

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

September 22, 2025

Agency comments received by the Planning Department as of September 22, 2025, 9:00 am for the September 23, 2025, Planning Commission meeting regarding the following item:

G.2.b. CLASS IV ZONING PERMIT (Z-IV-2026-4) and USE PERMIT (U-2026-3) to allow the construction of a mixed use project involving retail and multi-family residential units and associated site improvements, on a parcel situated on the northern side of Rice Street in Lihue, located approximately 400 feet west of the Rice Street/Kapule Highway intersection, further identified as Tax Map Key: (4) 3-6-012:025 and containing a total area of 25,999 square feet = **SOUTH RICE LLC.** [Director's Report Received, 9/9/2025].



County of Kauai
Planning Department
4444 Rice St., Suite A473 Lihue, HI 96766
(808) 241-4050

FROM: Kaaina S. Hull, Director

Planner: John Schoffstall

8/11/2025

SUBJECT: Zoning Class IV Z-IV-2026-4
Use Permit U-2026-3

To allow the construction of a mixed use project involving retail and multi-family residential units and associated site improvements, on a parcel situated on the northern side of Rice Street in Lihue, located approximately 400 feet west of the Rice Street/Kapule Highway intersection, further identified as Tax Map Key: (4) 3-6-012:025 and containing a total area of 25,999 square feet.

Tax Map Key: 36012025

Applicant: South Rice LLC (NRM Architect LLC, Authorized Agent)

South Rice LLC

TO:

- ☒ State Department of Transportation - STP
- ☒ State DOT - Highways, Kauai (info only)
- ☐ State DOT - Airports, Kauai (info only)
- ☐ State DOT - Harbors, Kauai (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
- ☐ 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
- ☐ Other:

FOR YOUR COMMENTS (pertaining to your department)

We have completed our review and offer the following comments:

1. The applicant shall comply with all provisions of the "Sediment and Erosion Control Ordinance No. 808" to safeguard public health, safety, and welfare, to protect property, and to control soil erosion and sedimentation. This shall include, but not be limited to, a grading and/or grubbing permit in compliance with the County's Sediment and Erosion Control Ordinance, which is required if any of the following conditions apply:
 - The work area exceeds one (1) acre.
 - Grading involving excavation or embankment, or combination thereof exceeds 100 cubic yards.
 - Grading exceeds five (5) feet in vertical height or depth at its deepest point.
 - The work area unreasonably alters the general drainage pattern to the detriment of abutting properties.
2. During construction, best management practices (BMPs) shall be incorporated to the maximum extent practicable to prevent damage by sedimentation, erosion, or dust to watercourses, natural areas, and other properties. The permittee and the property owner shall be responsible for ensuring that BMPs are satisfactorily implemented at all times.
3. Based on Panel 1500020326F dated November 26, 2010, the property is located within Zone X, which is not within the Special Flood Hazard Area; therefore, we have no comments with respect to the County's Floodplain Management Ordinance No. 831.
4. The applicant is made aware that any modifications to the existing driveway approach must comply with Kauai County Code 15-2. It appears that the existing driveway approach may not comply with the Americans with Disabilities Act (ADA); if this is the case, the driveway must be modified to comply with the ADA). Should any modifications be proposed or required, the applicant shall apply online for a driveway approach permit at [Connect.Kauai.gov](https://connect.kauai.gov).
5. For work within the County right-of-way, a road permit is required. Contact the Department of Public Works, Engineering Division, at pwengineering@kauai.gov for additional information.

Sincerely,


Michael Moule, P.E.
Chief, Engineering Division

Digitally signed by Michael Moule
Date: 2025.09.18 16:39:09 -10'00'

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

SUPPLEMENTAL 1 DIRECTOR'S REPORT

I. PERMIT INFORMATION

Action Required by Planning Commission:	Consideration of Applicant's proposal to construct a mixed-use facility. The proposed mixed-use facility would include a restaurant, multifamily residential uses, and general retail uses. The applicant is also proposing to demolish the existing building.
Permit Application Nos.	Class IV Zoning Permit Z-IV-2026-4 Use Permit U-2026-3
Name of Applicant(s)	SOUTH RICE LLC. Nalani R. Mahelona, Authorized Agent

II. SUMMARY AND BACKGROUND:

The subject property is located within the Lihue Industrial Park Unit 1. It abuts Rice Street and is approximately 400 feet west of Kapule Highway. The applicant's proposal is for mix use development that would include 2 new 2-story buildings identified as building "A" and building "B." Building A would serve as a mix-use building consisting of 2 general retail units, a restaurant unit, and a 3-unit multi-family residence. Building B would consist of a 6-unit multi-family residence and a laundry room.

III. PRELIMINARY EVALUATION (Cont'd):

The proposed project is located along Rice Street and is in close proximity to Lihue Town Core Area. The mixed-used development is like the types of uses located in the Lihue Town Core Area. To help match the design and character of the Lihue Town Area design standards from the Lihue Town Core Urban Design Plan should be considered. Street frontage found in the Lihue Town Core Urban Design is designed to help the building character of the area. It seeks to intersect public and private spaces to create more cohesive mixed-use area.

IV. PRELIMINARY CONCLUSION (Cont'd):

By matching the character and design of the vision for mixed-use development, the proposed project presents the opportunity to create a more vibrant and lively area beyond the reaches of the Lihue Town Area. The overall proposal would help this area of Lihue to serve both residents and visitors alike.

G. N. V.

SEP 23 2025

V. PRELIMINARY RECOMMENDATION

Based on the foregoing evaluation and conclusion it is hereby recommended that proposed development involving the construction of a mixed-use facility, multi family residence, demolition of the existing building, landscaping, and associated site improvements through Class IV Zoning Permit Z-IV-2026-4 and Use Permit U-2026-3 be **approved** subject to the following conditions:

1. The project and its amenities shall be constructed and operated as represented. Any changes to the subject buildings and/or operations shall be reviewed by the Department to determine whether Planning Commission review and action is required.
2. The Applicant shall incorporate architectural elements that is reflective of the neighborhood into the exterior appearance the proposed buildings. Such elements include, but is not limited to, rooflines, exterior finish materials, and exterior color. The final design shall be submitted to the Planning Department for review and acceptance.
3. The Applicant shall prepare a landscape plan comprised of native species or species common to the area in order to help minimize the visual impacts of the project and integrate the site with its surroundings. The proposed landscape plan shall be submitted to the Planning Department for review and approval prior to building permit application. Additionally, the approved landscape plan shall be implemented prior to certification of occupancy.
4. As represented, the Applicant will provide a minimum of 33 off-street parking stalls and accommodations for bicycle parking & storage for the project. However, the Applicant is made aware that the Planning Director may increase vehicle and bicycle-parking requirements when particular uses or locations occur in areas where unusual traffic congestion or conditions exist or are projected.
5. The Applicant will provide the minimum required amount of parking per Section 8-4.5(a)(5), 8-6-3(e)(3)(A), and 8-6-3(e)(3)(B) of the Kaua'i County Code, 1987 as amended.
6. The Applicant will designate parking spaces for the dwelling units, retail spaces, and restaurant. A minimum of 9 parking spaces will be designated for the dwelling units, a minimum of 7 parking spaces will be designated for the retail spaces, and a minimum of 8 parking spaces will be designated for the restaurant space.
7. The Applicant is advised that there may be occasional nuisances associated with either daylight or early evening activities in the Lihu'e Industrial Park Area. The Applicant shall make proper disclosure of occasional nuisances extraneous to the proposed development that may occur nearby on adjacent properties.
8. 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.

9. The applicant shall comply with the fire code requirements as imposed by the County Fire Department, drainage/flood requirements for DPW-Engineering Division, wastewater requirements for the State Department of Health (DOH), traffic related analysis & requirements for the County DPW & State Highways Division, and the archaeological/historical requirements of the State Historic Preservation Division (SHPD).
10. Prior to operation/occupancy of the proposed facility, written confirmation of compliance with the requirements from all reviewing agencies shall be provided to the Planning Department.
11. The applicant shall develop and utilize Best Management Practices (B.M.P.'s) during all phases of development in order to minimize erosion, dust, and sedimentation impacts of the project to abutting properties.
12. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kauai contractors as long as they are qualified and reasonably competitive with other contractors, and shall seek to employ residents of Kauai in temporary construction and permanent jobs. It is recognized that the applicant may have to employ non- Kauai residents for particular skilled jobs where no qualified Kauai 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.
13. 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.
14. 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).
15. Prior to demolition, groundbreaking, and placement of BMPs, the applicant must receive approval from SHPD.
16. The Planning Commission reserves the right to 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.

17. In order to help match the Lihue Urban Design Plan for Rice Street, the following design standards shall be met:

- a. Buildings shall be built up to a ten foot build-to line from the edge of the curb.
- b. Canopies, awnings, overhangs, balconies, eaves, signage, and similar permitted elements may encroach into the required right-of-way over the sidewalk, provided that the projection does not intrude into the street travelway or block ADA-accessible sidewalks and meets applicable ground clearance standards.
- c. Retail uses, such as sidewalk cafes and outdoor shopping areas, and temporary retail uses, such as sandwich boards and outdoor shopping displays, which "spill out" onto the sidewalk are permitted, subject to approval by the Planning Director and County Engineer. Department of Transportation approval is also required for encroachments into a State-owned right-of-way.
- d. Outdoor eating and gathering areas located within the roadway interface zone should be buffered from moving cars through the use of bollards, planters, landscaping, decorative fencing or similar measures. All buffers that encroach into a public right-of-way are subject to approval by the Planning Director and County Engineer. Department of Transportation approval is also required for encroachments into a State-owned right-of-way.

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 September 23, 2025, 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 staff's report and recommendation as provided herein.

***NOTE: Material to be deleted in brackets & strikethrough, and new material is underlined.**

By John Schoffstall
JOHN SCHOFFSTALL
Planner

Approved & Recommended to Commission:

By Ka'aina S. Hull
KA'ĀINA S. HULL
Director of Planning

Date: 9/19/2025

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

September 22, 2025

Agency comments received by the Planning Department as of September 22, 2025, 9:00 am for the September 23, 2025, Planning Commission meeting regarding the following item:

G.2.c CLASS IV ZONING PERMIT (Z-IV-2026-5), USE PERMIT (U-2026-4) to allow operation of an office work center that includes storage for its equipment and associated site improvements, and VARIANCE PERMIT (V-2026-1) to allow a deviation from the land coverage requirement within the Open zoning district involving a parcel situated on the makai side of Kuhio Highway in Kapa'a, located at the Waiakea Boat Ramp at the terminus of Kaloloku Road, further identified as Tax Map Key: (4) 4-5-006:001 (Por.) and affecting an area approximately 0.48 acre of a larger parcel = STATE OF HAWAII', DEPARTMENT OF LAND AND NATURAL RESOURCES (DLNR), DIVISION OF AQUATIC RESOURCES (DAR). [Director's Report Received, 9/9/2025].



County of Kauai
Planning Department
4444 Rice St., Suite A473 Lihue, HI 96766
(808) 241-4050

FROM: Kaaina S. Hull, Director

Planner: Romio Idica

8/11/2025

SUBJECT: Zoning Class IV Z-IV-2026-5
Use Permit U-2026-4
Variance Permit V-2026-1

To allow operation of an office work center that includes storage for its equipment and associated site improvements, and VARIANCE PERMIT (V-2026-1) to allow a deviation from the land coverage requirement within the Open zoning district involving a parcel situated on the makai side of Kuhio Highway in Kapa'a, located at the Waiakea Boat Ramp at the terminus of Kaloloku Road, further identified as Tax Map Key: (4) 4-5-006:001 (Por.) and affecting an area approximately 0.48 acre of a larger parcel

Applicant: State of Hawaii, Department of Land & Natural Resources
DAR Kauai Work Station Project

TO:

- | | |
|--|--|
| <input checked="" type="checkbox"/> State Department of Transportation - STP | <input checked="" type="checkbox"/> County DPW - Engineering |
| <input checked="" type="checkbox"/> State DOT - Highways, Kauai (info only) | <input type="checkbox"/> County DPW - Wastewater |
| <input type="checkbox"/> State DOT - Airports, Kauai (info only) | <input type="checkbox"/> County DPW - Building |
| <input type="checkbox"/> State DOT - Harbors, Kauai (info only) | <input type="checkbox"/> County DPW - Solid Waste |
| <input checked="" type="checkbox"/> State Department of Health | <input type="checkbox"/> County Department of Parks & Recreation |
| <input type="checkbox"/> State Department of Agriculture | <input checked="" type="checkbox"/> County Fire Department |
| <input type="checkbox"/> State Office of Planning | <input checked="" type="checkbox"/> County Housing Agency |
| <input type="checkbox"/> State Dept. of Bus. & Econ. Dev. Tourism | <input type="checkbox"/> County Economic Development |
| <input type="checkbox"/> State Land Use Commission | <input checked="" type="checkbox"/> County Water Department |
| <input checked="" type="checkbox"/> State Historic Preservation Division | <input type="checkbox"/> County Civil Defense |
| <input type="checkbox"/> State DLNR - Land Management | <input checked="" type="checkbox"/> County Transportation Agency |
| | <input type="checkbox"/> Other: |

FOR YOUR COMMENTS (pertaining to your department)

We have completed our review and offer the following comments:

1. The applicant shall comply with all provisions of the "Sediment and Erosion Control Ordinance No. 808" to safeguard public health, safety, and welfare, to protect property, and to control soil erosion and sedimentation. This shall include, but not be limited to, a grading and/or grubbing permit in compliance with the County's Sediment and Erosion Control Ordinance, which is required if any of the following conditions apply:
 - The work area exceeds one (1) acre.
 - Grading involving excavation or embankment, or combination thereof exceeds 100 cubic yards.
 - Grading exceeds five (5) feet in vertical height or depth at its deepest point.
 - The work area unreasonably alters the general drainage pattern to the detriment of abutting properties.The Sediment and Erosion Control Ordinance exempts the permit requirements for "work in an isolated, self-contained government controlled area". Because this land is owned and being developed by the State of Hawai'i, it may not require a permit. If the State of Hawai'i wants to use this exemption, they should send a letter to Engineering Division indicating their intent
2. During construction, best management practices (BMPs) shall be incorporated to the maximum extent practicable to prevent damage by sedimentation, erosion, or dust to watercourses, natural areas, and other properties. The permittee and the property owner shall be responsible for ensuring that BMPs are satisfactorily implemented at all times.
3. Based on Panel 1500020204F dated November 26, 2010, part of the proposed development is located within Flood Zone AEF, which is the Regulatory Floodway within the Special Flood Hazard Area. The applicant's consultant, Bow Engineering, has been working with our Floodplain Manager, Bryan Wienand, to prepare and submit the Letter of Map Amendment (LOMA) Community Acknowledgement Form to FEMA. Bryan will continue to work with Bow Engineering to complete the LOMA process once FEMA's review process is complete.

Sincerely,

Michael Moule, P.E.
Chief, Engineering Division

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Date: 2025.09.18 16:57:41 -10'00'

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

September 22, 2025

Public testimony received by the Planning Department as of September 22, 2025, 9:00 am for September 23, 2025, Planning Commission meeting regarding the following item:

G.2.c. CLASS IV ZONING PERMIT (Z-IV-2026-5), USE PERMIT (U-2026-4) to allow operation of an office work center that includes storage for its equipment and associated site improvements, and VARIANCE PERMIT (V-2026-1) to allow a deviation from the land coverage requirement within the Open zoning district involving a parcel situated on the makai side of Kuhio Highway in Kapa'a, located at the Waiakea Boat Ramp at the terminus of Kaloloku Road, further identified as Tax Map Key: (4) 4-5-006:001 (Por.) and affecting an area approximately 0.48 acre of a larger parcel = STATE OF HAWAI'I, DEPARTMENT OF LAND AND NATURAL RESOURCES (DLNR), DIVISION OF AQUATIC RESOURCES (DAR). [Director's Report Received, 9/9/2025].

G.2.c.
Sep 23, 2025

Molly Lutcavage
Tuna2Oceans LLC
3908 Kiani St.
Koloa, HI 96756

18 September, 2025

Dear County of Kaua'i Planning Commission,

I'd like to express my strong support for the Division of Aquatic Resources (DAR) – Kaua'i District's proposal to install a new custom modular office building and establish baseyard operations at the Waika'ea Boat Ramp site in Kapa'a. This project is a critical step in ensuring DAR Kaua'i has the capacity, space, and infrastructure needed to support the island's growing resource management needs and to effectively serve the public.

This building will not only serve as the primary base of operations for DAR Kaua'i staff, but will also function as a hub for staging critical marine and aquatic fieldwork across the island. It will support DAR's work in fisheries management, marine protected areas, invasive species control, community engagement, and emergency response. As a fisheries and ocean scientist that works with island fishers, it's clear that as NMFS' key science and conservation missions are now facing elimination, DAR and the state must take on the role to protect and support our ocean resources and fishers. Otherwise, without stewardship and science, we shall lose them faster than can be imagined.

Now, more than ever, given DAR's role in safeguarding Kaua'i's aquatic resources and providing essential services to the public, their facilities must grow to match their mission. This investment will directly enable better stewardship of Hawai'i's nearshore and fisheries resources, improve response capacity for environmental emergencies, and enhance the division's ability to engage with local communities.

For all these reasons, I strongly urge full support for this necessary and well-justified project.

Mahalo for your time and consideration.

A handwritten signature in cursive script, appearing to read 'M Lutcavage'.

Molly Lutcavage, Ph.D.

Dear County of Kaua'i Planning Commission,

I am writing to express my strong support for the Division of Aquatic Resources (DAR) – Kaua'i District's proposal to install a new custom modular office building and establish baseyard operations at the Waika'ea Boat Ramp site in Kapa'a. This project is a critical step in ensuring DAR Kaua'i has the capacity, space, and infrastructure needed to support the island's growing resource management needs and to effectively serve the public.

The modular structure will provide a public-facing reception area to allow staff to interact with fishers, community members, and other resource users; dedicated individual and collaborative workspaces; a multi-use conference and training room for public meetings, workshops, and staff coordination; and a field gear washdown and storage area to safely and efficiently manage equipment essential for field operations.

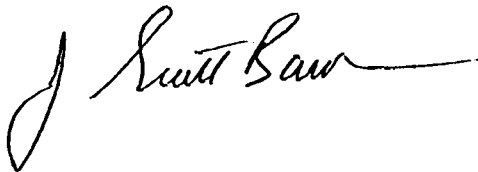
This building will not only serve as the primary base of operations for DAR Kaua'i staff, but will also function as a hub for staging critical marine and aquatic fieldwork across the island. It will support DAR's work in fisheries management, marine protected areas, invasive species control, community engagement, and emergency response.

Given DAR's role in safeguarding Kaua'i's aquatic resources and providing essential services to the public, it is imperative that their facilities grow to match their mission. This investment will directly enable better stewardship of Hawai'i's nearshore resources, improve response capacity for environmental emergencies, and enhance the division's ability to engage with local communities.

For all these reasons, I strongly urge full support for this necessary and well-justified project.

Mahalo for your time and consideration.

Scott Bacon

A handwritten signature in black ink, reading "Scott Bacon". The signature is fluid and cursive, with a large initial "S" and a long horizontal stroke at the end.

3882 Konona Rd

Anahola, HI 96703

808-482-0683

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. SUMMARY:

Action Required by Planning Commission:	Consideration for a Class IV Zoning Permit to allow the construction and operation of a new telecommunication facility.
Permit Application No.:	Class IV Zoning Permit Z-IV-2026-6 Use Permit U-2026-5 Special Permit SP-2026-1
Name of Applicant(s)	SPACE EXPLORATION TECHNOLOGIES CORP. Belles Graham LLP., Authorized Agent

II. ADDITIONAL FINDINGS

During the evaluation and analysis of the proposed project for the construction and operation of a new telecommunication facility, opportunities were identified to further strengthen the proposal. The following considerations should be addressed:

- The proposed development includes antennas enclosed within protective eight-foot structures and the installation of four new utility poles measuring 38.5 feet in height. Although this height complies with the Agricultural District's limits, the project may still produce some visual impacts.
- The proposed project is located approximately 2.13 miles from the property boundary of Līhu'e Airport (LIH) and about 13,592 feet from the end of Runway 3/21 at LIH. The Hawai'i Department of Transportation (HDOT) provided the following comments:
 1. Any project within five miles of the State airport should review the Technical Assistance Memorandum (TAM) for guidance on development activities that may require additional review or permits.
 2. Federal Aviation Administration (FAA) regulation require the submittal of FAA Form 7460-1, *Notice of Proposed Construction or Alteration*, pursuant to the Code of Federal Regulations, Title 14, Part 77.9, when construction or alteration occurs within 20,000 feet of a public- use or military airport and exceeds the 100:1 surface from any point on a runway whose longest runway exceeds 3,200 feet.
 3. Because the project involves telecommunications antennas, potential radio-frequency interference with aviation-dedicated signals may be a concern. The

E.r.d.
SEP 23 2025

FAA's Prescreening Tool should be used to determine whether notification of specific frequencies in FAA Form 7460-1 is required.

III. EVALUATION

Relating to visual impacts:

- As noted in the Director's Report, the proposed project complies with the applicable height regulations of the Comprehensive Zoning Ordinance. Nevertheless, the Planning Commission may impose conditions on the permit to mitigate potential impacts, including visual impacts, through measures such as landscaping. Given the increasing intensity of nearby land uses—including the SolarCity project to the northwest, the Kaua'i Island Utility Cooperative's Kapa'a Power Plant to the east, and a new asphalt batch plant approximately 0.8 miles away—additional measures to minimize visual impacts from public vantage points may be appropriate to ensure that the rural character of the area is preserved and that new development remains compatible with the surrounding landscape. This could be addressed by including an additional condition which requires the applicant to conduct a landscape plan to provide visual screening.

Relating to potential airport impacts:

- Given the proximity and nature of the proposed project, it is appropriate to ensure the applicant addresses the comments provided by HDOT by incorporating them into the project's conditions of approval. The Technical Assistance Memorandum (TAM) highlights potential concerns regarding glint/glare hazards and aerial obstructions due to the project's closeness to the airport. Furthermore, if the project meets the criteria for FAA Form 7460-1 (*Notice of Proposed Construction or Alteration*), submission would also evaluate potential radio frequency interference and height-related concerns, including construction equipment and temporary crane heights.

To address glint/glare hazards, Condition #3 should be clarified to require that all exterior equipment, structures, and colors be non-reflective.

To address potential FAA Form 7460-1 requirements and other HDOT standards, Condition #5 should identify the State Department of Transportation as an agency whose standards and requirements must be satisfied. Additionally, a new condition should also require the applicant to evaluate whether FAA Form 7460-1 submission is necessary for the proposed project, and if so, to submit the form, including maximum heights of all structures, construction equipment, temporary cranes, and any specific radio frequencies.

These revisions and the addition of the new condition will help ensure that any potential interference or impacts associated with the proposed telecommunication facility—including glint/glare, aerial obstructions, and radio frequency interference—are appropriately mitigated or addressed to the satisfaction of the relevant regulatory agencies.

IV. RECOMMENDATIONS:

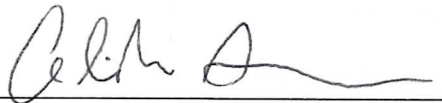
Based on the foregoing evaluation and conclusion it is hereby recommended that the proposed development involving the construction and operation of a new telecommunication facility through Class IV Zoning Permit Z-IV-2026-6, Use Permit U-2026-5, and Special Permit SP-2026-1 be approved subject to the following conditions:

1. The operation of this facility shall be constructed and operated as represented in the application. Any changes to said structures and/or facilities shall be reviewed by the Planning Department to determine whether Planning Commission review and approval is warranted.
2. Should the use of the proposed telecommunication facility be discontinued or abandoned for a period of one year, the applicant shall remove all of its telecommunication equipment, poles, and antennas from the project site.
3. Prior to building permit submittal, the applicant shall submit color scheme/samples to be utilized in the proposed equipment for the review and approval of the Planning Department. **All exterior equipment, structures, and c[G]olors shall be non-reflective and chosen to blend with the surrounding vegetative environment.**
4. **The applicant shall provide a landscape plan for the review and approval of the Planning Department prior to Building Permit application. In the landscape plan, the Applicant is encouraged to incorporate native plant species common to the area or endemic, indigenous, or Polynesian introduced plant species, and be designed to provide effective visual screening to the greatest extent feasible.**
5. 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 type: downward facing shielded lights. Spotlights aimed upward or spotlighting of structures or physical features shall be prohibited.
6. The Applicant shall resolve and comply with the applicable standards and requirements set forth by the State Health Department, **State Department of Transportation**, State Historic Preservation Division-DLNR, Office of Hawaiian Affairs, and the County Departments of Public Works, Fire & Water.
7. The Applicant shall develop and utilize Best Management Practices (BMP's) during all phases of development in order to minimize erosion, dust, and sedimentation impacts of the project to abutting properties.
8. The Applicant must receive a letter from DLNR, SHPD, prior to the installation of BMP's (dust fence) or any ground disturbing activities or grubbing.
9. Should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the Applicant shall contact the State Department

of Land and Natural Resources, Historic Preservation Division and the County of Kaua'i, Department of Planning.

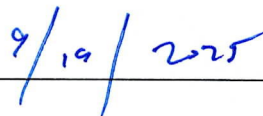
10. The Applicant is advised that additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).
11. Prior to installation, the Applicant shall consult with the Kaua'i Police Department and Department of Water to address any potential interference with public safety radio systems. Any such interference shall be resolved to the Kaua'i Police Department's and/or Department of Water's satisfaction at the applicant's expense.
12. **Prior to installation, the Applicant shall evaluate the proposed facility in accordance with the Code of Federal Regulations, Title 14, Part 77.9 to determine whether submission of Federal Aviation Administration (FAA) Form 7460-1, Notice of Proposed Construction or Alteration, is required. If required, the Applicant shall file Form 7460-1, including the maximum height of all proposed structures, construction equipment, temporary cranes, and any specific radio frequencies. All conditions, requirements, or recommendations issued by the FAA shall be met to the State Department of Transportation's satisfaction at the applicant's expense.**
13. 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.
14. 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.
15. The Planning Commission reserves the right to revise, modify, add or delete conditions of approval in order to address or mitigate unforeseen impacts that the project may create, or revoke the permits through the proper procedures should conditions of approval not be complied with or violated.

***NOTE: Material to be deleted in brackets & strikethrough, and new material is underlined.**

By 
ALISHA SUMMERS
Planner

Approved & Recommended to Commission:

By 
KA'AINA S. HULL
Director of Planning

Date: 
9/19/2025

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

September 22, 2025

Public testimony received by the Planning Department as of September 22, 2025, 9:00 am for September 23, 2025, Planning Commission meeting regarding the following item:

- I.1. Petition to Appeal the Planning Director's Decision Related to the Issuance of a Notice of Violation & Order to Pay \$10,000 fine for the advertisement and operation of an unpermitted transient vacation rental, Richard and Holly Schunk, Tax Map Key (4) 46008060, Kapaa, Kauai, received on July 1, 2025.

I.1.
SEP 23 2025



McCORRISTON MILLER MUKAI MACKINNON LLP
ATTORNEYS AT LAW

Laurel Loo, Partner
ll@m4law.com

September 18, 2025

Department of Planning
Via e-mail: khull@kauai.gov

Re: 6562 Kahuna Road, Kapaa, Hawaii 96746
Tax Map Key: 4-6-008:060
Richard and Holly Schunk

Dear Mr. Hull:

In reference to the Disposition of Violation dated August 26, 2025, we acknowledge receipt of your notice that the matter is resolved.

While the letter notes the violations have been "rectified", for the record, my clients insist there were never violations to begin with. We refer you to their July 11, 2025, transmittal with their affidavits and their other evidence provided showing the matter was referred to Kauai Police and the Federal Bureau of Investigation. Additionally, we have provided you with information relating to and access to their current long-term tenants, along with a copy of the long-term residential lease agreement.

As the violation has been withdrawn by the Planning Department, we hereby withdraw our appeal of the Notice of Violation.

Please do not hesitate to call if you have questions.

Sincerely
McCorriston Miller Mukai MacKinnon LLP

Laurel Loo

LKL; vct

cc: Clients