use Table

Land Use Type[1]	Specific Use Regulations	T4VC	T4VC/F
Residential			
Single Family Dwelling Units			
Detached		P[2]	P[2]
Attached		—	—
Multiple Family Dwelling Units		P[2]	P
Accessory Structures		P	P
Adult Family Boarding and Family Care Homes		P[2]	P
Home Businesses		P[2]	P
Dormitories and Boarding Houses		P[2]	P
Lodging			
Inn ≤6 units		P	P
Hotel >6 units		U	U
Transient Vacation Rentals		—	—
Residential Care Homes		P[2]	P
Adult Family Group Living Home		P[2]	P
Recreation, Education & Public Assembly			
Public and Private Parks		P	P
Zoological Gardens		U	U
Botanical Gardens			
Public		P	P
Private		U	U
Cemeteries, Mortuaries and Crematoriums		—	—
Churches, Temples, and Monasteries		P	P
Clubs, Lodges and Community Centers		P	P
Golf courses.		—	—
Museums, Libraries and Public Services and Facilities		P	P
School and Day-care Centers		U	U
Studio: Dance or Exercise		P	P

Land Use Type[1]	Specific Use Regulations	T4VC	T4VC/F
Retail			
Bar		P	P
Nightclub		U	U
Retail Shops and Stores, except with the following features:		P	P
Alcoholic Beverage Sales		P	P
On-site Production of Items Sold			
Floor area < 5,000 sf		P	P
Floor area > 5,000 sf		P	P
Floor Area > 10,000 sf		P	P
Restaurants and Food Services		P	P

Key	
P	Permitted Use
U	Use Permit Required
—	Use Not Allowed

End Notes

[1] Any other unlisted use or structure that the Planning Director finds to be similar in nature to those listed in this Section as requiring a Use Permit may also be allowed with a Use Permit in this Transect Zone.

[2] Use not allowed on the ground floor, except when located behind an allowed ground floor use.

H. Use Table (continued)

Land Use Type[1]	Specific Use Regulations	T4VC	T4VC/F
Agricultural			
Diversified and Specialized Agriculture and Nurseries		U	U
Pet Keeping		—	—
Pet Raising		—	—
Piggery		—	—
Poultry Raising		—	—
Stock Raising		—	—
Services			
Medical and Nursing Facilities		P[2]	P
Household Services		P	P
Personal Services		P	P
Professional Offices		P	P
Animal Hospital		U	U
Vehicle Sales and Services			
Automobile Sales		U	U
Automobile Services		P[2]	P
Automobile Repair		U	P
Automobile Storage		U	U
Transportation & Infrastructure			
Private and Public Utilities and Facilities		U	U
Transportation Terminals and Docks		U	U
Telecommunication Facilities			
Communication Facilities		U	U
Industrial, Manufacturing & Processing			
Construction Material Storage		—	—
Food Processing and Packaging, except with the following feature:		U	U
On-Site Retail		P	P
Light Manufacturing		—	P
Warehouse		—	—
Other			
Accessory Structures		P	P

Key	
P	Permitted Use
U	Use Permit Required
—	Use Not Allowed

End Notes

[1]Any other unlisted use or structure that the Planning Director finds to be similar in nature to those listed in this Section as requiring a Use Permit may also be allowed with a Use Permit in this Transect Zone.

[2] Use not allowed on the ground floor, except when located behind an allowed ground floor use.

3.2.050 House Cottage



Single story house cottage with side projecting lānai



Single story house cottage with engaged front lānai



Single story house cottage with commercial use

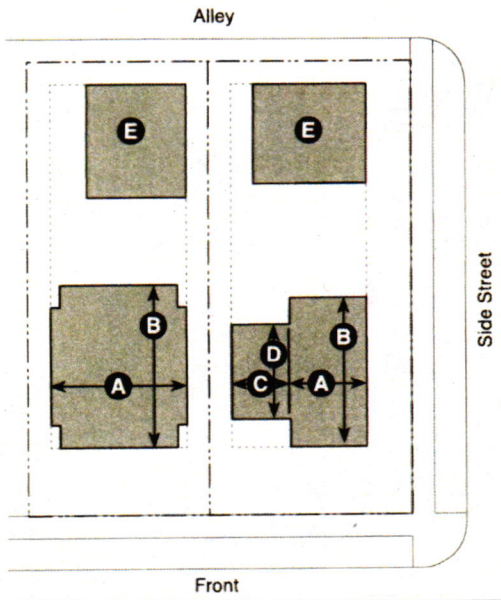
A. Description

House Cottage: This Building Type is a small detached structure on a small lot that incorporates one unit. It is typically located within a primarily single-family neighborhood in a walkable urban setting, potentially near a neighborhood main street. This Type enables appropriately-scaled, well-designed higher densities and is important for providing a broad choice of housing types and promoting walkability.

T3VE	T3VN	T4VN	T4VC

T# Allowed T# Not Allowed

General Note: Photos on this page are illustrative, not regulatory.

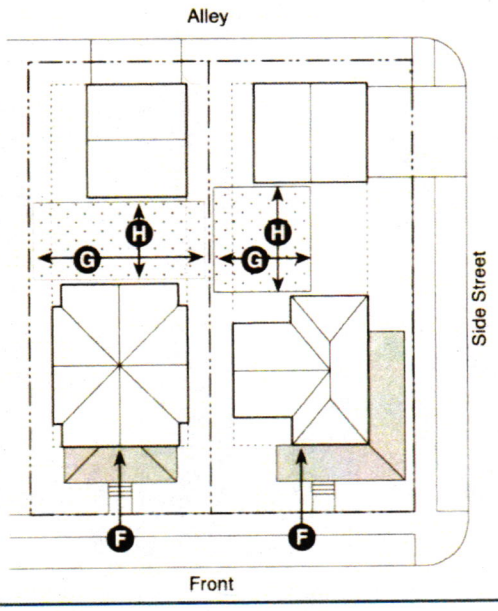


Key

--- ROW / Property Line ▭ Building

····· Setback Line

B. Number of Units		
Units in Building	1 max.	
C. Building Size and Massing		
Main Body		
Width	36' max.	A
Depth	36' max.	B
Secondary Wing(s)		
Width	20' max.	C
Depth	20' max.	D
Miscellaneous		
Accessory structures shall not be taller or have a larger footprint than the building(s) on the lot.		E



Key

--- ROW / Property Line ▭ Frontage

····· Setback Line ▭ Private Open Space

D. Building Frontages (Choose One per Building)		
Front Yard	Lānai, Projecting	
Lānai, Engaged	Stoop	
E. Pedestrian Access		
Main Entrance Location	Front	F
F. Vehicle Access and Parking		
Parking may be accessed from the front only when there is no adjacent alley or side street.		
G. Private Open Space		
Width	15' min.	G
Depth	15' min.	H
Required private open space must be located behind the main body of the House Cottage, except in T4VC when House Cottage building is located behind a street-fronting building.		
A private open space is not required when there is a designated common open space proposed in conjunction with other House Village, House Cottage, or Duplex building types on the same lot.		

3.2.090 Main Street Mixed-Use



Renovated historic main street mixed-use building



Historic main street mixed-use building with a two-story gallery



Recently constructed main street mixed-use building

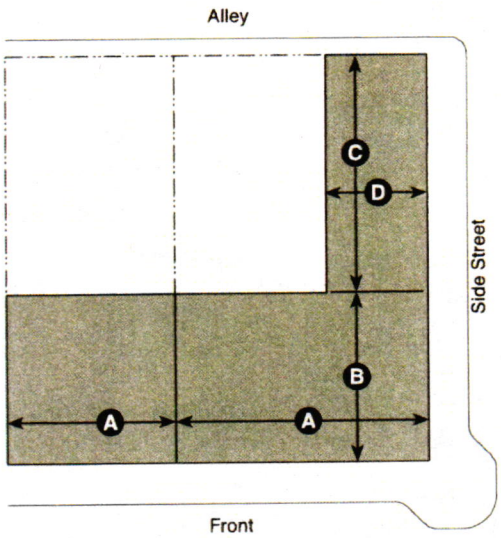
A. Description

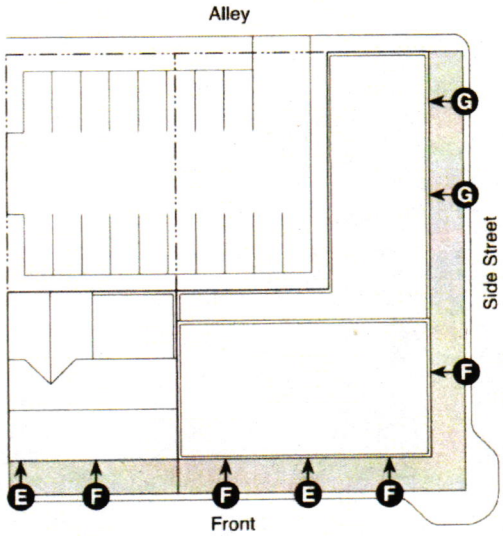
Main Street Mixed-Use: This Building Type is a small- to medium-sized structure, typically attached, intended to provide a vertical mix of uses with ground-floor commercial, service, or retail uses and upper-floor commercial, service, or residential uses. On Kaua'i this type typically includes balconies that shade the sidewalk. Smaller versions of this Type include live/work units. This Type makes up the primary component of a neighborhood main street and portions of a downtown main street, therefore being a key component to providing walkability.

T3VE	T3VN	T4VN	**T4VC**

T# Allowed T# Not Allowed

General Note: Photos on this page are illustrative, not regulatory.





Key

--- ROW / Property Line
····· Setback Line
Building

B. Number of Units

Residential Units in Building	No min./No max.

C. Building Size and Massing

Main Body		
Width	150' max.	A
Depth	40' min.	B
Secondary Wing(s)/Accessory Structure(s)		
Width	100' max.	C
Depth	40' min.	D

Key

--- ROW / Property Line
····· Setback Line
Frontage
Private Open Space

D. Building Frontages (Choose One per Building)

Forecourt	Shopfront
Terrace	Gallery

E. Pedestrian Access

Upper floor units located in the main body shall be accessed by an entry along the front. E

Ground floor units may have individual entries along the front or side street. F

On corner lots, units in a secondary wing/ accessory structure may front the side street. G

F. Vehicle Access and Parking

Parking may be accessed from the front only when there is no adjacent alley or side street.

Parking drive ways and access may be shared on adjacent lots.

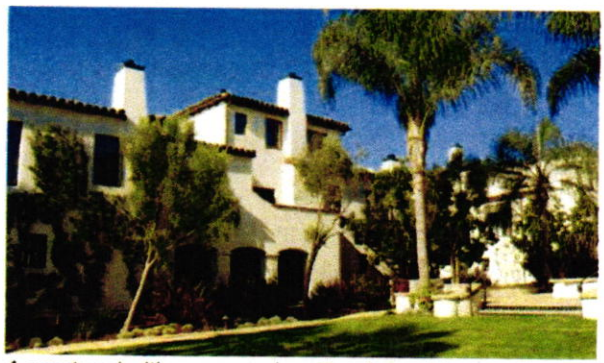
G. Private Open Space

No private open space requirement.

3.2.080 Multiplex: Large



A multiplex: large with all units accessed form a central courtyard which provides communal open space.



A courtyard with communal seating for residents and guests



C-shaped multiplex: large –all units enter from courtyard

A. Description

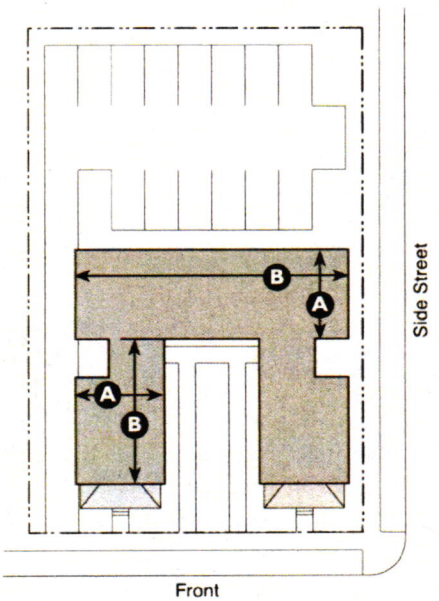
Multiplex Large: This Building Type is a medium- to large-sized structure that consists of multiple side-by-side and/or stacked dwelling units accessed from a courtyard or series of courtyards. Each unit may have its own individual entry, or up to three units may share a common entry. It enables appropriately-scaled, well-designed higher densities and is important for providing a broad choice of housing types and promoting walkability. Use of Optional Secondary Wings, in addition to Main Body massing can create courtyards, such as those depicted in the illustrative photographs for this building type.

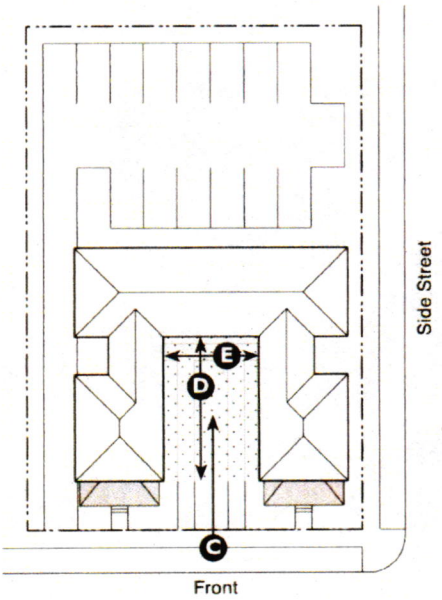
T3VE	T3VN	T4VN	T4VC

T# Allowed T# Not Allowed

T# Allowed in Flex Sub-Zone

General Note: Photos on this page are illustrative, not regulatory.





Key

--- ROW / Property Line ▭ Building

····· Setback Line

B. Number of Units		
Units in Building	7 min.;18 max.	
C. Building Size and Massing		
Main Body / Optional Secondary Wing(s)		
Width	150' max.	A
Depth	65' max.	B
D. Building Frontages (Choose One per Building)		
Lānai, Projecting	Lānai, Engaged	
Stoop	Dooryard	
Forecourt	Shopfront	
Terrace		

Key

--- ROW / Property Line ▭ Frontage

····· Setback Line ▭ Common Open Space

E. Pedestrian Access	
When courtyards are included in building design, at least one courtyard shall be accessible and visible from the front.	C
Units shall be accessed from a courtyard or directly from a street.	
F. Vehicle Access and Parking	
Parking may be accessed from the front only when there is no adjacent alley or side street.	
G. Common Open Space for Building Type	
Width 20' min.; 50' max.	D
Depth 20' min.; 150' max.	E
Common Open Space required for this Building Type may count towards Common Open Space requirement for lots with multiple buildings.	
For lots with multiple buildings, Common Open Space for Building Type standards apply per each instance of a building type on the lot.	

3.2.070 Multiplex: Small



A multiplex: small with a single entry accessing all units



A multiplex: small with multiple entries along the front



A multiplex: small with a single entry accessing all units

A. Description

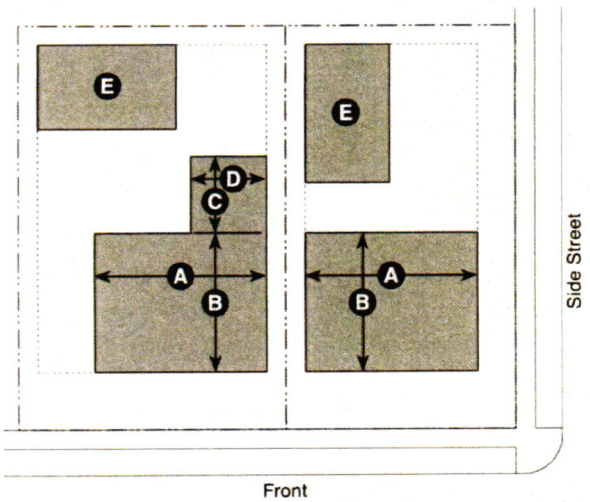
Multiplex Small: This Building Type is a medium structure that consists of three to six side-by-side and/or stacked dwelling units, typically with one shared entry or individual entries along the front. This Type has the appearance of a medium-sized family home and is appropriately scaled to fit in sparingly within primarily single-family neighborhoods or into medium-density neighborhoods. This Type enables appropriately-scaled, well-designed higher densities and is important for providing a broad choice of housing types and promoting walkability.

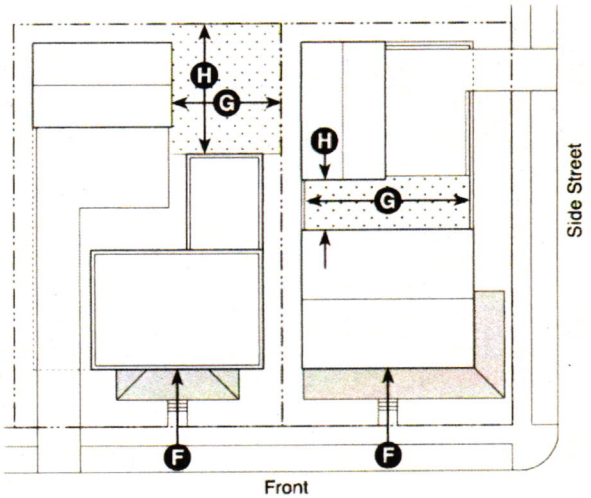
T3VE	T3VN	T4VN	T4VC

T# Allowed T# Not Allowed

T# Allowed in Flex Sub-Zone

General Note: Photos on this page are illustrative, not regulatory.





Key

--- ROW / Property Line
····· Setback Line
Building

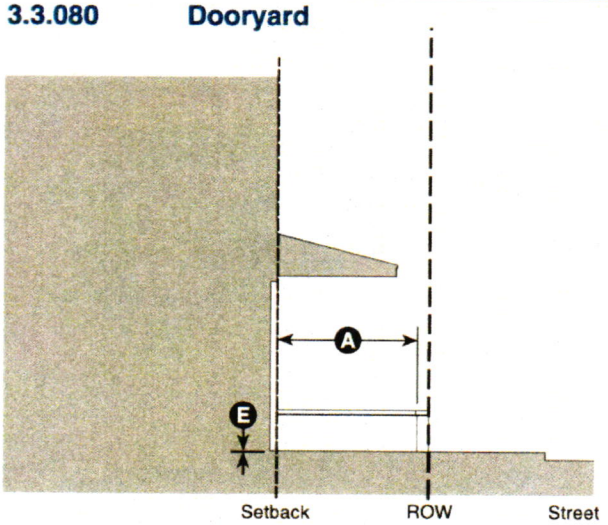
B. Number of Units		
Units in Building	3 min.; 6 max.	
C. Building Size and Massing		
Main Body		
Width	48' max.	A
Depth	36' max.	B
Secondary Wing(s)		
Width	24' max.	C
Depth	24' max.	D
Miscellaneous		
Accessory structures shall not be taller or have a larger footprint than the building(s) on the lot.		E

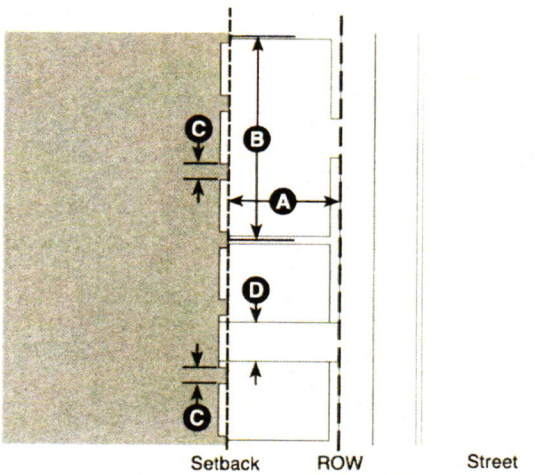
Key

--- ROW / Property Line
····· Setback Line
Frontage
Common Open Space

D. Building Frontages (Choose One per Building)		
Front Yard	Lānai, Projecting	
Lānai, Engaged	Stoop	
Dooryard		
E. Pedestrian Access		
Main Entrance Location	Front	F
Each unit may have an individual entry.		
F. Vehicle Access and Parking		
Parking may be accessed from the front only when there is no adjacent alley or side street.		
G. Common Open Space		
Width	8' min.	G
Depth	8' min.	H
Common Open Space required for this Building Type may count towards Common Open Space requirement for lots with multiple buildings.		
For lots with multiple buildings, Common Open Space for Building Type standards apply per each instance of a building type on the lot.		

3.3.080 Dooryard





Key

--- ROW / Property Line ····· Setback Line

Each street-fronting building shall have at least one frontage type for each street frontage.

A. Description

Dooryard: The frontage line is defined by a low wall or hedge and the main facade of the building is set back to create a dooryard. The dooryard shall not provide public circulation along a ROW. The dooryard may be raised, sunken, or at grade and is intended for ground floor residential in flex transect zones, live/work, and small commercial uses ≤2,500 sf.

B. Size

Depth, clear	8' min.	A
Length	15' min.; 50' max.	B
Distance between Glazing	4' max.	C
Depth of Recessed Entries	5' max.	
Path of Travel	3' wide min.	D
Finish Level above Sidewalk	3'-6" max.	E

C. Miscellaneous

For live/work, retail, service, and restaurant uses, the Shopfront Frontage Type is to be applied in conjunction with this Type.

Low walls used as seating are encouraged.

For front-loaded lot conditions, pedestrian entrance must be separate from vehicle entrance.

Ramps may require additional approval by Director.

These standards are to be used in conjunction with those for the Shopfront Frontage Type. In case of conflict between them, the Dooryard standards shall prevail.

C. Miscellaneous (continued)

Shall not be used for circulation for more than one ground floor entry.

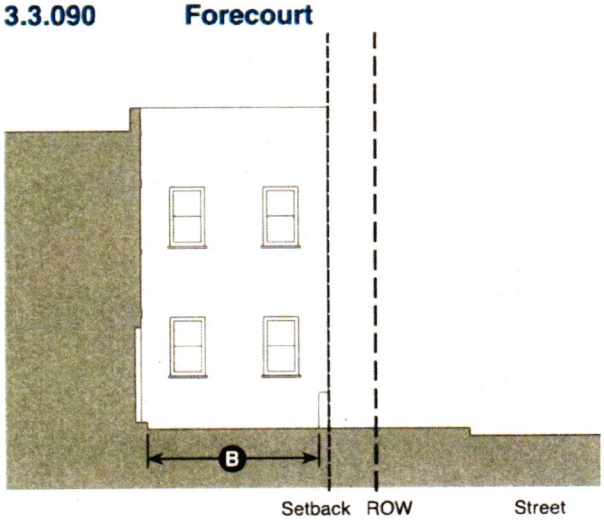


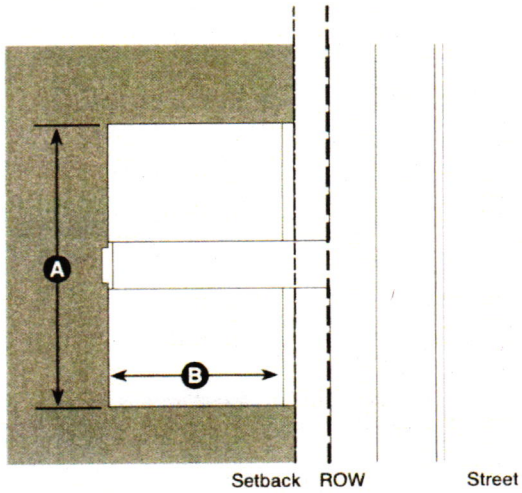
An example of a series of small commercial dooryards



Small Dooryards include low fences to provide a visual transition from the public sidewalk.

3.3.090 Forecourt





Key

--- ROW / Property Line ····· Setback Line

A. Description

Forecourt: The main facade of the building is at or near the frontage line and a small percentage is set back, creating a small court space. The space could be used as an entry court or shared garden space for apartment buildings, or as an additional shopping or restaurant seating area within commercial areas.

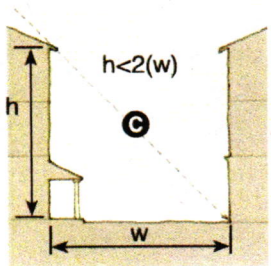
B. Size

Width, clear	12' min.	A
Depth, clear	12' min.	B
Ratio, Height to Width	2:1 max.	C

C. Miscellaneous

Finish level of forecourt above sidewalk may be used to access entries at a common elevation in compliance with Ground Floor Finish Level standards per each applicable zone.

The proportions and orientation of these spaces should be carefully considered for solar orientation and user comfort.



Each street-fronting building shall have at least one frontage type for each street frontage.

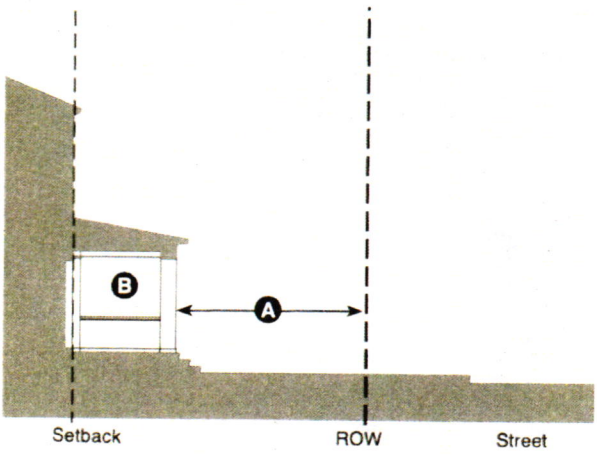


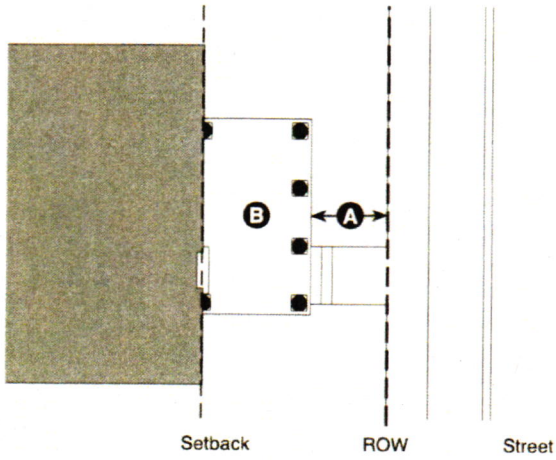
This residential forecourt provides a prominent entry yard and breaks down the overall massing along the street



This commercial forecourt provides an outdoor dining area along a vibrant commercial street. The ROW is defined by a low wall as required by this code

3.3.040 Front Yard





Key

--- ROW / Property Line ····· Setback Line

A. Description

Front Yard: The main facade of the building has a large planted setback providing a buffer from the street. The yard may be fenced or unfenced.

B. Size

Depth	10' min.	A

C. Miscellaneous

Front Yard Frontages shall be used in conjunction with another allowed private frontage type, such as a lānai. B

Each street-fronting building shall have at least one frontage type for each street frontage.

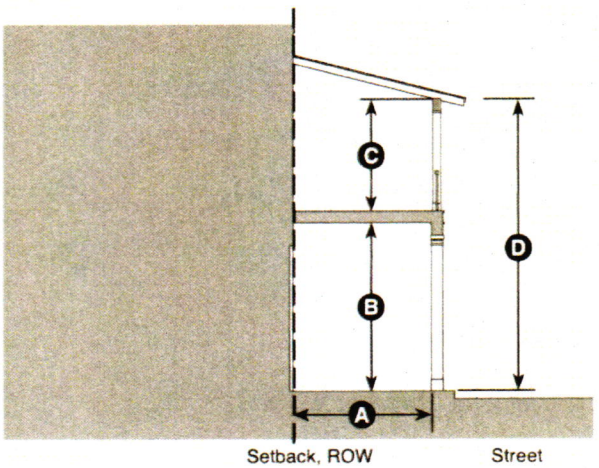


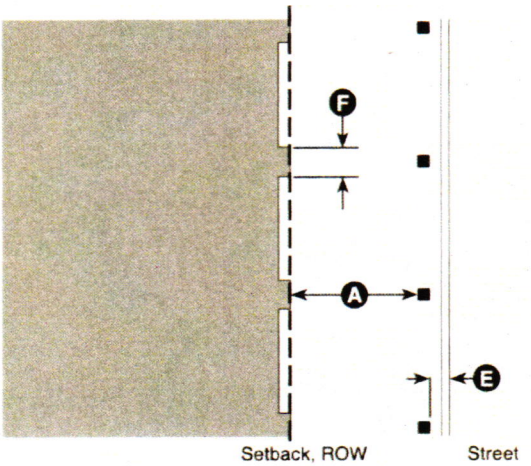
The front yards of these houses form a continuous front yard



An example of a front yard with an engaged Lānai

3.3.120 Gallery





Key

--- ROW / Property Line ····· Setback Line

A. Description

Gallery: The main facade of the building is at the frontage line and the gallery element overlaps the sidewalk. This type is intended for buildings with ground-floor commercial uses and may be one or two stories. The gallery should extend far enough from the building to provide adequate protection and circulation for pedestrians and extend close enough to the curb so that a pedestrian cannot bypass it.

B. Size

Depth, clear	8' min.	A
Ground Floor Height, clear	11' min.	B
Upper Floor Height, clear	9' min.	C
Height	2 stories max.	D
Setback from Curb	2' min.; 3' max.	E
Distance between Glazing	2' max.	F
Ground Floor Transparency	75% min.	
Depth of Recessed Entries	5' max.	

C. Miscellaneous

These standards are to be used in conjunction with those for the Shopfront Frontage Type. In case of conflict between them, the Gallery standards shall prevail.

Upper-story galleries facing the street must not be used to meet primary circulation requirements.

Galleries must have a consistent depth along a frontage and must project over a sidewalk.

Each street-fronting building shall have at least one frontage type for each street frontage.

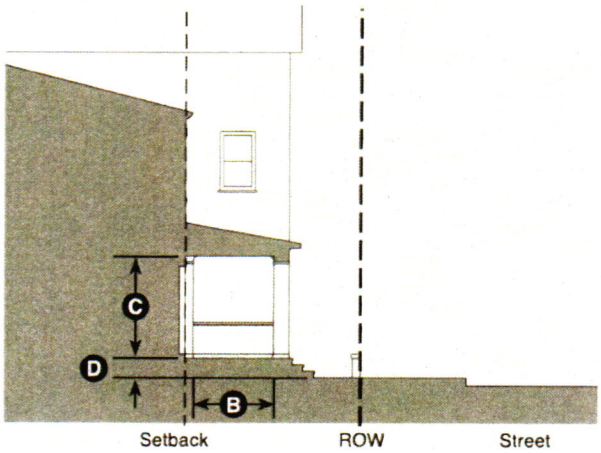


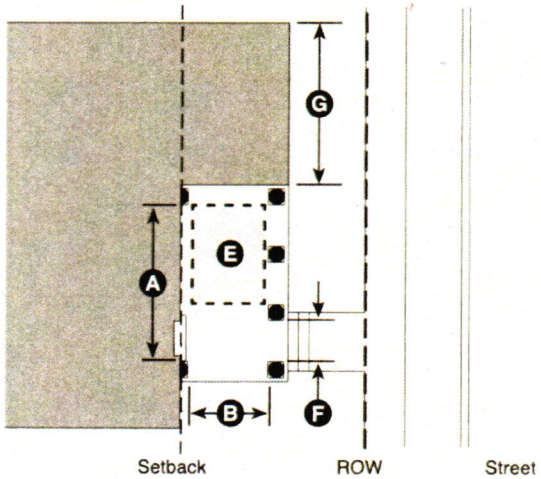
A one-story gallery with second floor access



A one-story gallery

3.3.060 Lānai: Engaged





Key

--- ROW / Property Line ····· Setback Line

Each street-fronting building shall have at least one frontage type for each street frontage.

A. Description

Lānai, engaged: The main facade of the building has a small to medium setback from the frontage line. The resulting front yard is typically very small and can be defined by a fence or hedge to spatially maintain the edge of the street. The engaged lānai has two adjacent sides of the lānai that are engaged to the building while the other two sides are open.

B. Size

Width, clear	10' min.	A
Depth, clear	8' min.	B
Height, clear	8' min.	C
Height	2 stories max.	
Finish Level above Sidewalk	12" min.	D
Furniture Area, clear	4' x 6' min.	E
Path of Travel	3' wide min.	F

C. Miscellaneous

Up to $^{2}/_{5}$ of the building facade may project beyond the setback line into the encroachment area for this frontage type. G

Any engaged lānai must have a roof.

In transect zones where both lānai and encroachments are allowed, a lānai and up to $^{2}/_{5}$ of the building facade is an allowable encroaching element.

Ramps may require additional approval by Director.

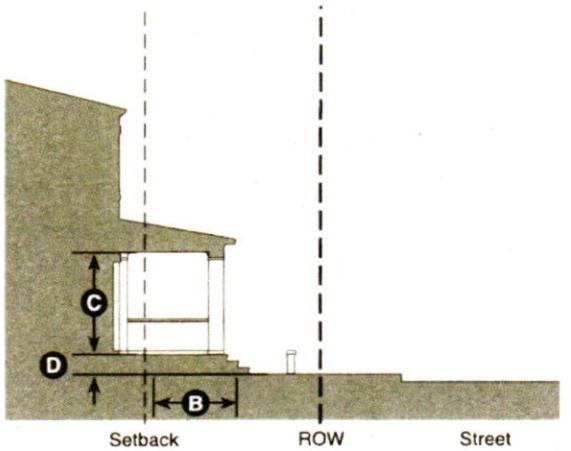


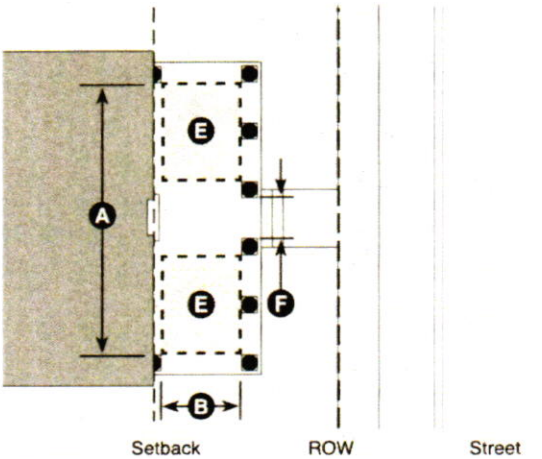
An engaged lānai that slightly projects beyond front facade



An example of an engaged lānai

3.3.050 Lānai: Projecting





Key

--- ROW / Property Line ····· Setback Line

A. Description

Lānai, projecting: The main facade of the building has a small to medium setback from the frontage line. The resulting front yard is typically very small and can be defined by a fence or hedge to spatially maintain the edge of the street. The projecting lānai is open on three sides and all habitable space is located behind the setback line

B. Size

Width, clear	10' min.	A
Depth, total	8' min.	B
Height, clear	8' min.	C
Height	2 stories max.	
Finish Level above Sidewalk	12" min.	D
Furniture Area, clear	4' x 6' min.	E
Path of Travel	3' wide min.	F

C. Miscellaneous

Any projecting lānai must have a roof.

A lānai is an allowable encroaching element when allowed per the applicable zone.

Ramps may require additional approval by Director.

Each street-fronting building shall have at least one frontage type for each street frontage.

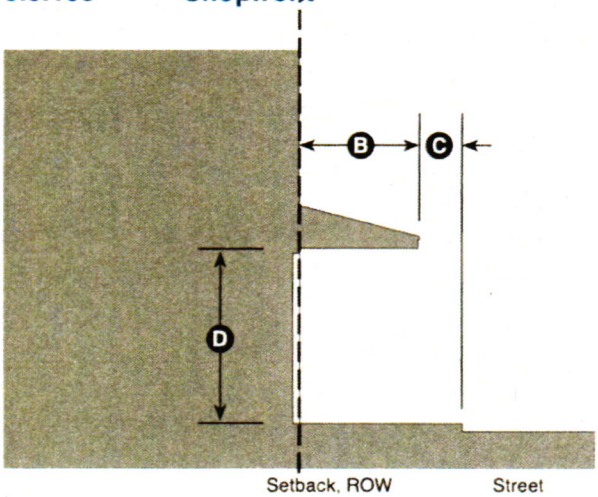


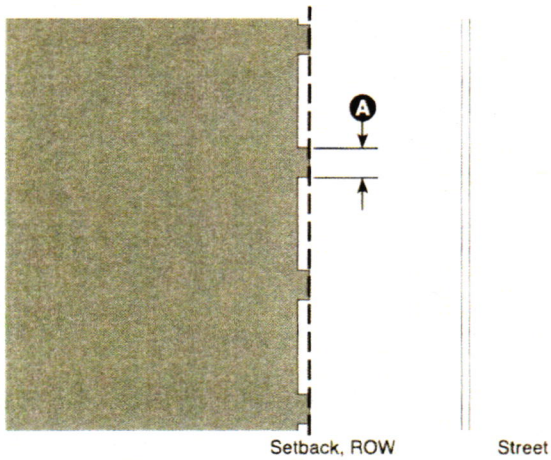
A wrap-around projecting lānai



Projecting lānai integrated into the building's overall roof form

3.3.100 Shopfront





Key

--- ROW / Property Line ····· Setback Line

A. Description

Shopfront: The main facade of the building is at or near the frontage line with an at-grade entrance along the public way. This type is intended for retail use. It has substantial glazing at the sidewalk level and may include an awning that may encroach the sidewalk. It may be used in conjunction with dorryard and gallery frontage types.

B. Size

Distance between Glazing	2' max.	A
Ground Floor Transparency	75% min.	
Depth of Recessed Entries	5' max.	

C. Awning

Depth	4' min.	B
Setback from Curb	2' min.	C
Height, clear	8' min.	D

D. Miscellaneous

Residential windows at grade shall not be used.

Operable awnings are encouraged.

Open-ended awnings are encouraged.

Rounded and hooped awnings are discouraged.

Each street-fronting building shall have at least one frontage type for each street frontage.

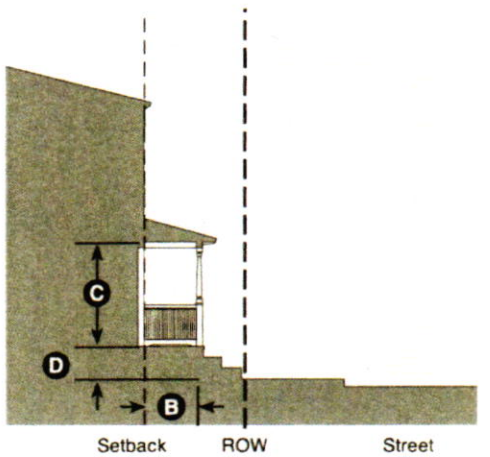


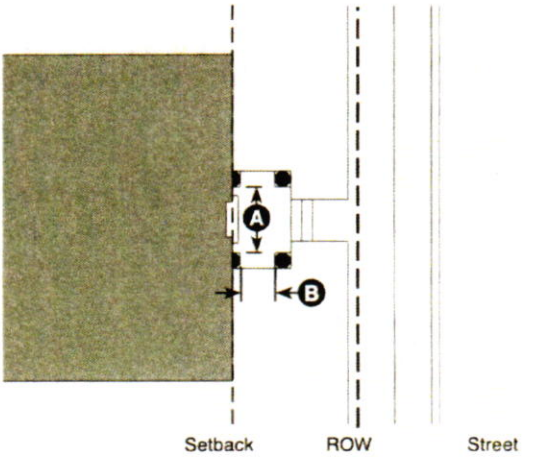
An example of a shopfront with a recessed entry



An example of a shopfront

3.3.070 Stoop





Key

--- ROW / Property Line ····· Setback Line

Each street-fronting building shall have at least one frontage type for each street frontage.

A. Description

Stoop: The main facade of the building is near the frontage line and the elevated stoop engages the sidewalk. The stoop shall be elevated above the sidewalk to ensure privacy within the building. Stairs from the stoop may lead directly to the sidewalk or may be side-loaded. This type is appropriate for residential uses with small setbacks.

B. Size

Width, clear	5' min.; 8' max.	A
Depth, clear	5' min.; 8' max.	B
Height, clear	8' min.	C
Height	1 story max.	
Depth of Recessed Entries	6' max.	
Finish Level above Sidewalk	12" min.	D

C. Miscellaneous

Stairs may be perpendicular or parallel to the building facade.

The entry door shall be covered or recessed to provide shelter from the elements.

All doors must face the street.

Ramps may require additional approval by Director.

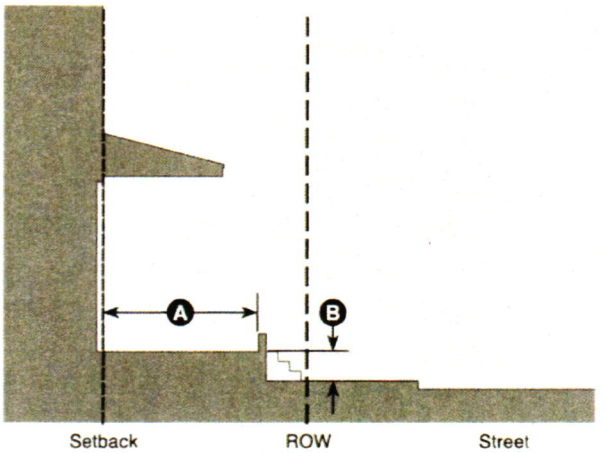


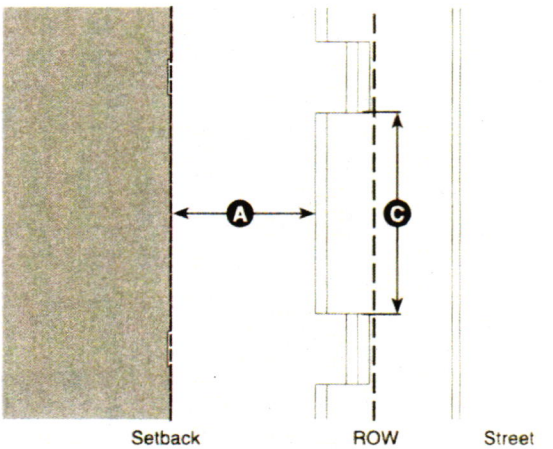
A stoop with a recessed entry door



A stoop with a covered entry door

3.3.110 Terrace





Key

--- ROW / Property Line ····· Setback Line

A. Description

Terrace: The main facade is at or near the frontage line with an elevated terrace providing public circulation along the facade. This type can be used to provide at-grade access while accommodating a grade change. Frequent steps up to the terrace are necessary to avoid dead walls and maximize access. This type may also be used in historic industrial areas to mimic historic loading docks and in areas with floodplain issues to provide usable outdoor space.

B. Size

Depth, clear	8' min.	A
Finish Level above Sidewalk	3'6" max.	B
Length of Terrace	100' max.	
Distance between Stairs	25' max.	C

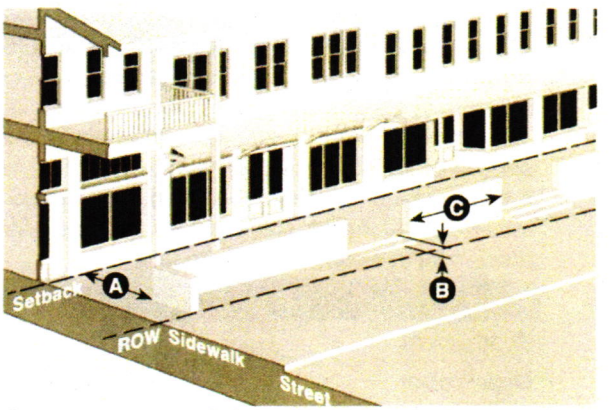
C. Miscellaneous

Finish level of terrace above sidewalk may be used to access entries at a common elevation in compliance with Ground Floor Finish Level standards per each applicable zone.

These standards are to be used in conjunction with those for the Shopfront Frontage Type. In case of conflict between them, the Terrace standards shall prevail.

Low walls used as seating are encouraged.

Each street-fronting building shall have at least one frontage type for each street frontage.



A terrace accommodating a grade change along a series of buildings



An example of a terrace used to accommodate a change in grade. The low walls are used to provide seating

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

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

TRANSMITTAL OF AGENCY COMMENTS TO

PLANNING COMMISSION

DATE: October 7, 2026

PERMIT NUMBER(S): ZA-2027-1

APPLICANT(S): County of Kauai

Attached for the Planning Commission's reference is agency comments pertaining to the permit application referenced above.

F.4.b.2.

OCT 13 2026

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)
An Equal Opportunity Employer

County of Kaua'i
Planning Department
4444 Rice St., Suite A473 Līhu'e, HI 96766
(808) 241-4050

FROM: Kaaina S. Hull, Director | Planner: Chloe Matsuda | Date: 09/01/2026

SUBJECT: Zoning Amendment ZA-2027-1
Applicant: County of Kaua'i
The purpose of this Ordinance is to amend the Comprehensive Zoning Ordinance reinstating the Additional Rental Unit Program

TO:

- ☑ State Department of Transportation – STP
- ☑ State DOT – Highways, Kaua'i (info only)
- ☐ State DOT – Airports, Kaua'i (info only)
- ☐ State DOT – Harbors, Kaua'i (info only)
- ☑ State Department of Health
- ☐ State Department of Agriculture
- ☐ State Office of Planning
- ☐ State Dept. of Bus. & Econ. Dev. Tourism
- ☐ State Land Use Commission
- ☑ State Historic Preservation Division
- ☐ State DLNR – Land Management
- ☐ State DLNR – Forestry & Wildlife
- ☐ State DLNR – Aquatic Resources
- ☐ State DLNR – Conservation & Coastal Lands
- ☐ State DLNR – Commission on Water Resource Management
- ☐ Office of Hawaiian Affairs
- ☑ County DPW – Engineering
- ☐ County DPW – Wastewater
- ☐ County DPW – Building
- ☐ County DPW – Solid Waste
- ☐ County Department of Parks & Recreation
- ☑ County Fire Department
- ☑ County Housing Agency
- ☐ County Economic Development
- ☑ County Water Department
- ☐ County Civil Defense
- ☑ County Transportation Agency
- ☐ KHPRC
- ☐ U.S. Postal Department
- ☑ UH Sea Grant
- ☐ Other:

FOR YOUR COMMENTS (pertaining to your department): 10/1/2026

We have completed our review and have no comments.

Sincerely,

Bryan Wienand

Bryan Wienand, P.E.
Engineering Division

This matter is scheduled for a public hearing before the County of Kaua'i Planning Commission on 9/8/2026 at the Līhu'e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu'e, Kaua'i, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume there are no objections to this permit request. Mahalo!

Outlook

Fw: Amendments to Ordinances (ZA2027-1)(ZA-2027-2)(ZA-2027-3)

From Shanlee Jimenez <sjimenez@kauai.gov>
Date Tue 9/8/2026 8:19 AM
To Kaaina Hull <khull@kauai.gov>; Chloe Matsuda <cmatsuda@kauai.gov>

3 attachments (1 MB)
2026 09 01 STP 01204.26 (26-171).pdf; 2026 09 01 STP 01205.26 (26-172).pdf; 2026 09 01 STP 01209.26 (26-176).pdf;

Get Outlook for iOS

From: Nikaido, Blayne H <blayne.h.nikaido@hawaii.gov>
Sent: Tuesday, 08 September 2026 08:01:25
To: Shanlee Jimenez <sjimenez@kauai.gov>
Cc: Torres, Natasha P <Natasha.P.Torres@hawaii.gov>; Murata, Masatomo <Masatomo.Murata@hawaii.gov>; Pant, Pradip R <Pradip.R.Pant@hawaii.gov>
Subject: Amendments to Ordinances (ZA2027-1)(ZA-2027-2)(ZA-2027-3)

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.

Good morning Shanlee,

Hope you are safe and well after the hurricane. Hopefully recovery will be quick and everything can go back to normal soon.

HDOT has reviewed the three subject amendments to the Comprehensive Zoning Ordinance and have no comments to provide.

Thank you,
Blayne

Blayne Nikaido
Planner
Statewide Transportation Planning Office
Department of Transportation

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR
KA HOPE KIA'ĀINA

RYAN K.P. KANAKA'OLE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
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DEPUTY DIRECTOR - WATER

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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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

September 27, 2026

Ka'āina S. Hull, Director
County of Kaua'i
Planning Department
4444 Rice St., Suite A-473
Līhu'e, Hawai'i 96766
c/o Chloe Matsuda
cmatsuda@kauai.gov

IN REPLY REFER TO:
Project No.: 2026PR00885
Doc. No.: 2609LS28
Archaeology, Architecture
History & Culture

Dear Ka'āina S. Hull:

SUBJECT: **Hawai'i Revised Statutes (HRS) § 6E-42 Historic Preservation Review – Zoning Amendment – ZA-2027-1**
Relating to the Additional Rental Unit (ARU) Program
Applicant: County of Kaua'i Planning Department
Island of Kaua'i
TMK: (4) island wide

This letter provides the State Historic Preservation Division's (SHPD) review of the draft County of Kaua'i bill (Bill No. / Ordinance No. relating to ZA-2027-1) designed to amend Chapter 8 of the Kaua'i County Code 1987 to permanently reinstate the Additional Rental Unit program without a sunset clause. The SHPD received this submission on September 1, 2026, which included an agency cover letter and a copy of the draft bill. No subsurface work will be conducted for this administrative action.

The proposed ordinance reinstates the Additional Rental Unit (ARU) program to allow attached or detached long-term rental units (containing a kitchen, bedroom, and bathroom) up to 800 square feet on residentially zoned lots. Key rules include requiring one additional parking space, prohibiting Condominium Property Regimes (CPRs) and short-term rentals (with a 6-month minimum occupancy), allowing a 10% land coverage bonus subject to Public Works approval, and banning ARUs in Tsunami Evacuation Zones west of the Hanalei River. Furthermore, applicants must secure written infrastructure clearances for wastewater, water, and fire safety via an ARU Facilities Clearance Form before building permit review.

Based on the information provided and the absence of any subsurface disturbance associated with this policy amendment, the **SHPD has no objections** to the requested zoning amendment.

Please contact Mary Kodama, Architecture Branch Chief, at Mary.Kodama@hawaii.gov, for any matters regarding architectural resources, Jordan V. Calpito, History & Culture Branch Chief, at Jordan.V.Calpito@hawaii.gov, for any matters concerning cultural resources, and Susan A. Lebo, Archaeology Branch Chief, at Susan.A.Lebo@hawaii.gov, for any concerns regarding archaeological resources or this letter.

Aloha,

Jessica L. Puff, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

cc: Shanlee Jimenez, sjimenez@kauai.gov

Water has no substitute..... Conserve it

ENGINEERING DIVISION
DEPARTMENT OF WATER, COUNTY OF KAUA'I
JASON F. KAGIMOTO, P.E.

JOSEPH E. TAIT
MANAGER AND CHIEF ENGINEER

DATE: September 29, 2026

TO: Planning Department
Ka'āina S. Hull, Director

SUBJECT: Zoning Amendment ZA-2027-1
Applicant: County of Kaua'i
The purpose of this Ordinance is to amend the Comprehensive Zoning Ordinance to reinstate the previously enacted Additional Rental Unit program without a sunset clause.

DOW COMMENTS:

We have no objections to the proposed Zoning Amendment ZA-2027-1 to amend the CZO to reinstate the previously enacted Additional Rental Unit program without a sunset clause.

The applicant is being made aware that prior to the Department of Water (DOW) recommending water service or building permit approval, the applicant may be required to pay the applicable Facilities Reserve Charges in effect at the time of payment. Requests for additional water meters or an increase in water meter size will be dependent on the adequacy of the source, storage, and transmission facilities existing at that time.

If you have any questions, please contact Jessica-Renee Polk at (808) 245-5459 or at wrp@kauaiwater.org.

Erin T. Doi

Erin T. Doi, P.E.
Water Resources and Planning Section
Engineering Division

09/29/2026
Date

ZA-2027-1, 20260929, County of Kauai, ARU Program/ETD:jrp

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

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

TRANSMITTAL OF PUBLIC TESTIMONY TO

PLANNING COMMISSION

DATE: October 7, 2026

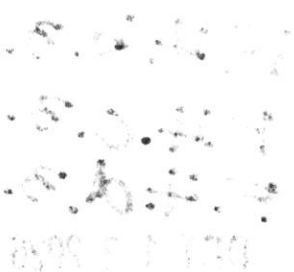
PERMIT NUMBER(S): **ZA-2027-1, ZA-2027-2; and ZA-2027-3**

APPLICANT(S): **COUNTY OF KAUAI**

Attached for the Planning Commission's reference is public testimony pertaining to the permit application referenced above.

F.4.b.3.
F.4.c.3.
F.4.d.3.
OCT 1 3 2026

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Hanalei-Wainiha-Hā'ena Community Association
Post Office Box 1072
Hanalei, Hawaii 96714

September 3, 2026

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

Re: Proposed Zoning Amendments ZA-2027-1, ZA-2027-2 and ZA-2027-3

Aloha Planning Commissioners,

The Board of Directors of the Hanalei-Wainiha-Hā'ena Community Association (HWHCA) supports ZA-2027-1, ZA-2027-2 and ZA-2027-3, for which public hearings are scheduled at the Planning Commission's September 8, 2026 meeting.

In particular, the HWHCA Board:

- Recognizes the importance of Zoning Amendment 2027-1's reinstatement of the now-expired Additional Rental Unit program and the importance of the program's acknowledgement that the County's policies should not encourage additional density in tsunami evacuation zones that currently have insufficient capacity for safe evacuation of those zones,
- Agrees that the increases in the civil fine limits that are proposed in Zoning Amendment 2027-2 are needed, as the current cap on the fines for violating the County's transient vacation rental ordinance is too low to provide sufficient incentive to comply with the ordinance, and
- Agrees that all booking platforms for transient vacation rentals and other overnight accommodations need to be regulated in the manner proposed in Zoning Amendment 2027-3.

We also thank the Planning Department for having taken the initiative to address these important matters.

Carl F. Imparato

Carl Imparato, President
Hanalei-Wainiha-Ha'ena Community Association

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

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

TRANSMITTAL OF AGENCY COMMENTS TO

PLANNING COMMISSION

DATE: October 7, 2026

PERMIT NUMBER(S): ZA-2027-2

APPLICANT(S): County of Kauai

Attached for the Planning Commission's reference is agency comments pertaining to the permit application referenced above.

F.4.C.2.
OCT 13 2026

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STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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

RYAN K.P. KANAKA'OLE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DAVE DAY
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CIARA W.K. KAHAHANE
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
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BUREAU OF CONVEYANCES
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

September 27, 2026

Ka'āina S. Hull, Director
County of Kaua'i
Planning Department
4444 Rice St., Suite A-473
Līhu'e, Hawai'i 96766
khull@kauai.gov

IN REPLY REFER TO:
Project No.: 2026PR00888
Doc. No.: 2609LS29
Archaeology, Architecture
History & Culture

Dear Mr. Hull:

SUBJECT: **Hawai'i Revised Statutes (HRS) § 6E-42 Historic Preservation Review – Zoning Amendment – ZA-2027-2**
Relating to Civil Fines for Illegal Transient Accommodations
Applicant: County of Kaua'i Planning Department
Island of Kaua'i
TMK: (4) Island wide

This letter provides the State Historic Preservation Division's (SHPD) review of the draft County of Kaua'i bill (Bill No. / Ordinance No. relating to ZA-2027-2), which amends Chapter 8, Section 8-3.5 of the Kaua'i County Code 1987 to increase civil fine limits for illegal and unpermitted transient accommodations that charge over $1,000 per night per booking. The SHPD received this submission on September 1, 2026, which included an agency cover letter and a copy of the draft bill. No subsurface work will be conducted for this administrative action.

The proposed ordinance increases civil fine limits for illegal and unpermitted transient accommodations charging over $1,000 per night. Although the County's enforcement program has proven successful, high-end rental operators have treated the standard $10,000 daily fine as a routine cost of doing business. To counter this, the ordinance establishes that civil fines for illegal rentals exceeding a $1,000 daily rate can surpass the $10,000 cap up to a maximum of ten times the daily rental rate, applied both as a flat penalty and as a continuing daily fine. Collected fines are allocated to the Planning Enforcement Account to fund enforcement operations, independent contractors, training, and equipment, while unpaid fines and unresolved violations can result in the Planning Director placing a lien on the property after 90 days.

Please contact Mary Kodama, Architecture Branch Chief, at Mary.Kodama@hawaii.gov, for any matters regarding architectural resources, Jordan V. Calpito, History & Culture Branch Chief, at Jordan.V.Calpito@hawaii.gov, for any matters concerning cultural resources, and Susan A. Lebo, Archaeology Branch Chief, at Susan.A.Lebo@hawaii.gov, for any concerns regarding archaeological resources or this letter.

Aloha,

Jessica L. Puff, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

cc: Shanlee Jimenez, sjimenez@kauai.gov

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ENGINEERING DIVISION
DEPARTMENT OF WATER, COUNTY OF KAUA'I
JASON F. KAGIMOTO, P.E.

Department of Water County of Kaua'i

JOSEPH E. TAIT
MANAGER AND CHIEF ENGINEER

DATE: September 29, 2026

TO: Planning Department
Ka'āina S. Hull, Director

SUBJECT: Zoning Amendment ZA-2027-2
Applicant: County of Kaua'i
Amend the Comprehensive Zoning Ordinance's Civil Fines for Zoning Violations

---

DOW COMMENTS:

We have no objections to the proposed Zoning Amendment ZA-2027-2 to amend the CZO to increase the civil fine limit for the illegal and unpermitted transient accommodations.

If you have any questions, please contact Jessica-Renee Polk at (808) 245-5459 or at wrp@kauaiwater.org.

Erin T. Doi

Erin T. Doi, P.E.
Water Resources and Planning Section
Engineering Division

09/29/2026

Date

ZA-2027-2, 20260929, County of Kauai, Illegal Transient Accommodations/ETD:jrp

County of Kaua'i
Planning Department
4444 Rice St., Suite A473 Līhu'e, HI 96766
(808) 241-4050

FROM: Kaaina S. Hull, Director Planner: Kaaina Hull Date: 09/01/2026

SUBJECT: Zoning Amendment ZA-2027-2
Applicant: County of Kaua'i
Amend the Comprehensive Zoning Ordinance's civil fines for zoning violations.

TO:

- ☑ State Department of Transportation – STP
- ☑ State DOT – Highways, Kaua'i (info only)
- ☐ State DOT – Airports, Kaua'i (info only)
- ☐ State DOT – Harbors, Kaua'i (info only)
- ☑ State Department of Health
- ☐ State Department of Agriculture
- ☐ State Office of Planning
- ☐ State Dept. of Bus. & Econ. Dev. Tourism
- ☐ State Land Use Commission
- ☑ State Historic Preservation Division
- ☐ State DLNR – Land Management
- ☐ State DLNR – Forestry & Wildlife
- ☐ State DLNR – Aquatic Resources
- ☐ State DLNR – Conservation & Coastal Lands
- ☐ State DLNR – Commission on Water Resource Management
- ☐ Office of Hawaiian Affairs
- ☑ County DPW – Engineering
- ☐ County DPW – Wastewater
- ☐ County DPW – Building
- ☐ County DPW – Solid Waste
- ☐ County Department of Parks & Recreation
- ☑ County Fire Department
- ☑ County Housing Agency
- ☐ County Economic Development
- ☑ County Water Department
- ☐ County Civil Defense
- ☑ County Transportation Agency
- ☐ KHPRC
- ☐ U.S. Postal Department
- ☑ UH Sea Grant
- ☐ Other:

FOR YOUR COMMENTS (pertaining to your department): 10/1/2026

We have completed our review and have no comments.

Sincerely,

Bryan Wienand

Bryan Wienand, P.E.
Engineering Division

This matter is scheduled for a public hearing before the County of Kaua'i Planning Commission on 9/8/2026 at the Līhu'e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu'e, Kaua'i, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume there are no objections to this permit request. Mahalo!

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

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

TRANSMITTAL OF AGENCY COMMENTS TO

PLANNING COMMISSION

DATE: October 7, 2026

PERMIT NUMBER(S): ZA-2027-3

APPLICANT(S): County of Kauai

Attached for the Planning Commission's reference is agency comments pertaining to the permit application referenced above.

F. 4. d. 2.
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LAND
STATE PARKS

STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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

September 27, 2026

IN REPLY REFER TO:
Project No.: 2026PR00893
Doc. No.: 2609LS30
Archaeology, Architecture
History & Culture

Ka'āina S. Hull, Director
County of Kaua'i, Planning Department
4444 Rice St., Suite A-473
Līhu'e, Hawai'i 96766
khull@kauai.gov

Dear Mr. Hull:

SUBJECT: **Hawai'i Revised Statutes (HRS) § 6E-42 Historic Preservation Review – Zoning Amendment – ZA-2027-3**
Relating to Hosting Platforms for Transient Accommodations
Applicant: County of Kaua'i, Planning Department
Island of Kaua'i
TMK: (4) Island wide

This letter provides the State Historic Preservation Division's (SHPD) review of the draft County of Kaua'i bill relating to ZA-2027-3, which aims to regulate hosting platforms that facilitate booking transactions for transient or overnight accommodations. The SHPD received this submission on September 2, 2026, including an agency cover letter and a copy of the draft bill. No ground-disturbing or subsurface work will be conducted under this administrative action.

The proposed ordinance addresses gaps in the regulation of short-term rental bookings. While major platforms like Airbnb and Expedia have previously entered into Memorandums of Understanding (MOUs) covering roughly 70 percent of the market share, other hosting platforms continue to list unpermitted transient vacation rentals outside of designated Visitor Destination Areas (VDAs). To combat this, the ordinance establishes an official County Registry maintained and annually updated by the Planning Department, containing all tax map key numbers located within VDAs or possessing a valid Non-Conforming Use Certificate (NCUC). Hosting platforms are prohibited from completing booking transactions or collecting fees for ancillary services unless the property is listed on this County Registry, and they must conspicuously display property tax map key numbers and disclose booking transaction data to the Planning Department monthly. Violating platforms face civil fines of up to $10,000 per day alongside administrative subpoena enforcement by the Planning Department.

Based on the information provided and the absence of any subsurface disturbance associated with this legislative zoning amendment, the **SHPD has no objections** to the proposed ordinance.

Please contact Mary Kodama, Architecture Branch Chief, at Mary.Kodama@hawaii.gov, for any matters regarding architectural resources, Jordan V. Calpito, History & Culture Branch Chief, at Jordan.V.Calpito@hawaii.gov, for any matters concerning cultural resources, and Susan A. Lebo, Archaeology Branch Chief, at Susan.A.Lebo@hawaii.gov, for any concerns regarding archaeological resources or this letter.

Aloha,

Jessica L. Puff, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

cc: Shanlee Jimenez, sjimenez@kauai.gov

County of Kaua'i
Planning Department
4444 Rice St., Suite A473 Līhu'e, HI 96766
(808) 241-4050

FROM: Kaaina S. Hull, Director | Planner: Kaaina Hull | Date: 09/01/2026

SUBJECT: Zoning Amendment ZA-2027-3

Applicant: County of Kaua'i

Amend the Comprehensive Zoning Ordinance to regulate third party hosting platforms for the vacation rentals and transient accommodations

TO:

- ☑ State Department of Transportation – STP
- ☑ State DOT – Highways, Kaua'i (info only)
- ☐ State DOT – Airports, Kaua'i (info only)
- ☐ State DOT – Harbors, Kaua'i (info only)
- ☑ State Department of Health
- ☐ State Department of Agriculture
- ☐ State Office of Planning
- ☐ State Dept. of Bus. & Econ. Dev. Tourism
- ☐ State Land Use Commission
- ☑ State Historic Preservation Division
- ☐ State DLNR – Land Management
- ☐ State DLNR – Forestry & Wildlife
- ☐ State DLNR – Aquatic Resources
- ☐ State DLNR – Conservation & Coastal Lands
- ☐ State DLNR – Commission on Water Resource Management
- ☐ Office of Hawaiian Affairs
- ☑ County DPW – Engineering
- ☐ County DPW – Wastewater
- ☐ County DPW – Building
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- ☑ County Housing Agency
- ☐ County Economic Development
- ☑ County Water Department
- ☐ County Civil Defense
- ☑ County Transportation Agency
- ☐ KHPRC
- ☐ U.S. Postal Department
- ☑ UH Sea Grant
- ☐ Other:

FOR YOUR COMMENTS (pertaining to your department): 10/1/2026

We have completed our review and have no comments.

Sincerely,

Bryan Wienand

Bryan Wienand, P.E.
Engineering Division

This matter is scheduled for a public hearing before the County of Kaua'i Planning Commission on 9/8/2026 at the Līhu'e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu'e, Kaua'i, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume there are no objections to this permit request. Mahalo!

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

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

TRANSMITTAL OF AGENCY COMMENTS TO PLANNING COMMISSION

DATE: **October 5, 2026**

PERMIT NUMBER(S): **A-2027-1**

APPLICANT(S): **KAUA'I PLANNING DEPARTMENT**

Attached for the Planning Commission's reference are agency comments for the permit referenced above.

F. 4. e. 2.
OCT 1 3 2026

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County of Kaua'i
Planning Department
4444 Rice St., Suite A473 Līhu'e, HI 96766
(808) 241-4050

FROM: Kaaina S. Hull, Director | Planner: Shelea Koga | Date: 09/01/2026

SUBJECT: State Land Use District Boundary Amendment A-2027-1
Applicant: County of Kaua'i
State Land Use District Boundary Amendment from the Agricultural District (AG) to the Urban District (U)

TO:

- ☑ State Department of Transportation – STP
- ☑ State DOT – Highways, Kaua'i (info only)
- ☐ State DOT – Airports, Kaua'i (info only)
- ☐ State DOT – Harbors, Kaua'i (info only)
- ☑ State Department of Health
- ☐ State Department of Agriculture
- ☐ State Office of Planning
- ☐ State Dept. of Bus. & Econ. Dev. Tourism
- ☐ State Land Use Commission
- ☑ State Historic Preservation Division
- ☐ State DLNR – Land Management
- ☐ State DLNR – Forestry & Wildlife
- ☐ State DLNR – Aquatic Resources
- ☐ State DLNR – Conservation & Coastal Lands
- ☐ State DLNR – Commission on Water Resource Management
- ☐ Office of Hawaiian Affairs
- ☑ County DPW – Engineering
- ☐ County DPW – Wastewater
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- ☐ County Civil Defense
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- ☐ KHPRC
- ☐ U.S. Postal Department
- ☐ UH Sea Grant
- ☐ Other:

FOR YOUR COMMENTS (pertaining to your department): 10/1/2026

We have completed our review and have no comments.

Sincerely,

Bryan Wienand

Bryan Wienand, P.E.
Engineering Division

This matter is scheduled for a public hearing before the County of Kaua'i Planning Commission on 9/8/2026 at the Līhu'e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu'e, Kaua'i, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume there are no objections to this permit request. Mahalo!

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

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

TRANSMITTAL OF AGENCY COMMENTS TO PLANNING COMMISSION

DATE: **October 5, 2026**

PERMIT NUMBER(S): **ZA-2027-4**

APPLICANT(S): **KAUA'I PLANNING DEPARTMENT**

Attached for the Planning Commission's reference are agency comments for the permit referenced above.

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F.4f.2.

OCT 13 2026

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR
KA HOPE KIA'ĀINA

RYAN K.P. KANAKA'OLE
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STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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

September 27, 2026

IN REPLY REFER TO:
Project No.: 2026PR00895
Doc. No.: 2609LS31
Archaeology, Architecture
History & Culture

Ka'āina S. Hull, Director
County of Kaua'i, Planning Department
4444 Rice St., Suite A-473
Līhu'e, Hawai'i 96766
c/o Shelea Koga
skoga@kauai.gov

Dear Mr. Hull:

SUBJECT: **Hawai'i Revised Statutes (HRS) §6E-42 Historic Preservation Review – Zoning Amendment – ZA-2027-4**
Relating to County of Kaua'i Zoning Map ZM-H 200
Applicant: County of Kaua'i Planning Department
'Ele'ele Ahupua 'a, Kona District, Island of Kaua'i
TMK: (4) 2-1-001:003

This letter provides the State Historic Preservation Division's (SHPD) review of the draft County of Kaua'i bill relating to ZA-2027-4, which proposes to update County of Kaua'i Zoning Map ZM-H 200 by changing the zoning designation of a 14.9-acre portion of TMK: (4) 2-1-001:003, in 'Ele'ele, from "Agricultural" (Ag) to "Residential-10" (R-10). The SHPD received this submission on September 2, 2026, including an agency cover letter and a copy of the draft bill. No ground-disturbing or subsurface work will be conducted under this administrative policy and zoning amendment.

This amendment is supported by the West Kaua'i Community Plan (WKCP) adopted in December 2020, which identifies the area south of Lima Ola near Halewili and Waialo Roads as suitable for residential and mixed-use expansion. Furthermore, the subject parcel is not designated as Important Agricultural Lands by the Hawai'i State Land Use Commission. Under the provisions of the ordinance, the landowner is responsible for resolving any additional government agency conditions that may be imposed, and the Planning Department is directed to officially update its zoning maps on file.

A review of SHPD records indicates that Cultural Surveys Hawai'i, Inc. (CSH) conducted an archaeological reconnaissance survey (Hammatt 1990) of approximately 72 acres of land, including TMK: (4) 2-1-001:003. A historic-era Japanese cemetery with headstones dating into the 1950s is located approximately 500 feet east of the shoreline portion of the project area. Previous archaeological research by W. Bennett (1929) and William Kikuchi (1960s) recorded no archaeological sites within the project area itself. Additionally, no archaeological sites or cultural materials were located during the reconnaissance survey (Hammatt 1990). Decades of sugar cane cultivation and shoreline modifications (such as dumping and filling) likely destroyed any former surface sites or features. Consequently, no further archaeological investigation or on-site monitoring during construction was recommended (Hammatt 1990).

Based on the information provided and the absence of any subsurface disturbance associated with this legislative zoning amendment, the **SHPD has no objections** to the proposed ordinance.

However, **SHPD requests** the opportunity to review and comment on future projects that may involve ground disturbing activities.

Please contact Mary Kodama, Architecture Branch Chief, at Mary.Kodama@hawaii.gov, for any matters regarding architectural resources, Jordan V. Calpito, History & Culture Branch Chief, at Jordan.V.Calpito@hawaii.gov, for any matters concerning cultural resources, and Susan A. Lebo, Archaeology Branch Chief, at Susan.A.Lebo@hawaii.gov, for any concerns regarding archaeological resources or this letter.

Aloha,

Jessica L. Puff, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

cc: Shanlee Jimenez, sjimenez@kauai.gov

County of Kaua'i
Planning Department
4444 Rice St., Suite A473 Līhu'e, HI 96766
(808) 241-4050

FROM: Kaaina S. Hull, Director | Planner: Shelea Koga | Date: 09/01/2026

SUBJECT: Zoning Amendment ZA-2027-4

Applicant: County of Kaua'i

A bill for an ordinance amending Zoning Map ZM-200 (Hanapepe) to rezone approximately 14.9 acres from the Agriculture District (A) to the Residential District (R-10).

TO:

- ☑ State Department of Transportation – STP
- ☑ State DOT – Highways, Kaua'i (info only)
- ☐ State DOT – Airports, Kaua'i (info only)
- ☐ State DOT – Harbors, Kaua'i (info only)
- ☑ State Department of Health
- ☐ State Department of Agriculture
- ☐ State Office of Planning
- ☐ State Dept. of Bus. & Econ. Dev. Tourism
- ☐ State Land Use Commission
- ☑ State Historic Preservation Division
- ☐ State DLNR – Land Management
- ☐ State DLNR – Forestry & Wildlife
- ☐ State DLNR – Aquatic Resources
- ☐ State DLNR – Conservation & Coastal Lands
- ☐ State DLNR – Commission on Water Resource Management
- ☐ Office of Hawaiian Affairs
- ☑ County DPW – Engineering
- ☐ County DPW – Wastewater
- ☐ County DPW – Building
- ☐ County DPW – Solid Waste
- ☐ County Department of Parks & Recreation
- ☑ County Fire Department
- ☑ County Housing Agency
- ☐ County Economic Development
- ☑ County Water Department
- ☐ County Civil Defense
- ☑ County Transportation Agency
- ☐ KHPRC
- ☐ U.S. Postal Department
- ☐ UH Sea Grant
- ☐ Other:

FOR YOUR COMMENTS (pertaining to your department): 10/1/2026

We have completed our review and have no comments.

Sincerely,

Bryan Wienand

Bryan Wienand, P.E.
Engineering Division

This matter is scheduled for a public hearing before the County of Kaua'i Planning Commission on 9/8/2026 at the Līhu'e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu'e, Kaua'i, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume there are no objections to this permit request. Mahalo!

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

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

TRANSMITTAL OF AGENCY COMMENTS TO PLANNING COMMISSION

DATE: **October 5, 2026**

PERMIT NUMBER(S): **ZA-2027-5**

APPLICANT(S): **KAUA'I PLANNING DEPARTMENT**

Attached for the Planning Commission's reference are agency comments for the permit referenced above.

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)
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OCT 13 2026

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR
KA HOPE KIA'ĀINA

STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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

RYAN K.P. KANAKA'OLE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DAVE DAY
FIRST DEPUTY

CIARA W.K. KAHAHANE
DEPUTY DIRECTOR - WATER

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

September 27, 2026

Ka'āina S. Hull, Director
County of Kaua'i, Planning Department
4444 Rice St., Suite A-473
Līhu'e, Hawai'i 96766
Shelea Koga
skoga@kauai.gov

IN REPLY REFER TO:
Project No.: 2026PR00896
Doc. No.: 2609LS32
Archaeology, Architecture
History & Culture

Dear Ka'āina S. Hull:

SUBJECT: **Hawai'i Revised Statutes (HRS) §6E-42 Historic Preservation Review – Zoning Amendment – ZA-2027-5**
Relating to the West Kaua'i Community Plan Implementing Ordinance
Applicant: County of Kaua'i Planning Department
'Ele'ele Ahupua'a, Kona District, Island of Kaua'i
TMK: (4) 2-1-001:003

This letter provides the State Historic Preservation Division's (SHPD) review of the draft County of Kaua'i bill relating to ZA-2027-5, which amends Chapter 10, Article 3 of the Kaua'i County Code 1987, as amended. The SHPD received this submission on September 2, 2026, including an agency cover letter and a copy of the draft bill. No ground-disturbing or subsurface work will be conducted under this administrative policy and zoning amendment.

The proposed ordinance amends Zoning Map ZM-H200 for Special Planning Area "N" (also known as the 'Ele'ele-Port Allen Walkable Mixed Use District) to include a portion of TMK: (4) 2-1-001:003, and updates Figure 2.1.020.C ("Hanapēpē Transect Map") of the West Kaua'i Form-Based Code to apply the T4 Village Neighborhood - West Kaua'i (T4VN-WK) transect to the subject area. This amendment is supported by the West Kaua'i Community Plan adopted in December 2020, which promotes walkable, bikeable, and resilient mixed-use communities to meet local housing needs, and notes that the parcel is not designated as Important Agricultural Lands. Additionally, prior to any construction, the property owner must obtain written approval from the Planning Department confirming a mutually agreed-upon alignment for future roadways or pathways identified on the Hanapepe-'Ele'ele Circulation Map.

A review of SHPD records indicates that Cultural Surveys Hawai'i, Inc. conducted an archaeological reconnaissance (Hammatt 1990) of approximately 72 acres of land, including TMK: (4) 2-1-001:003. A historic-era Japanese cemetery with headstones dating into the 1950s is located approximately 500 feet east of the shoreline portion of the project area. Previous archaeological research by W. Bennett (1929) and William Kikuchi (1960s) recorded no sites within the project area itself. No archaeological sites or cultural materials were located during the reconnaissance survey. Decades of sugar cane cultivation and shoreline modifications (such as dumping and filling) likely destroyed any former features. Consequently, no further archaeological investigation or on-site monitoring during construction was recommended (Hammatt 1990).

Based on the information provided and the absence of any subsurface disturbance associated with this legislative zoning amendment, the **SHPD has no objections** to the proposed ordinance.

However, **SHPD requests** the opportunity to review and comment on future projects that may involve ground disturbing activities.

Please contact Mary Kodama, Architecture Branch Chief, at Mary.Kodama@hawaii.gov, for any matters regarding architectural resources, Jordan V. Calpito, History & Culture Branch Chief, at Jordan.V.Calpito@hawaii.gov, for any matters concerning cultural resources, and Susan A. Lebo, Archaeology Branch Chief, at Susan.A.Lebo@hawaii.gov, for any concerns regarding archaeological resources or this letter.

Aloha,

Jessica L. Puff, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

cc: Shanlee Jimenez, sjimenez@kauai.gov

County of Kaua'i
Planning Department
4444 Rice St., Suite A473 Līhu'e, HI 96766
(808) 241-4050

FROM: Kaaina S. Hull, Director | Planner: Shelea Koga | Date: 09/01/2026

SUBJECT: Zoning Amendment ZA-2027-5

Applicant: County of Kaua'i

The proposal amends Zoning Map ZM-H-200 Special Planning Area "N," also known as the "'Ele'ele Port Allen Walkable Mixed Use District"

TO:

- ☑ State Department of Transportation – STP
- ☑ State DOT – Highways, Kaua'i (info only)
- ☐ State DOT – Airports, Kaua'i (info only)
- ☐ State DOT – Harbors, Kaua'i (info only)
- ☑ State Department of Health
- ☐ State Department of Agriculture
- ☐ State Office of Planning
- ☐ State Dept. of Bus. & Econ. Dev. Tourism
- ☐ State Land Use Commission
- ☑ State Historic Preservation Division
- ☐ State DLNR – Land Management
- ☐ State DLNR – Forestry & Wildlife
- ☐ State DLNR – Aquatic Resources
- ☐ State DLNR – Conservation & Coastal Lands
- ☐ State DLNR – Commission on Water Resource Management
- ☐ Office of Hawaiian Affairs
- ☑ County DPW – Engineering
- ☐ County DPW – Wastewater
- ☐ County DPW – Building
- ☐ County DPW – Solid Waste
- ☐ County Department of Parks & Recreation
- ☑ County Fire Department
- ☑ County Housing Agency
- ☐ County Economic Development
- ☑ County Water Department
- ☐ County Civil Defense
- ☑ County Transportation Agency
- ☐ KHPRC
- ☐ U.S. Postal Department
- ☐ UH Sea Grant
- ☐ Other:

FOR YOUR COMMENTS (pertaining to your department): 10/1/2026

We have completed our review and have no comments.

Sincerely,

Bryan Wienand

Bryan Wienand, P.E.
Engineering Division

This matter is scheduled for a public hearing before the County of Kaua'i Planning Commission on 9/8/2026 at the Līhu'e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu'e, Kaua'i, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume there are no objections to this permit request. Mahalo!

hawaiilawyer.com®

DAMON KEY LEONG KUPCHAK HASTERT

A LAW CORPORATION

Gregory W. Kugle
Paris K. Johnson
1003 Bishop Street, Suite 1600
Honolulu, Hawaii 96813-6452
Telephone (808) 531-8031
Facsimile (808) 533-2242
E-Mail: gwk@hawaiilawyer.com
pkj@hawaiilawyer.com
www.hawaiilawyer.com

August 26, 2026

VIA EMAIL & CERTIFIED MAIL:
khull@kauai.gov; planningdepartment@kauai.gov; mlaureta@kauai.gov

Mr. Ka'aina S. Hull
Director of Planning
Planning Department
County of Kaua'i, State of Hawai'i
4444 Rice Street, Suite A-473
Lihue, Hawai'i 96766

Ms. Jodi A. Higuchi Sayegusa
Deputy Planning Director
Kaua'i Planning Commission
County of Kaua'i, State of Hawai'i
4444 Rice Street, Suite A-473
Lihue, Hawai'i 96766

Re: Appeal and Request for Contested Case Hearing Regarding Cease & Desist and Forfeiture of Non-Conforming Use Certificates TVNCU Nos. 5104 (Ileina's Hanalei Cottage) and 5166 (Ileina's Hanalei House)

Dear Mr. Hull and Ms. Higuchi-Sayegusa,

This firm represents David Larimer and Elayne Larimer ("**Appellants**"), owners of the properties commonly known as Ileina's Hanalei Cottage and Ileina's Hanalei House, located at Tax Map Key No. (4) 5-5-002:113, 5277 Malolo Place and 5277-A Malolo Place, Hanalei, Hawai'i 96714. Appellants hold two Non-Conforming Use Certificates TVNCU No. 5104 and TVNCU No. 5166 authorizing the properties' nonconforming use as transient vacation rentals. This letter constitutes a notice of appeal and demand for a contested case hearing pursuant to Chapter 9 of the Rules of Practice and Procedure of the Kaua'i Planning Commission ("**Kaua'i Commission Rules**").

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H.5.a.

OCT 13 2026

Appellants hereby appeal from two decisions of the Kaua'i Department of Planning, Enforcement Division ("**Planning Department**"), each entitled *Cease & Desist, and Forfeiture of TVRNCU*, received via email on August 5, 2026 (collectively, the "**Cease & Desist Letters**"). The first decision concerns TVNCU No. 5104 (Ileina's Hanalei Cottage) and the second concerns TVNCU No. 5166 (Ileina's Hanalei House). The Planning Department determined that both nonconforming use certificates were forfeited based upon the alleged failure to submit renewal applications before July 31, 2026, and ordered Appellants to cease and desist the transient vacation rental use of both properties. *See* **Exhibits "1"–"2"**.

There are several reasons why the appeal should be granted. Importantly, the County does not have authority to order a forfeiture of the nonconforming use due to a missed renewal deadline. The County of Kaua'i derives its "zoning powers from HRS § 46-4(a)[], referred to as the Zoning Enabling Act." *Ferris Tr. v. Planning Comm'n of Kaua'i*, 138 Haw. 307, 312, 378 P.3d 1023, 1028 (App. 2016) (citation omitted). The Zoning Enabling Act provides: "Neither this section nor any ordinance enacted pursuant to this section shall prohibit the continued lawful use of any building or premises for any trade, industrial, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect[.]" Haw. Rev. Stat. § 46-4(a). Thus, in this case, the County of Kaua'i does not have the statutory authority to "forfeit" the lawful nonconforming use of this property.

The Cease & Desist Letters also violate the County Ordinance because Appellants use was continuous. Under the CZO, "[i]f any nonconforming use ceases for any reason for continuous period of twelve (12) calendar months . . . then the use shall not be resumed. . . ." CZO § 8-13.2(b). Here, the Planning Department did not make any findings that Appellants had discontinued their use. *See* Exs. 1–2. In fact, the Appellants continue to use their property under the nonconforming use certificates.

Further, nonconforming uses are vested property rights. "The statutory protection of lawfully existing uses and structures 'prior to the effective date of a zoning restriction is grounded in constitutional law.'" *Ferris*, 138 Haw. at 312, 378 P.3d at 1028 (citation omitted). "Under the United States and Hawai'i Constitutions, 'preexisting lawful uses of property are generally considered to be vested rights that zoning ordinances may not abrogate.'" *Id.* (citation omitted). The "zoning law concept of 'non-conforming use' protects landowners who have vested rights to use their land in a fashion later prohibited by restrictive zoning regulations." *Young v. Planning Comm'n*, 89 Haw. 400, 410, 974 P.2d 40, 50 (1999) (citation and emphasis

omitted). Therefore, Appellants' non-conforming use certificates are a vested right and is considered a property right for purposes of the Federal and State Constitutions, which cannot be forfeited because of a missed ministerial deadline to reapply.

The Director's decision to terminate a nonconforming use certificate because the renewal deadline was missed also violates Appellants' constitutional right to due process under the law. *See* Exs. 1–2. Both the Federal and State Constitutions provide that "No person shall be deprived of life, liberty or property without due process of law...." Haw. Const. Art. I, § 5; see U.S. Const. amend. XIV cl. 1. Due process provides both substantive and procedural protections. "The basic elements of procedural due process are notice and an opportunity to be heard at a meaningful time and in a meaningful manner." *Mauna Kea Anaina Hou v. Bd. of Land & Nat. Res.*, 136 Haw. 376, 389, 363 P.3d 224, 237 (2015). "The requirement of procedural due process exists to protect individuals against the state's deprivation of liberty and property interests." *Brown v. Thompson*, 91 Haw. 1, 9, 979 P.2d 586, 594 (1999). The Cease & Desist Letters direct the property owner to cease and desist from the otherwise lawful conduct immediately, with no opportunity for a hearing until months later, if not longer.[1] *See* Exs. 1–2. However, Appellants are entitled to notice and a hearing prior to the permanent deprivation of their protected property interests.

Substantive due process "guards against arbitrary and capricious government action, even when the government takes that action pursuant to a facially constitutional law. *In re Herrick*, 82 Haw. 329, 349, 922 P.2d 942, 962 (1996). For substantive due process, "an aggrieved person must prove that the government's action was clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare." *Id.* The Planning Department acted erroneously, arbitrarily, and manifestly abused its discretion when it issued the Cease & Desist Letters, demanding forfeiture of a vested property right without due process and in violation of the zoning ordinance, state law, and the State and Federal Constitutions. *See id.*; Exs. 1–2.

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[1] Requiring the immediate cessation of lawful income-producing activity while the property owner waits months or years for a hearing is a further denial of due process and exposes the County to significant damages. It also exposes the Planning Department staff and Planning Commissioners to liability under 42 U.S.C. § 1983 and attorneys' fees and costs under 42 U.S.C. § 1988.

For the foregoing reasons, and such others that may be shown at the hearing, Appellants respectfully demand a contested case hearing pursuant to Chapter 9 of the Kaua'i Commission Rules. Appellants reserve the right to amend, supplement and assert further objections. Appellants' efforts to mitigate potential enforcement action and damages shall not be construed as a waiver of any rights, claims, defenses, or objections to the Planning Department's decision.

Very truly yours,

DAMON KEY LEONG KUPCHAK HASTERT

Gregory W. Kugle
Paris K. Johnson

GWK:PKJ
Encl: Exhibits 1-2
984284

DEPARTMENT OF PLANNING
Enforcement Division
THE COUNTY OF KAUA'I
DEREK S. K. KAWAKAMI, MAYOR

KA'ĀINA S. HULL
DIRECTOR
JODI HIGUCHI-SAYEGUSA
DEPUTY DIRECTOR

CEASE & DESIST, AND
FORFEITURE OF TVRNCU

Certified Mail

Elayne Larimer
3909 Alpine Road
Portola Valley, CA 94028

Subject: **CEASE & DESIST, and FORFEITURE of Non-Conforming Use Certificate TVNCU #5166 (Ileina's Hanalei House)**
TMK 55002113, Hanalei, Kaua'i
5277-A Malolo Pl
Elayne Larimer, owner

Your TVNCU was to be renewed by ***July 31, 2026*** as required by Sec.8-17-10 (h)(1) of the codified Kauai County Code 1987, as amended, which was the annual date of issuance of the non-conforming use certificate.

Further Section 8-17.10(h)(1) reads:

> "Each application to renew shall include proof that there is a currently valid State of Hawaii general excise tax license and transient accommodations tax license for the nonconforming use and shall be received by the Department prior to the expiration date of a held Nonconforming Use Certificate. ***Failure to meet this condition will result in the automatic denial of the application for renewal of the Nonconforming Use Certificate.***"

Since you failed to submit a renewal packet prior to July 31, 2026, you are hereby ordered to **Cease & Desist** the transient vacation rental use of the property. The following elements shall be instituted immediately:

a. Cease and desist the use of the single family residence as a vacation rental;

b. Remove all advertisements (tv, radio, worldwide web, outdoor signage, etc) related to the existing Vacation Rental use of the property;

c. Suspend or cancel the GE and TAT licenses for the Vacation Rental use;

d. Cancel all Transient Vacation rental commitments for the property, commencing from August 1, 2026.

Exhibit "1"

Please submit the necessary documentation related to the above requirements at your earliest convenience.

You have the right to appeal this decision and any appeal must be filed with the Planning Commission within 21 days after the date of this decision to provide you an opportunity for a hearing before the Planning Commission. The appeal must conform to Chapter 9 of the Rules of Practice and Procedure of the Planning Commission. The Rules of Practice and Procedure of the Planning Commission are available on the Department's website.

Should you fail to Cease & Desist the vacation rental use of the property within the time period noted above and it is confirmed by the Department, you will be issued a Notice of Violation, $10,000.00 civil fine, and the matter forwarded to the Prosecutor's Office for criminal prosecution. Should you appeal this forfeiture, the vacation rental use must still cease.

Should you have any questions regarding this matter, please contact Enforcement Supervisor Michael Laureta at 808-241-4071 or mlaureta@kauai.gov.

KAAINA S. HULL
Director of Planning

C: Real Property

DEPARTMENT OF PLANNING
Enforcement Division
THE COUNTY OF KAUA'I
DEREK S. K. KAWAKAMI, MAYOR

KA'ĀINA S. HULL
DIRECTOR
JODI HIGUCHI-SAYEGUSA
DEPUTY DIRECTOR

CEASE & DESIST, AND
FORFEITURE OF TVRNCU

Certified Mail

Elayne Larimer
3909 Alpine Road
Portola Valley, CA 94028

Subject: **CEASE & DESIST, and FORFEITURE of Non-Conforming Use Certificate TVNCU #5104 (Ileina's Hanalei Cottage)**
TMK 55002113, Hanalei, Kaua'i
5277 Malolo Pl
Elayne Larimer, owner

Your TVNCU was to be renewed by ***July 31, 2026*** as required by Sec.8-17-10 (h)(1) of the codified Kauai County Code 1987, as amended, which was the annual date of issuance of the non-conforming use certificate.

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KAAINA S. HULL
Director of Planning

C: Real Property