

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 SEP -4 P1:57

- 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

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

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

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

PLANNING COMMISSION MEETING NOTICE AND AGENDA

Tuesday, September 15, 2026

9:00 a.m. or shortly thereafter

Līhu'e Civic Center, Moikeha Building

Meeting Room 2A-2B

4444 Rice Street, Līhu'e, Kaua'i, Hawai'i

RECEIVED

26 SEP -4 P1:57

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

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

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).

3. Continued Public Hearing

- a. **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.

4. New Public Hearing

- a. **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. Hearing postponed to October 13, 2026, to allow the Applicant's compliance with KCC §8-3.1(f)(4).
- b. **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.
- c. **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.
- d. **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.

- e. **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. Hearing postponed to October 13, 2026, to allow the Applicant’s compliance with KCC §8-3.1(f)(4).

- f. **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. Hearing postponed to October 13, 2026, to allow the Applicant’s compliance with KCC §8-3.1(f)(4).

- g. **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. Hearing postponed to October 13, 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, 6/24/2025].**

- 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 SPAP 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, 6/24/2025].**

- 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].

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].**

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].**
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4. **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.**
5. **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.**
6. **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.**
7. **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.**
8. **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.**
9. **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.**
10. 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.
11. **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].**

12. **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 SPAP boundaries = **COUNTY OF KAUAI, PLANNING DEPARTMENT. [Director's Report Received, Hearing Closed, Deferred, 3/11/2025; Deferred, 4/8/2025; Approved, 6/24/2025].**
13. **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].**
14. 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.**
15. 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 **October 13, 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.

September 8, 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' cedar 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.

KAUA'I PLANNING COMMISSION
REGULAR MEETING
June 09, 2026
DRAFT

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair Gerald Ako at 9:00 a.m. - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

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

Excused or Absent

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

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Chair Gerald Ako: Good morning. Today is Tuesday, June 9th, 2026. It's 9 o'clock a.m. and I'd like to call to order the meeting of the Planning Commission. With that, if we can have a roll call, Mr. Clerk.

ROLL CALL

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

Commissioner Helen Cox: Here.

Mr. Hull: Commissioner Giovanni?

Commissioner Dan Giovanni: Here.

Mr. Hull: Commissioner Santos?

Commissioner Kuulei Santos: Here.

Mr. Hull: Commissioner Streufert?

Commissioner Glenda Nogami Streufert: Here.

Mr. Hull: Chair Ako?

Chair Ako: Here.

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

APPROVAL OF AGENDA

Mr. Hull: Next, is the Approval of the Agenda. The department would recommend one small amendment, that General Business Matters, I. concerning the appeal to the director's action, be moved to directly follow the Agency Hearing portion of the agenda.

Chair Ako: Can we have a recommendation? Make a move.

Mr. Giovanni: I move that we adjust the agenda as recommended by the Planning Director.

Ms. Streufert: Second.

Chair Ako: We have a motion and a second. Any questions? If not, all those in favor say aye. Aye (unanimous voice vote). All those opposed. The agenda has been amended. 5:0.

MINUTES OF THE MEETING(S) OF THE PLANNING COMMISSION

Mr. Hull: Next, we have minutes for the May 12th, 2026, meeting.

Ms. Streufert: I move to accept the Minutes of the Meeting of May...I move to approve the Minutes of the Meeting of the Planning Commission from May 12, 2026.

Ms. Santos: I second.

Chair Ako: Okay. The minutes have been moved and seconded as for approval. All those in favor say aye. Aye (unanimous voice vote). All those opposed. The minutes of the May 12, 2026, meeting have been approved. 5:0.

RECEIPT OF ITEMS FOR THE RECORD (None)

Mr. Hull: Next, we have no Receipt of Items for the Record.

COMMITTEE REPORTS

Subdivision Committee Report

Mr. Hull: Committee Reports. The Subdivision Committee Report.

Ms. Streufert: Honorable Chair and members of the Planning Commission. The Subdivision Committee met this morning at 8:30, we had two Preliminary Subdivision Maps for approval.

They were both approved. One was for S-2026-11, Kiahuna Plantation Drive LLC. and the second was S-2026-12, Lawrence and Gloria Rudolfo Trust. Meeting was then adjourned at 8:40.

Chair Ako: Okay. We have the Subdivision Committee Report. Any questions for the chair? If not, if we can have a motion to accept the Subdivision Committee Report.

Mr. Hull: A motion to approve we're asking for.

Chair Ako: Motion to approve.

Ms. Cox: I move we approve the Subdivision Committee Report.

Ms. Santos: I second.

Chair Ako: We've got a motion to approve and seconded. Any last questions? If not...voice vote?

Mr. Hull: Voice vote is fine.

Chair Ako: All those in favor say aye. Aye (unanimous voice vote). All those opposed. The Subdivision Committee Report has been approved. 5:0.

Mr. Hull: Next, we go into...oh, did you want to take a recess for that?

Chair Ako: We'd like to take a recess for the testimony that we received this morning or...

Mr. Giovanni: I didn't hear that. What?

Chair Ako: We have some testimony that we received this morning.

Mr. Giovanni: Oh, yeah.

Chair Ako: Do we want to take some time to review this? Or are we ready to proceed?

Mr. Giovanni: I'm ready.

Chair Ako: Okay. Are we ready to go, Mr. Clerk?

HEARINGS AND PUBLIC COMMENT

Continued Agency Hearing

Mr. Hull: Okay. Next, we go into the hearings. And with the next two agenda items, one, being a contested case, one that's been assigned to a contested case, and the other that's been, is an appeal (inaudible). I'll be turning the next two agenda items over to Chair and Counsel.

Chair Ako: Okay.

Ms. Santos: I do need to recuse myself for the next two items.

Chair Ako: Okay. Any comments? If not, okay. If not, thank you. Okay, let's see...so, we are Item G.1. Continued Agency Hearing.

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

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

Chair Ako: So...

Deputy County Attorney Laura Barzilai: (Inaudible) testimony first.

Chair Ako: Yeah.

Ms. Barzilai: Is there anybody here to testify on this item? Any public testimony today? Hearing none. Chair, when we last left this item, we had a pending Petition to Intervene from Ms. Cummings, and I believe that you want to hear from counsel. We had an opposition filed by Mr. Jung last week.

Chair Ako: Okay.

Ms. Barzilai: If you want to call counsel forward.

Chair Ako: Yeah. So, at this time if we can have representatives from the...both parties to step forward.

Ms. Barzilai: Ms. Cummings, you can come up too.

Chair Ako: Morning.

Ms. Cummings: Morning.

Chair Ako: So, I think at the last meeting we were kind of starting on this and then we had to adjourn because we didn't have quorum on this item, so, if we can just again, I guess yeah, so

that...so, I guess we'll let Ms. Cummings go first, yeah, in terms of your discussion to intervene, your request to intervene, and then we'll give you six minutes. Mr. Jung, you have an opportunity to, your position for six minutes, and then we'll go back for rebuttal for two minutes. Okay, Ms. Cummings, please.

Ms. Roslyn Cummings: I, Roslyn Cummings assert that the County of Kaua'i is merely a political subdivision created by the state. If the state's title to the crown lands is (inaudible) or non-existent under (inaudible) then the state cannot delegate jurisdiction over those lands (inaudible) county. Nemo dat quod non habet, no one gives what they do not have. I ask the county to reduce the evidence of jurisdiction on the record as a permittee. By whom, the County of Kaua'i was created by the state legislator (inaudible) by the people of Hawai'i by the constitution. It is not a sovereign entity, it is body politic and corporate, fact of law under Hawai'i Revised Statutes, HRS Section 46-1, the county defined as a political body corporate, it is an artificial person, essentially a business entity for governance. Under the rule of law, Hawai'i State constitution, Article 8, Section 1, (inaudible) county, it states that the legislator shall create counties and may delegate to them such powers as it deemed appropriate. The delegation, the Planning Commission specific power to regulate lands, especially in Hanalei SMA zones comes from HRS, Chapter 205a, the permittee, the State Legislator delegated authority manage the Special Management Area to the county, the county is acting as the states agent. If the state does not hold fee simple title to the crown lands because they are 'aina of our ali'i subject to hoa'aina then the state could not legally delegate the power to regulate my, or our na k̄naka, ho'oilina, hoa'aina, k̄naka maoli kuleana traditional practices, under HRS Section 205a. Under the fact of law, HRS Section 46-1, the County of Kaua'i is a municipal corporation, as a corporation it has no inherit sovereignty, it only has the power specifically written in Charter. I demand the county produce a section of Charter that grants (inaudible) jurisdiction over a na k̄naka, ho'oilina, hoa'aina, k̄naka maoli exercise, vested kuleana rights. The party exerting jurisdiction, the rule of law requires that when a personal jurisdiction is challenged, the burden of proof shifts to the agency to establish it on the record. The county cannot simple presume jurisdiction over crown lands, it must prove that the state possessed valid title to delegate this authority, in 1959. What the admissible proof to authority is, under the law of evidence I demand the chain of delegation, show me the specific stature of grant for the state legislator that allows the county commission to override the Kuleana Act of 1850. If you cannot produce the evidence that the kingdoms obligation to hoa'aina was extinguished, you have no evidence of jurisdiction to permit against vested rights. Assert standing, not as a public participant, but as a challenge to this body personal jurisdiction. Under the fact of law, the county is a body corporate, under HRS Section 46-1, Article 8 of the Constitution, delegate cannot posses more power than its principle. State of Hawai'i holds ceded lands in a trust and cannot delegate the authority to extinguished my vested rights or our vested rights. I move that the county is failed to establish in persona jurisdiction over na k̄naka, ho'oilina, hoa'aina, k̄naka maoli on crown lands. Until you produce the evidence of delegation that supercedes Lili'uokalani Highway Act and case law, Palama vs. Sheehan, this proceeding is (inaudible). I object the standing of counsel for application. Corporation is an artificial construct under HRS 46-1. Unless counsel can produce an explicit time stamp board resolution authorizing them to bind this corporation of liabilities, this specific crown on contested case (inaudible) authority speak for the applicant on this record. Objection for the record, counsel for the permittees is a public officer, under HRPC Rule 1.11, on the Kaua'i County Charter, their sole pride is the public interest and the constitutional laws of the State of Hawai'i. By actively defending a private applicant, paper deed over vested crown lands, the

county and it's duties is acting under (inaudible) and converting their public office into a private defense firm for developer. I demand that the county attorneys and the county employees immediately cease acting as a co-counsel for the applicant and state clearly whether the county stands by its constitutional oath to protect na kōnaka, ho'oilina, ho'a'aina, kōnaka maoli vested rights. In reference to the Great Mahele page 222, Hanalei is crown lands. My petition for contested case, petitioner (inaudible) in position of a filing fee to protect vested constitutional rights, constitutes an illegal barrier, Boddie vs. Connecticut, case law. As a holder of vested rights, I cannot be charged a fee to defend my property, vested rights against deprivation by the State of Hawai'i or the County of Kaua'i. The county failed to provide an actual notice to petitioner, a na kōnaka, ho'oilina, ho'a'aina, kōnaka maoli, it is sufficient for parties with a property right, vested rights, Mullane vs. Central Hanover Bank, case law. This failure of notice told the filing deadline, to deny this petition on timeline grounds while constitute a further violation of due process. I filed a petition for a contested case based on my constitutional right to petition. I also filed an address the issue of fee waiver because you cannot charge me to defend my vested rights and have not given me an option for fee waiver. Under Hawai'i jurisdiction, jurisprudence, tradition and customary practice are legally protected a (inaudible) rights that belong to na kōnaka, ho'oilina, ho'a'aina, kōnaka maoli. These rights exists in structural limitations on landownership, meaning that a permittee, developer, investor or warrantee deed holder does not possess an absolute right to (inaudible) the 'aina, our land. When developers, county, state agency ignore these rights, it results in unjust enrichment and or regulatory crimes of omission. Failing to fulfill a states constitutional fiduciary duty to protect life, limb and property. The (inaudible) constitutionally protected customary practices that serve as legal shields against the exploitation of 'aina. Under Hawai'i State Constitution Article 12, Section, the Hawai'i Revised Statutes, HRS 1-1, HRS 7-1, na kōnaka, ho'oilina, ho'a'aina, kōnaka maoli retain the right to enter less than fully developed lands to kuleana. Developers cannot use warranty deed, should strip this rights. Accessing the lands to harvest limu, lā'au lapa'au for consumption or medicine (inaudible) to gather wood and thatch from the ahupua'a to build or maintain traditional structures, as a fern the foundational the Ka Pa'akai O Ka'Aina case, the collection of natural sea salt for cultural, spiritual and preservation purposes. Water, wai is legally defines as a public trust resource in Hawai'i, not private property. Investors, permittees cannot monopolize or divert water to detriment of traditional ecosystems. Lo'i kalo in a stream flows, protecting the natural path of mountain streams, mauka to makai, and the religious, spiritual and access rights. Private landownership is not, is subject to the preservation of sacred spaces. Land holders commit a legal wrong if they intentionally obstruct or desecrate these areas. The right to traverse to access heiau alters ahu pu'u, the volcanic or mountainous landscape for religious worship. The absolute right...

Chair Ako: Ms. Cummings, six minutes...

Ms. Cummings: ...to ensure official burial remain...

Chair Ako: If you can sum it up.

Ms. Cummings: ...undisturbed, desecrating iwi to clear land. And the near shore stewardship of lawai'a and the kilo observation. Is that it?

Chair Ako: Yeah.

Ms. Cummings: I had...that's it?

Chair Ako: Yeah.

Ms. Cummings: Okay.

Chair Ako: Thank you very much. Mr. Jung.

Mr. Ian Jung: Good morning, Chair and members of the commission. Ian Jung on behalf of SOX-XI Kauai PV Limited Partnership. On behalf of our clients, the applicant, we did submit a memorandum of opposition to the alleged petition to intervene. I think what is at issue here is, was it written testimony or an actual petition to intervene. The issue, I think before this commission is to evaluate how the rules come into play. Due process works both ways. Ms. Cummings can assert due process for her rights, which she believes for native tenants, but there's also due process for an applicant, to make sure rules are followed, application and submissions of documents meet the criteria under the rules. Recently, as of May 22nd, of this year, the Gutschmidt case, a Hawai'i Supreme Court case came out with a specific and identifiable path to get to a petition to intervene. If you are late, you are out, unless you can show good cause and excusable neglect. The issue with following the rules works to benefit an applicant just as it benefits the general public. The applicant is required to put out notice but if someone wants to intervene they have to follow the rules. In this case we have rules and we're not beholden to the fee waiver, that's just a rule issue, you're required to file a petition to intervene, pursuant to Chapter 1-4, you're required to pay a fee, you're the required to identify the issues you're proposing to present, and you're also required to submit a certificate of service. We did not have the courtesy of even understanding what she filed until we went through the public testimony to see what she filed. She did not have the courtesy to file a certificate of service to the applicant, so we were unaware that she even attempted to file a petition to intervene. So, in our eyes this verbal petition that was made at the hearing on May 26, was an oral or verbal motion for a petition to intervene, which did not meet the rules and as considered by the recent Maui Planning Commission case, the Gutschmidt case, it did not validly or timely be made. So, the second issue is, what is good cause or excusable neglect, as we can see from the testimony today and the testimony that was submitted on May 2nd, there's a litany of rules and laws, and issues that are raised in Ms. Cummings application. The applicant appreciates and understands the fact that there are issues throughout Hawaiian history and western control of, through the United States of Hawai'i becoming a state, that issues have been raised and identified as problematic for native Hawaiians. That's not what's at issue here, title is not what's at issue here, what's at issue, what are the impacts to native Hawaiian tenants to this particular property. Everyone uses the buzz word now of Ka Pa'akai and what you're required to do as part of an application. What's before this body is a developed property, it's an existing hotel. Ka Pa'akai was a case against the Land Use Commission, where it was a green slate project, where you're coming in to do a full blown development. Ka Pa'akai does three things, right, it identifies the scope of what impacts to protected customary, traditional practices, it allows an applicant along with an independent review by the agency reviewing the application to identify and scope those projects or those impacts, and the third prong is, identify how to mitigate those impacts to the general public as well as the native tenants. Here we have no specific and identifiable threatened injury that's presented by Ms. Cummings. The issues we raised and brought up in our application in Exhibit F., and section 14, identifies one practice after a (inaudible) review from various people

throughout the North Shore community, and that's kilo'a, which means the practice of observation, whether it's for religious practices of observing the area and or looking out and viewing as the weather and patterns that come in, or even fish. Here, this project will not impact that. The Fort Alexander is a preserved site, which will remain preserved and will remain open for kilo'a. Alternatively on this other side of the project area, we have a public beach access that brings people down to Pu'u Poa Beach down at the bottom, people call it Hideaways, access will remain on that northern portion of the property. On the southern side of the property we have a public beach access along with public parking as requires as part of the original SMA amendment. Public beach access to that corridor will remain in place, so the cultural impacts to the kai or the ocean will remain in place. Public access to the visible points from kilo'a from the north and kilo'a to the bay will remain in place. These impacts were analyzed as a part of our cultural analysis for the SMA considerations. There is no asserted right here by Ms. Cummings to any threatened practice that she may be engaging in. Now when you look at the case law on this, Ka Pa'akai is followed up by PASH. PASH then looks at the issues of SMA impacts and considerations to conserve and protect cultural impacts. So, from a standpoint of cultural impacts the applicant fully is aware of these practices and will maintain these practices. Any additional impacts will be mitigated for this project by working through new engineered plans for drainage, to limit impacts down to the near shore area, and it'll, in fact improve drainage from an existing parking lot to a built environment that'll capture water going from makai to mauka instead of potentially running off mauka to makai. So, here the threatened injury is, has not been made, so I don't believe there's enough good cause or excusable neglect to allow for this written, or this verbal petition that is untimely to be made by this commission. We have four admitted parties represented by one party that will allow for a full development in the record. They're here today. So, the issue of whether or not adding Ms. Cummings to this contested case, whether or not it'll have a development of the record or aid in the development of record... I think we heard this morning that the issues aren't just, they're not just related to this development, it's related to a host of issues relative to the injustices and wrongs that were made to the Hawaiian people by the Territory of Hawai'i and then the early State of Hawai'i.

Chair Ako: Six minutes.

Mr. Jung: Okay. Thank you, Chair.

Chair Ako: Thank you. Mr. Donahoe.

Deputy County Attorney Chris Donahoe: Thank you and good morning, Chair. Good morning, commission. Deputy County Attorney Chris Donahoe on behalf of the department. Real brief, in reviewing and listening to the public testimony back in May and today, we appreciate Ms. Cummings statements and her arguments, however, it's the departments position that she does not meet the form and content requirements under 1-4-2 and 1-4-3, for a successful petition to intervene. That's all. Thank you.

Chair Ako: Thank you. Ms. Cummings, you have two minutes, if you'd like to rebut what has been said.

Ms. Cummings: I'm just going to object what the county attorney has to say, because it's still going to be based on deprivation of my rights, vested rights. The fact that a decision is being based

on the developers legal counsel and his objection, doesn't...you cannot deny me of my vested rights. I have provided my background, my ancestry to the area, that should be enough grounds for me to have an interest in this particular case. At this point, if I'm denied then at least I'll have an appeal and I can take it to court. That's all I ask, to make a decision, and I also want to make it on the record that there is no fee waiver, at all. So, pretty much the injury will be made based on a decision made today. Mahalo.

Chair Ako: Thank you. Mr. Jung.

Mr. Jung: Nothing further. Thank you, Chair.

Chair Ako: Mr. Donahoe?

Mr. Donahoe: Nothing further from the department either. Thank you.

Chair Ako: Thank you. Okay, we've heard testimonies from the parties, commissioners, do we have any questions?

Ms. Streufert: I would like to ask for an executive session.

Mr. Giovanni: Say that again.

Ms. Streufert: I would like to ask for an executive session.

Ms. Barzilai: You need a motion, please Chair.

Chair Ako: Okay.

Ms. Streufert: I move to go into executive session.

Mr. Giovanni: I second.

Chair Ako: We have a motion to go into executive session, it's been seconded. Any discussion on this? If not, we'll take a voice vote. All those...

Ms. Barzilai: We'll take a roll call, please Chair.

Chair Ako: We'll take a roll call vote.

Ms. Barzilai: Commissioner Cox? Motion to enter into executive session.

Ms. Cox: Aye.

Ms. Barzilai: Commissioner Giovanni?

Mr. Giovanni: Aye.

Ms. Barzilai: Commissioner Santos, excused.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Ako?

Chair Ako: Aye.

Ms. Barzilai: We'll go into executive session now. Thank you very much.

Chair Ako: Okay. We'll reconvene no earlier than 9:45.

EXECUTIVE SESSION

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

The Commission entered into executive session at 9:25 a.m.
The Commission reconvened from executive session at 10:05 a.m.

Chair Ako: If the applicants would like to come back up forward as well as Ms. Cummings.

Ms. Barzilai: In the meantime, Chair, I'll read the mandatory statement. This is a mandatory statement under Sunshine Law pursuant to Act 19, relating to Public Agency Meetings. A board is required to report a summary of its discussion or any final action taken during executive session after reconvening to the public portion of the meeting. The commission has concluded its executive session on item G.1., this item involved a discussion for the purpose stated on the agenda. Disclosure of the discussion would defeat the purpose of convening the executive session which was held pursuant to HRS Section 92 5 a4, the commission's right to consult with its attorney on questions and issues pertaining to the commission's powers, duties, privileges, immunities, and liabilities. No final action was taken in executive session. Final discussion and action will now commence.

Chair Ako: Okay. Again, thank you for your patience as we're in executive session so with that if we have commissioners if you have any questions, I'd like to entertain them now.

Mr. Giovanni: Am I on the (inaudible)? Can you hear me?

Chair Ako: Yeah.

Mr. Giovanni: Yeah so, I just wanted to comment on a representation made by the applicant

regarding Ka Pa'akai. I had endured several years at the Land Use Commission and Ka Pa'akai was front and center and the general conclusion and understanding that I have is Ka Pa'akai is very serious has to be taken as something that's very serious and it's incumbent on the commission in this case to be satisfied with the adequacy and applicability of any Ka Pa'akai analysis. That would apply to a new development, would apply to land that's never been touched before and would apply to a new application for an existing, partially developed or fully developed piece of land. So, it's appropriate for the applicant to undertake a Ka Pa'akai analysis and provide the commission with its report but it's up to the commission itself to determine whether it's acceptable, adequate and applies accordingly, so that's the way, I just want that understanding to be appreciated by the applicant. That's all.

Chair Ako: Thank you.

Ms. Streufert: Can I ask a question about form and content? What exactly do we mean by that?

Ms. Barzilai: Form and content, commissioner, is adherence to Amended Rule 4. It's outlined in the rule what a party has to do to even file and have their petition accepted so it could come before you substantively. It includes things such as timeliness, filing fee, certificate of service, service on the other party, certain elements of basic content and a party seeking to intervene has to follow Rule 4.

Chair Ako: So, I guess following up to your question, Commissioner Streufert. Ms. Cummings, I mean I think I know the answer but that \$300.00 filing fee, did you pay that filing fee?

Ms. Cummings: I did not pay any filing fee.

Chair Ako: Okay. And I think the other issue that came up was the certificate of service. Was that provided to attorneys?

Ms. Cummings: My intention was to petition under due process of law, it wasn't to intervene. I'm coming in as a petitioner against the permitting that applicant.

Chair Ako: Your intention is not to intervene?

Ms. Cummings: The permittee will divest my vested rights, so I'm addressing the permittee not the applicant.

Ms. Streufert: I'm not quite sure I understand.

Ms. Cummings: As a permitting party, the commission is permitting a project that is detrimental to my vested rights.

Chair Ako: Okay.

Ms. Cummings: So, under due process of law, the right to petition and that's what I did, I came in to petition I never applied as an intervener.

Chair Ako: So, you have no interest of being an intervener.

Ms. Cummings: No interest of being an intervenor. Nobody in this, no one in the parties that are intervening is representing me. I simply am asking you to make a decision regarding my right to petition for a contested case. And if you deny that I can get an appeal letter and I can take that to court. Based on the fact that there is no Ka Pa'akai analysis.

Chair Ako: I'm sorry, Ms. Cummings but I think we were going down this path over here and now we're understanding that we're at a different...

Ms. Barzilai: I'm not sure that I understand first of all and secondly, I don't know if this is something that you can give Ms. Cummings the relief that she's looking for today. I mean...a petition to intervene is pending before you, there's an opposition, department has taken a position.

Ms. Cox: So, do we still make...

Ms. Barzilai: You have questions for the petitioner?

Ms. Cox: Well, so do we still make the decision on the petition to intervene? Okay.

Ms. Barzilai: I would recommend that you do.

Ms. Cox: Okay. Thank you.

Chair Ako: Okay, with that new twist.

Ms. Cummings: I have one more question before you say anything. Is this transcribed, like is it...it is, okay thank you.

Ms. Barzilai: There are minutes from every meeting, Ms. Cummings.

Chair Ako: So, before we get into the motion, I'd just like to state that the commissioners have discussed the form and content of Ms. Cummings petition, and we have reviewed the commission rules. The commission will not address the issue of timeliness. However, the commission has considered that the petition fails as to form and content under Rules 142 and 143 primarily for the lack of filing fee and the failure to serve applicant and file a certificate of service. Yeah. So, under that notion. I would like to entertain a motion to either to accept or reject the petition to intervene.

Ms. Cox: Based on that, I would move that we reject the petition as to form and content.

Chair Ako: Is there a second?

Ms. Streufert: Second.

Chair Ako: Okay, there's been a motion to reject the petition to intervene in terms of form and content, it's been seconded. Further last discussions. Seeing none, Laura, if we can have a vote please.

Ms. Barzilai: Roll call, Mr. Chair. Motion to reject petition as to form and content.

Commissioner Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner Giovanni?

Mr. Giovanni: Aye.

Ms. Barzilai: Commissioner Santos, excused. Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Ako?

Chair Ako: Aye.

Ms. Barzilai: Motion carries. 4:0. Thank you. This concludes this item.

Chair Ako: Thank you.

Ms. Cummings: Thank you.

Mr. Jung: Thank you, commissioners.

Mr. Donahoe: Thank you.

Ms. Barzilai: Next item, unless we need a recess. Next item is I.1.

GENERAL BUSINESS MATTERS

Chair Ako: Under General Business, I.1.

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

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

Ms. Barzilai: Any public testimony today? Seeing none, Chair if you want to hear from council.

Chair Ako: Okay. Please would you like to step forward. Morning, Mr. Trask.

Mr. Mauna Kea Trask: Morning. Aloha, Honorable Chair, commission members. Mauna Kea Trask for the record, on behalf of petitioner, HPM Building Supply, who is currently under

license with Mahaulepu Farms for this site and although that (inaudible) was issued to both, I believe HPM will be, is filing the appeal in this case. And so, yeah just in short thank you for the opportunity. We are appealing this. We'd request to get referred to a hearings officer via the Boards and Commissions and set for contested case.

Chair Ako: Mr. Donahoe.

Mr. Donahoe: Thank you, Chair. Deputy County Attorney Chris Donahoe and thank you, commission. I did review the document from Mr. Trask, no objection to a referral for Boards and Commission to set this out for contested case.

Chair Ako: (Inaudible) any questions? No, okay. If not, thank you.

Mr. Trask: Thank you.

Chair Ako: If not, willing to entertain a motion.

Ms. Streufert: I move to refer this to the Boards and Commission for a contested case.

Ms. Cox: Second.

Chair Ako: Should we mention the case file number?

Ms. Barzilai: Yeah, sure.

Chair Ako: Case File No. CC-2026-10. Okay, so we've got a motion to refer to Boards and Commission for Contested Case File No. CC-2026-10. It's been seconded. Further and last discussions. If not, if we can take a roll call vote please?

Ms. Barzilai: Sure, Mr. Chair. Roll call. Commissioner Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner Giovanni?

Mr. Giovanni: Aye.

Ms. Barzilai: Commissioner Santos, excused. Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Ako?

Chair Ako: Aye.

Ms. Barzilai: Motion carries. 4:0. Thank you.

Mr. Donahoe: Thank you so much commission.

Chair Ako: Thank you. Thank you, Mr. Trask.

Mr. Hull: Anything happened? Next, we have on the agenda.

New Agency Hearing (None)

Continued Public Hearing

Mr. Hull: Next, we have an agenda Continued Public Hearing.

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

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

Mr. Hull: Before we go into this, can I ask for a 5-minute recess? We have people that flew in from other parts of the state who kind of set up for the presentation. Is that okay?

Commissioner Santos re-entered meeting at 10:17 a.m.

The Commission went into recess at 10:18 a.m.

The Commission reconvened from recess at 10:30 a.m.

Chair Ako: We shall reconvene the Planning Commission meeting. Mr. Clerk.

Mr. Hull: We are on Zoning Amendment 2026-6. We're on ZA-2026-6. This is a proposed policy concerning wildfire and wildland urban interface with the built environment. This is the second hearing for this agenda item. At the first hearing we didn't really have much to presentation that kind of went into the background behind it. We have brought Fire Chief and the executive director for Hawai'i Wildfire Management organization has been a part of a larger task force if you will, that has put this together this task force is comprised of Planning Department, Building Department, Hawai'i Wildfire Management organization, Fire Department, Kaua'i Emergency Management Agency, as well as partners on the mainland, some of them formally with headwaters economics and now also with the underwriters laboratory safety institute that did the Lahaina report, so, we only have the smaller (inaudible) team for you folks today. I'm going to turn it over to them to give the presentation, but we do have public testimony, so, I think we'll call for public testimony first, and then we'll get into the presentation. So, we have one member of the public to testify. Doug Haigh. And then I think we have one more person signing up as well.

Chair Ako: Morning, Mr. Haigh.

Mr. Doug Haigh: Morning, Chair, Planning Commissioners. Doug Haigh, retired building official, County of Kaua'i, also head of the Land Development Committee for Kaua'i Habitat for Humanity. I'm here today testifying personal testimony. I am not representing the views of Kaua'i Habitat for Humanity today. The board is still reviewing this ordinance and has not come to position ready to present to this body or County Council, however it works out. I would like to commend the Planning Department for taking on this tremendous task clearly wildfire urban interface is a critical issue that we have not addressed in the past. I remember as my service as Chief of the Building Division, I was on the State Hazard, Hazard Committee and I was also on the State Building Code Council, and we focused on, for natural hazards, we focused on floods and hurricanes. There's, we had a little bit of wildfire discussion but it didn't seem important, things changed, okay, we all know why. I have a personal friend who was at Lahaina and told me it was like a blowtorch coming between in the community and fortunately him and his partner survived. So, I commend you to take this on, but I do have concerns. I have submitted three pages of testimony. I spent this weekend reading this and researching some of the supporting documents. So, the first comment, and I'm only going to bring up a few of these, you have my written testimony, you can see the others. But the most important key items, one is, where you're locating the building division, building provisions in Chapter 15 rather than Chapter 12, well the way we've, the way it traditionally been managed for natural hazards, we put appendices to the building code and had it in Chapter 12 not Chapter 15, and that's how the State Building Code Council would manage it with the State Building code so it would be good to be consistent with that process, not a big deal, you know, but it would make sense. Declaring the entire island a wildfire urban interface is counterintuitive. You're going to have a hard time explaining that to the public. But I grew up in the canyons of the Santa Monica mountains. And I lived in a place that was clearly a wildfire urban interface and experienced that directly and I went to Pacific Palisades High. And it was counterintuitive that Pacific Palisades community would burn from a wildfire, nobody would ever thought it would so just the fact that it's not common sense, not counterintuitive doesn't mean it's not right, but it is something that to me is a challenge for you folks, and I don't, and from a personal level, I don't think it's fair for the Planning Commission to be making that statement that's more something that the Fire Department should be making because they are, you know, Fire Department, Emergency Management they're the ones who should have the expertise to address that issue and define that. So, it might be better for this code to reference the Fire Departments determination, and I think that will be more fair for you folks because you're going to hear grief. I was sitting with my, you know, Saturday morning old futs, Kapa'a coffee club and they, you know, nobody could understand, but like I said, just because it's counterintuitive, not common sense, doesn't mean it's not right, so that's a PR issue for you folks how to handle...

Mr. Hull: Sorry Chair, three minutes. So, there's a time limit, Doug on testimony.

Mr. Haigh: Okay. So, since there's a timeline I'm going to jump to what I think is the most critical thing. Requiring every subdivision to form an HOA to enforce public safety requirements by covenants and requiring HOA's to enforce public safety, is not reasonable. County, government, number one function is public safety, protect public safety. The Fire Department, our fire public safety people. Enforcement is hard. They don't have control over their budget, they can't hire people, so they're going to not, you know, they're going to resist more work and

more enforcement, but like I said I grew up in a fire area and the firemen came by once a year, told my dad and we go out we cut brush pull weeds and plant more (inaudible) plant, you know, we had a house that had a water tank and water sprinklers on the roof, fire safety in a fire zone. But to expect an HOA to enforce a public safety requirement is not reasonable. Kaua'i Habitat, we've spent five years trying to establish an HOA Ele'ele to manage a detention, mowing a detention basin, it's not easy. I live in a community with covenants. To enforce covenants you hire attorney, you go to court. My neighbor and I had an issue. It was going to cost me 15 grand just to get an attorney to start the process and I ended up negotiating with my neighbor and I'm not totally happy, but you know. So, I don't think that's a reasonable solution for county government to push this public safety issue onto HOA's and property owners because it's not just that...I mean covenants and stuff are specific to property HOA specifically the property but fire safety is a whole community.

Chair Ako: Mr. Haigh, we have 3 minutes, yeah, to testify, I think we have others that are waiting in line.

Mr. Haigh: Okay.

Chair Ako: So, if we can move on...

Mr. Haigh: All right, I will leave it at that. You have my written testimony.

Chair Ako: Thank you very much.

Mr. Hull: I don't have anybody signed up, but if there was a member of the public to testify, if you could just identify yourself and then three minutes for testimony, but Chair's kind of allowed for some leeway on that.

Chair Ako: Morning.

Ms. Yelena Ohkman: Good morning. Yelena Okhman, this is my personal testimony. So, as far as I see this is a very, very important issue and I'm calling for a balancing seeing that there are very important things that we have to observe and discuss, evacuation routes were from the neighborhood where the big density, also like, how can we not increase the building costs because as far as I understand it's like 6-7% increase right there and also the time to review there will be a lot of questions, the public will be questioning how can we really be up to code and I'm a real estate agent, I've been in the industry for 15 plus years and also and I know how complicated sometimes it is and I'm just calling to be able to find solution with they really need safety and evacuation and but at the same time the balance between being able to build because housing crisis we have like really deficiencies housing and building force and just to share that thought and calling for that. Thank you.

Chair Ako: Thank you.

Mr. Hull: We don't have anyone else signed up to testify, the rest of the audience is the internal team.

Chair Ako: Oh okay. Would you like to step forward?

Mr. Hull: So, I'll turn it over to the task force if you will, so you have some of the task force here.

Chair Ako: Good morning. You got three minutes.

Ms. Elizabeth Pickett: Are we ready for me to start?

Chair Ako: Please.

Ms. Pickett: Okay. Well good morning. I'm Elizabeth Pickett, I'm the Executive Director of Hawai'i Wildfire Management Organization. I've been at the organization 18 years, and our organization is a nonprofit that's been working in the wildfire space for 26 years. We were founded when a bunch of different stakeholders, watershed managers, ranchers, fire department, forestry, all came together because there were more and more wildfires happening and they looked around for who works on that and it was nobody, and so when they thought through a structure they realized that fires crossed jurisdictions, they cross boundaries, it needs kind of like an all hands on deck systems kind of approach and so they founded our organization to look at it that way and sort of be a hub entity to collaborate on all things wildfire. So, that's our background and some back story on how we got to this, you know, this proposal is that our organization, we in partnership with the State Division of Forestry and Wildlife have been putting together wildfire risk maps for a long time, but they, it's wildfire was off everyone's radar and it was really hard to get things funded and so the very last map we had was in 2014, and at that time we were going along with the national way of thinking about wildfire risk because the these communities at risk from wildfires maps are products that a lot of state forestry's were making for their states. And we didn't have enough updated maps since 2014 because we couldn't get it funded, but we now have taken a look at and driven every road in the state to look for 36 different hazard characteristics that contribute to wildfire and so we're just wrapping up that mapping process, but in the meantime I, all of this was happening and Fire Department, Planning Department, lots of other Emergency Management, were asking us for a really specific sense for if we're going to start looking at addressing wildfire vulnerabilities on Kaua'i, where should we go first, where does...where is there the highest risk, what areas have the most risk in our county, and the more and more we got closer to finishing up these maps it became really clear that the entire island is at risk, and I'll explain a little bit why, I mean part of it is we're just learning so much about wildfire science, about what contributes to risk. We used to think about it probably very conventionally, wet side, dry side, we've got grass, but there's, there are whole, like concrete cities burning in the, like in LA, in Altadena. I mean if you, I got to be a part of the analysis and as we're driving around it is counterintuitive, it's like wow I never expected that a wildfire could actually be so far from its origin in the grasses and actually get a whole city or in these very wet areas for instance Big Island wet side, Hamakua right now is our biggest wildfire threat and it's because we're experiencing a dry spell, and so that's happening more and more across the state, which is where even conventionally wet areas are dry or are going through drought episodes and if you think about it, if we have areas that usually have a lot of rain, they grow a lot of vegetation and when it does get dry, it has even more fuel on the ground to burn. So, there's just a lot of new considerations we're thinking about as we continue to evolve and understand more. So, part of it is that it's not wet and dry, the other part of it is that we're, our risk is not just based on the vegetation of the larger lands, our risk actually includes the built environment, our homes, our fuels, our vegetation, our cars, our trash cans, everything is actually fuel and it's not a wildland urban interface, in the old way we used to talk about it, where there was the large lands or the

undeveloped lands and the communities, it's not a line like that it's actually a spectrum where it goes from more land to big lots with houses and farms and all the way into like where it's really like urban city center. There's fuel to address in every one of those types, whether it's more of the structures or more of the land and so that has to happen in some combination no matter where you're at along the entire spectrum of every land area and so and looking at that, our partners at the University of Wisconsin identified that in Hawai'i, 94% of our entire state is a wildland urban interface, and so we used to think about it just right along the edge, but now that we understand that fires are spread by embers, we understand that we have fuel on the landscape and the built environment and we understand that community layout and design the building materials all of that sort of stuff goes into what is risky. We came back and said, I'm really sorry to say this but it can't be like a piece meal approach we have to go island wide in anything we do and that includes policy, it includes education, mitigation grants, and opportunities like we need to make this available, of course we can prioritize based on things but it all matters and then so, that's the first thing we're learning is like we've had to adapt our risk maps and there's one more piece too, which is it's based on likelihood of ignition and we look at fire history and how many times the Fire Department has had to respond to incidents of like, there's a brush fire, wildfire or some kind of vegetation fire, and then Fire Department has to respond and when we map those out over the last 20 years, you can actually remove the roads from the island and still see the roads because the ignitions are happening island wide. They catch them, you don't hear about them, they stay small, but under dry conditions or under extreme wind events any of those ignitions could turn into like a community spread kind of fire. So, a lot of thinking and learning has gone into this in terms of identifying where there is risk, why we go island wide. And then the next piece of that, is that in Hawai'i it's always, and actually worldwide there's a myth that all things fire need to be Fire Department, but where the entire country is going and there's even like a...there are two big picture efforts that have happened at the federal level to really think through where we go next with wildfire. It just keeps landing on, there's a rule for every sector, there's a role for everyone in this, we need residents raking and sweeping, we need Planning Departments, we need building, we need Public Works, we need Parks and Recreation, like there is something for every single component of our civil service and our society to do, and so when we were thinking through like, well we have the new...we have we have existing housing stock in residence and then we have what is going to be built into the future, there are two different approaches, like, we can still use education and grants and cost share and all sorts of stuff to address what we already have in place, but I've been in this field for a long time and we can never do it at scale, we can never get all the safety retroactively, and so the only solution is we know more now and we should build safer from the start moving forward, so we'll approach it you know as a package deal, we're going to support residents to do all they can in existing areas but we have to do better moving forward. And it has to include where everybody knows they have a role and they do their part and we have to have the capacity to do it and the only way we do that is through education of residents and we have Fire Department and HOA's and residents and everybody's kind of doing all of their parts so that our whole system safer. So, all of those are the thoughts that went into, at least our portion of advising and developing, you know, the ordinance as it's proposed.

Fire Chief Mike Gibson: Good morning, Chair. Good morning, commission. Mike Gibson, Fire Department Fire Chief. Thanks for your time. We, I've teamed up with Elizabeth on presenting this information in several different venues and she is just a wealth of information that I don't

hear the same thing every time I learn something new every time and the presentations kind of shift a little bit so it causes me to kind of shift how I'm going to present.

Ms. Pickett: Sorry.

Chief Gibson: So...no, it's fantastic. It sharpens me every time. So, but there's four kind of tracks that I want to take you down or four points. So, one we talked about WUI code, Wildland Urban Interface, that term developed, if you know from those for most of us in this room probably associated with Southern California, although it was happening in Colorado, Washington, Oregon and other places across the country, but it was when the Fire Department jumped in and saw this problem it was these homes that backed up to the mountain in the wilderness so it was like a wildland urban interface. And we saw these fires that were transitioning from, you know, dead brush, or live brush, or a combination and into the homes and burning, you know, dozens and then hundreds and now thousands of homes. We have learned it in the fire service as a (inaudible) probably 2018, the year 2018 to 2020 we realized the wildland urban interface is not the issue, it's a wind driven fire behind all these fires where these big wins, which we know now looking back at Lahaina and the Los Angeles fires, campfire, Marshall fire, Colorado, it's the wind pushing these fires, so the fires, some of these did start in the wilderness, some started on a shed, with the Marshall fire was the shed and it's going to take me into this second piece, what is burning, it's the burn, these fires are object to object, it doesn't have to be dead brush, it doesn't have to be a tree, it could be one house on fire or a dumpster on fire next to a house. The wind, 30 miles, 40 miles an hour, 80 miles an hour is going to take the embers and push them into the next object, beaded tree or we're trying to save today our houses. So, we have found ways, way down the line with the science, how to do some home hardening, so the mesh over the vents that go into your attic. So, what's inside of the attic, you know, picture, you know, you're looking up from the inside of your house and you're looking in there, it is a lumber yard, it's, you know, the trusses and joists, and it's, if you've seen one pallet on fire or 10 that's a raging fire and that's what's inside of the attic, so, if the fire is starting in the wildland urban interface, you got the tree, we've got 80 mile an hour winds, taking these embers, millions and millions of embers once these fires get going, now we're in the house, house to house to house, it's going to pick up embers the size of baseballs, range in golf balls to baseball size, 80 mile an hour, pounding into a side of a house, so they're going to hit the side of the house, if there's a way to penetrate, so if there's a vent into the gable, it's gonna go in, if there's a cracked open window, it's going to go in. All the other embers are going to fall to the ground, and that's where the zoning, these things come in, the zero to five foot where we're not keeping that stuff. So, we're thinking wind driven fire, it's not WUI, it's object to object. And the last piece that I wanted to just kind of merge in and we could talk more is, us what happened on our island in 2024 July, you know, year after Lahaina, we had the Hanapēpē Heights fire starting on Mo'i Road and we had helicopters going right away, within the first 30 seconds of dispatch, dispatch report to the firefighters in Hanapēpē that I believe it was Gay and Robinson, we're in the area, they were sending workers with a water tender, some heavy equipment, and some hands to help with the fire, so our crew showed up and started working on that. Fire helicopters in the air, several of us from administration went into KEMA, and in KEMA we were getting some drone footage, we're getting reports from the helicopters, we have the map, and we know it's starting to spread. The winds that day were about 20 miles an hour, sustained, with gusts 30 to 45 mile an hour. And fires traveling, we had airport crash fire responding units out there with us, PMRF responded with us, DOFA, DLNR had people out there, we had Public Works, one of the young men, Public Works operating heavy

equipment, his first day on the job, we had him on the fire line. We had recalling firefighters. The fires growing building, as you know it traveled toward Kaumakani, jumped the road, avoided the church, miraculously, jumped the road and it's approaching the village and we're watching in KEMA, and I could see the trajectory and never been in command of a fire like that before, I was not in command, but I was never involved in the command on any of those fires and when I worked Southern California or Nevada, but I knew the reports, I've studied the cases and when you see the layout of the community that it was approaching, you got the store up front and then there's a row, there's a few rows of houses, there's about 50 and then there's the 200 homes about behind them. Personally, in my mind, and I said it to the person next to me, all right we're going to be really lucky if we only lose 10 to 20 homes. If we lose 50, at least we can save 200, we'll make our stand. At the time we were fortunate, if you want to call it that, there was the helicopter incident a few days before where we had the National Guard with helicopters already in the area, so we were able on top of our tiny single engine helicopter the fire department owns a bigger one is on the way. We have a weight carrying capacity of 600 pounds, so we can carry 80 gallons of water at a time to drop from a bucket and then what's that 20...15 or 20...you know sparklets, it's not sparklets here, (inaudible) of those. We did get a second helicopter that we have as a backup. We had a 3rd helicopter from Jack Harter, we had PMRF, 2 helicopters that can drop about 300 gallons at a time and then we had the helicopters from the national guards with 7. And we had all of our firefighters; Public Works, (inaudible) police officers working shoulder to shoulder, Gay and Robinson and with the...fortunate that the wind didn't pick up, the fire was knocked down, we lost one shed at the corner of the first house. Had the...I'm not saying, I mean our guys put the fire out, but had the wind blown harder we would have lost that whole community. And we're trying to, we were fortunate that time, we may not be fortunate in the future. The people that are going to be here after us, 20 years, 30 years from now, are going to benefit from their homes being fortified with this infrastructure, so I'll summarize by saying, you know, please don't look at it as only wildland urban interface or only in a dry area, any home, I mean, Weke Road, get one house on fire, we get strong winds, it's going to go house to house and we're not asking the retrofit all the current existing houses, which would be a good idea that we did, but we're protecting the homes that are to come in the future, so I hope that I painted the picture, definitely can answer questions if there are any.

Mr. Hull: Yeah, any of you guys have questions for either Elizabeth or Fire Chief? They're here now, but I definitely want to also at one point turn it over to Alisha and Alan, and they can kind of go a little bit more specifics into what the ordinance is proposing, we certainly won't go line by line with you folks, but at least you folks are prepared to kind of go into a bit more of the specifics on the policy, but you guys had questions for Elizabeth or Fire Chief, it would be appropriate now or even after.

Ms. Streufert: I do have a question. What would be the biggest lessons that you learned from the Hanapēpē fire?

Chief Gibson: I will tell you that had we had a larger helicopter earlier, which we are getting, we could have probably knocked it down quicker from spreading. But I have to say something that I should have ended with, and I've got this statement from Chief Brad Ventura from Maui Fire Department. We have a fire like that, we were fortunate that day, right, that's the only thing that saved us, was the wind stopping at that particular moment. When we have a fire like the Los Angeles, Malibu, Eden fire there are no amount of firefighters, no amount of fire engines, no

amount of training that can put out those fires, but what we can do is protect the homes that are in path. The science has proven, I know she talked about Derek Alkonis, works for Underwriters Laboratory, the Fire Service Research Institute, who did the Maui after fire action reports, and as part of the Underwriters Laboratories that's tough to say when you're sitting here, you will, they're running those tests, I mean there's some great videos that, you know, you can go on YouTube and they'll show you the shower of embers on a home without home hardening protection, just that costs pennies compared to the cost of the home and then showers the embers that aren't protected and you'll see in minutes this one is fully involved, this one is protected, the same conditions, same wind, same amount of embers, that's the lesson learned is, I mean, yeah. There are programs that if we can go in and retrofit current homes, we establish fire wise communities that these things can be done so.

Ms. Pickett: Can I speak to that? Am I allowed? It can be done and I've been thinking, I've been on that side of things for a long time and I was celebrating all this progress,, like we have 16 fire wise communities in the state things are blossoming and still Lahaina burned. And I'm like what did we get wrong and to think that that is like our one stop shop where like education after the fact to fix all of the non-state, the things that are dangerous that are baked in for decades, we're never going to get to all of it after the fact, especially when we're relying on people who are taking kids to school or they're retired or whatever to be the ones to retrofit when the, when the danger is already built in, that's, that's the world our organization has been living in that I didn't recognize, we were never going to be able to get it at scale until we had, we're building safer from the start and we had maintenance baked in also to make sure that we're starting to shift our culture from welfare is not a thing or it just stays in the grass or isn't that fire department,, I can tell you all the things I've been facing for all these years, and instead it's like no, no we all need to be safety minded, it needs to be built good from the start and then we need to think through how to make sure it's maintained that way we'll continue with the voluntary programs and the education and opportunities for community to participate and engage, but relying on volunteers or small nonprofits or whatever to do it, to try to be retrofitting communities that were built not safe, is a really hard ask and we're not going to get the safety that we need. So, this is why we're like, well we didn't, we built all these places before we understood the wildfire risk that we face and our wildfire risk has become, I mean I have like the stats on it, I mean 91% greater than communities, other communities across the entire country. And if that's the case, we need to be building like that's the case, we need to be behaving that way, we need to make sure we're maintaining our properties with that and it's just our culture hasn't caught up our policies our funding, none of that in Hawai'i has cut up to the risk that has just exponentially increased in less than one generation and the question now is how we adapt, and so it's not going to look like the status quo we have to think through how we do it into the future where we bake that into how we live and how we manage our homes and how we have our policies and our priorities and things like that and I think we're living through that transition right now. It's going to look different than what we've done before, but thinking through, you know, homes, thinking through roofs and screens and just a couple of tweaks to the built environment and a couple of tweaks to how we manage our yards and set up and design our communities is really worth it because at this point that we're facing insurance realities that require that. So, this is about safety, this is about maintenance, trying to make sure our system lasts for generations and sets people up for success and safety, but also in the very now it's about insurance retention and so this is like a nice package of kind of achieving that all at once, at best we could figure out which, you know within what we think we might have access to get it started in a good direction.

Chair Ako: You know with the housing crisis as we have it now yeah, I think a lot of the movement is to increase density within the towns itself yeah, as opposed to sprawling it out throughout the island. Does that increase the risk of, I guess, the risk of fires within the towns and because obviously I guess if the fire is there you disrupt more families, yeah, but...

Ms. Pickett: Yeah. It's such a good question. I'll start the answer and then we can swap because I think she has a lot that she can present on that. It's a huge question. It's a really important thing because we...all things fire have to have these integrated solutions. On the landscape it's not just going to be (inaudible), we need to grow food, we need water security, we need food security, and we need safety and there's lots of ways to achieve all of that and so we've thought through what that looks like on the built environment because we need to be able to house more people. But when structures get closer together that's the major find, that's the biggest finding along with building materials and vegetation the other thing is the spacing and if we build close together with not so much space in between that domino effect, the structure to structure, just, it speeds the fire up and it's really hard to contain. And so, you have to think about when the wind is blowing that all that heat and all those flames are laying down sideways and what we're trying to do is achieve as much housing as we can for folks and still keep it safe by not having it. Answering the density question in a way different than just smooshing them closer together because that adds this immense amount of safety risk to it, so.

Chief Gibson: Yeah, I can. So, with density, under normal conditions when there's no wind, early detection is the key to putting out the fire, so the more eyes you have on the fire whether it be through a detection system or humans, fire gets reported, the fire department can respond and put it out or the occupants can put it out. High wind conditions, it doesn't matter if it's dense or the homes are half mile apart those embers are coming, kinda shower for everybody and again you know early notification is the key, but when it's a high, high wind fire, it's, everybody's at risk and the best defense is the home hardening for that.

Ms. Pickett: And I could add one finding from Lahaina, which is that the initial, the initial design of Lahaina had the homes with lots of extra yard around it, but as it became multi-generational and lots of stuff got added on to those properties they ended up being really close together and it was one of the single most factors that led to Lahaina burning, structure to structure to structure was how dense it had become because in addition to that you have all that much more people parked and more cars and it's even harder to get out and so just how everything was so tightly packed was really the greatest contributing factor to what happened in Lahaina. So, we're trying to think about how we can achieve multiple goals but not set it up in that way where it's really too close with materials that are going to catch.

Mr. Hull: I can...before I turn over to Alisha and Alan to kind of go into...because the, they've got some designs as well that kind of demonstrate how with the proposed setbacks we won't necessarily be reducing density and in fact in some scenarios you might actually increase density. But before I turn it to them on that, I can say, you know, the housing crisis has been at the forefront of this discussion internally, I've...it'll...I actually can say I recall coming across Elizabeth Pickett's name and her organization well before I met her, and it was when we're doing the West Kaua'i Community Plan, and I remember the planner that put Elizabeth's work in front of me, and my response as a planning director to that staff member, was wildfires are forest problem, that's not a built environment problem, we will play some lip service to it but let's focus

on the real hazards, like flooding and hurricanes. That was in 2018, I remember the specific moment that happened. And then Lahaina happened, right, and so and then Kaumakani almost happened and so I know Alan had been working actually with Hawai'i Wildfire a bit and he had said well do you want, should we reach out to them and I said not yet, like we...and the and the, I'm talking about the planners at whole in the state and I think even Doug talked about it from a building scale, we treated Hawai'i Wildfire like it was Chicken Little, screaming, the sky is gonna fall, and like they're crazy, and they're out there, and then the sky fell, right and us recognizing that's partly on us. You read the Lahaina report, Derek Alkonis wrote that with the attorney general, it lays it at the feet of building codes and zoning codes, not entirely, it's a systems approach kind of what Elizabeth getting, it's utilities, it's homeowners, it's, you know all scales, but there is clearly fault at the way we've set up our built environment from our regulatory approach. And so, you know really getting into it with Elizabeth and her team and really beginning to understand it, I can say that there are numerous documents within wildfire science and the wildfire conferences that talk about saying, you know when it comes to the risk, adding 6 to 10% on the cost of construction is worth it. 60, \$40,000.00, \$60,000.00 it's worth it. And you know hearing that from a Hawai'i perspective and a housing crisis, you know we kind of pushed back and saying, if we're adding 10s, maybe 15% to the cost of construction then who are you building these homes for? In Hawai'i where we have a housing crisis, where we have locals, hawaiians exiting the area and the region for the sole reason alone is because the cost of construction, so this is at the forefront when we put this proposal together every, every single proposal and policy shift in here was analyzed at a nuance level to save, will that create an additional cost and if so, what is it. And so, that's why we've brought it down under the proposal to, if built with a general contractor these improvements come up to 1.6% increase in cost construction and at a self-build, it's at less than 1%, and with some of the other looking at offsets there's ways that perhaps under our proposal, it is, under the proposal it will be cheaper to construct under a wildfire code with certain Water Department and permitting fees being exempted out. So, I just want to stress, you know this whole package is about wildfire, (inaudible) it is, but it was not done without the cost of construction and the housing crisis at every step of the way. So, anyways with that I'll turn it over to Alisha and Alan who can probably much better articulate what I just said.

Staff Planner Alisha Summers: No, that was great, and thank you so much Fire Chief and Elizabeth for that wonderful presentation earlier and just setting the stage. Good morning, Planning Commission, Chair and commissioners, for your consideration this morning Amendment to Chapter 8 of the Kaua'i County Code, related to wildfire and wildland urban interface standards. The Zoning Amendment Permit Application No. is ZA-2026-6, and the applicant is the Planning Department, and just to clarify I think everyone's pretty aware now, but this is a bill package so it includes amendments on the proposed amendments to Chapter 8 that's related to our Comprehensive Zoning Ordinance, but it also includes Chapter 12 and Chapter 15, which pertains to building and construction regulations, and I know I clarified this at the last Planning Commission meeting, but just for everyone listening today I want to clarify it again. While Planning Commissions action is limited to the proposed amendments to Chapter 8, we did want to include the discussion for Chapter 12 and Chapter 15, and the proposed bill package was really structured in this manner because the amendments are intended to function as an integrated framework, in which by combining their implementation it's really necessary to meaningfully reduce and mitigate wildfire risk. So, we do have a presentation for you today, so maybe if we can bring up the presentation and...

Ms. Summers shared a visual presentation

Ms. Summers: Oh sorry, oh okay, perfect. Yeah, so if you guys can turn around. Also, just really quickly wanted to introduce myself my name is Alisha Summers, I work in our county's Planning Department and our Long-Range Division, I don't know if you want to introduce yourself as well, Alan.

Administrative Planning Officer Alan Clinton: Good morning, commissioners. Alan Clinton, Administrative Planning Officer, County Planning Department.

Ms. Summers: And we'll start this presentation, but I do want to also give a little shout out to Alan and commend him because a lot of the graphics that are used today are graphics that he made, and so it made my job so much easier so I just wanted to commend him for his great work in that. There's something in the middle, oh perfect. Okay. So, I'm just really excited to present to you all today the proposed bill which would establish standards to reduce wildfire risk within Kaua'i's residential communities, and we can go to the next slide. You know the stage was kind of already set and Ka'aina talked about, a little bit about our journey as well as Elizabeth but I did want to also provide a little bit of that background as to why this bill is being proposed. As a department we really started to focus on Kaua'i's vulnerability to wildfire hazard when we witnessed what happened in Maui in August of 2023, and I think we're all very aware of this, the devastation of what happened in Lahaina, and it was, you know nothing short but tragic. 102 fatalities, the damage to and destruction of approximately 2,153 structures, and an estimated 5.5 billion in reconstruction costs, and then Fire Chief was talking about it earlier, but then the following year in July of 2024, we had that brush fire between Hanapēpē and Kaumakani, and as he stressed under different circumstances there could have been far more severe impacts and you can see the photo at top is obviously of Lahaina and the photo at bottom shows an aerial image of before the fires and then when the fire happened, and you can go to the next slide. So, when these things were occurring, we really tried to dive into better understanding our vulnerability as a county and unfortunately as it turns out we discovered that we as a county are really, really vulnerable to wildfires. There the U.S. Department of Agriculture Forest Service develops wildfire risk data sets, and these datasets indicate that communities on the island are subject to a very high level of wildfire risk with homes in Kaua'i county facing greater risk than approximately 91% of counties nationwide. Hawai'i also ranks, and you can click one more time there's an animation, what you also ranks among the top 10 states nationally and 7th overall in the number of communities exhibiting elevated built environment wildfire risk factors, you can go to the next slide. And to really understand what our kuleana is as a department may in mitigating impacts to wildfire we looked at first the Department of Attorney General's investigation reports for the Lahaina fire incidents, so we primarily looked at these two reports that you see on the screen right here, the Lahaina Fire Incident Analysis report and the Lahaina fire forward looking report. So, these reports identified 84 key findings, and it also provided 40 recommendations to help guide the state and the counties from preventing an incident such as Lahaina from ever happening again, and you can go to the next slide. The report also identified these 10 key priorities for both the State of Hawai'i, as well as the counties to address what we can do at a state and county level, so what you see on the screen here are the 10 highest priorities for enhancing wildfire readiness at the county level, and you can click it one more time, sorry, wish I had the clicker. But, for this proposed bill we really look specifically at Priority 8, Codes and Standards, and this priority directed counties to evaluate and enhance the review and

adoption processes for codes and standards ensuring they are driven by public safety and effectively address wildfire risks, particularly in the WUI and to focus on aligning and coordinating codes to reduce the fire risk to the built environment. And in the development of this code, as I will dive into very shortly, we also included provisions that touch upon some of the other priorities, you can click one more time, including Priority 5, which looks at wildfire and WUI education, Priority 7, regarding evacuation, and Priority 10, looking at vegetation and land management. And then you can go to the next slide. But first it's also really important to set the stage and to better understand some basic wildfire knowledge before diving into the bill. Fire Chief was talking a little bit earlier about, you know the risk of embers so that's where this conversation is going to come into play. So, when people typically look on the news and see fire events happening, they typically view this wall of flames coming towards a community and so, that's the most common understanding of how ignition starts, so that may be like direct flame contact, you can click one more time, and there's also radiant heat, in which you have a certain heat intensity that's sustained over a certain amount of time and it caused a combustible material nearby to then also ignite, and then you can click one more time. But the third reason, the third pathway of ignition is through embers and this is where, you know, you have the wind-blown embers hitting combustible material, accumulating and igniting that combustible material oftentimes our structures. And you can click one more time, and actually what we found, well what I learned that really surprised me, is that are that embers are responsible for 90% of structural ignition and I wanted to set the stage because a lot of the provisions in this bill are really thinking about these different pathways in which a structure can ignite and are really trying to address the risk of ignition via embers. So, we can go to the next slide. So, to address this risk, I'm going to kind of provide an overview of the overall bill package, so it includes the following amendments under Title 5, Building and Construction regulations, the proposed bill establishes a new Chapter 15b, and this new chapter includes wildfire and wildland urban interface construction requirements for new residents development and substantial improvements, we also call this home hardening requirements and I'll go into detail about that shortly. There's also amendments to Chapter 12, this is to clarify that a detached single story accessory structure of 200 square feet or less is exempt from building permit requirements, reducing the prior threshold of 300 square feet to 200, and this amendment is primarily to create alignment between the building and zoning permit processes, and then there are amendments to Chapter 8 in our Comprehensive Zoning Ordinance, and the provisions, the proposed provisions are to establish a new article addressing wildfire and wildland urban interface setbacks and defensible space standards as well as amending sections in the code related to residential development. So, we can go to the next slide. So, I'm going to give a very quick overview of some of the home hardening provisions, again Alan created these lovely graphics and I also want to preface that for these provisions we largely are almost pretty much all of our provisions are aligned with the model ordinance developed by the IBHS, the Insurance Institute for Business and Home Safety Model Ordinance, so that was one of the exhibits that was attached to the directors report, so this is coming from best practices and model codes from the IBHS, so just kind of working our way from the top down and I'll go over it super briefly and we won't go into the nitty gritty, but here are some of the provisions that are included in the amendments to Chapter 15, starting with the roof and I think that a lot of you are very aware that roofs are one of the most vulnerable surfaces for the house because it is a common area where embers then blow from the fire source onto the roof and accumulate due to its large surface area, so the proposed bill requires, requires for a Class A rated roof, so this can be, for example metal roofs, asphalt shingles, the main thing is just

not having wooden, wooden slates for roofs, and then moving down to gutters and downspouts, so gutters and downspouts are particularly vulnerable also in structural ignition when they're of combustible materials such as plastic, and this can then lead the roof assembly to also catch fire if the gutters and downspouts catch fire, so the provisions then require for a metal gutter and downspout and noncombustible cover, and then going further down to the vents, many houses have vents under their eaves, and vents are also very vulnerable to embers that can enter through the vent openings and then ignite combustible materials within the house and so, the proposed bill includes having noncombustible 1/8 inch corrosion resistant mesh screen, and what this 1/8 inch mesh screen does is that one embers try to enter through the vents then it often deflects it or splits the embers so that it doesn't intrude into the house, and then we can go to the next slide. So, there have also been a lot of conversations and consideration in the department around cost, which we'll talk about a little bit later, but if we're working down the house in kind of also talking about the 6 inches of noncombustible material flashing at the base of the house, a reason why we really wanted to focus our efforts on the flashing is in thinking about the risk of ignition via members to the house. In best practice and in other codes they do have provisions in them regarding exterior wall material being more fire resistant and as we'll talk about later in terms of cost, when we did an analysis of what the cost may be to have a fire, an ignition resistant exterior wall material, it did seem to provide a significant increase in cost, it was looking to be about \$40.00 per square foot and what we learned through this process is that one ember, which are responsible again for 90% of structural ignitions, when embers hit the side of the house, in terms of the wall, they'll often hit it and then they'll drop at the base and so, when thinking about like okay, what is the most that we can do for the bang for her buck, we decided to concentrate our efforts on the best practice of metal flashing, so that's the 6 inches of noncombustible material because the embers will then accumulate and could crawl up the wall and cause ignition to the house, but this flashing prevents that from happening. And so, I just wanted to mention a little bit of that, that story around how we got to the flashing and not necessarily the fire-resistant walls. And then moving downward to post and pier, so many of our workforce houses, if they're not in slab on grade, they're on post and pier, so it requires again that 6 inches of noncombustible material installed vertically at grade or alternatively the post and pier being a noncombustible material and if the house is elevated 4 feet or lower then because it's lower to the ground, it's more vulnerable for embers to go beneath the house and accumulate beneath the house and cause ignition from underneath the house and it's best practice to have again, just like the vents having an underfloor, having the under floor enclosed with a noncombustible 1/8 inch corrosion resistant mesh. And we'll talk a little bit too about the costs related to that as well later in this presentation. So, we can go to the next slide. Very, very quickly, we also looked at windows, so windows are particularly vulnerable to radiant heat and when they fail they let the flames and embers inside the house, so during wildfire conditions glass failure generally occurs due to the thermal stress caused by temperature differentials across the pane and that results in that uneven heating which causes the glass to break and so...

Mr. Hull: Can I jump in real quick Alisha?

Ms. Summers: Yeah.

Mr. Hull: I just wanted (inaudible), because Alisha's pointing out that this is actually not an ember issue this is a radiant heat issue.

Ms. Summers: Yes.

Mr. Hull: So, this is one component of the bill that's really aimed at the radiant heat issue from a home hardening standpoint, and I can say that when we're going through the numbers, Elizabeth literally called us from Los Angeles, and she referred to, she made reference to all these concrete structures and that still burned, and she was just like, Ka'aina, the windows are such an issue, like embers are responsible for so much, but once that radiant heat pops that window out, all these concrete homes, these hardened homes in Los Angeles, burn internally, they still have the frame around it. (Inaudible) just look at the potential windows and I was like, from a cost standpoint like don't know but we went into the cost standpoint, and for a 1,000 square foot house, it added a dollar a square foot extra, it was just an extra \$1000.00, so from that standpoint, we're like, oh, 20 minute fire rated windows we can do it within a nominal amount, so this is one area that's not, I just want to point out it's one ember issue, not related issue but definitely an issue in wildfire resiliency.

Ms. Summers: Yeah, thank you so much for that clarification too, Ka'aina, and a lot of it was also we saw as being appropriate because of the cost analysis that was done as well, so this would include either a dual pane tempered glass or having a fire protection rating of not less than 20 minutes, and then there's the door as well so having a solid core wood or having an exterior surface with noncombustible or ignition resistant building material or having a fire protection rating of not less than 20 minutes, and then having the address markings and I'm pretty sure that's pretty self-explanatory for the evacuation purposes, yeah for sure.

Ms. Streufert: The \$1.00 per square foot, is that for new construction or is that also for retrofitting?

Mr. Hull: That's just for new construction.

Ms. Streufert: Okay.

Ms. Summers: Okay, and then we can go to the next slide. So, that was all for Chapter 15b, and now we're going to be segueing to the proposal, proposed amendments to Chapter 8, so one of the proposed amendments for Chapter 8 includes requiring for new residential structures, a 5 foot noncombustible zone with ground cover and this doesn't necessarily have to be concrete, which is a bit more costly, it can also include something like gravel, and I want to emphasize too that, we really looked at from what we've learned is that mitigation efforts to the house itself and 5 feet from the house is the most critical area for wildfire mitigation, and so we found it really important to also include this 5-foot noncombustible zone and creating a noncombustible zone in this immediate perimeter reduces the likelihood that any wind driven embers will ignite nearby fuels and expose the structure to direct flame contact, so you can go to the next slide. I think a lot of us have also, when Lahaina happened there was a lot of focus as well on evacuation, and I pulled out a quote that I got from the Lahaina report, where it says, the Lahaina area had inherently limited access and egress routes, which became even more problematic during evacuations and it was honestly really, really difficult for me to read the Lahaina report and I'm sure it would be difficult for anyone because, as you read through the report it goes through the scenarios of how people were trying to evacuate and it's honestly really traumatic and depressing to read it and when I was going through the report it said that 65 of the 102 fatalities occurred

while individuals were actively trying to attempt to evacuate. When they were investigating what had happened, they found that former sugar cane roads provided, you know a potential alternative as an evacuation route, but it wasn't very effective because access was often blocked whether it was by locked gates or physical barriers and in addition to this, these routes were also not widely familiar, so a lot of people were not using them. So, I'm showing a visual in here, an aerial image of Wailua Houselots, which is a, you know a community that only has one way in one way out. I want to reassure everyone that this proposed bill is not proposing that, you know we add an alternative route, though that would be amazing to be able to do that in the future to support those efforts, but it's not for communities that are already built. It is a proposed bill requirement for larger development projects where it would, it would be triggered from a proposal for a subdivision of 20 or more lots, a CPR for 20 or more units or a zoning permit for 20 or more dwelling units. Okay, and then we can go to the next slide. Okay, getting into the setbacks, and I know that this was brought up earlier as well, so this is new compared to the last time we were at Planning Commission for this and it was deferred but in reviewing the Lahaina report just like I think Elizabeth might have been mentioning this where it was noted that in areas where there was large scale structure destruction and high fatalities, they were close, they were in areas where they were closely spaced buildings, with some of the residential structures separated by as little as 6 feet apart and sometimes even smaller distances, because between primary and accessory structures. There's also when we dived into best practices and wildfire research there's clear evidence that a setback between structures that are less than 30 feet, result in a significant increase in structural damage or destruction and at closer proximity such as 10 feet or less, almost all the homes were destroyed in these, in these different research studies, and so I think this is a hard pill for us in Planning Department to swallow because obviously we're in a housing crisis and we need to think about these trade-offs of what that might mean for the communities hazard resiliency as well as what that might be the implications for providing more opportunities for housing and the full build out of a parcel. And so, we do have more slides, there's one slide after this, but we do have slides at the end if you guys are interested. We did some, we had a contract with Opticos Inc. in California, where in their analysis it was to determine whether an increased setback would reduce the achievable residential density or whether comparable levels of development could still be accommodated on typical lot sizes that you would see here, ranging from 6,000 square feet to 10,000 square feet, and this analysis actually found out that overall residential development density can largely be maintained with an increased rear end side set back of, what we were looking at was 15 feet, along with the standard 10 foot front set back and an increased building to building set back of 30 feet. What they found in their study, and it's included in the exhibit, is that no significant reduction in development yield was identified as a result of the increased setbacks. It also further demonstrated that if you have intentional site design strategies, so I think that's kind of key is that it needs to be more intentional from the get-go. Such as if you have like shared driveways, attached building configurations, and alley loaded accesses, it can support both density retention as well as a more cohesive urban form and neighborhood design, and we can show some of those images later. We also did some internal analysis with some existing communities here on Kaua'i and including on even smaller lot sizes, I believe 4,500 square feet, and if you guys are interested, I didn't want to make this presentation too long, but if you're interested we can, we can show some of those images as well, so this just shows a comparison of the existing requirement and proposed requirement, just want to also emphasize that the applicability of this is for residential construction on newly created subdivision lots. So, it's only for newly created lots. So, the main difference would be a rear end

side set back would increase to 15 feet and the building-to-building set back would increase to 30, however we are considering those encroachments when, oh, yes sorry...

Mr. Giovanni: Any difference if it's a single-story structure or multiple story structure in terms of the setbacks?

Mr. Hull: Not in the proposal.

Ms. Summers: No. Yeah.

Mr. Hull: Not as drafted, not...now granted under multifamily construction per building code they are going to have to use fire rated walls when you have apartment complexes.

Mr. Giovanni: So, it's basically single family.

Mr. Hull: Single family, ARU's, duplexes. And I just was about to jump in and add, like one number that had us pause and go back to the setbacks, is that, 90% of structural ignitions that start with a community burns, it starts from embers, right, but once some buildings catch on fire then it becomes in a lot of situations, an urban configuration, where now radiant heat or flame contact is an issue, so when you have, what the Fire Chief was referring to a single incident, right, fire response is getting there, they're going to put that fire out, may not save the structure, but they're gonna put that fire out and contain it, so it doesn't jump to other buildings, and so the setback issue is that, analysis has shown that if you have a 10 foot set back between structures and there is no fire response, i.e. you're in a catastrophic situation, that adjacent structure has a 90% chance of burning, right, so when Fire Chief was talking about Kaumakani, there were even reports on social media of, like, oh Kaumakani is already burned, and that's because in KEMA, the anticipation was those structures are setback so small that once a few of these start the whole town is going to burn, and so that's what was important for us to say, okay, if we're going to be building new towns and new subdivisions, we need to take this analysis in, and planners have always, always generally, I'll say, linked density to setbacks as one and the same and what we decided to challenge ourselves in this bill, and there are some planners that wholeheartedly disagreed and were upset when I made a statement a few weeks ago, in saying, I don't know if density and setbacks are the same thing, let's see if we can uncouple the two, can we still increase density, but also do so with increased setbacks and the designs that came out from both Alan and from Opticos, demonstrate, hey, by increasing the setbacks we have proposed, do not actually decrease density, and in some scenarios, some architects have signaled back that our code actually might allow more density than is currently available today within the existing zoning regulations, so...

Ms. Summers: Yeah, and if you go to the next slide, there's also an example of how it could allow for more density because as part of this proposed bill it also includes, sort of like an exemption, where the Planning Director with Fire Chief may reduce the minimum distances between structures proposed on a property or between property lines for shared wild construction across property lines if the walls are non-combustible material and then for multifamily. So, you can see some examples here on a 6,000 and 10,000 square foot lot where they're actually building across property lines, which was not, which is not currently allowed in our code, but we're allowing for that in this proposed bill. Okay, and then the next slide. Very quickly because

the defensible space standards haven't really changed since the last time we were at Planning Commission, but the defensible space standards are another big part of the amendments to Chapter 8, so in terms of the applicability for this it would be recorded in covenants for applications where it would be a subdivision of 10 or more lots, CPR of 10 or more units, or a zoning permit for 10 or more dwelling units, most of this is our maintenance requirements, so it starts with the structure itself and then it goes out to the 5 foot zone, the 5 foot noncombustible zone zero zone, and then the zone one, which is 30 feet from the structure, but starting with the residential structure itself it would require debris, maintenance of the addressing as well as prohibiting noncombustible items or materials to be enclosed on the structure or beneath the structure, or have it stored in a noncombustible, in a noncombustible storage, and then you can go to the next slide. And then for zone zero, that is 5 feet from the structure itself, so maintenance of the hardscape that we were talking about earlier, this zone is really critical to stay clear of combustible materials, so it prohibits vegetation, it's only allowed to have noncombustible items and then having a noncombustible fence within this zone. And then the next slide. And then within the 30-foot zone, this is primarily looking at vegetation maintenance, so this includes, you know spacing between the vegetation, pruning, removal of debris, and this is to prevent any ladder fuels from then, like coming up to the structure and being able to ignite the structure from, you know nearby vegetation or combustible material, so also prohibiting firewood, unless it's enclosed, fire prone vegetation, which is defined in the code as 3 main vegetation sources, Guinea Grass, buffalo grass, and Haole Koa, but it does have an exemption for kalo and banana due to their fire resilient characteristics. And then the next slide. It also includes a fire prevention outreach and educational requirements, so like, I mentioned earlier, the defensible space standards are to be recorded in covenants and it would be assigned to a responsible management entity, an example of this would be an HOA, so an HOA or an applicable property management entity would also be required to conduct at least one workshop for the board that's open to all residents that would teach principles of fire prevention education. This would be done in a coordinated effort with our county team in Fire, KEMA, Planning, then the next slide. Just very quickly because this came up multiple times today and obviously it's a huge consideration for our department when we were going through this process, but we did contract Unlimited Constructions to conduct a WUI cost impact study. And for this study they compared the cost for a standard build and a build that incorporates our WUI provisions and they did that for three scenarios, one, for a slab on grade construction, two, for an elevated post and pier construction at 2 feet above grade, and one at 4 feet, the reasoning for those different elevated scenarios is because of the provisions, if you remember to have an underfloor enclosure if it's 4 feet or lower, if on post and pier. And as you see from these numbers, while of course like there isn't a slight increase in cost, in consideration of just the benefits that it would have on the communities resiliency, it was seen as a more nominal cost, so for a slab on grade it would represent a 1.6% increase in construction. For elevated posts and pier at 2 feet that would be a 3% increase, and then at 4 feet it would be a 1.7% increase. The reason why the 2 feet is a little bit higher is because of the underfloor enclosure with the mesh. It was also mentioned at our last Planning Commission, questions about insurance and we do have an exhibit where we got formal comments from Dr. Kimiko Barrett, regarding how such a bill could have implications for insurance and really the main take away is that it's pretty unlikely that a bill like this would necessarily decrease insurance premium rates, but it could help with the, with the retention of insurance coverage. And as we're seeing now and as we've been seeing in the past, in the past decade, when you go through reports on what's happening with insurance trends there has been

an increase by 216% statewide in homeowner insurance policy, non renewals, from 2018 and 2023, and from 2021 and 2024, there's been an increase by 12% in insurance premiums and so while we can't totally predict the future of what would happen, a bill such as this could help with the retention of insurance. And then I think that's the last slide. We do have slides if you want to see for some of the urban design configurations that were created internally, which Alan can also talk a lot more about as well as Opticos design, what they created to explore the setbacks and our question about setbacks and density, but we're open to whatever questions you have.

Mr. Giovanni: Question, maybe a long answer, maybe, hopefully not, but, surprised not to hear any discussion about sprinklers, so do, maybe to the Chief first, do sprinkler systems make a meaningful difference in these situations? I know there's a big cost associated with these.

Chief Gibson: Always, always going to say yes to fire sprinklers. We know there's a cost that comes along with that and so in lieu of that there are other alternate safety systems fire, you know, smoke detectors, advanced warning systems, but (inaudible). Certainly. Yeah, certainly.

Mr. Giovanni: But if you stop short of requiring (inaudible, microphone not on) as a cost factor.

Chief Gibson: Yeah.

Mr. Clinton: I would add in addition to cost, it is a maintenance item too, that the sprinklers do require ongoing maintenance and operational capability, just need to be monitored as well.

Mr. Hull: And also to that, standard wildfire codes come with sprinklers or sprinkler requirement and a non, or should I say, fire rated wall component, which are exorbitantly excessive and so working with various partners, both here at the table and then the wildfire science folks in the mainland, it was calibrating the defensible space in a manner where some of the wildfire science folks were like, if you're going to have defensible space requirements in addition to baseline home hardening requirements, they could sign off on that and endorse the idea, but it is somewhat it as a package deal if you will, so if you didn't necessarily defensible space requirements then you might see some wildfire science folks turn around and say, well then you need fire rated walls and that \$40.00 a square foot premium extra for the fire rated walls is where we're like, we can't put that on a homeowner, so the whole thing is kind of packages out in that manner. I see Elizabeth leaning in like she's about to say something.

Ms. Pickett: It's really a quick comment, but just to say that I really commend this team because in pursuit of fire safety so far each of the sectors tends to be really myopic, so if you think like only building needs to solve the entire thing, you include sprinklers and you include fire rated walls or if you're on the natural resource side or vegetation side, it's all about the grass or it's all about the yards, and then in other, you know fields like, I'm coming from natural resources and sort of community organizing and it's like it's all about the education, and as we started to consider the other factors like cost or affordability, density, insurance we put together, like Ka'aina said this package, where we captured the 90% risk that comes from embers and then we think through if something does ignite at least we've got the windows and the setbacks and then we have to think about maintenance, and we have to think about vegetation and so we filled that in, always thinking about insurance, affordability, density, and then in addition to that, there is ongoing like awareness, we're trying to elevate Hawai'i to understand that this is a major risk

we're facing. I feel like I've been screaming from the rafters or from the rooftops and some people thought it was crazy. You know I wrote the Community Wildfire Protection Plan for Lahaina, that nobody listened to, and we published in 2014. We talked to the landowners, we talked to community, we had some things Launiupoko decided to become fire wise and the fire stop there, and they were better prepared to evacuate and they had a lot of good defensible space, but we have been learning and I just want to commend this effort to learn and to think through what Kaua'i needs and to put together this package of ongoing maintenance, education, and to do it in a way so it could stay affordable. So, this is where folks new were able to see it and think outside the box to put it together in a way that's not myopic, so if that provides any context it's why what's in there is in there because there were some trade-offs so that it could still achieve like maximum safety and endurance or sustainability without adding so much cost. I should have started it off that way because that's what's really encouraging about what's proposed and then put together.

Ms. Streufert: Could I just ask the question? I was, as this conversation was going on, and I was looking at Alan, I'm thinking you know, I don't know of too many communities on Kaua'i that have more than one access road.

Mr. Giovanni: That have what?

Ms. Streufert: Have more than one access road. And I know in my community there isn't, and I'm thinking Hanapēpē Heights and you know, all because we only have that one road around the island. What is the implication and I guess this is more for the Planning Department, what are the implications for community planning in the future in terms of how we're going to do that because all of our communities have only one access road? And, I think it's a bigger issue than just new construction that's got to be...how are we going to plan for the future, but I will say one thing though, I really appreciate the fact that you guys are forward thinking and that we're looking at this before we have a problem. We did have one in 2024, but I mean you know, that we're looking ahead and we're trying to not mitigate but actually prevent some of these kinds of issues. But in the future if we're thinking that we need more affordable housing or at least gap housing, and we're not, most of this is going to be infill. How are we planning for this in the future and I'm not just talking about 10 years, but actually in 10 years we're not going to have a young population on Kaua'i that can actually afford it. We're not going to have people who can actually work on Kaua'i because most of the young people who are in repairs and maintenance are leaving the island, they can't make it here. So, I guess rather than a question, am I right in...well one question, am I right in that most of our communities have only one access or have I mistaken that?

Mr. Clinton: So, we actually, myself, Anneka in Real Property, and some others, we did take a look at this and we have, and actually with the help of an intern with Hawai'i Wildfire Management Organization, we did create a GIS layer that documents every single one way in, one way out, actually every single neighborhood on Kaua'i has a designation of one way in, one way out, and two (inaudible), and or multiple entries, so we could also share that for context, but part of the, that exercise was to try to identify those most high risk areas and there are probably a subset of about five we've already mentioned, Wailua Houselots, and Hanapēpē Heights, which are our two largest ones, well over 500 to 600 dwelling units, which are very substantial and (inaudible), but yeah it's something that by all means we, we've documented and helped

contextualize this conversation because evacuation is a huge element of this and it also provided us with some of the regional context of what some of those opportunities are. There's been discussion of using cane haul roads, alternative pathways trying to work on the community side of this conversation from education standpoint, what ways do you go, where are areas of last resort for you to evacuate to, those are sort of programmatic elements that we'd love to add on top with the help of Elizabeth and her organization. One thing that we've learned with evacuations and Alisha mentioned it in her presentation a bit, but if people aren't already familiar with particular evacuation route, they're not going to use it when their life's at risk, and so there's, if these evacuation routes are chained normally or locked and they're not used regularly people aren't going to make a life and death situation to utilize that potential way out, and so there is an education piece, discussion with landowner piece, it's kind of round that out and we want to work with fire and KEMA, as well for that.

Ms. Streufert: As well one of the things that, okay, I'll show my age, I'm used to, you know telephone books, right, and the front pages of the telephone books had all that information about evacuation and who to contact and stuff. Is there something like that available because it's not on the internet. I mean you can look for it individually, but there's nothing that says this is, these are all of the pieces of information you need in order to evacuate for hurricane, for example, or where the flood zones were and right now if you had to look into it, into the, on the internet, you'd have to look at it individually, and you can't really, it's hard to cross reference, if you will, is there any kind of thought as to how that part of the education might be useful, that you have this kind of thing?

Mr. Clinton: Yeah, I'd say there's probably two ways to answer that question. One, is certainly from the public safety...the actual responders would be facilitating the evacuation, Fire, KPD, Emergency Management, I think they'd have a very different style of answer as what we'd be discussing here at the built environment. But with that being said, the alert systems, maybe I won't try to speak on behalf of other agencies representatives here today, but there is certainly more discussion, I could absolutely be had about tailoring that messaging to each community, but as we know every fire, every hazard is a little bit different and so obviously right sizing that to the instant would be the at the behest of the Emergency Management administrator, the instant commander, Fire Chief for the respective agencies.

Mr. Hull: I'll just also add to, from the bills perspective, right, requiring to a secondary access after 20 units, you know we're open to that number being adjusted or more particularly being in Doug's comments to you folks, concerningly, allow the Fire Chief to allow, come in and say perhaps 20, and perhaps 20 is too low, like you need a second road for that, maybe not, but to have essentially the Fire Department make an analysis on each application on what is appropriate. Because Alan and I were discussing this yesterday, we're not ready, given the hazards have, different hazards have different needs or responses, if you will, I don't think we're ready to say, like what the design elements of each secondary access are as they speak to evacuation, but going through that analysis on a case by case situation is as applications come in to us for future developments is important. For those existing ones, yeah I mean, in Alisha's report, she's got Wailua, Hanapēpē Heights is clearly one of the other ones. If, on the, one of the original slides that Alisha had, that burned scar, that she's showing, right, like everybody's focused I think on Kaumakani because Kaumakani almost burned, but that fire started up in Hanapēpē Heights and it's literally right next to that subdivision, the wind was going west, so the

fire went west. If the fire was going the other way, if the winds was blowing the other direction, then yeah, Hanapēpē Heights with its setbacks and its built environment, more than likely would either turn into the next Lahaina or a, you know, version thereof, and so we are in discussions with Hawaiian Homelands because they have a project going on and they have a second access connecting Moi Road, in, like Phase 6 or 7 of the development, not in the earlier phases, and so we're trying to really encourage Department of Hawaiian Homelands to consider that alternate, oh no, secondary access into Hanapēpē Heights as a prioritization for another phase. For Wailua Houselots, now I'm showing my age myself, Alan and Alisha weren't there, but there was a time when the Planning Department outreached and went into Wailua Houselots, expressly to discuss with the neighbors and residents connecting up a secondary access, and we were screamed out of that neighborhood. This was pre Lahaina, and so you know, there's certainly, planners love connectivity and we like multimodal access and routes in. When we say we want to punch another road into a neighborhood, pre Lahaina that response was, no, you're not, post Lahaina we think we might get some traction now that there's a safety component and not just a cool planner and multimodal (inaudible), if you will.

Ms. Streufert: I guess, I'm more looking at whether there might be some kind of a document that would look at, you know sort of like we had in the front pages of the telephone book, that might be very useful, I just...or at least old school people and we've got a lot of older people on Kaua'i. You know that's, to have everything in one place that you could look through and see the connectivity that would be I think very useful, but that's not necessarily or something that we have to discuss here, although it's part of the education part of it.

Ms. Pickett: So, one element we haven't talked about, is the time element and so, I just want to point out that on the new development a lot of, a lot of...you buy a lot of time when less things ignite all at once. You buy time, with the fewer things that are igniting at once, the more time people have to evacuate. And so, building it safe and well-designed from the start with some design tweaks and whatever the whole package of things, is a really solid way to ensure evacuation safety and extra time on the existing areas because it's really hard to get all the easements after the fact, to develop the road, to get the social buy, and all that sort of stuff, this is where that educational and social programming goes on, where at first we have to acknowledge there is fire risk that's been this big hurdle for a long time until recently. And then, and then when people start to understand that it's not just safety or insurance retention there's also, it buys you time, if the more and more of your neighbors who are doing, who are raking and sweeping and cleaning their noncombustible zone and then the next level to the education goes into evacuation practices. So, on Hawai'i Island there are several communities that have one way in and out, and you're right, 2/3 of communities in the state have one way in and out. So, we have a, there's no way we're going to get all those roads. In Waikoloa Village, there are 2,200 structures, and it's taken 20 years for us to push and finally get, you know secondary egress, emergency road and some argue it's inadequate, but it's the best we've been able to get done so far, so it's really hard to do it after the fact. But the evacuation practices have already started to speed up the traffic flow, people know to evacuate early, so there's a lot we can do on the existing communities to shore up by time and practice, but we first have to acknowledge that we have risk and that it's an issue, which goes to, there is information where you can go and look up all hazards, but until the last year or two, wildfire wasn't in that. We fought really hard, and it was like, it's not a thing, and we're like, it's a thing and so now it's finally being incorporated in, so our Emergency Management at county levels, at state level, it's now an added piece of the hazard package that

we're trying to address, so I think we're getting better but we have far to go. And I think Alisha had something on evacuation.

Ms. Summers: Oh, not really, but...no I was just going to mention and those are really good comments, commissioner, that you're speaking my language because, you know I'm in long range and whenever we do our community plan update processes, we are specifically also looking at these communities and trying to see if there is that community buy in, and I think that now there is a reevaluation of like, okay, look at what happened in Lahaina, and think about like your risk here in this community and reopen those conversations around evacuation and these community plans can really help to see what those priorities are, those infrastructure priorities, so we're relooking at things like that and house lots and other communities, yeah.

Ms. Streufert: Thank you.

Ms. Pickett: Thanks.

Chair Ako: I'll prolong this a little bit more. Surprisingly, I did learn something from sitting on like, our Subdivision Committees over here and I figured out that as we develop new communities the access out of the come in and out of the communities are all funneled into one place and then from there we come out into the main road, we don't come from the communities and go out straight to the main road, and I think it's for safety purposes out there, as why it's done like that. Is that a trade off with viewing traffic safety as well as accessing there in terms of fire incidences or evacuation incidents, I should say?

Mr. Clinton: Say, it's pretty multi-pronged, it's probably pretty multi-pronged response to that overall because I think generally speaking many people would prefer to have limited car traffic on their roads as little as possible and this kind of goes to some the discussions about having a roadway network rather than having one primary built road that everything feeds into that also has discussions associated with traffic and congestion. It is a balance in that regard to where, do you want to connect your...do you want to have a community wide connectivity network or do you want to funnel everything onto the road. What are the trade-offs between more people driving on your street compared to on the highway, from a pure sort of planning perspective, from a I guess more historically, (inaudible) planning had the planning practice developed over the throughout the United states with a different kind of constraints of different rules and regulations that balance is, every single community arrives at their own sort of preference, and we, we're trying in more instances to build more of a network on Kaua'i for a variety of purposes, congestion as well, but that would also simultaneously have benefits to evacuation, alternate routes and that's something which we've been thinking through very quickly or not maybe not quickly, but thoroughly in this process is, when we are discussing, we're in an all hazardous environment, are these proposed changes also going to benefit us in other instances and I think there by all means will be some other spillover effects to other types of hazards. There is a review Dr. Barrett had done, where she was reviewing a community in the Pacific Northwest, and they were finding all sorts of really fire resistant structures, but they'd actually been retrofitted for the sake of wind resistance, where they had a lot of metal siding on houses and there were, it was a multi hazard environment that had multiple benefits across multiple different hazards and were coupled with the discussion about insurance. It is sort of a very large pot, it's hard to answer that question very specifically, but it's very broad one, but I think we're

looking at this from a multi hazard, multi response approach, which is why so many different elements of this feed into building code, planning discussions, as well as outreach and also within the fire space.

Mr. Hull: I'll just add real briefly too, through this process and really hooking up with somewhat at the hip with Hawai'i Wildfire in the Fire Department. It's also evolved in how the Fire Department, particularly the Fire Prevention, Captain Kinoshita looks at subdivision applications, where we're (inaudible), the Planning Commission is a discretionary body, like if you provide best practice as a recommendation, they have to analyze it, they will analyze that and he was kind of, I think a lot of agencies were like, oh no, I can only provide comments that meet (inaudible), and our code is this, so that's going to provide, and we're like no, no, no, that you can you can go beyond that because this is a discretionary review and to that effect it goes to something that Alisha said earlier, it's just we're having to be more intentional about our design, but we do have the regulatory framework with certain specific standards, but when it comes to wildfire hazard planning, we just need to be more intentional about the design and how we approach it. So, regardless of the bill being adopted or not, it's still, subdivisions are getting routed to the Fire Department, there's a much more iterative process that we're following with them and other agencies in how we cite specific, whether it's where the structures are supposed to be cited or whether it's where the access routes should be cited.

Chair Ako: Okay, seeing no more, oh, one more green light.

Mr. Giovanni: I just want to add my compliments to your work. You've made great progress on a relatively impossible task, probably aided somewhat by the momentum of concern, following Lahaina. But you've taken that and you've taken a very, what I consider to be a very pragmatic and meaningful approach to find, for improvement to reduce risk. I wouldn't be surprised if 10 years from now, 15 years from now if we go down this path, seriously when you do your chart we're no longer 91% or probably in a lot better position, so thank you for your work.

Chair Ako: Thank you. Okay, with that, again, I want to thank you all for your very comprehensive and very, I guess, a dialogue that I was able to understand, yeah and I just wanted to thank you for that.

Ms. Streufert: But I also want to say you've now scared the hell out of me.

Ms. Cox: Which may be a good thing.

Mr. Giovanni: So, procedurally what's the hurdles left to get this completed and adopted?

Mr. Hull: It needs to go to the council for their review, so Planning Departments advisory to commission, commission's advisory to the County Council on policy adoption. You know, we've definitely been working with directly with the building department, Leolynne Escalona and her team, as well as the building departments attorney, as well as an array of different housing folks and industry folks from architects to contractors and so, we're ready to ask that the commission take action possibly to send it to the County Council. We definitely got Doug's comments in, we think Doug definitely has some points there and without hopefully, you know any objection, we'd like to still ask for a movement on the bill and then we should be able to address, we think,

Doug's concerns prior to the committee meeting, which should be scheduled roughly around August, mid-August, mid to late August.

Chair Ako: Okay, so there's a long way yet to go, but for us today, it's a matter of what we do with this.

Mr. Hull: Yeah, and then there's two floor amendments, I think that Alisha had circulated that she can read on the record that we're asking, wasn't in the packet that was submitted for your review earlier. They're two relatively small amendments, they're just clarifications on standing with other ordinances, and so I don't know Alisha, if you just want to read those onto the record.

Ms. Summers: Yeah sure, and I'm so sorry I don't have the exact language because I gave, I think I gave all the copies to you, apologies, but...

Mr. Hull: I'll just circulate it. I can read it.

Ms. Summers: Okay, you do have it.

Mr. Hull: Yeah.

Ms. Summers: Okay, but basically there's just two minor amendments, the first one, sorry I can't read the exact language, I should've printed myself a copy and kept it. But one of it just adds a Section C under the Article 8-, Section 8-19, and it's basically saying that the WUI set back and defensible space standards would supersede the Special Planning Area regulations, so that's one of them, and the other one is very minor, it's just replacing an image of the 6 inch noncombustible flashing so that it's a little bit clearer than the image that was provided in the original bill. So, I don't know if you want me to read it specifically.

Ms. Barzilai: I think it's a good idea Alisha.

Ms. Summers: Good to read it?

Ms. Barzilai: Yeah.

Ms. Summers: Yeah, so for the amendment to Chapter 8, to amend to add a new section in to add a new Section 8-19 "C", to read as follows, relationship to Special Planning Areas where the requirements of Section 8-19, Wildfire Wildland Urban Interface, WUI setbacks and defensible space standards conflict with the requirements of Special Planning Areas adopted under Chapter 10 of the Kaua'i County code the requirements of Section 8-19 shall supersede. And then the second one, I don't know how to exactly read it since it's a visual, but it's to replace the existing illustration in Section 15B "C", "1", "C", with a revised graphic that more clearly depicts the requirements for a minimum of 6 inches of noncombustible material extending vertically along the exterior wall of the structure.

Chair Ako: Thank you.

Ms. Summers: Yeah.

Chair Ako: Okay, we have several options in front of us, we can entertain a motion to...

Ms. Barzilai: Chair, I think you can review them with the commission if you want to, completely fine to do that.

Chair Ako: Okay, option one, would have to approve and transmit report to the council. We can approve it with modifications and transmit report to the council or we can disapprove it and transmit report to the council or 4, we can defer if there's a need. Multiple choice question.

Ms. Cox: I would like to move that we approve ZA-2026-6, with the two amendments from the floor.

Ms. Barzilai: And transmit the report to council, please.

Ms. Cox: Oh, and transmit the report to the council.

Ms. Streufert: I Second.

Chair Ako: Thank you. Okay, we got a motion and we got a second. Further comments, discussions? Seeing none, Mr. Clerk, if we take a roll call vote, please. Thank you.

Commission Support Clerk Lisa Oyama: Chair, who seconded the motion? Thank you.

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

Ms. Cox: Aye.

Mr. Hull: Commissioner Giovanni?

Mr. Giovanni: Aye.

Mr. Hull: Commissioner Santos?

Ms. Santos: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

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

Chair Ako: Thank you so much. Thank you.

Ms. Cox: Great job. Thank you.

New Public Hearing (None)

CONSENT CALENDAR (None)

Status Reports (None)

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

Class III Zoning Permits (None)

COMMUNICATIONS (None)

UNFINISHED BUSINESS (For Action) (None)

NEW BUSINESS (For Action) (None)

Chair Ako: And as great as I think their presentation was, let's not forget about braddah Ka'aina, over here. Thank you.

Mr. Hull: Thank you, commissioners. With that, we have no further agenda items.

ANNOUNCEMENTS

Topics for Future Meetings

Mr. Hull: Our next agenda is scheduled for July 14th, 2026.

ADJOURNMENT

Chair Ako: Okay, anything else we'd like to address? If not, be glad to entertain a motion to adjourn.

Ms. Streufert: I move to adjourn.

Ms. Santos: I second.

Chair Ako: It's been seconded. All those in favor to adjourn say aye? All those opposed. This meeting is adjourned. 5:0. Thank you very much.

Chair Ako adjourned the meeting at 12:16 p.m.

Respectfully submitted by:

Lisa Oyama

Lisa Oyama,
Commission Support Clerk

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

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

KAUA'I PLANNING COMMISSION
REGULAR MEETING
July 14, 2026
DRAFT

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair Gerald Ako at 9:25 a.m. - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

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

Excused or Absent

The following staff members were present: Planning Department - Director Ka'aina Hull; Staff Planner: Romio Idica, Dale Cua, Alisha Summers, John Schoffstall; 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. I'd like to call to order the meeting of the Planning Commission for the County of Kaua'i. Today is Tuesday, July 14, and it's 9:25 a.m. Mr. Clerk, if we can have a roll call, please.

ROLL CALL

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

Commissioner Helen Cox: Here.

Mr. Hull: Commissioner Giovanni?

Commissioner Dan Giovanni: Here.

Mr. Hull: Commissioner Santos?

Commissioner Kuulei Santos: Here.

Mr. Hull: Commissioner Streufert?

Commissioner Glenda Nogami Streufert: Here.

Mr. Hull: Chair Ako?

Chair Ako: Here.

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

APPROVAL OF AGENDA

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

Chair Ako: Looking for a motion to approve the agenda.

Ms. Cox: I move, we approve the agenda.

Mr. Giovanni: I second.

Chair Ako: We have a motion and a second. All those in favor, say aye. Aye (unanimous voice vote). All those opposed? Okay, the agenda has been approved. 5:0.

MINUTES OF THE MEETING(S) OF THE PLANNING COMMISSION

May 26, 2026

Mr. Hull: Next, we have the minutes for May 26th, 2026, Planning Commission.

Chair Ako: Again, you have the minutes in front of you. Got a motion to approve.

Ms. Streufert: I move to approve the minutes of the May 26th Planning Commission meeting.

Ms. Cox: Second.

Chair Ako: We have a motion and a second for the minutes of May 26th, 2026. All those in favor, say aye. Aye (unanimous voice vote). All those opposed? The minutes have been accepted, approved. 5:0.

RECEIPT OF ITEMS FOR THE RECORD (None)

COMMITTEE REPORTS

Subdivision Committee Report

Mr. Hull: Next, we have the Committee Reports for the Subdivision Committee. I'll turn over to the Subdivision Committee Chair.

Ms. Streufert: The Subdivision Committee met this morning, and all three members were present. There were four different actions that we took this morning. Preliminary Subdivision

Map Approval of PRW Princeville Development was approved as amended. Preliminary Subdivision Extension Request for Kukui'ula Vistas 2021-5, 2022-2 and 2022-8, were all approved.

Chair Ako: Any questions for the committee? If not, if we can have a motion to approve the committee report of the Subdivision Committee.

Ms. Streufert: I move to approve.

Ms. Cox: Second.

Chair Ako: Motion and a second. Any questions? If not...roll call?

Deputy County Attorney Laura Barzilai: No need.

Chair Ako: If we can have just a verbal vote. All those in favor, say aye. Aye (unanimous voice vote). All those opposed? Committee report has been approved. 5:0.

HEARINGS AND PUBLIC COMMENT (None)

Continued Agency Hearing (None)

New Agency Hearing

Mr. Hull: Next, we have New Agency Hearing.

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2026-6) for a development involving the construction of two (2) single-family residences on a parcel located on the makai side of Kuhio Highway in Wainiha, at its intersection with Mikala Place, further identified as 5-7196 Kuhio Highway, Tax Map Key: 5-8-008:009, and containing a total area of 15,588 square feet = **LON AND LIANNE MALAPIT.**

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

Mr. Hull: Do we have any member of the public that would like to testify on this agenda item? Seeing none, the department recommend closing the agency hearing.

Ms. Cox: I move we close the agency hearing.

Ms. Santos: I second.

Chair Ako: There's been a motion and it's been seconded to close the agency hearing. All those in favor say aye. Aye (unanimous voice vote). All those opposed? Agency hearing is closed. 5:0.

Mr. Hull: Next, we have agency hearing for;

CLASS IV ZONING PERMIT (Z-IV-2026-15), and USE PERMIT (U-2026-12) to allow construction and installation of a new wireless telecommunication facility within the Kaua'i Village Shopping Center parcel situated along the mauka side of Kuhio Highway in Waipouli, further identified as 4-831 Kuhio Highway, Tax Map Key: (4) 4-3-008:013, and containing a total area of 4.8944 acres = **CELLCO PARTNERSHIP, DBA VERIZON WIRELESS. [Directors Report Received, 6/23/2026.]**

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

Mr. Hull: Do we have any members of the public that would like to testify on this agenda item? Seeing none, the department recommend closing the agency hearing.

Ms. Cox: I move we close the agency hearing.

Chair Ako: We have a motion to close, a second?

Ms. Santos: Second.

Chair Ako: Okay. It's been moved and seconded. All those in favor of closing the agency hearing, say aye. Aye (unanimous voice vote). All those opposed? Agency hearing is closed. 5:0.

Mr. Hull: Lastly, in agency hearings.

CLASS IV ZONING PERMIT Z-IV-2026-16 to allow the construction of a 2-story office building, 8,000 square feet warehouse and associated site improvements on Lot 5 of the Kukui Grove Village West Subdivision in Lihue, involving a parcel situated on the makai side of Kaumualii Highway, further identified as 4481 Pahee Street, Tax Map Key: (4) 3-3-010:005 and containing a total area of 1.0272 acres = **KAUAI AIR CONDITIONING & REFRIGERATION, INC. [Directors Report Received, 6/23/2026.]**

1. Director's Report pertaining to this matter.

Mr. Hull: Do we have any members of the public that would like to testify on this agenda item? Seeing none, the department would also recommend closing the agency hearing.

Ms. Cox: I move we close the agency hearing.

Ms. Santos: I second.

Chair Ako: It's been moved and seconded to close the agency. All those in favor say aye. Aye (unanimous voice vote). All those opposed? The agency hearing is closed. 5:0.

Continued Public Hearing (None)

New Public Hearing

Mr. Hull: Next, we have New Public Hearing;

ZA-2025-7: 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.

1. Hearing postponed to August 11, 2026, to allow the Applicant's compliance with KCC §8-3.1(f)(4).

Mr. Hull: The applicant has failed to meet the notification requirements under Section 8 of the Kaua'i County Code. Therefore, this item has to be deferred until they can meet the notification requirements. However, it was published in the newspaper. So, is there any member of the public that would like to testify on this agenda item? If so, testimony can be given for it. Seeing none, this just continues on as a postponement, so there's no action required by the commission.

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: And next up, we have actually a litigation measure. So, I'll turn that over to the attorney for you folks.

Chair Ako: Okay. Regarding Item I.1.

Petition to Appeal Planning Director's Decision Related to the Planning Director's Petition to Revoke Applicant **Kimberly Bayless** Non-Conforming Use Certificate TVNCU # 1108 (Hanalei 'Ohana), 5142 Weke Road, TMK (4) 55002018, Hanalei, Kauai and Issue an Order to Show Cause and Set Hearing, for referral to Board and Commissions as Contested Case File No. CC-2026-9.

- a. Stipulation and Order for Withdrawal of Petitioners' Petition to Appeal Planning Director's Decision Related to the Planning Director's Petition to Revoke Petitioner's TVNCUC #1108 and Issue an Order to Show Cause and Set Hearing and Dismissal of Contested Case with Prejudice.

Ms. Barzilai: So, Chair, you have the attorneys for the parties here and you have before you a Stipulation of Settlement for consideration and approval.

Chair Ako: Any questions before we proceed? If not, go ahead. (Inaudible).

Mr. Harvey Cohen: Good morning, commissioners. Harvey Cohen on behalf of Kimberly Bayless. Myself and Chris Donahoe, on behalf of the county, have agreed to a stipulation that we believe fairly resolves the matter and here today; to answer any questions you might have with respect to that stipulation.

Chair Ako: Any questions for the applicant?

Mr. Giovanni: Can you summarize the stipulation?

Deputy County Attorney Chris Donahoe: Sure, sure. Deputy County Attorney Chris Donahoe, on behalf of the respondent in this matter, the Planning Director. So, this is, in the terms are acceptable to the department as well. The stipulation, a notice of violation went out because the property owner had a valid NCUC to rent out one of the properties, but two were being rented out. So, the notice of violation was on the illegal rental. And so, and the department appreciates greatly the communication and the willingness to work with Mr. Cohen, as well as the cooperation from his client, to come to a resolution, a satisfactory resolution of this matter, which is the department and Ms. Bayless agree that they'll provide payment of \$10,000, which is the administrative fine, for the notice of violation. Now, it says within 30 days of approval of the stipulation, however, that was one issue that Mr. Cohen, I believe can address once I'm all finished with the terms and conditions, because there the NCUC comes up for renewal on July 31st. So, it actually we wanted this resolved before that. Secondly, the department and the petitioner agrees that the petitioner gets to retain the nonconforming use certificate, which is 1108 for the two-bedroom, one bathroom unit, obviously subject to the annual renewal conditions. And so, one of the conditions is she does get to keep that. Also, the petitioner agrees to allow ongoing monitoring of the TVR operations by the Enforcement Department of the Planning Department at the subject property, and the parties agree that the petitioner will provide additional payment of \$28,731 as a penalty to the County of Kaua'i, and the parties agree that the payment it corresponds with the 2024 rental income received from the client's operation use in short term rental of the unapproved five bedroom, four bath single family residence on the property. And with this, we agreed to, the petitioner agrees to withdraw the appeal of the notice of violation, and the parties agree that the contested case can be vacated based on this resolution and with prejudice, which means it will not, under these same facts and circumstances, cannot be filed. Again. That's the summary.

Mr. Cohen: Yeah. And I can confirm that the written stipulation says the payments would be made within 30 days from your approval. But because of this July 31st deadline, my client is fine tendering the 10,000, plus the additional 28,000 immediately upon your approval.

Ms. Streufert: Can I ask a clarification on this? So, the five-bedroom, four bath unit is not a TVR, is that correct? And will remain not a TVR.

Mr. Cohen: That's correct. That's my client's full-time residence.

Ms. Streufert: Okay. So, the TVR is just for the smaller unit.

Mr. Cohen: That's correct.

Ms. Streufert: Thank you.

Ms. Santos: So, then, I have a question then. So, she was fined on the five-bedroom. So, she's still using the five-bedroom?

Mr. Cohen: No.

Ms. Santos: How long was she using the five-bedroom as a TVR?

Mr. Cohen: For two years. For actually, for two months per each of those years.

Mr. Donahoe: And that's how one of the terms and conditions was that the agreement was the Department will continue to monitor for enforcement of the five-bedroom.

Chair Ako: So, now there's only one TVR.

Mr. Donahoe: I'm sorry.

Chair Ako: There's only one unit now.

Mr. Donahoe: Yes.

Ms. Santos: But this is not in a TVR zone.

Mr. Donahoe: No, no. And that's why there's a nonconforming use certificate for the two-bedroom, one bath that was previously approved.

Ms. Santos: Can I ask a question? Why didn't you just revoke all TVR, if it's not in TVR zone and they were being naughty anyway? I'm just curious.

Ms. Barzilai: I think the client can speak to that.

Mr. Donahoe: I believe, I believe the county can speak to, the planning director.

Mr. Hull: Sorry, Commissioner Santos, what was the question? So, I can make sure I'm answering.

Ms. Santos: So, if they're not in TVR zone, but you grandfathered them in for one, right? But then you busted them being naughty for not following the rules, even though that they're already kind of in this grandfathered house. So, why not revoke everything because they're being naughty? Because now you have to take more resources, watching someone who enjoys being naughty. It's like the rule once a cheater, always a cheater. Well, I'm just asking. I'm just asking a question.

Mr. Hull: Just, I appreciate the question. That one actually, the response, I'd ask for you to consider entering executive session to have that discussion with your attorney.

Ms. Santos: Okay, got it.

Mr. Hull: This is a situation we do get into, I won't say fairly frequently, but it does occur. And there are certain legal parameters and strategies that the department employs to compel compliance. But beyond that type of statement, I recommend you go into executive session so that...

Ms. Santos: Okay. I'm just curious.

Mr. Hull: ...I'm not availing our strategies further to...

Ms. Santos: Right, right, right. Yeah, I get it. Okay.

Ms. Barzilai: Which you can, Commissioner, if you want to make a motion, it's totally fine. We can take the time to go over it.

Ms. Santos: Well, this is my first...

Ms. Barzilai: Settlement.

Ms. Santos: ...settlement, so I'm just curious on all the things, and you guys don't know and I'm...it's okay.

Mr. Giovanni: Well, it's my first settlement as well. And I...

Ms. Santos: Oh, are you curious too?

Mr. Giovanni: Yeah.

Ms. Santos: Okay. So yeah, sure.

Ms. Streufert: I move that we go into executive session.

Mr. Hull: Is there perhaps, because I know we're going to possibly run into some quorum issues. Is there perhaps we might be able to table this agenda item. And I just, out of deference to the commission...

Ms. Barzilai: Who is leaving? Commissioner Giovanni has to leave? Sorry.

Mr. Hull: I would just request if...and the completely respecting the commission's right to and desire to have an executive session, just knowing that there may be some quorum issues, that's why but I'm just requesting...

Ms. Barzilai: To consider (inaudible).

Mr. Hull: ...potentially to table this agenda item to the end of the agenda so that we could still go through...the commission could still go through its other agenda items.

Ms. Barzilai: Okay, I don't have the background on this, but I don't have any reason to suggest otherwise. It's fine. It's okay with you, it's a motion to table.

Mr. Giovanni: Can I ask one question before we...quick question.

Commission Support Clerk Lisa Oyama: Commissioner Giovanni, your microphone please.

Mr. Giovanni: May I ask one quick question before we take that up? So, in July, there's, you going the things going for renewal of the nonconforming. So, at that time it will either be granted or not granted to continue with nonconforming TVR.

Mr. Donahoe: Yeah, yeah. And generally...so, the reissue of the certificate is the date that it was originally issued back in when it grandfathered in after the ordinance was passed. And so, that deadline is firm. And so, if it is not renewed by that time, there's the department's position, and we, and we have support from the court on this, the Intermediate Court of Appeals that that is forfeited. So, if you miss the deadline, you forfeit, you forfeit the certificate. And so, you can no longer, it becomes an illegal TVR at that point.

Mr. Giovanni: So, does the renewal come back to this commission for approval?

Ms. Barzilai: No.

Mr. Donahoe: It does not.

Mr. Giovanni: Where does it go? How does that... what is that process?

Mr. Donahoe: It's submitted to the Planning Department with certain documentation required documentations, proof that it's been used, GE taxes, proof that there's certain requirements in place to continue to qualify as a TVR use, with a \$750, 750? \$750 check, \$750 check for the yearly renewal and then it gets granted. It only comes before the commission if there's an appeal of a violation of that.

Mr. Giovanni: Okay, so in summary, they had a nonconforming use permit. They violated it. It was discovered, the planning director took action, and the settlement is to pay a fine of \$38,500 or something of that order to make it all go away. And then they're going to go for a renewal of the application.

Mr. Donahoe: Well, you can kind of split it apart, where one was a valid TVR with a nonconforming use certificate. The other one was a never had one. So, so it's that, that one is being shut down and being and being discontinued. And so, they, they continue to rent under the legal nonconforming use certificate through July 31st pending renewal.

Mr. Giovanni: It's a legal, nonconforming.

Mr. Donahoe: Correct.

Mr. Giovanni: That's the one that needs a renewal.

Mr. Donahoe: Yes. Every year.

Mr. Giovanni: And the illegal nonconforming, they're paying a fine.

Mr. Donahoe: Correct.

Mr. Giovanni: Okay. I understand.

Ms. Cox: Do we need a motion to table this?

Ms. Barzilai: A motion to table, please.

Ms. Cox: I would like to move that we...

Ms. Streufert: I think I'm going to have to rescind my motion to go into executive session first.

Ms. Cox: Oh, okay.

Ms. Barzilai: That's fine. You can withdraw it.

Ms. Streufert: I'll withdraw my motion to go into executive session.

Ms. Cox: And I move that we table this item until the end of our agenda, until we've taken care of our other issues.

Ms. Barzilai: Just a fast second and a voice vote is fine.

Ms. Streufert: Second.

Ms. Barzilai: All in favor, Chair.

Chair Ako: All those in favor, say aye. Aye (unanimous voice vote). All those opposed? 5:0.

Ms. Barzilai: Okay. The item is tabled to the end of the agenda. Thank you.

Chair Ako: Thank you.

Mr. Hull: Chair, moving on to the next agenda item. General Business 2.

Request for Time Extension of the Approved Special Management Area Use Permit (SMA(U)-2024-9), Class IV Zoning Permit (Z-IV-2024-4) & Use Permit (U-2024-4) for the Shops at Kukuiula Photovoltaic System and Employee Parking, Koloa District, Island of Kauai, Hawaii, TMK: (4) 2-6-015:010 and (4)2-6-015:011 (POR., Unit 4).

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

Mr. Hull: Are there any members of the public that would like to speak on this agenda item? Seeing none, I'll turn it over to Romio for a brief, brief report.

Staff Planner John Schoffstall: Chair, commissioners. Good morning.

Mr. Schoffstall 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: Questions? If not, I'd like to invite the applicant to step forward.

Mr. Tom Schnell: Hello, Commission members, staff, I'm Tom Schnell. All right. Sorry, I didn't know how to work that. All right. Good morning. Commission members and staff. I'm Tom Schnell with PBR Hawai'i. I'm the authorized agent for Kukui'ula Village, LLC. I'm here to answer questions. We agree with the department's recommendation to extend for two years. With me is Mike Hubbard, he's the general manager of the Shops at Kukui'ula.

Chair Ako: Questions? No questions? You had a perfect report, no questions. So, if not, we can just move to the recommendations.

Mr. Schoffstall: I would like to make a change on the amendment on the floor. The Condition of Approval in No. 12, it reads regarding the development or activity by July 13th, it should read 14th, that's a discrepancy. In order to provide a two-year extension, it should read as July 14th, 2028. Based on the foregoing evaluation and conclusion, it is hereby recommended that the commission approve the time extension and amendment to SMA(U)-2024-9, Class IV 2024-4, and Use Permit 2024-4.

Ms. Streufert: I move to approve the time extension for Special Management Area Use Permit 2024-9, Class IV Zoning Permit 2024-4 and Use Permit 2024-4.

Chair Ako: Until...

Ms. Cox: Second.

Ms. Streufert: As amended.

Chair Ako: Yeah, July 14.

Ms. Streufert: I'm sorry, as amended.

Chair Ako: Thank you. We've got a motion.

Ms. Cox: Second.

Chair Ako: To approve, and we've got a second. Last further questions. If not, Mr. Clerk, if we can have a roll call vote, please.

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

Ms. Cox: Aye.

Mr. Hull: Commissioner Giovanni?

Mr. Giovanni: Aye.

Mr. Hull: Commissioner Santos?

Ms. Santos: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

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

Mr. Schnell: Thank you very much.

Chair Ako: Thank you.

COMMUNICATIONS (None)

UNFINISHED BUSINESS (For Action) (None)

NEW BUSINESS (For Action)

Mr. Hull: Moving on to Agenda Item L. New Business.

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2026-6) for a development involving the construction of two (2) single-family residences on a parcel located on the makai side of Kuhio Highway in Wainiha, at its intersection with Mikala Place, further identified as 5-7196 Kuhio Highway, Tax Map Key: 5-8-008:009, and containing a total area of 15,588 square feet = **LON AND LIANNE MALAPIT.**

Mr. Hull: Do we have any members of the public who would like to testify on this agenda item? I know we (inaudible) an agency hearing, but if we do, you can speak now. Seeing none, I'll turn it back over to the staff planner on this, John.

Mr. Schoffstall: Chair, commissioners. Good morning.

Mr. Schoffstall 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: I have a question.

Chair Ako: Please.

Mr. Giovanni: Did the department conclude that a Ka Pa'akai was not required for this?

Staff Planner Romio Idica: Given the size of the lot, Commissioner Giovanni, the size of the lot and the area that it is located in, we relied on the applicant as to state that there are no known Hawaiian or traditional Hawaiian cultural practices that are occurring on the lot. So basically, as represented by the applicant.

Mr. Giovanni: So, as a matter of practice, do we have the discretion to do that?

Mr. Hull: How in depth the commission wants a Ka Pa'akai done is really at the discretion of the commission. The applicant has made efforts to ensure that no Hawaiian practices are affected. Insofar as what's been disclosed in the application. But, and then also right, the final call on the Ka Pa'akai is done also through this meeting, through these hearings, in which, if any, practitioners testify to the fact that practices will be impacted and what type of mitigation measures can the commission impose, but how much more in depth is really at the discretion of the commission.

Mr. Giovanni: So, the commission has the discretion, not the obligation, to require a Ka Pa'akai for something like this?

Mr. Hull: No, a Ka Pa'akai is the analysis. The body needs to...so Ka Pa'akai's are now referenced in the nomenclature of land use permits as the study, but a Ka Pa'akai analysis is not technically a study per se, it's a findings that the body makes with any proposal and action it takes on whether or not cultural practices in and around the area are at the site are impacted, and what mitigation measures. So, to the degree of the study that's required the commission can require further analysis if it feels on the applicant.

Mr. Giovanni: And vice versa?

Mr. Hull: Yeah, correct.

Mr. Giovanni: So, I'm satisfied as long as we have the discretion to go forward with the recommendation of the department. I just wanted to make sure we had that discretion.

Mr. Hull: Absolutely.

Ms. Santos: I have a question. What's being built on the bottom floor?

Mr. Schoffstall: There is some storage areas and I believe there is a workout fitness room, and I think the applicant can answer further questions regarding that, because I think those things have been removed in the most recent plans that they have in their building permit.

Ms. Santos: Oh okay, because I thought in one it had a bathroom and I didn't think a bathroom could be on the bottom floor in a flood zone.

Mr. Schoffstall: Yeah, I believe in the building permit application that they have currently. That stuff has since been removed. But you can ask the applicant.

Ms. Santos: Okay.

Ms. Streufert: Could I ask one question? The Department of Transportation was suggesting one driveway instead of two. Has that been resolved?

Mr. Schoffstall: Not to my knowledge. I believe on the site plan, it does show one gravel driveway, but there was a discrepancy in the cover letter stating that they were going to do two. But on the current site plan, there's only one proposed gravel driveway.

Ms. Barzilai: I think the applicants are here.

Chair Ako: One question that I would have is that, the request is for five years extension of SMA. What is the rationale of keeping it at two?

Mr. Idica: That, we would like to defer to the applicant and can state the reasoning for this request.

Chair Ako: Okay. Any other questions right now for the department? If not, if I can invite the applicant to come forward. Morning. If you can state your name and tell what you know.

Mr. Lon Malapit: Lon Malapit.

Ms. Lianne Malapit: Lianne.

Mr. Malapit: Lianne Malapit, my wife. We just want to go home. We were born and raised there. I remember when there was cattle there. We respect the cultural rights and cultural desires of the people and will definitely respond if there are any effects to the environment and the bones or anything like that. So, we just want to go home. If you look at the maps, we've been there. I remember cattle when back in the 60s growing up, we used to camp there before this neighborhood was developed. It was all cattle lands, and we used to fish there. And so, it's a beautiful place. We just want to go home and we want our children, we need a place for our children. We have children on the mainland, want to come home, and it's difficult, as far as the five year extension just took time. Look, we're in 2026 and it's difficult with financing and finding contractors and cost of materials and the ability and the willingness for a contractor to drive over to Hanalei and Ha'ena, Wainiha, to help us. So, it just takes time. It's just a challenging process to build a house for our family.

Ms. Malapit: I think on the North Shore too, in that area, it's harder to get contractors and workers to go out to do a small family home because we're not a huge hotel, we're just family homes. We're just wanting to build homes for us, you know, for our ohana. But it's harder to get people to go past, past all the way to Hanalei, past the bridges, to go do some work for a small house. So, it's harder. And also, we have the landslide issue. We had Covid, no one expected that, that shut everything down for a long time. And then after that, there were, you know, those landslides that keep happening on the North Shore where the whole North Shore was cut off. And being a pharmacist, I had to...I remember, I had some patients on that side. I had to, like

bring the medication in a trash bag, take it to Hanalei, actually before Hanalei. And they, I gave it to the boat guy and he, the nurse took it over by boat over to the other side. And then a hospice nurse was stranded on that side. So, he took it to the patient. So, it can be very isolating on that part of the island. So, it's challenging to get work done and the subject to possible more landslides because that that area is still unstable. We drive by it and we still see the nets. And oh, and we had that big rain a few weeks ago and it flooded the river right close by. So, like, oh, there's all those things that kind of delay, unforeseen things that make it harder to build on that side versus like in Līhu'e. So, for that reason, we would like the extension because of what we just experienced. And, then speaking to different people in planning and just in, in the island and just contractors and stuff, it's just challenging, extra, on that side versus Līhu'e. Yeah.

Mr. Malapit: And affordability to build two homes. So, we need time to save up to build a second house.

Ms. Malapit: And they're just smaller homes, it's just for ohana just so we can all stay together. Yeah.

Ms. Cox: Can you speak to the driveway issue, one driveway versus two driveways?

Ms. Malapit: There's only one and it's just gravel, so it's pretty much all grass. It's just open grassy area.

Ms. Cox: Okay. So, that the reference to two is not...

Ms. Malapit: I don't remember seeing that.

Mr. Malapit: I think initially that was the initial plan.

Ms. Cox: Okay.

Ms. Malapit: Yeah. But we don't really care. We're probably just going to throw gravel down and just grass, park on the grass.

Ms. Streufert: To address Commissioner Giovanni's concern, Condition 5, says that the applicant must receive a letter from DLNR and SHPD prior to the installation of any ground disturbing activity, which would then identify, it wouldn't identify cultural practices, but it would identify if there are any kinds of things in the ground, I would think.

Mr. Hull: Yeah, and to that effect, I can also say, you know, with the request for the five year, any proposal in this area is going to go through considerable SHPD review. And with that, I hope it happens quicker, but I would not be surprised if it takes two years to get through SHPD, which to the point of their request for a five year, yeah...we're open to that, because SHPD review is going to be fairly robust for this area, and rightfully so. I'm not saying that it's a bad thing that they do need to be robust, but it can be a lengthy review.

Ms. Cox: So, it sounds like there's good reasons for the longer time. I just want to make sure that there's, we aren't setting a precedent because I know we've had so many projects that just go on

and on and on and not necessarily for good reasons, is, do we need to worry about the fact that we give a longer time frame here, but are going to keep other people to two years?

Mr. Hull: No, and you know, one, this area is sensitive and necessitates additional scrutiny by SHPD, but then there's also, I think, to what the applicants are attesting to is, you know, the department, ultimately it's the commission's discretion, but the department does give some, you know, lead to the fact that these are pro se applicants. And the process can be very vigorous and robust. And at times it can take longer when you're pro se.

Mr. Giovanni: And when you have Covid, and when you have floods, and when you have a landfall. And I'm satisfied with the SHPD being sufficient in this case and not specifically requesting a Ka Pa'akai analysis by a third party.

Ms. Cox: Just as clarification from Commissioner Santos' comment, what is the lower floor now going to have?

Ms. Malapit: It's a storage unit, where we're just going to throw like kayaks or boogie boards or whatever inside of it, and maybe some little weights or something just to work out in the open air. But yeah.

Ms. Cox: So, no bathroom.

Ms. Malapit: No, no. Yeah, it has to be the breakaway doors and all that (inaudible). It's just for storage.

Ms. Cox: Thank you.

Ms. Malapit: Yeah. Thank you.

Chair Ako: Apparently the SHPD process may take a while, yeah. Are you familiar with that process or do you have assistance to get to that process?

Mr. Malapit: No, we don't.

Ms. Malapit: What is that?

Mr. Malapit: But we're advocates for that whole process. So, work with us to, to, to help us move back. I don't know, we don't know what that process is.

Mr. Hull: And I can say that the department has submitted through HICRIS, so, the department has initiated that process. And what we have to do that for all applications. But we can help facilitate discussions between the applicant and SHPD, should SHPD not respond in a timely manner.

Mr. Malapit: We're part of that community out there. So, please help us get back there soon, because the longer we wait, the more costs it is to us, and more difficult it is to afford to build our children another home, a home for them.

Chair Ako: So, the recommendation for the extension is for two years. And yet the request is for five, which I assume is a discretionary thing for the commission to...

Mr. Hull: The commission can adopt a longer time frame.

Chair Ako: Okay. Any other questions?

Ms. Streufert: So, is there...

Mr. Giovanni: Yeah, on that last point, so, the actually the request is for two years, and the request is for five years.

Chair Ako: Department is recommending two.

Mr. Giovanni: And the recommendation is two.

Chair Ako: Yeah.

Mr. Hull: It's a standard recommendation, but we are open to the five-year request.

Mr. Giovanni: Okay. Well, we go on record. I think that we need to move this process along if we can. And I would support the two-year. And if they need to come back for a further extension at that time, we'll take it under advisement. But that's my, that's the way I feel about it.

Ms. Cox: How much of a hassle is it to come back? I mean, does that, does that delay or does it cost more? Does it...what kind of burden is it to come back?

Ms. Barzilai: It requires an appearance. If the rules are strictly followed, if the SMA rules are strictly followed, it would require a letter application from the Malapits and an appearance.

Ms. Cox: I think that I respectfully probably disagree with you, because as long as I know it's not setting precedent because I totally agree most of the time we want to have two years. But in this case, I would be comfortable with going with five.

Ms. Santos: Me too. I'm with you on that.

Mr. Giovanni: I will reconsider it based on Commissioner Cox's perspective and support a five year.

Ms. Streufert: Could the department support a five-year extension?

Mr. Hull: Yeah. We have no objections to the five-year. It was just standard language, that's generally, but given, you know, any proposal, I'd say we have no objections to the five-year.

Mr. Giovanni: (Inaudible).

Mr. Hull: Yeah.

Ms. Streufert: Is that sufficient do you think, or is that too much or how do you, what do you feel about that? I mean, we're doing a discrepancy of 2 to 5 years. So, there's everything in between.

Mr. Hull: Five years should be sufficient. And should it not be, certainly the applicant, if a five year time frame is established in the conditions and for some reason it's not sufficient, certainly then the applicant can come back and request the extension as well.

Chair Ako: My feeling on this is that, I think the concern we have about the extension is the delay process, yeah in there, where somebody is trying to delay the process. I think you guys just want to get a home, yeah, you guys just want to move in. And we're not sure how much time it's going to take.

Ms. Malapit: Exactly.

Mr. Malapit: Just to get here to this hearing, there's a cost in it. Yes, definitely.

Ms. Cox: Yeah.

Chair Ako: So, based upon that, I would support a five-year.

Mr. Hull: I'll say to make this easy, the department will facilitate, given the direction of the commission, the department will recommend its...I'm sorry, would amend, hereby amend its recommendation for Condition No. 12, to reflect a July 14th, 2031, deadline.

Ms. Streufert: Could we put language in there that states, do...that...I don't know how quite to put this, that this is not a precedent setting thing, that this is very case dependent or...

Mr. Hull: I don't think that language is necessary, in that the rules already afford the commission the opportunity to where it sees fit. The rules specifically, you know, give the commission where it sees fit the ability to extend. And the Commission has, in some cases, given the situation, extended them, and in some cases not.

Ms. Streufert: Are there many more lots out in that area or past Hanalei that would be developed in the near future?

Mr. Hull: There...anytime you propose a new house within the shoreline area or rebuilding of a house in the shoreline area, you're going to require outright SMA review. So, even if, there are vacant lots out there, yes, Commissioner, but there's also lots that can be subsequently require use permit as well.

Ms. Streufert: I think you hear the concern that we have about setting precedent. So, I fully understand what you're going through with how long it's going to take, because just normal people who have homes already have a hard time getting people to work. So....but we're also concerned about setting precedent for everyone else, and that there are times when there are people who delay building for whatever reason. So, I would support this, but I just want to make sure that it is not precedent setting decision.

Ms. Barzilai: The only, the only language that might satisfy Commissioner Streufert could be based on the circumstances as considered, something along those lines with regard to the time length, based upon the unique circumstances.

Mr. Hull: We could, we could adjust the Condition 12 to state, based on the circumstances for the subject lot, the applicant shall make substantial progress as determined by the director on the development or activity by July 14th, 2031. If not, the department shall be elapsed with no longer in effect (inaudible).

Ms. Barzilai: Because you are considering the individual circumstances of the Malapits.

Ms. Streufert: But we would always do that. So, that's kind of redundant. Doesn't really matter. We would always do that.

Ms. Barzilai: But the circumstances of other parties would not allow for the five years, so...

Ms. Streufert: I'm okay with the way it is right now.

Mr. Giovanni: Did you say unique circumstances?

Mr. Hull: I did, but I think, you know...

Ms. Cox: I don't think we need it.

Mr. Hull: I don't, I'll be honest, candidly, I don't think it's necessary because every review is an individual review. And quite honestly, when you're talking about SMA projects, many of them will not be completed in two years, many, just given the regulatory review that is necessary for coastal development.

Chair Ako: Any further discussion?

Ms. Barzilai: So, where we stand right now is, the department has formally amended its recommendation. So, you want to withdraw that or you want to maintain that?

Mr. Hull: Oh no, the department will still maintain it.

Ms. Barzilai: Okay.

Mr. Hull: Yeah, yeah.

Chair Ako: Are we ready.

Ms. Cox: Okay. I would like to make a motion to approve the...shoot, now I...the Special Management Area Use Permit for the construction of a two-story, single-family dwelling, two story additional dwelling unit. SMA(U)-2026-6, as amended by the department.

Ms. Streufert: As amended.

Ms. Cox: I said, as amended.

Ms. Streufert: Has the department recommended anything?

Ms. Cox: Yeah, it did.

Ms. Streufert: Second.

Chair Ako: We have a motion and it's been seconded. Last questions, last questions. If not, Mr. Clerk, ready for a vote? Roll call.

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

Ms. Cox: Aye.

Mr. Hull: Commissioner Giovanni?

Mr. Giovanni: Aye.

Mr. Hull: Commissioner Santos?

Ms. Santos: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

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

Chair Ako: Thanks for coming in. Good luck.

Ms. Cox: Good luck.

Ms. Streufert: Good luck.

Ms. Malapit: Thanks so much.

Mr. Malapit: God bless you guys. Thank you.

Ms. Santos: Thank you.

Mr. Hull: Next, on the agenda we have.

CLASS IV ZONING PERMIT (Z-IV-2026-15), and USE PERMIT (U-2026-12) to allow construction and installation of a new wireless telecommunication facility within the Kaua'i Village Shopping Center parcel situated along the mauka side of Kuhio Highway in Waipouli, further identified as 4-831 Kuhio

Highway, Tax Map Key: (4) 4-3-008:013, and containing a total area of 4.8944 acres = **CELLCO PARTNERSHIP, DBA VERIZON WIRELESS. [Directors Report Received, 6/23/2026.]**

Mr. Hull: Is there any member of the public that would like to testify on this agenda item? Seeing none, I'll turn it over to Alisha Summers, our staff planner, who has demonstrated how in-depth she can go on reports, but today I think she's going to demonstrate how quickly she can summarize her drafting.

Staff Planner Alisha Summers: Oh, gosh. Okay. Good morning, Planning Commission, Chair and Commissioners.

Ms. Summers 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: Questions? If not, do we have the applicant that would like to...please.

Ms. Kathy O'Connor-Phelps: Good morning, Mr. Chair and members of the commission. Sorry. I'm Kathy O'Connor. Wake you up. Kathy O'Connor-Phelps, I'm here on behalf of Verizon Wireless. Thank you, Alisha, for that amazing report, actually, makes my job easier. I do have a correction, though, that I found, that four by nine equipment area, it should actually be fourteen by four.

Ms. Summers: Oh.

Ms. O'Connor-Phelps: Yeah. So, the site plan is correct in your packet. It's right on the plans. And that might have been my fault. I think maybe I gave you a typo, but it'd be a 14 foot by four foot, not a four by nine foot. And that's for the equipment cabinets on the roof. So, this is a service issue that we have in the area. We have a site to the north near Gore Park, and we have a site to the south in Wailua. And those are getting overloaded, specifically between 10 a.m. and 8 p.m. So, this site will give, you know, really good coverage throughout the day. The commercial areas, some of the resorts, like Alisha said, we really, you know, took to heart trying to incorporate it into the architecture. So, you really shouldn't even be able to tell there's a cell site up there. We're not expanding the footprint on the ground. Everything will be contained on the roof. So, I'm really here to just answer any questions you might have.

Chair Ako: Questions.

Ms. Streufert: One question, but the proposed cupola will have, will be the same size that it is right now?

Ms. O'Connor-Phelps: So, no. So, it's going to be extended two feet in height. And then we had to expand the cupolas 4x4 feet. So, they're going from 6ft to 10ft. And that's to fit not only the antennas. They need certain spacing between them. But it's for the mounts structural components that have to go into it from wind loading and all that stuff.

Ms. Streufert: And will this, what will be the new range of the of your service?

Ms. O'Connor-Phelps: There's actually some pretty good RF coverage maps, maybe on the back of the, of the packet that you guys got, it'll basically fill in that gap between the one in Wailua and then to, what's that road...just looked it up too, it started with a P, Panini Road. So, it's a good half mile up that'll cover.

Ms. Streufert: Additional half mile.

Ms. O'Connor-Phelps: Additional. Yeah, yeah.

Chair Ako: Is the correction in the size have any consideration to the department?

Ms. Summers: Sorry, Commissioner. Could you repeat that question? Sorry, Chair.

Chair Ako: The correction of the size of the storage you was mentioning, the storage area. It's for...

Ms. O'Connor-Phelps: The equipment. Yeah. So, there's the two cupolas, and then in the middle of that will be the equipment area. So, the four by nine was actually the steel platform. What was not included in there was the H frame that has like the fiber box, there's, you know, other safety cabinets, that sort of thing. But the site plan on the plans shows the, the fourteen by four.

Chair Ako: So...

Ms. Summers: And we could make a correction to on the floor of the director's report being corrected to have the corrected measurements.

Chair Ako: But the plans (inaudible).

Mr. Hull: Yeah. The, it's a nominal size of nature. The cabinets for these and the equipment are sound attenuated. It's in a general commercial district. So, we will consider nominal.

Ms. Summers: And it's on an existing building. Yeah.

Ms. Streufert: There is a, Condition 8 is about prior to installation you'll consult with the police department and the fire department...

Ms. O'Connor-Phelps: Correct.

Ms. Streufert: ...to ensure that there's no...

Ms. O'Connor-Phelps: Yeah, we have to do that in other counties in Hawai'i as well, yes.

Ms. Streufert: So, you're aware of that?

Ms. O'Connor-Phelps: Yeah, we're aware of it. Thank you.

Chair Ako: I want to thank you for teaching me this word, cupola. I've never heard of that word before.

Ms. O'Connor-Phelps: Cupola, cupola.

Chair Ako: Any other questions?

Ms. Streufert: Oh, one last question. While this is being installed, will there be a break in service for your customers?

Ms. O'Connor-Phelps: No, because I mean, there already is, you know what I mean, like between that stretch the coverage is terrible. So, they're already suffering through that, the customers. So, once it's installed that's when...

Ms. Streufert: But during the installation is there going to be a break?

Ms. O'Connor-Phelps: Well, you still have the two other sites that are that are working.

Ms. Streufert: And they will...

Ms. O'Connor-Phelps: Yeah.

Ms. Streufert: ...they will (inaudible).

Ms. O'Connor-Phelps: Correct, yeah. So, then when this is installed, then you're going to have the better coverage, yeah.

Ms. Streufert: Thank you.

Chair Ako: Nothing else. We have a recommendation from staff.

Ms. Summers: So, based on the foregoing evaluation and conclusion, it is recommended that the new Class IV Zoning Permit 2026-15 and Use Permit 2026-12 be approved. If approved, the following condition shall be implemented as outlined within the Director's Report.

Ms. Streufert: As amended?

Ms. Summers: As amended.

Chair Ako: Okay. You ready for a motion?

Ms. Streufert: I move to approve Class IV Zoning Permit 2026-15 and Use Permit 2026-12, as amended.

Ms. Santos: I second.

Chair Ako: Any final questions, concerns? If not, Mr. Clerk, can we have a roll call, please?

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

Ms. Cox: Aye.

Mr. Hull: Commissioner Giovanni?

Mr. Giovanni: Aye.

Mr. Hull: Commissioner Santos?

Ms. Santos: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

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

Chair Ako: Thank you.

Ms. O'Connor-Phelps: Thanks, everyone. Have a great day.

Ms. Cox: You too.

Mr. Hull: Next, for the last unfinished item. Sorry. Excuse me. New Business item;

CLASS IV ZONING PERMIT Z-IV-2026-16 to allow the construction of a 2-story office building, 8,000 square feet warehouse and associated site improvements on Lot 5 of the Kukui Grove Village West Subdivision in Lihue, involving a parcel situated on the makai side of Kaumualii Highway, further identified as 4481 Pahee Street, Tax Map Key: (4) 3-3-010:005 and containing a total area of 1.0272 acres = **KAUAI AIR CONDITIONING & REFRIGERATION, INC. [Directors Report Received, 6/23/2026.]**

1. Director's Report pertaining to this matter.

Mr. Hull: We didn't have any testimony during the agency hearing, but are there any members of the public that would like to testify on this agenda item? I don't...nope, okay, I'll turn it over to Dale for a brief report on the application.

Staff Planner Dale Cua: Good morning, Chair, members of the Planning 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: Questions? If not...love your enthusiasm, come.

Mr. Ian Costa: Aloha Kakahiaka, Chair Ako and commissioners. I'm Ian Costa, the architect, and this is Colby Ayonon, President of Kauai Air Conditioning and Refrigeration. I guess we're here to answer any questions you may have.

Ms. Streufert: First, full disclosure. I have been a customer of yours for over ten years and I've been very happy with it.

Mr. Colby Ayonon: Thank you.

Ms. Streufert: And so, I like the idea that you are expanding because it's sometimes difficult to get service here. And I also applaud the idea that you have been training new people. So, that's been very, I think that's very helpful for the community. But I do have a concern of, the concern is that, as Dale had, has identified, the veterans, I guess clinic is to your, to the east of that, the doctor's offices, as well as the dialysis center, is adjacent to the, to the west of that across the street is the only urgent care that we have on in Lihue, and with the office, I fully understand, and I don't have a problem with but the, but the warehouse where you are going to be storing supplies may be a concern, because I think you've got equipment or supplies that would include some toxic materials. There's a low-risk potential for something happening, but it's a high consequence if something were to happen. So, that's that would be my only concern about this with the warehouse and what you would be storing in there, as well as, as the proximity to all these other health care facilities that are so important for Kauai. Could you address that?

Mr. Ayonon: Yes. Good morning, Chair and board. Thanks for having us. Yeah, so hazardous material, I mean, everything nowadays we identify that's, you know, could be fairly hazardous. We do store like copper piping, PVC, you know, fittings, things like that. We don't have that much access to suppliers here. So, we do bring in a lot of materials and, and some mechanical equipment. For a toxic material, probably the most toxic thing that we do store is like PVC glue, you know, which is, you know, contained in cans. That's probably to the extent of a hazardous material. And we also have refrigerants, but typically the refrigerants are within our vehicles, our vehicles that are on the road all day. So, not very much stored on the property.

Ms. Streufert: During the evenings and the weekends, they would be stored on property or...

Mr. Ayonon: So, our, I would say, 90% of our workforce right now take their vehicles home. So, they're scattered out throughout our community.

Ms. Streufert: Okay. I know that those, that there materials are very difficult to get here. And so, you do have to store things. But there's, I do have a concern only because of all the health facilities that are so close by. And the, as with materials, medical assistance is also very difficult to come by on Kauai. So, just if you would keep that in mind when you're looking at your warehouse as well as your, the architecture for to ensure that there is a safe storage for toxic materials. Thank you.

Mr. Ayonon: I understand. Thank you.

Chair Ako: And you have only one facility on island?

Mr. Ayonon: Yes. Yeah. Well, we have a few different properties that we are spread out to right now. So, we're trying to consolidate and, and have it all, you know, have a home for our operations.

Mr. Giovanni: So, I'm a satisfied customer as well for over ten years.

Mr. Ayonon: Thank you.

Mr. Giovanni: Great work. Great service as well after the initial installation. So, thank you. So, the company owns the land and the business is, is the business own the land or does the family own the land and has a relationship with the business?

Mr. Ayonon: So, we're a truly family-owned business. So, we do own the land and the business. So, it's 100% owned here on Kaua'i. And that's what we're trying to prepare ourselves to really have it sustainable. I mean, a few people before us, right, people want to build a home here, and this is our home. We're trying to support our community and the trades, which, you know, has been moving a lot of our kids forward because not everybody is set out for college. And, you know, college is expensive. So, but yes, we do, we do own the property, the company does own the property right now.

Mr. Giovanni: So, the family owns the business and the business owns the property?

Mr. Ayonon: Correct, yes.

Mr. Giovanni: Okay. I have no further questions.

Ms. Santos: I have a quick question, because we, and this is more for the attorney, because some of us are clients and customers and all the things...

Ms. Barzilai: The question came up, Commissioner, I think, I mean, I'm a customer too. So, I think there's, it's just so widespread on the island and...

Ms. Santos: Okay, okay.

Ms. Barzilai: ...it's not a relationship where you are receiving a benefit from the company. So, Commissioner asked me the same question, and I felt comfortable saying that.

Mr. Giovanni: We pay for the service.

Ms. Barzilai: Exactly.

Ms. Cox: I'm not a customer.

Ms. Barzilai: Maybe Commissioner Cox needs an ac.

Ms. Santos: I might be a big customer on the table. So, I just want to make sure that we're, that I'm okay.

Ms. Barzilai: Right. But the benefit is the benefit is flowing to the company and not to you, so...

Ms. Santos: Yeah, yeah, yeah.

Ms. Barzilai: So, I think that...

Ms. Santos: Okay.

Ms. Barzilai: ...if there's no personal gain involved, I feel comfortable.

Ms. Santos: Okay, I just want to make sure.

Ms. Barzilai: Thank you for asking.

Ms. Santos: And then...

Mr. Hull: No personal gain, outside of cool air.

Ms. Santos: That's a that's a big gain.

Mr. Hull: Sorry.

Ms. Barzilai: Especially right now. Thank you.

Ms. Santos: Another thing I would like to say is, I am currently a neighbor of their business, and they do a great job with just, oh, my phone...keeping their site. And they're definitely busting at the seams at where they are currently located. So, I'm excited for you all. That's a, that's a nice yeah...

Ms. Streufert: I did ask the question about potential conflict of interest earlier, just because I am a customer and I have been a very satisfied customer in all these years.

Ms. Santos: Me too. I have no complaints.

Chair Ako: I feel kind of guilty for not being a customer.

Mr. Ayonon: We all need complaints to get ourselves a little better, right?

Ms. Barzilai: Sounds like it's going to be a productive day for you.

Mr. Ayonon: Yes, yes.

Chair Ako: Anything else? Recommendation, Mr. Cua.

Mr. Cua: The department is recommending approval of the project. There are a total of 11 conditions noted in the Director's Report. If you have any questions regarding the conditions, I'll be happy to answer them.

Chair Ako: To the right side of the table, if there's no other questions.

Ms. Cox: I move we approve Class IV Zoning Permit Z-IV-2026-16, as outlined in, as recommended by the department. Even though I don't have air conditioning.

Ms. Streufert: I second it. But I hope my concerns are noted. Thank you. I'll second.

Chair Ako: We got a motion and a second. Last questions. If not, Mr. Clerk, can we have a roll call vote, please?

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

Ms. Cox: Aye.

Mr. Hull: Commissioner Giovanni?

Mr. Giovanni: Aye.

Mr. Hull: Commissioner Santos?

Ms. Santos: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

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

Chair Ako: Thank you.

Mr. Costa: Mahalo commission.

Mr. Ayonon: Thank you guys.

Mr. Hull: And I'll turn the meeting back over to the Chair and attorney for the final agenda item.

Mr. Giovanni: Is this the one we tabled?

Chair Ako: Yeah, which one is that?

Ms. Barzilai: We are going to bring back onto the table I.1., the Bayless matter. Maybe attorneys want to come forward. And we were discussing whether an executive session is requested to talk about the terms of the settlement or are there, are commissioners satisfied, or would you like to enter into executive session?

Ms. Santos: I would like to, I'd like to enter an executive session.

Ms. Barzilai: Okay. So...

Ms. Streufert: Second.

Ms. Barzilai: So, this is a motion and a second and it'll be a roll call vote to enter into executive session. Any discussion on the motion? Commissioner Cox?

Ms. Cox: Aye.

Ms. Barzilai: 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: Okay, we're going to go into executive session for a discussion. We shouldn't be more than half an hour. Thank you.

The Commission entered into Executive Session at 10:43 a.m.
The Commission reconvened from Executive Session at 10:58 a.m.

EXECUTIVE SESSION

Petition to Appeal Planning Director's Decision Related to the Planning Director's Petition to Revoke Applicant **Kimberly Bayless** Non-Conforming Use Certificate TVNCU # 1108 (Hanalei 'Ohana), 5142 Weke Road, TMK (4) 55002018, Hanalei, Kauai and Issue an Order to Show Cause and Set Hearing, for referral to Board and Commissions as Contested Case File No. CC-2026-9.

- a. Stipulation and Order for Withdrawal of Petitioners' Petition to Appeal Planning Director's Decision Related to the Planning Director's Petition to Revoke Petitioner's TVNCUC # 1108 and Issue an Order to Show Cause and Set Hearing and Dismissal of Contested Case with Prejudice.

Chair Ako: Okay. We shall reconvene this meeting. We are on Item I.1.a. with the stipulation for negotiations for a settlement.

Ms. Barzilai: Okay. We entered into executive session, discussing matters, confidential matters between the attorney and the commission. Back on the record. And...is there any discussion that

commissioners would like to make, or you would be ready for a motion, Chair, on this stipulation, whether it's approved or you need more information or whatever your next step is.

Chair Ako: If we're ready for motion, we can do it.

Ms. Santos: Ready for a motion.

Chair Ako: Ooh.

Mr. Giovanni: Oh, here we go.

Ms. Santos: Oh no, I was meaning...

Mr. Hull: Ready for a second...

Ms. Santos: Yeah, give me a second. I'm going to be fast about it.

Ms. Streufert: I move that we approve the Stipulation and Order for Withdrawal of Petitioners' Petition to Appeal Planning Director's Decision Related to the Planning Director's Petition to Revoke Petitioners TVNCUC #1108 and Issue an Order to Show Cause and Set Hearing and Dismissal of Contested Case with Prejudice.

Ms. Santos: I second.

Chair Ako: Okay. We've got a motion and a second. Final questions. Final concerns. Seeing none, if we can have a roll call vote, please.

Ms. Barzilai: Roll call, Mr. Chair. Motion to approve Stipulation and Order. Commissioner Cox?

Ms. Cox: Aye.

Ms. Barzilai: 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. 5:0.

Ms. Barzilai: Thank you, gentlemen, very much. I just need a clean...I need a clean copy so that chair can sign. And I think we're all set. Ready to adjourn the meeting.

Mr. Donahoe: How many copies do you need?

Ms. Barzilai: I think just one, for Chair to sign.

Mr. Donahoe: Okay.

Ms. Barzilai: And then we'll make copies.

Mr. Donahoe: Okay. Do you want us to wait for the copies?

Ms. Barzilai: I'll do it upstairs.

Mr. Donahoe: Okay. I'll get you...

Ms. Barzilai: I'll do it upstairs. We'll make sure you get it.

Mr. Cohen: Thank you.

ANNOUNCEMENTS

Topics for Future Meetings

Mr. Hull: With that we have no further agenda items. Topics for future meetings. Of course, if there's any additional items beyond applications and zoning amendments, say, educational briefings or whatnot, I'm not sure if it was discussing the executive sessions or further follow up from the department as far as our overall strategies concerning vacation rental enforcement and anything else. But just let us and the Chair know and we can work those into the agenda. But the next scheduled agenda is August 11th, 2026.

Ms. Cox: And I will miss it.

Mr. Hull: We be rocking quorum then.

Chair Ako: And we're anticipating only the August 11th meeting?

Mr. Hull: We are only anticipating the August 11th for August.

Ms. Barzilai: Okay. Anybody else absent for August 11th?

Ms. Santos: No.

Ms. Barzilai: So, we got four.

Mr. Hull: Yep.

Chair Ako: Who's not here?

Ms. Barzilai: Helen will be in Vermont.

ADJOURNMENT

Chair Ako: Okay. Anything else anybody would like to add? If not, we can entertain a motion to adjourn.

Ms. Streufert: I move to adjourn.

Ms. Cox: Second.

Chair Ako: Okay. All those in favor, say aye. Aye (unanimous voice vote). All those opposed? This meeting is adjourned. 5:0.

Mr. Hull: Thank you all.

Chair Ako: Thank you.

Chair Ako adjourned the meeting at 11:05 a.m.

Respectfully submitted by:

Lisa Oyama

Lisa Oyama,
Commission Support Clerk

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

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

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Attorney for Applicant,
MONICA C. EVSLIN TRUST

BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUAI

In The Matter Of The Application

Of

MONICA C. EVSLIN TRUST, for a Special
Management Area Permit, Use Permit and
Class IV Zoning Permit for real property
situated at Kekaha, Kauai, Hawaii, described
as Lot V-2-B-1 of Map 7 of Land Court
Application 1233, identified by Kauai Tax
Map Key No. (4) 1-3-005:053.

) SUPPLEMENT NO. 1 TO SPECIAL
) MANAGEMENT AREA PERMIT
) SMA(U)-2027-1
) USE PERMIT U-2027-1
) CLASS IV ZONING PERMIT Z-IV-2027-1

) SUPPLEMENT NO. 1 TO SPECIAL
) MANAGEMENT AREA USE PERMIT, USE
) PERMIT, AND CLASS IV ZONING PERMIT
) APPLICATION; EXHIBIT LIST; NEW
) EXHIBIT "D-4" AND REVISED EXHIBIT
) "E"
)
)
)

F.2.a.1.
SEP 08 2026

SUPPLEMENT NO. 1 TO APPLICATION

Comes now, MONICA C. EVSLIN TRUST, Applicant in the above-captioned proceedings, by and through its undersigned attorney, and hereby submits the following Supplement No. 1 to Application for a dwelling unit, guest house, individual wastewater system, above ground pool, garage, landscaping, and related site utilities. This Supplement No. 1 references includes the updated State Certified Shoreline as Exhibit “D-4” along with the revised Project plan set as Exhibit “E” to illustrate the shoreline setback requirements.

SECTION 2. LOCATION LAND USE DESIGNATIONS OF PROPERTY (AS REVISED).

Section 2.2.f. Shoreline/Shoreline Setback Area. The Subject Property is shoreline property and is located within the 500-foot shoreline setback threshold. The Applicant will comply with the shoreline setback requirements. All proposed improvements will be required to be outside the shoreline setback area of 207 feet given the Project will be at the mauka end of the Subject Property. Although, the previous certified shoreline has expired (dated July 20, 2021), as provided for in the Shoreline Setback Determination SSD-2023-5, as Exhibit “D-1”, which notes the prior certified shoreline, as provided for in Exhibit “D-2”. The Applicant has submitted a new Shoreline Certification Application under File No. KA-503, as provided for in Exhibit “D-3”, for which the State of Hawaii, Department of Land and Natural Resources approved the updated shoreline certification on July 1, 2026, as provided for in Exhibit “D-4”.

SECTION 3. PAST, EXISTING AND PROPOSED USES OF SUBJECT PROPERTY (AS REVISED).

3.4 Land Coverage. The total allowable land coverage of the Subject Property is 73,224 square feet, which is 10% of 7,322 square feet. After completion of the Project, the total

land coverage will be approximately 4,542 square feet, which will result in a total land coverage of 6.20% as is allowed pursuant to CZO Sec. 8-9.2(a). See, Exhibit "E" (as revised).

SECTION 5. PERMITS REQUESTED AND REQUIRED.

5.1 SMA Use Permit. The development and construction of the following proposed improvements on the Subject Property (the "Development") will take place within the SMA:

- a. Dwelling Unit. The proposed single-family dwelling unit is slated to be the first dwelling unit on the Subject Property. (Considered Development for SMA purposes). (See, attached Exhibit "E" as revised).
- b. Guest House (Considered Development for SMA purposes). (See, attached Exhibit "E" as revised).
- c. Individual Wastewater System (Considered Development for SMA purposes). (See, attached Exhibit "E" as revised).
- d. Above Ground Pool (Considered Development for SMA purposes). (See, attached Exhibit "E" as revised).
- e. Garage (Considered Development for SMA purposes). (See, attached Exhibit "E" as revised).
- f. New Gravel for Driveway (Considered Development for SMA purposes). (See, attached Exhibit "E" as revised).
- g. Fencing (Considered Development for SMA purposes). (See, attached Exhibit "E" as revised).
- h. Landscaping (Considered Development for SMA purposes). (See, attached Exhibit "E" as revised).
- h. Related site utilities. (See, attached Exhibit "E" as revised).

Such activity will constitute "Development" as defined by the Special Management Rules and Regulations of the County of Kauai ("SMA Rules"). The total value of the Development in the SMA exceeds \$500,000.00. Therefore, the Applicant is requesting the Planning Commission to issue a SMA Use Permit (as defined in Section 7.3.B. of the SMA Rules) for the Development. The proposed new single-family dwelling unit will include four (4) bedrooms and two (2) bathrooms with a one (1) half bathroom, along with a one (1) bedroom guest house. The new single-family residence will be a single-story plantation style design. (See, attached Exhibit "E" as revised). As shown on the plan set, the Project complies with Section 2-2-A of the SMA Rules given 45.1 feet of side yard setback is provided for of the total 150-foot width of the Subject Property, thereby ensuring a coastal view corridor from Kaumuali'i Highway.

5.2. Use Permit. The newly designated Special Treatment Coastal Edge requires the filing of a Use Permit, as provided herein.

5.3 Class IV Zoning Permit. The Use Permit triggers the filing of a Class IV Zoning Permit, as provided herein.

SECTION 12. SMA CONSIDERATIONS (AS REVISED).

12.3 Scenic and Open Space Resources. The proposed Project will have only minor impacts on the scenic and open space resources on and around the Subject Property. Any visual impacts from Kaumuali'i Highway will be sufficiently mitigated with landscaping and earth tone colors and non-reflective windows. (See, enclosed Exhibit "E" as revised). As shown on the plan set, the Project complies with Section 2-2-A of the SMA Rules given 45.1 feet of side yard setback is provided for of the total 150-foot width of the Subject Property, thereby ensuring a coastal view corridor from Kuhio Highway. The Project will be compatible with and blend into the earth-toned colored structures in the surrounding area.

SECTION 15. CONCLUSION.

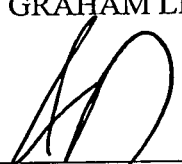
The Applicant respectfully requests that the Planning Commission:

1. Find that the Project will not have any substantial environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.
2. Find that the Project is consistent with the objectives, policies, and guidelines set forth in Hawaii Revised Statutes Chapter 205A and Sections 3.0 and 4.0 of the SMA Rules.
3. Find that the Project is consistent with permitted uses in the SLUC Urban District, the Kauai General Plan, the West Kauai Community Plan, and the CZO.
4. Approve the issuance of a SMA Use Permit, Use Permit and Class IV Zoning Permit for the Project on the Subject Property as described herein, subject to such reasonable conditions as the Planning Commission shall impose.

DATED: Lihue, Kauai, Hawaii, 8/11/2026.

BELLES GRAHAM LLP

By


IAN K. LUNG

Attorney for Applicant,
MONICA C. EVSLIN TRUST

EXHIBIT LIST

EXHIBIT

A. AUTHORIZATION

Applicant's AuthorizationA

B. TITLE

DeedB

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Land Court Map.....C-3

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Archeological ReportF-2

Ka Pa'akai Analysis.....F-3

G. PHOTOGRAPHS

Photographs.....G

THE CONTRACTOR SHALL VERIFY ALL LINES, LEVELS, ELEVATIONS, AND IMPROVEMENTS INDICATED ON THE DRAWINGS BEFORE ANY CLEARING, EXCAVATION OR CONSTRUCTION BEGINS.

1. ASSESSMENT SHALL BE CONDUCTED IN ACCORDANCE WITH THE ATTITUDE OF THE OWNER AND ARCHITECT, ANY CHANGES AND/OR ADDITIONS SHALL BE APPROVED BY THE ARCHITECT AND SIGNATURE OF THE ARCHITECT SHALL BE OBTAINED FOR ALL CHANGES AND/OR ADDITIONS. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE PROVISION OF THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN.
2. IF THE CONTRACTOR HAS ANY PROPOSALS, THEY MUST NOTIFY THE ARCHITECT IMMEDIATELY. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN.
5. CONTRACTOR TO MAINTAIN EXISTING PAVING OF EXISTING DRIVEWAY AND EXISTING DRIVEWAY SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN.
6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN.
7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN.
8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN.
9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN, THE DESIGN SHALL BE CORRECT AS SHOWN.



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EV. DATE	REMARK DRAW

[illegible]

SITE PLAN

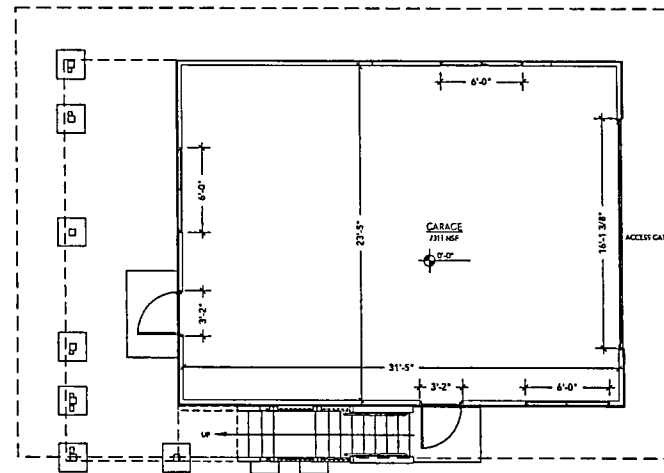
AOT.1

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SHEET SIZE: 24X36

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1. EXTERIOR LOAD BEARING WALLS ARE MADE UP OF 7" DIA. BARDOOD STUDS @ 16" OC WITH 5/8" EXTERIOR SHEATHING ON EXTERIOR SIDE.
2. RAFTER AND PORCH OVERCHANG ARE 16" @ MEASURED FROM FACE OF EXTERIOR SIDING ON OUTSIDE FACE OF PORCH PLYM TYPE.
3. DIMENSIONS ARE FROM OUTSIDE FACE OF FRAMING OUTSIDE OF STUDS UNLESS OTHERWISE NOTED.
4. IN SCHEDULE BUILDINGS WITH BARDOOD WALL PANELS OFFSET PLUMBING FROM WALLS AND PLACE IN BUILT-OUT CHASES.
5. INTERIOR SQUARE FOOTAGES SHOWN ON PLAN ARE NET WALLS AND STRUCTURE ARE NOT INCLUDED.
6. SPACING BETWEEN PICKETS OR STEEL CABLES IN GUARDRAIL SHALL BE LESS THAN 4" OC.
7. STAIR RISERS SHALL BE EQUAL WITH NO DEVIATION GREATER THAN 1/8" BETWEEN ANY TWO RISERS IN THE RUN.
8. PROVIDE A DROP AT ALL EXTERIOR DOORS AND ALL INTERIOR TO PORCH THRESHOLDS.



A circular professional seal for an architect in Hawaii. The outer ring contains the text "HAWAII, U.S.A." at the bottom and "COUNCIL OF REGISTRATION" at the top. Inside the ring, the text "LICENSED PROFESSIONAL ARCHITECT" is centered, with "NO. 15718" below it. Two stars are positioned on the left and right sides of the inner circle.

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SCALE:	1/4" = 1'-0"
REV. DATE	REMARK DRAWN

**GARAGE GROUND
FLOOR PLAN**

A02.1

SHEET SIZE: 24X36

1 GARAGE FLOOR PLAN
A02.1 SCALE: 1/4"=1'-0"

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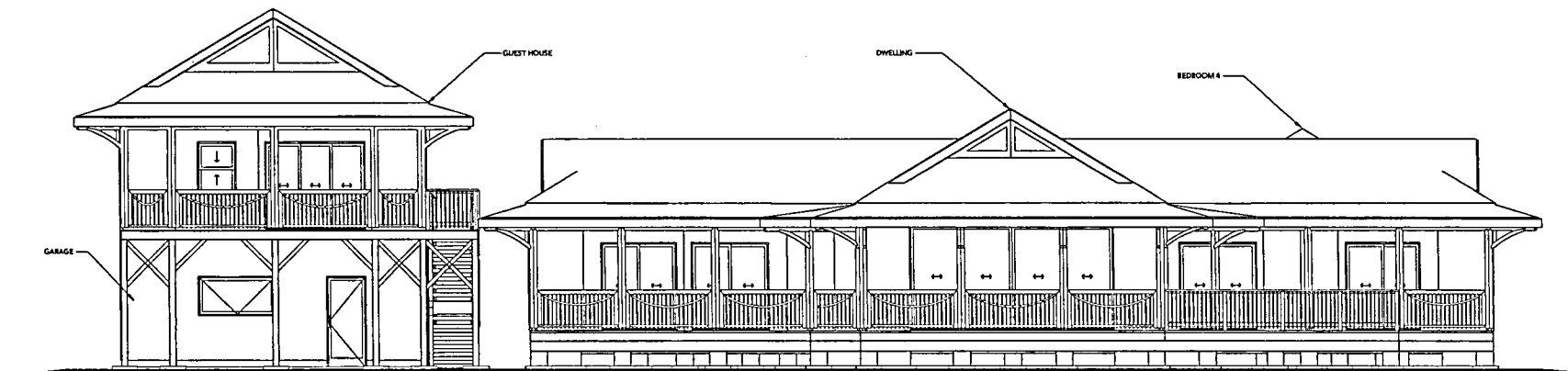
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JOB: EVSLIN
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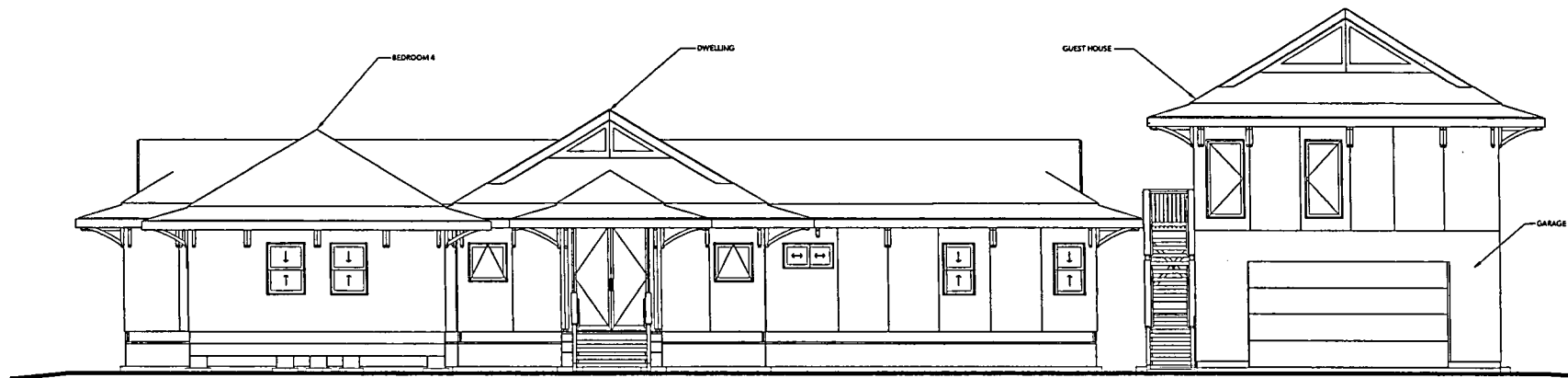
SITE ELEVATIONS

A03.1

SHEET SIZE: 24X36



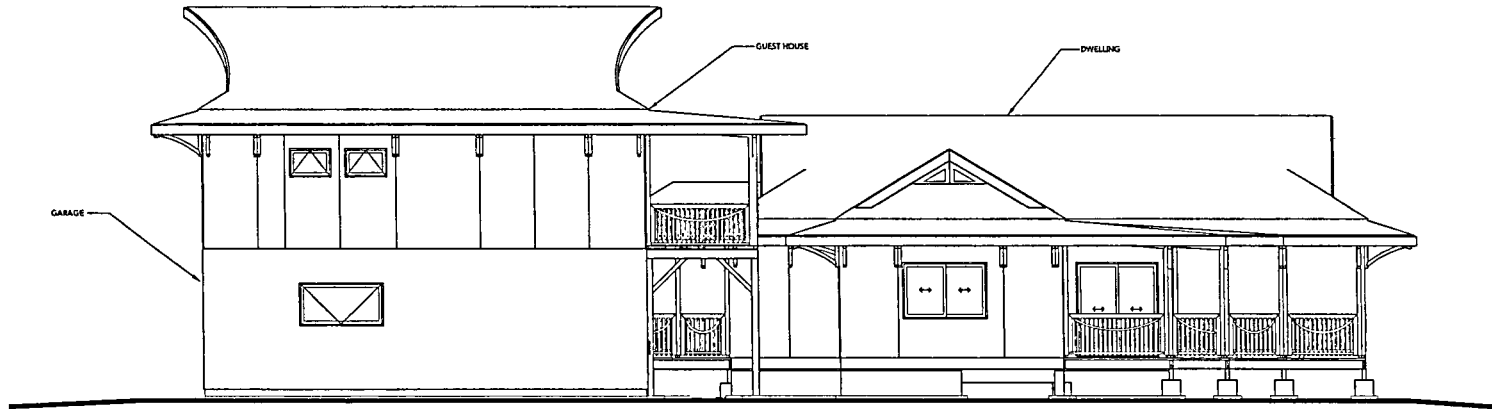
2 SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



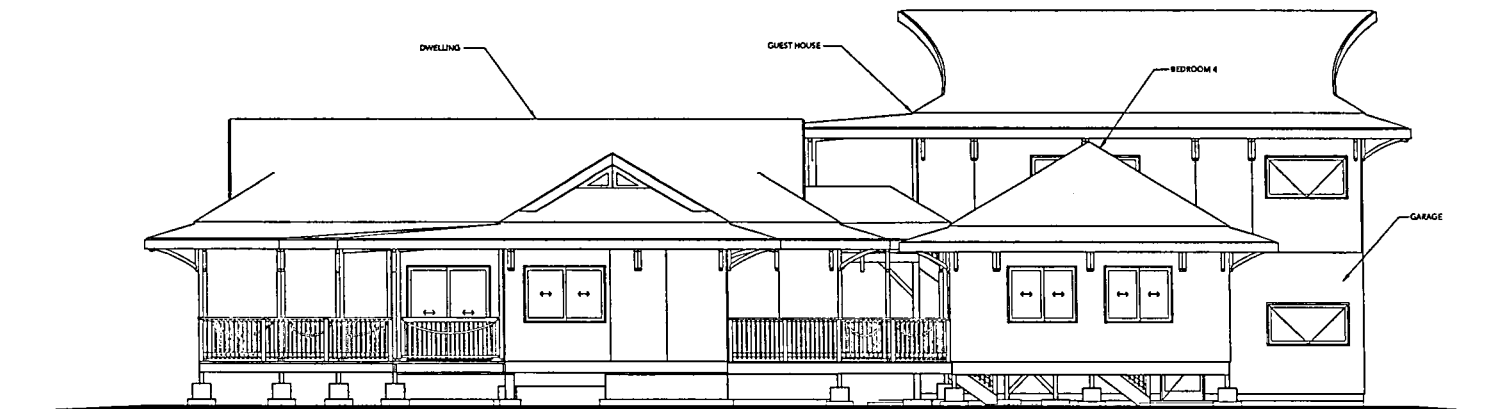
1 NORTH ELEVATION
SCALE: 1/4" = 1'-0"

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2 WEST ELEVATION
SCALE: 1/4" = 1'-0"



1 EAST ELEVATION
SCALE: 1/4" = 1'-0"



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SITE ELEVATIONS
CONT.

A03.2

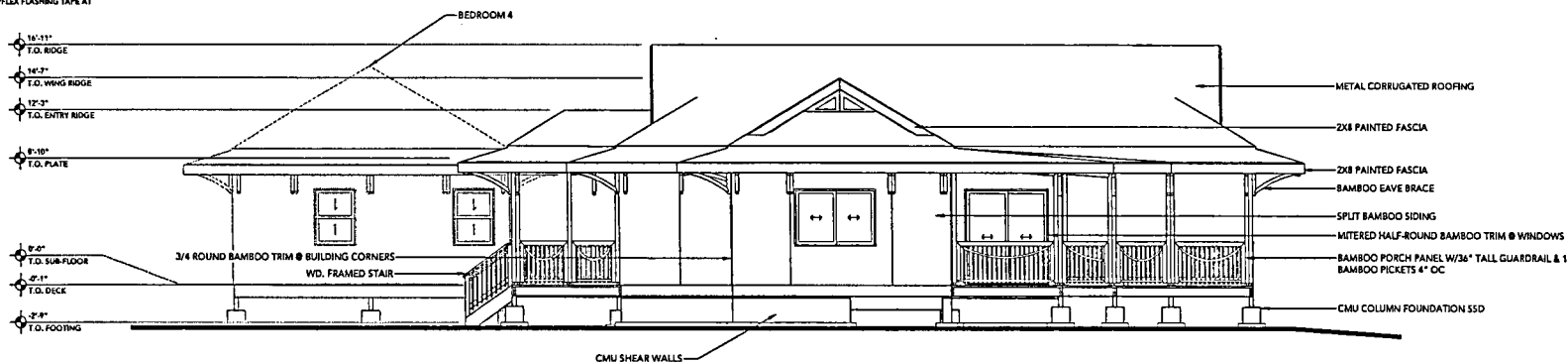
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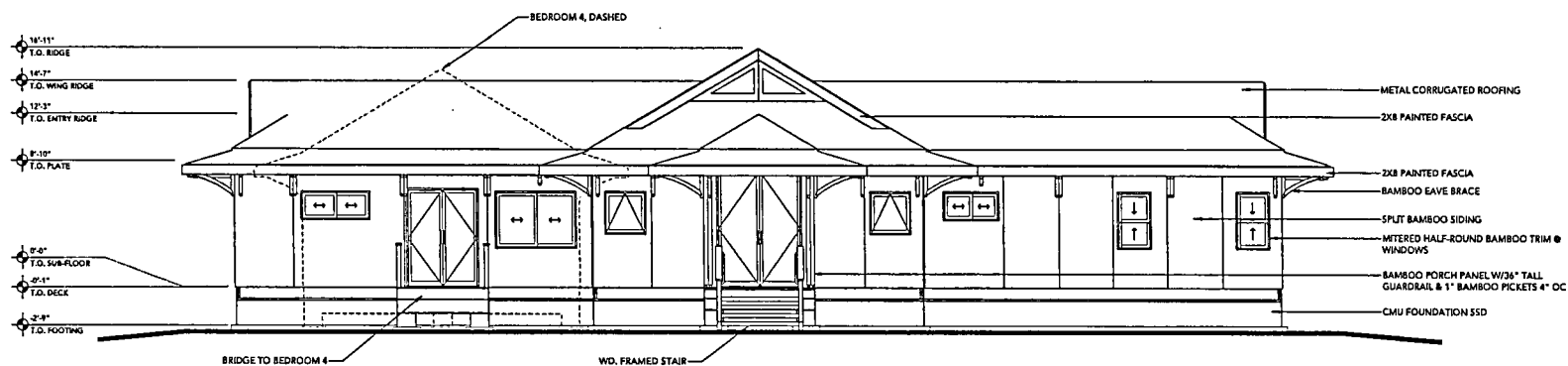
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ELEVATION GENERAL NOTES:

1. SLOPE GRADE A MINIMUM OF 2% AWAY FROM THE BUILDING FOR A MINIMUM DISTANCE OF 3'-0".
2. PAINT ALL EXPOSED VENTS ON ROOF TO MATCH ROOF COLOR.
3. PAINT ALL EXPOSED VENTS ON SIDING TO MATCH SIDING COLOR.
4. MAINTAIN 4" CLEARANCE BETWEEN NATURAL GRADE AND EXPOSED WOOD.
5. ALL DECK RAILINGS SHALL BE 36" TALL MINIMUM ALL OPENINGS SHALL BE CONSTRUCTED TO PREVENT A 4" SPHERE FROM PROJECTING THROUGH THE OPENING.
6. ALL EXTERIOR SIDING MATERIAL IS SPLIT BAMBOO SILED AND NAKED TO PLYWOOD SHEATHING. SIDING COMES TREATED WITH GREEN CELOX (1 COAT CELOX-1) AND 2 COATS OF CELOX-23 (2) CONTRACTOR IS TO SPRAY 4TH COAT OVER ALL SIDED SURFACES AFTER ALL WEATHERPROOFING AND CAULKING HAS BEEN COMPLETED.
7. USE HALF-ROUND BAMBOO TRIM O/FLEX FLASHING TAPE AT EACH WALL PANEL JOINT.



2 DWELLING WEST ELEVATION
SCALE: 1/4"=1'-0"



1 DWELLING NORTH ELEVATION
SCALE: 1/4"=1'-0"

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SCALE: 1/4" = 1'-0"

REV. DATE REMARK DRAWN

DWELLING EXTERIOR
ELEVATIONS

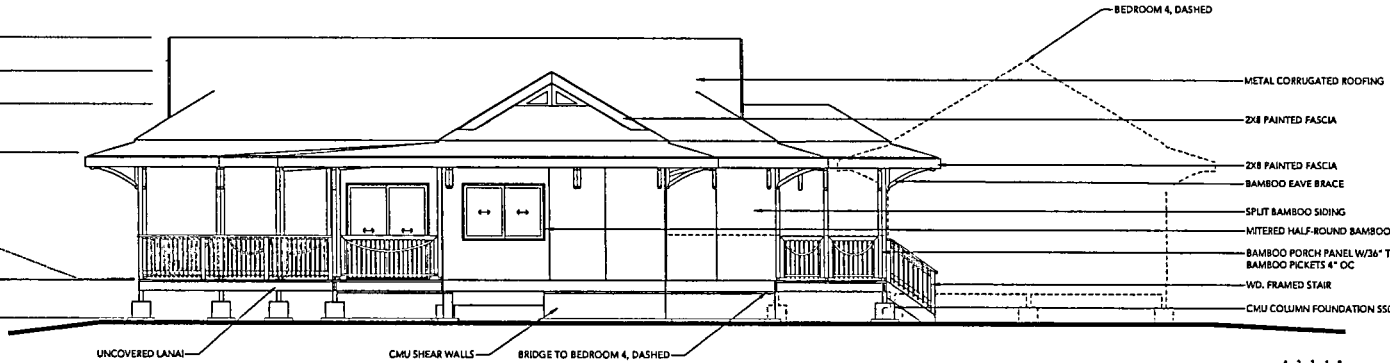
A03.3

SHEET SIZE: 24x36

ELEVATION GENERAL NOTES:

1. SLOPE GRADE A MINIMUM OF 2% AWAY FROM THE BUILDING FOR A MINIMUM DISTANCE OF 5'-0".
2. PAINT ALL EXPOSED VENTS ON ROOF TO MATCH ROOF COLOR.
3. PAINT ALL EXPOSED VENTS ON SIDING TO MATCH SIDING COLOR.
4. MAINTAIN 4" CLEARANCE BETWEEN NATURAL GRADE AND EXPOSED WOOD.
5. ALL DECK RAILINGS SHALL BE 36" TALL MINIMUM ALL OPENINGS SHALL BE CONSTRUCTED TO PREVENT A 4" SPHERE FROM PROJECTING THROUGH THE OPENING.
6. ALL EXTERIOR SIDING MATERIAL IS SPLIT BAMBOO GLUED AND Nailed TO PLYWOOD SHEATHING. SIDING COMES TREATED WITH B-B-B-B (CETOL 17) COAT CETOL 17 AND 2 COATS OF CETOL-23. CONTRACTOR IS TO SPRAY 4TH COAT OVER ALL SIDED SURFACES AFTER ALL WEATHERPROOFING AND CAULKING HAS BEEN COMPLETED.
7. USE HALF-ROUND BAMBOO TRIM QPLEX FLASHING TAPE AT EACH WALL PANEL JOINT.

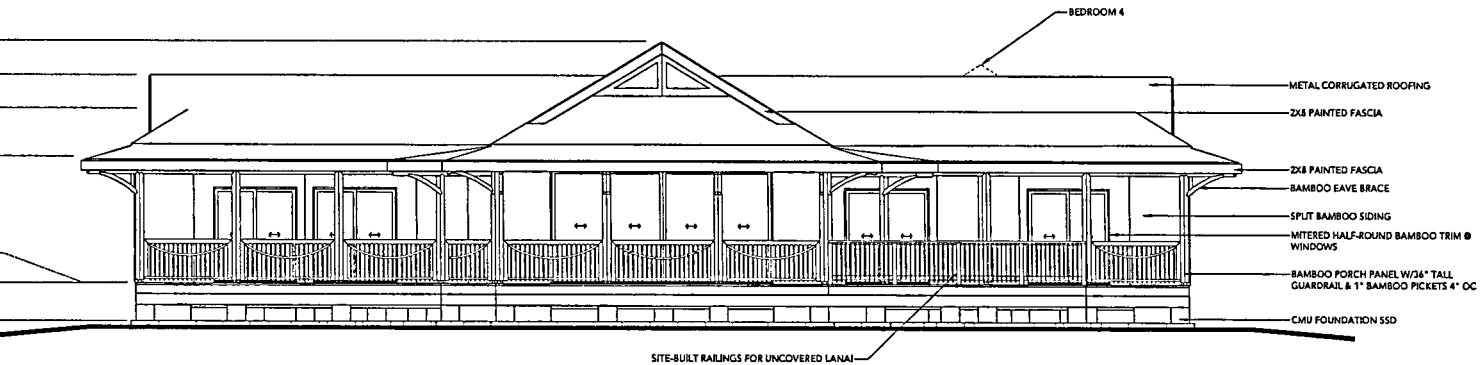
12'-11"
T.O. RIDGE
14'-3"
T.O. WING RIDGE
12'-3"
T.O. ENTRY RIDGE
9'-10"
T.O. PLATE
0'-0"
T.O. SUB-FLOOR
0'-11"
T.O. DECK
2'-4"
T.O. FOOTING



4 3 2 1 0 4
SCALE: 1/4"=1'-0"

2 DWELLING EAST ELEVATION
SCALE: 1/4"=1'-0"

12'-11"
T.O. RIDGE
14'-3"
T.O. WING RIDGE
12'-3"
T.O. ENTRY RIDGE
9'-10"
T.O. PLATE
0'-0"
T.O. SUB-FLOOR
0'-11"
T.O. DECK
2'-4"
T.O. FOOTING



4 3 2 1 0 4
SCALE: 1/4"=1'-0"

1 DWELLING SOUTH ELEVATION
SCALE: 1/4"=1'-0"

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DWELLING EXTERIOR
ELEVATIONS CONT.

A03.4

Sheet Size: 24x36

ELEVATION GENERAL NOTES:

1. SLOPE GRADE A MINIMUM OF 2% AWAY FROM THE BUILDING.
2. PAINT ALL EXPOSED VENTS ON ROOF TO MATCH ROOF COLOR.
3. PAINT ALL EXPOSED VENTS ON ROOF TO MATCH SIDING COLOR.
4. MAINTAIN 1" CLEARANCE BETWEEN METAL CLAUSE AND SIDING.
5. ALL EXTERIOR SIDING SHALL BE 2" TALL BAMBINO ALL SIDINGS PROJECTING THROUGH THE SIDING.
6. ALL EXTERIOR SIDING MATERIAL IS SHUT BAMBINO SIDING AND SHUT BAMBINO SIDING IS TO BE SHUT BAMBINO SIDING WITH GREEN CENTRAL COAT CENTRAL AND 2 COATS OF SHUT BAMBINO SIDING IS TO BE SHUT BAMBINO SIDING CAUSING HAS BEEN COMPLETED.
7. USE HALF ROUND BAMBINO TRIM ON EXTERIOR FLASHING LINE AT EACH WALL PANEL JUNT.

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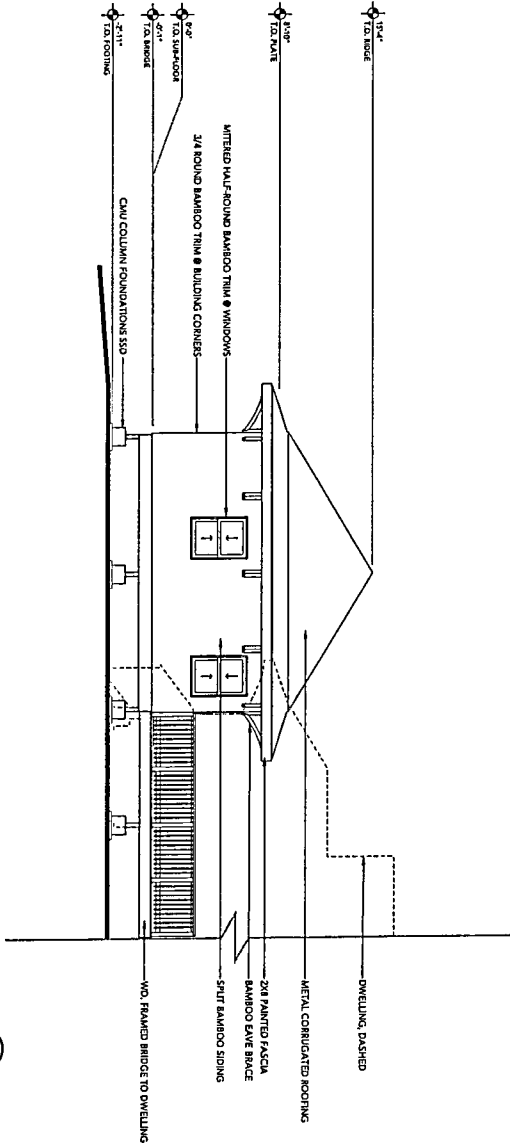
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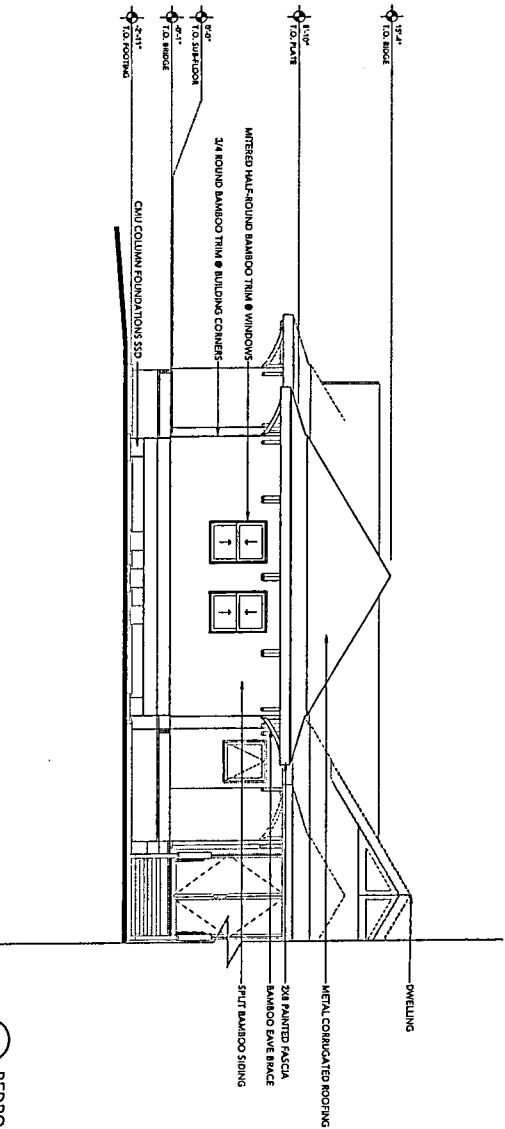
BEDROOM 4
EXTERIOR
ELEVATIONS

A03.5

3/16/21/22 2/18/23



2 BEDROOM 4 WEST ELEVATION
SCALE: 1/4" = 1'-0"



1 BEDROOM 4 NORTH ELEVATION
SCALE: 1/4" = 1'-0"

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ELEVATION GENERAL NOTES:

1. SLOPE GRADE A MINIMUM OF 2% AWAY FROM THE BUILDING FOR A MINIMUM DISTANCE OF 5'-0".
2. PAINT ALL EXPOSED VENTS ON ROOF TO MATCH ROOF COLOR.
3. PAINT ALL EXPOSED VENTS ON SIDING TO MATCH SIDING COLOR.
4. MAINTAIN 6" CLEARANCE BETWEEN NATURAL GRADE AND EXPOSED WOOD.
5. ALL DECK BALUNGS SHALL BE 36" TALL MINIMUM ALL OPENINGS SHALL BE CONSTRUCTED TO PREVENT A 6" SPHERE FROM PROJECTING THROUGH THE OPENING.
6. ALL EXTERIOR SIDING MATERIAL IS SPLIT BAMBOO GULLED AND NAILBOD TO PLYWOOD SHEATHING. SIDING COATS TREATED WITH SIKEN CETOX 11 COAT CETOX-1 AND 2 COATS OF CETOX-23 #3. CONTRACTOR IS TO SPRAY 4TH COAT OVER ALL SIDED SURFACES AFTER ALL WEATHERPROOFING AND CAULKING HAS BEEN COMPLETED.
7. USE HALF-ROUND BAMBOO TRIM OVER FLASHING TAPE AT EACH WALL PANEL JOINT.

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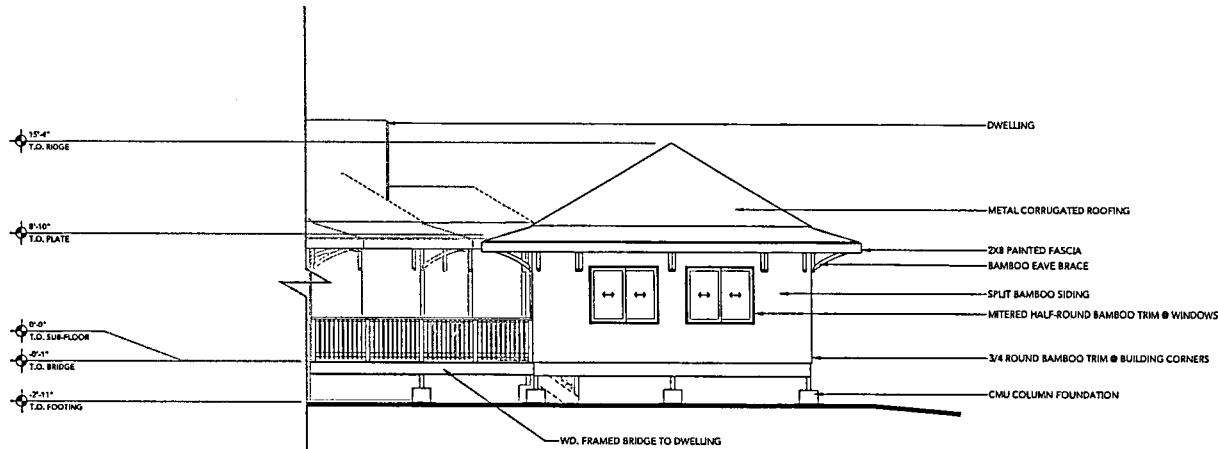
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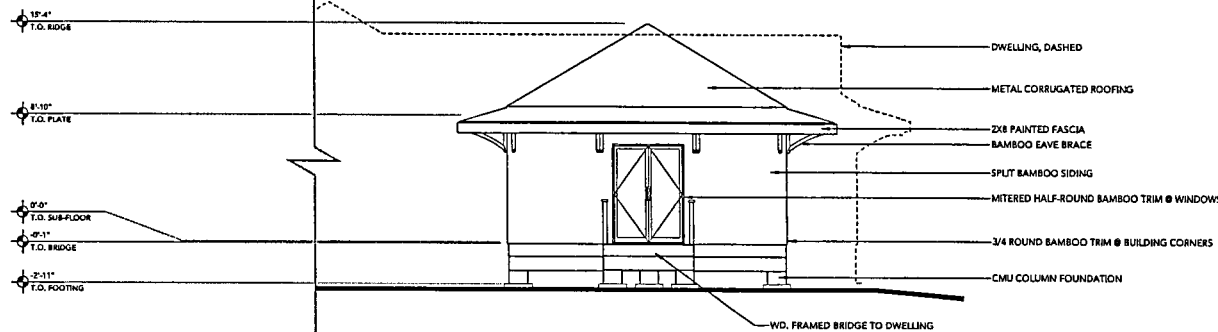
BEDROOM 4
EXTERIOR
ELEVATIONS CONT.

A03.6

SHEET SIZE: 24X36



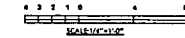
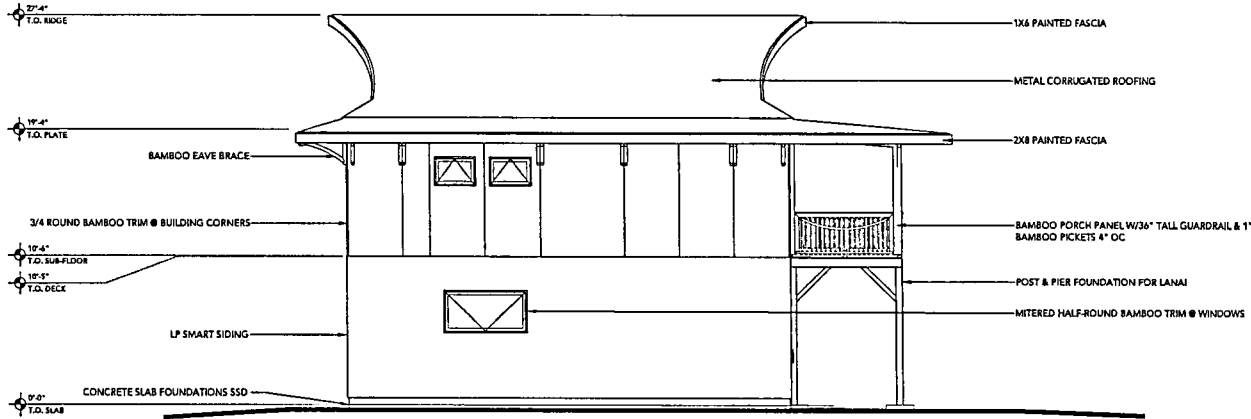
2 BEDROOM 4 EAST ELEVATION
A03.6 SCALE: 1/4"=1'-0"



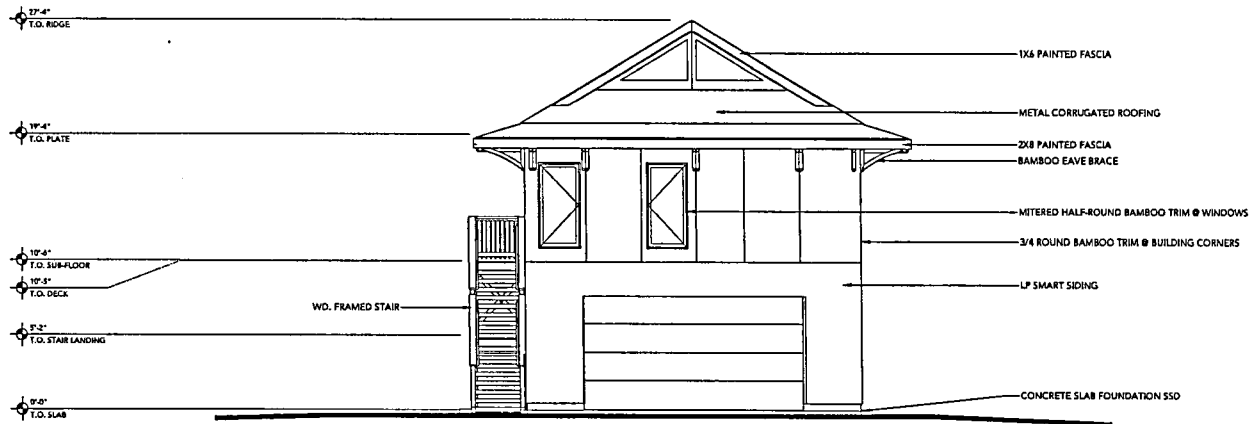
1 BEDROOM 4 SOUTH ELEVATION
A03.6 SCALE: 1/4"=1'-0"

ELEVATION GENERAL NOTES:

1. SLOPE GRADE A MINIMUM OF 2% AWAY FROM THE BUILDING FOR A MINIMUM DISTANCE OF 5'-0".
2. PAINT ALL EXPOSED VENTS ON ROOF TO MATCH ROOF COLOR.
3. PAINT ALL EXPOSED VENTS ON SIDING TO MATCH SIDING COLOR.
4. MAINTAIN 6" CLEARANCE BETWEEN NATURAL GRADE AND EXPOSED WOOD.
5. ALL DECK RAILINGS SHALL BE 36" TALL MINIMUM ALL OPENINGS SHALL BE CONSTRUCTED TO PREVENT A 4" SPHERE FROM PROJECTING THROUGH THE OPENING.
6. ALL EXTERIOR SIDING MATERIAL IS SPLIT BAMBOO GLED AND NAILED TO PLYWOOD SHEATHING. SIDING COMES TREATED WITH SEVEN COATS (1 COAT CETOX) AND 2 COATS OF CETOX-23 IN 1. CONTRACTOR IS TO SPRAY 4TH COAT OVER ALL SIDED SURFACES AFTER ALL WEATHERPROOFING AND CAULKING HAS BEEN COMPLETED.
7. USE HALF-ROUND BAMBOO TRIM OVERLAP FLASHING TAPE AT EACH WALL PANEL JOINT.



2 GARAGE & GUEST HOUSE WEST ELEVATION
SCALE: 1/4"=1'-0"



1 GARAGE & GUEST HOUSE NORTH ELEVATION
SCALE: 1/4"=1'-0"

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EVSLIN, MONICA C TRUST
CUSTOM RESIDENCE

8808 KAUMAU LI HWY
KEKAHA, HAWAII, 96752
(41) 3-005-053

DATE: 08/04/2026 DRAWN BY: BT
JOB: EVSLIN

SCALE: 1/4" = 1'-0"

REV. DATE: REVISION: DRAWN BY:

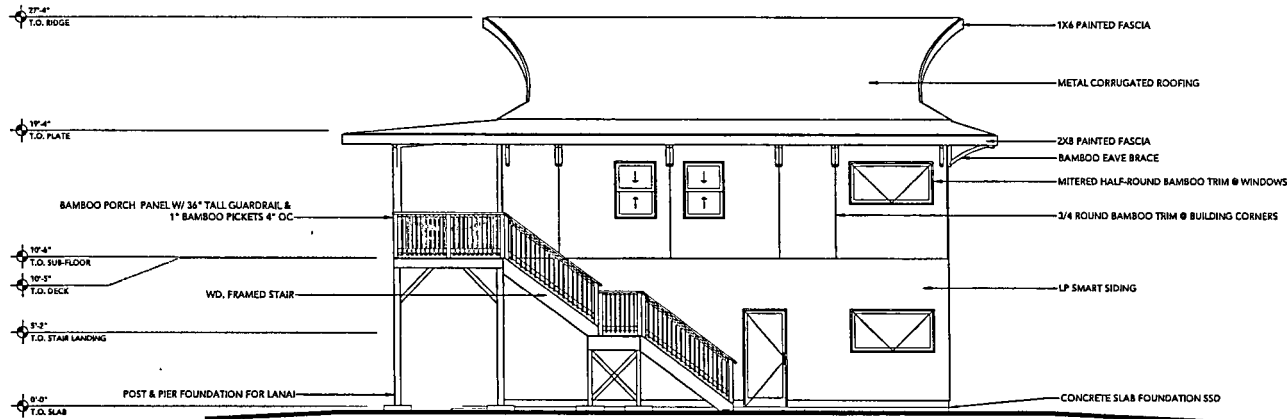
GUEST HOUSE & GARAGE EXTERIOR ELEVATIONS

A03.7

SHEET SIZE: 24x36

ELEVATION GENERAL NOTES:

1. SLOPE GRADE A MINIMUM OF 2% AWAY FROM THE BUILDING FOR A MINIMUM DISTANCE OF 3'-0".
2. PAINT ALL EXPOSED VENTS ON ROOF TO MATCH ROOF COLOR.
3. PAINT ALL EXPOSED VENTS ON SIDING TO MATCH SIDING COLOR.
4. MAINTAIN 8" CLEARANCE BETWEEN NATURAL GRADE AND EXPOSED WOOD.
5. ALL DECK RAILINGS SHALL BE 36" TALL MINIMUM ALL OPENINGS SHALL BE CONSTRUCTED TO PREVENT A 4" SPHERE FROM PROJECTING THROUGH THE OPENING.
6. ALL EXTERIOR SIDING MATERIAL IS SPLIT BAMBOO GLUED AND NAKED TO PLYWOOD SHEATHING. SIDING COMES TREATED WITH GREEN CELOX. IT COMES CELOXED AND 2 COATS OF CELOX-23 IN J. CONTRACTOR IS TO SPRAY 4TH COAT OVER ALL SIDED SURFACES AFTER ALL WEATHERPROOFING AND CAULKING HAS BEEN COMPLETED.
7. USE HALF-ROUND BAMBOO TRIM OUTLET FLASHING TAPE AT EACH WALL PANEL JOINT.



4 3 2 1 0 6 FT
SCALE: 1/4"=1'-0"

2 GARAGE & GUEST HOUSE EAST ELEVATION
A03.8 SCALE: 1/4"=1'-0"



4 3 2 1 0 6 FT
SCALE: 1/4"=1'-0"

1 GARAGE & GUEST HOUSE SOUTH ELEVATION
A03.8 SCALE: 1/4"=1'-0"

PRELIMINARY NOT FOR CONSTRUCTION



ARCHITECTURAL LICENSE
EXPIRATION DATE: APRIL 30, 2023
THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY OBSERVATION. DISSEMINATION OF CONSTRUCTION IS TO BE AS SET FORTH IN CHAPTER 8-10, HAWAII ADMINISTRATIVE RULES OF CONDUCT AND CONSUMER AFFAIRS STATE OF HAWAII.



BAMBOO TECHNOLOGIES
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KEKAHA, HAWAII, 96752
(41)-3-005-053

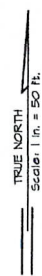
DATE: 08/06/2016 DRAWN: JB
JOB: EVSLIN
SCALE: 1/4" = 1'-0"

REV. DATE: REMARK: DRAWN:

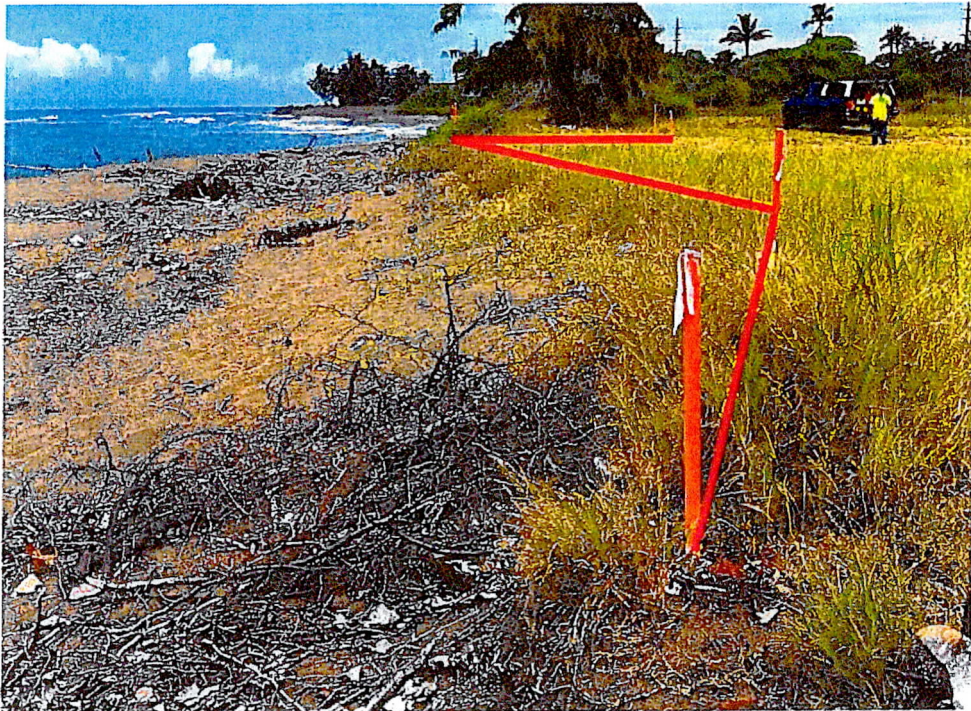
GUEST HOUSE &
GARAGE EXTERIOR
ELEVATIONS CONT.

A03.8

SHEET SIZE: 24x36



1610 Haleukana Street
Lihue, Hawaii 96766



May 13, 2026; 10:43 am

Photo 1



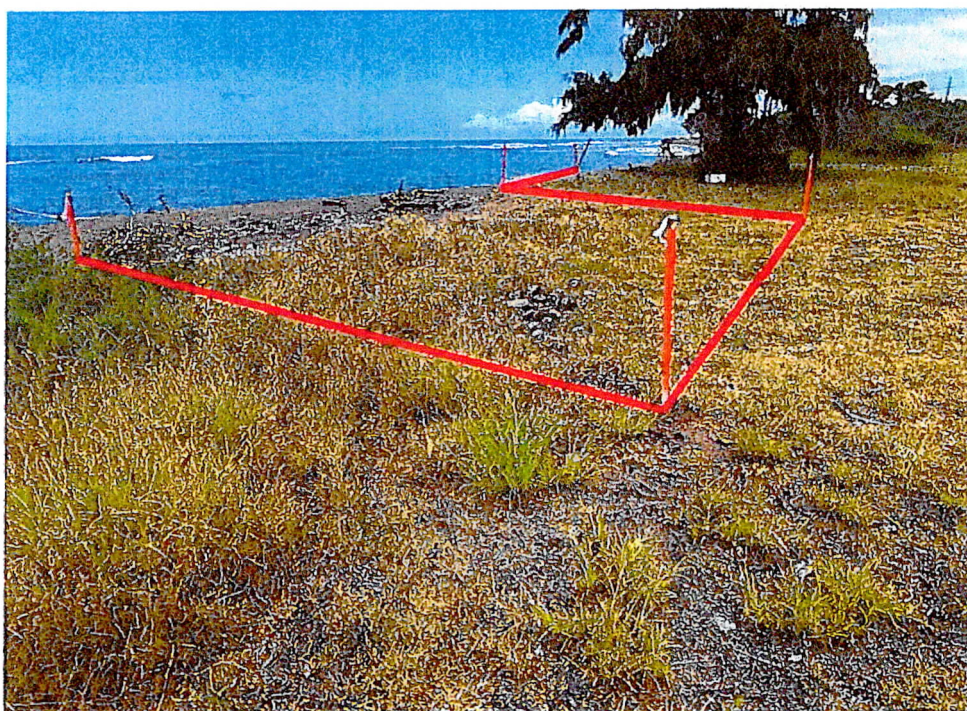
May 13, 2026; 10:44 am

Photo 2



May 13, 2026; 10:44 am

Photo 3



May 13, 2026; 10:44 am

Photo 4



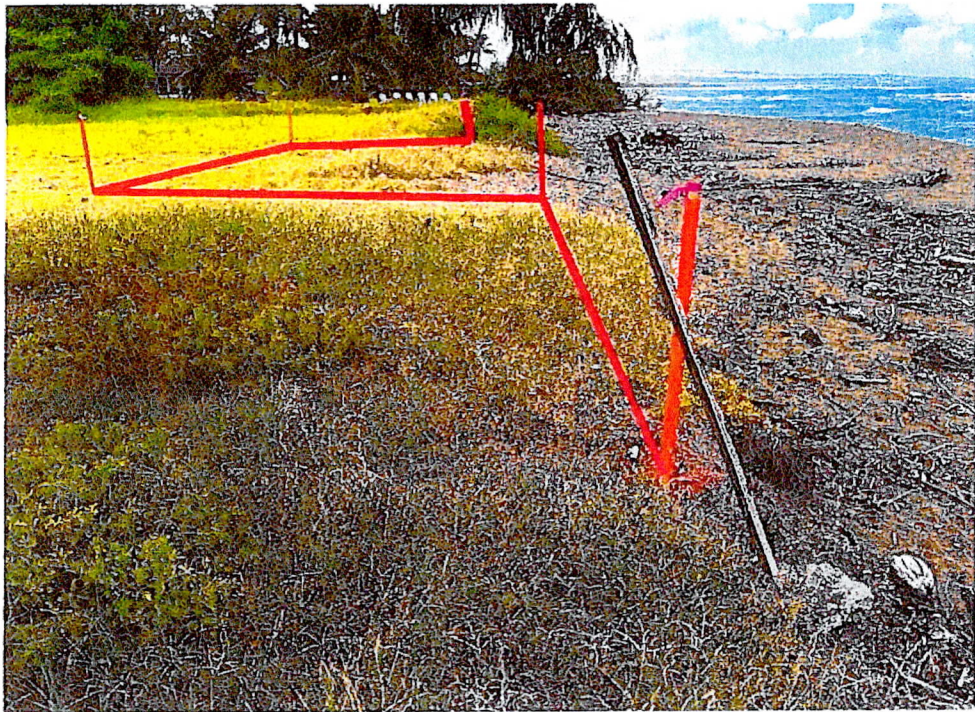
May 13, 2026; 10:45 am

Photo 5



May 13, 2026; 10:45 am

Photo 6



May 13, 2026; 10:45 am

Photo 7

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 Class IV Zoning Permit, Use Permit, and Special Management Area Use Permit to allow the construction of a four-bedroom, single-family dwelling, detached two-story guest house with garage below, above ground pool, septic system and other related site improvements.

Permit Application Nos.

Class IV Zoning Permit Z-IV-2027-1
Use Permit U-2027-1
Special Management Area Use Permit SMA(U)-2027-1

Name of Applicant(s)

MONICA C. EVSLIN TRUST

II. PERMIT INFORMATION

PERMITS REQUIRED	
☒ Use Permit	Pursuant to Article 11, Section 8-11.3 of the K.C.C. 1987 as amended, a Use Permit is required to allow any development, structures, or uses.
☐ Project Development Use Permit	
☐ Variance Permit	
☐ Special Permit	
☒ Zoning Permit Class ☒ IV ☐ III	Pursuant to Section 8-3.1 of the KCC, 1987 as amended, a Class IV Zoning Permit is a procedural requirement in applying for a Use Permit.
☐ Special Management Area Permit ☒ Use ☐ Minor	Pursuant to Section 205A of the Hawai'i Revised Statutes (HRS) and the Special Management Area (SMA) Rules and Regulations of the County of Kaua'i, a SMA Use Permit is required as defined in Section 7.3(C) of the SMA Rules and Regulations where the Director finds that the proposal (1) is "Development" as defined in Section 1.4F; and is (2) in excess of \$750,000.
AMENDMENTS	
☐ Zoning Amendment	

F.2.a.2.
SEP 08, 2026

☐ General Plan Amendment	
☐ State Land Use District Amendment	

Date of Receipt of Completed Application: July 28, 2026

Date of Director's Report: August 25, 2026

Date of Public Hearing: September 8, 2026

Deadline Date for PC to Take Action (60TH Day): September 25, 2026

III. PROJECT DATA

PROJECT INFORMATION			
Parcel Location:	The subject property is located on the makai side of Kaumuali'i Highway in Kekaha, approximately .48 miles west of Kīkīā'ola Small Boat Harbor and .1 mile west of the intersection of Kaumuali'i Highway and Akepa Road.		
Tax Map Key(s):	(4) 1-3-005:053	Area:	1.68 acres (73,224 S.F.)
ZONING & DEVELOPMENT STANDARDS			
Zoning:	Open (O)/ Special Treatment Coastal Edge (ST-CE)		
State Land Use District:	Urban		
General Plan Designation:	Residential Community /Natural		
Height Limit:	30 feet		
Max. Land Coverage:	Not to exceed 10% land coverage limitation		
Parking Requirement:	Two (2) for dwelling, one (1) for guest house		
Front Setback:	Ten (10) feet		
Rear Setback:	5' or ½ the wall plate height whichever is greater		
Side Setback:	5' or ½ the wall plate height whichever is greater		
Community Plan Area:	West Kaua'i Community Plan		
Community Plan Land Use Designation:	N/A		
Deviations or Variances Requested:	N/A		

IV. LEGAL REQUIREMENTS

Section 8-11.4, KCC and Section 4-2-B Special Management Area Rules and Regulations:	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Section 8-11.4 of the KCC and Section 4-2-B of the Special Management Rules, relating to the provision of the Planning
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	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 July 28, 2026, and the Applicant, through its authorized agent, was notified accordingly of the Planning Department's intent to commence permit processing.
Public Hearing Date:	September 8, 2026

V. PROJECT DESCRIPTION AND USE

The Applicant, Monica C. Evslin Trust, requests approval of a Special Management Area (SMA) Use Permit, Use Permit, and Class IV Zoning Permit to construct the proposed development on a vacant 1.207-acre (52,577 s.f.) parcel identified as TMK (4) 1-3-005:053, located along Kaumuali'i Highway in Kekaha.

The proposed development consists of a new single-story single-family residence containing four bedrooms, two full bathrooms, and one-half bathroom. The residence is situated around a central living area with multiple-covered lanais and detached bedroom wings. Additional improvements include a detached two-story one-bedroom guest house with a garage located on the bottom floor, above-ground swimming pool, individual wastewater system (IWS), driveway improvements, landscaping, fencing, and associated site utilities. The proposed residence and accessory structures are clustered within the mauka portion of the property, landward of the required shoreline setback, and are connected by pedestrian walkways. The structures are supported on post-and-pier foundations and incorporate pitched roof designs.

VI. APPLICANT'S REASONS/JUSTIFICATION

Please refer to the application.

VII. PROJECT FINDINGS

1. The subject property is generally flat and lies at a low coastal elevation, sloping gradually toward the shoreline. The site is currently vacant and sparsely vegetated with scattered kiawe and other non-native vegetation.
2. The property is located within the State Land Use Urban District, is zoned Open (O), and is located within the Special Management Area (SMA) and the West Kaua'i Community Plan Special Treatment Coastal Edge designation.
3. Vehicular access is provided from Kaumuali'i Highway (State Route 50). The property is served by the County Department of Water and electrical service is available from Kaua'i Island Utility Cooperative (KIUC). Wastewater service is proposed through an Individual Wastewater System (IWS), subject to approval by the Hawai'i State Department of Health.

4. The subject property is located primarily within FEMA Flood Zone X (Shaded), with portions of the parcel located within Flood Zones AE and VE, as depicted on Flood Insurance Rate Map No. 1500020254F.
5. The subject property is shoreline property. Shoreline Setback Determination (SSD) 2023-5 previously established a 207-foot building setback based on the shoreline certification in effect at that time. Following expiration of the prior shoreline certification, the Applicant obtained an updated certified shoreline map, approved by the Hawai'i Department of Accounting and General Services (DAGS), Survey Division, on July 1, 2026. Based on the updated certified shoreline, the Applicant subsequently obtained Shoreline Setback Determination SSD-2027-8, which establishes the current shoreline setback applicable to the subject property.

VIII. PLANNING/REGULATORY FRAMEWORK

The proposed development is subject to applicable County and State planning land use regulations and permitting requirements governing development of the subject property. These documents establish the policies, standards, and approval criteria used by Staff in evaluating the proposed request. The applicable planning documents and regulatory framework are summarized below.

1. **Kaua'i General Plan**– Establishes the County's long-range goals, policies, and land use objectives that guide future growth and development.
2. **West Kaua'i Community Plan**– Establishes goals, objectives, and policies for land use and development within West Kaua'i, including policies intended to preserve the area's rural character, coastal resources, and environmental qualities. The Community Plan also identifies the Special Treatment Coastal Edge (ST-CE) established by the West Kaua'i Community Plan. Development within this area is evaluated under the applicable provisions of the Comprehensive Zoning Ordinance to ensure compatibility with the surrounding coastal environment and to address shoreline resources and coastal hazard considerations.
3. **Comprehensive Zoning Ordinance (CZO)**- Establishes zoning regulations governing permitted uses, development standards, shoreline setback requirements, and the criteria for issuance of the requested Use Permit and Class IV Zoning Permit.
4. **Special Management Area (SMA) Rules and Regulations**– Establish the policies, objectives, findings, and approval criteria governing development within the Special Management Area.
5. **Native Hawaiian Traditional and Customary Rights** – The proposed development is evaluated for consistency with applicable constitutional, statutory, and case law requirements pertaining to traditional and customary Native Hawaiian rights, as well as the consideration of historic and cultural resources during discretionary land use review.

IX. AGENCY COMMENTS

Attached through separate transmittal.

X. FINDINGS AND EVALUATION

In evaluating the Applicant's request to allow the construction of the proposed development, the following should be considered:

1. **General Plan**

The proposed development was evaluated through the following policies of the General Plan, as taken from Sections 1.4 and 3.0:

- a. Section 1.4, entitled "POLICIES TO GUIDE GROWTH"
 - i. Policy #1: "Manage Growth to Preserve Rural Character"- The proposed project consists of a single-family residence and a two-story guest house on a vacant parcel within the Urban District. The surrounding area is characterized by existing residential development interspersed with open space and coastal lands. The proposed development maintains a low-density residential use that is compatible with surrounding land uses and is consistent with the existing development pattern in the Kekaha area. The residence and accessory structures are clustered within the mauka portion of the property, landward of the established shoreline setback, thereby maintaining a substantial portion of the parcel as open space. Staff finds the proposed use and site layout are generally consistent with the General Plan's policy of managing growth in a manner that preserves the rural character of West Kaua'i.
 - ii. Policy #3: "Recognize the Identity of Kaua'i's Individual Town and Districts"- The subject property is located within the West Kaua'i Community Plan area and the Special Treatment Coastal Edge (ST-CE) designation. The proposed project consists of a single-family residence and a two-story guest house on a vacant parcel surrounded by residential and coastal land uses. The proposed residential use is consistent with the existing development pattern in the Kekaha community and will be further evaluated for consistency with the applicable goals, objectives, and policies of the West Kaua'i Community Plan, including those pertaining to rural character, coastal resources, and coastal hazards. Staff finds the proposed development is generally consistent with the General Plan's policy of recognizing and respecting the unique character of Kaua'i's individual towns and districts.
 - iii. Policy #8: "Protect Kaua'i's Scenic Beauty"- The proposed improvements are clustered within the mauka portion of the property and located landward of the established shoreline setback. The low-profile design, post-and-pier construction, and preservation of the shoreline setback area reduce the visual prominence of the development when viewed from the shoreline and surrounding properties. Staff finds the proposed project is generally consistent with the General Plan's policy of protecting Kaua'i's scenic beauty by maintaining a development pattern that is compatible with the surrounding coastal landscape.
 - iv. Policy #14: "Prepare for Climate Change" – The subject property is located within the Special Management Area and the West Kaua'i Community Plan Special Treatment Coastal Edge designation. Portions of the property are located within FEMA Flood Zones X (Shaded), AE, and VE and within the County's Sea Level Rise District. The

proposed residence and accessory structures are sited landward of the shoreline setback established under SSD-2027-8, and portions of the proposed development are subject to the applicable Sea Level Rise District design standards. Compliance with the established shoreline setback, applicable sea level rise and floodplain requirements, and other applicable regulatory requirements addresses the project's exposure to coastal hazards. Staff finds the proposed development has incorporated measures responsive to climate resilience and coastal hazard considerations consistent with the intent of the General Plan.

- v. **Policy #15: "Respect Native Hawaiian Rights and Wahi Pana"**- The application includes a Ka Pa'akai Analysis and an Archaeological Assessment to assist Staff in evaluating potential effects on traditional and customary Native Hawaiian rights and historic resources. The Archaeological Assessment did not identify historic properties within the proposed development area, while the Ka Pa'akai Analysis evaluated the potential effects of the proposed development on traditional and customary practices. Staff reviewed these materials in conjunction with the requirements of Article XII, Section 7 of the Hawai'i Constitution and applicable case law. Based on the information submitted and recommended conditions of approval, Staff finds the proposed development is generally consistent with the General Plan's policy of respecting Native Hawaiian rights and places of cultural significance.
- b. **Section 3.0, Actions by Sector, Subsection Sector II, entitled "Housing"-In-fill Housing states for permitting:**
 - i. The Housing Sector encourages infill development within existing communities to efficiently utilize existing urban lands and infrastructure while minimizing pressure for outward expansion into undeveloped areas. The proposed project develops a vacant parcel located within the State Land Use Urban District and an established residential area of Kekaha. The proposal represents infill residential development that is compatible with the surrounding neighborhood and utilizes existing public infrastructure and services. Accordingly, Staff finds the proposed development is generally consistent with the Housing Sector's policy encouraging appropriate infill development within existing communities.

2. West Kaua'i Community Plan

The subject property is located within the West Kaua'i Community Plan area and is designated Special Treatment Coastal Edge (ST-CE). The Community Plan encourages development that preserves the rural character of West Kaua'i, protects coastal resources, and ensures new development is compatible with the surrounding coastal environment.

- a. Staff finds the proposed residential development is generally consistent with the West Kaua'i Community Plan. The proposal maintains the low-density residential character of the surrounding Kekaha community through a use that is compatible with adjacent development and a site layout that concentrates development within a defined building envelope. The proposed development also supports the Community Plan's objectives of protecting coastal resources and preserving the environmental qualities of West Kaua'i. The proposed development has been designed to address the objectives of the Special

Treatment Coastal Edge designation through its site layout, location of improvements landward of the shoreline setback, and compliance with the applicable provisions of the Comprehensive Zoning Ordinance and the recommended conditions of approval. Accordingly, Staff finds the proposal is generally consistent with the Special Treatment Coastal Edge designation.

3. CZO (Chapter 8, Kaua'i County Code)

a. Section 8-3.1-Class IV Zoning Permit

Pursuant to Section 8-3.1(F)(4) as Class IV Zoning Permit is required for a USE Permit within the Residential, Agriculture, and Open Districts. Staff finds the application satisfies the procedural requirements for issuance of a Class IV Zoning Permit because the proposed Use Permit is subject to Planning Commission review.

b. Section 8-3.2-Use Permit

Pursuant to Section 8-11.4 of the Comprehensive Zoning Ordinance, development within the Special Treatment Coastal Edge (ST-CE) designation requires approval of a Use Permit by the Planning Commission. The requested Use Permit is therefore required because the subject property is located within the ST-CE designation. The Planning Commission's review of the request is governed by the approval criteria established in Section 8-3.2 of the Comprehensive Zoning Ordinance.

- i. The use must be a compatible use;
The proposed development consists of a single-family residence, detached garage with a guest house above, swimming pool, and associated residential improvements on a vacant parcel within the Open (O) Zoning District. The surrounding area is characterized primarily by low-density residential development and open coastal lands. Staff finds the proposed residential use is compatible with the existing pattern of development and is consistent with the character of the surrounding area.
- ii. The use must not be detrimental to persons or property in the area;
The proposed development has been designed in accordance with the applicable provisions of the Comprehensive Zoning Ordinance, including the Open (O) Zoning District regulations, Residential Development Standards, and shoreline setback requirements. The project has also been reviewed by the appropriate County and State agencies, and recommended conditions of approval have been incorporated to address agency comments. Staff finds the proposed development is not expected to be detrimental to neighboring properties or the public health, safety, and welfare.
- iii. The use must not cause substantial environmental consequences; and
Staff reviewed the proposed development in conjunction with the submitted Sea Level Rise Assessment, Archaeological Assessment, and Ka Pa'akai Analysis, as well as the applicable Special Management Area requirements. The proposed improvements are located landward of the established shoreline setback and do not involve dredging, filling, shoreline armoring, or other activities that would

substantially affect coastal resources. Subject to the recommended conditions of approval, Staff finds the proposed development is not expected to result in substantial adverse environmental consequences.

- iv. The use must not be inconsistent with the intent of the Comprehensive Zoning Ordinance (CZO) and General Plan.

As discussed in the preceding sections of this report, Staff finds the proposed development is generally consistent with the applicable goals and policies of the Kaua'i General Plan, the West Kaua'i Community Plan, the Comprehensive Zoning Ordinance, and the Special Management Area Rules. The proposed residential use is consistent with the intended use of the Open (O) Zoning District and has been designed to address the additional review considerations associated with the Special Treatment Coastal Edge designation. Accordingly, Staff finds the proposed development is not inconsistent with the intent of the Comprehensive Zoning Ordinance or the County's adopted planning documents.

c. Section 8-9.2 (b)-Open Zoning

The subject property is located within the Open (O) Zoning District, where a single-family dwelling is permitted. Pursuant to Section 8-9.2(a)(1), residential development is limited to a maximum lot coverage of ten (10) percent of the parcel area. Based on the submitted site plan and calculations, the proposed development provides approximately 6.20% percent lot coverage, which is below the maximum permitted. Accordingly, Staff finds the proposal complies with the applicable requirements of the Open (O) Zoning District.

d. Article 4-Zoning Compliance Table

Although the subject property is located within the Open (O) Zoning District, Section 8-4.8 requires residential development permitted in other zoning districts to comply with the Residential Development Standards established in Article 4.

Table 1

Standard	CZO Section	Required	Proposed	Determination
Height	8-4.5(b)	30 Feet	Dwelling: 17± Guest House: 28±	<i>Complies</i>
Front Setback	8-4.3(b)	10 Feet	Dwelling: 100 feet Guest house: 68 feet	<i>Complies</i>
Side Setback	8-4.3(b)	5' or ½ the wall plate height whichever is greater	Dwelling; West property line: 57'-6" East property line: 16'-5" Guest house; West property line: 28'-6" East property line: Approx. 87'-0"	<i>Complies</i>
Parking	8-4.5(a)(5)	3	3	<i>Complies</i>

As summarized in Table 1, Staff reviewed the proposed development for compliance with the applicable Residential Development Standards established in Article 4 of the Comprehensive Zoning Ordinance. Based on the submitted plans and calculations, Staff finds the proposed development complies with the applicable standards governing building height, required setbacks, and off-street parking. Accordingly, Staff finds the proposal complies with the applicable Residential Development Standards.

e. Article 27-Shoreline Setback

The subject property is shoreline property and is subject to the shoreline setback requirements of Article 27 of the Comprehensive Zoning Ordinance. Based on the current certified shoreline, Shoreline Setback Determination SSD-2027-8 establishes the applicable shoreline setback for the subject property. Staff reviewed the submitted site plans and confirmed that the proposed residence and accessory structures are located landward of the established shoreline setback and outside the shoreline setback area.

Accordingly, Staff finds the proposed development complies with the applicable shoreline setback requirements of Article 27 of the Comprehensive Zoning Ordinance.

f. Article 12 Section 8-12.5 Sea Level Rise District

The subject property is located within the Sea Level Rise District (S-SLR), and portions of the proposed development are located within the mapped passive flooding constraint identified by the County of Kaua'i Sea Level Rise Constraint District Viewer. Staff reviewed the submitted Sea Level Rise Assessment and the proposed site and building plans in conjunction with the requirements of Article 12, Section 8-12.5 of the CZO. The proposed primary residence is supported on a post-and-pier foundation, while the detached garage with a guest house above is designed with the garage at grade and the habitable guest house located on the second floor. This design is generally consistent with the intent of the Sea Level Rise District, which permits enclosed areas below the required elevation to be used for parking, building access, or storage, provided the applicable flood-resistant design standards are met. Compliance with the technical design standards of Article 12, including the required elevation of the lowest habitable floor and other applicable flood-resistant construction requirements, shall be verified during the building permit review process. Based on the submitted plans and supporting technical information, Staff finds the proposed development is generally consistent with the requirements and intent of Article 12, Section 8-12.5 of the CZO.

4. Native Hawaiian Traditional Cultural Rights

The Applicant submitted a Ka Pa'akai Analysis to evaluate the proposed development's potential effects on traditional and customary Native Hawaiian rights protected under Article XII, Section 7 of the Hawai'i Constitution. The analysis documents the cultural and historical setting of the project area, evaluates traditional and customary Native Hawaiian practices associated with the surrounding area, and assesses the potential effects of the proposed development on those practices. As part of the analysis, the Applicant's consultant conducted archival and ethnographic research, reviewed historical maps and archaeological studies, and

engaged in community consultation through a traditional kūkākūkā ("talk story") process with six individuals possessing personal knowledge and ties to the Kīkīaola and Kekaha area.

The Ka Pa'akai Analysis concludes that, although the broader Waimea and Kekaha region possesses significant cultural and historical importance, neither the archival research nor the community consultation identified ongoing traditional and customary Native Hawaiian practices or cultural resources specifically associated with the subject property that would be adversely affected by the proposed development. Staff also considered the Archaeological Assessment, the proposed site design, and the Applicant's commitment to archaeological monitoring during ground-disturbing activities. Based on the information contained in the project record and the recommended conditions of approval, Staff finds the proposed development is not expected to result in significant adverse impacts to the exercise of traditional and customary Native Hawaiian rights.

5. SMA Rules and Regulations

The County of Kaua'i (CoK) Special Management Area (SMA) Rules and Regulations include objectives, policies, and guidelines intended to protect coastal resources. Within the SMA, special consideration is given to recreational opportunities, cultural and historic resources, scenic quality and open space, coastal ecosystems, and coastal hazards. In evaluating the proposed development in relation to the goals and objectives of the SMA Rules and Regulations, the following aspects are considered:

- a. **Public Access and Coastal Recreation** – The subject property is privately owned and does not contain any existing public recreational facilities or designated public accessways. The proposed development does not include improvements that would reduce or restrict existing public access to the shoreline or other public recreational resources. In addition, the project does not involve dredging, filling, or shoreline alterations that would reduce the size or recreational use of adjacent coastal areas. Based on the proposed scope of work and site layout, Staff finds the proposed development is not expected to adversely affect public access or coastal recreation resources within the Special Management Area.
- b. **Cultural/ Historic Resources** - The Applicant submitted an Archaeological Assessment prepared by Exploration Associates, Ltd., which included pedestrian survey and mechanical test trenching within the proposed building footprint. The assessment documented no archaeological sites or subsurface cultural deposits within the proposed development area. The report notes that portions of the subject property have experienced previous ground disturbance associated with the filling of a post-Western Contact fishpond and placement of imported soils, reducing the likelihood of intact subsurface cultural deposits within the proposed construction area. Nevertheless, the report recognizes that the possibility of previously unidentified cultural deposits cannot be entirely eliminated. The Applicant has indicated that the project will be reviewed by the State Historic Preservation Division (SHPD) pursuant to HRS Chapter 6E and has committed to complying with all applicable Chapter 6E requirements should historic properties or cultural deposits be encountered during construction. Based on the Archaeological Assessment, the proposed post-and-pier foundation design, and the recommended conditions of approval, Staff finds the proposed development is not expected to result in significant adverse impacts to historic or archaeological resources.

- c. **Scenic and Open Space Resources** – The subject property is currently vacant and is located within the West Kauaʻi Community Plan Special Treatment Coastal Edge designation, where protection of scenic coastal resources is an important consideration. The proposed development consists of a single-family residence and accessory structures that are concentrated within the mauka portion of the property and located landward of the established shoreline setback. The submitted architectural plans depict a low-profile residential design incorporating earth-tone exterior finishes, non-reflective windows, and landscaping intended to soften the visual appearance of the development. Staff finds the proposed site layout and architectural design are generally compatible with the surrounding residential character and are not expected to result in significant adverse impacts to scenic or open space resources within the Special Management Area, subject to compliance with the approved plans and conditions of approval.
- d. **Coastal Hazards** – The subject property is located within the West Kauaʻi Community Plan Special Treatment Coastal Edge (ST-CE) designation and is shoreline property. According to the FEMA Flood Insurance Rate Maps, the property is located primarily within Flood Zone X (Shaded), with portions extending into Flood Zones AE and VE. The proposed residence and accessory structures are sited approximately 207 feet landward of the certified shoreline and outside the established shoreline setback area. The proposed development area is not projected to be directly affected by annual high wave run up and shall comply with the passive flooding requirements under the County of Kauaʻi sea level rise viewer. Staff also notes that compliance with applicable shoreline setback requirements, floodplain regulations administered by the Department of Public Works, and the recommended conditions of approval will further minimize potential coastal hazard impacts. Based on the proposed site design, supporting technical studies, and applicable regulatory requirements, Staff finds the proposed development adequately addresses coastal hazard considerations.
- e. **Coastal Ecosystem** - The proposed development is located on a shoreline parcel; however, the proposed structures are sited approximately 207 feet landward of the certified shoreline and outside the established shoreline setback. The project does not involve dredging, filling, shoreline armoring, or other activities that would directly alter coastal waters or coastal ecosystems. Construction activities will be subject to applicable erosion and sediment control measures, as well as other federal, state, and county permit requirements intended to minimize impacts to adjacent coastal resources. Based on the proposed site design, project scope, and recommended conditions of approval, Staff finds the proposed development is not expected to result in significant adverse impacts to coastal ecosystems.

XI. PRELIMINARY CONCLUSION

Based on the foregoing analysis, Staff concludes that the proposed development, subject to the recommended conditions of approval, is generally consistent with the applicable provisions of the Kauaʻi General Plan, the West Kauaʻi Community Plan, the Comprehensive Zoning Ordinance, including the Open (O) Zoning District, Special Treatment Coastal Edge (ST-CE) designation, Article

27 (Shoreline Setback), Article 12 (Sea Level Rise District), and Chapter 205A, Hawai'i Revised Statutes, governing development within the Special Management Area.

Staff further concludes that the proposed development has been designed to minimize potential impacts to coastal resources by locating the proposed improvements within the mauka portion of the property, landward of the required shoreline setback. Staff also considered the Archaeological Assessment, Sea Level Rise Assessment, and Ka Pa'akai Analysis, together with the Applicant's commitment to archaeological monitoring and the recommended conditions of approval, in evaluating the potential effects of the proposed development on coastal resources, historic and archaeological resources, and traditional and customary Native Hawaiian rights.

Based on the record before the Planning Commission, Staff finds that the proposed development:

1. Will not result in significant adverse environmental or ecological impacts, subject to compliance with the recommended conditions of approval and all applicable federal, state, and county regulations.
2. Is generally consistent with the applicable goals, objectives, and policies of the Kaua'i General Plan, the West Kaua'i Community Plan, the Comprehensive Zoning Ordinance, and the Special Management Area Rules and Regulations.
3. Is compatible with the surrounding residential development pattern and has been designed to minimize potential impacts to scenic resources, coastal resources, and the surrounding neighborhood.
4. Is not expected to result in significant adverse impacts to the exercise of traditional and customary Native Hawaiian rights protected under Article XII, Section 7 of the Hawai'i Constitution.

Furthermore, the proposed development:

- Does not involve dredging, filling, shoreline armoring, or alteration of any bay, estuary, salt marsh, river mouth, slough, or lagoon;
- Does not reduce the size of any beach or other area available for public recreation or restrict existing public access to tidal and submerged lands, beaches, rivers, or streams within the Special Management Area;
- Is not expected to result in significant adverse impacts to water quality, coastal ecosystems, wildlife habitat, scenic resources, or surrounding land uses; and
- Has been designed to minimize potential impacts to coastal resources, historic and archaeological resources, and traditional and customary Native Hawaiian rights through the proposed site design, supporting technical studies, and the recommended conditions of approval. Accordingly, Staff concludes that the proposed development satisfies the applicable criteria for issuance of a Special Management Area Use Permit, Use Permit, and Class IV Zoning Permit, subject to the recommended conditions of approval.

XII. PRELIMINARY RECOMMENDATION

Based on the foregoing evaluation and conclusion it is hereby recommended that proposed development involving a four-bedroom, single-family dwelling, detached two-story guest house with garage below, above ground pool, septic system and other related site improvements through Class IV Zoning Permit Z-IV-2027-1, Use Permit U-2027-1, and Special management Area Use Permit SMA(U)-2027-1 be **approved** subject to the following conditions:

1. The proposed development shall be constructed substantially in accordance with the approved plans, materials, and conditions of approval. Any modification of the approved development shall be processed in accordance with Sections 6-5 and 6-6 of the County of Kaua'i SMA rules and regulations.
2. The Applicant is advised that prior to construction; additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).
3. The Applicant shall resolve and comply with the applicable standards and requirements set forth by the State Health Department, State Historic Preservation Division-DLNR, Office of Hawaiian Affairs, and the County Departments of Public Works, Fire & Water.
4. 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.
5. 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.
6. In order to ensure that the project is compatible with its surroundings and to minimize the visual impact of the structures, the external color of the proposed residence and guest house, shall be of moderate to dark earth- tone color. The proposed color scheme and a landscape plan should be submitted to the Planning Department for review and acceptance prior to building permit application.
7. The proposed dwelling and guest house shall not be utilized for any transient accommodation purposes. It shall not be used as a transient vacation rental (TVR) or as a homestay. This restriction shall be incorporated into the deed restrictions of the subject parcel in the event the property is sold to another party, draft copies of which shall be submitted to the Planning Department prior to building permit application approval.
8. The Applicant shall conduct archaeological monitoring during all ground-disturbing activities in accordance with the commitments contained in the application and any applicable requirements of the State Historic Preservation Division (SHPD).
9. Should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archeological/ historical findings shall immediately cease and the Applicant shall contact the State Department of Land and Natural Resources - Historic Preservation Division and the County of Kaua'i, Department of Planning. Work shall not resume in the affected area until SHPD has provided appropriate directions, and any required mitigative measures have been completed.

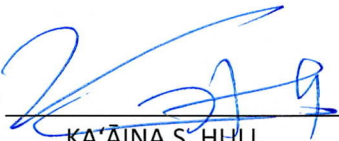
10. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, all external lighting shall be only of the following type: downward facing shielded lights. Spotlights aimed upward or spotlighting of structures or physical features shall be prohibited.
11. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua'i contractors as long as they are qualified and reasonably competitive with other contractors and shall seek to employ residents of Kaua'i in temporary construction and permanent resort-related jobs. It is recognized that the Applicant may have to employ non- Kauai residents for particular skilled jobs where no qualified Kaua'i residents possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.
12. 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.
13. The applicant shall make substantial progress, as determined by the Director, on the development or activity by September 8, 2028. If not, the permit shall be deemed lapsed and no longer in effect, pursuant to Section 4-2-d of the County of Kaua'i SMA Rules and Regulations.
14. The Planning Commission reserves the right to revise, add, or delete conditions of approval in order to address or mitigate unforeseen impacts that the project may, create, or to revoke the permits through the proper procedures should conditions of approval not be complied with or violated.

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 8, 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 staff's report and recommendation as provided herein.

By 
ROMIO IDICA
Planner

Approved & Recommended to Commission:

By 
KA'AINA S. HULL
Director of Planning

Date: _____

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BEFORE THE KAUAI PLANNING COMMISSION

COUNTY OF KAUAI

STATE OF HAWAII

In the Matter of the Application of:	) Permit Nos. SMA(U)-2027-1, U-2027-1, and
	) Z-IV-2027-1
MONICA C. EVSLIN TRUST	)
	) PETITIONERS JUAN PABLO GARCIA-
For approval of a Special Management Area	) NEVEU AND PAMELA GARCIA-
Permit, Use Permit, and Class IV Zoning Permit	) NEVEU'S PETITION TO INTERVENE
for development of real property situated at	)
Kekaha, Kaua'i, described as Lot V-2-B-1 of Map	) DECLARATION OF JUAN PABLO
7 of Land Court Application 1233, identified by	) GARCIA-NEVEU
Kaua'i Tax Map Key (4) 1-3-005-:053.	) EXHIBITS "01"- "04"
	)
	) CERTIFICATE OF SERVICE
	)

F.2.a.3.
SEP 08, 2026

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PETITIONERS JUAN PABLO GARCIA-NEVEU AND PAMELA GARCIA-NEVEU'S
PETITION TO INTERVENE

Petitioners JUAN PABLO GARCIA-NEVEU and PAMELA GARCIA-NEVEU, individuals, (collectively, "Petitioners"), pursuant to Hawai'i Revised Statutes (HRS) chapter 91 and the Rules of Practice and Procedure of the Kaua'i County Planning Commission (Commission Rules) §§ 1-3-1 and 1-4-1 through 1-4-6, respectfully submit this petition to intervene in proceedings on Applicant MONICA C. EVSLIN TRUST's ("Applicant") application for a Special Management Area Permit, Use Permit, and Class IV Zoning Permit for development of a new 4,120 square foot residence, guest house, swimming pool, driveway, individual wastewater system, and other development ("development" or "project") at a shoreline parcel situated at Kekaha, Kaua'i, identified by Kaua'i Tax Map Key (4) 1-3-005-:053 ("property").

Petitioners are longtime members of West Kaua'i's community and neighbors to the proposed development. Declaration of J. Garcia-Neveu ("Garcia-Neveu Decl.") ¶¶ 7, 14. The project is proposed for an improper location, too close to the shoreline. Further, in its proposed location, the project will likely significantly impact Petitioners' enjoyment of their own property – blocking cooling ocean breezes and views.

Petitioners' intervention will assist the Commission in fashioning an appropriate permit protective of Kaua'i's coastal resources as well as Petitioners' rights and interests.

I. Nature and Extent of Petitioners' Rights and Interests (KC §1-4-3(a)(1) &(2))

A. Petitioners' constitutional rights to a clean and healthful environment.

Petitioners are neighbors who will be personally, adversely, and concretely impacted by the proposed development and who hold constitutional property rights defined by laws implemented by the Commission in these proceedings.

Petitioners have constitutionally protected property rights under article XI, §§1 and 9 of the Hawai'i constitution as beneficiaries of public trust and their rights to a clean and healthful environment as defined by HRS chapters 46, 205, and 205A - laws defining environmental quality. Article XI, § 1 of the Hawai'i Constitution provides:

For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

All public natural resources are held in trust by the State for the benefit of the people.

Id. Article XI, §9 of the Hawai‘i Constitution provides:

Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources.

Id.; see also *Cty. of Haw. v. Ala Loop Homeowners*, 123 Hawai‘i 391, 409, 417, 235 P.3d 1103, 1121, 1127 (2010) (recognizing a substantive right to a clean and healthful environment). Article XI, § 9 is self-executing, and it “establishes the right to a clean and healthful environment, ‘as defined by laws relating to environmental quality.’” *In re Maui Elec. Co., Ltd.*, 141 Hawai‘i 249, 261, 408 P.3d 1, 13 (2017).

HRS chapters 46, 205A, and 343 are laws relating to environmental quality. See *Nakoa v. Governor of State*, 156 Hawai‘i 416, 427, 575 P.3d 506, 517 (2025) (holding in this case, “HRS § 46-4 is a law relating to environmental quality to the extent that its suspension impacts Plaintiffs’ constitutional right to a clean and healthful environment under article XI, section 9 of the Hawai‘i Constitution”) (citing *Tax Foundation of Hawai‘i v. State*, 144 Hawai‘i 175, 189, 439 P.3d 127, 141 (2019); *County of Hawai‘i v. Ala Loop Homeowners*, 123 Hawai‘i 391, 409-10, 235 P.3d 1103, 1121-22 (2010); *Maui Lani Neighbors v. State*, 153 Hawai‘i 527, 560, 542 P.3d 1222, 1255 (App. 2023) (parties did not dispute HRS chapter 46 is a law relating to environmental quality within the meaning of article XI, § 9) *affirmed in part Maui Lani Neighbors v. State*, 156 Hawai‘i 520, 524-25 575 P.3d 610, 614-15 (2025) (holding “the neighbors were required to assert their claims arising under HRS chapters 46 and 205 through an appeal of the Planning Commission’s decision”); *Protect & Pres. Kahoma Ahupua‘a Ass’n v. Maui Planning Comm’n*, 149 Hawai‘i 304, 313, 489 P.3d 408, 417 (2021) (“HRS ch. 205A is a ‘law relating to environmental quality’”).

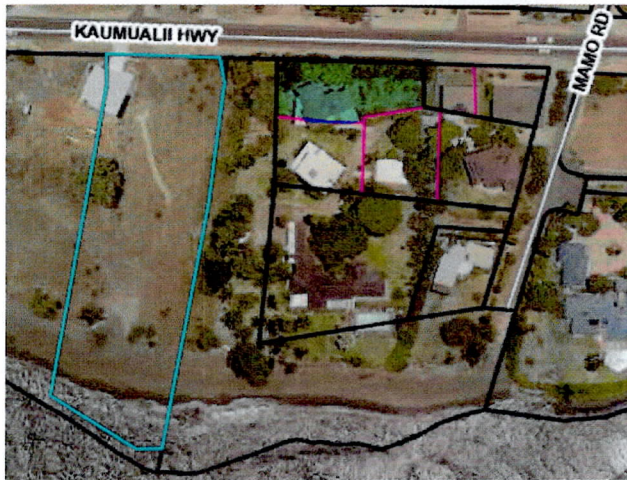
The Commission implements zoning powers under HRS § 46-4 in assessing the application for a Class IV Zoning Permit and a Use Permit under Kaua‘i’s Comprehensive Zoning Ordinance (“CZO”). The Commission is the “authority” over Kaua‘i’s special management area (“SMA”) and exercises this authority through permitting processes initiated by Applicant.

Applicant’s project proposes to utilize lands in the shoreline setback area as discussed *infra* Part II.A, triggering application of HRS chapter 343 (“HEPA”) environmental review. HRS § 343-5(a)(3). Petitioners have constitutional rights in the correct application of these environmental laws in the Commission’s decision-making on Applicant’s request for permits.

B. Petitioners rights and interests as nearby neighboring property owners.

Petitioners have constitutional rights affected by the Commission’s decisionmaking under

article I, § 5 of the Hawai'i Constitution and the U.S. Constitution, amendments V and XIV. Petitioners are also concretely impacted by the proposed project as neighboring homeowners who live, recreate, and transit nearby areas, including the shoreline fronting the property. Their peaceable enjoyment of their property may be substantially disturbed by the project.



(Above) Petitioners' parcel highlighted in blue (County Real Property database map, accessed Aug. 28, 2026); *see also* Application, exh. C-1.

Settled Hawai'i case law recognizes nearby and adjacent landowners hold a "concrete interest" in proceedings on proposed developments so as to satisfy standing requirements, including requirements for mandatory intervenor status. *See Ala Loop*, 123 Hawai'i at 419-20, 235 P.3d at 1131 (recognizing adjoining landownership as a form of standing, but not a private right of action); *Mahuiki v. Planning Comm'n*, 65 Haw. 506, 654 P.2d 874 (1982) (decision to permit development nearby land in the special management area could have an adverse impact on an adjacent landowner); *Town v. Land Use Comm'n*, 55 Haw. 538, 524 P.2d 84 (1974) (adjacent and nearby property owners had a property interest in changing the land use entitlements and adjacent and nearby landowners have legal rights as a specific and interested party in a contested case proceeding to change land use designations or entitlements); *East Diamond Head Ass'n v. Zoning Bd. Appeals*, 52 Haw. 518, 479 P.2d 796 (1971) (adjoining property owner has standing to protect property); *Dalton v. City & County of Honolulu*, 51 Haw. 400, 462 P.2d 199 (1969) (property owners across the street from a proposed project have a concrete interest in scenic views, sense of space and density of population); *see also Protect & Pres. Kahoma Ahupua'a Ass'n v. Maui Planning Comm'n*, 149 Hawai'i 304, 313, 489 P.3d 408, 417 (2021) ("As adjacent landowners to the Project, [petitioners] would likely bear the brunt of adverse impacts to the SMA . . .").

II. Issues Contested; Impacts on Petitioners (KC §1-4-3(a)(3) & (4))

Petitioners seek to raise and contest the following issues with the applications. Each of these issues concretely impact Petitioners' rights and interests.

A. Shoreline setback determination expired; subject to improper procedures.

"[A]ny structure proposed within 500 feet of the shoreline shall first obtain a shoreline setback determination" with non-applicable exceptions. KCC § 8-27.8(a). The project's shoreline setback determination ("SSD") was apparently procured in October 2022. Garcia-Neveu Decl ¶12 (Exh. 02). This determination has expired because no substantial construction was completed within two years. KCC § 8-27.8(c)(10). The project cannot move forward without a new SSD.

Any new SSD would require a shoreline certification issued within twelve months of the determination. KCC § 8-27.3(b). Although the shoreline was certified on July 1, 2026, this certification showed significant mauka migration. Garcia-Neveu Decl ¶11 (Exh. 01). This is consistent with Petitioners' observations of substantial coastal erosion and their position that the project is located too close to the ocean. *Id.* ¶¶7, 10.

Applicant's notice of the Director's undated SSD (Applicant's exh. D-1, SSD-2023-5) is inconsistent with the publicly filed notice of the Director's SSD at the Commission's October 11, 2022 meeting (Exh. 02). Whether this indicates multiple or new SSDs exist or improper procedures are implemented are issues properly submitted for fact finding by a hearing officer.

As discussed *infra* Part II.B, the project's improper location - too close toward the shoreline - concretely impacts Petitioners' daily lives. Garcia-Neveu Decl. ¶¶7, 10, 13. Even now, the shoreline in this area become very narrow in the summer's higher tides. A proper shoreline setback would better protect the ability of Petitioners and members of the public to utilize lateral shoreline access that may be impacted by the project in the future. *Id.* ¶¶8-9.

B. Project is incompatible with and detrimental to neighbors and property.

The Commission cannot approve a use permit unless it finds the project:

... is a compatible use and is not detrimental to health, safety, peace, morals, comfort and the general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the community, and will not cause any substantial harmful environmental consequences on the land of the applicant or on other lands or waters, and will not be inconsistent with the intent of this Chapter and the General Plan.

KCC § 8-3.2(e)(1). The applications summarily conclude the project is compatible and

nondetrimental to neighbors and nearby properties and the community because it proposes to be a residence in an area used for residential purposes. Application at 17-18. This conclusion is unwarranted because as proposed, the project will be detrimental to, and incompatible with, the health, peace, comfort, and general welfare of Petitioners and their property. As discussed *supra*, Part II.A, the project may cause substantial harmful environmental consequences due to improper siting in an area of significant coastal erosion. No use permit can be granted for the proposal.

At its currently proposed location, the project would block significant, daily coastal breezes that function to naturally cool Petitioners home. Garcia-Neveu Decl. ¶¶15-16, 21. Instead, Petitioners would have to resort to expensive, resource-consumptive air-conditioning units as installation of photovoltaic systems may be too costly and infeasible for Petitioners. *Id.* ¶17. Adding such energy usage would increase Petitioners' carbon footprint, contribute to greenhouse gas emissions, and thus the climate change and sea level rise that is affecting coastal processes. *Id.* ¶¶18-19.

Also at its proposed location and height, the project will block a significant amount of the ocean view from Petitioners' home, which they enjoy aesthetically, but also utilize to observe ocean conditions for surfing, padding, swimming, windsurfing other recreation along the shoreline, as well as to observe natural wildlife such as whales and birds. Garcia-Neveu Decl. ¶¶20-21.

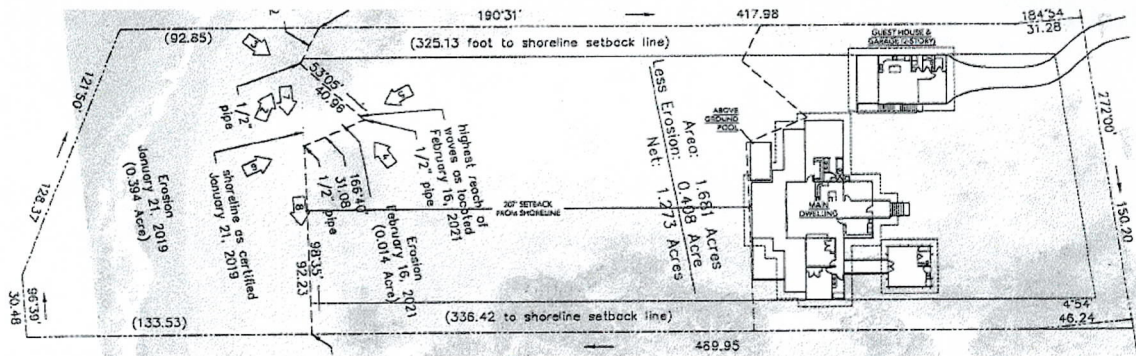
Applicant itself raised similar concerns in support of their petition to intervene against a project in Kapa'a. Applicant, with two other neighbors "tried with diligence to try and sit down with [applicant] to work through and navigate a resiting approach to the location of these office facilities, but unfortunately there's been no movement for those suggestions. The immediate impact will be a visual impact, and it will also being an immediate impact with the issue of the blocking of the trade winds. . . ." Similar to Petitioners, Applicant sought to "to abate and hopefully mitigate whatever threatened harm we see from a visual and blocking of trade winds with this particular building, and try and further work with [applicant] to try and find a suitable site plan that would be happy for the three residential neighbors that are right there in their backyard." *Id.* at 27. In that case, the Commission found Applicant had standing and granted their petition to intervene. *Id.* at 30-31

¹ Kaua'i Planning Commission Meeting Minutes, at 26 (Sep. 23, 2025) https://www.kauai.gov/files/assets/public/v/1/boards-and-commissions/planning-commission/planning-commission-meeting-minutes/2025-09-23-planning-commission-minutes-approved_.pdf (proceedings on Dawn Hoang, Nick Huynh, Monica C. Evslin Trust's petition to Intervene in proceedings on Class IV Zoning (Z-IV-2026-5), Use (U-2026-4), and Variance (V-2026-1) permit applications for an office and storage facility in Kapa'a).

(vote). The same result is appropriate in the instant case.

C. Project uses shoreline areas requiring HEPA review.

Applicant incorrectly asserts the proposed project does not implement any of the HEPA triggers. Environmental review is required because the project proposes to use shoreline areas. HRS § 343-5(a)(3). “‘Shoreline area’ . . . shall include all of the land area between the shoreline and the shoreline setback line and may include the area between mean sea level and the shoreline.” HRS § 205A-41. In its original application, the project is located up to the SSD boundary of 207 feet from the 2021 certified shoreline. *See infra* (Applicant exh. E).



Applicant exh. E (“Site Plan” excerpt).

Although the Applicant’s Supplement exhibit “E” asserts the building is somehow now within the 207 foot setback from the May 2026 shoreline, the 2022 SSD expired. KCC § 8-27.8(c)(10). The shoreline moved between 8.81 to 17.44 feet inland between the July 20, 2021 and July 1, 2026 shoreline certifications. *Compare* Exh. 01 (2026 shoreline certification) *and* Application exh. D-2 (2021 shoreline certification). Any new SSD would be based on an annual coastal erosion rate, which could mean a much greater SSD than the 207 feet determined in 2022. KCC § 8-27.3(c)(2). Thus, the project proposes to utilize “shoreline areas” and thus triggers HEPA review.

Petitioners have constitutional rights defined by HEPA. Hawai’i Const. art. XI § 9. HEPA provides procedures through which Petitioners could provide comment, obtain information, and otherwise engage in ameliorating the project’s impacts.

D. Applications do not demonstrate compliance with location’s limitations.

1. *Project appears located in Flood Zone AE, not only Zone XS.*

Applicant asserts the “Project is within Flood Zone XS, as shown on Kauai’s flood insurance rate map” and the “Property is located almost entirely within the Flood Zone XS[.]” Application at 11 (citing exh. C-9). Applied-for permits “are required so that it may be determined

whether such construction or other development is proposed within flood-prone areas.” KCC § 15-1.4(a). However, Applicant’s exhibit shows most of the parcel in Flood Zones AE and VE and does not demonstrate the project will be constructed entirely in Flood Zone XS. Application exh. C-9. Thus, the project may be in an “area of special flood hazard”, Zones AE or VE. KCC § 15-1.3. Zone AE is a “flood fringe area” subject to heightened design standards for construction and siting, including siting of individual wastewater systems. KCC § 15-1.5.

Locating the project further mauka may remove it from Flood Zone AE and mitigate the project’s obstruction of ocean breezes and views that would harm Petitioners. Neighbors adjacent to Applicant have built their homes approximately 300 feet from the shoreline based on flood zone assessment, without affecting Petitioners’ home. Garcia-Neveu Decl. ¶22. The same should occur for other development going forward. *Id.*

2. Project appears located in the 3.2 foot SLR-Exposure Area.

The applications assert National Oceanic and Atmospheric Association (“NOAA”) modeling does not predict the “Project area” will be inundated under 3.2 feet of sea level rise. Application at 19. However, Applicant’s exhibit “F-1” appears to show the majority of the parcel underwater under the 3.2 foot SLR prediction. Application, F-1. Locating structures mauka of the SLR exposure area will prevent future impacts on lateral shoreline access.

3. Application does not demonstrate compliance with shoreline setback.

Notwithstanding that Applicant lacks a current, valid SSD, the applications do not identify the location of the proposed individual wastewater system. *See* Application at 8 (citing exh. E, site plan); Supplement exh. E (revised site plan). Individual wastewater systems cannot be located within the shoreline setback area unless no other feasible alternative exists. KCC § 8-27.6(c)(1).

Petitioners use and enjoy nearby coastal waters. Garcia-Neveu ¶20. Properly locating sewage disposal further away from the coast protects Petitioners’ rights and interests.

4. Project appears located in Sea Level Rise Constraint District.

The applications omit review of the Kauai Sea Level Rise Constraint District Viewer, which identifies parcels within the County Sea Level Rise constraint district. This district includes:

All lands subject to annual high wave flooding and passive flooding impacts projected by the Kauai Sea Level Rise Constraint District Viewer (with 3.2 feet of sea level rise anticipated to occur within this century) and within the County of Kaua’i Sea Level Rise Constraint District (S-SLR).

KCC § 8-12.5(b)(1). The parcel consists of lands subject to annual high wave run up flooding

impacts as projected by the Kauai Sea Level Rise Constraint District Viewer.



(Above) Applicant parcel circled in red, showing annual high wave run up elevations ranging between 1-6+ feet, Kauai SLR Constraint District Viewer (accessed Aug. 29, 2026) <https://kauaigis.maps.arcgis.com/apps/instant/basic/index.html?appid=5076d300b9d24537b40dab-d1e387dbad>.

Because it is located within the SLR Constraint District, the project must comply with certain design standards. KCC § 8-12.5(d). Locating the project mauka of areas impacted by annual high wave flooding would better accord with these standards and Petitioners' rights and interests.

5. Compliance public trustee obligations would protect Petitioners' interests.

Mitigating impacts of coastal erosion and flooding are also important to preventing pollution of nearby coastal waters, which are amongst protected public trust resources. Hawai'i's constitution provides in part:

For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State. All public natural resources are held in trust by the State for the benefit of the people.

Hawai'i Const. article XI, § 1. "[P]ursuant to article VIII, section 1 of the Hawai'i Constitution, the County is a political subdivision of the State" and "as a political subdivision of the State of Hawai'i, the public trust duties imposed on the [S]tate under [a]rticle XI, section 1, also apply to the County." *Kelly v. 1250 Oceanside Partners*, 111 Hawai'i 205, 224, 140 P.3d 985, 1004 (2006).

The Commission is a public trustee. *See Kaua'i Springs, Inc. v. Plan. Comm'n of Kaua'i*, 133 Hawai'i 141, 172, 324 P.3d 951, 982 (2014). The Commission "must execute its statutory duties in a manner that fulfills the State's affirmative constitutional obligations." *Mauna Kea Anaina I*, 136 Hawai'i at 413, 363 P.3d at 261.

Public natural resources include "all natural resources", which extends also to the public shoreline. Petitioners and other members of the public utilize the shoreline and coastal areas fronting the parcel for recreational and other activities. *Id.* ¶¶8-9. Properly planning for coastal erosion and narrowing of lateral shoreline access supports these uses of the shoreline, which are protected under Hawai'i's Coastal Zone Management Act, HRS chapter 205A ("CZMA"). Protecting these public trust resources is further consistent with Petitioners' rights and interests.

E. Application failed to designate ocean view corridor.

The subject parcel is located between the shoreline and Kaumuali'i Highway, a major public thoroughfare. The parcel is thus an "Ocean View Corridor Parcel", which "means a parcel with an ocean view corridor and located between the shoreline and a public thoroughfare, and from which the ocean would be readily viewable given the parcel's existing topography and absent any structural improvements or vegetation." SMA Rule § 1-7-Q. Ocean view corridor parcels are subject to certain restrictions on development in order "to avoid the permanent loss of valuable coastal scenic resources and prevent any development from substantially interfering with or detracting from the line of sight toward the sea from a public thoroughfare." SMA Rule § 2-2. These requirements include designating thirty percent of the parcel to "provide for an ocean view corridor(s) where members of the public can view the ocean from the adjacent public thoroughfare[.]" SMA Rule § 2-2-A(1). In this corridor, no structural improvements or landscaped vegetation may exceed three (3) feet in height. *Id.*-A(2) & (3).

The application was required to include a "a site plan and landscape plan depicting the designated view corridor area" (SMA Rule § 4-1(3)), but failed to do so.

F. Application insufficient for development in Special Treatment Coastal Edge district.

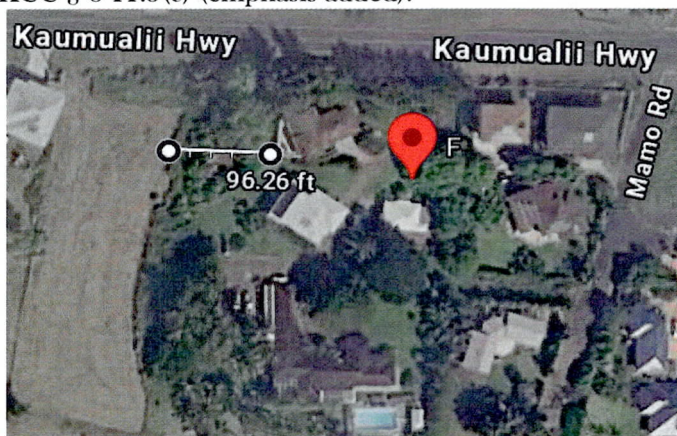
Applicant concedes the parcel is located in the Special Treatment Coastal Edge district, but only acknowledges a Use Permit is required for the project. Application at 16; KCC § 8-11.3 (use permit required).² However, Special Treatment districts require procedures "in addition to those

² Applicant concedes it may only utilize ten (10) percent of the parcel for new structures. Application at 7-8; see KCC § 8-9.2(a)(2) ("No existing structure, use or improvement shall be

established in article 3", including:

Applications shall be accompanied by plans and three dimensional drawings or models which clearly indicate the relation of the proposed development to other uses and structures within the Special Treatment District and the ways in which the proposed development is consistent with the reasons for the establishment of the District. Plans shall indicate the location of all existing and proposed topography, buildings, walks, driveways, and utilities and plant material within the boundaries of the applicant's parcel and the existing or proposed streets, sidewalks, driveways, trees, buildings, and topography on adjacent lands as required by the Planning Director, but no less than 200 feet from property lines of the parcel which abut a public thoroughfare, park or facility and 100 feet from the property lines of the parcel which abut privately owned property. Aerial photography may be utilized to meet these requirements if approved by the Planning Director.

KCC § 8-11.5(c) (emphasis added).



The Applicant lacks three-dimensional drawings or models that clearly indicate the project's location, topography, and especially how they would be located relative to Petitioners' private property, which is less than 100 feet from Applicant's parcel. *Id.*

(Above) GoogleEarth distance measurement of 96.26 feet roughly between Applicant's parcel and Petitioner's home (accessed Aug. 29, 2026).

Applicants failed to file sufficient applications renders proceedings on the applications improper. These procedural improprieties impact Petitioners, who have had to expend significant resources in reviewing changing, vague site proposals.

G. Application procedures rushed and suspect; not properly before the Commission.

In the normal course, after applications are deemed complete, the Director is required to prepare a report for submission to the Commission, which notices a public hearing for the applications. KCC §§ 8-3.1 (process for Class IV zoning permit); -3.2(f)(1)(A) (Use permit

increased in size, or any new structure, use or improvement undertaken so as to exceed the 10% land coverage limitation"). However, the application inconsistently describes the parcel as a 2.601 acre lot (Application at 5) and also as a 1.681 acre lot (Application, exh. C-1, County tax database).

procedures same as for Class IV zoning permits); SMA Rules § 4-2-B (comparable procedures).

Here, the application's contents and mailed letter notice to neighbors are dated August 6, 2026. Garcia-Neveu Decl. ¶26, exh. 04. Enclosed with the letter was a public notice, with a publication date of August 7, 2026 and a "Supplement No. 1 to the Application", also dated August 6, 2026. Exh. 04 at 3. The public notice referred only to the application and did not mention the Supplement No. 1. *Id.*

The Director's same-day service for Applicant's 200+ page application calls into question the completeness determination and may be relevant to inconsistencies in Applicant's exhibits.

H. Other potential issues impacting Petitioners' rights and interests.

Petitioners have raised significant questions about the project applications. Information gathered through these inquiries may raise further issues impacting Petitioners' rights and interests.

III. Intervention is Warranted under all Other Considerations.

A. No other relief is available for impacts to Petitioners' rights and interests

Petitioners have sought relief by directly contacting Applicant about their concerns, however they have not arrived at a solution for the project's impacts. Garcia-Neveu Decl. ¶24. Providing public testimony at the hearing on Applicant's permit applications would not allow cross-examination and presentation of evidence to document impacts and violations. See KC § 1-4-3(b)(1). No other proceeding exists to provide relief for Petitioners rights and interests. This matter is properly before the Commission alone at this time.

B. Existing parties adverse to Petitioners' interests.

Petitioners share no position with existing parties - the Applicant or the Planning Department - and hold different interests from them. See KC § 1-4-3(b)(2) & (3). The former is a proponent of the project as proposed. The Planning Department's participation is inadequate to, and does not substitute for, Petitioners' own representation of their rights and interests. See *Hoopai v. Civil Service Comm'n*, 106 Hawai'i 205, 217, 103 P.3d 365, 377 (2004) ("[Proposed intervenors] need only show that the Commission's representation of [its] interests may have been inadequate"). A "lack of adequate representation" also exists where a prospective intervenor would make a "more vigorous presentation" of a side of an argument than the government defendant because the regulation - the validity of which is being challenged - would benefit members of the prospective intervenor group. *New York Public Interest Res. Grp. v. Regents of Univ. of New York*, 516 F.2d 350, 352 (2d. Cir. 1975). Petitioners have more on-the-ground information about

the ways the project's proposals would impact their lives, rights, interests, and others in the Kekaha community who use and enjoy this shoreline area.

C. Petitioners' participation will assist in developing a complete record.

Petitioners can contribute information relevant to findings the Commission is required to make in considering the applications, including information omitted in the applications. This includes information about nearby shoreline access use, location, and recent shoreline erosion. Garcia-Neveu Decl. ¶¶6-11. Petitioners have specialized knowledge and training in engineering, and can provide information on impacts of landscape and infrastructure changes on viewplanes and prevailing wind usage. *Id.* ¶14.

D. Petitioners' intervention will not unduly delay or broaden proceedings.

Because Petitioners' participation will assist in developing a complete record for Commission decisionmaking, their participation would not unduly delay proceedings. KC § 1-4-3(b)(4) & (5). The standard is not one under which any potential delay weighs against granting intervention. "Additional parties always take additional time which may result in delay, but this does not mean that intervention should be denied." 7C Wright, Miller & Kane. *Federal Prac. & Procedure*, Civil 2d. 1913 at 381-82 (2d ed. 1986). Rather, judicial bodies may consider intervention improper only where it "will 'unduly delay' the adjudication." *Id.*; see also *Virginia Petroleum Jobbers Ass'n v. Fed. Power Comm'n*, 265 F.2d 364, 367 N.1 (D.C. Cir. 1959) ("Efficient and expeditious hearing should be achieved not by excluding parties who have a right to participate, but by controlling the proceedings so that all participants are required to adhere to the issues and to refrain from introducing cumulative or irrelevant evidence"). Petitioners' interests are primarily based on interests directly impacted in the immediate area of the development, pertinent to this proceeding, and thus their intervention would not inject collateral, new issues, or overly broaden the issues. See *Blackfeld Hawaii Corp. v. Travelodge Int'l, Inc.*, 3 Haw. App. 61, 641 P.2d 981 (1983); *Taylor Comm. Grp v. Southwestern Bell Tel. Co.*, 172 F.3d 385, 389 (5th Cir. 1999); *United States v. S. Florida Water Mgmt. Dist.*, 922 F. 2d 704, 711-712 (11th Cir. 1991).

Additionally, the Petitioners are represented by counsel. This arrangement serves efficiency and timeliness of Petitioners' participation so as not to unduly delay proceedings.

E. Petitioners' intervention would serve the public interest.

Petitioners' rights and interests in lawfully locating the development further from the shoreline serves the public interest in proper coastal planning, particularly in the project area,

which suffers significant coastal erosion. *Compare* Exh. 01 (2026 shoreline certification) *and* Application exh. D-2 (2021 shoreline certification). Properly planning for coastal erosion supports lateral shoreline access enjoyed by Petitioners and others from the public. Garcia-Neveu ¶¶8-9.

IV. CONCLUSION

For the foregoing reasons, Petitioners respectfully request the Commission grant their petition for intervention in the above-captioned proceedings.

DATED: Honolulu, Hawai'i

August 31, 2026

/s/ Bianca K. Isaki
LAW OFFICE OF BIANCA ISAKI
BIANCA ISAKI

/s/ Ryan D. Hurley
LAW OFFICE OF RYAN D. HURLEY
RYAN D. HURLEY
Attorneys for Petitioners
JUAN PABLO GARCIA-NEVEU &
PAMELA GARCIA-NEVEU

8. We - my co-petitioner and I - access the shoreline near our home, including the fronting Applicant's parcel for many recreational activities, including surfing, windsurfing, foiling, outrigger canoe paddling, stand-up paddling, swimming and diving, exercising our dogs, running

and walking, and practicing yoga on beach. We have an ocean-going lifestyle.

9. Many others in the local West Kaua'i community use this shoreline for fishing and gathering, including Kānaka Maoli (Native Hawaiian) families. They fish and camp in this area.

10. We have seen a lot of erosion along this shoreline. Erosion has caused trees to fall into the ocean. Whereas people could drive along the beach, the lateral access is now too narrow. There have been days during the summer that we have lacked lateral shoreline access in this area. The current width of the public shoreline is much narrower than is shown on County real property database maps.

11. Attached as **Exhibit "01"** is a true and correct copy of the July 1, 2026 certified shoreline for the property, obtained from Barry W. Cheung, State of Hawai'i Land Agent, available at:
<https://dags.hawaii.gov/maps/shoreline/Survey%20Shoreline%20Maps/Kauai/Zone%2001/K13005.053,2026.0701.pdf>.

12. Attached as **Exhibit "02"** is a true and correct copy of excerpts from the published agenda for the Commission's October 11, 2022 meeting, obtained from the Commission's website, available at: <https://www.kauai.gov/files/assets/public/v/1/boards-and-commissions/planning-commission/planning-commission-meeting-agendas/2022-10-11-planning-commission-mtg-agenda001.pdf>.

13. We are concerned about long term planning for erosion. Further west in this area, sand and rocks have been swept onto the highway during high tides and large surf. Building too close to the shoreline may limit options down the road.

14. I have graduated in 1996 with a degree in Industrial Engineering. While studying for my degree, I volunteered for seven (7) months on Kaua'i after the Hurricane Iniki. After I graduated, I moved back to Kaua'i to work as a quality control engineer at Kilauea Agronomics (Guava Kai). Currently, I am the Director of Engineering at the Grand Hyatt. Through my education, training, and work experience, I have learned to understand the impact of landscape and infrastructure changes on views and cooling prevailing winds. This knowledge will assist in any contested case on the impacts of the Applicant's proposed development.

15. I believe the proposed project may adversely impact our quality of life because it is improperly located close to the shoreline. Relocating the proposed project closer to Kamualii Highway would help assuage concerns about shoreline impacts.

16. At its currently proposed location, the project would block significant coastal breezes that function to naturally cool our home. These breezes begin by about 10:00 a.m. until after sunset on most days of the year.

17. We leave our windows open to take advantage of the ocean breezes and additionally use interior fans. Should the natural breezes be significantly blocked, we would be required to utilize air conditioning units to compensate for the blocked breezes, which would increase the cost of our electricity usage and carbon footprint.

18. I am unsure if our house's roof is eligible for solar photovoltaic installation. In any case, installation of a photovoltaic system is prohibitively expensive and would require further installation of solar batteries to power air conditioning units at night or when the solar panels are not generating electricity.

19. I am concerned about unnecessarily contributing to greenhouse gas emissions and climate change consequences; the cost of electricity on Kaua'i; the cost of installing air conditioning systems and photovoltaic systems; and the impacts of disposing of lithium batteries used for even renewable energy systems.

20. Also at its currently proposed location and height, the project will block a significant amount of our ocean view. We enjoy the aesthetics of the ocean view, but also utilize this view to check ocean conditions for surfing, padding, swimming, windsurfing other recreation along the shoreline, as well as to observe natural wildlife such as whales and birds.

21. Our house appears to be built and designed to enjoy a specific south west angle of the sun's most southern position as it sets. On the winter solstice the sunset lines up with the axis of the home, the sunset can be seen from the guest bedroom across the house. I believe the architect and the original owner of our house also expected this view to remain open, The entire house is focused on that southwest angle.

22. One of our neighbors, Keoki Magoon, constructed their home around the same time we moved in. Their home is 300 feet from the shoreline setback and does not impact the seabreezes or ocean views of our home. I believed that this setback would be applied to other shoreline construction in the area at the time we purchased our home.

23. Relocating the project closer to Kamualifi highway would result in a longer life for Applicant's property and potentially their resale value; reduce the amount of materials needed for a driveway; increase their shoreline yard area, which would be ideal for watercraft storage;

potentially allow location of Applicant's individual wastewater system further from the house; and benefit the safety, comfort, peace, and general welfare of their neighbors, including ourselves.

24. We have reached out to Applicant's representative and Applicant, but have not arrived at a solution for the project's impacts.

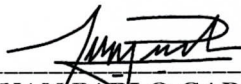
25. Based on the notice of public hearing, published August 7, 2026, our attorneys requested a copy of the "Monica C. Evslin Trust application for a Special Management Area Use Permit (SMA(U)-2027-1), Class IV Zoning Permit (Z-IV-2027-1), and Use Permit (U-2027-1)" from the Planning Department. On August 25, 2026, the Planning Department provided that application to our attorneys, but did not include a "Supplement No. 1 to the Application," which was not listed in the public hearing notice for the application. Attached as **Exhibit "03"** is a true and correct copy of the Planning Department's "Notice to Requestor", sent to our attorney, dated August 25, 2026.

26. Attached as **Exhibit "04"** is a true and correct copy of excerpts from Applicant's letter dated August 6, 2026, notifying us of the instant application.

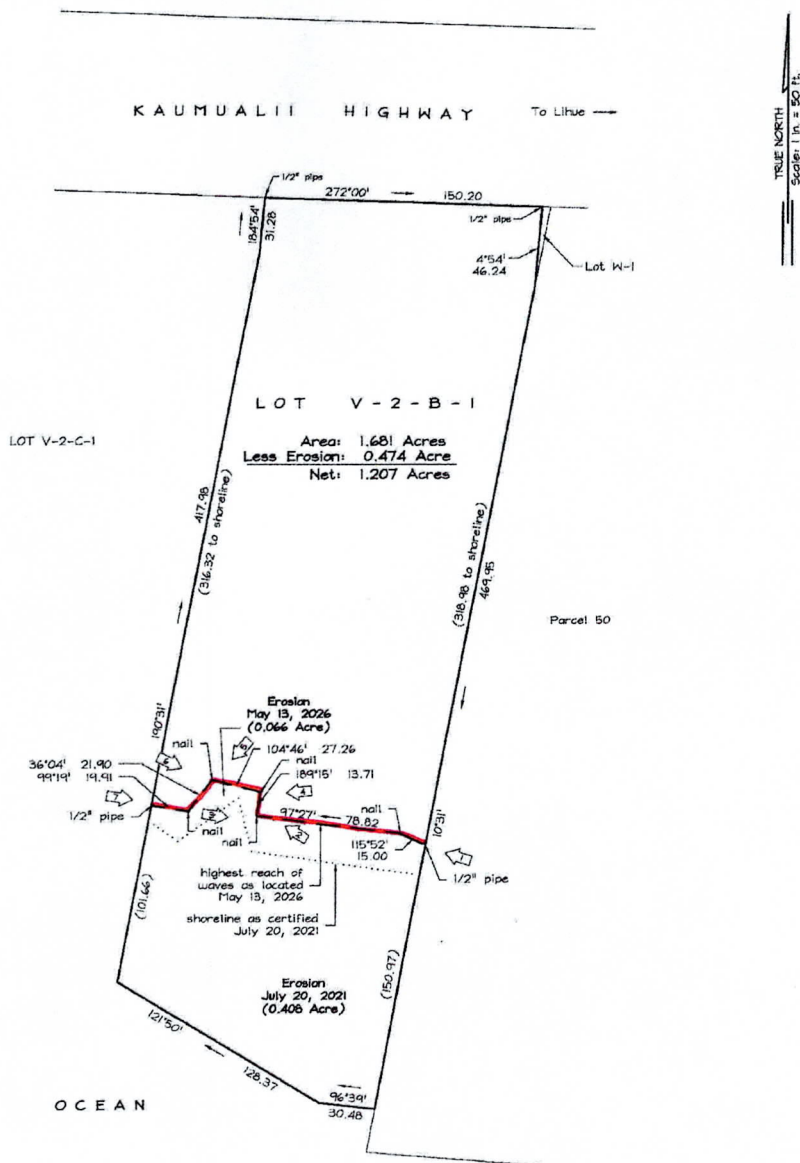
DECLARANT FURTHER SAYETH NAUGHT

DATED: Kekaha, Kaua'i

August 28, 2026



JUAN PABLO GARCIA-NEVEU
DECLARANT



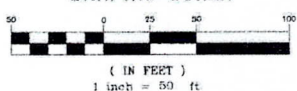
The shoreline as delineated in red is hereby certified as the shoreline as of JUL - 1 2026

[Signature]
Chairperson, Board of Land and Natural Resources

LEGEND

denotes position and number of photo

GRAPHIC SCALE



THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION

Wayne T. Wade
Signature
ESAKI SURVEYING & MAPPING, INC.
EXPIRES: APRIL 30, 2028

**SHORELINE CERTIFICATION MAP
LOT V-2-B-1**

Land Court Application 1233

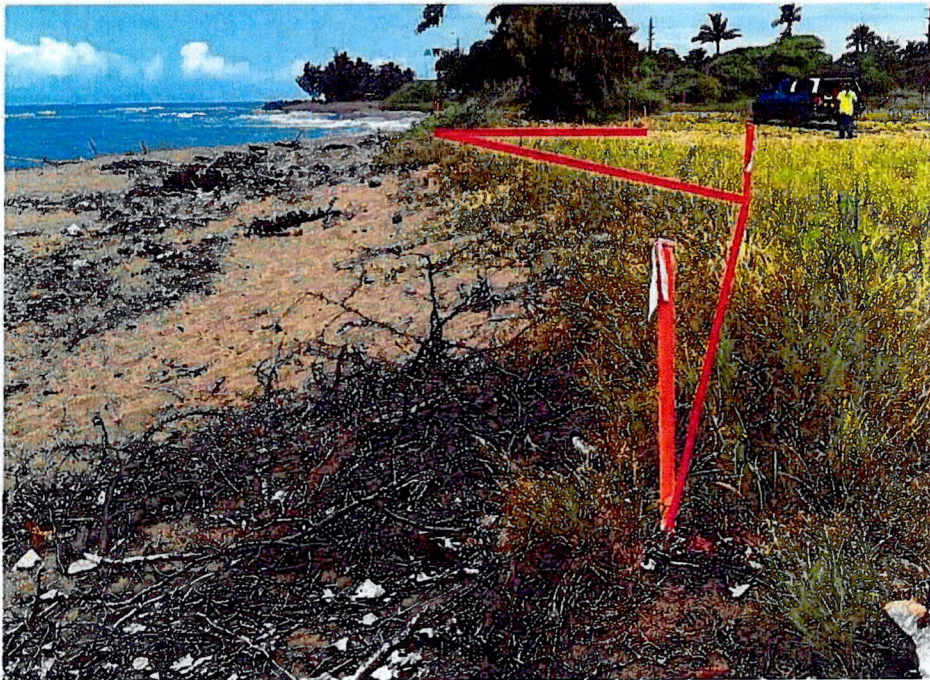
KEKAHA, WAIMEA, KAUAI, HAWAII

Tax Map Key: (4) 1-3-05: 53

Owner: Monica C. Evslin Trust

Date of Survey: May 13, 2026

EXHIBIT "01"



May 13, 2026; 10:43 am

Photo 1



May 13, 2026; 10:44 am

Photo 2



May 13, 2026; 10:44 am

Photo 3



May 13, 2026; 10:44 am

Photo 4



May 13, 2026; 10:45 am

Photo 5



May 13, 2026; 10:45 am

Photo 6



May 13, 2026; 10:45 am

Photo 7

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 11, 2022

SHORELINE SETBACK DETERMINATIONS

Application No.	Name of Applicant(s)	Property I.D. (Tax Map Key)	Location	Development/Reasons
SSD-2023-5	Monica C. Evslin Trust	1-3-005:053	Kekaha	New single-family dwelling, Guest house, Garage, Above ground pool, and related site utilities/ Shoreline certified, structures setback at 207 feet.
SSD-2023-6	SOF-XI Kaua'i PV Hotel L.P. Delaware limited partnership	5-4-011:004	Princeville	Improvements associated with Class IV Zoning Permit Z-IV-14, Use Permit U-89-4 and SMA(U)-89-4/ Certified Shoreline File no. KA-467 August 11, 2022
SSD-2023-7	Andrew Torres	3-5-002:027	Lihue	Repair of damaged balcony/ 60 foot required setback/ Deck repair located 67 feet from rocky shoreline on elevated cliff.
SSD-2023-8	Rudolph and Dora Tanzi	5-4-011:011 Unit 53	Princeville	Interior renovations/ Required setback 100 feet/ setback 210 feet on high elevated cliff.
SSD-2023-9	Cellco Partnership d.b.a. Verizon wireless	4-3-007:028	Kapa'a	Cell antenna with stealth screen wall/ Stable shoreline with a required setback of 100 feet/ proposed development approximately 388 feet from shoreline.
SSD-2023-10	Douglas and Kim Blackburn	5-5001:010	Hanalei	Chicken coop (288 s.f.)/ Accreting shoreline with a 100-foot required setback/ Proposed set back 340 feet from evidenced shoreline.

EXHIBIT "02"

SSD-2023-11	Russell and Cori Hayman	2-6-022:010	Koloa	Swimming Pool, hot tub, gas fire pit, and pool equipment slab/ Rocky shore required 100-foot setback, development proposed approximately 400 feet from evidenced shoreline.
SSD-2023-12	Craig Devereaux	5-5-003:017	Hanalei	Kitchen renovation/ Shoreline experiences accretion required 1.5 tenths of a foot per annum required setback of 60 feet, development at 500 feet

NOTICE TO REQUESTER

TO: **Bianca Isaki**
request+mmy3zmeyvh@foi.uipa.org
(Requester's name)

FROM: **County of Kaua'i Planning Department**
planningdepartment@kauai.gov
Contact Person: Chloe Matsuda
cmatsuda@kauai.gov
(Agency, and agency contact person's name, telephone number, & email address)

DATE THAT THE RECORD REQUEST WAS RECEIVED BY AGENCY: 8/25/2026

DATE OF THIS NOTICE: 8/25/2026

GOVERNMENT RECORDS YOU REQUESTED (attach copy of request or provide brief description below):

1. The Monica C. Evslin Trust application for a Special Management Area Use Permit (SMA(U)-2027-1), Class IV Zoning Permit (Z-IV-2027-1), and Use Permit (U-2027-1)

THIS NOTICE IS TO INFORM YOU THAT YOUR RECORD REQUEST:

☒ **Will be granted in its entirety**

☐ **Cannot be granted. Agency is unable to disclose the requested records for the following reason:**

☐ Agency does not maintain the records. (HRS § 92F-3)

☐ Other agency that is believed to maintain records: _____

☐ Agency needs further clarification or description of the records requested. Please contact the agency and provide the following information:

☐ Request requires agency to create a summary or compilation from records, but requested information is not readily retrievable. (HRS § 92F-11(c))

☐ **Will be granted in part and denied in part, OR** ☐ **Is denied in its entirety**

Although the agency maintains the requested records, it is not disclosing all or part of them based on the exemptions provided in HRS § 92F-13 and/or § 92F-22 or other laws cited below.

(Describe the portions of records that the agency will not disclose.)

RECORDS OR
INFORMATION WITHHELD

APPLICABLE
STATUTES

AGENCY
JUSTIFICATION

REQUESTER'S RESPONSIBILITIES:

You are required to (1) pay any lawful fees and costs assessed; (2) make any necessary arrangements with the agency to inspect, copy or receive copies as instructed below; and (3) provide the agency any additional information requested. If you do not comply with the requirements set forth in this notice within 20 business days after the postmark date of this notice or the date the agency makes the records available, you will be presumed to have abandoned your request and the agency shall have no further duty to process your request. Once the agency begins to process your request, you may be liable for any fees and costs incurred. If you wish to cancel or modify your request, you must advise the agency upon receipt of this notice.

METHOD & TIMING OF DISCLOSURE:

Records available for public access in their entirety must be disclosed within a reasonable time, not to exceed 10 business days from the date the request was received or after receipt of any prepayment required. Records not available

EXHIBIT "03"

OIP (rev. 12/1/2015)

BELLES GRAHAM LLP

ATTORNEYS AT LAW

JONATHAN J. CHUN
IAN K. JUNG

Federal I.D. No. 99-0317663

DYNASTY PROFESSIONAL BUILDING
3135 AKAHI STREET, SUITE A
LIHUE, KAUAI, HAWAII 96766-1191

TELEPHONE NO: (808) 245-4705
FACSIMILE NO: (808) 245-3277
E-MAIL: mail@kauai-law.com

OF COUNSEL

MAX W.J. GRAHAM, JR.
MICHAEL J. BELLES

August 6, 2026

VIA CERTIFIED MAIL

SUBJECT: In The Matter Of The Application Of Monica C. Evslin Trust, for a Special Management Area Permit, Use Permit and Class IV Zoning Permit for real property situated at Kekaha, Kauai, Hawaii, described as Lot V-2-B-1 of Map 7 of Land Court Application 1233, identified by Kauai Tax Map Key No. (4) 1-3-005:053

To Whom It May Concern:

Monica C. Evslin Trust (the "Applicant"), has filed the above-referenced Application with the Planning Commission of the County of Kauai.

I have enclosed a copy of a Notice from the County of Kauai Planning Department, Lihue, Kauai, Hawaii, along with a general location map (Exhibit "A") for the property in question, concerning the public hearing on the Application which will be conducted by the Planning Commission on **Tuesday, September 8, 2026, at 9:00 a.m., or soon thereafter, at the Lihue Civic Center, Mo'ikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, Hawaii.**

The purpose of the Application is to have the Planning Commission hear and consider approving 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, as shown in the Project plan set attached as Exhibit "E", as noted in the Supplemental No. 1 to the Application.

In accordance with Sections 8-3.1 and 3.2, of the Comprehensive Zoning Ordinance, as codified in the Kauai County Code, 1987, as amended, the Applicant is required to mail written notice of the Public Hearing at least twelve (12) days, and pursuant to and of Section 5 of the Special Management Area Rules and Regulations, at least twenty (20) days prior

EXHIBIT "04"

Notice Letter to Area Residents
Page 2
August 6, 2026

- Kauai'round
- Shoreline
Set back

within a three hundred-foot (300') radius of the Subject Property, as well as any other persons or entities who have requested that they be given notice of proceedings.

This Notice is being given to the persons or owners listed in the current Notice of Real Property Assessment Card File located at the Real Property Division of the Department of Finance of the County of Kauai. Consequently, we are sending you a copy of the enclosed Notice.

A copy of the Application is available for your review at the Planning Department of the County of Kauai, at 4444 Rice Street, Suite 473, Lihue, Kauai, Hawaii.

In the event you have any questions concerning the Application, or in the event you are in need of any further information or clarification regarding the Application or the matters described in this letter, please feel free to contact me at (808) 245-2163.

Sincerely yours,

BELLES GRAHAM LLP



Ian K. Jung

IKJ:jaug
Enclosures

COUNTY OF KAUAI PLANNING COMMISSION – 4444 Rice Street, Suite A473, Lihue, Kauai, Hawaii, 96766, tel: (808) 241-4050, email: planningdepartment@kauai.gov.

NOTICE IS HEREBY GIVEN of an **agency hearing with a public hearing and an opportunity for public testimony** from all interested persons to be held by the Kaua'i Planning Commission pursuant to the provisions of Special Management Area Rules, Kauai County Code, Chapter 8, as amended, Hawaii Revised Statutes (HRS) Chapter 92 and 91, and the Rules of Practice and Procedure of the County of Kauai Planning Commission. The hearing will be held regarding the following:

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 Kaunualii 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.

Meeting Location: Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B,
4444 Rice Street, Lihue, Kaua'i, Hawai'i

* Interested parties should look to the Planning Commission Agenda for September 8, 2026, for final determination of location.

Date: September 8, 2026

Time: 9:00 a.m. or shortly thereafter

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

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

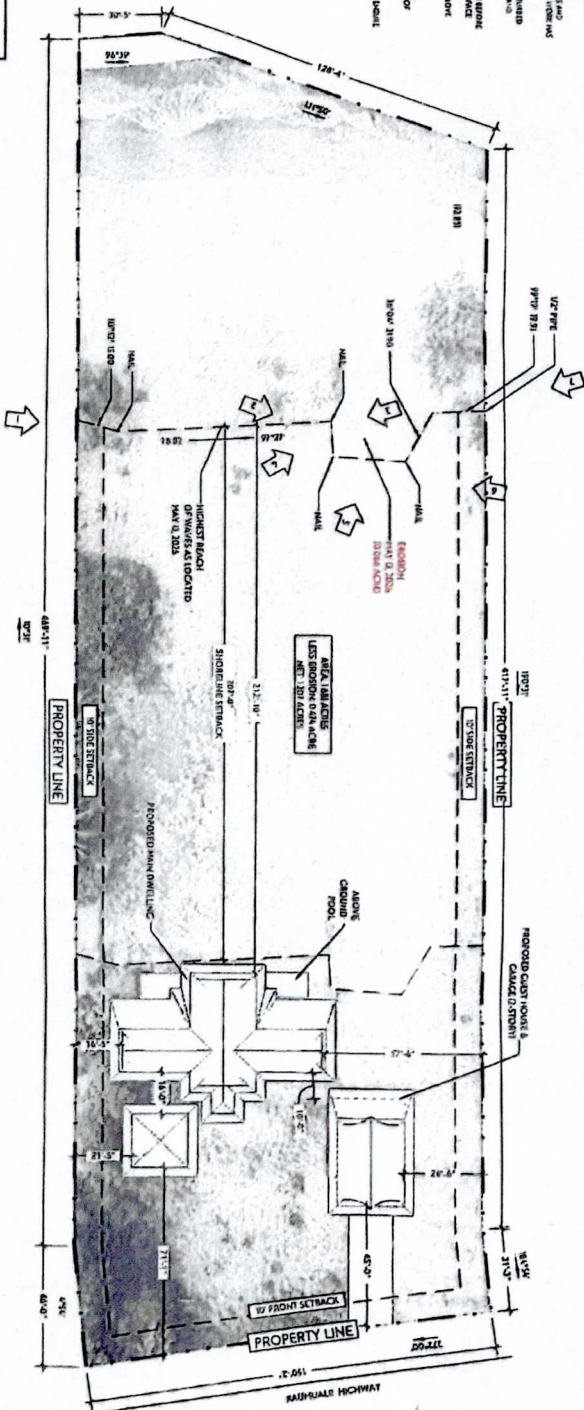
IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR ADAVIS@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO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

Publication Date: August 7, 2026

SITE PLAN GENERAL NOTES:

1. THE CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF HONOLULU, HAWAII, ORDINANCE NO. 15-01, WHICH PROVIDES FOR THE CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT.
2. THE CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF HONOLULU, HAWAII, ORDINANCE NO. 15-01, WHICH PROVIDES FOR THE CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT.
3. THE CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF HONOLULU, HAWAII, ORDINANCE NO. 15-01, WHICH PROVIDES FOR THE CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT.
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6. THE CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF HONOLULU, HAWAII, ORDINANCE NO. 15-01, WHICH PROVIDES FOR THE CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT.
7. THE CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF HONOLULU, HAWAII, ORDINANCE NO. 15-01, WHICH PROVIDES FOR THE CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT.
8. THE CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF HONOLULU, HAWAII, ORDINANCE NO. 15-01, WHICH PROVIDES FOR THE CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT.
9. THE CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF HONOLULU, HAWAII, ORDINANCE NO. 15-01, WHICH PROVIDES FOR THE CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT.
10. THE CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF HONOLULU, HAWAII, ORDINANCE NO. 15-01, WHICH PROVIDES FOR THE CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT.

EXHIBIT "E"



PROJECT INFORMATION	
PROJECT NAME	MONICA C TRUST
PROJECT ADDRESS	8808 KAUMAUHI HWY, KEEKAHA, HI 96752
PROJECT OWNER	MONICA C TRUST
PROJECT ARCHITECT	MONICA C TRUST
PROJECT ENGINEER	MONICA C TRUST
PROJECT LANDSCAPE ARCHITECT	MONICA C TRUST
PROJECT CIVIL ENGINEER	MONICA C TRUST
PROJECT ELECTRICAL ENGINEER	MONICA C TRUST
PROJECT MECHANICAL ENGINEER	MONICA C TRUST
PROJECT PLUMBING ENGINEER	MONICA C TRUST
PROJECT FIRE ENGINEER	MONICA C TRUST
PROJECT HISTORIC ARCHITECT	MONICA C TRUST
PROJECT HISTORIC ENGINEER	MONICA C TRUST
PROJECT HISTORIC LANDSCAPE ARCHITECT	MONICA C TRUST
PROJECT HISTORIC CIVIL ENGINEER	MONICA C TRUST
PROJECT HISTORIC ELECTRICAL ENGINEER	MONICA C TRUST
PROJECT HISTORIC MECHANICAL ENGINEER	MONICA C TRUST
PROJECT HISTORIC PLUMBING ENGINEER	MONICA C TRUST
PROJECT HISTORIC FIRE ENGINEER	MONICA C TRUST
PROJECT HISTORIC HISTORIC ARCHITECT	MONICA C TRUST
PROJECT HISTORIC HISTORIC ENGINEER	MONICA C TRUST
PROJECT HISTORIC HISTORIC LANDSCAPE ARCHITECT	MONICA C TRUST
PROJECT HISTORIC HISTORIC CIVIL ENGINEER	MONICA C TRUST
PROJECT HISTORIC HISTORIC ELECTRICAL ENGINEER	MONICA C TRUST
PROJECT HISTORIC HISTORIC MECHANICAL ENGINEER	MONICA C TRUST
PROJECT HISTORIC HISTORIC PLUMBING ENGINEER	MONICA C TRUST
PROJECT HISTORIC HISTORIC FIRE ENGINEER	MONICA C TRUST

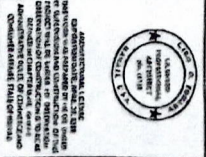
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PRELIMINARY NOT FOR CONSTRUCTION

1 SITE PLAN

A01.1

EYSLIN, MONICA C TRUST
CUSTOM RESIDENCE
8808 KAUMAUHI HWY
KEEKAHA, HAWAII, 96752
(41) 3-005-053



BEFORE THE KAUAI PLANNING COMMISSION

COUNTY OF KAUAI

STATE OF HAWAII

In the Matter of the Application of:) Permit Nos. SMA(U)-2027-1, U-2027-1, and Z-
MONICA C. EVSLIN TRUST) IV-2027-1
)
) CERTIFICATE OF SERVICE
)
_____)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a copy of the foregoing was filed, hand-delivered or sent via U.S. certified mail pursuant to Kauai Planning Commission Rule §1-3-3 to the following:

VIA HAND-DELIVERY

KAUAI PLANNING DEPARTMENT
4444 Rice Street, Suite A473
Lihue, Hawaii 96766.

VIA CERTIFIED MAIL

IAN K. JUNG
BELLES GRAHAM LLP
3135 Akahi Street, #A
Lihue, Kauai, Hawaii 96766

Attorney for Applicant
MONICA C. EVSLIN TRUST

DATED: Honolulu, Hawaii

August 31, 2026

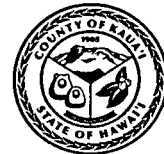
/s/ Bianca K. Isaki
LAW OFFICE OF BIANCA ISAKI
BIANCA ISAKI

/s/ Ryan D. Hurley
LAW OFFICE OF RYAN D. HURLEY
RYAN D. HURLEY
Attorneys for Petitioners
JUAN PABLO GARCIA-NEVEU &
PAMELA GARCIA-NEVEU

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

DIRECTOR'S REPORT

I. SUMMARY

Action Required by
Planning Commission:

Consideration for an amendment to Chapter 8, Kaua'i County Code 1987, as amended Comprehensive Zoning Ordinance (CZO), to establish apiaries as a permitted use within Residential and other districts.

Permit Application Nos.

Zoning Amendment ZA-2026-8

Name of Applicant(s)

KAUA'I COUNTY COUNCIL

II. PERMIT INFORMATION

PERMITS REQUIRED	
☐ Use Permit	
☐ Project Development Use Permit	
☐ Variance Permit	
☐ Special Permit	
☐ Zoning Permit Class ☐ IV ☐ III	
☐ Special Management Area Permit ☐ Use ☐ Minor	
AMENDMENTS	
☒ Zoning Amendment	Pursuant to Section 8-3.4(a), Kaua'i County Code 1987, as amended, a Zoning Amendment is required because the proposal amends the text of the Comprehensive Zoning Ordinance by establishing apiaries as a permitted use within Residential and other zoning districts.
☐ General Plan Amendment	
☐ State Land Use District Amendment	

Date of Receipt of Completed Application: N/A

F.3.a.
SEP 08, 2026

G.4.b.1.
AUG 11 2026

Date of Director's Report: July 30, 2026

Date of Public Hearing: August 11, 2026

**Deadline Date for PC to Take Action (60TH
Day):** N/A

III. LEGAL REQUIREMENTS

Section 8-3.4, Kaua'i County Code 1987, as amended:	Pursuant to Section 8-3.4 of the Kaua'i County Code 1987, as amended, the County of Kaua'i has initiated a countywide Zoning Amendment to amend the text of Chapter 8, Comprehensive Zoning Ordinance. The proposed amendment establishes apiaries as a permitted use within Residential zoning districts and adopts supplemental development and operational standards governing that use. In accordance with Section 8-3.4(d), the Planning Commission shall consider the purposes of the existing and proposed changes to the Comprehensive Zoning Ordinance and determine whether the proposed amendment furthers the public necessity and convenience and the general welfare before making its recommendation to the County Council.
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IV. DESCRIPTION OF THE PROPOSED BILL

The proposed ordinance amends Chapter 8 of the Kaua'i County Code (KCC) 1987 to establish apiaries as a defined land use and authorize apiaries as a permitted use within specified zoning districts, subject to standards intended to protect public health, safety, neighboring properties, and agricultural resources.

The amendment adds new definitions for Apiary, Africanized Honeybee, Colony, Flyover Barrier, and Hive, and amends existing definitions relating to animals and livestock to recognize managed honeybees. The ordinance also incorporates Apiary into the Comprehensive Zoning Ordinance (CZO) Table of Uses as a permitted use within designated zoning districts (Residential, Resort, Commercial General and Neighborhood, Industrial and Light Industrial, Open, and University districts) and establishes standards governing hive placement, setbacks, colony density, flyover barriers, hive management, nuisance prevention, and reporting requirements.

The proposed amendment recognizes apiaries as a low-intensity land use that may be compatible with residential and other zoning districts when operated in accordance with established performance standards. Rather than authorizing unrestricted beekeeping, the ordinance establishes a comprehensive regulatory framework intended to promote responsible apiary management while

minimizing potential impacts on adjacent properties through clear and objective development and operational requirements.

Please refer to Exhibit A for the proposed bill language and additional details.

V. AMENDMENT JUSTIFICATION

Honeybees perform an essential ecological function through the pollination of flowering plants, fruit trees, vegetable crops, and other agricultural commodities. Pollination by managed honeybees contributes significantly to agricultural productivity, biodiversity, and ecosystem health. It is estimated that approximately one-third of the global food supply relies directly or indirectly on insect pollination, making pollinators a critical component of sustainable food systems.

Kaua'i possesses one of the world's few remaining Varroa destructor mite-free honeybee populations, making the island uniquely important for bee hive cultivation, honeybee research, and statewide agricultural biosecurity. Hawai'i's queen bee industry supplies breeding stock to beekeepers throughout the United States and internationally, and Kaua'i plays a significant role in maintaining healthy honeybee genetics. The Hawai'i Department of Agriculture, the University of Hawai'i, and Kaua'i Community College have recognized the importance of preserving healthy managed honeybee populations through research, education, and responsible beekeeping practices.

Managed honeybee colonies provide pollination services for numerous agricultural crops cultivated on Kaua'i, including coffee, citrus, avocado, macadamia, cucumbers, squash, lilikoi, herbs, and other fruits and vegetables. These pollination services contribute to agricultural productivity, support local food production, and strengthen the long-term viability of diversified agriculture throughout the island.

Although beekeeping has long occurred throughout Kaua'i, the CZO does not currently explicitly call out apiaries as a defined land use or establish uniform standards governing their operation within residential and other zoning districts. The absence of clear regulations creates uncertainty for property owners, neighboring residents, and County staff regarding where apiaries may be located and the operational standards applicable to their management.

The proposed ordinance addresses this regulatory gap by establishing apiaries as a defined land use within the CZO and adopting objective development and operational standards governing hive placement, setbacks, colony density, flyover barriers, nuisance prevention, and hive management. These standards are intended to promote responsible beekeeping while protecting public health, safety, neighborhood compatibility, and agricultural resources through a clear and consistent regulatory framework.

Residential beekeeping has been successfully regulated in numerous jurisdictions through objective operational standards similar to those proposed by this ordinance. Cities including Honolulu, Los Angeles, San Francisco, New York City, Boston, Chicago, and Vancouver permit residential apiaries subject to standards governing hive density, setbacks, flyover barriers, water sources, and nuisance prevention. These examples demonstrate that residential beekeeping can be effectively regulated while maintaining compatibility with surrounding neighborhoods.

VI. AGENCY COMMENTS

Attached through separate transmittal.

VII. EVALUATION

1. Kaua'i General Plan

The proposed zoning amendment was evaluated through the following policies of the General Plan, as taken from Sections 1.4 and 3.0:

a. Section 1.4, entitled "POLICIES TO GUIDE GROWTH"

- i. Policy #1: "Manage Growth to Preserve Rural Character" - Apiaries are a low-intensity agricultural land use that generally require minimal site improvements and have limited impacts on surrounding land uses when operated in accordance with established performance standards. Unlike more intensive agricultural or commercial uses, apiaries do not typically generate significant traffic, demand additional public infrastructure, or alter the physical development pattern of a neighborhood. The proposed amendment establishes objective operational standards—including setbacks, hive density limitations, flyover barriers, water source requirements, hive management practices, and nuisance prevention measures—to ensure apiaries remain compatible with surrounding residential and rural areas.

The proposed amendment does not expand the geographic extent of urban development, modify zoning district boundaries, increase allowable residential density, or alter the County's adopted growth management framework. Rather, it provides a clear and predictable regulatory framework for an existing agricultural activity while preserving the rural character and low-intensity land use pattern envisioned by the Kaua'i Kākou General Plan. By regulating apiaries through objective standards rather than discretionary review, the amendment promotes consistency in administration while balancing agricultural opportunities with the protection of neighboring properties and the public health, safety, and welfare.

- ii. Policy #11: "Help Agriculture Lands Be Productive"-The proposed amendment is generally consistent with Policy #11 of the Kaua'i General Plan, by recognizing apiaries as a defined land use and establishing objective development and operational standards governing their operation. Managed honeybee colonies provide pollination services that support agricultural productivity, crop diversity, and local food production for both commercial and small-scale agricultural operations. By providing a clear regulatory framework for apiaries, the amendment supports agricultural diversification while improving regulatory certainty for property owners and the County's administration of the CZO. The amendment also advances the General Plan's implementation actions encouraging small-scale diversified farming, including apiaries, as a component of Kaua'i's agricultural economy.

- iii. Policy #15: “Respect Native Hawaiian Rights and Wahi Pana” - This Policy seeks to perpetuate traditional Native Hawaiian rights and protect public trust resources and cultural sites in land use development and activities. The proposed amendment establishes countywide zoning regulations governing apiaries without modifying the County's existing obligations to protect traditional and customary Native Hawaiian rights, public trust resources, or cultural sites. The amendment does not alter zoning district boundaries, authorize site-specific development, or diminish the constitutional protections afforded under Article XII, Section 7 of the Hawai'i Constitution. Future discretionary land use approvals, where applicable, will continue to be reviewed in accordance with applicable constitutional protections and cultural and historic resource review requirements.
- b. Section 3.0 Actions by Sector, Subsection Sector VI, entitled "Economy" states for partnership needs:
 - i. Increase small-scale diversified farming, including, but not limited to, fruits and vegetables, building materials, medicinal plants, aquaculture, apiaries, flowers, and livestock.

The proposed amendment directly advances this implementation action by recognizing apiaries as a defined land use within the CZO and establishing objective development and operational standards governing their use. By providing a clear regulatory framework for apiaries, the amendment supports small-scale diversified agriculture while promoting regulatory consistency and compatibility with surrounding residential and rural land uses. The amendment also expands opportunities for pollination services that benefit home gardens, orchards, and commercial agricultural operations, thereby supporting local food production and agricultural resilience consistent with the General Plan's agricultural objectives.

2. Community Plans

The proposed zoning amendment to Chapter 8, CZO, establishing apiaries as a defined land use and adopting objective operational standards governing their use. The amendment does not modify Community Plan boundaries, Future Land Use designations, Special Planning Area (SPA) boundaries, regulating plans, or the design standards established under Chapter 10 of the KCC 1987.

The West Kaua'i Community Plan Implementing Ordinance and the South Kaua'i Community Plan establish Special Planning Areas administered through their respective Form-Based Codes. These Form-Based Codes supplement the provisions of Chapter 8 within the designated Special Planning Areas by establishing additional development and design standards. Where the Form-Based Code modifies or conflicts with Chapter 8, the applicable Form-Based Code provisions govern within the Special Planning Area. Because the proposed amendment does not amend Chapter 10 or the Form-Based Codes, no amendments to those implementing ordinances are necessary.

3. CZO Amendment

a. Definitions

In evaluating the proposed bill's new definitions, including 'Africanized honeybee,' 'Animals,' 'Apiary,' 'Bee,' 'Beekeeper,' 'Colony,' 'Flyover barrier,' and 'Hive,' these definitions were deemed appropriate given their usage in the proposed bill's new standards and provisions, in which they provide clarification on technical apiary terms.

The proposed definition of "Livestock" is not considered appropriate because the existing definition in the Comprehensive Zoning Ordinance adequately serves its intended regulatory purpose. The proposed bill separately establishes "Apiary" as a distinct land use with its own definition and operational standards; therefore, revising the definition of "Livestock" is unnecessary. Accordingly, the existing definition of "Livestock" should be retained.

b. Table of Uses

As specified in Section 8-2.4 (Table of Uses) of the KCC 1987, apiaries are not currently identified as a distinct land use. Consequently, apiary operations are administered under comparable use classifications because apiaries are not expressly identified in the Table of Uses. Under the current regulations, apiary operations are permitted by right in the Agriculture zoning district and require a Use Permit in Residential, Resort, Commercial General and Commercial Neighborhood, Industrial and Light Industrial, Open, and University districts.

The proposed bill establishes "Apiary" as a distinct land use within the CZO and permits the use in all zoning districts, subject to the proposed operational standards. This eliminates the need to classify apiary operations under a comparable use classification and provides a uniform regulatory framework for the review and operation of apiaries throughout the county.

Zoning District	Compatibility	Potential Issues
Residential	Compatible as a low-intensity land use that requires minimal permanent improvements and can be operated in conjunction with residential uses when conducted in accordance with the ordinance's operational standards.	Compatibility with adjacent residences, public safety, nuisance concerns, and bee interactions with neighboring properties.
Resort	Compatible as a low-intensity ancillary use that may support agricultural, landscaping, educational, or sustainability initiatives associated with resort properties.	Interaction with visitors and outdoor recreational areas.
Commercial General/ Commercial Neighborhood	Compatible with low-intensity commercial and agricultural enterprises where managed in accordance with the ordinance.	Pedestrian activity and compatibility with customer-oriented businesses.

Industrial/ Light Industrial	Compatible with agricultural processing, queen bee production, honey processing, and related agricultural enterprises.	Worker safety and compatibility with surrounding industrial activities.
Open	Compatible as a low-intensity agricultural use that requires minimal site improvements and requires minimal site improvements and is compatible with the low-intensity character of the Open District.	Compatibility with recreational uses and protection of sensitive natural resources.
University	Compatible with educational, research, and extension activities involving agriculture, pollinators, and environmental sciences.	Student and visitor interaction and compatibility with campus circulation.

To address the potential issues identified, the proposed ordinance establishes uniform operational standards governing hive placement, setbacks, maximum hive density, flyover barriers, water source requirements, colony management, and nuisance prevention. These standards apply uniformly across all zoning districts where apiaries are permitted and are intended to minimize potential conflicts with surrounding land uses and promote compatibility.

c. Section 8-1.4

The proposed bill amends Section 8-1.4 by establishing new subsections 8-1.4(j)-8-1.4(n), which reads as follows:

“(j) A Beekeeper shall:

- (1) Inspect their apiary and implement measures to prevent and mitigate nuisance activities, ensuring the health of the apiary and public health and safety;
- (2) Maintain colonies in hives with removable frames, that are kept weatherproof and free from rot or infestation;
- (3) Maintain an adequate and accessible supply of fresh water on-site, including landing sites for the honeybees to drink from;
- (4) Protect hives from bright lights at night;
- (5) Manage colonies to prevent swarming; and
- (6) Practice fire safety when using a bee smoker and ensure the smoker is completely extinguished following use.

(k) Nuisance complaints, such as aggressive bee behavior or other activity that disrupts or impedes public health and safety, shall be filed with the Vector Control Branch of the State Department of Health.

- (l) Detection of Africanized honeybees shall be reported to the State Department of Agriculture.
- (m) There shall be no more than fifteen (15) honeybee hives on any lot less than twenty thousand (20,000) square feet; provided that, upon application, the Director may authorize a greater amount of hives on a lot if the Director finds in writing that the number of additional hives will not impair the purposes of this section.
- (n) No honeybee hive shall be located within twenty-five (25) feet of any property line except where a flyover barrier is situated between a honeybee hive and the property line, then the honeybee hive shall not be located within fifteen (15) feet from the property line."

The proposed operational standards are appropriate, as they are consistent with recognized apiary management practices and were developed in consultation with the University of Hawai'i Kaua'i Community College Apiary Research Associate. However, as currently drafted, subsections (j) through (n) would become general provisions within the Application of Regulations. Although each subsection pertains to apiary operations, they are written as standalone requirements, which could be interpreted as countywide regulations of general applicability rather than standards specific to the use of apiaries. Accordingly, it would be more appropriate to consolidate these provisions under a single subsection establishing the operational standards applicable to apiaries. This approach would improve the organization and readability of the Comprehensive Zoning Ordinance while clearly identifying the standards that govern apiary operations. To accomplish this, the proposed bill could be revised as follows:

"(j) Apiary Operations. Apiary operations shall comply with the following requirements:

(1) A Beekeeper shall:

- (A) Inspect their apiary and implement measures to prevent and mitigate nuisance activities, ensuring the health of the apiary and public health and safety;
- (B) Maintain colonies in hives with removable frames, that are kept weatherproof and free from rot or infestation;
- (C) Maintain an adequate and accessible supply of fresh water on-site, including landing sites for the honeybees to drink from;
- (D) Protect hives from bright lights at night;
- (E) Manage colonies to prevent swarming; and
- (F) Practice fire safety when using a bee smoker and ensure the smoker is completely extinguished following use.

- (2) Nuisance complaints, such as aggressive bee behavior or other activity that disrupts or impedes public health and safety, shall be filed with the Vector Control Branch of the State Department of Health.
- (3) Detection of Africanized honeybees shall be reported to the State Department of Agriculture.
- (4) There shall be no more than fifteen (15) honeybee hives on any lot less than twenty thousand (20,000) square feet; provided that, upon application, the Director may authorize a greater amount of hives on a lot if the Director finds in writing that the number of additional hives will not impair the purposes of this section.
- (5) No honeybee hive shall be located within twenty-five (25) feet of any property line except where a flyover barrier is situated between a honeybee hive and the property line, then the honeybee hive shall not be located within fifteen (15) feet from the property line.”

Flyover barriers are a widely recognized best management practice for promoting compatibility between apiary operations and surrounding land uses. By directing bee flight paths upward as bees leave and return to the hive, flyover barriers reduce the potential for interactions with neighboring properties, pedestrians, and domestic animals. In consultation with the University of Hawai'i Kaua'i Community College Apiary Program Research Associate, Staff identified additional best management practices that would further strengthen the proposed operational standards. Accordingly, Staff recommends incorporating the following provisions into Section 8-1.4 under the proposed apiary standards:

“(6) Flyover barrier shall:

- (A) Be located no more than five (5) feet of and directly in front of the hive entrance;
- (B) Have a minimum height of six (6) feet above existing grade;
- (C) Extend at least two (2) feet beyond each side of the hive or groups of hives it serves;
- (D) Consists of a solid wall, fence, dense vegetation, hedge, screening, or combination thereof that effectively obstruct the horizontal flight path of departing bees from the hive entrance and redirects bee flight upward before reaching adjacent property boundaries or pedestrian areas; and
- (E) Shall be maintained in good condition at all times to ensure continued effectiveness;
- (F) Where vegetation is used as a flyover barrier, initial planting may be installed at a minimum height of four (4) feet, provided the vegetation is expected to reach

a minimum height of six (6) feet within twenty-four (24) months of installation and is maintained to provide continuous screening.

(G) A single flyover barrier may serve multiple hives.”

These standards will further enhance the effectiveness of flyover barriers.

4. Special Management Area (SMA)

The proposed amendment is generally consistent with the purpose and administration of the County of Kaua'i Special Management Area Rules and Regulations. The amendment establishes countywide zoning regulations governing apiaries but does not authorize site-specific development or alter existing Special Management Area permitting requirements. Any future development constituting “development” within the Special Management Area will remain subject to the County's Special Management Area Rules and Regulations and all applicable permitting requirements.

5. Hawai'i Constitution (Article XII, Section 7)

The proposed amendment establishes countywide zoning regulations governing apiaries and does not modify or diminish the County's existing obligations under Article XII, Section 7 or the constitutional protections afforded to traditional and customary Native Hawaiian rights. The proposed amendment is not anticipated to alter the County's responsibility to consider and protect those rights during future discretionary land use approvals, where applicable, in accordance with constitutional requirements and any applicable cultural and historic resource review requirements.

VIII. AGENCY COMMENTS

Attached through separate transmittal.

IX. PRELIMINARY CONCLUSION

Based on the foregoing, it is concluded that the proposed zoning amendment establishes a reasonable and objective regulatory framework for the recognition and operation of apiaries within the CZO. The proposed amendment is not anticipated to result in significant adverse impacts to the public health, safety, welfare, or surrounding land uses, as objective operational standards are established to govern hive placement, colony density, setbacks, flyover barriers, nuisance prevention, and hive management.

It is further concluded that the proposed zoning amendment is generally consistent with the goals, objectives, and policies of the Kaua'i Kākou General Plan, applicable Community Plans, Chapter 10 of the KCC 1987, County of Kaua'i SMA Rules and Regulations, and the CZO, in that:

1. The amendment establishes objective development and operational standards intended to minimize potential impacts associated with apiary operations while promoting compatibility with surrounding land uses.

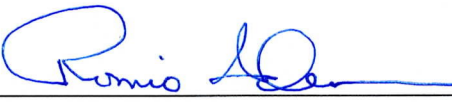
2. The amendment supports agricultural productivity, local food production, and responsible beekeeping while providing a clear and consistent regulatory framework for the administration and enforcement of apiaries within the County.
3. The amendment is generally consistent with the goals, objectives, and policies of the Kaua'i Kākou General Plan, applicable Community Plans, the CZO, and other applicable provisions of State and County law.
4. The amendment does not modify zoning district boundaries, residential densities, Community Plan boundaries, or regulating plans, and does not diminish existing constitutional protections afforded to traditional and customary Native Hawaiian rights.

Accordingly, the proposed zoning amendment represents a measured update to the CZO that recognizes apiaries as a legitimate land use while balancing agricultural interests, neighborhood compatibility, and the protection of the public health, safety, and welfare.

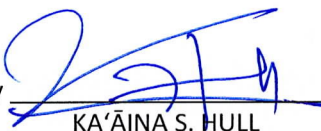
X. PRELIMINARY RECOMMENDATION

Based on the foregoing evaluation and conclusions, it is recommended that Zoning Amendment ZA-2026-8 be **APPROVED**, subject to the following revisions. (See Exhibit "B")

1. Retain the existing definition of "Livestock" in Section 8-1.5 because the proposed definition is unnecessary given that the ordinance establishes "Apiary" as a separate defined land use with its own operational standards.
2. Consolidate the proposed apiary operational standards into a single subsection entitled "Apiary Operations" within Section 8-1.4.
3. Incorporate additional flyover barrier standards based upon consultation with the University of Hawai'i Kaua'i Community College Apiary Program Research Associate to promote compatibility with surrounding land uses.

By 
ROMIO IDICA
Planner

Approved & Recommended to Commission:

By 
KA'AINA S. HULL
Director of Planning

Date: 7/22/2026

EXHIBIT “A”

ORDINANCE NO. _____

BILL NO. 2997?

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 8,
KAUA'I COUNTY CODE 1987, AS AMENDED,
RELATING TO APIARIES AND BEEKEEPING**

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

SECTION 1. Findings and Purpose. Bees play a vital role in supporting mankind, agriculture, and native ecosystems by pollinating food crops. In addition, they provide useful products, such as honey, wax, and queen bees, because Hawaii's tropical weather, climate, and diverse plant life provide optimal conditions for year-round breeding of queen bees. Queen bees are exported to assist with ensuring a more genetically diverse, adaptive and resilient global bee stock. Supporting year-round bee activity by planting non-invasive seasonal flowers and species suitable to the regional climate.

The purpose of this Ordinance is to promote beekeeping in Kaua'i County by establishing generally accepted apiary management practices for sound and sustainable beekeeping practice and adding apiaries to the list of allowable uses in various zoning districts. Nothing in this article is intended to conflict with any State or Federal law.

SECTION 2. Chapter 8, Section 8-1.5 (Definitions), Kaua'i County Code 1987, as amended, is hereby amended by adding new definitions to be appropriately inserted and to read as follows:

"Africanized honeybee" means all life stages of the animal subspecies *Apis mellifera scutellata* or *Apis mellifera adansonii*.

"Animals" unless provided otherwise, include but are not limited to those animals that are customary and usual pets such as dogs, cats, rabbits, birds, and other beasts which are maintained on the premises of a dwelling unit and kept by the resident of a dwelling unit solely for personal enjoyment and companionship, such as, without limitation, for a hobby, for legal sporting activities and for guarding of property. Animals shall also include honeybees and exclude aviary game birds and fish as defined in Hawai'i Revised Statutes.

"Apiary" means a site where one or more colonies of bees and beehives are kept and maintained.

"Bee" or "honeybee" means all life stages of the common domesticated honeybee European subspecies Apis Mellifera. This definition does not include wasps, hornets, African subspecies, or Africanized hybrids.

"Beekeeper" means a person who intentionally owns, operates, maintains, possesses or otherwise is in charge of an apiary.

"Colony" means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.

"Flyover barrier" means a solid wall, fence, or dense vegetation, or combination thereof, that encourages honeybees to fly over rather than through the barrier.

"Hive" means a container or receptacle housing a bee colony and includes moveable frame structures to facilitate the colony's development.

"Livestock" means all animals generally associated with farming, which are raised or kept for food and other agricultural purposes. Such animals include swine, cattle, horses, goats, sheep, chickens, ducks, geese, turkey, and other poultry, rabbits, and bees."

SECTION 3. Chapter 8, Section 8-2.4 (Table of Uses), Kaua'i County Code 1987, as amended, is hereby amended by adding a new subsection 8-2.4(y), to be appropriately inserted and to read as follows:

"

Table 8-2.4 Table of Uses		ZONING DISTRICT									
Sec.	USE	Residential		Commercial		Industrial					
		R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV
8-2.4(y)	Apiary	P	P	P	P	P	P	P	P	P	P

"

SECTION 4. Chapter 8, Section 1.4, Kaua'i County Code 1987, as amended, is hereby amended by establishing a new subsection 8-1.4(j) – 8-1.4(n) to be appropriately inserted and to read as follows:

"(j) A Beekeeper shall:

- (1) Inspect their apiary and implement measures to prevent and mitigate nuisance activities, ensuring the health of the apiary and public health and safety;
- (2) Maintain colonies in hives with removable frames, that are kept weatherproof and free from rot or infestation;

- (3) Maintain an adequate and accessible supply of fresh water on-site, including landing sites for the honeybees to drink from;
- (4) Protect hives from bright lights at night;
- (5) Manage colonies to prevent swarming; and
- (6) Practice fire safety when using a bee smoker and ensure the smoker is completely extinguished following use.
- (k) Nuisance complaints, such as aggressive bee behavior or other activity that disrupts or impedes public health and safety, shall be filed with the Vector Control Branch of the State Department of Health.
- (l) Detection of Africanized honeybees shall be reported to the State Department of Agriculture.
- (m) There shall be no more than fifteen (15) honeybee hives on any lot less than twenty thousand (20,000) square feet; provided that, upon application, the Director may authorize a greater amount of hives on a lot if the Director finds in writing that the number of additional hives will not impair the purposes of this section.
- (n) No honeybee hive shall be located within twenty-five (25) feet of any property line except where a flyover barrier is situated between a honeybee hive and the property line, then the honeybee hive shall not be located within fifteen (15) feet from the property line."

SECTION 5. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 6. 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 7. This Ordinance shall take effect upon its approval.

Introduced by:

A handwritten signature in black ink, appearing to read 'Addison Bulosan', written over a horizontal line.

ADDISON BULOSAN

A handwritten signature in black ink, appearing to read 'Fern Holland', written in a cursive style.

FERN HOLLAND

DATE OF INTRODUCTION:

Līhu'e, Kaua'i, Hawai'i

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EXHIBIT “B”

ORDINANCE NO. _____

BILL NO. _____

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 8,
KAUA'I COUNTY CODE 1987, AS AMENDED,
RELATING TO APIARIES AND BEEKEEPING**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Findings and Purpose. Bees play a vital role in supporting mankind, agriculture, and native ecosystems by pollinating food crops. In addition, they provide useful products, such as honey, wax, and queen bees, because Hawai'i's tropical weather, climate, and diverse plant life provide optimal conditions for year-round breeding of queen bees. Queen bees are exported to assist with ensuring a more genetically diverse, adaptive and resilient global bee stock. Supporting year-round bee activity by planting non-invasive seasonal flowers and species suitable to the regional climate.

The purpose of this Ordinance is to promote beekeeping in Kaua'i County by establishing generally accepted apiary management practices for sound and sustainable beekeeping practice and adding apiaries to the list of allowable uses in various zoning districts. Nothing in this article is intended to conflict with any State or Federal law.

SECTION 2. Chapter 8, Section 8-1.5 (Definitions), Kaua'i County Code 1987, as amended, is hereby amended by adding new definitions to be appropriately inserted and to read as follows:

"Africanized honeybee" means all life stages of the animal subspecies *Apis mellifera scutellata* or *Apis mellifera adansonii*.

"Animals" unless provided otherwise, include but are not limited to those animals that are customary and usual pets such as dogs, cats, rabbits, birds, and other beasts which are maintained on the premises of a dwelling unit and kept by the resident of a dwelling unit solely for personal enjoyment and companionship, such as, without limitation, for a hobby, for legal sporting activities and for guarding of property. Animals shall also include honeybees and exclude aviary game birds and fish as defined in Hawai'i Revised Statutes.

"Apiary" means a site where one or more colonies of bees and beehives are kept and maintained.

“Bee” or “honeybee” means all life stages of the common domesticated honeybee European subspecies *Apis Mellifera*. This definition does not include wasps, hornets, African subspecies, or Africanized hybrids.

“Beekeeper” means a person who intentionally owns, operates, maintains, possesses or otherwise is in charge of an apiary.

“Colony” means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.

“Flyover barrier” means a solid wall, fence, or dense vegetation, or combination thereof, that encourages honeybees to fly over rather than through the barrier.

“Hive” means a container or receptacle housing a bee colony and includes moveable frame structures to facilitate the colony’s development.

“Livestock” means all animals generally associated with farming, which are raised or kept for food and other agricultural purposes. Such animals include swine, cattle, horses, goats, sheep, chickens, ducks, geese, turkey, and other poultry, rabbits, and bees.”

SECTION 3. Chapter 8, Section 8-2.4 (Table of Uses), Kaua‘i County Code 1987, as amended, is hereby amended by adding a new subsection 8-2.4(y), to be appropriately inserted and to read as follows:

“

Table 8-2.4 Table of Uses											
		ZONING DISTRICT									
Sec.	USE	Residential			Commercial			Industrial			
		R-1 to R-6	R-10 to R-20	RR	CN	CG		IL	IG	AG	UNV
8-2.4(y)	Apiary	P	P	P	P	P		P	P	P	P

”

SECTION 4. Chapter 8, Section 1.4, Kaua‘i County Code 1987, as amended, is hereby amended by establishing a new subsection 8-1.4(j) – 8-1.4(n) to be appropriately inserted and to read as follows:

“(j) Apiary Operations. Apiary operations shall comply with the following requirements: A Beekeeper shall:

(1) A Beekeeper shall:

(1) (A) Inspect their apiary and implement measures to prevent and mitigate nuisance activities, ensuring the health of the apiary and public health and safety;

- ~~(2)~~ (B) Maintain colonies in hives with removable frames, that are kept weatherproof and free from rot or infestation;
- ~~(3)~~ (C) Maintain an adequate and accessible supply of fresh water on-site, including landing sites for the honeybees to drink from;
- ~~(4)~~ (D) Protect hives from bright lights at night;
- ~~(5)~~ (E) Manage colonies to prevent swarming; and
- ~~(6)~~ (F) Practice fire safety when using a bee smoker and ensure the smoker is completely extinguished following use.
- ~~(k)~~ (2) Nuisance complaints, such as aggressive bee behavior or other activity that disrupts or impedes public health and safety, shall be filed with the Vector Control Branch of the State Department of Health.
- ~~(l)~~ (3) Detection of Africanized honeybees shall be reported to the State Department of Agriculture.
- ~~(m)~~ (4) There shall be no more than fifteen (15) honeybee hives on any lot less than twenty thousand (20,000) square feet; provided that, upon application, the Director may authorize a greater amount of hives on a lot if the Director finds in writing that the number of additional hives will not impair the purposes of this section.
- ~~(n)~~ (5) No honeybee hive shall be located within twenty-five (25) feet of any property line except where a flyover barrier is situated between a honeybee hive and the property line, then the honeybee hive shall not be located within fifteen (15) feet from the property line.
- (6) Flyover barrier shall:
- (A) Be located no more than five (5) feet of and directly in front of the hive entrance;
- (B) Have a minimum height of six (6) feet above existing grade;
- (C) Extend at least two (2) feet beyond each side of the hive or groups of hives it serves;
- (D) Consists of a solid wall, fence, dense vegetation, hedge, screening, or combination thereof that effectively obstruct

the horizontal flight path of departing bees from the hive entrance and redirects bee flight upward before reaching adjacent property boundaries or pedestrian areas; and

(E) Shall be maintained in good condition at all times to ensure continued effectiveness;

(F) Where vegetation is used as a flyover barrier, initial planting may be installed at a minimum height of four (4) feet, provided the vegetation is expected to reach a minimum height of six (6) feet within twenty-four (24) months of installation and is maintained to provide continuous screening.

(G) A single flyover barrier may serve multiple hives.

SECTION 5. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 6. 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 7. This Ordinance shall take effect upon its approval.

Introduced by:

ADDISON BULOSAN

FERN HOLLAND

DATE OF INTRODUCTION:

Līhu‘e, Kaua‘i, Hawai‘i

V:\BILLS\2024-2026 TERM\PDB - Apiaries and Beekeeping (AB_FH) JY_ss.docx

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: **September 2, 2026**

PERMIT NUMBER(S): **ZA-2026-8**

APPLICANT(S): **KAUAI COUNTY COUNCIL**

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

F.3.a.1.
SEP 08, 2026

Sara Agoot

From: Sara Agoot
Sent: Wednesday, September 2, 2026 2:20 PM
To: Romio Idica
Subject: FW: Bill No. 2997 (Zoning Amendment ZA-2026-8)

From: Kelly Ching <kellyching@gmail.com>
Sent: Thursday, July 23, 2026 8:39 AM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Bill No. 2997 (Zoning Amendment ZA-2026-8)

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

Dear Planning Comission,

My name is Kelly Ching, and I am a paramedic and a fourth-generation Kaua'i resident. I have lived here my whole life and care deeply about our island, our agriculture, and our community.

I respectfully ask that you support legalizing responsible beekeeping in all zones of Kaua'i, Bill No. 2997 (Zoning Amendment ZA-2026-8).

I currently maintain two hives in the Wailua Homesteads area, and I have personally seen the benefits that bees provide. Since keeping bees, I have noticed better fruit production on my property, and my family also enjoys the honey the hives produce. Responsible beekeeping supports local food production, pollination, and sustainability.

I appreciate that the proposed bill includes reasonable safeguards and management requirements to promote public safety and responsible hive maintenance. I believe this is a balanced approach that benefits both residents and agriculture on Kaua'i.

Thank you for your time, consideration, and service to our island community.

Sincerely,
Kelly Ching

Testimony in Support of Allowing Beehives in Non-AG Zoned Residential Areas on Kaua'i

Aloha members of the Planning department of Kaua'i.

I am writing in strong support of the proposed bill to allow residents in non-AG zoned areas to responsibly acquire and maintain beehives on Kaua'i.

This bill would expand access to food security for local families who may not have the ability to afford or access agricultural-zoned land, but still want to actively contribute to Hawai'i's local food systems. Bees are essential not only for honey production, but for pollination, which directly increases fruit and food production for surrounding homes, gardens, and neighborhoods.

Allowing responsible beekeeping in residential areas supports education, stewardship of the land, and self-sufficiency. It gives residents the opportunity to learn important agricultural skills, teach future generations, and better understand their role in caring for Hawai'i's ecosystems.

This also creates opportunities for small local businesses and value-added products such as honey, beeswax, and other locally produced goods that strengthen our community economy.

Food security is one of the most important issues facing Hawai'i. Supporting responsible beekeeping helps increase local food availability and resilience while empowering more residents to participate, regardless of whether they own agricultural land.

Please support this bill for the benefit of Kaua'i's people, our environment, and our future.

Mahalo for your consideration.

Mason Alfaro, Wailua

Romio Idica

From: Planning Department
Sent: Thursday, August 27, 2026 8:54 AM
To: Romio Idica; Shanlee Jimenez
Subject: FW: Comments on ZA-2026-8 Amendment to CH 8 relating to apiaries

From: Alex Dutcher <adutcher@hallux-eco.com>
Sent: Wednesday, August 26, 2026 5:04 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Comments on ZA-2026-8 Amendment to CH 8 relating to apiaries

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To whom it may concern,

My name is Alex Dutcher and I'm a wildlife biologist whose work focuses on invasive species here on Kaua'i. Of recent concern in our field has been the rise in harms to native species caused by honey bees. I was recently able to review a copy of the bill for an ordinance amending chapter 8 of Kaua'i county code and, while I do agree that apiaries need to be regulated in Hawai'i, and that they have significant agricultural value, I am also very aware that honey bees are an invasive species and should be given extra consideration when developing regulation in Hawai'i. I have some notes I hope you consider regarding the language in this bill and the impacts of honey bees on native species and conservation lands.

1. The framing of this bill as an environmental benefit is misleading. The bill states "bees play a vital role in supporting mankind, agriculture, and native ecosystems by pollinating food crops." Peer-reviewed research has shown that, in Hawai'i and across many countries, honey bees do not, in fact, support native ecosystems. Research shows that honey bees can increase presence of weedy species, displace native pollinators, reduce ecosystem resilience, and cause negative changes in native bee and flora populations ([Marcelino et al. 2022](#)). In other island systems, it has been demonstrated that honey bees alter native bee foraging patterns, behavior, and caused an 80% decline in native bees in just four years after introduction ([Pasquali et al. 2025](#)). In Hawai'i research has shown that honey bees interfere with and compete with the endangered yellow-faced bee, *Hylaeus anthracinus* ([Ing and Mogren 2020](#)). Furthermore, feral bees are a managed invasive species in endangered seabird colonies here on Kaua'i. In recent years there have been over 20 instances of honey bees taking over the burrows of native threatened and endangered seabirds in Hawai'i, many of which resulted in the death of one or more of these seabirds ([Raine et al. 2023](#)). Our recent work trapping and removing bee swarms in upland reserves has led to a reduction in burrow takeovers within the managed seabird colonies, however, we continue to see rising levels of bee activity across all conservation sites and honey bees have become an issue of increasing concern across the state. The harms caused by honey bees to our native species are real, therefore we must acknowledge their status as an invasive species which require control.

2. The proposed amendment should restrict apiaries on any zoned property near conservation lands. Honey bees can swarm 6 miles from the original hive location where they will establish a new hive ([Villa](#)

2004). In a wild setting, feral bee hives can swarm multiple times per year, establishing a new hive with every swarm ([Rutchmann et al. 2025](#)). Due to the combined factors of rapid reproduction and great dispersal distances the keeping of bees near any conservation-zoned lands and seabird nesting areas, coastal or otherwise, should ideally be restricted to at least 6 miles from natural areas and conservation-zoned lands. While honey bees are already present across the island, the supplementation of the feral population with swarms from commercial apiaries does not aid control efforts and may make the problem worse and conflict with control efforts.

3. The proposed amendment should pose greater distances between hives and roads and property lines. [San Diego County](#), for example, requires that an apiary of three or more hives must be at least 600 ft from a building used for residence and 100ft from any public right of way (including sidewalks and roads). Their regulations are also much more specific, which I would advise for Kaua'i county as well.

4. The regulations here do not limit the number of supers per hive and is leaving the definition and therefore size of "hive" fairly open to interpretation. Is a stack of one brood box and three supers four hives, or is that to be considered one hive? The addition of hive supers allows keepers to increase the size of their hive and this needs to be considered when developing regulations. The national honey board suggests limiting to 2-4 supers plus the brood box for a healthy hive, however this can vary by food availability and climate.

5. The proposed amendment should limit the density of hives in an area. Studies suggest that between 3.1-3.5 hives per square kilometer negatively impacts bee communities through direct food competition with native bees. Native bees can be found in coastal as well as in upland areas and are not exclusive to lands zoned for conservation.

6. The proposed amendment should require each individual hive to be registered with the county and bear the identification of the beekeeper, including a phone number a legal first and last name or registered LLC business name.

7. The proposed amendment states "manage colonies to prevent swarming," however swarming is a natural process of honey bee reproduction which can be triggered by external factors. It's often environmental factors such as temperature and weather which contribute most to swarming. In particular, warm and rainy weather, such our weather found here on Kaua'i, leads to rapid colony growth, and colony growth leads to swarming. Bees generate a lot of heat within the colony and actively work to ventilate the hive and maintain the internal hive temperature of around 93 degrees. It only takes a swing up of around two degrees to trigger the development of a new queen and swarm preparation. Other factors may additionally cause swarming such as a lack of resources, an ageing queen, and disease/parasites. While, yes, there are things a beekeeper can do to reduce the frequency of swarming, swarming is still highly likely to occur in a hot and humid environment. I'd like to see more specific wording here including things such as inspecting for pests and disease, controlling population growth, and providing food stores. Additionally if swarming occurs keepers should attempt to capture the swarm to prevent the spread of honey bees.

8. Regarding fire safety, another aspect of fire safety that should be mentioned is keeping hive areas clear of dry vegetation and brush within a 30ft buffer in all directions. This includes regular maintenance of weeds and grasses.

9. Apiaries should not be permitted in R10-R20 residential zones, nor commercial or industrial zones. Beekeeping is not compatible with these higher density residential, commercial and industrial environments where there is excess light, disturbance and human activity which can disturb bees.

Thank you for your time and consideration on this matter.

Alex Dutcher

--

(They/Them)

Science Director & Co-Owner

Hallux Ecosystem Restoration LLC

Kaua'i, HI

Romio Idica

From: Planning Department
Sent: Thursday, August 13, 2026 1:03 PM
To: Romio Idica; Shanlee Jimenez
Subject: FW: Testimony for ZA-2026-8 and Proposed Draft Bill No. 2997

From: Kailey Carlson <farm@lydgatefarms.com>
Sent: Thursday, August 13, 2026 10:51 AM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Testimony for ZA-2026-8 and Proposed Draft Bill No. 2997

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Aloha Chair Streufert and Members of the Kaua'i Planning Commission:

Apologies if this testimony is received late. My name is Kailey Carlson and I am the Agriculture and Research Director speaking on behalf of Lydgate Farms. I am submitting this testimony urging caution for the Proposed Draft Bill No. 2997.

Lydgate Farms strongly supports beekeeping and recognizes the important role honeybees and responsible beekeepers play in Hawai'i's agriculture, food production, and environmental stewardship. We appreciate efforts to expand opportunities for residents to keep bees; however, we encourage the Planning Commission to proceed thoughtfully when considering beekeeping within residential zoning districts.

Our primary concern is not beekeeping itself, but the potential consequences of allowing hives in densely populated areas without clear standards, education, or oversight. Improperly managed colonies may create conflicts near neighboring homes and property boundaries, particularly for residents with severe bee allergies. Inexperienced hive management can also lead to colony losses or "slime-outs," which may allow small hive beetles to reproduce in large numbers and increase pest pressure on nearby managed and commercial apiaries.

Kaua'i is also currently free of Varroa mites, and protecting that status is extremely important to the island's beekeeping industry. We respectfully recommend that any expansion of residential beekeeping include reasonable safeguards, such as required introductory education, registration or participation in a local beekeeper network, appropriate setbacks, and clear guidance regarding the movement of queens, bees, and used equipment between islands. With these protections, residential beekeeping may be supported while reducing risks to neighbors, existing beekeepers, and Kaua'i agriculture as a whole.

I respectfully ask the Kaua'i Planning Commission to proceed cautiously with the approval of ZA-2026-8 and Proposed Draft Bill No. 2997.

Mahalo for the opportunity to submit testimony.

Respectfully,

Kailey Carlson

Agriculture and Research Director

Lydgate Farms

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 DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission:	Consideration for an amendment to Chapter 8, Kaua'i County Code 1987, as amended Comprehensive Zoning Ordinance (CZO), to establish apiaries as a permitted use within Residential and other districts.
Permit Application Nos.	Zoning Amendment ZA-2026-8
Name of Applicant(s)	KAUA'I COUNTY COUNCIL

At its August 11, 2026 meeting, the Planning Commission deferred action on Zoning Amendment ZA-2026-8 to allow additional consideration of issues raised during Commission discussion and testimony.

II. ADDITIONAL FINDINGS

Following the August 11, 2026 Planning Commission meeting, the Department conducted further review of the proposed bill based on issues raised during Commission discussion, additional public testimony, and consultation with the University of Hawai'i Kaua'i Community College Apiary Program Research Associate. Based on this review, revisions are proposed to clarify the scope of the amendment, refine the proposed operational standards, and further address compatibility between apiary operations and surrounding land uses.

Additional testimony received following the August 11, 2026 meeting provided differing perspectives regarding the proposed expansion of apiaries into Residential and other zoning districts. Testimony generally recognized the agricultural value of managed honeybees while raising additional considerations regarding neighborhood compatibility, native species and natural resources, hive management, agricultural biosecurity, and the appropriate intensity of apiary operations.

The following additional findings address these issues and identify where revisions to the proposed bill or previous findings are recommended.

1. Relating to the Proposed Definitions of "Animals" and "Livestock"

The originally proposed bill would add new definitions of "Animals" and "Livestock" to Section 8-1.5 of the Comprehensive Zoning Ordinance. Section 8-1.5 does not currently contain a definition of "Animals," and the existing CZO already contains a definition of "Livestock."

F.3.a.2.
SEP 08, 2026

Upon further review, neither proposed definition is necessary to accomplish the purpose of the proposed apiary regulations. The bill separately defines terms specific to apiary operations, including “Apiary,” “Bee,” “Beekeeper,” “Colony,” “Flyover Barrier,” and “Hive,” and establishes operational standards specifically governing apiaries.

Accordingly, the proposed definitions of “Animals” and “Livestock” are recommended for deletion from the bill. The CZO would remain unchanged with respect to those terms.

2. Relating to Hive Density

The originally proposed bill establishes the following hive density standard:

“(4) There shall be no more than fifteen (15) honeybee hives on any lot less than twenty thousand (20,000) square feet; provided that, upon application, the Director may authorize a greater amount of hives on a lot if the Director finds in writing that the number of additional hives will not impair the purposes of this section.”

During the August 11, 2026 Planning Commission meeting, concerns were raised regarding whether allowing up to fifteen (15) hives on all lots under 20,000 square feet appropriately accounts for differences in parcel size and the intensity of apiary operations on smaller properties.

Additional public testimony also raised concerns regarding hive density, including the intensity of apiary operations within residential areas and potential effects on surrounding resources.

Following further review and consultation with the University of Hawai‘i Kaua‘i Community College Apiary Program Research Associate, a tiered hive density standard is proposed for lots under 20,000 square feet. Under the proposed revision, lots containing 10,000 square feet or less would be limited to eight (8) hives, while lots containing more than 10,000 square feet but less than 20,000 square feet would be limited to fifteen (15) hives.

The proposed revision provides a more proportional approach to regulating apiary intensity on smaller properties. While parcel size does not necessarily determine the number of honeybee colonies that surrounding forage can support, lot area provides a clear and readily administered land use standard. Establishing a lower hive limit on smaller lots further addresses compatibility with neighboring properties while continuing to accommodate small-scale beekeeping.

The proposed revision also removes the provision authorizing the Director to approve additional hives on lots under 20,000 square feet, thereby establishing the applicable hive limits as maximum standards. The parcel-based hive density standard is intended to regulate the intensity of apiary operations on individual properties and is not intended to establish an ecological carrying-capacity standard for honeybee populations across a broader geographic area.

To address these concerns, subsection (4) is proposed to be revised as follows:

“(4) Hive Density. The maximum number of honeybee hives permitted on a lot shall be as follows:

(A) No more than eight (8) honeybee hives on a lot containing 10,000 square feet or less; and

(B) No more than fifteen (15) honeybee hives on a lot containing more than 10,000 square feet but less than 20,000 square feet.”

3. Relating to Colony Management and Swarming

The original Director’s Report recommended consolidating the proposed apiary operational standards under Section 8-1.4(j), entitled “Apiary Operations.” As part of those standards, subsection (j)(1)(E) provides:

“(E) Manage colonies to prevent swarming;”

Additional public testimony raised concerns that requiring a beekeeper to “prevent swarming” establishes an absolute outcome that may not always be achievable through appropriate hive management. Swarming is a natural reproductive behavior that may occur despite management practices intended to reduce its occurrence.

Following additional consultation with the University of Hawai‘i Kaua‘i Community College Apiary Program Research Associate, additional technical input similarly indicated that requiring the complete prevention of swarming may establish an overly absolute standard. A management-based standard more appropriately focuses on actions reasonably within the beekeeper’s control while recognizing that swarming cannot always be entirely prevented.

To establish a more practical operational standard, subsection (j)(1)(E) is proposed to be revised as follows:

“(E) Manage colonies using recognized apiary management practices to reduce the likelihood of swarming and, when practicable, make reasonable efforts to recover swarms originating from the apiary;”

4. Relating to Night Lighting

The original Director’s Report recommended consolidating the proposed apiary operational standards under Section 8-1.4(j), entitled “Apiary Operations.” As part of those standards, subsection (j)(1)(D) provides:

“(D) Protect hives from bright lights at night;”

Following further review and consultation with the University of Hawai‘i Kaua‘i Community College Apiary Program Research Associate, clarification of this provision is recommended. The phrase “bright lights” does not establish a clear standard for determining when nighttime lighting requires corrective measures.

The purpose of the provision is to prevent artificial lighting from illuminating a hive or hive entrance at night. Rather than regulating an undefined level of brightness, the revised language focuses on illumination of the hive or hive entrance and provides flexibility for compliance through hive placement, orientation, shielding, or other physical barriers.

To provide a clearer operational standard, subsection (j)(1)(D) is proposed to be revised as follows:

“(D) Hives shall be positioned or shielded so that artificial lighting from adjacent properties does not illuminate the hive or hive entrance at night;”

5. Relating to Apiary Signage

The originally proposed bill did not establish signage requirements for apiary operations.

During the August 11, 2026 Planning Commission meeting, the Commission discussed whether signage should be required to provide notice that managed honeybee hives are maintained on a property. Following further review, a signage requirement is proposed for apiary operations within Residential zoning districts.

The proposed signage requirement is intended to provide reasonable notice of the presence of managed honeybee hives and establishes standards for sign content, minimum dimensions, placement, visibility, and maintenance.

To address these concerns, Exhibit “A” incorporates the following signage requirements:

“(7) Apiary Signage. Where an apiary is maintained within a Residential zoning district:

(A) A weather-resistant sign shall be posted stating “NOTICE: HONEYBEE HIVES ON PROPERTY”;

(B) The sign shall be a minimum of ten (10) inches by twelve (12) inches;

(C) The sign shall be posted in a conspicuous location at the primary entrance or access point to the property and shall be visible from the adjacent public thoroughfare or private street; and

(D) The sign shall be maintained in good condition and remain visible while an active apiary is maintained on the property."

6. Relating to Additional Public Testimony and Technical Review

Additional public testimony raised broader considerations regarding the proposed expansion of apiary operations into Residential and other zoning districts. These comments included potential interactions with native species and conservation resources, hive configuration and the use of supers, beekeeper education and registration, agricultural biosecurity, fire safety, setbacks, and the appropriateness of permitting apiaries within certain zoning districts.

The Department considered these comments together with subsequent technical consultation in determining whether additional amendments to the proposed CZO regulations or previous findings are warranted.

a. Environmental Framing, Native Species, and Conservation Resources

The original Director's Report states that pollination by managed honeybees contributes significantly to "agricultural productivity, biodiversity, and ecosystem health."

Additional public testimony raised concerns regarding potential interactions between managed honeybees and native pollinators, native vegetation, threatened or endangered species, and conservation lands. The testimony recommended consideration of additional restrictions on apiaries near conservation resources and broader landscape-scale hive density limitations.

Subsequent technical consultation provided additional context regarding the applicability of the research cited in the testimony to the proposed zoning amendment. While the testimony identifies research and observations concerning potential interactions between managed honeybees and native species and ecosystems, the record reflects differing technical perspectives regarding the extent to which those findings support specific land use restrictions for apiaries on Kaua'i.

The Department recognizes the concerns raised regarding potential effects on native species and conservation resources. However, the information presently in the record does not establish a clear technical basis for determining an appropriate conservation-area buffer or landscape-scale hive density standard through the CZO. Accordingly, the Department recommends distinguishing the established agricultural role of managed honeybees from broader conclusions regarding their overall effects on native ecosystems and biodiversity.

For purposes of the Department's evaluation, the previous statement is revised as follows:

"Pollination by managed honeybees contributes to agricultural productivity, diversified agriculture, and local food production."

This revision does not diminish the recognized agricultural value of managed honeybees. Rather, it avoids making a broader ecological finding where the record contains differing

perspectives regarding the effects of managed honeybees on native species and ecosystems.

Section 1 of Exhibit “A” similarly states that bees support “mankind, agriculture, and native ecosystems.” The Department recommends revising that language to focus on the agricultural role of managed honeybees through pollination of food crops.

The environmental concerns raised through public testimony are relevant to the evaluation of the proposed amendment. The unresolved issue is not whether these concerns warrant consideration, but whether the current record provides a technically supported and administratively workable zoning standard for addressing them through this amendment.

The present record does not provide a sufficient basis to establish a specific conservation-area buffer or landscape-scale hive density standard through the CZO. Accordingly, no additional conservation-area setback or landscape-scale hive density requirement is recommended at this time.

b. Hive Configuration and Supers

Additional testimony recommended consideration of limitations on the number of hive bodies or supers associated with an individual hive.

Subsequent consultation with the University of Hawai‘i Kaua‘i Community College Apiary Program Research Associate indicated that the number of hive bodies or supers may vary based on colony strength, forage availability, season, weather conditions, and management objectives. The number of supers associated with a hive does not necessarily represent an additional honeybee colony.

Because the proposed hive density standards regulate the number of hives or colonies rather than the configuration of individual hive components, no separate limitation on the number of supers is recommended.

c. Agricultural Biosecurity, Beekeeper Education, and Registration

Additional testimony submitted on behalf of Lydgate Farms expressed support for responsible beekeeping while recommending caution regarding the expansion of apiaries into Residential zoning districts. The testimony emphasized the importance of protecting Kaua‘i’s Varroa mite-free status and recommended consideration of beekeeper education, registration or participation in a local beekeeper network, appropriate setbacks, and guidance concerning the interisland movement of queens, bees, and used beekeeping equipment.

The Department recognizes that agricultural biosecurity and responsible hive management are important considerations for Kaua‘i’s agricultural and beekeeping industries. However, interisland transportation of bees and used beekeeping equipment is regulated through the State agricultural quarantine and inspection framework administered by the Hawai‘i Department of Agriculture.

The proposed zoning amendment is intended to regulate the location, intensity, and operation of apiaries as a land use. Establishing separate County requirements governing interisland transportation would overlap with the existing State regulatory framework and is outside the parcel-level land use regulations addressed by this amendment. Accordingly, no additional CZO requirements concerning the interisland transportation of bees or beekeeping equipment are recommended as part of this amendment.

While mandatory beekeeper education and registration may promote responsible beekeeping practices, establishing such requirements through the CZO would require additional administrative procedures, program responsibilities, recordkeeping, and enforcement mechanisms beyond the land use standards presently proposed. Accordingly, mandatory beekeeper education and registration are not recommended as part of this zoning amendment.

Concerns regarding residential compatibility and setbacks are addressed, in part, through the proposed hive density limitations, setbacks, flyover barriers, water source requirements, colony management standards, nuisance provisions, and residential signage requirements.

d. Fire Safety

Additional testimony recommended consideration of vegetation-management requirements around apiaries as an additional fire-safety measure.

The proposed operational standards already require beekeepers to practice fire safety when using a bee smoker and to ensure that the smoker is completely extinguished following use.

Additional technical consultation indicated that broader vegetation or defensible-space requirements should be informed by the appropriate County fire-safety expertise rather than establishing an apiary-specific buffer without further review.

The existing proposed requirement governing the safe use and extinguishment of bee smokers remains applicable. Any additional vegetation-management or defensible-space standards should be considered in coordination with the appropriate County agency.

e. Applicability Within Zoning Districts

Additional testimony recommended reconsideration of whether apiaries should be permitted within certain Residential, Commercial, and Industrial zoning districts.

The original Director's Report evaluated the appropriateness of permitting apiaries within the proposed zoning districts based on land use compatibility, potential impacts, and the operational standards established by the proposed ordinance.

The additional testimony and subsequent technical consultation do not establish a sufficient basis to modify the Department's previous findings regarding district compatibility. Accordingly, no additional zoning district exclusions are recommended at this time.

Additional public testimony reflects both support for responsible beekeeping and concerns regarding neighborhood compatibility, agricultural biosecurity, native species, conservation resources, hive management, and administrative oversight. Several parcel-level concerns are addressed through the proposed operational standards, while other matters involve technical, administrative, or regulatory considerations beyond the land use standards presently proposed.

Collectively, the proposed revisions refine the regulatory framework for apiaries by responding to issues identified through the Planning Commission's review, public testimony, and subsequent technical consultation. The Department's evaluation relies primarily on the agricultural role of managed honeybees, the General Plan's express support for small-scale diversified farming and apiaries, regulatory clarity, and compatibility with surrounding land uses. Given the differing perspectives in the record regarding ecological effects, the Department does not make a broader finding that managed honeybees provide an overall benefit to native ecosystems or biodiversity.

III. EVALUATION

The proposed revisions do not alter the overall purpose or scope of Zoning Amendment ZA-2026-8. The amendment would continue to establish apiaries as a defined land use and permit apiary operations within specified zoning districts subject to development and operational standards.

Deleting the proposed definitions of "Animals" and "Livestock" narrows the amendment to those definitions necessary to establish and regulate apiaries and avoids unnecessary modification of broader CZO terminology.

The revised hive density standard provides a more proportional approach to regulating apiary intensity on smaller lots by establishing a maximum of eight (8) hives on lots containing 10,000 square feet or less while retaining the fifteen-hive maximum for lots containing more than 10,000 square feet but less than 20,000 square feet. Removal of the provision authorizing additional hives establishes clear maximum standards for lots subject to the hive density limitation.

The revised swarm-management standard focuses on recognized management practices and actions reasonably within the beekeeper's control rather than requiring complete prevention of a natural biological event.

The revised nighttime lighting standard replaces the general requirement to protect hives from "bright lights" with a clearer performance standard addressing artificial illumination from adjacent properties.

The proposed signage requirement provides notice of the presence of managed honeybee hives within Residential zoning districts and establishes standards for sign content, dimensions, placement, visibility, and maintenance.

Additional public testimony reflects both support for responsible beekeeping and concerns regarding neighborhood compatibility, agricultural biosecurity, native species, conservation resources, hive management, and administrative oversight. Several parcel-level concerns are

addressed through the proposed operational standards. Other matters involve technical, administrative, or regulatory considerations that extend beyond the parcel-level land use standards presently proposed.

Collectively, the proposed revisions refine the regulatory framework for apiaries by responding to issues identified through the Planning Commission’s review, public testimony, and subsequent technical consultation. The Department’s evaluation relies primarily on the agricultural role of managed honeybees, the General Plan’s express support for small-scale diversified farming and apiaries, regulatory clarity, and compatibility with surrounding land uses. Given the differing perspectives contained in the record regarding ecological effects, the Department does not make a broader finding that managed honeybees provide an overall benefit to native ecosystems or biodiversity.

The proposed revisions do not otherwise change the Department’s previous findings regarding consistency with the Kaua’i Kākou General Plan, applicable Community Plans, Chapter 10 of the Kaua’i County Code, the County of Kaua’i Special Management Area Rules and Regulations, the Comprehensive Zoning Ordinance, or applicable constitutional considerations.

IV. AGENCY COMMENTS

Attached through separate transmittal.

V. PRELIMINARY RECOMMENDATION

Based on the foregoing additional findings and evaluation, it is recommended that the Planning Commission recommend **APPROVAL** of Zoning Amendment ZA-2026-8 to the Kaua’i County Council, subject to the revisions identified in the original Director’s Report and the following additional revisions (See Exhibit “A”):

1. Delete the proposed definitions of “Animals” and “Livestock” from the bill so that the CZO remains unchanged with respect to those terms.
2. Revise Section 1, Findings and Purpose, of the proposed bill to focus on the agricultural role of managed honeybees and remove broader references to benefits to native ecosystems.
3. Revise the proposed hive density standard to permit no more than eight (8) honeybee hives on lots containing 10,000 square feet or less and no more than fifteen (15) honeybee hives on lots containing more than 10,000 square feet but less than 20,000 square feet, and remove the provision authorizing the Director to approve additional hives on lots under 20,000 square feet.
4. Revise the colony-management standard under subsection (j)(1)(E) to require colonies to be managed using recognized apiary management practices to reduce the likelihood of swarming and, when practicable, require reasonable efforts to recover swarms originating from the apiary.

5. Revise the nighttime lighting standard under subsection (j)(1)(D) to require hives to be positioned or shielded so that artificial lighting from adjacent properties does not illuminate the hive or hive entrance at night.
6. Establish signage requirements for apiaries within Residential zoning districts, including standards for sign content, minimum dimensions, placement, visibility, and maintenance.

All other recommendations contained in the original Director's Report remain unchanged.

By 
ROMIO IDICA
Planner

Approved & Recommended to Commission:

By 
KA'AINA S. HULL
Director of Planning

Date: 9/2/2026

EXHIBIT “A”

ORDINANCE NO. _____

BILL NO. _____

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 8,
KAUA'I COUNTY CODE 1987, AS AMENDED,
RELATING TO APIARIES AND BEEKEEPING**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Findings and Purpose. Bees play a vital role in supporting mankind, agriculture, and native ecosystems by pollinating food crops. In addition, they provide useful products, such as honey, wax, and queen bees, because Hawai'i's tropical weather, climate, and diverse plant life provide optimal conditions for year-round breeding of queen bees. Queen bees are exported to assist with ensuring a more genetically diverse, adaptive and resilient global bee stock. Supporting year-round bee activity by planting non-invasive seasonal flowers and species suitable to the regional climate.

The purpose of this Ordinance is to promote beekeeping in Kaua'i County by establishing generally accepted apiary management practices for sound and sustainable beekeeping practice and adding apiaries to the list of allowable uses in various zoning districts. Nothing in this article is intended to conflict with any State or Federal law.

SECTION 2. Chapter 8, Section 8-1.5 (Definitions), Kaua'i County Code 1987, as amended, is hereby amended by adding new definitions to be appropriately inserted and to read as follows:

“Africanized honeybee” means all life stages of the animal subspecies *Apis mellifera scutellata* or *Apis mellifera adansonii*.

~~“Animals” unless provided otherwise, include but are not limited to those animals that are customary and usual pets such as dogs, cats, rabbits, birds, and other beasts which are maintained on the premises of a dwelling unit and kept by the resident of a dwelling unit solely for personal enjoyment and companionship, such as, without limitation, for a hobby, for legal sporting activities and for guarding of property. Animals shall also include honeybees and exclude aviary game birds and fish as defined in Hawai'i Revised Statutes.~~

“Apiary” means a site where one or more colonies of bees and beehives are kept and maintained.

“Bee” or “honeybee” means all life stages of the common domesticated honeybee European subspecies Apis Mellifera. This definition does not include wasps, hornets, African subspecies, or Africanized hybrids.

“Beekeeper” means a person who intentionally owns, operates, maintains, possesses or otherwise is in charge of an apiary.

“Colony” means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.

“Flyover barrier” means a solid wall, fence, or dense vegetation, or combination thereof, that encourages honeybees to fly over rather than through the barrier.

“Hive” means a container or receptacle housing a bee colony and includes moveable frame structures to facilitate the colony’s development.

~~“Livestock” means all animals generally associated with farming, which are raised or kept for food and other agricultural purposes. Such animals include swine, cattle, horses, goats, sheep, chickens, ducks, geese, turkey, and other poultry, rabbits, and bees.”~~

SECTION 3. Chapter 8, Section 8-2.4 (Table of Uses), Kaua‘i County Code 1987, as amended, is hereby amended by adding a new subsection 8-2.4(y), to be appropriately inserted and to read as follows:

“

Table 8-2.4 Table of Uses											
		ZONING DISTRICT									
Sec.	USE	Residential			Commercial			Industrial			
		R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV
8-2.4(y)	Apiary	P	P	P	P	P	P	P	P	P	P

”

SECTION 4. Chapter 8, Section 1.4, Kaua‘i County Code 1987, as amended, is hereby amended by establishing a new subsection 8-1.4(j) – 8-1.4(n) to be appropriately inserted and to read as follows:

“(j) Apiary Operations. Apiary operations shall comply with the following requirements: [A Beekeeper shall:]

(1) A Beekeeper shall:

~~[(1)]~~ (A) Inspect their apiary and implement measures to prevent and mitigate nuisance activities, ensuring the health of the apiary and public health and safety;

~~[(2)]~~ (B) Maintain colonies in hives with removable frames, that are kept weatherproof and free from rot or infestation;

~~[(3)]~~ (C) Maintain an adequate and accessible supply of fresh water on-site, including landing sites for the honeybees to drink from;

~~[(4)]~~ (D) [Protect hives from bright lights at night;] Hives shall be positioned or shielded to prevent artificial lighting from directly illuminating the hive or hive entrance at night;

~~[(5)]~~ (E) Manage colonies to prevent swarming; and

~~[(6)]~~ (F) Practice fire safety when using a bee smoker and ensure the smoker is completely extinguished following use.

(E) Manage colonies using recognized apiary management practices to reduce the likelihood of swarming and, when practicable, make reasonable efforts to recover swarms originating from the apiary;

~~[(k)]~~ (2) Nuisance complaints, such as aggressive bee behavior or other activity that disrupts or impedes public health and safety, shall be filed with the Vector Control Branch of the State Department of Health.

~~[(l)]~~ (3) Detection of Africanized honeybees shall be reported to the State Department of Agriculture.

~~[(m)]~~ (4) Hive Density. The maximum number of honeybee hives permitted on a lot shall be as follows: [There shall be no more than fifteen (15) honeybee hives on any lot less than twenty thousand (20,000) square feet; provided that, upon application, the Director may authorize a greater amount of hives on a lot if the Director finds in writing that the number of additional hives will not impair the purposes of this section.]

(A) No more than eight (8) honeybee hives on a lot containing 10,000 square feet or less; and

(B) No more than fifteen (15) honeybee hives on a lot containing more than 10,000 square feet but less than 20,000 square feet."

~~{(n)}~~ (5) No honeybee hive shall be located within twenty-five (25) feet of any property line except where a flyover barrier is situated between a honeybee hive and the property line, then the honeybee hive shall not be located within fifteen (15) feet from the property line.

(6) Flyover barrier shall:

(A) Be located no more than five (5) feet of and directly in front of the hive entrance;

(B) Have a minimum height of six (6) feet above existing grade;

(C) Extend at least two (2) feet beyond each side of the hive or groups of hives it serves;

(D) Consists of a solid wall, fence, dense vegetation, hedge, screening, or combination thereof that effectively obstruct the horizontal flight path of departing bees from the hive entrance and redirects bee flight upward before reaching adjacent property boundaries or pedestrian areas;

(E) Shall be maintained in good condition at all times to ensure continued effectiveness;

(F) Where vegetation is used as a flyover barrier, initial planting may be installed at a minimum height of four (4) feet, provided the vegetation is expected to reach a minimum height of six (6) feet within twenty-four (24) months of installation and is maintained to provide continuous screening; and

(G) A single flyover barrier may serve multiple hives.

~~“(7)~~ Apiary Signage. Where an apiary is maintained within a Residential zoning district:

(A) A weather-resistant sign shall be posted stating “NOTICE: HONEYBEE HIVES ON PROPERTY”;

(B) The sign shall be a minimum of ten (10) inches by twelve (12) inches;

(C) The sign shall be posted in a conspicuous location at the primary entrance or access point to the property and shall be visible from the adjacent public thoroughfare or private street; and

(D) The sign shall be maintained in good condition and remain visible while an active apiary is maintained on the property."

SECTION 5. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 6. 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 7. This Ordinance shall take effect upon its approval.

Introduced by:

ADDISON BULOSAN

FERN HOLLAND

DATE OF INTRODUCTION:

Līhu'e, Kaua'i, Hawai'i

V:\BILLS\2024-2026 TERM\PDB - Apiaries and Beekeeping (AB_FH) JY_ss.docx

BEFORE THE COUNTY OF KAUAI

STATE OF HAWAII

In the Matter of the Petition	)	DOCKET NO. A-20 _____ - _____
	)	GPA-20 _____ - _____
of	)	ZA-20 _____ - _____
	)	
<u>Kamishita Investments LLC</u>	)	
(Applicant)	)	
	)	
To amend the County Zoning designation of	)	
approximately 6.799 square feet of land currently	)	
situated within the State Urban District, General Plan	)	
Designation Town Center, and County Zoning T4VNF	)	
into T4VCF located at Waimea, Kauai, Hawaii.	)	
further identified as Tax Map Key: (4) 1-6-007:029.	)	
_____.	)	

PETITION FOR ZONING AMENDMENT

SECTION I: PETITIONER'S/APPLICANT'S ADDRESS & TELEPHONE

Kamishita Investments LLC
PO Box 540, Waimea, HI 96796

SECTION II: IDENTIFICATION OF PETITIONER

Applicant is the fee simple owner of the subject property.

SECTION III: PROPERTY DESCRIPTION

The subject property is described by metes and bounds as follows:

Parcel First:

Beginning at a pipe set in concrete at the east corner of Lot 3, Block A, Waimea Town Lots, the coordinates of said point of beginning being referenced to Government Survey Triangulation Station "Transit of Venus";
Thence running by true azimuths:

- North 21° 15' 30" East, 118.4 feet along Lot 3, Block A;
- South 109° 07' 30" East, 52.2 feet along a road;
- South 199° 40' West, 118.3 feet along Lot 1, Block A;
- North 289° 07' 30" West, 55.5 feet along Government Main Road to the point of beginning;
- Containing **6,368 square feet**, more or less.

F.4.a.
SEP 08, 2026

G4.a. ~~X~~ AUG 11, 2026 G4.a. ~~X~~ JULY 14, 2026

Parcel Second:

Beginning at the northwest corner of the parcel along the southwest side of Kaua'i Belt Road;

Thence running by true azimuths:

- North 298° 54' 30" West, 56.31 feet;
 - North 21° 15' 30" East, 2.97 feet;
 - South 109° 07' 30" East, 55.50 feet;
 - South 199° 40' West, 12.53 feet to the point of beginning;
- Containing **431 square feet**, more or less

SECTION IV: GENERAL PLAN

The subject property is designated "Town Center" under the West Kaua'i Community Plan ("WKCP") (Ordinance No. 1083, adopted November 25, 2020).

SECTION V: DESCRIPTION OF PROPERTY

1. Location: Along Kaumuali'i Highway, Waimea;
2. Zoning: The subject property is currently zoned T4VNF (Village Neighborhood) and is proposed to be reclassified to T4VCF (Village Center), in alignment with the Town Center designation under the WKCP.
3. Existing Uses: Mixed-use context;
4. Elevation: Near sea level;
5. Improvements: The property is improved with an existing structure constructed circa 1957;
6. Slope: Flat;
7. Drainage: Subject to flood regulations;
8. Rainfall: Moderate;
9. Soil: Urbanized;
10. Studies: N/A.
11. Historic/Present Use: Historically and presently utilized in a manner consistent with a mixed-use and commercial corridor along Kaumuali'i Highway.

SECTION VI: DESCRIPTION OF POTENTIAL USES (NOT PROJECT SPECIFIC)

1. Type: Small-scale, neighborhood-serving commercial and mixed-use;
 2. Units: N/A;
 3. Context: Within SPA-L;
 4. Timeline: Not tied to a specific development proposal;
 5. Plans: N/A;
 6. Infrastructure: Existing;
 7. Costs: N/A;
 8. Financial Ability: N/A;
 9. Features: N/A
- This request is not associated with any specific development proposal, but is intended to further align the zoning designation with the adopted West Kaua'i Community Plan.

SECTION VII: EFFECTS UPON RESOURCES

1. Environmental: None;
2. Agricultural: None;
3. Recreational: None;
4. Historic: Consistent;
5. Scenic: Positive;
6. Noise/Air: Minimal.

SECTION VIII: REASONS AND JUSTIFICATION

1. Need and Demand: The subject property is designated “Town Center” under the West Kaua‘i Community Plan, which envisions a walkable, mixed-use environment supporting local businesses and community-serving uses.
2. Appropriateness: The property is currently zoned T4VNF (Village Neighborhood) and is proposed to be reclassified to T4VCF (Village Center). The T4VCF designation allows for a broader mix of neighborhood-serving commercial and mixed-use activities consistent with a Town Center environment, whereas T4VNF is more limited in intensity and use.
3. Timing: Flood-related considerations that may have influenced prior zoning decisions are now addressed through updated regulations, including Ordinance 1134, which provides a separate and comprehensive framework for managing such risks.
4. Economic Benefits: Supports local business and reinforces the viability of Waimea’s Town Center.
5. Use Permit Consideration: A Use Permit would not address the underlying inconsistency

SECTION IX: COMPLIANCE WITH STATE LAND USE

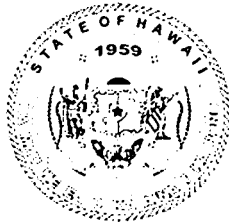
The subject property is located within the State Land Use Urban District. The proposed amendment is consistent with HRS Chapter 205, as it supports urban uses and development patterns appropriate for lands within the Urban District.

SECTION X: COMPLIANCE WITH STATE AND COUNTY LAWS

The proposed amendment is consistent with the Kaua‘i General Plan, which promotes compact, walkable, and mixed-use development within designated town centers. The amendment aligns with Ordinance 1083 (West Kaua‘i Community Plan), which designates the area as Town Center, and with Ordinance 1134, which addresses flood risk through updated regulatory mechanisms independent of zoning.

SECTION XI: CONCLUSION

The amendment should be approved to further align the zoning designation with the adopted Town Center designation under the West Kaua‘i Community Plan.



STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

April 23, 2021 8:01 AM
Doc No(s) A - 77830205

Doc 1 of 5
Pkg 11758275 SKC

/s/ LESLIE T KOBATA
REGISTRAR

Conveyance Tax: \$1,250.00

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN ORIGINAL BY: MAIL (X) PICK-UP ()
Kamishita Investments LLC FNT: 012005593-BJ
313 1st Street PH-2A Bea Jeal
Hoboken, NJ 07030

PS 1

Tax Map Key No.: (4) 1-6-007-029

Total Pages: 6

WARRANTY DEED

PARTIES TO DOCUMENT

GRANTOR: CHAD KEN TANIGUCHI, Trustee of the TANIGUCHI FAMILY LAND TRUST, dated June 1, 1994

GRANTEE: KAMISHITA INVESTMENTS LLC, a Hawaii limited liability company

THIS DEED, made this 18th day of April, 2021, by CHAD KEN TANIGUCHI, Trustee of the TANIGUCHI FAMILY LAND TRUST, dated June 1, 1994, with full power and authority to sell, lease, borrow, encumber, hypothecate, mortgage, pledge or otherwise deal with and dispose of any of the lands or other property or interests of the trust estate according to the terms of said trust instrument, of Kailua, Hawaii, hereinafter called the "Grantor," in favor of KAMISHITA INVESTMENTS LLC, a Hawaii limited liability company, whose address is 313 1st Street PH-2A, Hoboken, New Jersey 07030, hereinafter called the "Grantee;"

WITNESSETH

That for TEN AND NO/100 DOLLARS (\$10.00), and other valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, the Grantor does hereby grant, bargain, sell and convey unto the Grantee, as **TENANT IN SEVERALTY**, in fee simple:

All of that certain real property and personal property (if any) described in Exhibit "A" attached hereto and made a part hereof.

This conveyance and the warranties of the Grantor are expressly declared to be in favor of the Grantee, **as tenant in severalty, its successors and assigns.**

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

TO HAVE AND TO HOLD the same, as to said real property, together with all buildings, improvements, rights, easements, privileges and appurtenances thereon and thereto belonging or appertaining or held and enjoyed therewith, unto the Grantee absolutely and according to the tenancy herein set forth, and as to said personal property (if any), absolutely and forever.

AND, in consideration of the premises, the Grantor does hereby covenant and agree to and with Grantee that Grantor is lawfully seized in fee simple of the real property described in Exhibit "A" and is the absolute owner of said personal property (if any) and that Grantor's title to all of said property is free and clear of and from all encumbrances other than those mentioned in Exhibit "A"; that Grantor has good right to sell and convey said property as aforesaid and that Grantor will WARRANT and DEFEND the same unto Grantee against the lawful claims and demands of all persons except as aforesaid.

And the Grantee hereby acknowledges that the Grantee is accepting the real property, land and all improvements thereon (including, but not limited to, the roof, walls, foundations, soils, plumbing and electrical systems) and personal property in their present "AS IS" condition, without warranty or representations, expressed or implied.

The terms "Grantor" and "Grantee," as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine, feminine or neuter, the singular or plural number, individuals, partnerships, trustees, corporations or limited liability companies, and their and each of their respective successors, heirs, personal representatives, successors in trust and assigns, according to the context thereof. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed elsewhere herein.

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

[END OF TEXT, CONTINUED ON NEXT PAGE]

IN WITNESS WHEREOF, the Grantor has executed this instrument.

The TANIGUCHI FAMILY LAND TRUST, dated
June 1, 1994

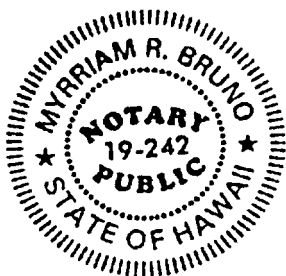
By: 
CHAD KEN TANIGUCHI, Trustee

"Grantor"

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On April 18, 2021, before me personally appeared CHAD
KEN TANIGUCHI, Trustee Aforesaid, to me personally known, who being by me duly
sworn or affirmed, did say that such person executed the foregoing document as the free
act and deed of such person, and if applicable, in the capacity shown, having been duly
authorized to execute such document in such capacity.

Document Date: undated Number of Pages: 4 ^{man} 76
Description of Document: Warranty Deed



Signature: 
Name: MYRRIAM R BRUNO
Notary Public, State of Hawaii, FIRST Circuit

My commission expires: 6/23/2023

EXHIBIT "A"

PARCEL FIRST:

ALL of that certain parcel of land (being all of the land described in and covered by Land Patent Grant No. 7356 to Mary Glory Silva) being LOT 2, Block A, of the Waimea Town Lots, situate at Waimea, in the District of Waimea, Island and County of Kauai, State of Hawaii, and more particularly described as follows:

BEGINNING at a pipe set in concrete, at the East corner of this lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Transit of Venus" being 603.6 feet South and 563.0 feet West, as shown on Government Survey running by true azimuths;

1. 21° 15' 30" 118.4 feet along Lot 3, Block A;
2. 109° 07' 30" 52.2 feet along road;
3. 199° 40' 118.3 feet along Lot 1, Block A;
4. 289° 07' 30" 55.5 feet along Government Main Road to the point of beginning and containing an area of 6,368 Square Feet, more or less.

PARCEL SECOND:

ALL of that certain parcel of land, known as REMNANT C, being the abandoned portion of the Main Government Road, situate on the Southwest side of the Kauai Belt Road, Federal Aid Project 29-D (1), Waimea, Island and County of Kauai, State of Hawaii, and more particularly described as follows:

BEGINNING at the Northwest corner of this piece of land, being also the Northeast corner of Remnant D and on the Southwest side of Kauai Belt Road, Federal Aid Project 29-D (1), the coordinates of said point of beginning referred to Government Survey Triangulation Station "Transit of Venus" being 573.67 feet South and clockwise 611.24 feet West, thence running by azimuths measured clockwise from true South:

1. 298° 54' 30" 56.31 feet along the Southwest side of Kauai Belt Road, Federal Aid Project 29-D (1) ;
2. 21° 15' 30" 2.97 feet along Remnant along the remainder of the abandoned main Government Road;
3. 109° 07' 30" 55.50 feet along Grant 7356 to Mary Glory Silva;
4. 199° 40' 12.53 feet along Remnant D, along the remainder of the abandoned main Government Road to the point of beginning and containing an area of 431 Square Feet, more or less.

Being all of the property conveyed by the following:

Special Trustee's Deed

Grantor: Hawaiian Trust Company, Limited a Corporation of Hawaii, as

Successor by merger to American Trust Co. of Hawaii, Inc., as Trustee under Trust Agreement No. 90-01499 and Trust dated, March 18, 1982

Grantee: Chad Ken Taniguchi, Trustee of the Taniguchi Family Land Trust, dated June 1, 1994, with full powers to sell, convey, mortgage, lease, etc. or otherwise deal with the land

Dated: October 24, 1994

Recording Date: November 22, 1994

Recording No.: 94-191825

SUBJECT, HOWEVER, TO:

1. Mineral and water rights of any nature in favor of the State of Hawaii.
2. Any facts, rights, interests, or claims which may exist or arise by reason of the following facts disclosed by ALTA/NSPS Land Title Survey, dated December 21, 2020, January 25, 2020 and January 27, 2021 prepared by Dennis M. Esaki, Licensed Professional Land Surveyor, Certificate No. 4383:
 - 1) At the north side of Lot 2, building column on Kaumualii Highway (0.2 ft.)
 - 2) At the north side of Lot 2, planter on Kaumualii Highway (1.4 ft.)
 - 5) At the south side of the property, propane tank on Laau Road 1.1 ft.
 - 6) At the south side of the property, steps on Laau Road 3.2 ft.
 - 7) At the south side of the property, loading dock on Laau Road 3.2 ft.
 - 8) At the west side of the property, CMU on Lot 2 (0.4 ft.)
 - 9) At the west side of the property, CMU wall on Lot 2 (0.5 ft.)

TOGETHER WITH all furniture, fixtures, appliances, and other items listed on Commercial Real Property Purchase and Sale Agreement (PSA) with a Reference Date of November 14, 2020 executed by and between the Grantor and Grantee for the sale and purchase of the above described premises, which by reference is incorporated herein.

END OF EXHIBIT "A"

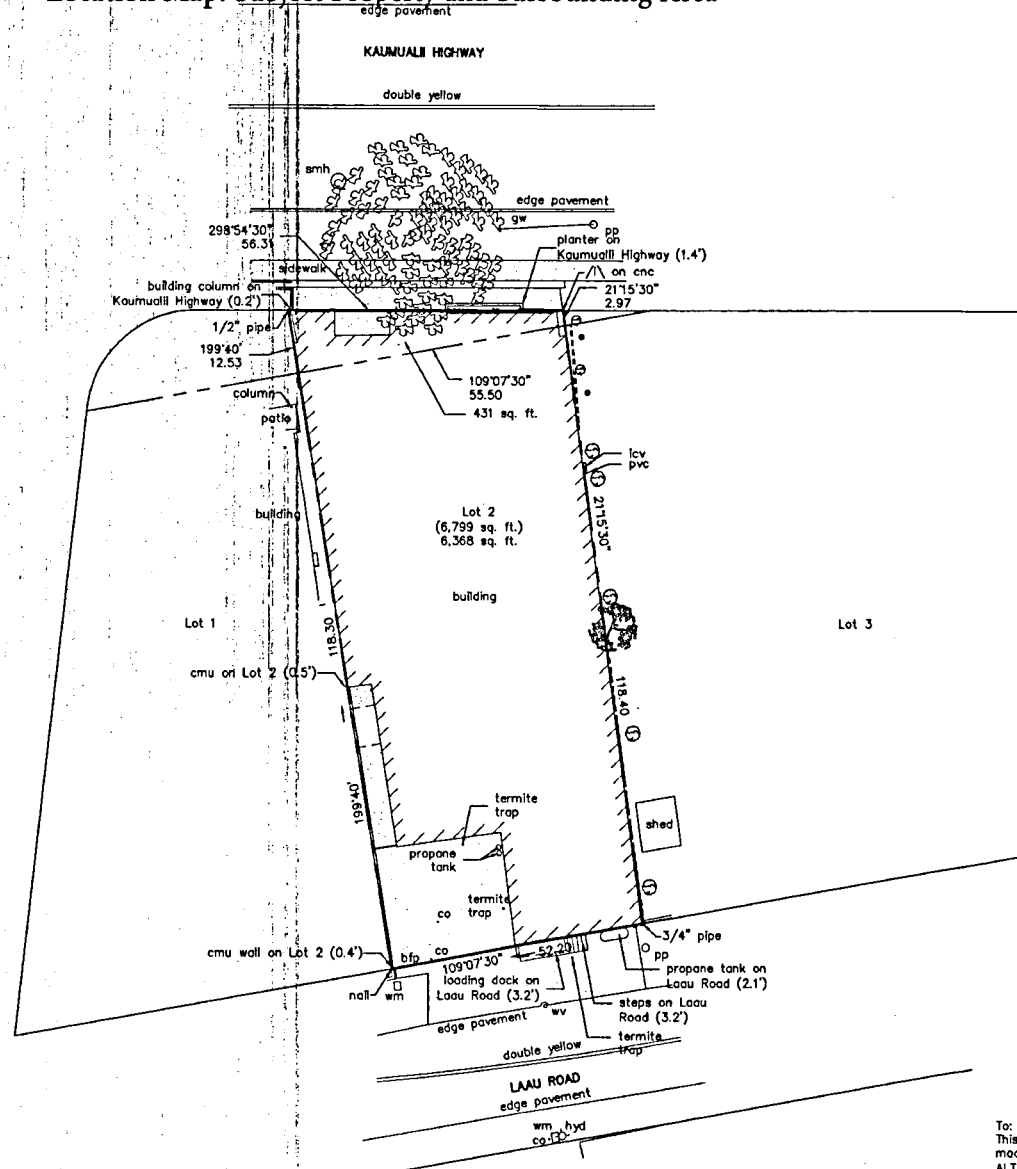
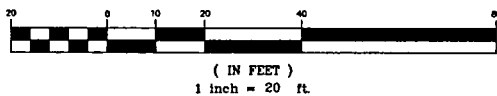
Location Map: Subject Property and Surrounding Area

This site plan and location map are provided for reference to existing conditions only. No specific development is proposed as part of this application.

TRUE NORTH
Scale 1" = 20'

- Legend:**
- Cluster Bush
 - Hong Kong Orchid
 - Plumeria
 - Ti Leaf
 - bfp = Back Flow Preventer
 - co = Clean Out
 - gw = Guy Wire
 - icv = Irrigation Control Valve
 - hyd = Hydrant
 - pp = Power Pole
 - pvc = Polyvinyl Chloride
 - wm = Water Meter
 - wv = Water Valve

GRAPHIC SCALE



ALTA/NSPS LAND TITLE SURVEY
MAP SHOWING LOT 2
 Being Grant 7356 to American
 trust Co. of Hawaii, Inc.
 Also Being Portion of Block A
 of Waimea House Lots
 Waimea, Kauai, Hawaii
 TMKS: (4) 1-6-07: 29
 Prepared for: Kauai Realty, Inc.
 Date of Survey: December 21, 2020,
 January 25 and 27, 2020

To:
 This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items of Table A thereof. The field work was completed on January 27, 2021.

The undersigned further certifies that the Positional Uncertainties resulting from the survey measurements made on the survey do not exceed the allowable Positional Tolerance.

This survey was also made in accordance with the State of Hawaii's Minimum Standards of Practice for Land Surveys.

By: Dennis M. Esaki Date: December 21, 2020, January 25 and 27, 2021
 Registered Land Surveyor No: 4383
 Land Court Surveyor No: 185

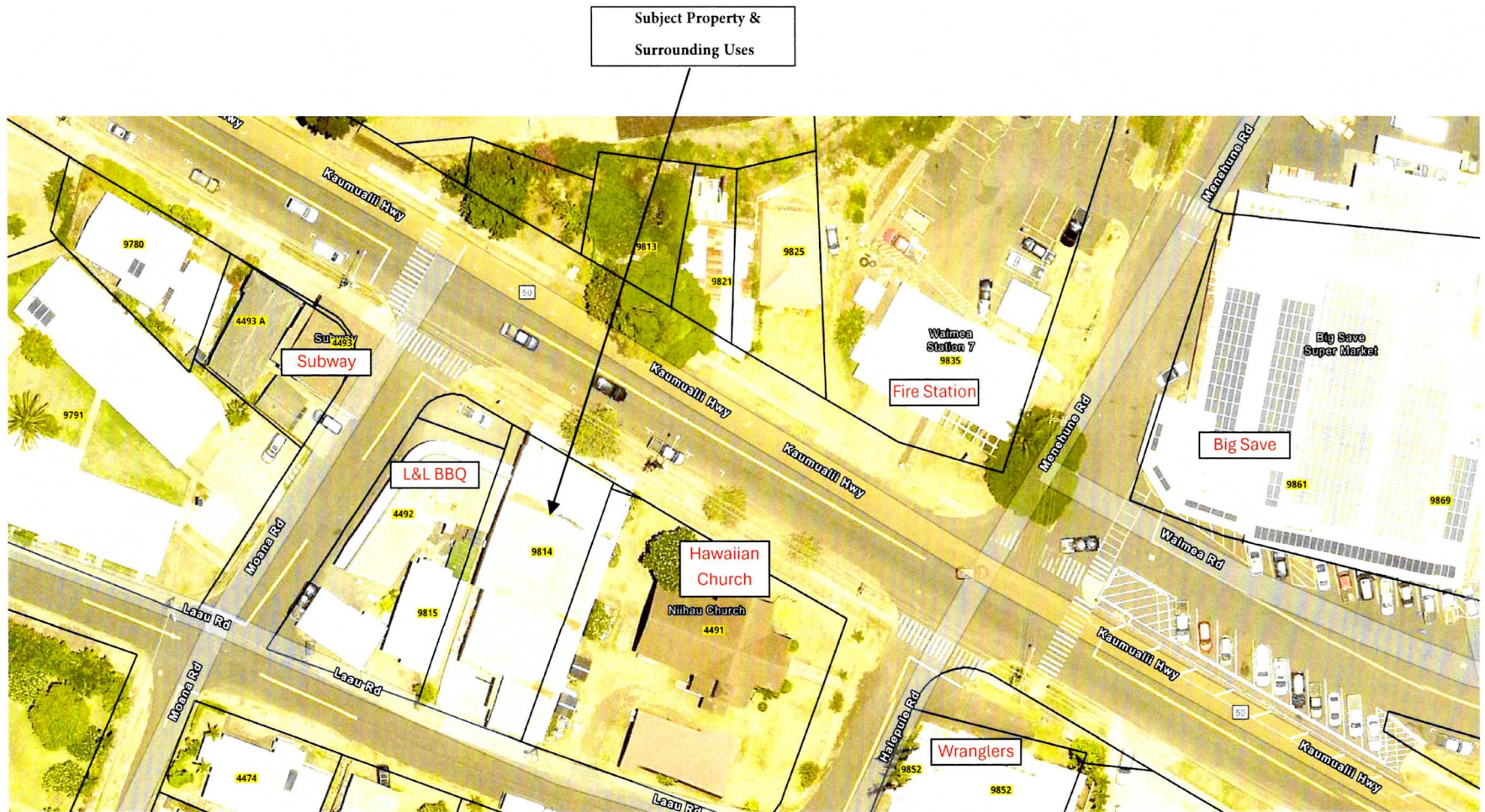


THIS WORK WAS PREPARED BY ME
 OR UNDER MY SUPERVISION

Signature
 ESASI SURVEYING & MAPPING, INC.
 EXPIRES: APRIL 30, 2022

Location Map: identifies the subject property relative to the surrounding area

kauaigis.maps.arcgis.com

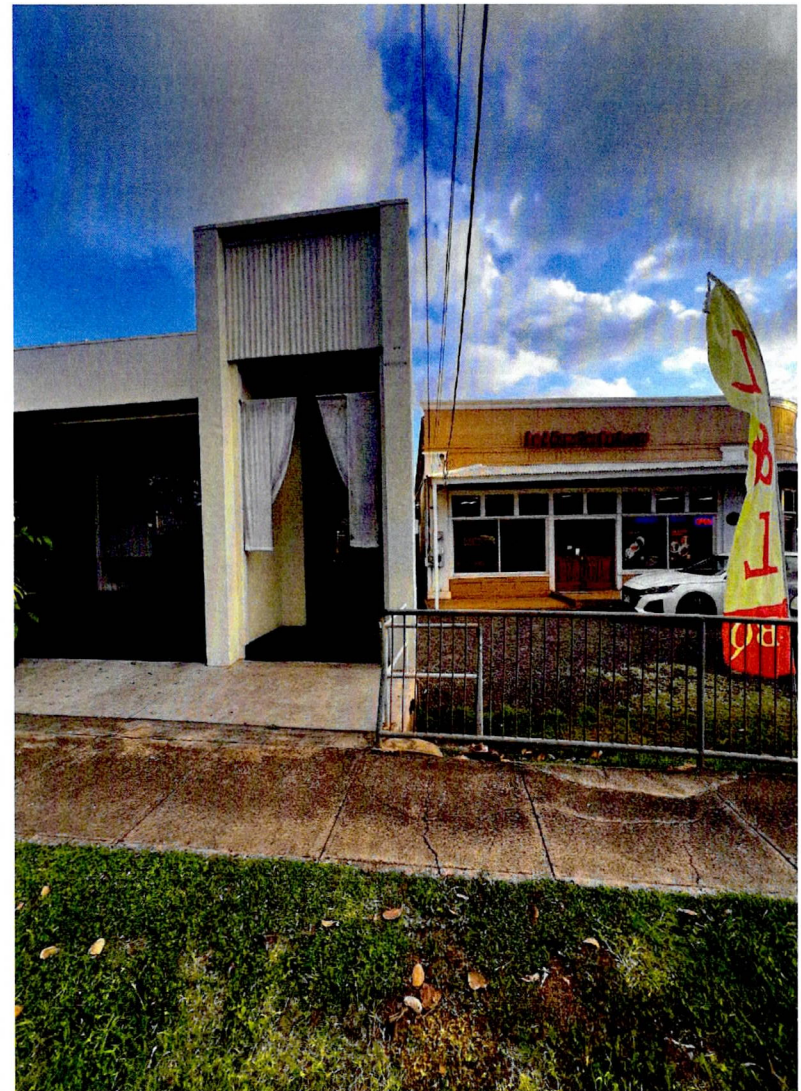


Subject Property and Surrounding Context

Front Elevation – Facing Kaumuali'i Highway



Street Frontage and Adjacent Commercial Uses



Street Frontage and Adjacent Commercial Uses



Rear of Property – Existing Access and Parking Area



DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission: Consideration of a bill amending Chapter 8 of the Kaua'i County Code 1987, as amended, by adding the definition of "Additional Rental Unit (ARU)" and amending Section 8-31.1 to reinstate the previously sunsetted Additional Rental Unit provisions.

Permit Application Nos. Zoning Amendment ZA-2027-1

Name of Applicant(s) COUNTY OF KAUAI, 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 8-3.4	
Public Hearing Date:	September 8, 2026
Date of Publication:	August 7, 2026
Date of Director's Report:	August 28, 2026

IV. DESCRIPTION OF PROPOSED BILLS

The proposed bill attached as Exhibit A amends Chapter 8 of the Kaua'i County Code (KCC) 1987, as amended, Section 8-1.5, by reintroducing the definition of "Additional Rental Unit" (ARU). The bill also amends Chapter 8, Section 8-30.1, to reinstate the provisions governing Additional Rental Units. The intent of the bill is to reinstate the ARU program as it existed and operated for many years prior to its sunset. There is essentially no change to the ARU program's structure. The bill puts back the same program that was previously in place,

F.4.b.1.
SEP 08, 2026

allowing the construction of Additional Rental Units island-wide to increase the supply of rental housing within Kaua'i's Residential Zoning District.

The original intent of the ARU program was to allow construction of an accessory rental structure to an existing dwelling within the Residential Zoning District, subject to development standards, in order to help address the County's housing shortage. The original ARU program established by Ordinance No. 1026 and approved on March 19, 2018, included a sunset clause terminating the program five (5) years after approval. The program accordingly expired on March 19, 2023, prompting this reinstatement. In 2022, an amendment through Ordinance No. 1133 removed Section 8-30.1(c)(4), which had originally required road widening agreements intended to bring non-standard roadways up to county standards. It was found that not a single substandard road had been brought into conformity through the ADU/ARU clearance process. The Council found that Ordinance No. 1133 removed an unnecessary two (2) to three (3) month delay in processing times.

The reinstatement of the Additional Rental Unit program establishes development standards that were previously existing for the design and use of ARUs. The standards require applicants to submit a Facilities Clearance Form confirming that adequate public facilities are available to support the unit. The reinstated provisions include:

- A maximum total floor area of 800 square feet;
- One (1) required off-street parking space per ARU, in addition to parking required for the primary dwelling;
- A prohibition on submitting the ARU or the underlying lot to a condominium property regime under Hawai'i Revised Statutes Chapters 514A and 514B, to separate ownership of the ARU from the primary dwelling unit;
- A requirement that the ARU be used for long-term rental or otherwise occupied at least six (6) months per year;
- A prohibition on use of the ARU for transient accommodations, including homestays or short-term vacation rentals; and
- An allowance for up to an additional ten percent (10%) land coverage beyond the maximum established under Section 8-4.3, provided the Department of Public Works, Engineering Division, does not object.
- A prohibition of constructing ARUs on any property located within the County's Tsunami Evacuation Zones west of the Hanalei River.

Prior to building permit review, the bill requires that the following public facilities be found adequate to service the ARU, and confirmed through an Additional Rental Unit Facilities Clearance Form:

- Availability and capability of a public sewer system, confirmed in writing by the Department of Public Works, or of a private sewer or individual wastewater system, confirmed in writing by the State of Hawai'i Department of Health;
- Availability of water, including source, transmission, and storage lines and facilities, confirmed in writing by the Department of Water; and
- Written approval from the Kaua'i Fire Department.

V. APPLICANT'S REASONS/JUSTIFICATION

The Applicant, the County of Kaua'i Planning Department, submits that 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, allowing the construction of Additional Rental Units island-wide to increase the supply of long-term rental housing in Kauai's Residential Zoning Districts.

When the Council enacted the original ARU program under Ordinance No. 1026, it recognized the urgent need to address Kaua'i's shortage of available rental housing. That need has not diminished since the program's expiration. Kaua'i continues to face a persistent gap between the supply of long-term rental housing and local demand. The 2024 Hawai'i Housing Planning Study estimates that Kaua'i County will need 4,914 additional housing units to meet projected demand by 2027. With the expiration of the ARU program, property owners lost a tool to increase long-term rental capacity within existing Residential Zoning Districts.

Since 2019, the Planning Department has processed and completed approximately 145 ARU Facility Clearance forms. Of those, approximately 80 ARU units are approved or in process. These figures are drawn from Planning Department records and are provided as an approximation of program activity. Because ARU tracking spans multiple permit cycles and data entry methods over that period, the Department is continuing to refine and verify these totals.

Even as approximations, these numbers show that the ARU program generated meaningful, sustained interest from property owners and produced real additions to Kauai's rental housing stock during the period it was in effect. Reinstatement of the program would allow applicants to continue utilizing this tool and allow the County to continue supporting the development of Additional Rental Units on existing residential lots, utilizing existing infrastructure where available and requiring improvements as necessary to ensure adequate public facilities.

This reinstatement is also consistent with the General Plan's goals of providing affordable and diverse housing for local families, reducing the cost of living, and supporting infill development within existing communities. The ARU program's development standards, including the 800 square foot floor area cap, off-street parking requirements, and prohibition on condominium property regime separation, keep ARUs accessory in scale and character to the primary dwelling. The continued prohibition on transient accommodation use ensures that reinstated ARUs will directly serve the resident rental market rather than the visitor accommodation market.

VI. AGENCY COMMENTS

Comments from applicable government agencies are being sought and are expected at the time of the public hearing scheduled for September 8, 2026.

VII. PRELIMINARY EVALUATION

In evaluating the proposed zoning amendment, the following aspects should be taken into consideration:

1. Comprehensive Zoning Ordinance (CZO)

The proposed amendment is to be evaluated pursuant to Section 8-3.4(d) of the CZO, Kaua'i County Code (KCC), as amended. The section reads:

“(d) Consideration. In considering an amendment, the Planning Commission shall consider the purposes of the existing and proposed changes to the Zoning Ordinance. A change in the Zoning Map or text shall not be made unless the change will further the public necessity and convenience and the general welfare.”

The proposed amendment furthers the public necessity and convenience by reinstating a tool to expand the County's long-term rental housing supply using existing residential lots and infrastructure. By re-establishing the Additional Rental Unit program, the amendment allows property owners within existing residential communities to add long-term rental capacity without relying on new subdivision development. This supports the general welfare by increasing the County's housing supply while maintaining the low-density character of Residential Zoning Districts. The program's development standards, including limits on floor area, parking requirements, and restrictions on condominium property regime separation, also ensure that ARUs remain accessory in scale and character to the primary dwelling. Clear development standards further support public convenience by providing applicants with defined requirements for ARU development.

2. General Plan

The 2018 General Plan sets forth a vision, goals, and policies to guide future growth on Kaua'i. The proposed amendment is consistent with the overall vision and policies outlined in the 2018 General Plan.

A. Section 1.4, entitled “Policies to Guide Growth”

i. **Policy #2: Provide affordable housing while facilitating a diversity of privately developed housing for local families.**

Policy #2 of the General Plan emphasizes the need for additional housing on Kaua'i. The General Plan identifies a need for approximately 9,000 housing units by 2035. The proposed bill supports this policy by establishing standards that allow the development of Additional Rental Units within established residential communities, expanding the housing supply through infill development. It is further aligned with this policy by accommodating growth in existing communities and supporting the diversity of housing types.

ii. **Policy #6: Reduce the cost of living.**

This policy is grounded in the finding that approximately 36 percent of average Kaua'i households spend their income on housing costs and 26 percent on transportation costs. With the cost of basic necessities increasing, the proposed reintroduction of the ARU program is in alignment with this policy by helping to support a diversity of affordable housing on Kaua'i within established communities. By allowing development within existing communities, ARU residents may have closer access to resources, helping to reduce transportation costs.

B. Section 3.0 Actions by Sector, Subsection Sector II, entitled "Housing" states for code changes:

i. **Supporting Infill Development and "Missing Middle" Housing.**

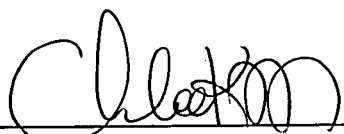
The proposed bill is consistent with this code change recommendation by establishing standards for Additional Rental Units in residentially zoned areas, focusing new development within existing towns to leverage existing physical and social infrastructure while preserving open space. By re-incorporating these standards, the proposed amendment supports the General Plan's objective of fostering infill development and diversifying Kaua'i's housing stock. The bill further supports this code change by incentivizing infill development through reduced facility charges and permitting review fees.

VIII. PRELIMINARY CONCLUSION

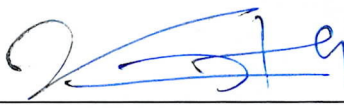
Based on the foregoing analysis, the proposed bill furthers the public necessity and convenience and the general welfare by increasing long-term rental housing capacity within existing Residential Zoning Districts. The proposed amendment is also consistent with the 2018 General Plan's policies supporting diverse housing opportunities, reducing the cost of living, and promoting infill development. Accordingly, the proposed bill complies with the applicable standards of the Comprehensive Zoning Ordinance and is consistent with the County's planning objectives.

IX. PRELIMINARY RECOMMENDATION

Based on the foregoing, it is hereby recommended that Zoning Amendment ZA-2027-1 be **APPROVED**.

By 
CHLOE MATSUDA
Planner

Approved & Recommended to Commission:

By  _____

KA'AINA S. HULL
Director of Planning

Date: 8/27/2026

ORDINANCE NO. _____

BILL NO. _____

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 8
KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO
CIVIL FINES FOR ILLEGAL TRANSIENT ACCOMODATIONS**

(County of Kaua'i, Applicant) (ZA-2027-2)

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

SECTION 1. Purpose. The purpose of this Ordinance is to amend Section 8-3.5 to increase the civil fine limit for illegal and unpermitted transient accommodations that charge over \$1,000 per night per booking.

SECTION 2. Findings. The Council finds that the current civil fine structure working in concert with the County of Kaua'i Planning Department's Illegal Transient Vacation Rental Enforcement Program does successfully eliminate and prevent illegal operations. However, the Council also finds that owners and agents of illegal vacation rentals paidover \$1,000 per night per booking have calculated the current maximum of \$10,000 per day as a commensurate cost of doing business which results in some of these operations continuing to book and operate on the illegal transient vacation rental market.

The Council finds that in order to enforce against illegal vacation rentals—modestly priced, mid-range priced, and high-end priced—additional fine amounts are necessary.

SECTION 3. Section 8-3.5 (Enforcement, Legal Procedures and Penalties), Kaua'i County Code 1987, as amended, is amended to read as follows:

Section 8-3.5 Enforcement, Legal Procedures and Penalties.

(a) Enforcement, Legal Procedures and Penalties.

- (1) All departments, officials, and public employees vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Chapter, and shall issue no such permits or licenses for construction, development, uses, activities, subdivisions or other purposes which would be in conflict with the provisions of this Chapter; any such permits or licenses, if issued in conflict with the provisions of this Chapter shall be void.
- (2) It shall be the duty of the Planning Commission and Planning Director to enforce the provisions of this Chapter and it shall be the

27.2

duty of all law enforcement officers of the County of Kaua'i to enforce this Chapter and all the provisions thereof.

- (3) Any person convicted of violating or causing or permitting the violation of any of the provisions of this Chapter, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$2,000. After conviction, a separate offense is committed upon each day during or on which a violation occurs or continues.
- (4) Any building or structure or other improvement or development set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this Chapter or any use of land contrary to the provisions of this Chapter shall be unlawful and a public nuisance. The County Attorney shall immediately commence an action or proceeding for the abatement, removal, or enjoinder thereof in the manner provided by law, and shall take such other steps, and shall apply to such courts as may have jurisdiction to grant relief that will abate or remove such building, structure, improvement, development or use, and restrain and enjoin any person from setting up, erecting, building, maintaining, or using any such building, structure, improvement or development, or using any property contrary to the provisions of this Chapter.
- (5) The remedies provided for in this Article shall be cumulative and not exclusive.

(b) Civil Fines.

- (1) If the Director of the Planning Department determines that any person, firm or corporation is not complying with a notice of violation, the Director may have the party responsible for the violation served, by mail or delivery, or by posting of the property which address is the most current address reflected in the Real Property tax records, or by publishing such notice in a newspaper of general circulation in the County of Kaua'i should previous notification efforts not be accepted, with an order pursuant to this Section. The order may require the party responsible for the violation to do any or all of the following: ~~[(A) correct the violation within the time specified in the order; (B) pay a civil fine not to exceed \$10,000 in the manner, at the place, and before the date specified in the order; (C) pay a civil fine up to \$10,000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.]~~

(A) Correct the violation within the time specified in the order;

- (B) Pay a civil fine not to exceed \$10,000 in the manner, at the place, and before the date specified in the order;
- (C) For an illegal transient accommodation with a daily rate exceeding \$1,000, the civil fine may exceed \$10,000 but shall not exceed ten times the transient accommodation's daily rate;
- (D) Pay a civil fine up to \$10,000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order;
- (E) For an illegal transient accommodation with a daily rate exceeding \$1,000, the civil fine may exceed \$10,000 but shall not exceed ten times the transient accommodation's daily rate for each day the violation continues, in the manner and at the time and place specified in the order.

All civil fines shall be deposited to the Planning Enforcement Account within Fund 251.

- (2) The order shall advise the party responsible for the violation that the order shall become final 30 calendar days after the date of its delivery or posting on the property, or publishing of such notice in a newspaper of general circulation in the County of Kauai. The order shall also advise that the Director's action may be appealed to the Planning Commission.
- (3) The provisions of the order issued by the Director under this Section shall become final 30 calendar days after the service or posting on the property, or publishing of such notice in a newspaper of general circulation in the County of Kaua'i, of the order. The parties responsible for the violation may appeal the order to the Planning Commission pursuant to its rules. The form of this appeal must conform to the Planning Commission's rules. However, an appeal to the Planning Commission shall not stay any provision of the order.
- (4) The Director may institute a civil action in any court of competent jurisdiction for enforcement of any order issued pursuant to this Section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the Director need only show that the notice of violation and order were served; that a civil fine was imposed; the amount of the civil fine imposed has not been paid; that

either the order has not been appealed or that if appealed, the order was sustained by the Commission and/or any Court action.

- (5) The Director may place a lien on the property if the violation has not been corrected or the civil fine imposed has not been paid within 90 days of the order. The Director shall obtain approval from the County Attorney prior to the placement of any liens.

(A) Said lien shall be recorded with the State of Hawai'i, Bureau of Conveyances or registered in the Office of the Assistant Registrar of the Land Court, and shall identify the owner's name, address of the property, tax map key number of the property, and include copies of pertinent documentation as to the failure of the property owner to pay the civil fine. Any cost incurred in the filing of the lien shall be part of the lien for the civil fine set forth.

(B) The lien may be enforced and foreclosed by action of the Director in circuit court, and the proceedings before the circuit court shall be conducted in the same manner and form as ordinary foreclosure proceedings. If the owners or claimants of the property against which a lien is sought to be foreclosed are at the time out of the County or cannot be served within the County, or if the owners are unknown, and the fact shall be made to appear by affidavit to the satisfaction of the court, and it shall in like manner, appear prima facie that a cause of action exists against such owners or claimants or against the property described in the complaint, or that such owners or claimants are necessary or proper parties to the action, the court may grant an order that the service may be made in the manner provided by Chapter 634, H.R.S. In any such case it shall not be necessary to obtain judgment and have execution issued and returned unsatisfied, before proceeding to foreclose the lien in the manner provided.

(C) The Director or subordinate shall, at the expense of the debtor, upon payment of the amount of the lien, execute and deliver to the debtor a sworn satisfaction, which shall be entered in the general indexes of the Bureau of Conveyances or noted on the certificate if a notation of the original notice was made on any Land Court Certificate of Title.

- (6) There is hereby established and created an account to be known as the "Planning Enforcement Account" within Fund 251. The fines

collected pursuant to this Section are hereby deemed appropriated upon receipt and may be expended to retain independent contractors to assist in the enforcement of the Comprehensive Zoning Ordinance and other Codes, Statutes, or regulations the Planning Department has the authority to enforce. The fines may also be expended for materials, supplies, education, training, and legal representation, and equipment that facilitate inspection and enforcement of such violations. Council notification is required for any single expenditure from this account which exceeds \$10,000. Any fines collected when the account has an excess of \$500,000 in uncommitted funds shall be transferred and deposited into the General Fund at the close of the fiscal year. The fines collected shall not lapse at the close of the fiscal year. The Planning Department shall annually report to the Council as part of the Mayor's budget submittal on March 15th of each year, the expenditures and outcomes of said account.

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. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the effective date (Month Day, Year) and designated Ordinance number of this Ordinance shall be substituted in place of: **"*DATE*" (the effective date of Ordinance No. ****)."**

SECTION 6. Material to be deleted is bracketed. New material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring need not be included.

SECTION 7. This Ordinance shall take effect upon its approval.

DATE OF INTRODUCTION:

Lihu'e, Kaua'i, Hawai'i

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 8-3.4 of the Kaua'i County Code, 1987, as amended, a zoning amendment is required to modify the language and regulations within the Comprehensive Zoning Ordinance.

Permit Application Nos.

Zoning Amendment ZA-2027-2

Name of Applicant(s)

PLANNING DEPARTMENT

II. PERMIT INFORMATION

AMENDMENTS	
☒ Zoning Amendment	In accordance with Section 8-3.4 of the Kaua'i County Code, 1987, as amended, a zoning amendment is required to modify the language and regulations within the Comprehensive Zoning Ordinance.
☐ General Plan Amendment	
☐ State Land Use District Amendment	

III. LEGAL REQUIREMENTS

KCC Section 8-1.5	
Public Hearing Date:	September 8, 2026
Date of Publication:	August 8, 2026
Date of Director's Report:	September 2, 2026

IV. DESCRIPTION OF PROPOSED BILL

Section 8-3.5 of the K.C.C., 1987, as amended, regulates the Enforcement, Legal Procedures, and Penalties for the Comprehensive Zoning Ordinance's (C.Z.O.) associated structure and use regulations.

F.4.c.1.
SEP 08, 2026

The purpose of this Ordinance is to amend Section 8-3.5 to increase the civil fine limit for illegal and unpermitted transient accommodations that charge over \$1,000 per night per booking.

V. APPLICANT'S REASONS/JUSTIFICATION

The Planning Department's enforcement program under Section 8-3.5 has preformed relatively successfully in bringing properties that are in violation of the C.Z.O. into compliance with the corresponding zoning district's land use regulations.

When an investigation is initiated by the Department's Code Enforcement Division, should a zoning violation be found, a Notice of Violation is issued to the property, and the property owner generally works with the Department to rectify the violation, either by obtaining the necessary zoning permits, or removing the structure (if it is a structural violation) or ceasing the operation (if it is a use violation). No fine is issued with a zoning violation during this first notice. If remediation does not occur within a timely manner, a second Notice of Violation is generally issued with an associated fine. In cases where fines are issued, the property owner generally comes into compliance relatively quickly. However, the Department is finding that within one particular industry the current fine structuring may need be inadequate to compel compliance.

The Planning Department actively monitors the world wide web for illegal vacation rental and illegal transient accommodations. The Department also has executed Memorandums of Understanding (M.O.U.'s) with Airbnb and Expedia where the companies participate in data sharing with the Department to ensure that those accommodations being offered on their platforms are in compliance with the County of Kauai's land use regulations.

While the current fine structure within Section 8-3.5 and our enforcement program's efforts have generally been successful in shutting down illegal transient accommodations, there has been an increase in operations being issued fines and continuing on to operate even after paying the fines. Some owners and agents of illegal vacation rentals paid over \$1,000 per night per booking have begun calculating the current maximum of \$10,000 per day as a commensurate cost of doing business which results in some of these operations continuing to book and operate on the illegal transient vacation rental market.

Accordingly, it may be appropriate to amend Section 8-3.5 to increase the civil fine limit for illegal and unpermitted transient accommodations that charge over \$1,000 per night per booking.

X. RECOMENDATION

Based on the foregoing evaluation, it is hereby recommended that Zoning Amendment ZA-2027-2 be **APPROVED**.

Approved & Recommended to Commission:

By 
KA'ĀINA S. HULL
Director of Planning

Date: 8/31/2026

ORDINANCE NO. _____

BILL NO. _____

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 8
KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO
HOSTING PLATFORMS FOR TRANSIENT ACCOMMODATIONS**

(County of Kaua'i, Applicant) (ZA-2027-3)

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

SECTION 1. Purpose. The purpose of this Ordinance is to regulate hosting platforms that facilitate booking transactions for transient or overnight accommodations.

SECTION 2. Findings. The Council finds that the County of Kaua'i has executed Memorandums of Understanding (MOU) with Airbnb and Expedia whereby these two companies work directly with the County of Kaua'i, Planning Department to ensure that only legally operating transient accommodations are listed and booked through their website. These two companies constitute approximately 70 percent of the market share for online bookings for transient accommodations on Kaua'i.

The Council finds that there are other hosting platforms beyond those with whom the County has executed MOUs that continue to facilitate booking transactions for illegal and unpermitted transient accommodations located outside of the Visitor Destination Area (VDA).

SECTION 3. Section 8-19 (Hosting Platforms) is proposed to be added to Chapter 8 of the Kaua'i County Code 1987, as amended, is amended to read as follows:

Section 8-19 Hosting Platforms

(a) Purpose

The purpose of this Ordinance is to regulate hosting platforms that facilitate booking transactions for transient or overnight accommodations and other services related to these accommodations.

(b) Definitions

For the purpose of this Article, the following definitions shall apply

"Booking transaction" means any reservation or payment service provided by a hosting platform or its agent or intermediary, which facilitates a transient vacation rental transaction, or overnight accommodation transaction.

between a prospective transient user and an owner or owner's agent or representative.

"Hosting platform" means a person, business, entity, or organization of any kind that participates in the short-term transient vacation rental business or overnight accommodation business by collecting or receiving any form of fee or compensation, directly, or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of compensation .

"Non-conforming use permit (NCUC)" means a registration with the Planning Department allowing for an Owner to maintain a Transient Vacation Rental that does not comply with the regulations of the zoning district in which it is located, pursuant to Kaua'i County Code §8-17.10.

"Owner" means the holder of legal title of land in fee simple.

"Registry" means an electronic or digital list compiled and maintained by the Planning Department, which shall include all Kaua'i property addresses and tax map key numbers within the Visitor Destination Area (VDA), and all Kaua'i property addresses and tax map key numbers associated with a current and valid Transient Vacation Rental Non-Conforming Use Certificate (NCUC) issued by the Planning Department.

"Transient vacation rental" means a dwelling unit or any other overnight accommodation which is provided to transient occupants for compensation or fees, including club fees, or as part of interval ownership involving persons unrelated by blood, with a duration of occupancy of 180 days or less.

"Visitor Destination Area (VDA)" means those areas designated as Visitor Destination Areas on County of Kaua'i Zoning Maps, which allows certain properties to be short term rented for 180 days or less.

(c) Registry

(1) Pursuant to this Section, a County Registry is established listing the tax map key numbers within the Visitor Destination Area where Transient Vacation Rentals are outright permitted to operate, and, Transient Vacation Rentals outside of the VDA which maintain a current and valid Transient Vacation Rental Non-Conforming Use Certificate (NCUC) issued by the Planning Department.

(2) The Registry shall be maintained by the Planning Department and annually updated no later than July 1..

- (3) Owners may apply to the Planning Department for inclusion of their property on the Registry, if the property becomes eligible prior to the annual update.

(d) Hosting Platform Responsibilities

- (1) Hosting platforms shall not complete any booking transaction for any TVR or other overnight accommodation unless it is listed on the County Registry as specified in Sec. 8-19(c), at the time the hosting platform or its agent or intermediary receives any form of compensation for the booking transaction.
- (2) Hosting platforms shall not collect or receive any form of compensation, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a TVR or other overnight accommodation, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the TVR or property.
- (3) A hosting platform shall conspicuously list on its website and printed material all TVR property tax map key numbers and applicable NCUC, prior to completing a booking transaction for that TVR or overnight accommodation.
- (4) Subject to applicable laws, on the final day of each month, hosting platforms shall disclose to the Planning Department the following information regarding each booking transaction:

(A) the TVR or overnight accommodation's tax map key number.

(e) Penalties

- (1) A Hosting Platform in violation of this Article is subject to a civil fine not to exceed \$10,000 for each day the the violation continues. The provisions of Section 8-3.5(b) additionally apply.
- (2) The Planning Department may issue and serve administrative subpoenas as necessary to obtain specific information regarding compliance with, and enforcement of, Section 8-19. Production of information pursuant to an administrative subpoena shall be required no sooner than thirty (30) days from the date of service by First Class Mail or personal service at the hosting platform's last known address or address of registered agent. A party served with an administrative subpoena may seek judicial review during the thirty (30) day period.

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. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the effective date (Month Day, Year) and designated Ordinance number of this Ordinance shall be substituted in place of: **"*DATE* (the effective date of Ordinance No. ****)."**

SECTION 6. Material to be deleted is bracketed. New material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring need not be included.

SECTION 7. This Ordinance shall take effect upon its approval.

DATE OF INTRODUCTION:

Līhu'e, Kaua'i, Hawai'i

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 8-3.4 of the Kaua'i County Code, 1987, as amended, a zoning amendment is required to modify the language and regulations within the Comprehensive Zoning Ordinance.

Permit Application Nos.

Zoning Amendment ZA-2027-3

Name of Applicant(s)

PLANNING DEPARTMENT

II. PERMIT INFORMATION

AMENDMENTS	
☒ Zoning Amendment	In accordance with Section 8-3.4 of the Kaua'i County Code, 1987, as amended, a zoning amendment is required to modify the language and regulations within the Comprehensive Zoning Ordinance.
☐ General Plan Amendment	
☐ State Land Use District Amendment	

III. LEGAL REQUIREMENTS

KCC Section 8-1.5	
Public Hearing Date:	September 8, 2026
Date of Publication:	August 8, 2026
Date of Director's Report:	September 2, 2026

IV. DESCRIPTION OF PROPOSED BILL

Section 8-17 and 8-18 of the K.C.C., 1987, as amended, regulate transient accommodations for transient vacation rentals, time shares, and homestays (often referred to as bed and breakfasts or hosted vacation rentals).

The purpose of this Ordinance is to add Section 8-19 to regulate hosting platforms that facilitate booking transactions for transient accommodations to ensure that illegal and

F.4.d.1.
SEP 08, 2026

unpermitted transient accommodations are not being transacted through online platforms.

V. APPLICANT'S REASONS/JUSTIFICATION

In 2008, the County of Kaua'i adopted Ordinance 864, which established the regulatory framework for transient vacation rentals.

The Planning Department actively monitors the world wide web for illegal vacation rental and illegal transient accommodations. The Department also has executed Memorandums of Understanding (M.O.U.'s) with Airbnb and Expedia where the companies participate in data sharing with the Department to ensure that those accommodations being offered on their platforms are in compliance with the County of Kauai's land use regulations.

With a mix of pro-active enforcement and the administration of the M.O.U.'s with Airbnb and Expedia, we are seeing some of the lowest rate of illegal vacation rental operations in over a decade. Back in 2017, there were an estimated 1,400 illegal TVR operations. Over the past 4 years with effective enforcement and the M.O.U.'s in place that number is down to less than 100 estimated illegal TVRs at any given time.

While much of the success of the illegal TVR enforcement program is attributable to the M.O.U.'s and the predominance that Airbnb and Expedia have in the transient accommodation market, there are still a number of online platforms that do not share their data with the County of Kaua'i, and these platforms also facilitate the transacting of illegal transient accommodations here on Kaua'i.

Accordingly, it may be appropriate to amend Chapter 8 of the K.C.C. 1987, as amended, to regulate hosting platforms that facilitate booking transactions for transient or overnight accommodations in a manner that ensures these platforms are only transacting transient accommodations for legally operating transient accommodations here on Kaua'i

X. RECOMENDATION

Based on the foregoing evaluation, it is hereby recommended that Zoning Amendment ZA-2027-3 be **APPROVED**.

Approved & Recommended to Commission:

By 
KA'ĀINA S. HULL
Director of Planning

Date: 8/31/2020

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 multiple bills amending the State Land Use District Boundary, Chapter 8 of the Kaua'i County Code 1987, as amended, relating to the Comprehensive Zoning Ordinance (CZO), and Chapter 10, Article 3, relating to the West Kaua'i Community Plan and West Kaua'i Form-Based Code.

Permit Application Nos.

Zoning Amendment ZA-2027-4
Zoning Amendment ZA-2027-5
State Land Use Amendment A-2027-1

Name of Applicant(s)

COUNTY OF KAUAI, 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	Pursuant to KCC Section 7-3.1, as amended, the General Plan of the County of Kaua'i may be amended by ordinance, in accordance with the Charter. An amendment may change provisions of this ordinance; text provisions or map designations of the General Plan document; or any of these in combination.
☒ State Land Use District Amendment	Pursuant to KCC Section 11-1, as amended, a State Land Use District Boundary Amendment Ordinance, organized as a Zoning Amendment, is required to reclassify a State Land Use District designation.

III. LEGAL REQUIREMENTS

KCC Section 8-3.4	
Public Hearing Date:	September 8, 2026
Date of Publication:	August 7, 2026
Date of Director's Report:	August 29, 2026

F.4.e.1.
F.4.f.1.
F.4.g.1.
SEP 08, 2026

IV. DESCRIPTION OF PROPOSED BILLS

There are three separate amendments associated with the proposed project area:

1. **State Land Use District Boundary Amendment (A-2027-1)** – Proposes to change approximately 14.9 acres of the State Land Use District boundary and designation of Tax Map Key (TMK) (4) 2-1-001:003 from Agricultural to Urban (Exhibit 1).
2. **Zoning Map Amendment (ZA-2027-4)** – Proposes to amend Zoning Map ZM-H 200 to change approximately 14.9 acres within TMK (4) 2-1-001:003 from Agricultural (Ag) to Residential-10 (R-10) (Exhibit 2).
3. **West Kauaʻi Community Plan Amendment (ZA-2027-5)** – Proposes amendments to Chapter 10, Article 3 of the Kauaʻi County Code 1987, as amended, relating to the West Kauaʻi Community Plan (Exhibit 3). This includes:
 - Amending Zoning Map ZM-H200, Special Planning Area “N” (SPA-N), also known as the “‘Eleʻele-Port Allen Walkable Mixed Use District,” to expand the SPA-N boundaries to include the proposed area within TMK (4) 2-1-001:003.
 - Amending Figure 2.1.020.C, “Hanapēpē Transect Map,” of the West Kauaʻi Form-Based Code, Appendix C of the West Kauaʻi Community Plan, to apply the T4 Village Neighborhood – West Kauaʻi (T4VN-WK) transect to the proposed area.

Attached as Exhibit 4 are the applicable T4 Village Neighborhood – West Kauaʻi (T4VN-WK) transect regulations from the West Kauaʻi Form-Based Code. The regulations establish the applicable development standards for the T4VN-WK transect, including permitted building types, building placement, frontage, height, setbacks, and other site and design standards.

The proposed ordinances would amend the State Land Use District, County zoning, and the West Kauaʻi Community Plan to support future residential and mixed-use development within the proposed project area. The amendments would establish R-10 as the underlying County zoning for the portion currently zoned Agricultural and apply the T4VN-WK transect across a larger area that includes both the rezoned area and adjacent lands currently zoned R-10.

V. APPLICANT’S REASONS/JUSTIFICATION

The proposed amendments are intended to support future residential and mixed-use development in an area identified by the West Kauaʻi Community Plan (WKCP) as appropriate for future growth. The approximately 14.9-acre area proposed for the State Land Use District and County zoning amendments was previously proposed for residential expansion adjacent to the existing Numila Plantation Camp. Following consideration of the original proposal, the approximately 14.9-acre residential development area was relocated to TMK (4) 2-1-001:003, south of the County’s Lima Ola affordable housing development and adjacent to Halewili Road.

One of the considerations in relocating the proposed development area was the availability of infrastructure necessary to support future residential development. The area south of Lima Ola provides greater access to existing and planned infrastructure, including sewer and wastewater facilities, which would help support the feasibility of future development within the proposed area. Locating the proposed development closer to available infrastructure would also provide a more practical opportunity for the future development of the property.

The relocation of the proposed development area is consistent with the vision and policies of the WKCP. Town Design Policy #3 seeks to meet the housing needs of West Kaua'i residents by expanding mixed-use communities that are walkable, bikeable, and resilient. The WKCP identifies 'Ele'ele as one of the areas with the greatest potential for new "walkable neighborhoods" and identifies the area south of Lima Ola as suitable for residential and mixed-use expansion.

The 'Ele'ele and Port Allen Town Plan Map further identifies the proposed amendment area as "Walkable Neighborhood." The West Kaua'i Form-Based Code (WKFBC), adopted as Appendix C of the WKCP, implements the policies and land use designations established by the WKCP through the use of transect zones.

Form-Based Codes provide an alternative approach to conventional zoning by focusing primarily on the physical form and character of development rather than the separation of land uses. The WKFBC uses transect zones to establish standards for building form, placement, site design, and the relationship between buildings and the street to create walkable, mixed-use communities consistent with the character and vision established by the WKCP. The applicable T4VN-WK transect regulations are attached as Exhibit 4.

The T4 Village Neighborhood – West Kaua'i (T4VN-WK) transect is intended to accommodate medium-density residential building types, including duplexes and small multiplexes, with limited retail and service uses in an environment conducive to walking and bicycling.



General note: the illustrations above are intended to provide a brief overview of the transect zone and are descriptive in nature.

Figure 1. T4 Village Neighborhood – West Kaua'i (T4VN-WK) – Allowable Building Types

The proposed amendments would establish the appropriate State and County land use designations for the relocated development area, expand the existing 'Ele'ele-Port Allen Walkable Mixed Use District, and apply the T4VN-WK transect to the proposed area. Applying the T4VN-WK transect would provide consistency between the regulatory framework for the area and the "Walkable Neighborhood" designation already established by the WKCP.

VI. AGENCY COMMENTS

Comments from applicable government agencies are being sought and are expected at the time of the public hearing scheduled for September 08, 2026.

VII. PRELIMINARY EVALUATION

In evaluating the proposed zoning amendment, the following aspect should be taken into consideration:

1. Comprehensive Zoning Ordinance (CZO)

The proposed amendment is to be evaluated pursuant to Section 8-3.4(d) of the CZO, Kaua'i County Code (KCC), as amended. The section, reads:

"(d) Consideration. In considering an amendment, the Planning Commission shall consider the purposes of the existing and proposed changes to the Zoning Ordinance. A change in the Zoning Map or text shall not be made unless the

change will further the public necessity and convenience and the general welfare.”

The proposed zoning changes would provide for residential development within an area planned for growth near the existing ‘Ele‘ele community and the County’s Lima Ola affordable housing development. The amendments would also provide consistency between the County zoning and the land use pattern envisioned by the West Kaua’i Community Plan, including the designation of the area as a “Walkable Neighborhood.”

Based on the foregoing, the proposed amendments would further the public necessity and convenience and the general welfare by providing additional opportunities for residential development in an area identified for future residential and mixed-use growth.

2. General Plan

The 2018 General Plan sets forth a vision, goals, and policies to guide future growth on Kaua’i. The proposed amendment is consistent with the overall vision and policies outlined in the 2018 General Plan.

A. Section 3.0 Actions by Sector, Subsection Sector II, entitled “Housing” states for code changes:

- i. **Update zoning in and around town centers to facilitate mixed use and infill development, such as units above commercial space.** Zoning Amendment ZA-2027-5, which amends a portion of TMK (4) 2-1-001:003 to apply the T4 Village Neighborhood – West Kaua’i (T4VN-WK) transect of the West Kaua’i Form-Based Code, implements the code changes recommended by the General Plan by establishing development standards that support a mix of residential building types and compatible retail and service uses within a walkable neighborhood. The T4VN-WK transect is intended to integrate medium-density residential building types with limited retail and service uses in an environment conducive to walking and bicycling.
- ii. **Locate new communities only in areas designated for growth in the Land Use Map.** The proposed amendments are consistent with this policy as Figure 5-3, Hanapēpē-‘Ele‘ele Land Use Map, of the General Plan designates the proposed area as Neighborhood General. This designation supports amending the proposed area from Agriculture and applying the T4 Village Neighborhood – West Kaua’i (T4VN-WK) transect to accommodate future residential and mixed-use development consistent with the planned growth pattern established by the General Plan.
- iii. **Support State Land Use Boundary Amendment Petitions for new Urban District consistent with the Future Land Use Map.** State Land Use District Boundary Amendment A-2027-1, which proposes to amend approximately 14.9 acres of TMK (4) 2-1-001:003 from the State Agricultural District to the State Urban District, implements this policy by aligning the State Land

Use District designation with the Neighborhood General designation shown for the proposed area on Figure 5-3, Hanapēpē-‘Ele‘ele Land Use Map of the General Plan.

3. West Kaua‘i Community Plan

The proposed amendments are consistent with the vision, goals, and policies of the West Kaua‘i Community Plan (2020). The WKCP establishes a framework for directing future growth within West Kaua‘i and identifies areas appropriate for residential and mixed-use expansion.

Town Design Policy #3 seeks to meet the housing needs of West Kaua‘i residents by expanding mixed-use communities that are walkable, bikeable, and resilient. In implementing this policy, the WKCP identifies ‘Ele‘ele as one of the areas with the greatest potential for new “walkable neighborhoods” and specifically identifies the area south of Lima Ola as suitable for residential and mixed-use expansion (West Kaua‘i Community Plan *‘ELE‘ELE AND PORT ALLEN TOWN PLAN MAP* page 131).

The ‘Ele‘ele and Port Allen Town Plan Map further designates the proposed amendment area as “Walkable Neighborhood.” The Walkable Neighborhood designation is intended to accommodate a mix of residential building types and appropriate mixed uses while emphasizing safe and convenient pedestrian circulation and a more compact development pattern.

The proposed amendments would implement this planned land use pattern by establishing the appropriate State and County land use designations for future residential development and expanding the ‘Ele‘ele-Port Allen Walkable Mixed Use District to include the proposed area. The application of the T4 Village Neighborhood – West Kaua‘i (T4VN-WK) transect would further implement the Walkable Neighborhood designation established by the WKCP.

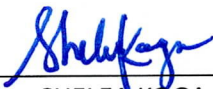
Accordingly, the proposed amendments are consistent with the WKCP’s planned growth pattern for ‘Ele‘ele and would implement the Plan’s direction for future residential and mixed-use development south of Lima Ola.

X. **PRELIMINARY CONCLUSION**

Based on the foregoing, it is concluded that the proposal is reasonable and appropriate. It is also consistent with the policies and recommendations of the Kaua‘i General Plan and the West Kaua‘i Community Plan.

XI. **PRELIMINARY RECOMMENDATION**

Based on the foregoing evaluation and conclusion, it is hereby Zoning Amendment ZA-2027-4, Zoning Amendment ZA-2027-5, and State Land Use District A-2027-1 be **APPROVED**.

By 
SHELEA KOGA
Planner

Approved & Recommended to Commission:

By 
KA'AINA S. HULL
Director of Planning

Date: 8/31/2022

“EXHIBIT 1”

(State Land Use District Boundary Amendment A-2027-1)

For reference

ORDINANCE NO. _____

BILL NO. _____

**A BILL FOR AN ORDINANCE AMENDING
THE STATE LAND USE DISTRICT BOUNDARY
RELATING TO A PARCEL LOCATED IN 'ELE'ELE, KAUA'I**

(County of Kaua'i Planning Department, Applicant) (A-2027-1)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Purpose. The purpose of this Ordinance is to update approximately 14.9 acres of the State Land Use District boundary and designation of Tax Map Key (TMK) (4) 2-1-001:003 from Agricultural to Urban.

SECTION 2. The State Land Use District Boundary designation for approximately 14.9 acres of the parcel in 'Ele'ele, Kaua'i, identified as TMK (4) 2-1-001:003, as shown on the attached map as Exhibit A, is hereby amended from the State "Agricultural" Land Use District (A) to the State "Urban" Land Use District (U), subject to the following conditions:

1. The State Land Use District Boundary Amendment shall be limited to the area delineated in Exhibit A.
2. The Landowner shall resolve and comply with the applicable standards and requirements, if any, of all State of Hawai'i and County of Kaua'i departments and agencies.
3. The Landowner is advised that additional government agency conditions may be imposed. It shall be the Landowner's responsibility to resolve those conditions with the respective agencies.

SECTION 3. The Planning Department is directed to note the changes on the official Zoning Maps 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.

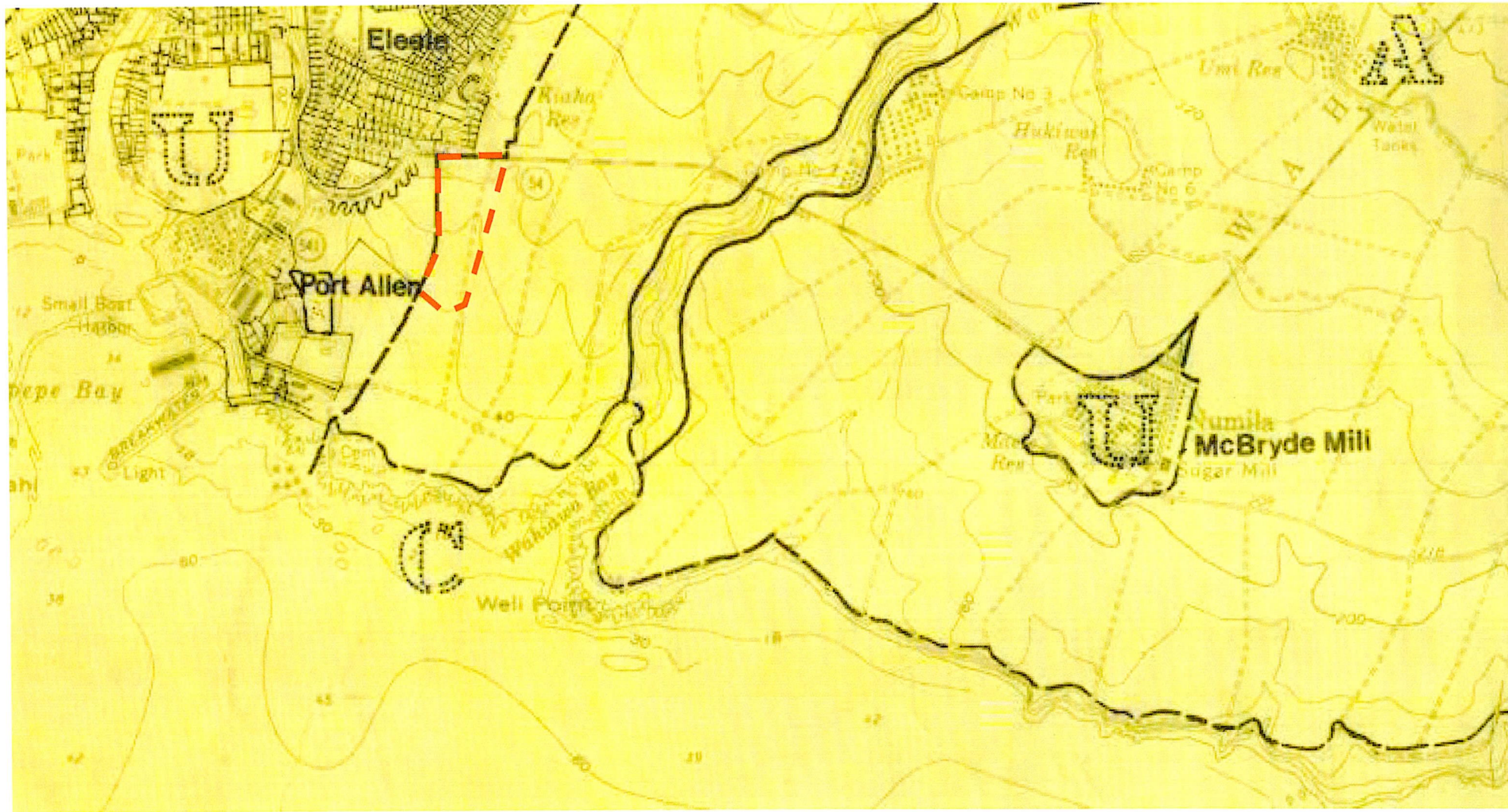
Introduced by:

(By Request)

DATE OF INTRODUCTION:

Līhu'e, Kaua'i, Hawai'i

Exhibit A



State Land Use District (SLUD) Boundary Amendment from Agricultural (A) to Urban (U)

Hanapēpē, Kauaʻi, Hawaiʻi



State Land Use District (SLUD) District Boundary Update from Agriculture (A) to Urban (U)

“EXHIBIT 2”

(Zoning Amendment ZA-2027-4)

For reference

ORDINANCE NO. _____

BILL NO. _____

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 8,
KAUA'I COUNTY CODE 1987, AS AMENDED,
RELATING TO ZONING BOUNDARIES IN 'ELE'ELE, KAUA'I**

(County of Kaua'i Planning Department, Applicant) (ZA-2027-4)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Purpose. The purpose of this Ordinance is to update the County of Kaua'i Zoning Map ZM- H 200 to reflect zoning designation updates within the subject parcel Tax Map Key (TMK) (4) 2-1-001:003, from "Agricultural" (Ag) to "Residential-10" (R-10).

SECTION 2. Findings. The Council finds that the West Kaua'i Community Plan (WKCP), adopted by the County of Kaua'i in December 2020, identifies the area south of Lima Ola, adjacent to Halewili and Waialo Roads, as suitable for residential and mixed-use expansion (West Kaua'i Community Plan, 2020, page 26).

The Council finds that TMK (4) 2-1-001:003 is not designated as Important Agricultural Lands by the Hawai'i State Land Use Commission.

The Council finds the amendment boundaries are delineated by the map in Exhibit A and contain an area of approximately 14.9 acres.

SECTION 3. The Comprehensive Zoning Ordinance (CZO) is hereby amended by amending ZM- H 200 within the CZO referenced in Section 8-2.3 by making the following changes to ZM- H 200 as shown in Exhibit A of this Ordinance which are attached hereto and incorporated by reference, subject to the following conditions:

1. The Landowner is advised that additional government agency conditions may be imposed. It shall be the Landowner's responsibility to resolve those conditions with the respective agencies.

SECTION 4. The Planning Department is directed to note the changes on the official Zoning Maps on file with the Department.

SECTION 5. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 6. This Ordinance shall take effect upon its approval.

Introduced by:

Hanapēpē, Kauaʻi, Hawaiʻi

 County of Kauaʻi Zoning Boundary Amendment from Agricultural (A) to Residential – 10 (R-10)

“EXHIBIT 3”

(West Kauaʻi Community Plan Amendment ZA-2027-5)

For reference

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 IMPLEMENTING ORDINANCE (2020)**

(County of Kaua'i Planning Department, Applicant) (ZA-2027-5)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Findings and Purpose. The purpose of this Ordinance is to amend 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-H200, Special Planning Area "N," also known as the "Ele'ele-Port Allen Walkable Mixed Use District," as shown in Exhibit A, attached hereto, to include a portion of the parcel identified as Tax Map Key (TMK) (4) 2-1-001:003, and amends Figure 2.1.020.C, "Hanapēpē Transect Map," of the West Kaua'i Form-Based Code, Appendix C of the West Kaua'i Community Plan, to apply the T4 Village Neighborhood – West Kaua'i (T4VN-WK) transect to the subject area.

The Council finds that TMK Parcel (4) 2-1-001:003 is not designated as Important Agricultural Lands by the Hawai'i State Land Use Commission.

The Council finds that the West Kaua'i Community Plan (WKCP), adopted by the County of Kaua'i in December 2020, supports meeting the housing needs of West Kaua'i residents by expanding mixed-use communities that are walkable, bikeable, and resilient (West Kaua'i Community Plan, 2020, page number 26.)

The Council finds that the current landowner (BBCP Kaua'i Operating LLC) has consented to this West Kaua'i Community Plan amendment.

SECTION 2. Figure 2.1.020.C, "Hanapēpē Transect Map," of the West Kaua'i Form-Based Code, Appendix C of the West Kaua'i Community Plan, is hereby amended as shown in Exhibit B, attached hereto and incorporated herein by reference, to apply the T4 Village Neighborhood – West Kaua'i (T4VN-WK) transect to the subject area, identified as a portion of Tax Map Key (TMK) (4) 2-1-001:003.

SECTION 3. Prior to the commencement of any construction on Tax Map Key (4) 2-1-001:003, the property owner(s) shall obtain written approval from the Planning Department confirming that the proposed alignment for the future roadway/pathway identified on the Hanapēpē-'Ele'ele Circulation Map has been mutually agreed upon by the property owner(s) and the Planning Department.

SECTION 4. The Planning Department is directed to note the changes on the official Zoning Maps on file with the Department.

SECTION 5. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 6. This Ordinance shall take effect upon its approval.

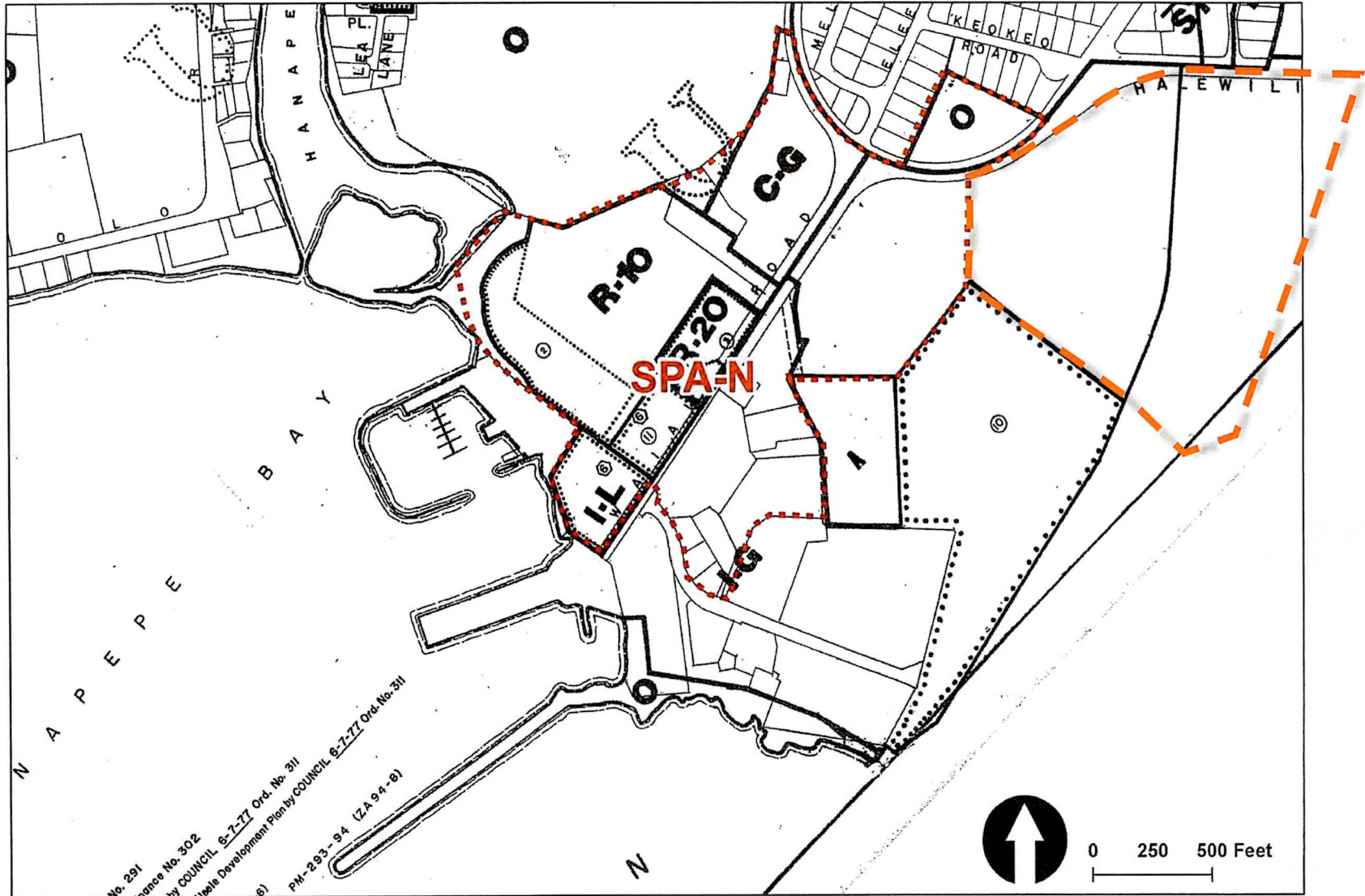
Introduced by:

(By Request)

DATE OF INTRODUCTION:

Līhu'e, Kaua'i, Hawai'i

Exhibit A



Map Showing Proposed Amendment to Zoning Map ZM-H-200 of Special Planning Area "N" also known as the "Ele'ele Port Allen Walkable Mixed Use District"

SPA-N Boundary

'Ele'ele and Port Allen, Kaua'i, Hawai'i

Bill No. 2797

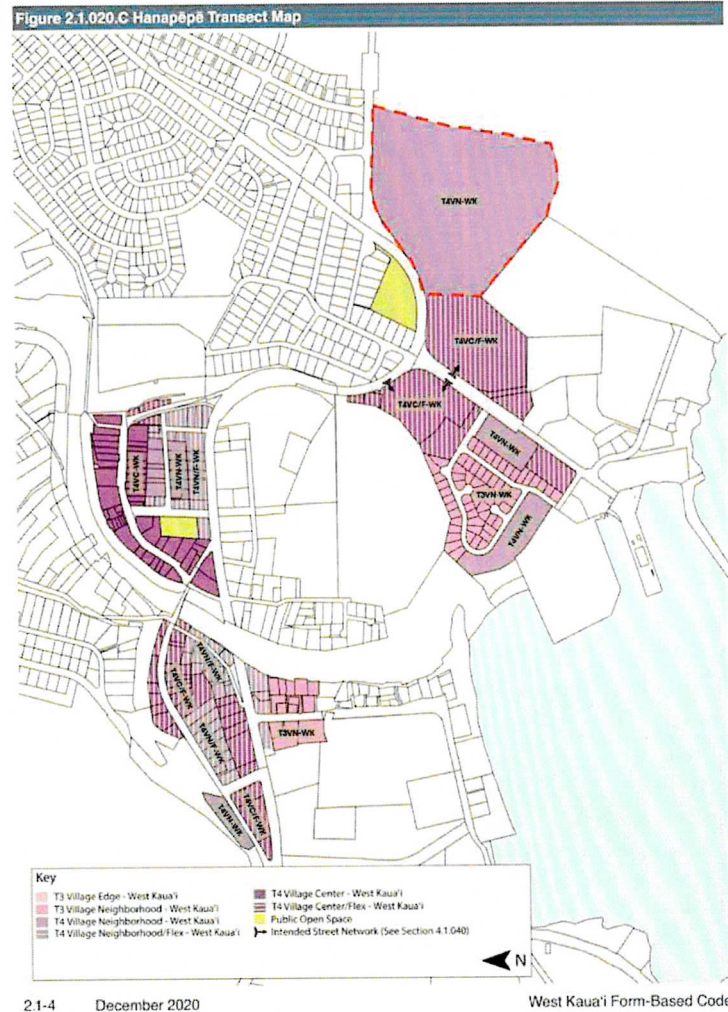
Exhibit 4



County of Kaua'i (COK) Special Planning Area N Expansion

Exhibit B

2.1



Establishment of T4VN-WK Boundary

Hanapēpē, Kaua'i, Hawai'i



Location of T4VN-WK District

“EXHIBIT 4”

(T4 Village Neighborhood – West Kaua’i (T4VN-WK) Transect Regulations)

For reference

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 multiplexes: small with limited retail and service uses in an environment conducive to walking and bicycling.

Sub-Zone(s)

T4VN/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

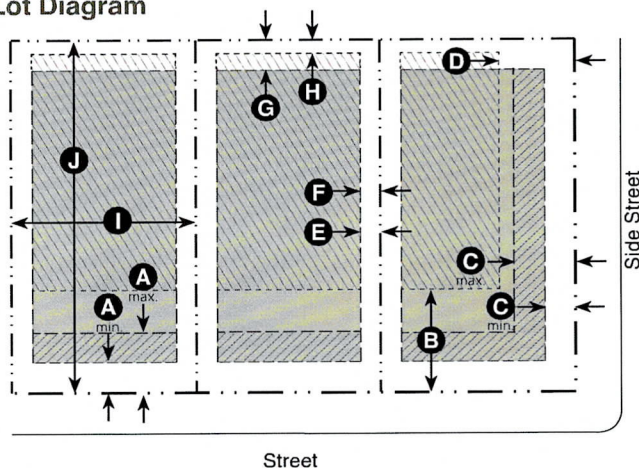
Building Type	Standards
House Village	3.2.040
House Cottage	3.2.050
Duplex	3.2.060
Multiplex: Small	3.2.070
Multiplex: Large	3.2.080

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

**Key**

--- ROW/ Lot Line	Main Building(s) Zone
--- Setback Line	Acc Structure(s) Zone
	Facade Zone

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.

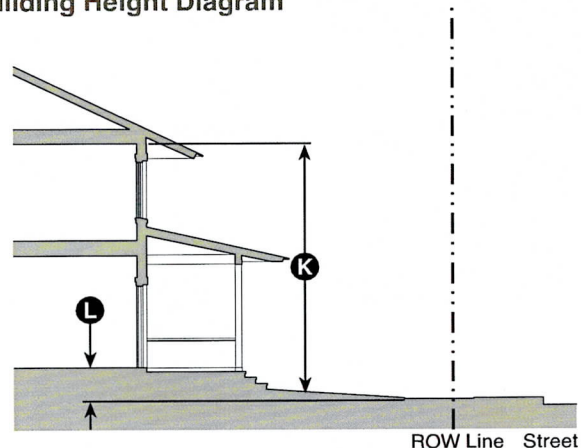
Lot Size

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.

Building Height Diagram

**Key**

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.	K
	30' to peak max.	
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.

¹Finished grade at main entry must not be greater than 4' from existing grade per CZO Section 8-4.5.

²Common entries for multi-unit buildings may be set at grade in compliance with local and federal accessibility standards.

³Required when facing a street and/or public right of way.

Footprint**Lot Coverage**

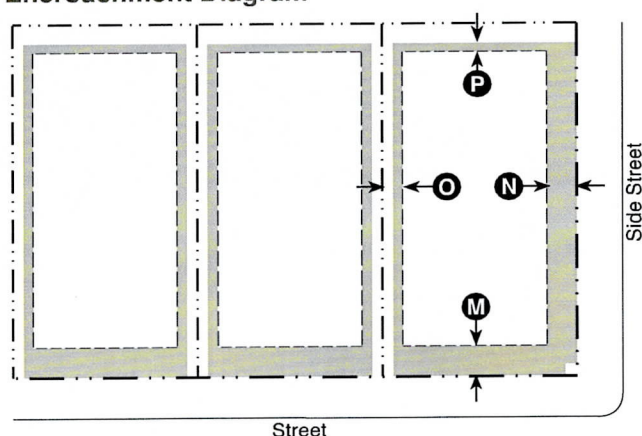
T4VN-WK	60% max.
T4VN/F-WK	80% max.

Depth, Ground Floor Space

Commercial	30' min.
------------	----------

Accessory Structure: 36' max. x 30' max.

Encroachment Diagram

**Key**

- ROW / Property Line ■ Encroachment Area
 --- Setback Line

E. Encroachments Into Setbacks**Architectural Features**

Front	5' max.	(M)
Side Street	5' max.	(N)
Side	3' max.	(O)
Rear	3' max.	(P)

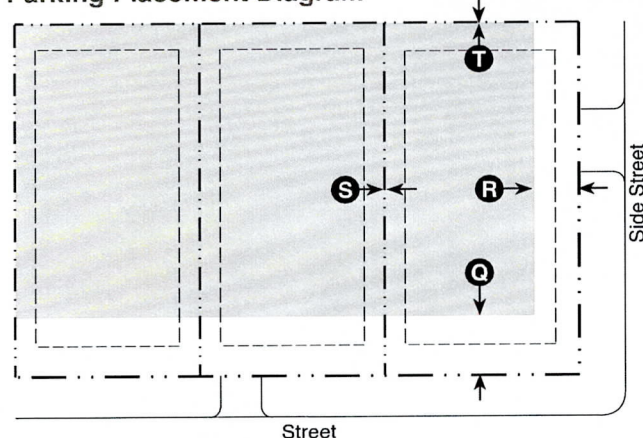
Encroachments are not allowed within a Street ROW/Alley ROW or across a property line.

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 ■ Parking Area
 --- Building Setback Line

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)

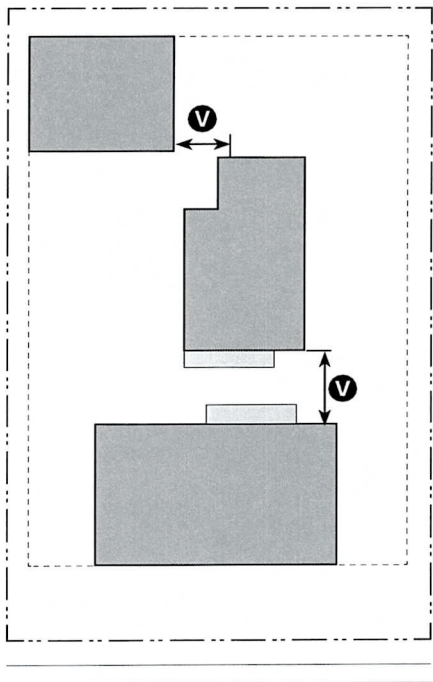
Front Setback	30' min.	(Q)
Side Street Setback	20' min.	(R)
Side Setback	0' min.	(S)
Rear Setback	0' min.	(T)

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
- Setback Line
- Building

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.	V
--	----------	---

Common Open Space for Lot

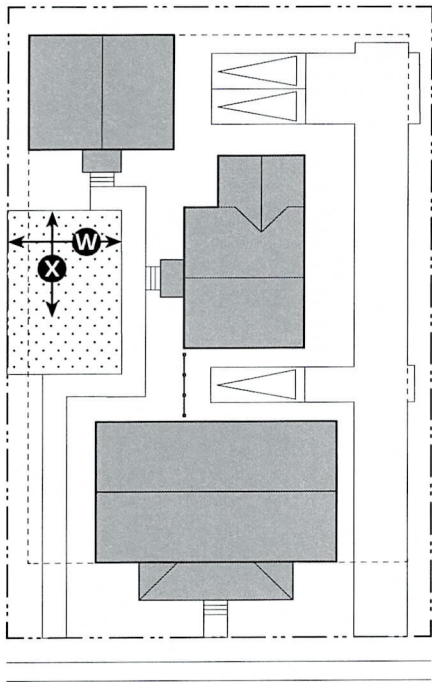
Width	20' min.	W
Depth	20' min.	X

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
- Setback Line
- Building
- 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.

T4 Village Neighborhood - West Kaua'i (T4VN-WK) and Flex (T4VN/F-WK)

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

¹Any other unlisted use or structure that the 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		—	U
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 & 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

¹Any other unlisted use or structure that the 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.

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

PLANNING DIRECTOR'S REPORT

RE: Annual Status Report 2026
Special Management Area Use Permit SMA(U)-2006-5
Project Development Use Permit P.D. U-2005-26
Use Permit U-2005-25
Class IV Zoning Permit Z-IV-2005-30
Tax Map Key: (4) 3-5-001:027 (Por.), 168, 169, 171 (Por.), 172 (Por.), 175
and 176

APPLICANT: HŌKŪALA RESORT
(formerly Kaua'i Lagoons LLC. & MORI Golf (Kaua'i) LLC.)

PROJECT BACKGROUND

The subject permits were approved by the Planning Commission on August 11, 2009 to allow implementation of a revised master site plan involving multiple resort and residential projects throughout the subject property. The development includes condominium/timeshare units, several support facilities and uses, approximately 1,098 off-street parking stalls, and on-site infrastructure improvements.

Condition No. 28 of the permits requires the Applicant to submit an annual report to the Planning Commission to report the progress of the project until it's completed and it reads:

"28. The Applicant shall provide an annual report to the Planning Commission, which shall be submitted to the Planning Department 30 days prior to the annual anniversary date of approval of the amendments considered herein. The annual report shall include the progress and status of the project and compliance with all conditions of approval. An annual report shall be provided until project completion and compliance with all conditions of approval."

APPLICANT'S REQUEST

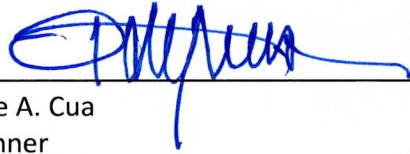
In accordance with Condition No. 28, the Applicant is providing its annual status report for 2026 (refer to Exhibit 'A').

RECOMMENDATION

It is recommended that the Commission accepts the Applicant's 2025 Annual Status Report dated June 3, 2026. Additionally, the Applicant is advised that all applicable conditions of approval, including the provision of annual status report as required by Condition No. 28, shall remain in effect.

G.1.a.1.
SEP 08, 2026

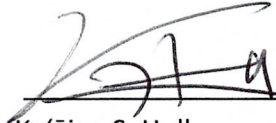
By



Dale A. Cua
Planner

Approved and recommended to Commission:

By



Ka'aina S. Hull
Director of Planning

Date: 8/4/2026

EXHIBIT “A”

(2026 Annual Report)

AUG 6 '26 PM2:19
PLANNING DEPT



WILSON OKAMOTO
C O R P O R A T I O N
INNOVATORS • PLANNERS • ENGINEERS

10125-02
August 5, 2026

Mr. Ka'āina Hull, Director
County of Kaua'i Planning Department
4444 Rice Street, Suite 473
Līhu'e, Hawai'i 96766

Attention: Mr. Dale Cua, Chief Regulatory Planner

Subject: 2026 Annual Report for Hōkūala Resort
(formerly Kaua'i Lagoons Resort)
Second and Third Amendments to
Special Management Area SMA (U)-2005-8
Project Development Use Permit U-2005-26
Use Permit U-2005-25 And Class IV Zoning
Permit Z-IV-2005-30
Kalapakī, Līhu'e, Kaua'i, Hawai'i

Dear Mr. Hull:

We hereby submit the revised 2026 Annual Report regarding the progress and status of compliance with the conditions of the subject permits for Hōkūala Resort (formerly Kaua'i Lagoons Resort). The original 2026 Annual Report was submitted to the County on June 1, 2026, in accordance with Condition No. 28 of the Second and Third Amendments to Special Management Area Permit SMA (U)-2005-8, Project Development Use Permit U-2005-26, Use Permit U-2005-25, and Class IV Zoning Permit Z-IV-2005-30.

Enclosed for your review are two (2) hard copies of the revised 2026 Annual Report with supporting documents.

Should you have any questions, please contact Desiree Malabed at dmalabed@wilsonokamoto.com, or Gary Siracusa, Director of Construction, at 808-241-6046.

Sincerely,

Keola Cheng
Planning Director
Enclosures

cc: Gary Siracusa, Director of Construction
Michael Belles, Belles Graham LLP



WILSON OKAMOTO
CORPORATION
INNOVATORS • PLANNERS • ENGINEERS

10125-02
August 5, 2026

Mr. Ka'āina Hull, Director
County of Kaua'i Planning Department
4444 Rice Street, Suite 473
Līhu'e, Hawai'i 96766

Attention: Mr. Dale Cua, Chief Regulatory Planner

Subject: 2026 Annual Report for Hōkūala Resort (*Revised*)
(formerly Kaua'i Lagoons Resort) Second and Third Amendments to
Special Management Area SMA (U)-2005-8
Project Development Use Permit U-2005-26
Use Permit U-2005-25 And Class IV Zoning
Permit Z-IV-2005-30
Kalapakī, Līhu'e, Kaua'i, Hawai'i

Dear Mr. Hull:

In accordance with Condition No. 28 of the Second and Third Amendments to Special Management Area SMA (U)-2005-8, Project Development Use Permit U-2005-26, Use Permit U-2005-25, and Class IV Zoning Permit Z-IV-2005-30 for the Hōkūala Resort (formerly Kaua'i Lagoons Resort), of which approvals were granted by the County of Kaua'i Planning Commission on August 11, 2009 and January 12, 2010, respectively, as well as Condition 1e of the Preliminary Subdivision Map Approval for Hōkūala Resort Subdivision 1, and Condition 1d of the Preliminary Subdivision Map Approval Hōkūala Resort Subdivision 1A, we hereby submit this report on the progress and status of compliance of the conditions of the subject permits. Copies of the subject permit approval letters from the County Planning Department dated August 12, 2009, January 13, 2010, April 9, 2024, March 4, 2026, December 23, 2025, respectively, are attached for your reference as Exhibits A, B, and C.

It is noted that the Applicant has appointed and delegated to Timbers Kaua'i Management, LLC (hereinafter collectively referred to as the "Applicant") the responsibility of being the development manager for the resort project and, as such, will be responsible for the day to day management and operation of the resort and will be the entity assigned the task of providing all necessary information to the County including annual reports as well as ensuring compliance with the applicable conditions of all relevant permits and entitlements for the resort project. Consequently, the Applicant intends to fully cooperate with the County in developing the Hōkūala Resort property pursuant to law and in accordance with all applicable entitlements and permits relative to the property and as may be amended from time to time with the approval of the County.

The following subdivisions have been undertaken in the development of the Hōkūala Resort:

- Kalanipu'u Subdivision (Subdivision No. S-2007-22) – This subdivision implemented the required boundary adjustments for the Kalanipu'u condominium development at the former Fashion Landing area. Final subdivision approval was granted by the Planning Commission on February 26, 2008.

- Large Lot Subdivision (Subdivision No. S-2008-2) – This subdivision implemented the required boundary adjustments for various areas in the Hōkūāla Resort. Final subdivision approval was granted by the Planning Commission on September 9, 2008, and recertified by the County on September 23, 2008 and December 9, 2008.
- Single-Family Subdivisions 1 and 4 (Subdivision No. S-2008-24) – This subdivision subdivided a portion of the planned single-family residential lots within the Hōkūāla Resort, and adjusted other lot lines to facilitate the future development of the Resort. Final subdivision approval was granted by the Planning Commission on December 9, 2008, and recertified by the County on December 9, 2008.
- Single-Family Subdivisions 2 and 3 (Subdivision No. S-2009-06) – This subdivision subdivided a portion of the planned single-family residential lots within the Hōkūāla Resort, and adjusted other lot lines to facilitate the future development of the Resort. Final subdivision approval was granted by the Planning Commission on May 12, 2009.
- Affordable Housing (Kamāmalu) Subdivision (Subdivision No. S-2010-03) – This subdivision subdivided a 759 square-foot sliver of land from the Hōkūāla Resort's affordable housing parcel to accommodate roadway improvements undertaken by the Applicant along Haoa Street in conjunction with that development. Final subdivision approval was granted by the Planning Commission on January 26, 2010.
- Revised Large Lot Subdivision (Subdivision No. S-2010-11) – This subdivision allows for various boundary adjustments necessary to accommodate the planned master plan revisions of the Hōkūāla Resort approved through the Resort's Second and Third Amendments to Special Management Area Use Permit SMA (U)-2005-8, Project Development Use Permit U-2005-26, Use Permit U-2005-25, and Class IV Zoning Permit Z-IV-2005-30 approved by the County Planning Commission on August 11, 2009 and January 12, 2010, respectively. Final subdivision approval was granted by the Planning Commission on December 14, 2010, and recertified by the County on January 11, 2011.
- Revised Subdivision 700-710 (Subdivision No. S-2019-11) – This subdivision reconsolidated the planned single-family residential lots within the Hōkūāla Resort and subdivided the land to facilitate future development as low-density townhomes. Other lot lines were also adjusted in conformance with the existing RR-10/RR-20 designation of the site. Final subdivision approval was granted by the Planning Commission on November 12, 2019.
- Lot Consolidation of Parcels 9C and 9D (Subdivision No. S-2021-2) – This subdivision consolidates Parcels 9C and 9D to allow for the development of one 4-story building with a total of 72 units, less than the previously proposed 90 units between the two properties. Tentative subdivision approval was granted by the Planning Commission on December 8, 2020. The pre-final subdivision map was submitted to the Planning Department on January 31, 2022. Final subdivision approval was granted by the Planning Commission on November 15, 2022.
- Subdivision of Lot 8 (Subdivision No. S-2021-4) – This subdivision allows for the boundary adjustments necessary to subdivide the property according to the existing RR-10 and RR-20 designation of the site. Tentative subdivision approval was granted by the Planning Commission on July 13, 2021. The final subdivision map was submitted to the Planning

Department on January 11, 2022. Final subdivision approval was granted by the Planning Commission on November 15, 2022.

- Consolidation of Lots 400 to 423 and Resubdivision into Lots 1 to 25 (Subdivision No. S-2022-4) – This subdivision consolidates and re-subdivides the Subdivision 4 lots that were created under S-2008-24 and approved by the Planning Commission on December 9, 2008, to accommodate the preferred site layout and a new cul-de-sac. Existing landscape, utility, and roadway easements were also redesigned. Tentative subdivision approval was granted by the Planning Commission on December 14, 2021. Final subdivision approval was granted by the Planning Commission on April 12, 2023. The subdivision was recorded with the Bureau of Conveyances on May 12, 2023.
- Subdivision 1 Lot Consolidation (Subdivision No. S-2022-9) – This subdivision consolidates the lots that were created under S-2008-24 and S-2010-11 in accordance with an approved change in density from R-2 to R-4 pursuant to Zoning Ordinance PM-2021-416. A copy of the zoning ordinance is enclosed as **Exhibit D**. It also updates utility easements per the new lot configuration. Tentative subdivision approval was granted by the Planning Commission on April 9, 2024.
- Subdivision 1A Subdivision (Subdivision No. S-2022-10) – This subdivision creates a single lot for Subdivision 1A that was approved through the Resort's Third Amendments to Special Management Area Use Permit SMA (U)-2005-8, Project Development Use Permit U-2005-26, Use Permit U-2005-25, and Class IV Zoning Permit Z-IV-2005-30 by the County Planning Commission on January 12, 2010. This subdivision is also consistent with the approved change in density from R-2 to R-4 pursuant to Zoning Ordinance PM-2021-416. A copy of the zoning ordinance is enclosed herewith as **Exhibit D**. Preliminary Sub approval was granted by the Planning Commission on April 9, 2024.

The following construction activities have been undertaken in the development of the Hōkūala Resort:

- Construction of a public recreation/picnic shelter and shower facility near Running Waters Beach, just mauka of the public lateral shoreline access, and a public recreation/picnic shelter, shower and restroom facility farther west and mauka of the public lateral shoreline access, were completed in September 2009. Both of these public recreation facilities are available for public use. The location of these public recreation facilities and the obligations, duties, and responsibilities of the Applicant to provide and maintain these facilities were confirmed through the Memorandum of Understanding for Hōkūala Resort effective as of January 14, 2022 made by and between the Tower Kaua'i Lagoons Entities, Tower Kaua'i Lagoons 8, LLC, and the County of Kaua'i. A copy of the Memorandum of Understanding for Hōkūala Resort is enclosed herewith as **Exhibit E**.
- The 82-unit multi-family affordable housing development located on an approximately 6.7-acre parcel identified as TMK (4) 4-3-001:014 in Waipouli was completed by August 2009.

The 31-unit multi-family affordable housing development, identified as the Kamāmalu Condominium, within the western portion of the Hōkūala Resort property at the corner of Kaua'i Veterans Memorial Highway (formerly Kapule Highway) and Haoa Street, was completed in February 2010. Completion of both developments fulfilled the affordable housing requirement for Hōkūala. The associated roadway improvements at the adjacent Kaua'i

Veterans Memorial Highway/Haoa Street intersection were also completed in February 2010 and accepted by the County, and subsequently dedicated to the County by the Applicant.

- Construction of the 78-unit Kalanipu'u development was completed in 2011, with units currently occupied by residents and time share owners. The Fitness Center and Activities Room within the nearby former Fashion Landing commercial center were completed in January 2012 and October 2012, respectively, for the residents and guests of the Kalanipu'u development.
- Construction of the 14-unit Parcel 9A – Building A (former Inn on the Cliffs) and the 28-unit Parcel 9B – Building B (former Ritz Carlton Club) developments have been completed and were opened in June 2018. Located adjacent to and mauka of the Parcel 9A – Building A site is the Parcel 9A – Townhomes (former Ritz Carlton Residence Town Homes Building A) development, which was also completed and is occupied by the residents.
- Building permit plans were submitted to the County in August 2008 for the Lot 8 – Boutique Hotel development located within a portion of the existing vacant land area adjacent to and makai of the lagoons and the second bridge of Ho'olaule'a Way. These plans were subsequently rescinded by the Applicant. A foundation permit was later issued by the County and substantial construction of the structures was completed in 2016. Updated and revised plans for the Lot 8 – Boutique Hotel development were submitted to the County. A permit has since been issued, and construction remains on schedule with the opening anticipated in the fourth quarter of 2026.
- Building foundations for the remainder of the permitted 772 units were completed in September 2021.
- A building permit for construction of 12 of the 36 units at Subdivision 7, now named the Ninini Point Residences, was approved by the County on January 11, 2022. Certificates of Occupancy were issued for Buildings D and E on August 29, 2023, and October 18, 2023, respectively.
- Subdivision 1: Consolidation of Lots 100-109 (Kamamalu and the Resubdivision of said Consolidation into Lot 1 to 16 Inclusive, and Cancellations of Easements C, D, F, and G as expressed in the County of Kaua'i Subdivision Map Number S-2008-24, and Easement UE-1, as Shown in the County of Kaua'i Subdivision Map Number S-2010-11 at Kalapakī, Līhu'e, Kaua'i, Hawai'i. Final approval for this Subdivision was approved on March 4, 2026, and is expressed through **Exhibit H**. The applicant has submitted the final registration applications to DCCA, with approval anticipated in August 2026.
- Subdivision 1A: Consolidation of Lot 2-A-1 as shown on Kaua'i County Subdivision File No. S-2019-11 and Lot 5-A; Kamamalu and the Resubdivision of Said Consolidation into Lots 2-A, 5-A-1, and lots 1 to 13 Inclusive at Kalapakī, Līhu'e, Kaua'i, Hawai'i. Final approval for this Subdivision was approved on March 4, 2026, and is expressed through **Exhibit H**. The applicant has submitted the final registration applications to DCCA, with approval anticipated in August 2026.
- TKL Lots 700-701 [TMK: 3-5-001:216] Kamamalu and Resubdivision of said consolidation into Lots 1-11 inclusive and the designation of easement A situated at Kalapakī, Līhu'e, Kaua'i, Hawai'i. Subdivision Applications have been signed and submitted to the Planning Commission for further review through a public hearing. These applications can be seen in

Exhibit I.

In 2016, the Applicant proposed minor revisions to the product mix that did not increase the total density of the project. These revisions essentially were very similar to earlier approved versions of the master-planned project and were determined to be in compliance with issued permits and related council planning measures by Departmental Determination DD-2017-7 issued by the Planning Department on September 6, 2016, a copy of which is attached as **Exhibit F**. The density allocation approved under DD-2017-7, referred to as the “Current Unit Count”, is summarized in Table 1. Following consultation with the Planning Department, the Applicant proposed further revision of the product mix. Corresponding decreases in density at other developments within the Resort were proposed to offset any increases for a net effect of no change to the total density of the project. The proposed density allocation, referred to as the “Proposed Unit Count”, is summarized in Table 1 and described thereafter.

Table 1. Proposed Density Allocation for Hōkūāla Resort			
Parcel	Current Unit Count (per DD-2017-7)	Proposed Unit Count	Status
Parcel 9A – Bldg A (former Inn on the Cliffs)	14	14	Completed
Parcel 9B – Bldg B (former Ritz Carlton Club)	28	28	Completed
Parcel 9A – Townhomes	5	5	Completed
Parcel 8 – Boutique Hotel (Silverwest)	175	210	Proposed (Building Permit Under Review)
Ocean Course, Central Operations, Future Golf Expansion	--	--	No longer proposed
Shops at Hōkūāla	--	--	Completed
<u>Ninini Point Residences</u>	<u>48</u>	<u>36¹</u>	<u>Proposed (Building Permit for 12 units Approved)</u>
Parcel 9E – Boutique Hotel	291	277	Proposed
<u>Subdivision 1</u>	<u>10</u>	<u>15</u>	<u>Approved</u>
<u>Subdivision 1A</u>	<u>9</u>	<u>13</u>	<u>Approved</u>
Subdivision 2	--	--	No longer proposed
Subdivision 3	--	--	No longer proposed
Subdivision 4	24	24	Proposed
Parcels 9C and 9D – Hotel Villa	90 (52 and 38 respectively)	72	Proposed
Kalanipu'u	78	78	Completed
TOTAL	772	772	

From 2016, there were no changes proposed in the number of units at the Kalanipu'u (78 units), Parcel 9A – Building A (14 units), Parcel 9B – Building B (28 units) and the Parcel 9A – Townhomes (5 units)

¹ A Preliminary Subdivision Application for additional 10 lots was submitted to the County Planning Department in December 2025; however, the application has not yet been actioned.

developments. The Parcel 8 – Boutique Hotel was changed from 175 units to 210 units. Subdivision 7, which was envisioned as 11 single family residential lots, has evolved to a low-density townhomes development with 36 units. The 36-unit townhome development is now named Ninini Point Residences. Parcel 9E –Boutique Hotel changed from 291 to 263 units.

Subdivisions 1 and 1A were changed to 24 and 18 units, respectively. The unit count increase—24 units for Subdivision 1 and 18 units for Subdivision 1A—required approval of a zoning amendment to change the zoning designation from Residential District (R-2) to Residential District (R-4). The zoning amendment for both subdivisions was approved by the Kaua'i County Council on December 20, 2021, through Zoning Ordinance PM-2021-416 (attached as **Exhibit D**). As noted above, tentative subdivision approval was granted by the Planning Commission on April 9, 2024, which includes 15 residential lots for Subdivision 1 and 13 residential lots for Subdivision 1A. A copy of the tentative subdivision approvals is attached herewith as **Exhibit C**. Final subdivision approval for Subdivision 1 and 1A were subsequently granted on March 2, 2026, and is attached as **Exhibit H**.

There are no plans currently to develop Subdivisions 2 and 3. The bonds for both Subdivisions 2 and 3 have been left to expire with the approval and concurrence of the County of Kaua'i Planning Director. Subdivision 4 remained at 24 units while the proposed unit count at Parcels 9C and 9D was reduced from 90 units to 72 units.

The existing commercial center located at the former Fashion Landing (hereinafter Commercial Complex) is planned to be repaired and refurbished. SMA III permit approval for improvements to the Commercial Complex was issued on April 24, 2018.

The existing status of conditions from the August 11, 2009 and January 12, 2010 permit approvals is as follows:

Condition

1. *The maximum building height for the proposed condominium, timeshare, multi-family, and hotel units buildings in Project Areas "B" and "D" approved in 2005 and Project Area "B" of the proposed amendments (Page 0.01 Volume II) shall not exceed four (4) stories or forty (40) feet from the ground line measured at each point along the building to the highest wall plate line, whichever is less. Gables and roof height shall not exceed one-half (1/2) the wall height or fifteen (15) feet, whichever is less.*

The maximum building height for structures in Project Area "C" (Page 4, Volume II) as approved in 2005 shall be as follows:

- a. *The maximum building height for the proposed "Inn on the Cliffs" buildings shall not exceed three stories or 45 feet as measured from the ground line at each point along the building to the highest point of the roof of the building.*
- b. *The Ritz Carlton Club units shall have a three- to four-story design with a maximum building height of 55 feet as measured from the ground line at each point along the building to the highest point of the roof of the building.*
- c. *The maximum building height for the Ritz Carlton Residence Town Homes Building A shall not exceed two (2) stories in design with a maximum building height of 35 feet as measured from the ground line at each point along the building to the highest point of the roof of the building.*

The single-family residential developments within Project Area "F" of the 2008 amended permits and Project Areas "A" and "C" of the proposed amendments shall comply with all applicable residential development standards of the Comprehensive Zoning Ordinance.

Status

Design plans initiated by the Applicant for the various phases of development within the Hōkūala Resort are acknowledged.

Construction of the 78-unit multi-family Kalanipu'u development, consisting of three buildings, has been completed. The maximum building height for the Kalanipu'u condominium buildings is 39 feet, 6 inches from the ground line measured at each point along the buildings to the highest wall plate line, which is less than the 40-foot height limit. The roof height is 9 feet, 5 inches, which is less than one-half (1/2) the wall height or 15 feet. The Applicant acknowledges that the remaining buildings in Project Areas "B" and "D" approved in 2005, as amended, shall not exceed four (4) stories or forty (40) feet from the ground line measured at each point along the building to the highest wall plate line, whichever is less. The Applicant further acknowledges that gables and roof height shall not exceed one-half (1/2) the wall height of fifteen (15) feet, whichever is less.

Construction of Parcel 9A – Building A, Parcel 9B – Building B, and the Parcel 9A – Townhomes has been completed in accordance with the conditions for Project Area "C" as approved in the 2005 SMA Permit.

As depicted on the approved building permit plans, the 14 condominium time share units within Parcel 9A - Building A (former Inn on the Cliffs) were developed within the overall existing building footprint and the two-level building height approved for this development in the 2005 SMA Permit. The maximum building height for the Parcel 9A - Building A (former Inn on the Cliffs) is 45 feet from the ground line measured at each point along the building to the highest point of the roof of the building. Parcel 9A – Building A was constructed per the approved building permit plans.

The 28 condominium/time share units within Parcel 9B - Building B (former Ritz Carlton Club) were developed within the overall existing building footprint and the four-level building height approved for this development in the 2005 SMA Permit. Consistent with the building permit plans, the maximum building height for Parcel 9B - Building B (Ritz Carlton Club) is 55 feet from the ground line measured at each point along the building to the highest point of the roof of the building. Parcel 9B – Building B was constructed per the approved building permit plans.

Also consistent with the building permit plans, the maximum building height for the Parcel 9A - Townhomes (former Ritz Carlton Residence Townhomes Building A) is no more than 35 feet from the ground line measured at each point along the building to the highest point of the roof of the building. Parcel PA – Townhomes was constructed per the approved building permit plans.

The single-family residential developments within Single-Family Subdivisions 1, 1A and 4 within Project Area "F" of the 2008 amended permits are intended to comply with the applicable residential development standards of the County's Comprehensive Zoning Ordinance (CZO). The Applicant notes that no building will be more than two (2) stories above and one (1) story below from the finished grade at the main entry, over 20 feet measured from the finished grade at the main

entry to the highest exterior wall plate line, and over 30 feet to the highest point of the roof measured from the finished grade at the main entry.

Condition

The Applicant shall also follow the proposed architectural design guidelines that establish building design, roof design, building materials, and earth tone color schemes as shown on the pages 16, 26 and 44 of Volume II of the 2005 application, on pages A.00, E.00 and F.00 of Volume II of the 2008 amended permits, and on pages A.00, B.00 and D.00 of the proposed amendment.

Status

The Applicant submitted design plans to the County for building permit approval for the Parcel 9A - Building A (former Inn on the Cliffs), Parcel 9B - Building B (former Ritz Carlton Club), Parcel 9A - Townhomes (former Ritz Carlton Residence Town Homes Building A), and Parcel 8 - Boutique Hotel developments in conformance with this condition. Parcel 9A - Building A, Parcel 9B - Building B, and Parcel 9A - Townhomes have been constructed according to the approved plans. Updated and revised design plans for Parcel 8 - Townhomes have been submitted and are under review by the Planning Department and the DPW Building Division. The designs of the constructed Kalanipu'u condominiums and the 31-unit Kamāmalu Condominium affordable housing development were also approved through the respective building permit submittals in conformance with this condition.

The maximum building height for the Kamāmalu Condominium development is 27 feet from the ground line measured at each point along the building to the highest wall plate line, which is less than the 40-foot height limit. The roof height is 8 feet, 1 inch, which is less than one-half (1/2) the wall height or 15 feet.

The single-family residential dwelling units to be developed within the Single-Family Subdivisions are intended to follow the proposed architectural design guidelines as shown on page F.00 of Volume II of the Amended SMA Permit and page A.00 of the Second Amended SMA Permit. Dwelling construction and lot landscaping is intended to be undertaken by the individual lot owners in accordance with the established design guidelines. The general appearance of the individual properties, such as architectural design criteria and landscaping requirements, will be controlled through design guidelines for the development and approved by the Resort Developer.

The building design, color scheme samples, and landscape plans for the remaining phases of the project are under review by the Applicant and will be submitted to the Planning Department at the time of building permit application for the respective developments.

Condition

As represented, the maximum building height for the proposed Golf Club House facility on TMK: 3-5-001: por. 173 shall not exceed 35 feet from finished grade at the main entrance of the building to the highest point of the roof.

Status

As part of the Resort's revised master plan under the Applicant, the previously proposed new golf clubhouse was proposed to be relocated and integrated within the Commercial Complex (former Fashion Landing). Although the location is in the General Commercial (CG) District which allows a maximum height limit of 50 feet, the golf clubhouse was proposed not to exceed 35 feet in height.

However, the Applicant has decided to forgo construction of a new golf clubhouse and has decided to keep the existing golf pro shop and cart barn in its existing location within the Parcel 8 - Boutique Hotel development.

Condition

3. *The Applicant shall provide building design, color scheme samples, and landscape plans for each phase of the project for the review and approval of the Planning Department at the time of Building Permit and/or Subdivision Permit Application. The Applicant is encouraged to incorporate the use of native plants that are common to the area or endemic, indigenous, or Polynesian introduced in the landscape plans for each phase of the development.*

The landscape plan shall also include landscaping and/or landscape berm(s) along Haoa Street and Kapule Highway to address visual impacts of the project and to help minimize noise impacts from the highway to the residential project.

Status

The building designs, color scheme samples and landscape plans for the completed 78-unit Kalanipu'u condominium development, 14-unit Parcel 9A - Building A (former Inn on the Cliffs) development, 28-unit Parcel 9B - Building B (former Ritz Carlton Club) development, 5-unit Parcel 9A – Townhomes development, and 31-unit Kamāmalu Condominium affordable housing project were approved by the County Planning Department as part of the respective building permit approval processes. The Applicant worked closely with the County Planning Department on the building designs, color scheme samples and landscape plans to ensure consistency with the intent of the existing permits. As a result, the Planning Department reviewed and approved all such plans and construction of the listed developments were completed in conformance with this condition.

As part of the building permit process for the Parcel 8 – Boutique Hotel, the building design, color scheme sample and landscape plan have been submitted to the County for review and approval. Updated and revised plans for the Lot 8 – Boutique Hotel development were submitted to the County. A permit has since been issued, and construction completion is projected for the fourth quarter of 2026.

As previously indicated, dwelling construction and lot landscaping of the single-family residential lots are intended to be undertaken by the individual lot owners in accordance with the established design guidelines. The general appearance of the individual properties, such as architectural design criteria and landscaping requirements, will be controlled through design guidelines for the development and approved by the Resort Developer. It is intended that the individual lot owners will provide building design, color scheme samples and landscape plans for their respective proposed dwelling units to the Planning Department for review and approval at the time of building permit application for the respective lots.

The Townhomes Phase II development, consisting of 12 residences, was completed with Certificates of Occupancy issued for Building D on August 29, 2023, and for Building E on October 18, 2023. The project was constructed in accordance with the approved building permit plans and is consistent with the resort's established architectural design guidelines and landscape standards.

In addition, the Silverwest Hotel, a development consisting of 210 keys, is currently under construction. This project represents a key component of the resort's ongoing expansion. Updated and revised plans for the Lot 8 – Boutique Hotel development were submitted to the County. A permit has since been

issued, and construction completion is projected for the fourth quarter of 2026.

The building design, color scheme samples, and landscape plans for the remaining phases of the project are under review by the Applicant and will be submitted to the Planning Department at the time of building permit application for the respective developments.

Condition

4. *The Applicant shall comply with the required setback distance to property lines for all of the buildings as approved by adjusting the building location or configuration and/or conducting boundary adjustments through the Subdivision process to obtain the land area with the adjacent lands to meet the required setback distances to the respective property line(s).*

Status

Implementation of the required boundary adjustments for the Kalanipu'u condominiums located in the Fashion Landing Commercial area was achieved through its final subdivision which was approved by the Planning Commission on February 26, 2008 (Kalanipu'u Subdivision [S-2007-22]). The required boundary adjustments in other areas of the Hōkūāla Resort were achieved through the Large Lot Subdivision (S-2008-2), of which approval was granted by the Planning Commission on September 9, 2008, and recertified by the County on September 23, 2008, and December 9, 2008. The Revised Large Lot Subdivision (S-2010-11) approved by the Planning Commission on December 14, 2010, and recertified by the County on January 11, 2011, and Subdivision 700-710 (S-2019-11) approved by the Planning Commission on November 12, 2019, also allowed for various boundary adjustments necessary to accommodate the planned master plan revisions of the Resort. As mentioned, these master plan revisions have been approved through the Second and Third Amendments to Special Management Area SMA (U)-2005-8, Project Development Use Permit U-2005-26, Use Permit U-2005-25, and Class IV Zoning Permit Z-IV-2005-30 for the Hōkūāla Resort, which were granted by the Planning Commission on August 11, 2009 and January 12, 2010, respectively.

Application for Lot Consolidation of Parcels 9C and 9D (S-2021-2) received final approval on November 15, 2022, and was subsequently recorded with the State Bureau of Conveyances as Document No. Doc A – 83920712. Application for Lot 8 Subdivision (S-2021-4) received final approval on November 15, 2021, and was subsequently recorded with the State Bureau of Conveyances as Document No. Doc A – 83920711. Application for the consolidation of Lots 400 to 423 and Resubdivision into Lots 1 to 25 (S-2022-4) received final approval on April 12, 2023, and was subsequently recorded with the State Bureau of Conveyances as Document No. Doc A – 85320960.

Subdivision 1 Lot Consolidation (S-2024-7) and Subdivision 1A Subdivision (S-2024-8) are currently being processed with the County. Tentative subdivision approvals for both Subdivisions were granted by the Planning Commission on April 10, 2024. In addition, Class IV Zoning Permit and Variance Permit applications were submitted for both Subdivisions to request a waiver of the requirements for curbs, gutters, and sidewalks in the Residential zoning district, pursuant to Section 9-2.3(e)(3) of the County of Kaua'i Code (1987). A Planning Commission hearing for the variance request was held on July 9, 2024, and approval was granted on July 16, 2024, subject to the conditions outlined in Appendix G:

- a. The Applicant may use drainage swells in-lieu of raised curbs and gutters, provided that the proposed design conforms to the standards of the County DPW- Engineering Division and is submitting to the DPW- Engineering Division for their review and approval. However, the Applicant shall construct a sidewalk along the subdivision's

frontage pursuant to Section 9-2.3(e) (3) of the Subdivision Ordinance, Kaua'i County Code, 1987, as amended.

- b. The Applicant is advised that the approval of this variance does not imply approval of the subdivision, or its configuration proposed herein.
- c. Subdivision of the subject property shall conform to the procedural requirements of the Subdivision Ordinance, Chapter 9 of the Kaua'i County Code (1987).
- d. 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.
- e. The Applicant shall develop and utilize Best Management Practices (BMP's) to ensure that the subdivision does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.
- f. 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).

The Planning Commission reserves the right to advise, 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.

It should be noted that For Subdivision 1A, the sidewalk improvement requirement, subject to the condition that the Applicant provide a "fee in lieu of" payment to the County. For Subdivision 1, a 5-foot-wide continuous sidewalk will be constructed along the Kahilipulu Road frontage in accordance with subdivision requirements.

Condition

5. *As required under Condition No. 2 of Ordinance No. PM-2006-383, the Applicant shall provide documentation of the restriction on density in the subject property(ies) within Open District into the deeds of the affected property prior to building permit issuance for any development proposed in the amended area.*

Status

Documentation of the restriction on density within the Open District lands of the Hōkūāla Resort is included in the Declaration of Deed Restriction Concerning Density in the Open District Zone of Kaua'i Lagoons Resort dated December 18, 2007 and recorded in the State Bureau of Conveyances on December 31, 2007, as Document No. 2007-223761 and Land Court Document No. 871,637.

Condition

6. *As represented by the Applicant and as recommended by the State Department of Transportation, the Applicant shall prepare a revised Traffic Impact Analysis Report (TIAR) for the Kaua'i Lagoons Resort development that also includes the County's proposed Vidinha Stadium Expansion project. The Applicant shall resolve with the State Department of Transportation (DOT) the execution of a Memorandum of Agreement which would address the specific improvements to be provided as set forth in the letter from the DOT dated May 22, 2008 and July 15, 2009.*

Status

The Applicant had submitted to the DOT a revised TIAR for the Hōkūala Resort development that also includes the County's proposed Vidinha Stadium Expansion project. A Memorandum of Agreement (MOA) was submitted by the Applicant to the DOT Highways Division on November 20, 2008, which identifies specific proposed roadway improvements and associated funding and construction consideration in association with the Hōkūala Resort development. The MOA includes specific improvements to be designed, permitted, funded, and constructed at the Kaua'i Veterans Memorial Highway/Rice Street intersection, the Kaua'i Veterans Memorial Highway/Ninini Point Street/Hoolako Street (Vidinha Stadium Access Road) intersection, and the Kaua'i Veterans Memorial Highway/Haoa Street/Halau Street intersection. Based on review comments, the Applicant had submitted revised versions of the MOA to the DOT Highways Division which addresses the comments. In consideration of the ongoing MOA discussions between the DOT and the Applicant, by letter dated May 18, 2010, in regard to the preliminary Revised Large Lot Subdivision (S-2010-11), the DOT indicated that the Applicant appears to be in accordance with the various land use permits that have been approved for the Hōkūala Resort, and expects the Applicant will continue working with the DOT Highways Division to develop the MOA. The Applicant continues to engage in ongoing discussions, as per the draft MOA, with the DOT Highways Division toward seeking resolution and ultimately execution of the MOA.

Anticipating the execution of the MOA, and in consultation with the DOT, the Applicant worked on the design phase for the Kaua'i Veterans Memorial Highway/Rice Street intersection improvements. DOT approval of the signalized intersection conceptual design for the Kaua'i Veterans Memorial Highway/Rice Street intersection improvements was received on October 22, 2010, and the construction drawings were being reviewed by DOT. DOT approval of the final construction drawings for the Kaua'i Veterans Memorial Highway/Ninini Point Street/Hoolako Street (Vidinha Stadium Access Road) intersection improvements was received on July 8, 2011. Because of the time involved since the 2011 approval, DOT requested a resubmittal of the plans for the Kāpule Highway/Ninini Point Street/Ho'olako Street (Vidinha Stadium Access Road) intersection improvements. Plans were resubmitted to DOT on March 28, 2016, and to DPW on April 21, 2016. DOT approved the plans on October 20, 2016. Construction of the improvements at the Kaua'i Veterans Memorial Highway/Haoa Street/Halau Street intersection was completed in February 2010 and accepted by the County, and subsequently dedicated to the County by the Applicant. The road improvements were wholly contained within the County's Haoa Street.

Condition

As also represented, the Applicant shall provide a primary vehicular access to the resort project from Kapule Highway to lessen the traffic impacts of the project at both the Rice Street/Kapule Highway intersection and at the existing entrance to the project along Rice Street. The improvements that are needed at the Kapule Highway entrance shall be resolved with the State Department of Transportation and the Department of Public Works. The Applicant shall submit a Supplemental Traffic Impact Analysis Report to the Department of Transportation indicating that the Kapule Highway entrance shall serve as primary access to the project.

Status

A supplemental traffic analysis dated September 2005 was conducted by the Applicant to address the Ninini Point Street Access and submitted as part of the Zoning Amendment application and Environmental Assessment for the Hōkūala Resort development in November 2005. In accordance with the recommendations of the supplemental traffic analysis, the Applicant proposed primary vehicular access to the Hōkūala Resort development from Kaua'i Veterans Memorial Highway at the Ninini Point Street intersection which will lessen the impacts at the existing vehicular access to

the Resort along Rice Street. Anticipating the execution of the MOA, and in consultation with the DOT, DOT approval of the final construction drawings for the Kaua'i Veterans Memorial Highway/Ninini Point Street/Hoolako Street (Vidinha Stadium Access Road) intersection improvements was received on July 8, 2011. As noted previously, DOT requested a resubmittal of the plans for the Kaua'i Veterans Memorial Highway/Ninini Point Street/Ho'olako Street (Vidinha Stadium Access Road) intersection improvements. Plans were resubmitted to DOT on March 28, 2016, and to DPW on April 21, 2016. DOT approved the plans on October 20, 2016.

Condition

As further represented, the Applicant shall extend the right turn lane on Haoa Street at the intersection of Haoa and Kapule Highway and also provide a left turn "pocket" on Haoa Street at the entrance to the affordable housing project on TMK: 3-5-001: 165.

Status

In conjunction with the development of the Kamāmalu Condominium affordable housing project, the Applicant has constructed the extension of the right-turn lane on Haoa Street at the intersection of Haoa and Kaua'i Veterans Memorial Highway, and provided two left-turn pockets on Haoa Street at the two entrances to the affordable housing development. Construction of these improvements was completed in February 2010 and accepted by the County, and subsequently dedicated to the County by the Applicant.

Condition

In addition, the Applicant shall consult with the DOT Airports Division on the possibility of utilizing the "Airport Road," situated to the north of the project site and along the western boundary of the Airport Facility, to provide direct access from the Airport Facility to the resort property for vans and/or shuttle buses.

Status

The Applicant initiated discussion with the DOT Airports Division regarding use of the Airport Road to provide direct access from Līhu'e Airport to the Hōkūala Resort for vans/shuttle buses. Approval was granted, and the Royal Sonesta Kaua'i Resort, Marriott's Kaua'i Beach Club, and Hōkūala Resort use the access road for their shuttle buses and vans. Currently, this access road is closed due to the ongoing construction improvements by DOT.

Condition

In order to coordinate the requirements specified in the above, the Applicant shall prepare a working plan providing a schedule covering the preparation of construction plans and construction timetables for the various roadway improvements, subject to the review and approval Public Works Departments, the State Department of Transportation, and Planning Department at time of Building Permit Application and/or Subdivision Application for projects that are granted subject permits.

Status

The Applicant has been in discussions with the DOT Highways Division regarding the schedule of the preparation of construction plans and construction timetables for the various roadway improvements in conjunction with the Hōkūala Resort development. The Applicant is in the process of reviewing the construction plans and proposes the following tentative schedule of improvements:

Kaua'i Veterans Memorial Highway/Rice Street Intersection

- Planning: Completed, subject to review by Applicant
- MOA Process: Initiated in November 2008 with anticipated completion in November 2022
- Design: Completed for a signalized intersection
- Agency Approvals: Initiated in August 2012 with anticipated completion in January 2025
- Land Acquisition: Initiated in August 2012 with anticipated completion in March 2027
- Engineering and Investigation: April 2024 with anticipated completion in December 2026
- Anticipated Construction: 2028 to 2029

Kaua'i Veterans Memorial Highway/Ninini Point Access Intersection

- Planning: Completed, however, plans were resubmitted to DOT on March 28, 2016
- Design: Completed, however, plans were resubmitted to DOT on March 28, 2016
- Agency Approvals: Initiated in May 2012 and completed in February 2017
- Anticipated Construction: 2027 to 2028

The Applicant will submit a working plan providing a schedule covering the preparation of construction plans and construction timetables for the various roadway improvements to the DOT following consummation of the MOA for the specific roadway improvements to be provided in conjunction with the Hōkūala Resort development.

The Kaua'i Veterans Memorial Highway/Haoa Street intersection improvements were completed by the Applicant in February 2010 in conjunction with the Kamāmalu Condominium affordable housing project. The intersection improvements were accepted by the County, and subsequently dedicated to the County by the Applicant.

Condition

7. *As recommended by the Department of Public Works, Wastewater Division, the Applicant shall resolve the following requirements with the Department of Public Works:*

- a. *The STP Effluent Agreement dated August 14, 2001, as amended by Amendment to Agreement Regarding STP Effluent dated March 27, 2009 between Kaua'i Lagoons LLC and the County of Kaua'i shall remain in effect.*
- b. *The said agreement, as amended, reserves the Applicant with 290,000 gallons per day of treatment capacity at the Līhu'e Wastewater Treatment Plant for its development up to twenty-one (21) years from the date of the amended agreement.*
- c. *The Applicant shall meet with the Department of Public Works to negotiate an agreement for sewer capacity exceeding 290,000 gallons per day.*
- d. *The amended agreement stipulates that the County shall provide, and the Applicant shall accept, up to 1.5 million gallons per 24 hour day (MGD) of R-1 quality treated effluent. If this condition cannot be met the Applicant shall meet with the Department of Public Works to negotiate an agreement to dispose any of the unused effluent that remains from the 1.5 MGD discharged from the County's Līhu'e Wastewater Treatment Plant.*

- e. All sewer improvements required for the development shall be designed and constructed to County standards.*

Should the sewer capacity for additional development on the property exceed 290,000 gallons per day, the Applicant acknowledges that it shall be subject to any applicable waiting or priority list established by the County of Kaua'i for such service.

Status

The major provisions of the STP Effluent Agreement, as amended, in particular the transfer of lands to the County of Kaua'i, have been completed. In accordance with Covenant No. 5 of the STP Effluent Agreement, as amended, the Applicant shall dedicate, and the County shall accept, the existing Hōkūala Resort injection well after it has been upgraded. The upgrade of the existing injection well has been completed. Dedication documents were approved by the County Council on April 9, 2014. Documents have been executed and were recorded on May 21, 2014.

The Applicant has completed construction of the R-1 filtration and disinfection system upgrade at the Līhu'e Wastewater Treatment Plant. The upgrade to R-1 quality water enables the use of high-quality reclaimed water for all irrigation needs for the Hōkūala Resort's golf courses and landscaping for the resort and residential common areas. Dedication documents were approved by the County Council on April 9, 2014. Documents have been executed and recorded on May 21, 2014.

Condition

- 8. The Applicant shall comply with Condition No. 6 of Ordinance No. PM-2006-383, and with the requirements of the Kaua'i Lagoons Affordable Housing Amended Agreement, dated February 18, 2005. Amendment of the subject permits is approved for the development of 31 leasehold affordable housing units on TMK: 3-5-001: 165.*

Status

As part of the Zoning Amendment approved by the County Council in September 2006 for the Hōkūala Resort (Ordinance No. PM-2006-383), the Kaua'i Lagoons Affordable Housing Amended Agreement, effective February 18, 2005, was executed. In accordance with the Affordable Housing Amended Agreement, a total of 113 affordable housing units have been developed in conjunction with the Hōkūala Resort development which fully satisfy the requirements. Eighty-two (82) of these units have been built on an approximately 6.7-acre parcel identified as TMK: (4) 4-3-001: 14 within the Waipouli area. The remaining 31 affordable housing units, identified as the Kamāmalu Condominium, have been built within the western portion of the Hōkūala Resort property at the corner of Kaua'i Veterans Memorial Highway and Haoa Street on a 2.1-acre parcel identified as TMK: (4) 3-5-001: 165.

The Amended Agreement was amended by a Second Amended Agreement with an effective date of February 18, 2005, and which was executed on December 11, 15, 17, and 18, 2008. The Second Amended Agreement extended the completion date of the 82 affordable housing units at the Waipouli site from February 18, 2009, to June 18, 2009.

The Second Amended Agreement was further amended by a Third Amended Agreement with an effective date of February 18, 2005, and which was executed on May 18, 22 and 29, 2009 and June 4, 2009. The Third Amended Agreement further extended the completion date of the 82 affordable housing units at the Waipouli site from June 18, 2009, to August 17, 2009.

The Third Amended Agreement was further amended by a Fourth Amended Agreement dated July 6, 2010, with an effective date of February 18, 2005. The Fourth Amended Agreement allows the remaining 29 unsold units of the 31-unit Kamāmalu Condominium to be offered for sale in fee simple, instead of being sold as 99-year leasehold units, and defines the manner and timing under which such fee simple units would be offered for sale.

The Fourth Amended Agreement was further amended by a Fifth Amended Agreement dated and effective November 10, 2010. The Fifth Amended Agreement allows the remaining 41 units at the Waipouli site to be rented at market rental rates, without income restrictions on renters.

Condition

9. *Applicant shall continue to allow public access over and across all existing public vehicular and pedestrian public accesses on the subject property. The Applicant shall provide the improvements shown on the Applicant's updated Public Access Plan as represented on Figure 9, Volume I. The improvements shall include recreational shelters, shower and restroom facilities, a minimum of 10 public parking stalls at the eastern edge of the Fashion Landing area, and a minimum of 10 public parking stalls at the western end of the project near Kukii Point. The Applicant shall also provide a lateral pedestrian public access beginning from the Fashion Landing area to the former "Inn on the Cliffs" area and on to Kukii Point.*

Status

Existing public vehicular and pedestrian access will be maintained throughout the Hōkūala Resort along with the public recreational facilities required by the condition.

An updated Public Access Plan and Passive Beach Park Plan were adopted as part of a Memorandum of Understanding (MOU) for Hōkūala Resort executed January 14, 2022, by and between the Tower Kaua'i Lagoons Entities, Tower Kaua'i Lagoons 8, LLC, and the County of Kaua'i. The updated Public Access Plan shows the existing Public Accessways and Public Easements at the Resort as of the date of the MOU and the updated Passive Beach Park Plan shows the location of the existing Public Improvements at the Resort as of the date of the MOU. A copy of the MOU for Hōkūala Resort, including the plans, is enclosed herewith as **Exhibit E**.

In accordance with this condition and Condition No. 7 of Zoning Ordinance No. PM-2021-416, a public lateral shoreline access between the former Inn on the Cliffs and former Fashion Landing, and public restrooms and shower facilities at the former Fashion Landing commercial area (beneath the restaurant) is provided within the Hōkūala Resort. A copy of the zoning ordinance is enclosed herewith as **Exhibit D**. A Grant of Pedestrian Access Easement document for the public lateral shoreline access located between the former Inn on the Cliffs and the former Fashion Landing area, between Kaua'i Lagoons LLC and MORI Golf (Kaua'i), LLC (Grantor) and the County of Kaua'i (Grantee) was executed and recorded in the Bureau of Conveyances as Document No. Doc A-44710562 on March 29, 2012.

Also, in accordance with this condition and Condition No. 7 of Zoning Ordinance No. PM-2021-416, the Applicant has completed construction of a public recreation/picnic shelter and shower facility near Running Waters Beach, just mauka of the public lateral shoreline access, and a public recreation/picnic shelter, shower and restroom facility further west and mauka of the public lateral shoreline access. Both of these public recreation facilities are available for public use. A total of 20 public beach parking stalls are also provided, including ten (10) stalls at the end of Kalapaki Circle and Pali Kai Cottages, and ten (10) stalls within the former Fashion Landing commercial area.

Any updates to the Public Access Plan and Passive Beach Park Plan will be conducted in accordance with the terms of the MOU. As such, the following information is being provided in conformance with the terms of the MOU:

- a. An updated Public Access Plan. – The Applicant notes that there have been no changes to the Public Access Plan adopted in the MOU. The current Public Access Plan is enclosed herewith for reference.
- b. An updated Passive Beach Park Plan. – The Applicant notes that there have been no changes to the Passive Beach Park Plan adopted in the MOU. The current Passive Beach Park Plan is enclosed herewith for reference.
- c. An updated Access Index. – The Applicant notes that there have been no changes to the Access Index adopted in the MOU. The current Access Index is enclosed herewith for reference.
- d. A description of any Modifications. – Not applicable.
- e. A description of any Removals. – Not applicable.
- f. A description of the condition of all Public Improvements. – The Applicant continues to maintain the public recreational facilities (Public Improvements). The facilities are maintained in good condition and open to the public.
- g. A description of the condition of the two (2) Fashion Landing Portable Toilets and any plans for the renewal of the Fashion Landing commercial operation. – There are currently no plans for the renewal of the Fashion Landing commercial operation. The two (2) Fashion Landing Portable Toilets have been upgraded to a flushable model. The toilets are inspected regularly to ensure they are in working order and open to the public.

Condition

10. *In order to comply with Condition No. 8 of Ord. No. PM-2006-383, all deeds or instruments transferring interest in the subject property, or in the structures or improvements therein, easements running in favor of the State of Hawai'i, the Land Use Commission, and the County of Kaua'i shall indemnify and hold the State of Hawai'i and Land Use Commission and the County of Kaua'i, harmless from any complaints or claims due to noise, odor, dust, mosquitoes, and other nuisances and problem emanating from the operation of the Līhu'e Airport, the Līhu'e Wastewater Treatment Plant, and specifically for the 31-unit affordable housing site, the operation of Līhu'e Industrial Subdivision II.*

Status

A master Declaration of Covenants, Conditions and Restrictions for Kaua'i Lagoons Resort recorded in the State Bureau of Conveyances on March 14, 2008, as Document No. 2008-040613 and on March 18, 2008, as Document No. 3723797 includes the provision of assumption of release, waiver and indemnity by each owner of the parcels or units within the Resort resulting from various potential conditions within and adjacent to the Resort.

Condition

11. *Pursuant to Condition No. 9 of Ordinance No. PM-2006-383, no residential, condominium, or hotel units shall be constructed within areas greater than the 60 DNL noise contour of the Līhu'e Airport;*

provided, however, that such uses may be permitted within the 60 to 65 DNL noise contours, if there is an accompanying mitigation of interior noise to the 45 DNL noise level. Accessory uses and structures including garages and carports not used for human habitation or occupancy may be placed within the area greater than the 65 DNL noise contours.

Status

Portions of development completed within the Hōkūala Resort have been constructed within areas greater than the 60 DNL noise contour of the Līhu'e Airport or within the 60 to 65 DNL noise contours with mitigation of interior noise to the 45 DNL noise level. All remaining development within these noise contours will be constructed pursuant to this condition. The design guidelines for the remaining developments will be specific in referencing this requirement for interior noise mitigation as needed. For all remaining residential development located between the 60 to 65 DNL noise contours, design guidelines will be established which would set forth the various door, window and exterior building envelope treatment measures to be followed in the construction of the units to achieve an interior noise level of 45 DNL. It should be noted that other portions of development within Hōkūala Resort are located within the 55 DNL noise contours, below the 60 DNL.

Condition

12. *The Applicant shall comply with any height restriction to be set by the State of Hawai'i pursuant to specifications established in the FAA regulations for aviation easement purposes along the perimeter of the Līhu'e airport runways. An aviation easement in a form prescribed by the State Department of Transportation shall be granted to the State of Hawai'i by the Applicant, to cover the entirety of the Kaua'i Lagoons Resort Property owned by the Applicant.*

Status

Development completed within the Hōkūala Resort has been constructed in compliance with height restrictions set by the State of Hawai'i pursuant to specifications established in the FAA regulations for aviation easement purposes. All remaining development will also be constructed pursuant to this condition. The Applicant has granted to the State DOT, Airports Division a Grant of Avigation and Noise Easement dated October 14, 2008, and recorded in the State Bureau of Conveyances as Document No. 2008-162922 pertaining to the operations of the adjacent Līhu'e Airport. The Grant of Avigation and Noise Easement was amended by Amendment to 2008 Avigation Easement and Supplemental Grant of Avigation and Noise Easement dated April 9, 2010, and recorded in the State Bureau of Conveyances as Document No. 2010-050288.

Condition

13. *If historic/cultural remains such as archaeological artifacts, charcoal deposits or human burials are found during construction, the Applicant shall stop work in the immediate area, and shall contact the State Historic Preservation Division SHPD at 742-7033, and the Planning Department, to determine appropriate action.*

Status

Acknowledged. In the event that any archaeological sites, significant cultural deposits, or human skeletal remains are found during construction activities, all work will immediately cease pending consultation with the SHPD. The treatment of any remains or artifacts will be in accordance with procedures obtained by the Kaua'i/Ni'ihau Islands Burial Council and the State Historic Preservation Division.

Condition

14. *In order to minimize adverse impacts on Federally Listed Threatened Species, such as Newell's Shearwater and other seabirds, any external lighting used in the project shall be only of the following types: shielded lights, cut-off luminaries, or indirect lighting. Spotlights aimed upward or spotlighting of structures and landscaping on the project site shall be prohibited. The Applicant is advised that this condition shall also apply to the proposed single family lot subdivisions and the affordable housing project at the intersection of Haa Street and Kapule Highway.*

Status

All exterior lighting within the Hōkūala Resort has been and will continue to be designed in full compliance with mitigation requirements to protect threatened and endangered species. Any external lighting planned for the project will be shielded or of the cut-off luminaire or indirect lighting types, and/or directed downward. The use of spotlights aimed upward or spotlighting of structures and landscaping within the Hōkūala Resort will be prohibited. An audit of the lighting at Hōkūala Resort is performed annually by a biological consultant to determine if any lighting or lit areas within the resort development could inadvertently attract fledglings overflying the resort during the seabird season. If so, steps are immediately be taken to re-design, re-configure or eliminate any potential light attraction sources that may be responsible. The audit is part of the mitigation measures outlined in the Habitat Conservation Plan (2012) for the resort as approved by the State DLNR and USFWS.

Condition

15. *The Applicant shall comply with all requirements established by the Department of Public Works, County of Kaua'i, regarding drainage and erosion control, in order to minimize any adverse impact on Kalapaki Bay and adjoining offshore waters.*

Status

A National Pollutant Discharge Elimination System (NPDES) General Permit coverage has been obtained for the Hōkūala Resort. All active projects with open NPDES Construction Permits have been renewed under the new State of Hawai'i DOH NPDES General Permit that expires on February 8, 2024. Any new projects seeking a grading permit from the County of Kaua'i DPW will submit a NPDES permit application to DOH for General Permit coverage of the project, if necessary. An updated Master Drainage Study was prepared in May 2010 (initial Master Drainage Study dated August 2007, revised November 2007, May 2008, September 2008, January 2009, August 2009, and March 2010) for the Hōkūala Resort development and submitted to the DPW for review and approval. To accommodate the projected increase in runoff volume, a total of seven (7) detention basins were provided throughout the Hōkūala Resort development, with lesser runoff being diverted into the Resort's existing lagoons. With the addition of the detention basins and use of the existing lagoons, the flow rates and drainage patterns have been kept to pre-development levels, and runoff generated by the Hōkūala Resort does not adversely affect the adjacent properties and down-gradient areas.

Condition

16. *In accordance with Section 9-2.8 of the KCC, the requirements relating to "Parks and Playgrounds" are applicable to the project and shall be resolved at the time of Subdivision and/or prior to building permit approval.*

Status

Payment in the amount of \$383,152.62 for the park dedication fee for the Kalanipu'u condominium development was made to the Planning Department on December 4, 2007. Payment in the amount of

\$58,051 and \$100,427 for the park dedication fees for the Parcel 9A – Building A (former Inn on the Cliffs) and Parcel 9B – Building B (former Ritz Carlton Club) developments, respectively, was made to the Planning Department on July 24, 2008. Payment in the amount of \$200,838.01 for the park dedication fee for the Single-Family Subdivisions 1 and 4 development was made to the Planning Department on December 3, 2008. Payment in the amount of \$121,478 for the park dedication fee for the Single-Family Subdivisions 2 and 3 development was made to the Planning Department on April 23, 2009. Payments in the amounts of \$75,334 and \$1,169,980 for the park dedication fee for the Revised Large Lot Subdivision were made to the Planning Department on July 27, 2010, and September 17, 2010, respectively. Payment in the amount of \$20,574.00 for the park dedication fee for Parcel 9A – Townhomes (Ritz Carlton Townhomes) was made to the Planning Department on February 1, 2017. Payment in the amount of \$150.00 for the park dedication fee for the Lot 8 Subdivision was made to the Planning Department on January 11, 2022. Additional park dedication fees associated with the March 2026 subdivision approvals were also paid, including \$67,280.11 for Subdivision 1 and \$123,830.86 for Subdivision 1A.

Payment of the applicable park dedication fees for the remaining various Resort developments will be made prior to building permit approval for the respective developments.

Condition

17. *In accordance with Section 11A-2.2 of the KCC, the Applicant shall submit to the Planning Department an Environmental Impact Assessment Fees (EIA) for the project. The EIA fee for the Multi-family unit project is based on \$1,000 per unit and is due prior to building permit approval. The EIA fees for the single family residential project are due prior to Subdivision permit approval.*

Status

Payment in the amount of \$78,000 for the EIA fee for the Kalanipu'u condominium development was made to the Planning Department on August 6, 2007. Payment in the amount of \$14,000 for the EIA fee for the Parcel A – Building A (former Inn on the Cliffs) development and \$28,000 for the EIA fee for the Parcel 9B – Building B (former Ritz Carlton Club) were made to the Planning Department on February 11, 2008. Payment in the amount of \$5,000 for the EIA fee for the 5-unit Parcel 9A – Townhomes (former Ritz Carlton Residence Town Homes Building A) was made to the Planning Department on July 29, 2008. Payment in the amount of \$15,000 for the EIA fee for the Single-Family Subdivisions 1 and 4 was made to the Planning Department on September 30, 2008. Payment in the amount of \$8,000 for the EIA fee for the Single-Family Subdivisions 2 and 3 was made to the Planning Department on January 16, 2009. Payment in the amount of \$7,000 for the EIA fee for the Revised Large Lot Subdivision was made to the Planning Department on July 14, 2010.

In accordance with Chapter 11A, Environmental Impact Assessment on Land Development, Article 2. Application, Section 11A-2.1 Exemptions (4), of the Kaua'i County Code, as amended, payment of the applicable EIA fees for the 31-unit Kamāmalu Condominium affordable housing project is exempt since it is a privately-developed, low-cost housing project financed entirely by private funds and the sales prices are in accordance with standards established by the County Housing Agency.

Payment of the applicable EIA fees for Subdivision 1 and 1A was made as part of the March 2026 final subdivision approvals, including \$3,000 for Subdivision 1 and \$5,500 for Subdivision 1A. EIA fees for other remaining various Resort developments will be made prior to building permit approval for the respective developments.

Condition

18. *The Applicant shall continue to make available 200 hundred off-street parking stalls within the Project Area "D" for Kaua'i Marriott Resort and Beach Club.*

Status

The 200 parking stalls are incorporated in the revised Hōkūāla Resort plan for the existing parking lot within the R-20 zoned area near the main entrance of the Resort.

Condition

19. *As contained in Condition No. 18 of Ordinance No. PM-2006-383, substantial construction of 125 hotel or resort/residential units shall be completed within two (2) years from the effective date of the Ordinance. Substantial construction of an additional 125 units shall be completed within seven (7) years from the effective date of the Ordinance (total of two-hundred fifty (250) units), and the remainder of the 750 units (or five hundred (500) units) shall be completed within twelve (12) years from the effective date of the Ordinance. Substantial construction, as used herein, shall mean the laying of foundations. If substantial construction is not completed within this time frame, the Planning Commission may initiate proceedings to review the provisions of the zoning designations for the property, including, but not limited to additional infrastructure requirements.*

Status

Relative to the 125 resort-residential units within the Hōkūāla Resort that must be completed within two (2) years from the effective date of the Ordinance, construction of the 78-unit Kalanipu'u development has been completed, with units currently occupied by residents and time share owners. Substantial construction of the structures for the 14-unit Parcel 9A – Building A (former Inn on the Cliffs), the 28-unit Parcel 9B – Building B (former Ritz Carlton Club), and the 5-unit Parcel 9A – Townhomes (former Ritz Carlton Residence Town Homes Building "A") developments was also completed within the required two-year timeframe.

Of the additional 125 units that must be substantially complete within seven (7) years after the effective date of the Ordinance, foundation plans at the Lot 8 – Boutique Hotel development were approved on October 4, 2016. The laying of foundations was completed on October 31, 2016, in accordance with this condition. Updated and revised design plans for the Lot 8 – Boutique Hotel development are under review by the Planning Department and the DPW Building Division.

A foundation permit for the remainder of the total 772 units was approved by the County on July 26, 2021. The laying of the foundations were completed on September 29, 2021, as reported to the Planning Department. As such, the Applicant has substantially completed the 772 units within twelve (12) years in accordance with the effective date of the Ordinance.

Condition

20. *As stated in Condition No. 19 of Ordinance No. PM-2006-383:*

"Pursuant to Chapter 4 ("Developing Jobs & Business"), Section 4.5.2 ("Supporting Business and Jobs for Kaua'i Residents – Implementing Actions") of the Kaua'i General Plan (November 2000):

"(c) In granting zoning and permits for new resorts and other business, the County shall seek commitments that businesses will actively recruit and train Kaua'i residents to fill new jobs. To this end, the Applicant shall seek to actively recruit and train Kaua'i residents to fill new jobs. To accomplish this, the Applicant may cooperate with, and utilize, whatever government training programs and Kaua'i Community College

curricula which may be available so that Kaua'i residents may be trained to fill such newly-generated jobs. The Applicant may also work to actively recruit Kaua'i residents to participate in such job training programs and curricula."

Status

Hiring practices for completed properties are consistent with the condition. The Applicant will continue to comply with this condition for future properties as well.

From July 1, 2025, to current, the Applicant hired 51 new employees. All new hires were recruited locally.

The Applicant has created a succession plan for Hōkūala Resort and continues to update it. One of the goals of the succession plan is to identify the skills gap of the current talent and build the skills necessary/training for future and current key leadership positions. This assists with retention and keeping talent in-house and on-island. The Applicant conducted a 12-week leadership training for potential new leaders, and several participants were promoted to senior leadership positions in the organization.

The Applicant assesses and analyzes the market to maintain competitive compensation packages to reduce attrition and turnover. This assists employees with the increased cost of living on Kaua'i.

Among other recruitment tools, the Applicant is using the Timbers Kaua'i property's social media to attract local talent. The Applicant also offers an employee referral program in which current employees receive a bonus if their referral is hired. This is to encourage team members to identify friends or acquaintances for posted jobs.

Condition

21. *In accordance with Condition No. 20 of Ordinance No. PM-2006-383, "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 reasonably competitive with other contractors and shall seek to employ residents of Kaua'i in temporary construction and permanent resort related jobs. It is recognized that the Applicant may have to employ non-Kaua'i residents for particular skilled jobs where no qualified Kaua'i resident possesses such skills. For the purposes of this condition, the Council shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices".*

Status

Hiring practices for construction projects undertaken to date are consistent with the condition. The Applicant will continue to comply with this condition for future construction projects.

Condition

22. *The Applicant shall consider the application of Leadership in Energy and Environmental Design (LEED) standards and strategies wherever feasible for sustainable site, utilities and building development.*

Status

The Hōkūala Resort development proposes to incorporate the application of Leadership in Energy and Environmental Design (LEED) standards and strategies, to the extent deemed economically feasible, to achieve sustainable site, utilities and building development. The following green principles and

strategies being implemented within the Resort development include the following:

Sustainable Sites:

- Control storm water runoff on-site. The project's design will reuse the majority of the storm water volume generated for non-potable uses. Storm water runoff will be captured and returned to the lagoons or retained on-site.
- Develop an erosion and sedimentation control plan meeting the construction activity pollution prevention criteria. This would include reducing pollution from construction activities by controlling soil erosion, waterway sedimentation and airborne dust generation.
- Reduce the roof heat island effect by using Energy Star compliant, high-reflectance and low emissivity roofing at flat roof areas.
- Minimize light pollution by designing exterior lighting to reduce fixture lumens emitted at an angle of 90 degrees or higher from nadir (straight down).
- Promote alternative transportation by providing secure bicycle storage and locker room facilities.
- Provide pedestrian linkages within the Resort development and to Island-wide public transportation.

Water Efficiency:

- Achieve water and energy savings by selectively deleting cooling towers and utilizing the Resort development's lagoons as a heat sink in lieu of typical heating, ventilation and air conditioning (HVAC) systems.
- Design for low irrigation water usage and utilize non-potable water for landscape irrigation. The project's irrigation will utilize water from the Resort's lagoons, on-site wells, and R-1 quality recycled wastewater effluent from the County's Līhu'e WWTP. Potable water for irrigation of the project's landscaping will be minimized or eliminated.
- Reduce potable water usage through use of high efficiency plumbing fixtures.

Energy and Atmosphere:

- Assess building energy demand and perform fundamental building commissioning.
- Reduce energy demand through specification of efficient lighting fixtures and LED lamping, and mechanical equipment. Specify Energy Star rated appliances that will reduce electric consumption. Use high performance glazing to achieve an increased level of performance and reduction in energy use.
- Energy consumption reduction through design modeling.
- Incorporate refrigerants that do not utilize ozone depleting chemicals such as Chloro-fluoro-carbons (CFCs).

Indoor Environmental Quality:

- Design HVAC systems to monitor air delivery.
- Propose low Volatile Organic Compound (VOC) materials, such as adhesive and sealants, paints and coating, and carpet systems.
- Require a construction management plan for the proper storage, installation and maintenance of HVAC systems to minimize particulate and organic contaminants. Implement an Indoor Air Quality (IAQ) Management Plan during pre-occupancy phases that protects the HVAC system during construction, controls pollutant sources and interrupts contamination pathways.
- Design indoor spaces such as janitor closets and copying rooms with separate ventilating systems to control indoor pollutant sources.

- Provide lighting control systems that reduce light usage and sensors for day lighting to reduce energy consumption.
- Provide building occupants with options for thermal comfort and control.
- Design spaces with views to the exterior and options for natural ventilation.

Innovation and Design Process:

- Create and implement a Green education program to share green strategies with Resort employees and guests through graphic stations and self-guided tours.
- Provide a post-occupancy ongoing pest management program with an emphasis on effective use of Green pesticides and techniques.
- Implement a green housekeeping program.
- Consider carbon neutral building products.
- Incorporate use of low VOC furniture.
- Incorporate use of LED lighting.
- Implement the joint Federal-State Habitat Conservation Plan in accordance with the requirements of Section 10 of the Endangered Species Act, as amended, and Section 195D, HRS.

Waste Stream Diversion:

- During construction, develop a solid waste management plan to segregate and store materials for recycling (paper, wood, cardboard, glass, metals, and plastics) and minimize construction, demolition and land clearing debris from disposal in the County's landfill.
- Reuse concrete from the demolition of existing buildings and other infrastructure within the Resort development as non-expansive granular fill in areas deemed appropriate for such reuse.
- Utilize locally-produced materials such as aggregate and concrete wherever feasible and applicable.
- Incorporate waste diversion and reduction facilities into the design of the project and encourage recycling of materials at the project during the operations phase. Implement a solid waste management plan to provide for recycling of cardboard, aluminum, glass, plastic, and green waste, and participation in the State's "high five" program. Incorporate recycling and waste collection facilities at each development area within the Resort development. Employ composting of all greenwaste on-site for the project's golf course and landscaped areas.

Condition

23. *The Applicant shall seek to establish and designate emergency shelters within the Resort which would be available for use during natural disasters.*

Status

An Emergency Action Plan, first adopted in July 2019, and revised June 2021, was prepared for the Resort and provides information regarding emergency plans and procedures during natural disasters. The Emergency Action Plan was reviewed in May 2026 to address any changes in risk and capabilities at the Resort.

Condition

24. *As recommended by the Department of Water, the Applicant shall resolve the following with the Department of Water (DOW):*

- a. *Submit detailed water demand calculations along with proposed water meter size. Water demand calculations should include fixture count and water meter sizing worksheets. These calculations shall include but not be limited to domestic, irrigation and other applicable water demands of this project along with the proposed water meter size. If the existing water meters will be used to provide water service to this development, water demand calculations will be required for the existing and proposed uses and shall include the existing and proposed unit counts. The Water Department's comments may change depending on the approved water demand calculations.*
- b. *Prepare and receive DOW's approval of construction drawings for necessary water system facilities and construct said facilities. These facilities shall include but not be limited to:*
 1. *The domestic service connection and fire service connection, if applicable*
 2. *The interior plumbing plans with the appropriate backflow prevention device, if applicable,*
 3. *Additional source facilities for this area. The Applicant may wait until others (including the DOW) to construct additional source for this area. The DOW is in the process of obtaining additional source for this area. Grove Farm is constructing a Surface Water Treatment Plant, which will provide additional water capacity for the Līhu'e Area. Upon completion of this SWTP the DOW will reassess their water situation in the Līhu'e area.*
 4. *Additional storage facilities of this area. The Applicant may wait until others (including DOW) to construct additional storage for this area.*
- c. *Pay the applicable charges in effect at the time payment is made to the Water Department. At the present time, these charges shall include:*
 1. *The Facilities Reserve Charge (FRC) of either \$4,600 per unit or the facilities reserve charge as determined by the approved water meter size, whichever amount is larger.*

Status

The Applicant previously noted that an existing 4-inch water meter would continue to serve the Hōkūala Resort development and would be used to supply water to various existing, planned and proposed projects within the initial phase of development, including the Kalanipu'u condominiums, the 31-unit affordable housing development, one public recreation/picnic shelter, the planned golf clubhouse at the former Fashion Landing, the planned 34 single-family residential lots in the Single-Family Subdivisions 1 and 4, and fitness center at the former Fashion Landing complex.

The Applicant also previously noted that two (2) existing 6-inch water meters shared between the Kaua'i Marriott Resort and Beach Club, the Hōkūala Resort, and the nearby Pali Kai Homes, would be used to supply water to other planned and proposed projects within the development, including the Parcel 9A – Building A (former Inn on the Cliffs), the 5-unit Parcel 9A – Townhomes (former Ritz Carlton Residence Town Homes building), the Parcel 9B – Building B (former Ritz Carlton Club), the planned 20 single-family residential lots in Single-Family Subdivisions 2 and 3, a portion of the planned Parcel 8 – Boutique Hotel, the proposed 11 single-family residential lots in Single-Family Subdivision 7, one public recreation/picnic shelter, the planned central operations building with a marketplace/café, the planned landscape maintenance facility, a future spa for the Kaua'i Marriott Resort and Beach Club, and the Kaua'i Marriott Resort and Beach Club renovations.

Pursuant to the County Department of Water (DOW) approval, the Applicant envisioned that a new 8-inch water meter, which was recently upgraded, at the existing 4-inch water meter location to supply water for the remainder of the Hōkūāla Resort development.

A Water Study Report (January 2005, Revised July 24, 2007) was prepared for the Hōkūāla Resort which includes water demand calculations for existing and proposed uses for domestic and irrigation demands. The Water Study Report was approved by the DOW by letter dated August 23, 2007. Subsequently, an Updated Water Study Report (May 2008) was prepared to allocate the residual capacity of the two (2) 6-inch water meters and to update the fixture unit counts for the Resort development. The Updated Water Study Report was submitted to the DOW on May 6, 2008, for review and approval. Based on comments from the DOW, an Updated Water Study Report (Revised July 16, 2008) was submitted and conditionally approved by the DOW by letter dated August 22, 2008. Based on subsequent comments from the DOW, a Final Updated Water Study Report (Revised November 25, 2008) was approved by the DOW by letter dated December 1, 2008. Based on the Hōkūāla Resort's revised 772-unit density master plan, an Updated Water Study Report (Revised March 2010) was prepared and approved by the DOW by letter dated June 9, 2010. Subsequently, an Updated Water Study Report (Revised June 2011) was prepared to reflect the revised building schedule for the fitness center at the former Fashion Landing complex and was approved by the DOW by letter dated June 24, 2011.

As stated in the reports and through previous discussions with DOW, there is adequate source and storage for the proposed and planned Resort developments that will obtain water from the existing 4-inch water meter, which was recently upgraded by the County to an 8-inch meter, and the two (2) existing 6-inch water meters. The Applicant will be coordinating with the DOW regarding additional source and storage requirements for the remainder of the Hōkūāla Resort development.

The Applicant has submitted a revised water master plan for Hōkūāla dated November 9, 2015, to the County of Kaua'i DOW. The Plan was subsequently revised and resubmitted on June 14, 2016. Pursuant to comments received from DOW, the Plan was updated and in September 2020. The September 2020 plan has since been superseded by a more recent Plan submitted dated May 2022. In response to supplemental questions received from the DOW, the Applicant submitted an update to DOW with a revision date of August 2022. The DOW approved this phased Plan update on October 14, 2022. The updated plan reflects the minor adjustments to the product mix that reallocated density throughout the resort without increasing the total density for the Resort.

Adequate on-site fire protection will be provided.

Payment in the amount of \$73,600 for the Facilities Reserve Charge (FRC) for the Kalanipu'u condominiums was made to the DOW on November 27, 2007, as part of the building permit process for that development. Payment in the amount of \$64,400 for the Parcel 9A – Building A (former Inn on the Cliffs) and in the amount of \$128,800 for the first building of the Parcel 9B – Building B (former Ritz Carlton Club) was made to the DOW on April 23, 2008, as part of the building permit process for the respective developments. Payment in the amount of \$23,000 for the Parcel 9A – Townhomes (Ritz Carlton Residence Town Homes Building A) was made to the DOW on July 29, 2008. Payment in the amount of \$161,000 for the FRC for the Single-Family Subdivisions 1 and 4 was made to the DOW on October 23, 2008. Payment in the amount of \$92,000 for the FRC for the Single-Family Subdivisions 2 and 3 was made to the DOW on October 23, 2008. Payment in the amount of \$59,800 for the FRC for the Revised Large Lot Subdivision was made

to the DOW on July 14, 2010.

Payment of the applicable FRC for Subdivision 1 and 1A was made to the Department of Water on November 14, 2025 in the amounts of \$183,495 and \$179,840, respectively.

Payment for the applicable FRC for the remaining Resort developments will be made prior to the respective building permit approvals at rates prevailing at the time.

Condition

25. *The Applicant shall resolve and comply with applicable conditions or requirements as recommended by the State Health Department, County Fire Department, County Public Works Department, County Department of Public Works Building Division, County Department of Water, United States Postal Service, U.S. Fish and Wildlife Service, and State Department of Transportation.*

Status

All agency conditions or requirements have been or will be resolved and complied with by the Applicant.

Condition

26. *The Planning Commission reserves the authority to impose additional conditions, modify or delete conditions stated herein, or revoke the subject permits through proper procedures should the Applicant fail to comply with the conditions of approval.*

Status

Acknowledged.

Condition

27. *Due to the phasing of the overall master plan, the Applicant is advised that additional government agency conditions may be imposed, including but not limited to, procedural requirements and processes for the overall resort master plan to be implemented under the subject permits. Actions proposed by the Applicant are subject to the rules and regulations deemed applicable at that time. It shall be the Applicant's responsibility to resolve those conditions and processes with the respective approving authorities.*

Status

Acknowledged.

Condition

28. *The Applicant shall provide an annual report to the Planning Commission, which shall be submitted to the Planning Department 30 days prior to the annual anniversary date of approval of the amendments considered herein. The annual report shall include the progress and status of the project and compliance with all conditions of approval. An annual report shall be provided until project completion and compliance with all conditions of approval.*

Status

The Applicant has complied with this condition requirement and acknowledges the requirements for compliance in the future.

Condition

29. *Details of the design of the proposed bus stop with a bench and shelter to be constructed/installed by the Applicant, at no cost to the County of Kaua'i, at the location recommended by the County Transportation Agency near the main entryway to the Kaua'i Lagoons Resort shall be resolved by the Applicant with the County Transportation Agency, Planning Department and Department of Public Works prior to construction plan approval of the Resort's planned central operations facility.*

Status

This condition is acknowledged and will be complied with. The development of the earliest Hōkūala Resort projects and facilities that would result in additional employees is anticipated to occur by October 2026 (The Silverwest Hotel – 210 key). Provision of the County bus stop will not be required until additional Hōkūala Resort projects and facilities are developed prompting the necessary demand to warrant its construction. Details of the proposed bus stop and shelter will be resolved with the Planning Department and Department of Public Works at that time prior to future construction plan approval.

Condition

30. *The Applicant shall provide sidewalks along the Resort Drive and Lagoon Drive and in view of the requirements for sidewalks for RR-10, RR-20 and R-20 multi-family residential districts, the Applicant shall resolve with the Planning Department and Building Division, detailed location of sidewalk or pedestrian path improvements and design that are interconnected with the proposed public shoreline access, including but not limited to, segments of the Nawiliwili-Ahukini Bike and Pedestrian Path improvements proposed to be provided on lands owned by the Applicant.*

Status

Through the Revised Large Lot Subdivision (S-2010-11), a modification of the requirement was granted to allow the approximately 1,050 linear-foot long segment of Road Lot E (Ala 'Oli Way) located east of its intersection with Holokāwelu Way to be exempt from the requirements relative to the provision of curbs, gutters and sidewalks as set forth in Section 9-2.3 (e) (3) of the Subdivision Ordinance of the Kaua'i County Code of Ordinances, as amended. This segment of Road Lot E is a dead-end street which will serve the Ninini Point Residences which, as noted above, have 12 units under construction. Road Lot E is privately owned and maintained.

In lieu of curbs, gutters and sidewalks, the shoulders of this segment of Road Lot E consist of a 10-foot wide grassed swale along the mauka side of the road pavement, and a 12-foot wide grassed swale along the makai side of the road pavement. The provision of grassed swales is intended to impart a more natural, rural character to the adjacent single-family subdivision, similar to that of the Hōkūala Resort's Single-Family Subdivisions 1 and 4 (S-2008-24) and Single-Family Subdivisions 2 and 3 (S-2009-06) which were approved by the Planning Commission on December 9, 2008 and May 12, 2009, respectively. The grassed swales are also intended to promote sustainable sites by providing increased pervious surface areas to control storm water runoff. It should be noted that For Subdivision 1A, the sidewalk improvement requirement, subject to the condition that Applicant provide a "fee in lieu of" payment to the County. For Subdivision 1, a 5-foot-wide continuous sidewalk will be constructed along the Kahilipulu Road frontage in accordance with subdivision requirements.

All other improvements to this segment of Road Lot E have been developed to existing County standards. The remaining western segment of Road Lot E of approximately 850 linear feet has been developed to existing County standards, including the provision of curbs, gutters and sidewalks.

An updated Public Access Plan which was included as part of the Memorandum of Understanding for Hōkūala Resort, effective January 14, 2022, depicts existing and proposed public access throughout the Resort, including the public lateral shoreline access between the Parcel 9A – Building A (former Inn on the Cliffs) and Commercial Complex (Fashion Landing). A copy of the Memorandum of Understanding for Hōkūala Resort is enclosed herewith as **Exhibit E**.

The Applicant has coordinated with the County DPW Building Division and the County Planning Department regarding integration of segments of the County's proposed Nawiliwili-Ahukini Shared-Use Path improvements within the Resort and the Applicant will continue to discuss options with DPW. The Applicant is committed to maintaining ongoing coordination with the DPW Building Division and the County Planning Department in working out details of the shared-use path improvements and associated easement locations within the Hōkūala Resort as the planning and design phases of the shared-use path project progresses by the County.

This condition will be complied with for the remainder of the Resort development where applicable and as determined through approvals from the Planning Commission and the Planning Department.

Condition

31. *As recommended by the Department of Public Works, Solid Waste Management Division, the Applicant shall prepare a solid waste management plan (SWMP) with a section detailing a "job-site recycling and waste reduction system" for demolition and construction activities and a separate section detailing the recycling and waste reduction system for operations phase activities. The SWMP shall be submitted to the Department of Public Works for review and approval, prior to commencement of demolition and construction activities for each respective component of the project.*

Status

A construction phase SWMP was developed and implemented for each of the construction phases previously underway within the Resort, which will be updated and implemented for all future phases of activity.

The Applicant has prepared a SWMP for the operations phase activities of the Hōkūala Resort, which was approved by the County DPW Solid Waste Division by memorandum dated January 7, 2009. The SWMP provides for recycling of cardboard, metal, glass, paper, plastic, and green waste, as well as participation in the State's "HI-5" program. The Applicant also prepared an updated SWMP for the operations phase activities to include the additional 22-unit density approved through Zoning Ordinance No. PM-2009-394. The updated SWMP was approved by the County DPW Solid Waste Division by memorandum dated October 27, 2010.

Condition

32. *A dedication deed executed by Kaua'i Development LLC in a form approved by the Office of the County Attorney for TMK 3-5-1: 102 shall be submitted to the Planning Department prior to any further building permits approved by the Department.*

Status

The Dedication Deed from Kaua'i Development, LLC to the County of Kaua'i, effective May 5, 2010, conveying the parcel identified as TMK: (4) 3-5-001: 102, was recorded in the State Bureau of Conveyances as Document No. 2010-061330.

In summary, the 2026 Annual Report Update includes the following key updates for the Planning Department's review:

Approval of:

- Subdivision 1 Lot Consolidation (Subdivision No. S-2022-9) – This subdivision consolidates the lots that were created under S-2008-24 and S-2010-11 in accordance with an approved change in density from R-2 to R-4 pursuant to Zoning Ordinance PM-2021-416. A copy of the zoning ordinance is enclosed as **Exhibit D**. It also updates utility easements per the new lot configuration. Tentative subdivision approval was granted by the Planning Commission on April 9, 2024.
- Subdivision 1A Subdivision (Subdivision No. S-2022-10) – This subdivision creates a single lot for Subdivision 1A that was approved through the Resort's Third Amendments to Special Management Area Use Permit SMA (U)-2005-8, Project Development Use Permit U-2005-26, Use Permit U-2005-25, and Class IV Zoning Permit Z-IV-2005-30 by the County Planning Commission on January 12, 2010. This subdivision is also consistent with the approved change in density from R-2 to R-4 pursuant to Zoning Ordinance PM-2021-416. A copy of the zoning ordinance is enclosed herewith as **Exhibit D**. Preliminary Sub approval was granted by the Planning Commission on April 9, 2024.

Other Updates:

- TKL Lots 700-701 [TMK: 3-5-001:216] Kamamalu and Resubdivision of said consolidation into Lots 1-11 inclusive and the designation of easement A situated at Kalapakī, Līhu'e, Kaua'i, Hawai'i. Subdivision Applications have been signed and submitted to the Planning Commission for further review through a public hearing. These applications can be seen in **Exhibit I**.
- Condition 20: Status; From July 1, 2025, to current the Applicant hired 51 new employees. All new hires were recruited locally.

Should you have any questions, please feel free to call me or Desiree Malabed at (808) 946-2277, or Gary Siracusa, Director of Construction, at (808) 241-6046.

Sincerely,



Keola Cheng
Planning Director

cc: Gary Siracusa, Hōkūāla Resort
Michael Belles, Belles Graham LLP

EXHIBIT A

Second Amendment to:

SMA(U)-2005-8

Project Development Use Permit PDU-2005-26

Use Permit U-2005-25 and

Withdrawal of Special Permit SP-2008-4

BERNARD P. CARVALHO JR.
MAYOR

GARY K. HEU
ADMINISTRATIVE ASSISTANT



IAN K. COSTA
DIRECTOR OF PLANNING

IMAICALANI P. A.
DEPUTY DIRECTOR OF PLANNING

COUNTY OF KAUAI
PLANNING DEPARTMENT
4444 RICE STREET
KAPULE BUILDING, SUITE A478
LIHUE, KAUAI, HAWAII 96788-1328

TELEPHONE: (808) 241-4060 FAX: (808) 241-8899

August 12, 2009

Kauai Lagoons LLC, MORI Golf (Kauai) LLC
c/o Ronald A. Sato, AICP
Wilson Okamoto Corporation
1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, HI 96826

RECEIVED
AUG 11 2009

WILSON OKAMOTO CORP.

Subject: Second Amendment to:
Special Management Area Use Permit SMA(U)-2005-8
Project Development Use Permit PDU-2005-26
Use Permit U-2005-25, and
Class IV Zoning Permit Z-IV-2005-30
And
Withdrawal of Special Permit SP-2008-4
Tax Map Keys: 3-5-01: 27 (por.), 168, 169, 171 (por.), 172 (por.), 175, and
176

The Planning Commission at its meeting held on August 11, 2009 approved amendments to the subject permits previously approved in 2005 and 2008 in order to allow implementation of a revised master site development plan involving 372 condominium/time share units, 15 single-family residential lots, and support facilities, including a central operations building with a marketplace/café; a temporary central operations facility; administrative office facilities; a temporary sales facility and model units; a marketplace express and grill/kitchen; a kids club; a fitness center; a resales center; a landscape maintenance facility with a private potable domestic/fire water booster pump station; a private underground sewer pump station; swimming pools with

Ronald A. Sato, AICP
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Page 2

a flowrider water amenity; two (2) pool bars with associated restrooms and storage rooms; three (3) greeter stations; two (2) electrical/mechanical facilities; drainage improvements, including three (3) grassed detention basins and channelization of a portion of an existing western drainage channel; and approximately 1,098 parking stalls; and a revised large lot subdivision to allow for various boundary adjustments necessary to accommodate the Resort improvements, subdivision of the 15 single-family residential lots, and subdivision of Pāhala Drive from the adjacent golf course parcel.

Through this Application, the Planning Commission further approved the withdrawal of Special Permit SP-2008-4 in order to cancel the development of a proposed tennis court complex consisting of five (5) tennis courts within a portion of the Kauai Lagoons Resort's golf course.

Approval is further subject to amending selected conditions imposed in the previous approval granted in 2005 as described in the Planning Department's letter transmitted to the Applicant (at that time Kauai Development LLC and KD Golf Ownership LLC) dated August 25, 2005. The conditions shall supersede the previous conditions imposed in the amended permit approval granted in 2008 as cited in the letter transmitted to the Applicant (at that time Kauai Lagoons LLC, MORI Golf (Kauai), LLC, and KD Kapule LLC) dated June 16, 2008 as follows:

1. The maximum building height for the proposed condominium, timeshare, multi-family, and hotel units buildings in Project Areas "B" and "D" approved in 2005 and Project Area "B" of the proposed amendments (Page 0.01 Volume II) shall not exceed four (4) stories or forty (40) feet from the ground line measured at each point along the building to the highest wall plate line, whichever is less. Gables and roof height shall not exceed one-half (1/2) the wall height or fifteen (15) feet, whichever is less.

The maximum building height for structures in Project Area "C" (Page 4, Volume II) as approved in 2005 shall be as follows:

- a. The maximum building height for the proposed "Inn on the Cliffs" buildings shall not exceed three stories or 45 feet as measured from the ground line at each point along the building to the highest point of the roof of the building.
- b. The Ritz Carlton Club units shall have a three- to four-story design with a maximum building height of 55 feet as measured from the ground line at

each point along the building to the highest point of the roof of the building.

- c. The maximum building height for the Ritz Carlton Residence Town Homes Building A shall not exceed two (2) stories in design with a maximum building height of 35 feet as measured from the ground line at each point along the building to the highest point of the roof of the building.

The single-family residential developments within Project Area "F" of the 2008 amended permits and Project Areas "A" and "C" of the proposed amendments shall comply with all applicable residential development standards of the Comprehensive Zoning Ordinance.

The Applicant shall also follow the proposed architectural design guidelines that establish building design, roof design, building materials, and earth tone color schemes as shown on pages 16, 26 and 44 of Volume II of the 2005 application, on pages A.00, B.00 and F.00 of Volume II of the 2008 amended permits, and on pages A.00, B.00 and D.00 of the proposed amendments.

As represented, the maximum building height for the proposed Golf Club House facility on TMK: 3-5-001: por. 173 shall not exceed 35 feet from finished grade at the main entrance of the building to the highest point of the roof.

3. The applicant shall provide building design, color scheme samples, and landscape plans for each phase of the project for the review and approval of the Planning Department at the time of Building Permit and/or Subdivision Permit Application. The Applicant is encouraged to incorporate the use of native plants that are common to the area or endemic, indigenous, or Polynesian introduced in the landscape plans for each phase of the development.

The landscape plan shall also include landscaping and/or landscape berm(s) along Hahaione Street and Kapule Highway to address visual impacts of the project and to help minimize noise impacts from the highway to the residential project.

4. The Applicant shall comply with the required setback distance to property lines for all of the buildings as approved by adjusting the building location or configuration and/or conducting boundary adjustments through the Subdivision process to obtain the land area with the adjacent lands to meet the required setback distances to the respective property line(s).

5. As required under Condition No. 2 of Ordinance No. PM-2006-383, the Applicant shall provide documentation of the restriction on density in the subject property(ies) within Open District into the deeds of the affected property prior to building permit issuance for any development proposed in the amended area.
6. As represented by the applicant and as recommended by the State Department of Transportation, the Applicant shall prepare a revised Traffic Impact Analysis Report (TIAR) for the Kauai Lagoons Resort development that also includes the County's proposed Vidinha Stadium Expansion project. The Applicant shall resolve with the State Department of Transportation (DOT) the execution of a Memorandum of Agreement which would address the specific improvements to be provided as set forth in the letter from the DOT dated May 22, 2008 and July 15, 2009.

As also represented, the Applicant shall provide a primary vehicular access to the resort project from Kapule Highway to lessen the traffic impacts of the project at both the Rice Street/Kapule Highway intersection and at the existing entrance to the project along Rice Street. The improvements that are needed at the Kapule Highway entrance shall be resolved with the State Department of Transportation and the Department of Public Works. The Applicant shall submit a Supplemental Traffic Impact Analysis Report to the Department of Transportation indicating that the Kapule Highway entrance shall serve as primary access to the project.

As further represented, the Applicant shall extend the right turn lane on Haa Street at the intersection of Haa and Kapule Highway and also provide a left turn "pocket" on Haa Street at the entrance to the affordable housing project on TMK: 3-5-001: 165.

In addition, the Applicant shall consult with the DOT Airports Division on the possibility of utilizing the "Airport Road", situated to the north of the project site and along the western boundary of the Airport Facility, to provide direct access from the Airport Facility to the resort property for vans and/or shuttle buses.

In order to coordinate the requirements specified in the above, the applicant shall prepare a working plan providing a schedule covering the preparation of construction plans and construction timetables for the various roadway improvements, subject to the review and approval Public Works Departments, the State Department of Transportation, and Planning Department at time of Building Permit Application and/or Subdivision Application for projects that are granted subject permits.

7. As recommended by the Department of Public Works, Wastewater Division, the Applicant shall resolve the following requirements with the Department of Public Works:
 - a. The STP Effluent Agreement dated August 14, 2001, as amended by Amendment to Agreement Regarding STP Effluent dated March 27, 2009 between Kauai Lagoons LLC and the County of Kauai shall remain in effect.
 - b. The said agreement, as amended, reserves the Applicant with 290,000 gallons per day of treatment capacity at the Lihue Wastewater Treatment Plant for its development up to twenty-one (21) years from the date of the amended agreement.
 - c. The applicant shall meet with the Department of Public Works to negotiate an agreement for sewer capacity exceeding 290,000 gallons per day.
 - d. The amended agreement stipulates that the County shall provide, and the applicant shall accept, up to 1.5 million gallons per 24 hour day (MGD) of R-1 quality treated effluent. If this condition cannot be met the applicant shall meet with the Department of Public Works to negotiate an agreement to dispose any of the unused effluent that remains from the 1.5 MOD discharged from the County's Lihue Wastewater Treatment Plant.
 - e. All sewer improvements required for the development shall be designed and constructed to County standards.

Should the sewer capacity for additional development on the property exceed 290,000 gallons per day, the Applicant acknowledges that it shall be subject to any applicable waiting or priority list established by the County of Kauai for such service.
8. The Applicant shall comply with Condition No. 6 of Ordinance No. PM-2006-383, and with the requirements of the Kauai Lagoons Affordable Housing Amended Agreement, dated February 18, 2005. Amendment of the subject permits is approved for the development of 31 leasehold affordable housing units on TMK: 3-5-001: 165.
9. Applicant shall continue to allow public access over and across all existing public vehicular and pedestrian public accesses on the subject property. The Applicant shall provide the improvements shown on the Applicants updated Public Access

Ronald A. Sato, AICP
August 12, 2009
Page 6

Plan as represented on Figure 9, Volume I. The improvements shall include recreational shelters, shower and restroom facilities, a minimum of 10 public parking stalls at the eastern edge of the Fashion Landing area, and a minimum of 10 public parking stalls at the western end of the project near Kukii Point. The Applicant shall also provide a lateral pedestrian public access beginning from the Fashion Landing area to the former "Inn on the Cliffs" area and on to Kukii Point.

10. In order to comply with Condition No. 8 of Ord. No. PM-2006-383, all deeds or instruments transferring interest in the subject property, or in the structures or improvements therein, easements running in favor of the State of Hawaii, the Land Use Commission, and the County of Kauai shall indemnify and hold the State of Hawaii and Land Use Commission and the County of Kauai, harmless from any complaints or claims due to noise, odor, dust, mosquitoes, and other nuisances and problems emanating from the operation of the Lihue Airport, the Lihue Wastewater Treatment Plant, and specifically for the 31-unit affordable housing site, the operation of the Lihue Industrial Subdivision II.
11. Pursuant to Condition No. 9 of Ordinance No. PM-2006-383, no residential, condominium, or hotel units shall be constructed within areas greater than the 60 DNL noise contour of the Lihue Airport; provided, however, that such uses may be permitted within the 60 to 65 DNL noise contours, if there is an accompanying mitigation of interior noise to the 45 DNL noise level. Accessory uses and structures including garages and carports not used for human habitation or occupancy may be placed within the area greater than the 65 DNL noise contours.
12. The Applicant shall comply with any height restriction to be set by the State of Hawaii pursuant to specifications established in the FAA regulations for aviation easement purposes along the perimeter of the Lihue airport runways. An aviation easement in a form prescribed by the State Department of Transportation shall be granted to the State of Hawaii by the Applicant, to cover the entirety of the Kauai Lagoons Resort Property owned by the Applicant.
13. If historic/cultural remains such as archaeological artifacts, charcoal deposits or human burials are found during construction, the Applicant shall stop work in the immediate area, and shall contact the State Historic Preservation Division SHPD at 742-7033, and the Planning Department, to determine appropriate action.
14. In order to minimize adverse impacts on Federally Listed Threatened Species, such as Newell's Shearwater and other seabirds, any external lighting used in the project shall be only of the following types: shielded lights, cut-off luminaires, or indirect lighting. Spotlights aimed upward or spotlighting of structures and

landscaping on the project site shall be prohibited. The Applicant is advised that this condition shall also apply to the proposed single family lot subdivisions and the affordable housing project at the intersection of Haa Street and Kapule Highway.

15. The Applicant shall comply with all requirements established by the Department of Public Works, County of Kauai, regarding drainage and erosion control, in order to minimize any adverse impact on Kalapaki Bay and adjoining off shore waters.
16. In accordance with Section 9-2.8 of the KCC, the requirements relating to "Parks and Playgrounds" are applicable to the project and shall be resolved at the time of Subdivision and/or prior to building permit approval.
17. In accordance with Section 11A-2.2 of the KCC, the Applicant shall submit to the Planning Department an Environmental Impact Assessment Fees (EIA) for the project. The EIA fee for the Multi-family unit project is based on \$1,000 per unit and is due prior to building permit approval. The EIA fees for the single family residential project are due prior to Subdivision permit approval.
18. The applicant shall continue to make available 200 hundred off-street parking stalls within the Project Area "D" for Kauai Marriott Resort and Beach Club.
19. As contained in Condition No. 18 of Ordinance No. PM-2006-383, substantial construction of 125 hotel or resort/residential units shall be completed within two (2) years from the effective date of the Ordinance. Substantial construction of an additional 125 units shall be completed within seven (7) years from the effective date of the Ordinance (total of two-hundred fifty (250) units), and the remainder of the 750 units (or five hundred (500) units) shall be completed within twelve (12) years from the effective date of the Ordinance. Substantial construction, as used herein, shall mean the laying of foundations. If substantial construction is not completed within this time frame, the Planning Commission may initiate proceedings to review the provisions of the zoning designations for the property, including, but not limited to additional infrastructure requirements.
20. As stated in Condition No. 19 of Ordinance No. PM-2006-383:

"Pursuant to Chapter 4 ("Developing Jobs & Business"), Section 4.5.2 ("Supporting Business and Jobs for Kauai Residents - Implementing Actions") of the Kauai General Plan (November 2000):

"(c) In granting zoning and permits for new resorts and other business, the County shall seek commitments that businesses will actively recruit and train Kauai residents to fill new jobs."

To this end, the Applicant shall seek to actively recruit and train Kauai residents to fill new jobs. To accomplish this, the applicant may cooperate with, and utilize, whatever government training programs and Kauai Community College curricula which may be available so that Kauai residents may be trained to fill such newly-generated jobs. The Applicant may also work to actively recruit Kauai residents to participate in such job training programs and curricula."

21. In accordance with Condition No. 20 of Ordinance No. PM-2006-383, "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 reasonably competitive with other contractors, and shall seek to employ residents of Kauai in temporary construction and permanent resort related jobs. It is recognized that the Applicant may have to employ non-Kauai residents for particular skilled jobs where no qualified Kauai resident possesses such skills. For the purposes of this condition, the Council shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices".
22. The Applicant shall consider the application of Leadership in Energy and Environmental Design (LEED) standards and strategies wherever feasible for sustainable site, utilities and building development.
23. The Applicant shall seek to establish and designate emergency shelters within the Resort which would be available for use during natural disasters.
24. As recommended by the Department of Water, the applicant shall resolve the following with the Department of Water (DOW):
 - a. Submit detailed water demand calculations along with proposed water meter size. Water demand calculations should include fixture count and water meter sizing worksheets. These calculations shall include but not be limited to domestic, irrigation and other applicable water demands of this project along with the proposed water meter size. If the existing water meters will be used to provide water service to this development, water demand calculations will be required for the existing and proposed uses and shall include the existing and proposed unit counts. The Water Department's comments may change depending on the approved water demand calculations.

- b. Prepare and receive DOW's approval of construction drawings for necessary water system facilities and construct said facilities. These facilities shall include but not be limited to:
 - 1. The domestic service connection and fire service connection, if applicable
 - 2. The interior plumbing plans with the appropriate backflow prevention device, if applicable,
 - 3. Additional source facilities for this area. The applicant may wait until others (including the DOW) to construct additional source for this area. The DOW is in the process of obtaining additional source for this area. Grove Farm is constructing a Surface Water Treatment Plant, which will provide additional water capacity for the Lihue Area. Upon completion of this SWTP the DOW will reassess their water situation in the Lihue area.
 - 4. Additional storage facilities of this area. The applicant may wait until others (including DOW) to construct additional storage for this area.
 - c. Pay the applicable charges in effect at the time payment is made to the Water Department. At the present time, these charges shall include:
 - 1. The Facilities Reserve Charge (FRC) of either \$4,600 per unit or the facilities reserve charge as determined by the approved water meter size, whichever amount is larger.
25. The applicant shall resolve and comply with applicable conditions or requirements as recommended by the State Health Department, County Fire Department, County Public Works Department, County Department of Public Works Building Division, County Department of Water, United States Postal Service, U.S. Fish and Wildlife Service, and State Department of Transportation.
26. The Planning Commission reserves the authority to impose additional conditions, modify or delete conditions stated herein, or revoke the subject permits through proper procedures should the applicant fail to comply with the conditions of approval.
27. Due to the phasing of the overall master plan, the applicant is advised that additional government agency conditions may be imposed, including but not limited to, procedural requirements and processes for the overall resort master plan to be implemented under the subject permits. Actions proposed by the

Applicant are subject to the rules and regulations deemed applicable at that time. It shall be the applicant's responsibility to resolve those conditions and processes with the respective approving authorities.

28. The Applicant shall provide an annual report to the Planning Commission, which shall be submitted to the Planning Department 30 days prior to the annual anniversary date of approval of the amendments considered herein. The annual report shall include the progress and status of the project and compliance with all conditions of approval. An annual report shall be provided until project completion and compliance with all conditions of approval.
29. Details of the design of the proposed bus stop with a bench and shelter to be constructed/installed by the Applicant, at no cost to the County of Kauai, at the location recommended by the County Transportation Agency near the main entryway to the Kauai Lagoons Resort shall be resolved by the Applicant with the County Transportation Agency, Planning Department and Department of Public Works prior to construction plan approval of the Resort's planned central operations facility.
30. The Applicant shall provide sidewalks along the Resort Drive and Lagoon Drive and in view of the requirements for sidewalks for RR-10, RR-20 and R-20 multi-family residential districts, the Applicant shall resolve with the Planning Department and Building Division, detailed location of sidewalk or pedestrian path improvements and design that are interconnected with the proposed public shoreline access, including but not limited to, segments of the Nawiliwili-Ahukini Bike and Pedestrian Path improvements proposed to be provided on lands owned by the Applicant.
31. As recommended by the Department of Public Works, Solid Waste Management Division, the Applicant shall prepare a solid waste management plan (SWMP) with a section detailing a "job-site recycling and waste reduction system" for demolition and construction activities and a separate section detailing the recycling and waste reduction system for operations phase activities. The SWMP shall be submitted to the Department of Public Works for review and approval, prior to commencement of demolition and construction activities for each respective component of the project.

Ronald A. Sato, AICP
August 12, 2009
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If you have any questions, please contact Bryan Mamacalay of our staff at 241-4052.



FRANK COSTA
Planning Director

c: State Dept. of Transportation (STP, Kauai Highways Division)
 State Department of Health
 State Historic Preservation Division
 State Department of Agriculture
 State Department of Land and Natural Resources (Forestry and Wildlife and
 Aquatics Divisions)
 Office of State Planning
 State Land Use Commission
 Public Works Department (Engineering Division, Wastewater Management
 Division, and Building Division)
 Fire Department
 Water Department
 Real Property Division

EXHIBIT B

Request for Third Amendment to:

SMA(U)-2005-8

Project Development Use Permit PDU-2005-26

Use Permit U-2005-25

Class IV Zoning Permit Z-IV-2005-30

BERNARD P. CARVALHO, JR.
MAYOR

GARY K. HEU
ADMINISTRATIVE ASSISTANT



IAN K. COSTA
DIRECTOR OF PLANNING

IMAICALANI P. AIU
DEPUTY DIRECTOR OF PLANNING

**COUNTY OF KAUAI
PLANNING DEPARTMENT**

4444 RICE STREET
KAPULE BUILDING, SUITE 4473
LIHUE, KAUAI, HAWAII 96766-1320

TEL (808) 241-4050 FAX (808) 241-6699

January 13, 2010

Kaua'i Lagoons LLC and MORI Golf (Kaua'i), LLC
c/o Ronald A. Sato
Wilson Okamoto Corp.
1907 South Beretania Street, Suite 400
Honolulu, Hawai'i 96826

SUBJECT: Request for Third Amendment to:
Special Management Area Use Permit SMA(U)-2005-8
Project Development Use Permit PDU-2005-26
Use Permit U-2005-25
Class IV Zoning Permit Z-IV-2005-30
Kaua'i Lagoons Resort
TMK 3-5-1: por. 27, 171, por. 172 and 175, Kalāpaki, Lihue, Kaua'i

The Planning Commission, at its meeting held on January 12, 2010 received and approved the above request to amend the subject permits in order to:

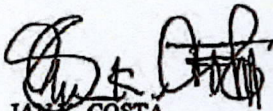
- convert the originally proposed 22 single family residential lots previously planned to be located in 3 separate areas designated for single family subdivisions within the Kaua'i Lagoons Resort, to 22 condominium/timeshare units within previously approved condominium/timeshare projects within the Resort;
- add an electrical/mechanical facility in the Resort District (RR-20);
- eliminate and convert 4 previously approved single family lots to condominium/timeshare units within previously approved condominium/timeshare projects within the Kaua'i Lagoons Resort; and,
- replace a previously proposed 80-unit condominium/timeshare building located adjacent to and mauka of the Makali'i Building "A" development and which was approved in the 2009 Second Amendment to the SMA Use Permit and associated permits, with 2 separate buildings consisting of a total of 80 condominium/timeshare units.

AN EQUAL OPPORTUNITY EMPLOYER

The approval was subject to the addition of the following condition of approval:

32. A dedication deed executed by Kava'i Development LLC in a form approved by the Office of the County Attorney for TMK 3-5-1: 102 shall be submitted to the Planning Department prior to any further building permits being approved by the Department.

Should there be any questions relative to the above, please contact planner Michael Laureta at 241-4068.

A handwritten signature in black ink, appearing to read 'Ian K. Costa', is written over the printed name.

IAN K. COSTA
Planning Director

EXHIBIT C

Hōkūala Resort Subdivision 1 (S-2024-7) and 1A (S-2024-8)



PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISSION

DONNA APISA, CHAIR
GERALD AKO, VICE CHAIR
HELEN COX, MEMBER
FRANCIS DEGRACIA, MEMBER
GLENDA NOGAMI STREUFERT,
MEMBER
JERRY ORNELLAS, MEMBER
LORI OTSUKA, MEMBER

April 10, 2024

Mr. Gary Siracusa, LEED AP
Director of Construction
HÖKŪALA KAUA'I
3770 Ala'oli Way
Hökūala, Hawai'i 96766

Subject: **Hökūala Resort Subdivision 1**

Consolidation of Lots 100 to 109, Inclusive as shown on Kaua'i County Subdivision Number S-2008-24 portion of Royal Patent 4480 Land Commission Award 7713, Apana 2, Part 1 to V. Kamamalu and the Resubdivision of said Consolidation into Lot 1 to 16 Inclusive, and Cancellation of Easements E-1 to E-6 and Easements C, D, F, and G as Shown on County of Kaua'i Subdivision Map Number S-2008-24, and Easement UE-1, as Shown on County of Kaua'i Subdivision Map Number S-2010-11 at Kalapakī, Līhu'e, Kaua'i, Hawai'i. (S-2024-7, Tower Kauai Lagoons Sub 1, LLC.)

Dear Mr. Siracusa,

The subject subdivision was granted **PRELIMINARY SUBDIVISION MAP APPROVAL** as amended by the Planning Commission at their meeting held on APRIL 9, 2024. Final approval will be granted subject to the following conditions:

1. Requirements of the County Planning Department:
 - a. An updated preliminary title report for the existing lot shall be submitted to the Planning Department for review.
 - b. All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.
 - c. Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kaua'i County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.
 - d. The Applicant shall revise and update the approved construction plans for Subdivision 1 (S-2008-24) and prepare and obtain construction plan approvals for the revised

subdivision layout. This includes any water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.

- e. Prior to final subdivision approval, the Applicant shall comply with the applicable conditions/requirements of SMA Use Permit SMA (U)-2005-08, Project Development Use Permit U-2005-26, Use Permit U-2005-25, Variance Permit V-2005-7, and Class IV Zoning Permit Z-IV-2005-30. The Applicant shall provide the department an updated status report on the compliance of the conditions.
- f. The proposed subdivision is situated in close proximity to the Līhu'e Airport and will be impacted by the aircraft noise nuisances from this facility. As such, the subdivider shall establish covenants or disclosure documents to inform potential buyers within the project area that the proposed lots are subject to aircraft noise nuisances. Draft copies of the documents shall be submitted to the Planning Department for review and approval.
- g. An Environmental Impact Assessment Fee of Three Thousand Dollars (\$3,000.00) shall be paid to the County of Kaua'i. (Six (6) additional lots @ \$500.00 each)
- h. The Applicant shall pay a Park Dedication fee pursuant to Section 9-2.8 of the Kaua'i County Code Subdivision Ordinance. An appraisal report and price list shall be provided to the Planning Department to forward to the Real Properties Division to help calculate the fee amount.
- i. The Applicant shall construct curbs, gutters, and sidewalks along the frontages of the proposed lots pursuant to Section 9-2.3(e)(3) of the Subdivision Ordinance, Kaua'i County Code (1987), as amended.

Section 9-2.3(e)(3) states:

"(3) Curbs, gutters and sidewalks shall be provided on both sides of all proposed or existing streets within or abutting the subdivision in Commercial, Industrial and Resort Districts; in Residential Districts where the density permitted is four (4) units or more per acre; and in any other Zoning Districts within the State Land Use-Urban District that are located within one-half (1/2) mile from any elementary, intermediate, high school, or college. For existing streets abutting subdivisions, sidewalks shall be required on the side of the street fronting the subdivision for the length of the subdivision frontage.

(A) In Residential Districts, swales may be constructed in lieu of curbs and/or gutters in accordance with the drainage standards and design guidelines established by the Department of Public Works.

(B) In Residential Districts, the requirement of sidewalks may be waived if the Planning Commission determines that sidewalks are infeasible or unnecessary,

taking into account local context and sensitivity to community character, and an alternate method of pedestrian circulation exists or will be provided by the applicant.

(C) If the requirement of sidewalks is waived, the subdivider shall be required to pay a fee in lieu of required sidewalk construction. The fee in lieu of sidewalk construction shall not be required for subdivision approvals for less than six (6) lots. The fee in lieu of required sidewalk construction shall be equal to or greater than one hundred percent (100%) of the cost of constructing the sidewalk as determined by the County Engineer. There is hereby established and created a "sidewalk/shared use path fund" for the deposit of fees collected in lieu of required sidewalk construction. The fees collected pursuant to this Subsection (C) are hereby deemed appropriated upon receipt and shall be expended by the County Engineer for sidewalk or shared use path planning, design, land acquisition, construction and/or repair and maintenance. The County Engineer shall submit an annual written report to the Council of each fiscal year's expenditures and balance of the sidewalk/shared use path fund on or before the 15th day of March of each year. If the 15th day of March falls on a Saturday, Sunday, or legal holiday, the report shall be submitted on the prior working day. The fees collected shall not lapse at the close of the fiscal year.

(D) Payment of said fees shall be made in a lump sum at the time of final subdivision map approval or payment shall be made according to the following schedule: fifty percent (50%) at the time of preliminary subdivision map approval and the balance paid at the time of final subdivision map approval. When funds are needed for sidewalk or shared use path planning, design, land acquisition, construction and/or repair, the County Engineer shall submit a written request to the Planning Director and Mayor for approval. Upon approval, the Finance Director shall be authorized to release monies from the fund."

- j. The Applicant is made aware that the street designated within the subdivision must be officially named before the Department approves the construction plans. Street names should be in Hawaiian and be submitted to our Department for review and approval, along with a request letter and 12 maps (on 8½" x 14" paper). The maps should be detailed such that emergency vehicles, police services, postal deliveries, etc., are able to locate the street. References to roadway, such as the highway and other surrounding roads, should be shown on the street-naming map.
- k. As represented on the preliminary subdivision map dated November 29, 2023, Lot 16 will serve as the primary access to Lots 7-14, since they do not have direct access onto a roadway. As such, there shall be no residential density assigned to Lot 16 since it is intended to serve as the primary access to the foregoing lots. This restriction shall be incorporated into the deed description of Lot 16, draft copies of which shall be submitted to the Planning Department for review and approval.

Mr. Gary Siracusa

HŌKŪALA KAUAʻI

S-2024-7, Tower Kauaʻi Lagoons Sub 1, LLC.

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2. Requirements of the County Department of Public Works (DPW):

- a. The applicant shall comply with all provisions of the County's Sediment and Erosion Control Ordinance (Kauaʻi County Code Chapter 22, Article 7) to safeguard the 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 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.
- b. 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 to ensure that BMPs are satisfactorily implemented at all times.

3. Requirements of the County Department of Water (DOW):

- a. Pay the Department of Water the following charges in effect at the time of receipt. At the present time, these charges include:
 - 1) Submit to the Department of Water for review and approval, a revised updated Water Study Report for Kauai Lagoons that includes and addresses the water demands of the proposed subdivision. The Department of Water's comments are subject to change/be revised, based on the approved revised updated Water Study Report for Kauai Lagoons.
 - 2) Submit a Kauai Lagoons Water Demand and System Capacity Tracking Matrix.
 - 3) Be made aware that the Facilities Reserve Charge and the adequacy of the source, storage, and transmission facilities for the proposed Development will be dependent on the approved Kauai Lagoons Water Demand and System Capacity Tracking Matrix.

- b. Prepare and receive DOW's approval of construction drawings for the necessary water system facilities and either construct said facilities or post a performance bond for construction. These facilities shall also include:

- 1) All facilities required in the approved Kauai Lagoons Water Master Plan for the proposed project.

- c. If a bond is filed, to secure final subdivision approval, the subdivider shall clearly letter the following on the approved construction plans, final subdivision map, and deeds:

"Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kauai."

This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.

4. Requirements of the County Housing Agency:

- a. The Housing Agency wishes to inform the Planning Department and Planning Commission that Tower Kauai Lagoons predecessor in interest to the subject property, Kauai Development LLC, executed an affordable Housing Agreement with the County on February 18, 2005, to satisfy workforce housing requirements of Kauai County Code section 7A. This Agreement limits the resort/residential density of what was previously known as the Kauai Lagoons Property to 706 units in total. At the time of the Agreement, the Kauai Lagoons Property was described as including TMKs (4) 3-5-01:27, 82, 83, 115, 116, 117, 118, 119, and 120.
- b. The information provided to the Housing Agency in connection with the current application, S-2024-7, is insufficient to determine if the proposed action will increase the permissible resort/residential density of the project area beyond the 706 units permitted under the current Housing Agreement. Accordingly, we request that the Commission require the applicant to provide a summary of resort/residential density of the entire "Kauai Lagoons" Property, to determine if additional workforce housing requirements are triggered by the current application. If the proposed action increases the overall project density beyond 706 units, the applicant should be required to resolve workforce housing requirements with the Housing Agency prior to subdivision approval.

5. Requirements of the State Department of Health (DOH):

General summary comments have been included for your convenience. However, these comments are not all-inclusive and do not substitute for review of and compliance with

all applicable standard comments for the various DOH individual programs.

Clean Air Branch

1. All project activities shall comply with the Hawaii Administrative Rules (HAR), Chapters 11-59 and 11-60.1.
2. Control of Fugitive Dust: You must reasonably control the generation of all airborne, visible fugitive dust and comply with the fugitive dust provisions of HAR §11-60.1-33. Note that activities that occur near existing residences, businesses, public areas, and major thoroughfares exacerbate potential dust concerns. It is recommended that a dust control management plan be developed which identifies and mitigates all activities that may generate airborne and visible fugitive dust and that buffer zones be established wherever possible.
3. Standard comments for the Clean Air Branch are at:
<https://health.hawaii.gov/epo/landuse/>.

Clean Water Branch

1. All project activities shall comply with the HAR, Chapters 11-53, 11-54, and 11-55. The following Clean Water Branch website contains information for agencies and/or project owners who are seeking comments regarding environmental compliance for their projects with HAR, Chapters 11-53, 11-54, and 11-55: <https://health.hawaii.gov/cwb/clean-water-branch-home-page/cwb-standard-comments/>.

Hazard Evaluation & Emergency Response Office

1. A Phase I Environmental Site Assessment (ESA) and Phase II Site Investigation should be conducted for projects wherever current or former activities on site may have resulted in releases of hazardous substances, including oil or chemicals. Areas of concern include current and former industrial areas, harbors, airports, and formerly and currently zoned agricultural lands used for growing sugar, pineapple or other agricultural products.
2. Standard comments for the Hazard Evaluation & Emergency Response Office are at: <https://health.hawaii.gov/epo/landuse/>.

Indoor and Radiological Health Branch

1. Project activities shall comply with HAR Chapters 11-39, 11-45, 11-46, 11-501, 11-502, 11-503, 11-504.

Mr. Gary Siracusa

HÖKŪALA KAUAI

S-2024-7, Tower Kauai Lagoons Sub 1, LLC.

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2. Construction/Demolition Involving Asbestos: If the proposed project includes renovation/demolition activities that may involve asbestos, the applicant should contact the Asbestos and Lead Section of the Branch at <https://health.hawaii.gov/irhb/asbestos/>.

Safe Drinking Water Branch

1. Agencies and/or project owners are responsible for ensuring environmental compliance for their projects in the areas of: 1) Public Water Systems; 2) Underground Injection Control; and 3) Groundwater and Source Water Protection in accordance with HAR Chapters 11-19, 11-20, 11-21, 11-23, 11-23A, and 11-25. They may be responsible for fulfilling additional requirements related the Safe Drinking Water program: <https://health.hawaii.gov/sdwb/>.
2. Standard comments for the Safe Drinking Water Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

Solid & Hazardous Waste Branch

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters 339D, 342G, 342H and 342I, and HAR Chapters 11-58.1, and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse and recycling are preferred options over disposal. The Office of Solid Waste Management also oversees the electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.
3. Underground Storage Tank Program - The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction.
4. Standard comments for the Solid & Hazardous Waste Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

Wastewater Branch

The subject project is located within or near proximity to the County sewer system. All wastewater generated shall be disposed into the County Sewer system. All lots in the

proposed project shall connect to the County sewer system.

By Revised Statute 11-62-31.1, if the parcel is less than 10,000 square feet, an individual onsite waste-water unit may be possible for future construction. Please contact Sina Pruder at DOH Waste-Water Branch at 808-586-4288 for further information. For comments, please email the Wastewater Branch at doh.wwb@doh.hawaii.gov.

Sanitation/ Local DOH Comments:

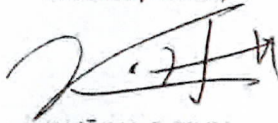
1. Noise may be generated during demolition and/or construction. The applicable maximum permissible sound levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," shall not be exceeded unless a noise permit is obtained from the Department of Health.
2. According to HAR §11-26-35, No person, firm, or corporation shall demolish or clear any structure, place, or vacant lot without first ascertaining the presence or absence of rodents that may endanger public health by dispersal from such premises. Should any such inspection reveal the presence of rodents, the rodents shall be eradicated before demolishing or clearing the structure, site, or vacant lot. A demolition or land clearing permit is required prior to demolition or clearing.

Other

1. CDC—Healthy Places—Healthy Community Design Checklist Toolkit recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
 2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Kauai District Health Office at 808-241-3495.
6. Requirements of the State Historic Preservation Division (SHPD):
- a. In the unlikely event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, artifacts, sand deposits, or sink holes are identified during demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance, and contact the State Historic Preservation Division.

7. Project construction workers and all other personnel involved in the construction and related activities of the project should be informed of the possibility of inadvertent cultural finds, including humans remains. In the event that any potential historic properties are identified during construction activities, all activities should cease in that area and the SHPD should be notified pursuant to HAR §13-280-3. In the event that *Iwi Kūpuna* (Native Hawaiian skeletal remains) are identified, all earth moving activities in the area should stop, the area cordoned off, and the SHPD notified pursuant to HAR §13-300.
8. In the event that *Iwi Kūpuna* and/or cultural finds are encountered during construction, cultural and lineal descendants of the area should be consulted to develop a reinterment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.
9. The Applicant is advised that prior to and/or during construction and use additional conditions may be imposed by government agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).

Sincerely Yours,



KA'ĀINA S. HULL

Clerk, Kaua'i Planning Commission

xc: COK Public Works Dept.
COK Water Dept.
COK Fire Dept.
COK Housing Agency
COK Real Property – Assessment Div.
State Dept. of Health



PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISSION

DONNA APISA, CHAIR
GERALD AKO, VICE CHAIR
HELEN COX, MEMBER
FRANCIS DEGRACIA, MEMBER
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JERRY ORNELLAS, MEMBER
LORI OTSUKA, MEMBER

April 10, 2024

Mr. Gary Siracusa, LEED AP
Director of Construction
HÖKŪALA KAUA'I
3770 Ala'oli Way
Hökūala, Hawai'i 96766

Subject: **Hökūala Resort Subdivision 1A**

Consolidation of Lot 2-A-1 as shown on Kaua'i County Subdivision File No. S-2019-11 and Lot 5-A as shown on Kaua'i County Subdivision File No. S-2008-24 being a portion of Royal Patent 4480, Land Commission Award 7713, Apana 2, Part 1 to V. Kamamalu and the Resubdivision of Said Consolidation into Lots 2-A, 5-A-1, and Lots 1 to 13 Inclusive at Kalapakī, Līhu'e, Kaua'i, Hawai'i. (S-2024-8, 2014 Tower Kauai Lagoons Golf, LLC. / Tower Kauai Lagoons Land, LLC. / Tower Kauai Lagoons Sub 7, LLC.)

Dear Mr. Siracusa,

The subject subdivision was granted **PRELIMINARY SUBDIVISION MAP APPROVAL** as amended by the Planning Commission at their meeting held on APRIL 9, 2024. Final approval will be granted subject to the following conditions:

1. Requirements of the County Planning Department:
 - a. An updated preliminary title report for the existing lot shall be submitted to the Planning Department for review.
 - b. All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.
 - c. Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kaua'i County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.

- d. Prior to final subdivision approval, the Applicant shall comply with the applicable conditions/requirements of SMA Use Permit SMA (U)-2005-08, Project Development Use Permit U-2005-26, Use Permit U-2005-25, Variance Permit V-2005-7, and Class IV Zoning Permit Z-IV-2005-30. The Applicant shall provide the department an updated status report on the compliance of the conditions.
- e. The proposed subdivision is situated in close proximity to the Lihue Airport and will be impacted by the aircraft noise nuisances from this facility. As such, the subdivider shall establish covenants or disclosure documents to inform potential buyers within the project area that the proposed lots are subject to aircraft noise nuisances. Draft copies of the documents shall be submitted to the Planning Department for review and approval.
- f. An Environmental Impact Assessment Fee of Five Thousand Five Hundred Dollars (\$5,500.00) shall be paid to the County of Kaua'i.
- g. The Applicant shall pay a Park Dedication fee pursuant to Section 9-2.8 of the Kaua'i County Code Subdivision Ordinance. An appraisal report and price list shall be provided to the Planning Department to forward to the Real Properties Division to help calculate the fee amount.
- h. The Applicant shall construct curbs, gutters, and sidewalks along the frontages of the proposed lots pursuant to Section 9-2.3(e)(3) of the Subdivision Ordinance, Kaua'i County Code (1987), as amended.

Section 9-2.3(e)(3) states:

"(3) Curbs, gutters and sidewalks shall be provided on both sides of all proposed or existing streets within or abutting the subdivision in Commercial, Industrial and Resort Districts; in Residential Districts where the density permitted is four (4) units or more per acre; and in any other Zoning Districts within the State Land Use-Urban District that are located within one-half (1/2) mile from any elementary, intermediate, high school, or college. For existing streets abutting subdivisions, sidewalks shall be required on the side of the street fronting the subdivision for the length of the subdivision frontage.

(A) In Residential Districts, swales may be constructed in lieu of curbs and/or gutters in accordance with the drainage standards and design guidelines established by the Department of Public Works.

(B) In Residential Districts, the requirement of sidewalks may be waived if the Planning Commission determines that sidewalks are infeasible or unnecessary, taking into account local context and sensitivity to community character, and an alternate method of pedestrian circulation exists or will be provided by the applicant.

(C) If the requirement of sidewalks is waived, the subdivider shall be required to pay a fee in lieu of required sidewalk construction. The fee in lieu of sidewalk construction shall not be required for subdivision approvals for less than six (6) lots. The fee in lieu of required sidewalk construction shall be equal to or greater than one hundred percent (100%) of the cost of constructing the sidewalk as determined by the County Engineer. There is hereby established and created a "sidewalk/shared use path fund" for the deposit of fees collected in lieu of required sidewalk construction. The fees collected pursuant to this Subsection (C) are hereby deemed appropriated upon receipt and shall be expended by the County Engineer for sidewalk or shared use path planning, design, land acquisition, construction and/or repair and maintenance. The County Engineer shall submit an annual written report to the Council of each fiscal year's expenditures and balance of the sidewalk/shared use path fund on or before the 15th day of March of each year. If the 15th day of March falls on a Saturday, Sunday, or legal holiday, the report shall be submitted on the prior working day. The fees collected shall not lapse at the close of the fiscal year.

(D) Payment of said fees shall be made in a lump sum at the time of final subdivision map approval or payment shall be made according to the following schedule: fifty percent (50%) at the time of preliminary subdivision map approval and the balance paid at the time of final subdivision map approval. When funds are needed for sidewalk or shared use path planning, design, land acquisition, construction and/or repair, the County Engineer shall submit a written request to the Planning Director and Mayor for approval. Upon approval, the Finance Director shall be authorized to release monies from the fund."

- i. The applicant shall prepare and obtain construction plan approvals for necessary road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.
- j. The subdivider is informed that a portion of proposed Lot 2-A is located within the Special Management Area (SMA). Additional lots within the SMA or any new "Development," as defined in Section 1.4 of the SMA Rules and Regulations of the County of Kaua'i, may require an SMA Permit and if so, the applicant is subject to all applicable requirements/conditions of the SMA Permit.

2. Requirements of the County Department of Public Works (DPW):

- a. The applicant shall comply with all provisions of the County's Sediment and Erosion Control Ordinance (Kaua'i County Code Chapter 22, Article 7) to safeguard the 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 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.
- b. 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 to ensure that BMPs are satisfactorily implemented at all times.

3. Requirements of the County Department of Water (DOW):

- a. Pay the Department of Water the following charges in effect at the time of receipt. At the present time, these charges include:
- 1) Submit to the Department of Water for review and approval, a revised updated Water Study Report for Kauai Lagoons that includes and addresses the water demands of the proposed subdivision. The Department of Water's comments are subject to change/be revised, based on the approved revised updated Water Study Report for Kauai Lagoons.
 - 2) Submit a Kauai Lagoons Water Demand and System Capacity Tracking Matrix.
 - 3) Be made aware that the Facilities Reserve Charge and the adequacy of the source, storage, and transmission facilities for the proposed Development will be dependent on the approved Kauai Lagoons Water Demand and System Capacity Tracking Matrix.
- b. Prepare and receive DOW's approval of construction drawings for the necessary water system facilities and either construct said facilities or post a performance bond for construction. These facilities shall also include:
- 1) All facilities required in the approved Kauai Lagoons Water Master Plan for the proposed project.

- c. If a bond is filed, to secure final subdivision approval, the subdivider shall clearly letter the following on the approved construction plans, final subdivision map, and deeds:

"Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kauai."

This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.

4. Requirements of the County Housing Agency:

- a. The Housing Agency wishes to inform the Planning Department and Planning Commission that Tower Kauai Lagoons predecessor in interest to the subject property, Kauai Development LLC, executed an affordable Housing Agreement with the County on February 18, 2005, to satisfy workforce housing requirements of Kauai County Code section 7A. This Agreement limits the resort/residential density of what was previously known as the Kauai Lagoons Property to 706 units in total. At the time of the Agreement, the Kauai Lagoons Property was described as including TMKs (4) 3-5-01:27, 82, 83, 115, 116, 117, 118, 119, and 120.
- b. The information provided to the Housing Agency in connection with the current application, S-2024-8, is insufficient to determine if the proposed action will increase the permissible resort/residential density of the project area beyond the 706 units permitted under the current Housing Agreement. Accordingly, we request that the Commission require the applicant to provide a summary of resort/residential density of the entire "Kauai Lagoons" Property, to determine if additional workforce housing requirements are triggered by the current application. If the proposed action increases the overall project density beyond 706 units, the applicant should be required to resolve workforce housing requirements with the Housing Agency prior to subdivision approval.

5. Requirements of the County Fire Department (KFD):

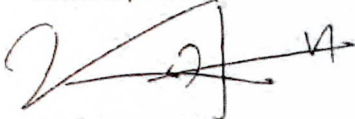
- a. Would like to meet as project moves forward to have input on Fire Department access and water supply.

6. Requirements of the State Department of Health (DOH):

- a. The subdivider shall comply with the requirements of the State Department of Health, if any, prior to final subdivision approval. The subdivider shall be notified upon receipt of their report.

7. Requirements of the State Historic Preservation Division (SHPD):
 - a. In the unlikely event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, artifacts, sand deposits, or sink holes are identified during demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance, and contact the State Historic Preservation Division.
8. Project construction workers and all other personnel involved in the construction and related activities of the project should be informed of the possibility of inadvertent cultural finds, including humans remains. In the event that any potential historic properties are identified during construction activities, all activities should cease in that area and the SHPD should be notified pursuant to HAR §13-280-3. In the event that *Iwi Kūpuna* (Native Hawaiian skeletal remains) are identified, all earth moving activities in the area should stop, the area cordoned off, and the SHPD notified pursuant to HAR §13-300.
9. In the event that *Iwi Kūpuna* and/or cultural finds are encountered during construction, cultural and lineal descendants of the area should be consulted to develop a reinterment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.
10. The Applicant is advised that prior to and/or during construction and use additional conditions may be imposed by government agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).

Sincerely Yours,



KA'ĀINA S. HULL
Clerk, Kaua'i Planning Commission

xc: COK Public Works Dept.
COK Water Dept.
COK Fire Dept.
COK Housing Agency
COK Real Property – Assessment Div.
State Dept. of Health

EXHIBIT D

**Zoning Conditions in Ordinance No. PM-2006-383, As amended by
Ordinance No. PM-2009-394**

**A BILL FOR AN ORDINANCE
AMENDING ZONING CONDITIONS IN ORDINANCE NO. PM-2006-383,
AS AMENDED BY ORDINANCE NO. PM-2009-394,
RELATING TO ZONING DESIGNATION IN NĀWILIWILI, KAUAʻI**

(Tower Kauaʻi Lagoons Sub 1, LLC, 2014 Kauaʻi Lagoons Golf, LLC, Tower Kauaʻi Lagoons Land, LLC, Tower Kauaʻi Lagoons Sub 7, LLC, Applicant) (ZA-2021-3)

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAʻI, STATE OF HAWAII:

SECTION 1. Ordinance No. PM-2006-383, as amended by Ordinance No. PM-2009-394, is hereby amended in its entirety as follows:

“Section 1. The zoning designation for that certain area of approximately 88.3 acres in Nāwiliwili, Kauaʻi, identified on zoning map ZM-NW-400 is hereby amended from Open District (O) to Residential District (R-2), Residential District (R-4), Resort District (RR-10), and Resort District (RR-20) on parcels identified by TMK 3-5- 01: por. 27, por. 168, por. 172, and from Limited Industrial District (I-L) to Residential District (R-20) on TMK 3-5-01:165, [and] on the maps attached hereto and incorporated herein as Revised Map 3 (9/27/06), [and] Map 3 (Revised September 2009), and Map 3 (Revised December 2021), subject to the following conditions:

1. Notwithstanding any provisions to the contrary, no more than a total of 772 dwelling units or hotel/motel rooms (herein referred to as the “Density Cap”) shall be developed on the properties identified herein including that certain area of approximately 21.6 acres being rezoned from the Open District (O) to Residential District (R-2) as reflected on the location map attached hereto and incorporated herein as Map 3 (Revised September 2009)[.], and that certain area of approximately 14.2 acres being rezoned from the Residential District (R-2) to the Residential District (R-4) and approximately 2.6 acres being rezoned from the Resort District (RR-10) to the Residential District (R-2) as reflected on the location map attached hereto and incorporated herein as Map 3 (Revised December 2021) and delineated by metes and bounds property descriptions in Attachment A, dated December 2021, which is attached hereto and incorporated as part of Ordinance No. PM-2006-383, as amended. The affordable housing units constructed within the areas rezoned herein shall not be counted as part of the Density Cap as long as the units remain as affordable pursuant to the Agreement (Kauaʻi Lagoons Affordable Housing) between Kauaʻi Development LLC and the County of Kauaʻi, dated February 18, 2005, as amended. For the purposes of implementing this condition, units are defined as a hotel room (a suite or room without kitchen facilities) or a combination of hotel and residential units (a unit with kitchen facilities) for development within the Resort District (RR-10, RR-20). For development within the Residential District (R-20) only residential dwelling units are allowed. As represented, uses situated in the affected areas sought for zoning amendment shall be limited to the following residential types as described below.

- a. For development within the Resort District (RR-10, RR-20), multi-family residential units are allowed.
 - b. Development within the Residential District (R-2) and Residential District (R-4) shall be limited to single family detached residential units. No Additional Dwelling Units (ADU), no Additional Rental Units (ARU), [are permitted,] and no [guest cottages] Guest Houses shall be permitted on those lots developed on the approximately 21.6 acres that are being rezoned from Open District (0) to Residential District (R-2), as reflected in the location map attached hereto and incorporated herein and identified as Map 3 (Revised September 2009)[.] and on those lots developed on approximately 14.2 acres being rezoned from the Residential District (R-2) to the Residential District (R-4) and approximately 2.6 acres being rezoned from the Resort District (RR-10) to the Residential District (R-2) as reflected on the location map attached hereto and incorporated herein as Map 3 (Revised December 2021) and delineated by metes and bounds property descriptions in Attachment A, dated December 2021, which is attached hereto and incorporated as part of Ordinance No. PM-2006-383, as amended.
2. As further represented by the Applicant, "...the Open District (0) portions of the property shall not have any residential density or be used for the calculation of any residential density on the property. No building permits shall be issued unless documentation that this restriction on density has been incorporated into the deeds of the affected property (ies) has been received by the Planning Department."
 3. The Applicant shall comply with, and fully implement all provisions of the Effluent Use Agreement dated August 14, 2001, entered into between Kaua'i Lagoons Resort Company, Ltd. and the County of Kaua'i.

Pursuant to the aforementioned agreement, the Applicant agrees to dedicate free and clear of any liens, and encumbrances, without cost to the County:

- a. All land and easements required for the disposal of effluent from the Lihue Wastewater Treatment Plant ("LWWTP");
- b. Approximately 2.22 acres of land for the expansion of LWWTP
- c. Approximately 7.1 acres of land in the "Stable Area;"
- d. Any other land and easements required for the County's operation of the LWWTP as may be mutually agreed to between the County and the Applicant;
- e. Prior to conveying ownership of the LWWTP site to the County, the Applicant shall remove and relocate all golf course irrigation system improvements, weather station infrastructure and any related appurtenances from the property. Other than provided above, all lands conveyed to the County by the Applicant shall be on an "as is" basis. The Applicant is not aware of any dangerous, hazardous or environmentally damaging conditions existing on any of the lands to be conveyed.

The Applicant shall dedicate the aforesaid lands to the County within ninety (90) days after final subdivision approval of its Subdivision Application for the subject property currently pending before the Planning Commission.

4. Should the sewer capacity for additional development on the property exceed 150,000 gallons per day, the Applicant acknowledges that it shall be subject to any applicable waiting or priority list established by the County of Kaua'i for such service. No building permits shall be issued until sewer capacity issues have been resolved with the Department of Public Works - Wastewater Division.
5. The Applicant shall submit a request to the Planning Commission to cancel the existing Running Waters Hotel permits, identified as SMA Use Permit SMA (U)-87-17, Special Permit SP-87-15, Project Development Use Permit U-87-17, and Class IV Zoning Permit Z-IV-87-59, within 6 months from the approval of this zoning amendment ordinance.
6. The Applicant shall resolve the provision of affordable housing for this zoning amendment with the County Council in accordance with the Kaua'i Lagoons Affordable Housing Agreement dated February 18, 2005 as may be amended or otherwise determined by the County Council.
7. The Applicant shall allow public access over and across all existing public vehicular and pedestrian public accessways on the subject [property.] property, as represented on the "Public Access Plan" (November 2021), which is attached to and incorporated herein as part of this Ordinance. Modifications to the "Public Accessways" shall be pursuant to the "Memorandum of Understanding For Hōkūāla Resort" dated December 2021. Easement documents in favor of the County providing for non-motorized bicycle access from the public access entrance at Kapule Highway to eventually connect with "Easement 1" on TMK: 3-5-01 por. 102 (as described in State of Hawai'i Bureau of Conveyances Document No. 90-152880) shall be executed within one hundred and eighty (180) days from the enactment of this ordinance.

The Applicant shall provide a passive beach park to include public parking in the vicinity of the former Fashion Landing commercial area, restroom and shower facilities, recreational shelters, and picnic areas in the approximate vicinity of the Kiele No. 13 green and the area commonly referred to as Running Waters Beach.

The aforementioned facilities shall be inclusive of, but not limited to, the following amenities:

- a. Public restrooms and shower facility at the former Fashion Landing commercial area (beneath restaurant facility);
- b. Public restrooms and shower facility near the Running Waters Beach; picnic shelters (i.e., recreational shelters) to be located close by; and
- c. Weather shelters and picnic tables along the lateral shoreline access.

Restroom and shower facilities and other public recreational amenities required in this condition shall be constructed within two (2) years from the date of the enactment of this ordinance, and shall be maintained by the Applicant.

The Applicant shall provide lateral shoreline access according to the [Roadway and Public Access Plan (dated August 2006),] "Public Access Plan" (November 2021), which is attached to and incorporated herein as part of this ordinance. More specific plans shall be submitted for the review and approval of the County of Kaua'i at the time of Zoning Permit and/or SMA permit application for the hotel/resort-residential project prior to any construction of the restroom and shower facilities and other public recreational amenities referenced above. Facility locations are to be determined at this time.

As represented by the Applicant, the Applicant shall indemnify, defend, pay for all attorneys fees and costs, and hold harmless the County of Kaua'i, its employees, agents, successors and assigns from any and all injuries and/or property damage that may directly or indirectly arise from the use by the public of the public access easements and facilities located on the Applicant's properties identified herein.

8. All deeds or instruments transferring interest in the subject property, or in the structures or improvements therein, easements running in favor of the State of Hawai'i and the Land Use Commission and the County of Kaua'i shall indemnify and hold the State of Hawai'i and Land Use Commission and the County of Kaua'i, harmless from any complaints or claims due to noise, odor, dust, mosquitoes, and other nuisances and problems emanating from the operation of the Līhu'e Airport and the operation of the Līhu'e Wastewater Treatment Plant.
9. No residential, condominium, or hotel units shall be constructed within areas greater than 60 DNL noise contour of the Līhu'e Airport; provided, however, that such uses may be permitted within the 60 to 65 DNL noise contours, if there is an accompanying mitigation of interior noise to the 45 DNL noise level. The Applicant shall satisfy this condition with the appropriate State and/or Federal agency at time of submittal of Zoning Permit and/or SMA Use Permit application.
10. The Applicant shall comply with any height restriction to be set by the State of Hawai'i pursuant to specifications established in FAA regulations for aviation easement purposes along the perimeter of the Līhu'e airport runways.
11. Traffic improvements to intersections or roadways within the Līhu'e District, as determined by the State Highways Division and/or Department of Public Works, to mitigate increase in traffic generated by the proposed hotel/resort residential projects shall be considered and, as may be appropriate, required by the Planning Commission at time of consideration of Zoning Permit and/or SMA Use Permit Application for the proposed hotel/resort-residential project.
12. To minimize adverse impacts to Newell's shearwaters, exterior lighting fixtures shall be only of the following types: shielded lights, cut-off luminaires or indirect lighting. The Applicant shall consult with the Division of Forestry and Wildlife, Kaua'i District (State Department of Land and Natural Resources), for its specific lighting recommendations.

Up-lighting shall be prohibited and only fully shielded, low profile lights shall be implemented. Spotlighting of any structures or the ocean shall be reviewed and approved by the Planning Director.

13. The Applicant, its successors or assigns, shall develop the appropriate documents and/or agreements for the review of and approval by the County of Kaua'i that would hold the County of Kaua'i harmless from any lawsuits relating to noise generated during normal airport activities at the Līhu'e Airport by any owners, subtenants, guests, or other users of the rezoned area.
14. An aviation easement in a form prescribed by the State Department of Transportation shall be granted to the State of Hawai'i by the Applicant, to cover the entirety of the Kaua'i Lagoons Resort property owned by the Applicant.
15. The Applicant shall consult with and comply with all archaeological/historical requirements of the State [of] Historic Preservation Division at time of Zoning Permit and/or SMA Use Permit Applications for the property.
16. The Applicant shall comply with all requirements established by the Department of Public Works regarding grading, grubbing, drainage and erosion control in order to minimize any adverse impacts to surrounding properties, to Kalapaki Bay, and to adjoining off-shore waters during construction and other grading or grubbing activity. The applicant shall also conduct a drainage study to evaluate the impacts of increased runoff from the development of residences, parking lots and other impermeable surfaces and shall implement measures to keep storm flow rates to levels existing prior to the project construction of any of the said 772 units.
17. The Applicant shall continue to make available two hundred (200) off-street parking stalls within the parking lot area described as "Easement P-1" to the property currently identified as the Kaua'i Marriott Resort and Beach Club (TMK: 3-5-02: 02) for hotel and resort purposes.
18. Substantial construction of one hundred twenty-five (125) hotel or resort/residential units shall be completed within two (2) years from the effective date of this ordinance. Substantial construction of an additional one hundred twenty-five (125) hotel or resort/residential units shall be completed within seven (7) years from the effective date of this ordinance (total of two hundred fifty units). Substantial construction of the balance of the seven hundred fifty (750) units allowed by this ordinance, or five hundred (500) units shall be completed within twelve (12) years of the effective date of this ordinance. Substantial construction, as used herein, shall mean the laying of foundations. If substantial construction is not completed within this timeframe, the Planning Commission shall initiate proceedings to review the provisions of the zoning designations for the property.

19. Pursuant to Chapter 4 ("Developing Jobs & Businesses"), Section 4.5.2 ("Supporting Businesses and Jobs for Kaua'i Residents – Implementing Actions") of the Kaua'i General Plan (November 2000):

"(c) In granting zoning and permits for new resorts and other businesses, the County shall seek commitments that businesses will actively recruit and train Kaua'i residents to fill new jobs."

To this end, the Applicant shall seek to actively recruit and train Kaua'i residents to fill new jobs.

20. 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 reasonably competitive with other contractors, and shall seek to employ residents of Kaua'i in temporary construction and permanent resort related jobs. It is recognized that the Applicant may have to employ non-Kaua'i residents for particular skilled jobs where no qualified Kaua'i resident possesses such skills. For the purposes of this condition, the Council shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.
21. Prior to or as part of any submittal for any major land use permits for development associated with this petition or any portion of its resort campus, the Applicant shall provide the Planning Commission a status report of applicable conditions of approval under Special Management Area Use Permit SMA (U)-2005-8, Project Development Use Permit U-2005-26, Use Permit U-2005-25, and Class IV Zoning Permit Z-IV-2005-30. The status report shall include but not be limited to:
- a. a development schedule of all highway improvements as required by the State Highways Division;
 - b. an updated roadway and public access master plan (Figure 9, Applicant's Petition, November 2005) identifying the location and availability for use by the general, the public beach access and associated improvements, and public access for vehicular, pedestrian and non-motorized traffic that shall be incorporated herein and referenced to in this zoning ordinance;
 - c. the location of the additional affordable housing units that are intended to be required by the subject land use petitions.
22. The Applicant is made aware that during the review of major land use permits and design, additional shoreline setbacks, height restrictions, and lot coverage restrictions may be required to mitigate visual impacts along the coast and to preserve near shore water quality.
23. As represented by the Applicant, the Applicant shall have that certain parcel of land located in Kalapakī, Hanamā'ulu, Līhu'e (Puna), Kaua'i, Hawai'i, identified by Kauai Tax Map Key No. (4) 3-05-001:102 ("Subject Property") encumbered with a Declaration Of Conservation Restriction

(to be recorded in the Bureau of Conveyances of the State of Hawai'i) which will contain provisions regulating the development of the Subject Property, including but not limited to, the following restrictions (hereinafter referred to as the "Development Restrictions"):

- a. No dwelling units shall be allowed within those portions of the Subject Property located in the 65 DNL or higher noise contours as shown on that certain map entitled FAR Part 150 5-Year (CY 1991) Noise Exposure Map for Līhu'e Airport (from the Līhu'e Airport – FAR Part 150 Noise Compatibility Program, Noise Compatibility Program Report, State Department of Transportation Airports Division, December 1989) (referred to hereinafter as the "Restricted Area").
 - b. Only the following structures or improvements shall be allowed within the Restricted Area: roads, fences, walls, vegetation and landscaping, not more than five (5) agricultural accessory buildings, underground utilities and above-ground facilities associated therewith (none of which shall exceed five (5) feet in height), irrigation ditches, no more than two (2) water tanks (neither of which shall exceed fifteen (15) feet in height), and water wells. No dwelling units shall be allowed within the Restricted Area.
 - c. Only agricultural uses shall be allowed within the Restricted Area. No residential, industrial, resort or commercial uses (except commercial uses related to agriculture activities) shall be allowed within the Restricted Area.
 - d. The Subject Property shall not be subdivided.
 - e. The maximum number of dwelling units that may be developed on the Subject Property shall not exceed eleven (11) dwelling units. The owner of the Subject Property shall have the right to use the dwelling unit density to which the Restricted Area is eligible, provided that any and all dwelling units (not to exceed 11) are located on the portions of the Subject Property outside of the Restricted Area.
 - f. The Declaration Of Conservation Restriction encumbering the Subject Property may not be amended in any manner so as to change, modify, or delete the Restrictive Covenants contained herein without the prior approval of the Council of the County of Kaua'i.
24. The zoning designation for that certain area of approximately 21.6 acres in Nāwiliwili, Kaua'i identified on zoning map ZM-NW 400 is hereby amended from Open District (0) to Residential District (R-2), on parcels identified by TMK: 3-5-01: por. 27, and por. 168 and on the map attached hereto and incorporated herein as Map 3 (Revised September 2009), subject to the following conditions:
- a. With respect to those certain areas in Nāwiliwili, Līhu'e, Kaua'i, identified as (i) TMK: 3-5-01: por. 27 consisting of approximately 7.06 acres that has been amended from Open District (0) to Residential District (R-2), and (ii) TMK: 3-5-01:

por. 1 68 consisting of approximately 1 4.6 acres that has been amended from Open District (0) to Residential District (R-2) as shown on zoning map ZM-NW 400 and on the map attached hereto and incorporated herein as Map 3 (Revised September 2009)[.] and that certain area of approximately 14.2 acres being rezoned from the Residential District (R-2) to the Residential District (R-4) and approximately 2.6 acres being rezoned from the Resort District (RR-10) to the Residential District (R-2) as reflected on the location map attached hereto and incorporated herein as Map 3 (Revised December 2021) and delineated by metes and bounds property descriptions in Attachment A, dated December 2021, which is attached hereto and incorporated as part of Ordinance No. PM-2006-383, as amended, (hereinafter referred to as the "2009 and 2021 Petition [Area] Areas"), the following conditions shall apply:

- b. Notwithstanding the provisions in Condition No. 1.b. of this Ordinance and as represented by the Applicant, Guest Houses and additional dwelling units shall not be permitted on the lots created within the 2009 and 2021 Petition [Area] Areas. This restriction shall be included in the deeds for the subject lots, and recorded at the Bureau of Conveyances. A recorded copy of the deed(s) shall be provided to the Planning Department.
- c. Notwithstanding the provisions in Condition No. 12 of this Ordinance, in order to minimize adverse impacts on Federally Listed Threatened Species, such as Newell's Shearwater and other seabirds, all external lighting for structures or other improvements within the 2009 and 2021 Petition [Area] Areas shall be limited to the following types: shielded lights, cut-off luminaries, or indirect lighting. Spotlights aimed upward or spotlighting of features shall be prohibited.
- d. Notwithstanding the provisions contained in Condition No. 16 of this Ordinance, Best Management Practices shall be utilized during all phases of development within the 2009 and 2021 Petition [Area] Areas in order to minimize erosion, dust and sedimentation impacts of the project to abutting properties. These practices shall be reflected in the subdivision, grading, construction, or other plans for the Petition Area that are submitted for permit processing.
- e. No application for development (subdivision, grading, etc.) related to the subject requests for any proposed subdivisions within the 2009 and 2021 Petition [Area] Areas (identified in Figure 6a of the Applicant's Petition, June 8, 2009, as Subdivision 1A, Subdivision 5, and Subdivision 6) shall be accepted for processing by the Planning Department until such time that the 138-acre parcel identified as TMK: (4) 3-5-01: por. 102 is conveyed to the County of Kaua'i, as represented.
- f. Agency comments and concerns as submitted for the subject petition shall be resolved at the time of the next review conducted by the Planning Department, be it subdivision or other review.
- g. As represented, the 12.0 acre remnant that will be General Planned "Resort" and surrounding proposed Subdivision 6 within

the 2009 and 2021 Petition [Area] Areas, which currently encompasses the existing Kiele Golf Course Hole Nos. 6 and 8, shall not be utilized for any future density calculations purposes, and is only intended to provide for a more uniform General Plan "Resort" boundary designation.

h. Additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

25. 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)."

SECTION 2. Upon the completion of recordation with the Bureau of Conveyances of the State of Hawai'i of the deed conveying the parcel identified as TMK: 3-5-01: por. 102 consisting of 1 38 acres to the County of Kaua'i, Condition No. 23 of this Ordinance shall no longer be applicable.

SECTION 3. The zoning designation for that certain area in Nāwiliwili, Kaua'i, identified as TMK: 3-5-01: 27, 82, 83, 115, 116, 117, 118, 119, and 120, as shown on Zoning Map ZM-NW-400 and on the map attached hereto and incorporated herein as Exhibit ZA-2002-1, are subject to the amendments in Section 1 hereinabove, and incorporated herein as part of this zoning application.

SECTION 4. Ordinances Nos. PM-2002-363, PM-2006-383, and PM-2009-394 are superseded.

SECTION 5. The Planning Commission is directed to note the change on the official Zoning Map on file with the Commission. All applicable provisions of the Comprehensive Zoning Ordinance shall apply to the area rezoned herein.

SECTION 6. Severability. The invalidity of any word, section, clause, paragraph, sentence, part, or portion of this Ordinance shall not affect the validity of any other part of this ordinance that can be given effect without such invalid part or parts.

SECTION 7. Material to be deleted is bracketed. New material is underscored.

SECTION 8. This Ordinance shall take effect upon approval.

Introduced by: /s/ MASON K. CHOCK
(By Request)

DATE OF INTRODUCTION:

August 18, 2021

Līhu'e, Kaua'i, Hawai'i

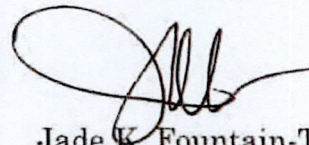
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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2831, Draft 2, which was adopted on second and final reading by the Council of the County of Kaua'i at its meeting held on December 15, 2021, by the following vote:

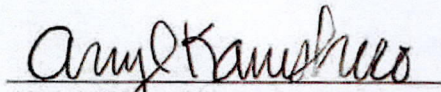
FOR ADOPTION:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL - 7,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Lihu'e, Hawai'i
December 15, 2021



Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

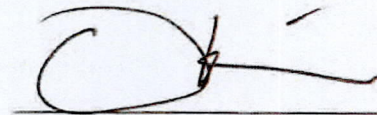
ATTEST:


Arryl Kaneshiro
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

December 15, 2021

Approved this 20th day of
December, 2021.



Derek S.K. Kawakami,
Mayor
County of Kaua'i

Legend

Area (in Ac.)

County Zoning

O	Open
RR-20	Resort (20 Units/Acre)
R-20	Residential
CG	Commercial (General)
IG	Industrial (General)
IL	Industrial (General)
C	Conservation (State)
3.0	O to RR-20
16.6	O to RR-10
40.0	O to R-2
2.1	IL to R-20
66.7	

VDA - Existing Visitor Destination Area

State Land Use Boundary

U

A

C

Conservation

KAPULE HIGHWAY

RICE STREET

IL to R-20

O to R-2

VDA

O to RR-10

O to RR-10

O to RR-20

O to RR-10

O to R-2

LOCATION MAP SHOWING
PROPOSED AMENDMENT TO
ZONING MAP ZM-NW-400
FROM
OPEN DISTRICT (O) AND
LIMITED INDUSTRIAL DISTRICT (IL)
TO
RESORT DISTRICT (RR-10,RR-20) AND
RESIDENTIAL DISTRICTS (R-2,R-20)
TAX MAP KEYS: 3-5-01: 27 (POR.),
165, 168 (POR.), AND 172 (POR.)
KALAPAKI, KAUAI, HAWAII



ZA-2006-05
REVISED Map 3 (Existing and Proposed Zoning)

Revised 9/27/06

Legend

Area (in Ac.)

County Zoning

O	Open
RR-10	Reson (10 Units/Acre)
RR-20	Reson (20 Units/Acre)
R-20	Residential (20 Units/Acre)
R-2	Residential (2 Units/Acre)
CG	Commercial (General)
IG	Industrial (General)
IG ST-P	Industrial (General)
C	Conservation (State)
21.6	O TO R-2

VDA - Existing Visitor Destination Area

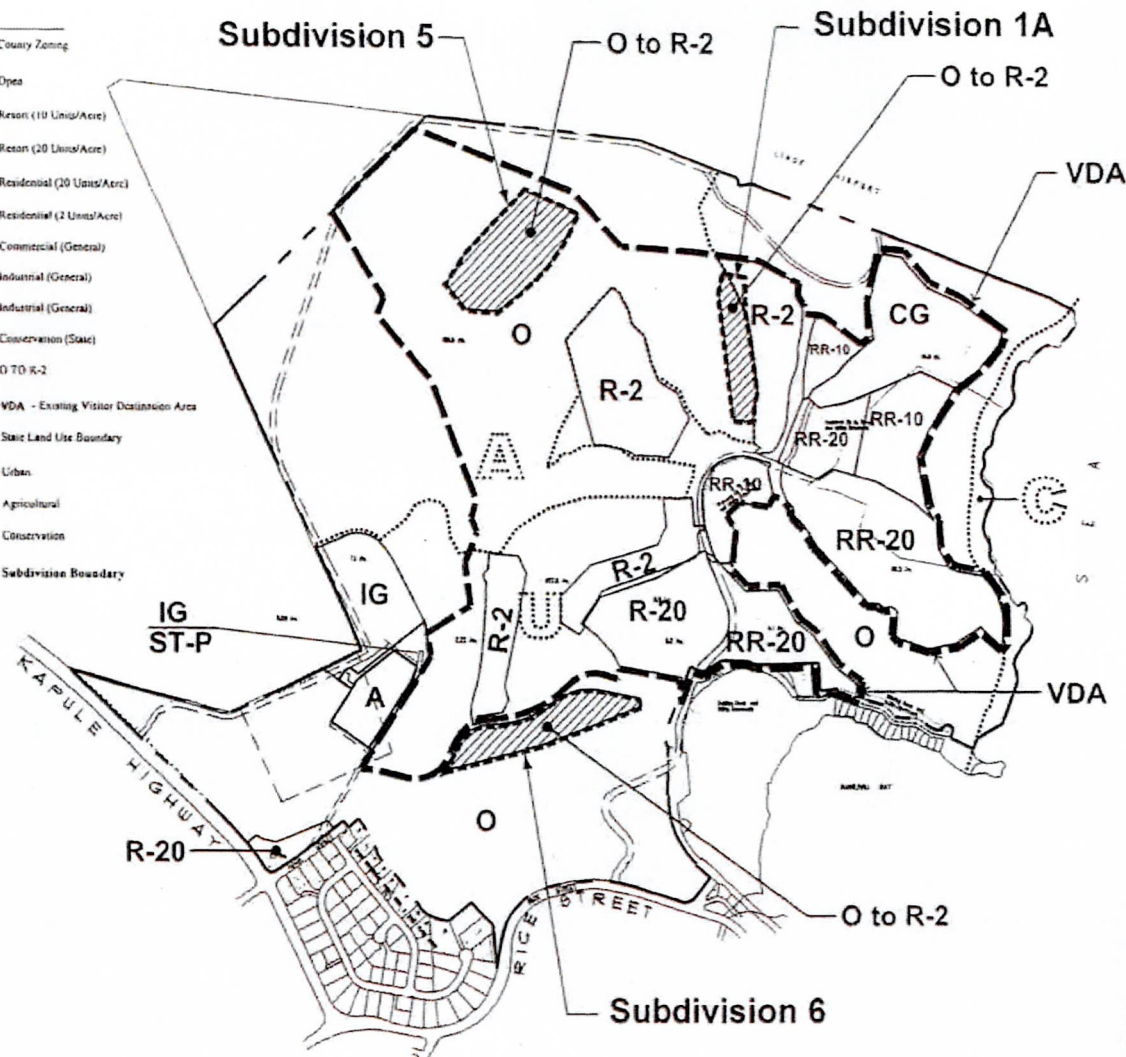
State Land Use Boundary

U

A

G

Subdivision Boundary



LOCATION MAP SHOWING
PROPOSED AMENDMENT TO
ZONING MAP ZM-NW-400

FROM

OPEN DISTRICT (O)

TO

RESIDENTIAL DISTRICT (R-2)

TAX MAP KEYS: 3-5-01: 27 (POR.)
AND 168 (POR.)

KALAPAKI, KAUAI, HAWAII

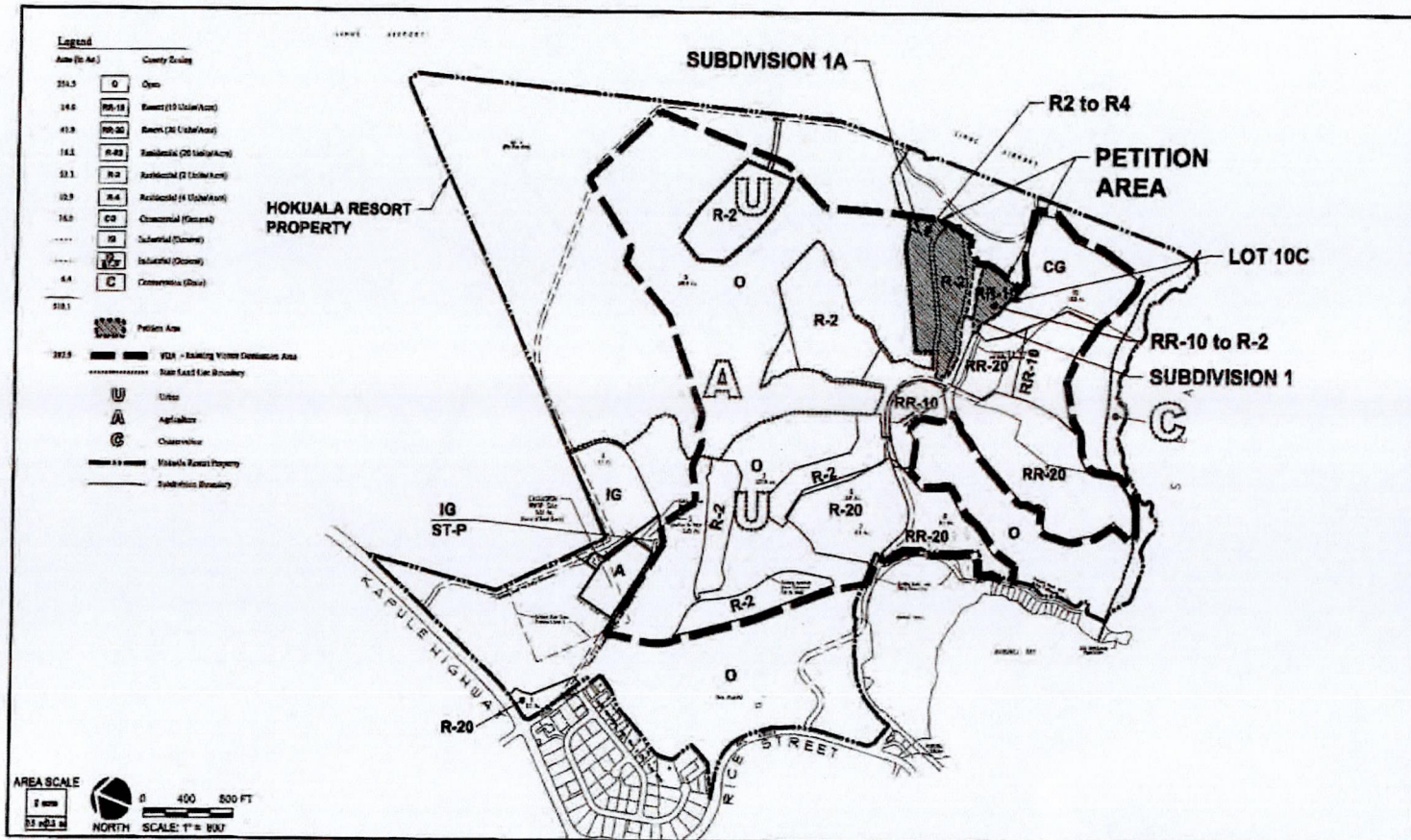
NORTH



ZA-2009-10

Map 3 (Existing and Proposed Zoning)

REVISED SEPTEMBER 2009



REVISED MAP 3
LOCATION MAP SHOWING
PROPOSED AMENDMENT
TO ZONING MAP
ZM-NW-400 FROM
RESIDENTIAL DISTRICT
(R-2) TO RESIDENTIAL
DISTRICT (R-4)
AND FROM RESORT
DISTRICT (RR-10) TO
RESIDENTIAL DISTRICT
(R-2)
TAX MAP KEYS: 3-5-001: 177,
POR. 27 AND 168
AND
3-5-004:100 TO 109
KALAPAKI, KAUAI,
HAWAII

ZONING AMENDMENT
ZA-2021-3

(December 2021)

Attachment A
Metes and Bounds Property Description

1. 180° 40' 30.45 feet along Ho'olaulea Way;
thence along Road Lot B as shown on Kauai County Subdivision File No. S-2008-24 on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being:
2. 221° 48' 15" 39.48 feet;
thence, on a curve to the left with a radius of 262.00 feet, the chord azimuth and distance being:
3. 257° 00' 44" 54.18 feet;
4. 251° 04' 15" 151.09 feet;
5. 00° 00' 142.01 feet along Lot 101 as shown on Kaua'i County Subdivision File No. S-2008-24;
6. 100° 57' 34.38 feet along Lot 2-A-1-A;
7. 84° 04' 84.16 feet;
8. 102° 25' 30" 107.44 feet to the point of beginning and containing an area of 0.505 acre, more or less.

-ITEM TWO:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4480, Land Commission Award Number 7713 Apana 2, Part 1 to Victoria Kamamalu) situate, lying and being at Kalapaki, Lihu'e, Island and County of Kauai, State of Hawaii, being LOT 101, being also a portion of Lot 2-A-1 as shown on Kauai County Subdivision File No. S-2008-2, and thus bounded and described as per survey dated December 12, 2008, to-wit:

Beginning at the southwest corner of this parcel of land, being the southeast corner of Lot 100 as shown on Kauai County Subdivision File No. S-2008-24, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kalepa" being 13,517.56 feet south and 5,250.26 feet east, and running by azimuths measured clockwise from true South:

1. 180° 00' 142.01 feet along Lot 100;
2. 251° 04' 15" 26.32 feet along Road Lot B as shown on Kauai County Subdivision File No. S-2008-24;
- thence on a curve to the right with a radius of 218.00 feet, the chord azimuth and distance being:
3. 255° 50' 45" 36.29 feet;
4. 260° 37' 15" 78.94 feet;
5. 00° 00' 158.03 feet along Lot 102 as shown on Kauai County Subdivision File No. S-2008-24;
6. 61° 17' 30" 12.01 feet along Lot 2-A-1-A as shown on Kauai County Subdivision File No. S-2008-24;
7. 81° 11' 30" 96.27 feet;
8. 100° 57' 32.91 feet to the point of beginning and containing an area of 0.503 acre, more or less.

-ITEM THREE:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4480, Land Commission Award Number 7713 Apana 2, Part 1 to Victoria Kamamalu) situate, lying and being at Kalapaki, Lihu'e, Island and County of Kauai, State of Hawaii, being LOT 102, being also a portion of Lot 2-A-1 as shown on Kauai County Subdivision File No. S-2008-2, and thus bounded and described as per survey dated December 12, 2008, to-wit:

Beginning at the southwest corner of this parcel of land, being the southeast corner of Lot 101 as shown on kauai County Subdivision File No. S-2008-24, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kalepa" being 13,503.30 feet south and 5,388.24 feet east, and running by azimuths measured clockwise from true South:

1. 180° 00' 158.033 feet along Lot 101;
2. 260° 37' 15" 22.03 feet along Road Lot B as shown on Kaua'i County Subdivision File No. S-2008-24;

thence on a curve to the left with a radius of 262.00 feet, the chord azimuth and distance being:

3. 251° 57' 52" 78.87 feet;
4. 243° 18' 30" 56.01 feet;
5. 00° 00' 172.17 feet along Lot 103 as shown on Kaua'i County Subdivision File No. S-2008-24;
6. 88° 27' 79.46 feet along Lot 2-A-1-A as shown on Kauai County Subdivision File No. S-2008 24;
7. 61° 17' 30" 76.77 feet to the point of beginning and containing an area of 0.506 acre, more or less.

-ITEM FOUR:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4480, Land Commission Award Number 7713 Apana 2, Part 1 to Victoria Kamamalu) situate, lying and being at Kalapaki, Lihu'e, Island and County of Kauai, State of Hawaii, being LOT 103, being also a portion of Lot 2-A-1 as shown on Kauai County Subdivision File No. S-2008-2, and thus bounded and described as per survey dated December 12, 2008, to-wit:

Beginning at the southwest corner of this parcel of land, being the southeast corner of Lot 102 as shown on kauai County Subdivision File No. S-2008-24, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kalepa" being 13,464.27 feet south and 5,535.01 feet east, and running by azimuths measured clockwise from true South:

1. 180° 00' 172.17 feet along Lot 102;
2. 243° 18' 30" 100.00 feet along Road Lot B as shown on Kauai County Subdivision File No. S-2008-24;
3. 334° 24' 30" 227.67 feet along Lots 104 and 105 as shown on Kauai County Subdivision File No. S-2008-24;

4. 83° 54' 84.10 feet along Lot 2-A-1-A as shown on Kauai County Subdivision File No. S-2008-24;
5. 88° 27' 104.10 feet to the point of beginning and containing an area of 0.640 acre, more or less.

-ITEM FIVE:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4480, Land Commission Award Number 7713 Apana 2, Part 1 to Victoria Kamamalu) situate, lying and being at Kalapaki, Lihu'e, Island and County of Kauai, State of Hawaii, being LOT 104, being also a portion of Lot 2-A-1 as shown on Kauai County Subdivision File No. S-2008-2, and thus bounded and described as per survey dated December 12, 2008, to-wit:

Beginning at the southwest corner of this parcel of land, being the northwest corner of Lot 105 as shown on Kauai County Subdivision File No. S-2008-24, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kalepa" being 13,367.89 feet south and 5,682.16 feet east, and running by azimuths measured clockwise from true South:

1. 154° 24' 30" 133.84 feet along Lot 103 as shown on Kauai County Subdivision File No. S-2008-24;
2. 243° 18' 30" 165.63 feet along Road Lot B as shown on Kauai County Subdivision File No. S-2008-24;
3. 333° 18' 30" 133.81 feet along Lot 105;
4. 63° 18' 30" 168.20 feet to the point of beginning and containing an area of 0.513 acre, more or less.

-ITEM SIX:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4480, Land Commission Award Number 7713 Apana 2, Part 1 to Victoria Kamamalu) situate, lying and being at Kalapaki, Lihu'e, Island and County of Kauai, State of Hawaii, being LOT 105, being also a portion of Lot 2-A-1 as shown on Kauai County Subdivision File No. S-2008-2, and thus bounded and described as per survey dated December 12, 2008, to-wit:

Beginning at the southwest corner of this parcel of land, being the southeast corner of Lot 103 as shown on Kauai County Subdivision File No. S-2008-24, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kalepa" being 13,452.52 feet south and 5,722.69 feet east, and running by azimuths measured clockwise from true South:

1. 254° 24' 30" 93.83 feet along Lot 103;

2. 243° 18' 30" 168.20 feet along Lot 104 as shown on Kaua'i County Subdivision File No. S-2008-24;
3. 153° 18' 30" 133.81 feet;
4. 243° 18' 30" 15.00 feet along Road Lot B as shown on Kauai County Subdivision File No. S-2008-24;
5. 333° 18' 30" 276.85 feet along Lot 106 as shown on Kaua'i County Subdivision File No. S-2008-24;
6. 66° 40' 57.07 feet along Lot 2-A-1-A as shown on Kauai County Subdivision File No. S-2008-24;
7. 82° 55' 30" 122.41 feet;
8. 83° 54' 13.59 feet to the point of beginning and containing an area of 0.573 acre, more or less.

-ITEM SEVEN:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4480, Land Commission Award Number 7713 Apana 2, Part 1 to Victoria Kamamalu) situate, lying and being at Kalapaki, Lihu'e, Island and County of Kauai, State of Hawaii, being LOT 106, being also a portion of Lot 2-A-1 as shown on Kauai County Subdivision File No. S-2008-2, and thus bounded and described as per survey dated December 12, 2008, to-wit:

Beginning at the southwest corner of this parcel of land, being the southeast corner of Lot 105 as shown on Kauai County Subdivision File No. S-2008-24, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kalepa" being 13,413.39 feet south and 5,910.09 feet east, and running by azimuths measured clockwise from true South:

1. 153° 18' 30" 276.85 feet along Lot 105;
2. 243° 18' 30" 15.00 feet along Road Lot B as shown on Kauai County Subdivision File No. S-2008-24;
3. 333° 18' 30" 147.96 feet along Lot 107 as shown on Kaua'i County Subdivision File No. S-2008-24;
4. 241° 35' 161.63 feet;
5. 333° 18' 30" 140.06 feet along Lot 109 as shown on Kaua'i County Subdivision File No. S-2008-24;

- | | | | |
|----|-----|-----|---|
| 6. | 61° | 35' | 45.67 feet along Lot 2-A-1-A as shown on Kauai County Subdivision File No. S-2008-24; |
| 7. | 66° | 40' | 131.14 feet to the point of beginning and containing an area of 0.601 acre, more or less. |

-ITEM EIGHT:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4480, Land Commission Award Number 7713 Apana 2, Part 1 to Victoria Kamamalu) situate, lying and being at Kalapaki, Lihu'e, Island and County of Kauai, State of Hawaii, being LOT 107, being also a portion of Lot 2-A-1 as shown on Kauai County Subdivision File No. S-2008-2, and thus bounded and described as per survey dated December 12, 2008, to-wit:

Beginning at the northwest corner of this parcel of land, being the north corner of Lot 106 as shown on Kauai County Subdivision File No. S-2008-24, also being the south side of Road Lot B as shown on Kauai County Subdivision File No. S-2008-24, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kalepa" being 13,159.31 feet south and 5,799.13 feet east, and running by azimuths measured clockwise from true South:

1. 243° 18' 30" 161.56 feet along Road Lot B;
2. 333° 18' 30" 143.10 feet along Lot 108 as shown on Kaua'i County Subdivision File No. S-2008-24;
3. 61° 35' 161.63 feet along Lot 106;
4. 153° 18' 30" 147.96 feet to the point of beginning and containing an area of 0.540 acre, more or less.

-ITEM NINE:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4480, Land Commission Award Number 7713 Apana 2, Part 1 to Victoria Kamamalu) situate, lying and being at Kalapaki, Lihu'e, Island and County of Kauai, State of Hawaii, being LOT 108, being also a portion of Lot 2-A-1 as shown on Kauai County Subdivision File No. S-2008-2, and thus bounded and described as per survey dated December 12, 2008, to-wit:

Beginning at the northwest corner of this parcel of land, being the northeast corner of Lot 107 as shown on Kauai County Subdivision File No. S-2008-24, also being the south side of Road Lot B as shown on Kauai County Subdivision File No. S-2008-24, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kalepa" being 13,086.73 feet south and 5,943.48 feet east, and running by azimuths measured clockwise from true South:

1. 243° 18' 30" 108.91 feet along Road Lot B;

Thence on a curve to the right with a radius of 218.00 feet, the chord azimuth and distance being:

2. 276° 56' 34" 241.50 feet;
3. 61° 35' 310.12 feet along Lot 109 as shown on Kaua'i County Subdivision File No. S-2008-24;
4. 153° 18' 30" 143.10 feet along Lot 107 to the point of beginning and containing an area of 0.814 acre, more or less.

-ITEM TEN:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4480, Land Commission Award Number 7713 Apana 2, Part 1 to Victoria Kamamalu) situate, lying and being at Kalapaki, Lihu'e, Island and County of Kauai, State of Hawaii, being LOT 109, being also a portion of Lot 2-A-1 as shown on Kauai County Subdivision File No. S-2008-2, and thus bounded and described as per survey dated December 12, 2008, to-wit:

Beginning at the southwest corner of this parcel of land, being the southeast corner of Lot 106 as shown on Kauai County Subdivision File No. S-2008-24, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kalepa" being 13,339.72 feet south and 6,070.67 feet east, and running by azimuths measured clockwise from true South:

1. 153° 18' 30" 140.06 feet along Lot 106;
2. 241° 35' 310.12 feet along Lot 108 as shown on Kaua'i County Subdivision File No. S-2008- 24;

Thence along Road B as shown on Kauai County Subdivision file No. S-2008-24, on a curve to the right with a radius of 218.00 feet, the chord azimuth and distance being:

3. 329° 19' 16" 140.10 feet;
4. 61° 35' 319.87 feet along Lot 2-A-1-A as shown on Kauai County Subdivision File No. S-2008-24, to the point of beginning and containing an area of 1.037 acres, more or less.

PROPOSED LOT 1-A

All of that portion of a certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4480, Land Commission Award Number 7713, Apana 2, Part 1 to Victoria Kamamalu), being PROPOSED LOT 1-A, being a portion of Lot 2-A-1, as shown on Kaua'i County Subdivision File No. S-2019-11, and a portion of Lot 5-A, as shown on Kaua'i County Subdivision File No. S-2008-24, situate, lying and being at Kalapakī, District of Līhu'e, Island and County of Kaua'i, State of Hawai'i, and thus bounded and described as per survey dated November 11, 2020:

Beginning at the Northeast corner of this piece of land, being a south corner of Lot 5-A-1, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kalepa" being 12,761.28 feet south and 6,152.45 feet east, and running by azimuths measured clockwise from true South:

1. 1° 14' 15" 209.51 feet along Lots 5-A-1 and 2-A;

Thence along the North side of Kahilipulu Way on a curve to the left with a radius of 262.00 feet, the chord azimuth and distance being:

2. 77° 39' 42" 129.91 feet;

3. 63° 18' 30" 622.11 feet along the North side of Kahilipulu Way;

Thence along the North side of Kahilipulu Way, on a curve to the right with a radius of 218.00 feet, the chord azimuth and distance being:

4. 71° 57' 51" 65.62 feet;

5. 80° 37' 15" 100.97 feet along the North side of Kahilipulu Way;

Thence along the North side of Kahilipulu Way, on a curve to the left with a radius of 262.00 feet, the chord azimuth and distance being:

6. 75° 50' 46" 43.62 feet;

7. 71° 04' 15" 4.12 feet;

Thence along the East side of Pohaiula Place, on a curve to the right with a radius of 30.00 feet, the chord azimuth distance being.

8. 116° 04' 15" 42.43 feet;

9. 161° 04' 15" 117.34 feet along the East side of Pohaiula Place;
10. 243° 18' 30" 908.00 feet along the South side of Lot 5-A-1;
11. 260° 07' 30" 162.82 feet to the point of beginning and containing an area of 4.604 acres, more or less.

LOT 10-C

All of that certain parcel of land (being portion(s) of the land(s)) described in and covered by Royal Patent Number 4480, Land Commission Award Number 7713, Apana 2, Part 1 to Victoria Kamamalu), situate, lying and being at Kalapaki, Lihue, County of Kauai, State of Hawaii, being LOT 10-C, and thus bounded and described as per survey dated September 30, 2008:

Beginning at the west corner of this parcel of land, being the northeast corner of Lot 9-B as shown on Kauai County Subdivision File No. S-2008-2, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kalepa" being 13,600.75 feet south and 5,578.07 feet east, and running by azimuths measured clockwise from true South:

1. 245° 32' 93.97 feet along Lot 2-A-1;
2. 258° 49' 304.96 feet;
3. 267° 30' 114.69 feet;
4. 324° 21' 53.29 feet;
5. 19° 10' 205.13 feet;
6. 15° 12' 65.84 feet;
7. 10° 35' 30" 73.61 feet;
8. 118° 08' 30" 148.49 feet along Lot 10-B;
9. 96° 12' 75.81 feet;
10. 128° 18' 175.51 feet;
11. 133° 14' 121.01 feet along Lot 9-B to the point of beginning and containing
an area of 2.588 acres, more or less.

EXHIBIT E

Memorandum of Understanding for Hōkūala Resort

MEMORANDUM OF UNDERSTANDING

FOR

HÖKŪALA RESORT

THIS MEMORANDUM OF UNDERSTANDING FOR HÖKŪALA RESORT ("MOU") effective as of 14th day of January, 2022, by and between the TOWER KAUAI LAGOONS ENTITIES (as defined herein), all of which are Delaware limited liability companies, and TOWER KAUAI LAGOONS 8, LLC, a Delaware limited liability company, in its capacity as Acting Declarant (as defined herein), all of whose mailing address is 3351 Hoolaulea Way, Lihue, Kauai, Hawaii 96766 ("Tower Entities"), and the COUNTY OF KAUAI, by and through the Planning Department of the County of Kauai ("Planning Department"), whose mailing address is 4444 Rice Street, Suite A473, Lihue, Kauai, Hawaii 96766 ("County").

1. RECITALS.

1.1 Hökūala Resort. The Tower Entities are the current developers of the Hōkūala Resort. Tower Kauai Lagoons 8, LLC is the Acting Declarant under the Hōkūala CC&Rs.

1.2 Ordinances. The Hōkūala Resort properties were transferred into their current CZO Zoning Districts by the passage by the Council of the Ordinances, together with the Ordinance Conditions.

1.3 Master SMA Permit. The development of the Hōkūala Resort was further authorized by approval of the Planning Commission of the SMA Permit, together with the SMA Conditions.

1.4 Ordinance Conditions. The Ordinance Conditions included the following conditions related to public access and public recreational improvements:

1.4.1. Condition 7 (as most recently amended and contained in Ord. No. PM-2009-394) required the Applicant under the respective Ordinances to do the following:

a. The Applicant was to provide public access over all existing public vehicular and pedestrian public accessways on the Hōkūala Resort.

b. The Applicant was to provide proof of executed easement documents providing vehicular and non-motorized bicycle access from Kapule Highway to the roadways on the Lihue Airport property leading to property now owned by the County identified herein as the County Lot.

c. The Applicant was to provide a passive beach park serving the Shoreline located along the southern side of the Hōkūala Resort, including the Running Water Beach area, including: public parking; pedestrian access; restroom facilities and shower facilities (including public restrooms and a shower facility at the former Fashion Landing commercial area beneath the restaurant facility); recreational (picnic) shelters; picnic areas; and weather shelters and picnic tables along the lateral shoreline access.

d. The Applicant was to provide lateral shoreline access along the Shoreline located along the southern side of the Hōkūala Resort, including the Running Waters Beach area, as shown on a Roadway and Public Access Plan (August 2006), which was to be updated and made more specific at the time of SMA Permit and Zoning Permit approval, at which time the Public Facilities locations were to be determined.

e. The Applicant was required to agree to indemnify, defend, pay for all attorney's fees and costs, and hold harmless the County from claims arising out of public use of the Public Access Easements and Public Facilities.

1.4.2. Condition 21.b. (as most recently amended and contained in Ord. No. PM-2009-394) required the Applicant to provide the Planning Commission with a status report of compliance with the SMA Conditions prior to the issuance of any other land use permits, including an update of the Roadway and Public Access Plan (August 2006) identifying the location of the Public Accessways and Public Facilities.

1.5 SMA Conditions. The SMA Conditions included the following conditions related to public access, public recreational improvements and annual reports:

1.5.1. Condition 9 of the SMA Conditions (as most recently amended and contained in the Third Amendment) required the Applicant under the SMA Master Permit to:

a. Provide Public Access over the Public Accessways.

b. Provide Public Facilities as shown on the Public Access Plan (May 2009), including: recreational shelters; shower and restroom facilities; 10 public parking stalls at the eastern edge of the Fashion Landing area; 10 public parking stalls at the western end of the project near Kukii Point; and a lateral pedestrian public access from the Fashion Landing area to the Inn on the Cliffs area and on to Kukii Point.

1.5.2. Condition 28 of the SMA Conditions required the Applicant to provide annual reports to the Planning Commission.

1.6 Purpose. The Parties wish to enter into this MOU for the following purposes:

a. The Parties wish to clarify the obligations, duties and responsibilities under the Ordinance Conditions and the SMA Conditions of the Tower Entities, as developers of the Hōkūāla Resort, and Tower Kauai Lagoons, LLC, as Acting Declarant under the Hōkūāla CC&Rs.

b. The Parties wish to update the original Roadway And Public Access Plan (August 2006), as modified by Public Access Plan (May 2009), by adopting the current Public Access Plan (Exhibit "A") and the current Passive Beach Park Plan (Exhibit "B").

c. The Parties wish to confirm that the Public Access Plan (Exhibit "A") accurately shows the existing Public Accessways and Public Easements on the Hōkūāla Resort as of the date of this MOU.

d. The Parties wish to confirm that the Passive Beach Park Plan (Exhibit "B") accurately shows the location of the existing Public Improvements on the Hōkūāla Resort as of the date of this MOU.

e. The Parties wish to agree on a process by which the Public Access Plan (Exhibit "A") and the Passive Beach Park Plan (Exhibit "B") may be reviewed and updated as necessary to comply with the Ordinance Conditions and the SMA Conditions.

2. DEFINITIONS.

2.1 Definitions. The Parties agree that the following terms shall have the following meanings:

2.1.1. "Acting Declarant" means Tower Kauai Lagoons 8, LLC as the successor to the original Declarant named as Acting Declarant under the Hōkūāla CC&Rs.

2.1.2. "Applicant" shall mean the original Applicants under the Ordinances and SMA Master Permit. The term shall include the Tower Entities, as successors in interest to the Applicant, with regard to the Ordinance Conditions and the SMA Master Permit Conditions applicable to the Tower Lots.

2.1.3. "Bicycle" shall mean a non-motorized bicycle.

2.1.4. "Council" shall mean the Council of the County of Kauai.

2.1.5. "County Lot" shall mean that certain property located in Kalapaki and Hanamaulu, Lihue, Kauai, Hawaii, identified by Kauai Tax Map Key No. (4) 3-5-001:102.

2.1.6. "CZO" shall mean the Comprehensive Zoning Ordinance of the County of Kauai, as codified in Title IV, Chapter 8 of the Kauai County Code, 1987.

2.1.7. "Hökūāla CC&Rs" means the Declaration Of Covenants, Conditions And Restrictions For Kauai Lagoons recorded in the Bureau as Document No. 2008-040613 and in the Land Court as Land Court Document No. 3723797, as amended: by a First Amendment To Declaration Of Covenants, Conditions And Restrictions For Kauai Lagoons recorded in the Bureau as Document No. 2009-093734 and in the Land Court as Land Court Document No. 3870079; by annexation recorded in the Bureau as Document No. 2010-038754; by a Second Amendment To Declaration Of Covenants, Conditions And Restrictions For Kauai Lagoons recorded in the Bureau as Document No. A-54780169 and in the Land Court as Land Court Document No. T-9130059; by a Third Amendment To Declaration Of Covenants, Conditions And Restrictions For Kauai Lagoons recorded in the Bureau as Document No. A-72410588 and in the Land Court as Land Court Document No. T-10893265; and by an Assignment Of Declarant Rights Under Declaration Of Covenants, Conditions And Restrictions For Kauai Lagoons recorded in the Bureau as Document No. A-54780206 and in the Land Court as Land Court Document No. T-9130061.

2.1.8. "Hökūāla Resort Index" means the index listing the Public Accessways and Public Easements attached hereto as Exhibit "C".

2.1.9. "Hökūāla Resort" means all of the lands located within the Hökūāla Resort project in Kalapaki, Lihue, Kauai, Hawaii, as shown on Exhibit "D" attached hereto.

2.1.10. "Lateral Shoreline Access" shall mean pedestrian access along the shoreline on the southern side of the Hökūāla Resort.

2.1.11. "Lot 5-A" shall mean Lot 5-A of the Hökūāla Resort identified by Kauai Tax Map Key No. (4) 3-5-001:168.

2.1.12. "Ordinances" shall mean County Ordinance Nos. PM-146-86, PM-2002-363, PM-2006-383, and PM-2009-394.

2.1.13. "Ordinance Conditions" shall mean the Conditions of Approval of the Ordinances.

2.1.14. "Passive Beach Park" shall mean: the unimproved shoreline areas located on and along the Shoreline on the south side of the Hökūāla Resort, including the Running Waters Beach area; the Public Accessways and Public Easements providing access to and through the Passive Beach Park; and the Public Facilities supporting the Passive Beach Park uses.

2.1.15. "Passive Beach Park Plan" shall mean the plan attached hereto and incorporated herein as Exhibit "B".

2.1.16. "Planning Commission" shall mean the Planning Commission of the County of Kauai.

2.1.17. "Planning Department" shall mean the Planning Department of the County of Kauai.

2.1.18. "Planning Director" shall mean the Director of the Planning Department.

2.1.19. "Public Accessways" shall mean the system of vehicular roads, non-motorized Bicycle pathways, and pedestrian pathways on the Hōkūala Resort serving the guests and residents of the Hōkūala Resort which are also available for use by the public. This term shall not include any golfcart paths which are intended for use by golfers as part of an active golf course operation.

2.1.20. "Public Easements" shall mean Public Accessways over which recorded easements exist in favor of the County of Kauai.

2.1.21. "Public Facilities" shall mean: the public recreational pavilion with showers and restrooms on the Hōkūala Resort located on the west side of Running Waters Beach ("West Pavilion"); the public recreational pavilion with showers on the Hōkūala Resort located on the east side of Running Waters Beach ("East Pavilion"); the two (2) portable toilet facilities located at the Fashion Landing site; the picnic tables located within the Passive Beach Park; and the Public Parking, Public Accessways, and Public Easements used by the public to access the Passive Beach Park and the Lateral Beach Access. All of the Public Facilities are shown on the Passive Beach Park Plan.

2.1.22. "Public Improvements" shall mean the Passive Beach Park, Public Accessways, Public Facilities, Public Parking, and Signage.

2.1.23. "Public Parking" shall mean the designated parking areas for the public located at the southern end of Kalapaki Circle and adjacent to the Fashion Landing area as shown on the Public Access Plan.

2.1.24. "Roadway And Public Access Plan" shall mean the plan attached hereto as Exhibit "A".

2.1.25. "Shoreline" has the same meaning as the term is defined in Hawaii Revised Statutes Section 205A-1.

2.1.26. "Signage" shall mean the directional and informational signs used to identify the Public Accessways, Public Easements, Passive Beach Park, Public Facilities, Public Parking, and Lateral Shoreline Access.

2.1.27. "SMA Conditions" shall mean the Conditions of Approval of the SMA Permit.

2.1.28. "SMA Permit" shall mean Special Management Area Use Permit SMA(U)-2005-8, Project Development Use Permit PDU-2005-26, Use Permit U-2005-25, Variance Permit V-2005-7 and Class IV Zoning Permit Z-IV-2005-30, as amended by a First Amendment to SMA Permit, a Second Amendment to SMA Permit, and a Third Amendment to SMA Permit.

2.1.29. "Status Report" shall mean the annual reports to the Planning Commission required by the Ordinance Conditions and the SMA Conditions.

2.1.30. "Tower Entities" shall mean: Tower Kauai Lagoons, LLC, a Delaware limited liability company, Tower Kauai Lagoons Land, LLC, a Delaware limited liability company; Tower Kauai Lagoons 8, LLC, a Delaware limited liability company (for itself and in its capacity as Acting Declarant); 2014 Kauai Lagoons Golf, LLC, a Delaware limited liability company; Tower Kauai Lagoons Retail, LLC, a Delaware limited liability company; and Tower Kauai Lagoons TS, LLC, a Delaware limited liability company.

3. AGREEMENT AND UNDERSTANDING.

3.1 Compliance. The Parties agree that the Tower Entities shall comply with the Ordinance Conditions and the SMA Conditions as follows:

3.1.1. The Tower Entities shall provide public access on a twenty-four (24) hours a day, seven (7) days a week basis over and to the Public Easements, the Public Facilities, the Passive Beach Park, and the Public Accessways. The Public Accessways shown by the solid orange line on the Public Access Plan may be used for vehicular, Bicycle and pedestrian access purposes. The Public Accessways shown by the dotted orange line on the Public Access Plan may be used for pedestrian and Bicycle access purposes. The Public Easements are shown by the solid green line (for vehicular, pedestrian and Bicycle access) and by the dotted green line (for pedestrian and Bicycle access) on the Public Access Plan.

3.1.2. The Tower Entities shall provide Public Parking including a minimum of ten (10) parking spaces in the Kalapaki Circle Parking area and a minimum of ten (10) parking spaces in the Fashion Landing Parking area as shown on the Public Access Plan.

3.1.3. The Tower Entities shall continue to provide and maintain the following Public Facilities in the locations shown on the Park Plan:

- a. The West Pavilion;
- b. The East Pavilion;

- c. The two (2) Fashion Landing Portable Toilets;
- d. Four (4) Picnic Tables; and
- e. Public Accessways for pedestrian purposes which provide access to the Public Facilities, the Shoreline, the Lateral Shoreline Access, the Passive Beach Park, and Running Waters Beach.

3.1.4 Until such time as the Fashion Landing building is repaired and/or a new building is constructed and commercial operations are resumed, the Tower Entities shall be allowed to satisfy the shower and restroom requirements for the Fashion Landing area: by providing two (2) portable toilets in this area; and by maintaining the shower facilities in the East Pavilion.

3.2 Passive Beach Park. With the exception of the Public Facilities, the approximately 2,500 square foot existing picnic area on the west side of the West Pavilion and Public Accessways serving the Passive Beach Park, the Parties agree that the Passive Beach Park shall be allowed to remain in its natural state.

3.3 Signage. The Tower Entities shall provide Signage in locations as shown on the Public Access Plan and on the Passive Beach Park Plan.

3.4 Public Easement. The Parties agree that public use and access over the Public Easements shall be governed by the provisions of the Public Easement documents. The Public Easements for vehicular, pedestrian and Bicycle access are shown by the solid green line on the Public Access Plan. The Public Easements for pedestrian and Bicycle access are shown by the dotted green line on the Public Access Plan.

3.5 Modifications.

3.5.1. The Tower Entities shall have the right to add to, substitute, relocate, realign, and modify the Public Improvements ("Modifications") as reasonably necessary for the future development of the Hōkūāla Resort, provided that:

- a. The Tower Entities shall be solely liable for all costs, expenses and fees necessary for, or arising out of, such Modifications.
- b. The Tower Entities shall provide the Planning Department with sixty (60) days prior written notice of the proposed Modification together with such documents or materials necessary to describe the proposed Modification.
- c. The Public Improvements as modified shall provide substantially the same or greater benefits to the public as they did prior to the modification.

d. The Planning Director shall review any proposed Modification for consistency with the Ordinances, Ordinance Conditions, SMA Permit, SMA Conditions, the CZO, and this MOU and, within sixty (60) days of receipt of the notice, approve, disapprove or approve the Modification with conditions as may be reasonable. The failure of the Planning Director to act within the sixty (60) day period shall be deemed an approval. Tower shall have the right to appeal any decision of the Planning Director pursuant to the Planning Commission Rules of Practice And Procedure.

3.5.2. Notwithstanding the provisions of Section 3.5.1., the Tower Entities shall have the right to withdraw and remove any road or pathway located on Lot 5-A from the definition of Public Accessways and from the provisions of this MOU ("Removal"), provided that:

a. The Removal is reasonably necessary for the future development of Lot 5-A.

b. The Tower Entities shall be solely liable for all costs, expenses and fees for or arising out of such Removal.

c. The Tower Entities shall provide the Planning Department with sixty (60) days prior written notice of the proposed Removal together with such documents or materials necessary to describe the proposed Removal.

d. The road or pathway being removed from public use as a Public Accessway is also being removed for such use from the guests and residents of the Hōkūāla Resort.

e. The Removal is consistent with the Ordinances, Ordinance Conditions, SMA Permit, SMA Conditions, CZO and this MOU.

f. Nothing herein shall prevent the Planning Commission or Council from imposing new conditions related to Tower's obligation to provide new Public Accessways on Lot 5-A as a condition of approval for any new ordinance or permit required for the future development of Lot 5-A.

3.6 Annual Report. The Tower Entities agree to submit to the Planning Commission as part of its required annual Status Report the following information and documents:

- a. An updated Public Access Plan.
- b. An updated Passive Beach Park Plan.
- c. An updated Access Index.

- d. A description of any Modifications.
- e. A description of any Removals.
- f. A description of the condition of all Public Improvements.
- g. A description of the condition of the two (2) Fashion Landing Portable Toilets and any plans for the renewal of the Fashion Landing commercial operation.

4. GENERAL PROVISIONS.

4.1 Counterpart. This MOU may be executed in more than one counterpart, each of which shall be considered to be an original, but all of which shall constitute a single counterpart.

4.2 Modification of MOU. This MOU represents the entire agreement between the Parties hereto and may not be modified or terminated, in whole or in part, except by another agreement in writing, duly executed by all of the Parties. This MOU is intended to revise and amend any conflicting provisions contained in the Original MOU.

4.3 Controlling Law. The performance and interpretation of this MOU shall be controlled by the laws of the State of Hawaii.

4.4 Rights and Obligations. The rights and obligations set forth herein shall be binding upon, and shall inure to the benefit of, the Parties and their respective heirs, estates, personal representatives, successors, successors in trust and assigns.

4.5 Effective Date. This MOU shall not become effective and binding unless and until signed by all of the Parties hereto. The effective date of this MOU shall be as of the date signed by the last party to sign.

4.6 Definitions. The term "Acting Declarant", "Tower Entities", "Council", "County", "Planning Commission", "Planning Department", "Party" and "Parties" when used in this MOU, or any pronouns used in their place, mean and include males or females, and one or more (or a combination of) real people, companies, corporations or other entities, and each of their respective heirs, devisees, personal representatives, successors, successors in trust and assigns, according to the context.

4.7 Facsimile/Email. The Parties agree that facsimile and electronic mail (email) signatures of this MOU and any other documents related to this MOU shall be binding and effective for all purposes and treated in the same manner as physical signatures.

IN WITNESS WHEREOF, the undersigned have executed this MOU the day and year first above written.

TOWER ENTITIES:

TOWER KAUAI LAGOONS, LLC,
a Delaware limited liability company

By: Tower Kauai Lagoons, LLC,
a Delaware limited liability company
Its: Sole Member

DocuSigned by:
By Derek Smith
Name: ~~Derek Smith~~
Title: Executive Committee Member

DocuSigned by:
By Taejo Kim
Name: ~~Taejo Kim~~
Title: Executive Committee Member

TOWER KAUAI LAGOONS LAND, LLC,
a Delaware limited liability company

By: Tower Kauai Lagoons, LLC,
a Delaware limited liability company
Its: Sole Member

DocuSigned by:
By Derek Smith
Name: ~~Derek Smith~~
Title: Executive Committee Member

DocuSigned by:
By Taejo Kim
Name: ~~Taejo Kim~~
Title: Executive Committee Member

TOWER KAUAI LAGOONS 8, LLC,
a Delaware limited liability company

By: Tower Kauai Lagoons, LLC,
a Delaware limited liability company
Its: Sole Member

DocuSigned by:
By Derek Smith
Name: ~~Derek Smith~~
Title: Executive Committee Member

DocuSigned by:
By Taeyo Kim
Name: ~~Taeyo Kim~~
Title: Executive Committee Member

2014 KAUAI LAGOONS GOLF, LLC,
a Delaware limited liability company

By: Tower Kauai Lagoons, LLC,
a Delaware limited liability company
Its: Sole Member

DocuSigned by:
By Derek Smith
Name: ~~Derek Smith~~
Title: Executive Committee Member

DocuSigned by:
By Taeyo Kim
Name: ~~Taeyo Kim~~
Title: Executive Committee Member

TOWER KAUAI LAGOONS RETAIL, LLC,
a Delaware limited liability company

By: Tower Kauai Lagoons, LLC,
a Delaware limited liability company
Its: Sole Member

DocuSigned by:
By Derek Smith
Name: ~~Derek Smith~~
Title: Executive Committee Member

DocuSigned by:
By Taeyo Kim
Name: ~~Taeyo Kim~~
Title: Executive Committee Member

TOWER KAUAI LAGOONS TS LLC,
a Delaware limited liability company

By: Tower Kauai Lagoons, LLC,
a Delaware limited liability company
Its: Sole Member

DocuSigned by:
By Derek Smith
Name: ~~Derek Smith~~
Title: Executive Committee Member

DocuSigned by:
By Taejo Kim
Name: ~~Taejo Kim~~
Title: Executive Committee Member

COUNTY:

PLANNING DEPARTMENT
COUNTY OF KAUAI

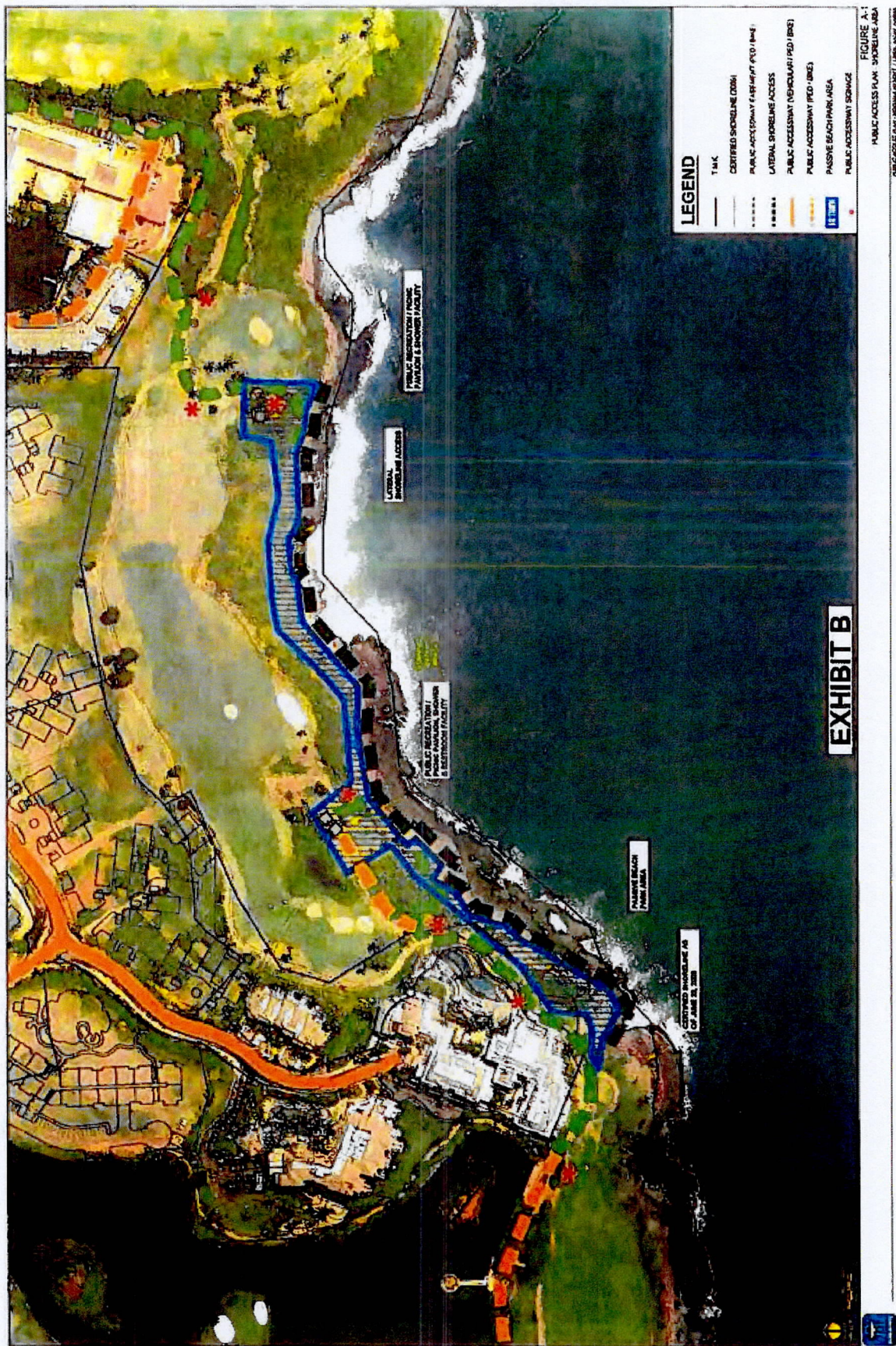
By [Signature]

Its Planning Director

APPROVED AS TO FORM
AND LEGALITY:

[Signature]
County Attorney





HÖKŪALA RESORT INDEX

A. PUBLIC ACCESSWAYS.

TMK	LOT	ACCESSWAY	LOT OWNER
(4) 3-5-001:001	R	HOOLAULEA WAY	KAUAI GOLF LLC
(4) 3-5-001:027	2-A-1	PĀHOLA DRIVE PATHS KALAPAKI CIRCLE EASEMENT 15 PATH	TOWER KAUAI LAGOONS LAND LLC
(4) 3-5-001:168	5-A	PATH	2014 KAUAI LAGOONS GOLF LLC
(4) 3-5-001:174 (0001-0081)	10-B	PATH	KALANIPŪU CONDOMINIUM (HÖKŪALA CC&Rs LOT)
(4) 3-5-004:110	ROAD LOT B	KAHILIPULI WAY	TOWER KAUAI LAGOONS LAND LLC
(4) 3-5-004:220	9-E	HOOLAULEA WAY HOLOKAWELU WAY	TOWER KAUAI LAGOONS TS LLC
(4) 3-5-004:209	ROAD LOT D	PATH	TOWER KAUAI LAGOONS LAND LLC
(4) 3-5-004:711	ROAD LOT E	ALA'OLI WAY	TOWER KAUAI LAGOONS LAND LLC

EXHIBIT "C"

B. PUBLIC EASEMENTS.

TMK	LOT	EASEMENT	ACCESSWAY	LOT OWNER
(4) 3-5-001:006	3	20	NININI POINT STREET	TOWER KAUAI LAGOONS LAND LLC
(4) 3-5-001:027	2-A-1	7/8/9 11/21/R-2 SA-1-B SA-2 SA-3	NININI POINT STREET PATH	TOWER KAUAI LAGOONS LAND LLC
(4) 3-5-004:110	ROAD LOT B	R-2	KAHILIPULU WAY	TOWER KAUAI LAGOONS LAND LLC
(4) 3-5-001:168	5-A	21/22	NININI POINT STREET	2014 KAUAI LAGOONS GOLF LLC
(4) 3-5-001:173	10-A	R-3 16/SA-4	KAHILIPULU WAY PATH	TOWER KAUAI LAGOONS RETAIL LLC
(4) 3-5-001:216 (0001-0050)	9-A	SA-1-B	PATH	TK RESORT CONDOMINIUM

EXHIBIT F

Departmental Determination DD-17-7

Bernard P. Carvalho, Jr.
Mayor



Michael A. Dahilig
Director of Planning

Wallace G. Rezentes, Jr.
Managing Director

Ka'aina S. Hull
Deputy Director of Planning

PLANNING DEPARTMENT
County of Kauai, State of Hawaii

4444 Rice Street, Suite A-473, Lihue, Hawaii 96766
TEL (808) 241-4050 FAX (808) 241-6699

SEP 06 2016

Mr. Michael J. Belles, Esq.
Belles Graham Proudfoot Wilson and Chun LLP
4334 Rice Street Suite 202
Lihue, Hawaii 96766

Mr. Michael Cuthbertson
Tower Kauai Lagoons, LLC
3351 Ho'olaule'a Way
Lihue, Hawaii 96766

RE: **Departmental Determination DD-2017-7**
SMA-(U)-2005-08; PDU-2005-26; U-2005-25; Z-IV-2005-30
Clarification or Interpretation of Enforcement Relating Existing Permitting
Conditions Imposed by Either the Planning Director or Planning
Commission
TMKs (4)-3-5-01: 1, 6, 27, 168, 169, 171, 173, 177, 216-220; 3-5-02:19;
3-5-04:100-110, 200-209, 300-311, 400-424, 700-711

Dear Sirs:

Mahalo for your August 29, 2016 correspondence related to the above referenced permits and whether adjustments to the product mix, while not increasing total density on the project, are within compliance of both the issued permits and related council planning measures.

In reviewing the proposed new master plan, I concur the density counts and corresponding changes in unit-type mix do not run afoul of any conditions imposed on the project and can determine no negative enforcement actions will be anticipated should the developer move forward as set forth in the August 29th transmittal.

I hope this determination meets to your satisfaction – should you have any further questions please do not hesitate to contact me.

Me Ke Aloha Pumehana,

Michael A. Dahilig
Director of Planning

An Equal Opportunity Employer

EXHIBIT G

Hōkūala Resort Subdivision 1

Class IV Zoning Permit Z-IV-2024-7

Variance Permit V-2024-3

And

Hōkūala Resort Subdivision 1A

Class IV Zoning Permit Z-IV-2024-8

Variance Permit V-2024-4



PLANNING COMMISSION

DONNA APISA, CHAIR
GERALD AKO, VICE CHAIR
HELEN COX, MEMBER
FRANCIS DEGRACIA, MEMBER
GLEND A NOGAMI STREUFERT,
MEMBER
JERRY ORNELLAS, MEMBER
LORI OTSUKA, MEMBER

July 16, 2024

Mr. Gary Siracusa, LEED AP
Director of Construction
HÖKŪALA KAUA'I
3770 Ala'oli Way
Hökūala, Hawai'i 96766

Subject: Class IV Zoning Permit Z-IV-2024-7
Variance Permit V-2024-3
HÖKUALA RESORT SUBDIVISION 1
Tax Map Keys: (4) 3-5-004: 100 - 109
Kalapakī, Līhu'e, Kaua'i
Applicant - Tower Kaua'i Lagoons Sub 1, LLC.

Dear Mr. Siracusa,

This letter memorializes the action taken by the Kaua'i Planning Commission effective **JULY 09, 2024**, concerning approval of the subject permits, as amended, to allow a deviation from the requirement to construct curbs and gutters along the subdivision's frontage pursuant to Section 9-2.3 (e) (3) of the Subdivision Ordinance, Kaua'i County Code, 1987, as amended. The approval, per your consent, is subject to the following conditions:

1. The Applicant may use drainage swales in-lieu of raised curbs and gutters, provided that the proposed design conforms to the standards of the County DPW-Engineering Division and is submitted to the DPW-Engineering Division for their review and approval. However, the Applicant shall construct a sidewalk along the subdivision's frontage pursuant to Section 9-2.3 (e) (3) of the Subdivision Ordinance, Kaua'i County Code, 1987, as amended.
2. The Applicant is advised that the approval of this variance does not imply approval of the subdivision or its configuration proposed herein.
3. Subdivision of the subject property shall conform to the procedural requirements of the Subdivision Ordinance, Chapter 9 of the Kaua'i County Code (1987).
4. 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

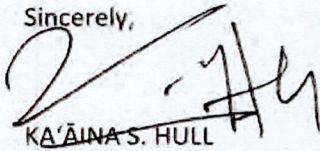
Mr. Gary Siracusa, LEED AP
HŌKŪALA KAUA'I
Z-IV-2024-7, V-2024-3
Tower Kaua'i Lagoons Sub 1, LLC., Applicant
Page | 2

Water, and regulations involving environmental concerns as administered by the State Department of Health.

5. The Applicant shall develop and utilize Best Management Practices (BMP's) to ensure that the subdivision does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.
6. 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).
7. The Planning Commission reserves the right to revise, 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.

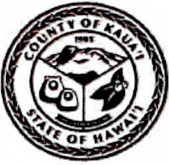
Should you have further questions regarding this matter, please contact staff Planner Kenneth A. Estes at 808.241.4050.

Sincerely,



KA'AINA S. HULL
Clerk, Kaua'i Planning Commission

xc: COK – Public Works-Engineering, Fire, Water, Housing Agency, Finance-Real Property Div.
State- Department of Health; State Historic Preservation Division
Office of Hawaiian Affairs



PLANNING COMMISSION

DONNA APISA, CHAIR
GERALD AKO, VICE CHAIR
HELEN COX, MEMBER
FRANCIS DEGRACIA, MEMBER
GLENDA NOGAMI STREUFERT,
MEMBER
JERRY ORNELLAS, MEMBER
LORI OTSUKA, MEMBER

July 16, 2024

Mr. Gary Siracusa, LEED AP
Director of Construction
HÖKŪALA KAUA'I
3770 Ala'oli Way
Hökūala, Hawai'i 96766

Subject: Class IV Zoning Permit Z-IV-2024-8
Variance Permit V-2024-4
HÖKŪALA RESORT SUBDIVISION 1A
Tax Map Keys: (4) 3-5-001: 027 (por.) and 168 (por.)
Kalapakī, Līhu'e, Kaua'i
Applicant - Tower Kaua'i Lagoons Golf, LLC., Tower Kaua'i Lagoons Land, LLC.
Tower Kaua'i Lagoons Sub 7, LLC.

Dear Mr. Siracusa,

This letter memorializes the action taken by the Kaua'i Planning Commission effective **JULY 09, 2024**, concerning approval of the subject permits, as amended, to allow a deviation from the requirement to construct curbs, gutters, and sidewalks along the subdivision's frontage pursuant to Section 9-2.3 (e) (3) of the Subdivision Ordinance, Kaua'i County Code, 1987, as amended. The approval, per your consent, is subject to the following conditions:

1. The Applicant may use drainage swales in-lieu of raised curbs and gutters, provided that the proposed design conforms to the standards of the County DPW-Engineering Division and is submitted to the DPW-Engineering Division for their review and approval. Additionally, pursuant to Section 9-2.3 (e) (3) (C) and Section 9-2.3 (e) (3) (D) of the Subdivision Ordinance, Kaua'i County Code, 1987, as amended, prior to final subdivision approval of Subdivision Application No. S-2024-8, the Applicant shall pay a fee in lieu of the required sidewalk construction equal to or greater than one hundred percent (100%) of the cost of constructing the sidewalk as determined by the County Engineer.
2. The Applicant is advised that the approval of this variance does not imply approval of the subdivision or its configuration proposed herein.
3. Subdivision of the subject property shall conform to the procedural requirements of the Subdivision Ordinance, Chapter 9 of the Kaua'i County Code (1987).

Mr. Gary Siracusa, LEED AP

HŌKŪALA KAUA'I

Z-IV-2024-8, V-2024-4

Applicant - Tower Kaua'i Lagoons Golf, LLC., Tower Kaua'i Lagoons Land, LLC.

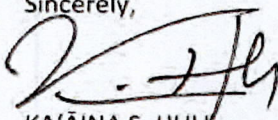
Tower Kaua'i Lagoons Sub 7, LLC.

Page | 2

4. 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.
5. The Applicant shall develop and utilize Best Management Practices (BMP's) to ensure that the subdivision does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.
6. 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).
7. The Planning Commission reserves the right to revise, 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.

Should you have further questions regarding this matter, please contact staff Planner Kenneth A. Estes at 808.241.4050.

Sincerely,



KA'ĀINA S. HULL

Clerk, Kaua'i Planning Commission

xc: COK – Public Works-Engineering, Fire, Water, Housing Agency, Finance-Real Property Div.
State- Department of Health; State Historic Preservation Division
Office of Hawaiian Affairs

EXHIBIT H

Final Approval For:
Hōkūala Resort Subdivision 1 (S-2026-1) and
Hōkūala Resort Subdivision 1A (S-2026-2)



PLANNING COMMISSION

KA'AINA S. HULL, CLERK OF COMMISSION

GERALD AKO, CHAIR
HELEN COX, VICE CHAIR
FRANCIS DEGRACIA, MEMBER
GLENDA NOGAMI STREUFERT,
MEMBER
JERRY ORNELLAS, MEMBER
LORI OTSUKA, MEMBER

MAR 02 2026



Mr. Gary Siracusa, LEED AP
Director of Construction
HÖKŪALA KAUA'I
3770 Ala'oli Way
Lihue, Hawaii 96766

Subject: **Hökūala Resort Subdivision 1**

Consolidation of Lots 100 to 109 Inclusive as shown on Kaua'i County Subdivision Number S-2008-24 portion of Royal Patent 4480, Land Commission Award 7713, Apana 2, Part 1 to V. Kamamalu and the Resubdivision of said Consolidation into Lot 1 to 16 Inclusive, and Cancellation of Easements E-1 to E-6 and Easements C, D, F, and G as Shown on County of Kaua'i Subdivision Map Number S-2008-24, and Easement UE-1, as Shown on County of Kaua'i Subdivision Map Number S-2010-11 at Kalapaki, Lihue, Kaua'i, Hawaii. (S-2026-1, Tower Kaua'i Lagoons Sub 1, LLC.)

Dear Mr. Siracusa,

This letter memorializes the action taken by the Kaua'i Planning Commission effective FEBRUARY 24, 2026, concerning **FINAL APPROVAL** of the above subject application.

Please be advised that the final subdivision map or a metes and bounds description of the subdivision must be recorded prior to or at the time of conveyance of interest in any lot or parcel. If no such recordation is made, all approval shall become null and void.

Sincerely,

KA'AINA S. HULL
Clerk, Kaua'i Planning Commission

xc: COK – Public Works, Fire, Water, Finance-Real Property Division
State – Health



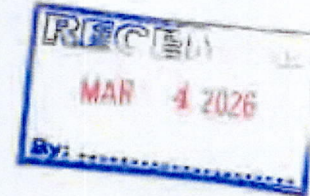
PLANNING COMMISSION

KA'AINA S. HULL, CLERK OF COMMISSION

GERALD AKO, CHAIR
HELEN COX, VICE CHAIR
FRANCIS DEGRACIA, MEMBER
GLENDA NOGAMI STREUFERT,
MEMBER
JERRY ORNELLAS, MEMBER
LORI OTSUKA, MEMBER

MAR 02 2026

Mr. Gary Siracusa, LEED AP
Director of Construction
HÖKŪALA KAUA'I
3770 Ala'oli Way
Līhu'e, Hawai'i 96766



Subject: **Hökūala Resort Subdivision 1A**

Consolidation of Lot 2-A-1 as shown on Kaua'i County Subdivision File No. S-2019-11 and Lot 5-A as shown on Kaua'i County Subdivision File No. S-2008-24 portion of Royal Patent 4480, Land Commission Award 7713, Apana 2, Part 1 to V. Kamamalu and the Resubdivision of Said Consolidation into Lots 2-A, 5-A-1, and Lots 1 to 13 Inclusive at Kalapakī, Līhu'e, Kaua'i, Hawai'i. (S-2026-2, 2014 Tower Kaua'i Lagoons Golf, LLC. / Tower Kaua'i Lagoons Land, LLC. / Tower Kaua'i Lagoons Sub 7, LLC.)

Dear Mr. Siracusa,

This letter memorializes the action taken by the Kaua'i Planning Commission effective FEBRUARY 24, 2026, concerning **FINAL APPROVAL** of the above subject application.

Please be advised that the final subdivision map or a metes and bounds description of the subdivision must be recorded prior to or at the time of conveyance of interest in any lot or parcel. If no such recordation is made, all approval shall become null and void.

Sincerely,

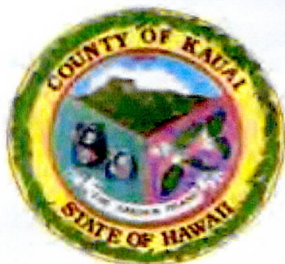
KA'AINA S. HULL

Clerk, Kaua'i Planning Commission

cc: COK – Public Works, Fire, Water, Finance-Real Property Division
State – Health

EXHIBIT I

Lot 700 and 701 Subdivision Application



COUNTY OF KAUAI
PLANNING DEPARTMENT

SUBDIVISION APPLICATION

APPLICATION TYPE		DEPT. USE ONLY	
☒ Preliminary - 12 Maps	☐ Final - 15 Maps	Application No.	
Attachments: ☒ Title Report ☒ Application Fee + \$300.00 Processing Fee ☒ Letter of Authorization **		Date Accepted	
		Assigned to:	
		SMA Permit: [] Yes [] No	

Owner(s)/Applicant(s) * Tower Kauai Lagoons 9B, LLC and Tower Kauai Lagoons Sub 7, LLC

* Holder of AT LEAST 75% of the equitable and legal title of the property

Name of Surveyor/Engineer/Authorized Agent ** Wilson Okamoto Corporation (Desiree Maibed)

Telephone No. (808) 946-2277

Map Title/ Description Plan showing consolidation of Lots 700 and 701 as shown on Kauai County Subdivision File No. S-2010-11 being a portion of Royal Patent 4480 Land Commission Award 7713, Apana 2, Part 1 to V. Kamamalu and Resubdivision of said consolidation into Lots 1 -11 inclusive and the designation of easement A situated at Kalapaku, Lihue, Kauai.

GENERAL INFORMATION			
Tax Map Key: (4)	Zoning	General Plan	State Land Use Designation
3-5-001:216	RR-20 and RR-10	Resort	Urban
Property Size (Acres or Sq. Feet)	Total Amount of Lots		Subdivision Fee (\$16.50 per lot)
19.5 Acres	11		\$ 181.50+300= \$481.50

Date: DEC 23, 2025

Applicant's Signature

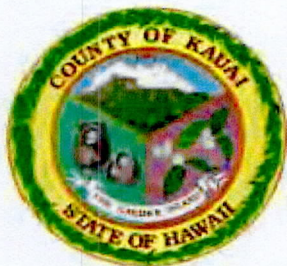
[Signature]

DEPARTMENT USE ONLY	
Route to:	For:
☐ Public Works Department	☐ Review and Recommendation
☐ Water Department	☐ Signature and Return
☐ Housing Agency	
☐ State Health Department	
☐ State Highways Division - DOT	
☐ State Historic Preservation Division - DLNR	
AGENCY DEADLINE:	

AGENCY COMMENTS

Date: _____

Authorized Signature



COUNTY OF KAUAI
PLANNING DEPARTMENT

SUBDIVISION APPLICATION

APPLICATION TYPE		DEPT. USE ONLY	
☒ Preliminary – 12 Maps	☐ Final – 15 Maps	Application No.	
Attachments: ☒ Title Report ☒ Application Fee + \$300.00 Processing Fee ☒ Letter of Authorization **		Date Accepted	
		Assigned to:	
		SMA Permit: [] Yes [] No	

Owner(s)/Applicant(s) * Tower Kauai Lagoons Sub 7, LLC
* Holder of **AT LEAST 75%** of the equitable and legal title of the property

Name of Surveyor/Engineer/Authorized Agent ** Wilson Okamoto Corporation (Debbie Malabed)
Telephone No. (808) 946-2277

Map Title/ Description Plan showing consolidation of Lots 700 and 701 as shown on Kauai County Subdivision File No. S-2010-11 being a portion of Royal Patent 4450 Land Commission Award 7713, Apana 2, Part 1 to V. Kamamalu and Resubdivision of said consolidation into Lots 1-11 inclusive and the designation of easement A situated at Kalapaki, Lihue, Kauai.

GENERAL INFORMATION			
Tax Map Key: (4)	Zoning	General Plan	State Land Use Designation
3-5-001:216	RR-20	Resort	Urban
Property Size (Acres or Sq. Feet)	Total Amount of Lots		Subdivision Fee (\$16.50 per lot)
19.5	1		\$ 16.50+300= \$316.50

Date: _____

Applicant's Signature _____

DEPARTMENT USE ONLY	
Route to: ☐ Public Works Department ☐ Water Department ☐ Housing Agency ☐ State Health Department ☐ State Highways Division – DOT ☐ State Historic Preservation Division – DLNR	For: ☐ Review and Recommendation ☐ Signature and Return AGENCY DEADLINE:

AGENCY COMMENTS

Date: _____

Authorized Signature

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 of the withdrawal of General Plan Amendment GPA-2025-2 and State Land Use District Boundary Amendment A-2025-2.
Permit Application Nos.	General Plan Amendment GPA-2025-2 State Land Use Amendment A-2025-2
Name of Applicant(s)	COUNTY OF KAUAI, PLANNING DEPARTMENT

II. ADDITIONAL FINDINGS

At its meetings on March 11, 2025, April 8, 2025, and June 24, 2025, the Planning Commission held public hearings on the proposed West Kaua'i Community Plan Amendment (ZA-2025-4), General Plan Amendment (GPA-2025-2), and State Land Use District Boundary Amendment (A-2025-2) relating to the Numila Plantation Camp project. Following the public hearings, the Planning Commission voted on June 24, 2025, to recommend approval of the proposed legislation.

The proposed ordinances were subsequently transmitted to the Kaua'i County Council and introduced as Bill No. 2962 (ZA-2025-4), Bill No. 2963 (GPA-2025-2), and Bill No. 2964 (A-2025-2). During the County Council's review of the proposed legislation, concerns were raised regarding the proposed location of the approximately 14.9-acre residential development, including the availability of infrastructure and its ability to meet the intended housing objectives, particularly housing for agricultural workers. As a result of those discussions, the County Council referred Bill No. 2962 (ZA-2025-4), Bill No. 2963 (GPA-2025-2), and Bill No. 2964 (A-2025-2) back to the Planning Commission for further consideration and to evaluate an alternative location for the proposed residential development.

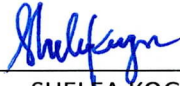
Following the County Council's referral, BBCP Kaua'i Operating LLC revised the proposal by relocating the approximately 14.9-acre residential development from Tax Map Key (TMK) (4) 2-2-001:001 to property located on the makai side of Halewili Road and 'Iluna Street in 'Ele'ele, identified as Tax Map Key (TMK) (4) 2-1-001:003.

Unlike GPA-2025-2 and A-2025-2, ZA-2025-4 remains applicable to the existing Numila Plantation Camp. ZA-2025-4 has been revised to remove the previously proposed 14.9-acre residential expansion area while retaining the proposed amendments applicable to the existing Numila Plantation Camp. The revised ZA-2025-4 will continue to establish the Numila Plantation Camp

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SEP 08, 2026

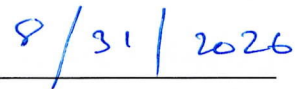
Walkable Mixed Use District (SPA-P) and implement the Numila Camp Form-Based Code for the existing Numila Plantation Camp and will be addressed separately by the Planning Commission.

Because the proposed 14.9-acre residential development has been relocated to a different Tax Map Key, the original General Plan Amendment (GPA-2025-2) and State Land Use District Boundary Amendment (A-2025-2) are no longer applicable. Accordingly, **the Planning Department is withdrawing these applications.** The revised proposal will instead be processed under new amendment applications, including ZA-2027-4 (Zoning Map Amendment), ZA-2027-5 (West Kaua'i Community Plan Amendment), and A-2027-1 (State Land Use District Boundary Amendment).

By  _____
SHELEA KOGA
Planner

Approved & Recommended to Commission:

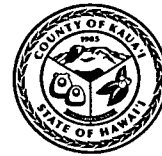
By  _____
KA'ĀINA S. HULL
Director of Planning

Date:  _____

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 of revisions to West Kaua'i Community Plan Amendment ZA-2025-4 relating to the Numila Plantation Camp Walkable Mixed Use District.
Permit Application Nos.	Zoning Amendment ZA-2025-4
Name of Applicant(s)	COUNTY OF KAUAI, PLANNING DEPARTMENT

II. BACKGROUND

At its meetings on March 11, 2025, April 8, 2025, and June 24, 2025, the Planning Commission held public hearings on the proposed West Kaua'i Community Plan Amendment (ZA-2025-4), General Plan Amendment (GPA-2025-2), and State Land Use District Boundary Amendment (A-2025-2) relating to the Numila Plantation Camp project. Following the public hearings, the Planning Commission voted on June 24, 2025, to recommend approval of the proposed legislation.

The proposed ordinances were subsequently transmitted to the Kaua'i County Council and introduced as Bill No. 2962 (ZA-2025-4), Bill No. 2963 (GPA-2025-2), and Bill No. 2964 (A-2025-2). During the County Council's review of the proposed legislation, concerns were raised regarding the proposed location of the approximately 14.9-acre residential development, including the availability of infrastructure and its ability to meet the intended housing objectives, particularly housing for agricultural workers. As a result of those discussions, the County Council referred Bill No. 2962 (ZA-2025-4), Bill No. 2963 (GPA-2025-2), and Bill No. 2964 (A-2025-2) back to the Planning Commission for further consideration and to evaluate an alternative location for the proposed residential development.

Following the County Council's referral, BBCP Kaua'i Operating LLC revised the proposal by relocating the approximately 14.9-acre residential development from Tax Map Key (TMK) (4) 2-2-001:001 to property located on the makai side of Halewili Road and 'Iluna Street in 'Ele'ele, identified as Tax Map Key (TMK) (4) 2-1-001:003.

As a result of the relocation, the General Plan Amendment (GPA-2025-2) and State Land Use District Boundary Amendment (A-2025-2) associated with the original location are no longer applicable and are being withdrawn by the Planning Department. The relocated 14.9-acre residential development will instead be processed under new amendment applications, including

ZA-2027-4 (Zoning Map Amendment), ZA-2027-5 (West Kaua'i Community Plan Amendment), and A-2027-1 (State Land Use District Boundary Amendment).

Unlike GPA-2025-2 and A-2025-2, ZA-2025-4 remains applicable to the existing Numila Plantation Camp. Accordingly, ZA-2025-4 has been revised to remove the previously proposed 14.9-acre residential expansion area while retaining the proposed amendments applicable to the existing Numila Plantation Camp. The revised ZA-2025-4 will continue to establish the Numila Plantation Camp Walkable Mixed Use District (SPA-P) and implement the Numila Camp Form-Based Code for the existing Numila Plantation Camp.

III. ADDITIONAL FINDINGS

Following the relocation of the proposed 14.9-acre residential development, ZA-2025-4 has been revised to remove the 14.9-acre expansion area and apply only to the existing Numila Plantation Camp. The revised proposed ordinance is attached as Exhibit 1 and includes the following changes:

- 1) Section 1 has been amended by revising Exhibit A of the proposed ordinance (Location Map) to remove the previously proposed 14.9-acre expansion area.
- 2) Section 2 has been amended by revising Exhibit B of the proposed ordinance (ZM-NC-100) to remove the 14.9-acre expansion area from the proposed Special Planning Area "P" (SPA-P) boundaries. References to the expansion area have also been removed from Exhibit C of the proposed ordinance (Numila Camp Form-Based Code) so that the Form-Based Code applies only to the existing Numila Plantation Camp.
- 3) Section 3 has been deleted in its entirety. The original draft ordinance proposed amending Figure 12 (Regional Town Plan Map) within the West Kaua'i Community Plan to redesignate the 14.9-acre expansion area from Agriculture to Plantation Camp. Because the expansion area has been removed from ZA-2025-4, this amendment is no longer necessary. The existing Numila Plantation Camp is already designated as Plantation Camp on the adopted Regional Town Plan Map.
- 4) Following the Planning Commission's original consideration of ZA-2025-4, additional amendments affecting the West Kaua'i Form-Based Code were adopted, including Ordinance PM-2025-425 relating to the Wildland-Urban Interface (ZA-2025-11). The Planning Department requires additional time to review these amendments and update the proposed Numila Camp Form-Based Code to ensure the final draft incorporates the applicable Wildland-Urban Interface provisions and is consistent with the current provisions of Chapter 10, Article 3, Kaua'i County Code 1987, as amended.

IV. PRELIMINARY CONCLUSION

The revisions to ZA-2025-4 resulting from the relocation of the approximately 14.9-acre residential expansion area do not alter the purpose or intent of the proposed Numila Plantation Camp Walkable Mixed Use District. However, additional time is needed to update and finalize the proposed Numila Camp Form-Based Code to incorporate the applicable Wildland-Urban Interface provisions adopted after ZA-2025-4 was transmitted back to the Planning Commission. A deferral

would allow the Planning Department sufficient time to complete these revisions and present a final proposed draft for the Planning Commission's consideration.

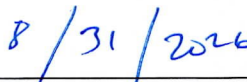
V. PRELIMINARY RECOMMENDATION

Based on the foregoing, it is hereby recommended that consideration of Zoning Amendment ZA-2025-4 be **DEFERRED** for at least thirty (30) days to allow the Planning Department additional time to update and finalize the proposed Numila Camp Form-Based Code to incorporate the applicable Wildland-Urban Interface provisions.

By  _____
SHELEA KOGA
Planner

Approved & Recommended to Commission:

By  _____
KA'ĀINA S. HULL
Director of Planning

Date:  _____

“EXHIBIT 1”

(Amended Proposed Draft Ordinance ZA-2025-4)

For reference

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 IMPLEMENTING ORDINANCE (2020)**

(County of Kaua'i Planning Department, Applicant) (ZA-2025-4)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Findings and Purpose. The purpose of this Ordinance is to amend Chapter 10, Article 3, Kaua'i County Code 1987, as amended (Kaua'i County Code), relating to the West Kaua'i Community Plan (WKCP). The proposal amends Article 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-NC-100 (Numila Camp) involving a portion of a property further identified as Tax Map Key (TMK) (4) 2-2-001:001. The proposal also amends the West Kaua'i Regional Map to reflect land use designation updates from "Agriculture" (AG) to "Plantation Camp" (PC) within the SPA-P boundaries.

The Council finds that the Numila Camp amendment boundaries are delineated by the map attached to this Ordinance as Exhibit A.

The Council finds that TMK Parcel (4) 2-2-001:001 is not designated as Important Agricultural Lands by the Hawai'i State Land Use Commission.

The Council finds that the West Kaua'i Community Plan, adopted by the County of Kaua'i in December 2020, recognizes the opportunity to "ensure redevelopment and renovation projects reflect the historic character of Numila Camp."

The Council finds that the current landowner (BBCP Kaua'i Operating, LLC) has consented to this West Kaua'i Community Plan amendment.

SECTION 2. Amend Article 10-3, Kaua'i County Code 1987, as amended, to add a Special Planning Area P (SPA-P), which shall also be known as the "Numila Plantation Camp Walkable Mixed-Use District." The Special Planning Area shall be adopted with a new map ZM-NC-100 (Numila Camp) and adopted within the West Kaua'i Community Plan as attached to this Ordinance as Exhibit B. The corresponding design standards in text format shall be adopted within the West Kaua'i Community Plan as attached to this Ordinance as Exhibit C.

[SECTION 3. The booklet entitled "West Kaua'i Community Plan" (2020) is amended as follows:

1. Amend page 126 by deleting Figure 12, Regional Town Plan Map, and replacing it with a new map, Figure 12, Regional Town Plan Map, as shown on the map attached to this Ordinance as Exhibit D, and on file with the Planning Department, County of Kaua'i.]

SECTION [4]3. Chapter 10, Article 3, Kaua'i County Code, as amended (West Kaua'i Community Plan Implementing Ordinance), is amended as follows:

“Section 10-3.1. Title and Purpose.

(a) This Article shall be known and may be cited as the “West Kaua'i Community Plan Implementing Ordinance.” It is adopted:

(1) To provide design and development standards in order to implement the detailed planning goals and objectives for the West Kaua'i Planning District;

(2) To establish special planning areas, future growth areas, land uses, and development and design standards to guide and regulate future development;

(3) To protect certain physical characteristics found to be of particular public value, as provided in Chapter 8, Article 11, Section 6, Kaua'i County Code 1987, as amended (Special Planning Areas); and

(4) Establish exceptions, modifications, or additions to the provisions of Chapter 8, Kaua'i County Code 1987, as amended (Comprehensive Zoning Ordinance) and Chapter 9, Kaua'i County Code 1987, as amended (Subdivision Ordinance) in order to more specifically provide for the regulation of land use, subdivision, and development practices within the West Kaua'i Planning District.

(b) Nature of the West Kaua'i Community Plan Ordinance. This Article provides the necessary framework and guidelines to direct future development and capital improvements in the West Kaua'i area, whose boundary is described in the report entitled “West Kaua'i Community Plan.” Additionally, this Article supplements Chapter 8, Kaua'i County Code 1987, as amended (Comprehensive Zoning Ordinance) and Chapter 9, Kaua'i County Code 1987, as amended (Subdivision Ordinance) by regulating use and development standards within the West Kaua'i Special Planning Areas, as identified in the zoning maps or surveyed maps, or both, attached to [Ordinance No. 1083 and Ordinance No. 1138,] Ordinance No. 1083, Ordinance No. 1138, Ordinance No. PM-2025-425, Ordinance PM-2025-

426, and Ordinance No. ****, and on file with the Planning Department, County of Kaua'i.

(c) The guidelines of this Article are based on the report entitled "West Kaua'i Community Plan" (Planning Commission draft approved in 2020, as amended by the Kaua'i County Council in 2020, 2022, 2025, and as may be subsequently amended), a booklet whose major components include:

- (1) Regional and town plan maps;
- (2) Policies for the West Kaua'i region as a whole;
- (3) Goals and objectives for Kekaha, Waimea, Hanapēpē, 'Ele'ele, Port Allen, Kaumakani, Pākalā Village, Numila, and other areas; and
- (4) Appendices.

Section 10-3.2. Vision and Goals.

The vision and goals for the region referred to in this Article, which shall be known as the West Kaua'i Planning District, and its communities are described in the report entitled "West Kaua'i Community Plan."

Section 10-3.3. Application of Regulations.

(a) The following West Kaua'i Community Plan appendices are incorporated by reference: the West Kaua'i Form-Based Code (attached as Appendix C), the Plantation Camp Form-Based Code (attached as Appendix D), the Numila Plantation Camp Form-Based Code (attached as Appendix E), and the Ka'awanui Plantation Camp Form-Based Code (attached as Appendix F). These provisions shall apply to all new development located within the Special Planning Areas, as identified in the zoning maps or surveyed maps, or both, attached to [Ordinance No. 1083, Ordinance No. 1138, Ordinance No. PM-2025-425, and Ordinance No. PM-2025-426,] Ordinance No. 1083, Ordinance No. 1138, Ordinance No. PM-2025-425, Ordinance No. 2025-426 and Ordinance No. **** and on file with the Planning Department, County of Kaua'i.

(b) The regulations and procedures established in Chapter 8, Kaua'i County Code 1987, as amended (Comprehensive Zoning Ordinance) shall apply within the Special Planning Areas of the West Kaua'i Planning District, except to the extent that such regulations or procedures are changed or modified by the provisions of the Form-Based Codes referenced in Section 10-3.3(a). When the provisions of this Article differ with respect to the provisions of Chapter 8, Kaua'i County Code 1987, as amended (Comprehensive Zoning Ordinance) and Chapter 9, Kaua'i County Code 1987, as amended (Subdivision Ordinance), the Form-Based Codes referenced in Section 10-3.3(a) shall supersede such provisions, as provided in Chapter 8, Article 11, Kaua'i County Code 1987, as amended (Special Treatment Districts (ST)).

Section 10-3.4. Existing Conditions.

(a) This Article does not mandate the immediate modification of structures and uses lawfully in existence upon the enactment of this Article.

(b) The requirements of this Article will not be triggered by routine maintenance not requiring a zoning permit.

(c) Existing Buildings and Structures. Buildings and structures lawfully in existence upon the enactment of this Article that do not conform to the provisions of this Article are subject to the requirements of Chapter 8, Article 13, Section 1, Kaua'i County Code 1987, as amended (Nonconforming Buildings and Structures).

(d) Existing Uses. Uses lawfully in existence upon the enactment of this Article that are not consistent with the Special Planning Areas will be allowed to continue on the parcel of record as provided in Chapter 8, Article 13, Section 2, Kaua'i County Code 1987, as amended (Nonconforming Uses).

Section 10-3.5. Special Planning Areas, Designation, and Procedures.

(a) Designation of Special Planning Areas K, L, M, N, O, P, and Q. The boundaries of the following form-based code districts are hereby adopted as described in the Form-Based Codes referenced in Section 10-3.3(a), attached as Appendix C, Appendix D, Appendix E, and Appendix F to the West Kaua'i Community Plan, and shall be referred to as follows:

(1) Special Planning Area K, which shall also be known as the "Kekaha Town Walkable Mixed-Use District" and be designated as "SPA-K" as shown on the zoning map attached to Ordinance No. 1083 as Exhibit 1, and on file with the Planning Department, County of Kaua'i.

(2) Special Planning Area L, which shall also be known as the "Waimea Town Walkable Mixed-Use District" and be designated as "SPA-L" as shown on the zoning map attached to Ordinance No. 1083 as Exhibit 2, and on file with the Planning Department, County of Kaua'i.

(3) Special Planning Area M, which shall also be known as the "Hanapēpē Town Walkable Mixed-Use District" and be designated as "SPA-M" as shown on the zoning map attached to Ordinance No. 1083 as Exhibit 3, and on file with the Planning Department, County of Kaua'i.

(4) Special Planning Area N, which shall also be known as the "Ele'ele-Port Allen Walkable Mixed-Use District" and be designated as "SPA-N" as shown on the zoning map attached to Ordinance No. 1083 as Exhibit 4, and on file with the Planning Department, County of Kaua'i.

(5) Special Planning Area O, which shall also be known as the "Kaumakani Plantation Camp Walkable Mixed-Use District" and designated as "SPA-O" as shown on the zoning and surveyed maps attached to Ordinance No. 1138 as Exhibit 1, Exhibit 2a, and Exhibit 2b, and on file with the Planning Department, County of Kaua'i.

(6) Special Planning Area P, which shall also be known as the "Numila Plantation Camp Walkable Mixed-Use District" and designated as "SPA-P" as referenced in Ordinance No. PM-2025-425, Ordinance No. **** as Exhibit **, and on file with the Planning Department, County of Kaua'i.

(7) Special Planning Area Q, which shall also be known as the "Ka'awanui Plantation Camp Walkable Mixed-Use District" and designated as "SPA-Q" as referenced in Ordinance No. PM-2025-426 and on file with the Planning Department, County of Kaua'i.

(b) Pursuant to Chapter 8, Article 8A, of the Kaua'i County Code 1987, as amended, Special Planning Areas O, P, and Q shall be amended to incorporate the Plantation Camp Wildland Urban Interface regulations. The Planning Department is directed to update all corresponding form-based code booklets to reflect the new Plantation Camp Wildland Urban Interface regulations.

(c) Designation of Zoning Maps. In order to carry out the purpose of this Article, the zoning maps ZM-K100 (Kekaha), ZM-W100 (Waimea), and ZM H200 (Hanapēpē) of Chapter 8, Kaua'i County Code 1987, as amended (Comprehensive Zoning Ordinance), are hereby amended. Zoning Map ZM-KV-100 (Kaumakani Village), ZM-KA-100 (Kaumakani Avenue), ZM-NC-100 (Numila Camp), and ZM-KC6-100 (Ka'awanui Village) are hereby adopted.

Section 10-3.6. Implementation of the West Kaua'i Community Plan.

The West Kaua'i Community Plan shall serve as a guide for all development within the West Kaua'i area."

SECTION 5. The Planning Department is directed to note the changes on the official Zoning Maps on file with the Department.

SECTION 6. 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 7. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the designated Ordinance number of this Ordinance shall be substituted for the **** placeholders.

SECTION 8. Material to be deleted is bracketed. New material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring need not be included.

SECTION 9. This Ordinance shall take effect upon its approval.

Introduced by:

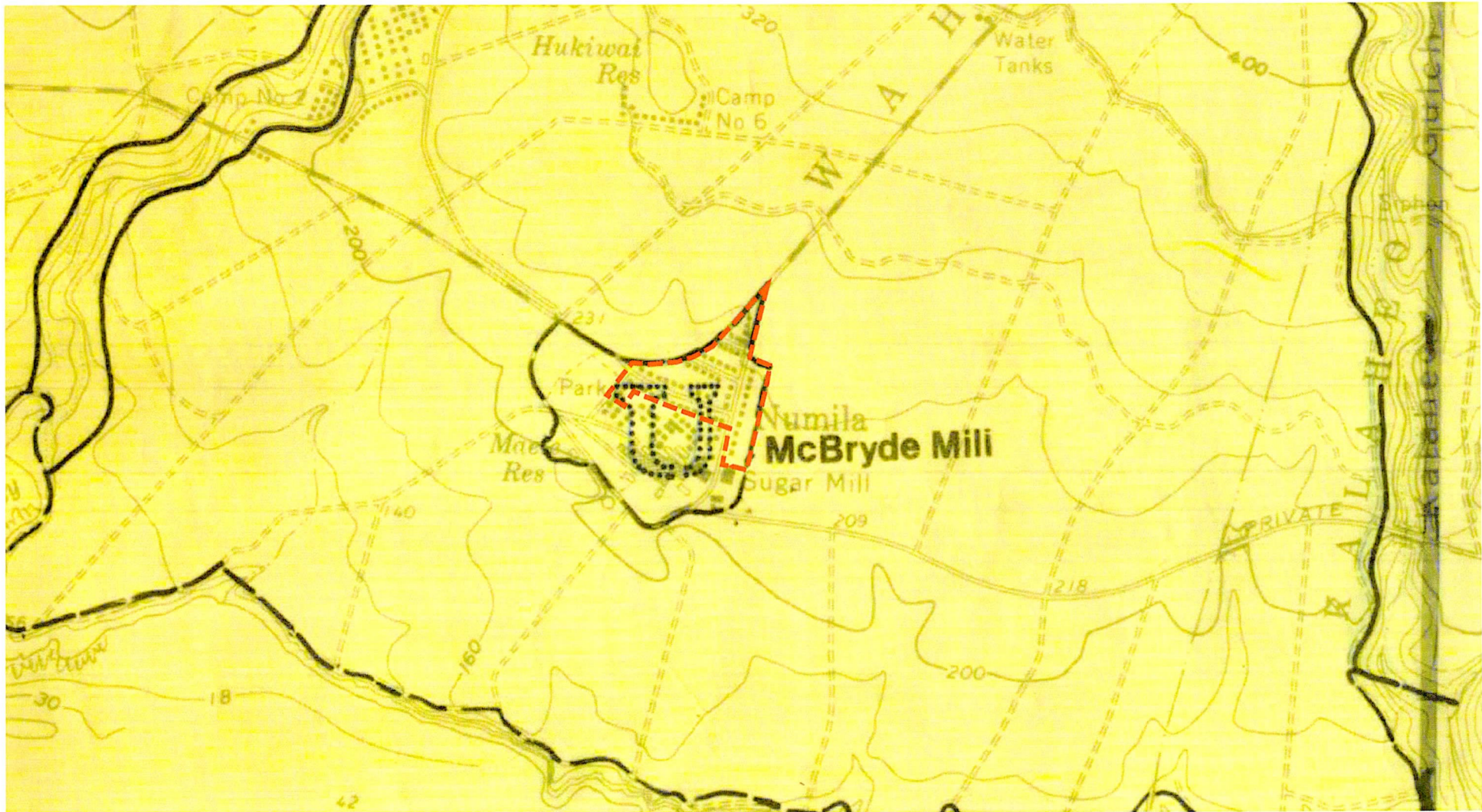
ADDISON BULOSAN
(By Request)

DATE OF INTRODUCTION:

Līhu'e, Kaua'i, Hawai'i

Exhibit A

Location Map

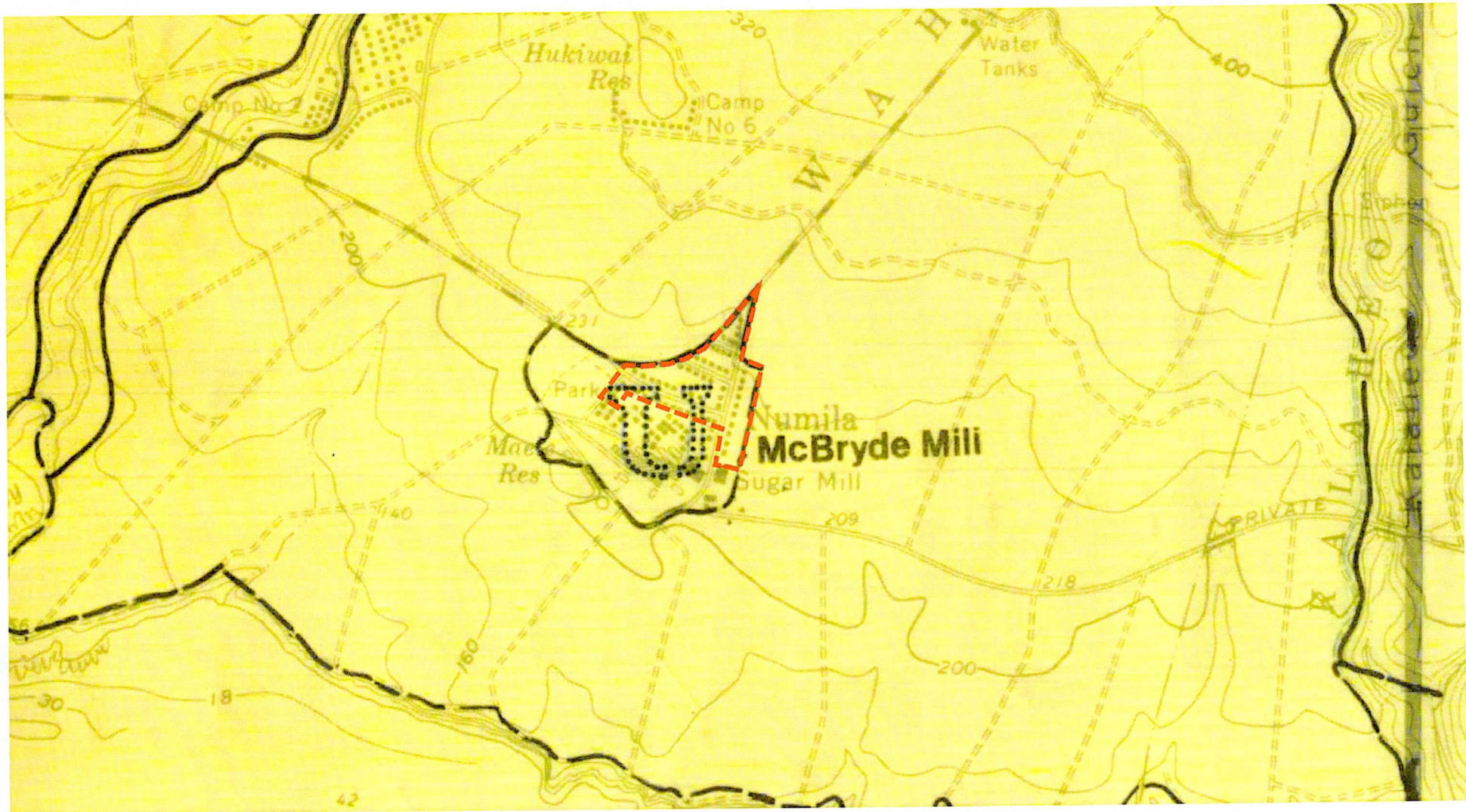


Zoning Amendment Location Map

 Amendment Boundaries

Exhibit B

ZM-NC-100



SPA-P Boundary – Numila Plantation Camp Walkable Mixed Use District
Wahiawa, Kaua'i, Hawai'i

Exhibit C



Numila Camp Form-Based Code

Prepared by the County of Kaua'i Planning Department



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Sub-Article 1.1 Purpose

1.1.010 Purpose and Intent

The Numila Form-Based Code guides development in a manner consistent with the goals of the West Kaua'i Community Plan and County of Kaua'i General Plan. This Form-Based Code provides a regulatory framework to regenerate development that is inspired by Numila Plantation Camp.

The Code is guided by policy that supports new construction of plantation homes that are inspired by several historic building types that were once located throughout the Numila Plantation Camp. The intent of the code is to allow new infill construction to be in keeping with the form and character of the former plantation camp and to provide affordable housing stock that can support agricultural activity. Specifically, the code:

- i. Promotes and enhances existing community design and development patterns that reflect the distinct character of the historic plantation camp at Numila;
- ii. Promotes and maintains workforce housing stock.
- iii. Encourages appropriately-scaled infill development that is located within or near the historic confines of the camp.

1.1.020 Using Zoning to Reinforce West Kaua'i's Places

Zoning is a tool that can be used to help implement the community's vision of a place. Form-Based Code is one form of zoning tool that emphasizes the physical form and character over the separation of use. This provides an alternative approach to Euclidean zoning, which is the type of zoning in the CZO (Chapter 8 of the Kaua'i County Code 1987, as amended). Kaua'i has five distinct place types based on historic settlement patterns. They include the following:

- i. Rural crossroads;
- ii. Plantation camps;
- iii. Small village;
- iv. Large village;
- v. Town.

As it pertains to plantation camps, Form-Based Code can activate former plantation camp lands and allow for new construction to be developed in a manner that will be in keeping with the historic plantation camps that once thrived in these areas.

1.1.030 Plantation Camp Place Type

During the Plantation era, workers lived in plantation camps located near or adjacent to the sugar mills and cane fields. These camps were built to a pedestrian-oriented scale that made it possible to traverse by foot to work and services. The fields that surrounded the towns provided a *de facto* greenbelt. The relationship between the plantation camps and agricultural lands reinforced the region's rural identity. Even with the rise of the automobile and the trend of suburban development patterns, the legacy of these camps remains in West Kaua'i.

The 2018 General Plan identifies existing plantation camps in the Future Land Use Map. The Plantation Camp is defined as an historic remnant of former plantation housing that is not connected to an existing town and is surrounded by the agricultural district. Some plantation camps were demolished and have since reverted to agricultural uses. Today's remaining plantation camps are clusters of houses with little or no retail or public facilities. Five plantation camps are designated in the General Plan and include Numila, Kaumakani Village, Kaumakani Avenue, Ka'awanui Camp, and Pakala Camp. Plantation camps are important vestiges of Kaua'i's sugar plantation history. Each camp maintains a unique sense of identity and has features and qualities that its residents would like to see preserved.

Until recently, the County zoning for these areas was "Agriculture". The 2021 West Kaua'i Community Plan (WKCP) updated the County zoning for those plantation camps located within the SLUD-Urban District, which include Numila, Kaumakani Village, Kaumakani Avenue, and Pakala Camp. Two new zoning districts were created in the WKCP: Plantation Camp District and Special Treatment – Coastal Edge District.

Numila:

The Numila Plantation Camp, also known as "Camp 9", "Mill Camp", and "New Mill", was once part of a thriving network of eighteen camps that provided housing for employees of the McBryde Sugar Plantation. Numila, which developed closest to the mill, is the last remaining plantation camp on former McBryde lands and at one point in time had approximately 185 dwellings with a population of 700-750 people (A&B, 2023). The Numila Plantation Camp was broken down into three main sections of housing: 9-A for skilled labor and lunas and 9-B and 9-C for laborers who worked at the mill (A&B, 2023). Many of the camp homes were simple, single-family residences that were occupied by a diversity of ethnic groups that worked for the plantation. In addition to dwellings, Numila Plantation Camp had other amenities such as a camp store, gas station, movie theatre, pool hall/ club house, bath house, barber shop, clinic, and at least one church (A&B, 2023).

Alexander & Baldwin, Inc. (2023) *Numila Camp Closure and Removal Project Summary*.

1.1.040 The West Kauai Numila Camp Transect

The Form Based Code transect is an organizing principle used in form-based code that establishes a hierarchy of zones, which contain places and building types and replaces use as the organizing principle. Typically, the model transect is divided into six transect zones or T-zones: Natural (T1), Rural (T2), Sub-Urban (T3), General Urban (T4), Urban Center (T5), and Urban Core (T6). However, Kaua'i's various form based codes that were instituted in several town cores and plantation camps contain only four transects (T1 to T4).

The Numila Camp Form-Based Code uses transect zones to create new, compatible neighborhoods that are inspired by the former historic plantation camp of Numila. Each transect zone has its own set of standards that will help to guide the desired form and character of an area that will be inspired by the historic uses and building types that once occupied these areas. The Numila Form Based Code contains transects that comprise a special district due to its unique pattern unlike other Kaua'i form base code transects.

The West Kauai Numila Camp Transect Zones:

- i. **T3 Numila – Plantation Camp (T3N-PC)** The form and character of this transect zone will be primarily one-story, single-family residences with accessory structures located to the rear of the single-family residences. This transect zone will also maintain similar features to the historic plantation camp layout in terms of setbacks, scale, and massing. Historically, the boundaries of this transect zone was formerly known as the Camp 9-B section of Numila Plantation Camp, which housed laborers.
- ii. **T3 Numila Luna – Plantation Camp (T3NL-PC)** - The form and character of this transect zone will be primarily for one story, medium to large sized dwelling units that may be used as single family residences or multi-family units. Historically, the boundaries of this transect was formerly known as the Camp 9-A section of Numila Plantation Camp. Camp 9-A housed skilled labor and supervisors or "luna".

1.1.050 Lack of Lot Lines

Design standards for form-based codes generally promote and facilitate orientation of structures to public roads and civic spaces that facilitate an interface between the private and the public realm. In particular, form-based codes rely on setbacks and build-to-lines in relation to lot lines to orient proposed structures with public areas. Unique to the subject Numila Form-Based Code Transects is that they overlay one large single lot of record. The subject Numila Transects and their corresponding dwellings and structures are not separated by individual lot lines. Without individual lot lines, the subject Code utilizes building-to-building and building-to-thoroughfare standards to establish the interface between the private and public realm. This approach is unique but necessary to achieve a high-quality public realm inherent within the existing plantation camp environment.

1.1.060 Wildfire Wildland Urban Interface

West Kaua'i Plantation Camp communities of Numila and Kā'awanui are located within areas identified as high-risk zones for wildfires, which pose significant threats to public health, safety, and property. These communities, situated within the Wildland Urban Interface (WUI), face unique challenges due to their proximity to dense vegetation, historic wooden structures, and limited access routes that can complicate emergency response efforts. As such, it is necessary to implement regulations that will mitigate the risks of wildfire through proactive planning, building standards, and vegetation management, ensuring the safety of residents while preserving the historic character of the communities. Building standards should incorporate fire-resistant materials and design practices that reduce the likelihood of structural ignition during a wildfire event. Vegetation management—through targeted clearing, fuel breaks, and ongoing maintenance—can significantly slow the spread of fires and protect both lives and property. Together, these strategies provide a balanced approach that safeguards the Plantation Camp communities while honoring their cultural and historical significance in the landscape.

Sub-Article 1.2 Transect Map

1.2.010 Transect Map

The transect zones established in this Article are mapped on the Transect map on page 11

1.2.020 Wildland Urban Interface Zones

The Wildland Urban Interface Zones established in this Article are mapped on the Wildland Urban Interface Zones map on page 12.

Figure 1.2.010 Numila Transect Map



-  T3N Numila – Plantation Camp
-  T3NL Numila Luna – Plantation Camp

Figure 1.2.020 Numila Wildland Urban Interface Zones



 Zone A

Article 2: Transect Descriptions and Building Types

Sub-Article 2.1: Plantation Camp Transect Zone Descriptions 15-18

2.1.010	T3 Numila – Plantation Camp (T3N-PC)	15-16
2.1.020	T3 Numila Luna – Plantation Camp (T3NL-PC)	17-18

Sub-Article 2.2: Numila Camp Building Types 20-36

2.2.010	Building Type Massing Comparisons and Layouts	20
2.2.020	Numila Cottage	21-25
2.2.030	Luna Cottage I	26-30
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2.2.050	Community Parking Facility	36

Sub-Article 2.3: Numila Building Type Frontages 38-45

2.3.010	Lānai, Projecting	38-39
2.3.020	Lānai, Engaged	40-41
2.3.030	Lānai, Hybrid	42-43
2.3.040	Stoop	44-45

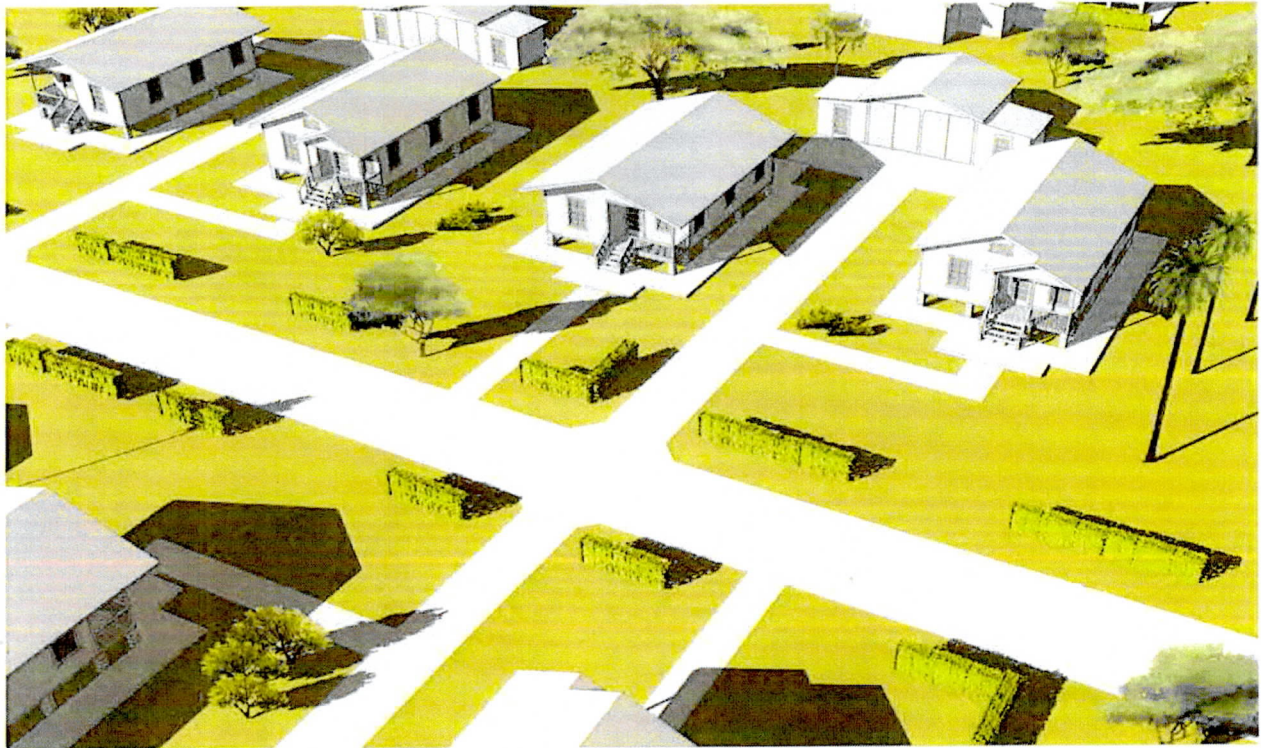
Sub-Article 2.4: Numila Building Type, Rear Exit 47-52

2.4.010	Rear Exit, Engaged	47-48
2.4.020	Rear Exit, Enclosed	49-50
2.4.030	Rear Exit, Stoop	51-52

Article 2: Transect Descriptions and Building Types

Sub-Article 2.1: Plantation Camp Transect Zone Descriptions		15-18
2.1.010	T3 Numila – Plantation Camp (T3N-PC)	15-16
2.1.020	T3 Numila Luna – Plantation Camp (T3NL-PC)	17-18

2.1.010 T3 Numila - Plantation Camp (T3N-PC)



General note: the illustration above is intended to provide a brief overview of the transect zone and is descriptive in nature.

A. Transect Zone Intent and Description

This Zone maintains the historical pattern and intensity of the Numila Plantation Camp while allowing new construction to occur on sites that were previously demolished.

B. Building Types

1. Permissible Building Types

	Standards
i. Numila Cottage	2.2.020
ii. *Community Parking Facility	2.2.050

- Except for accessory structures, all other building types are prohibited.

C. Use Table

i. Residential Uses	Permitted Use
ii. Home Businesses	Permitted Use

- Residential use within the Numila Cottage building type is the only permissible use within this transect. Home businesses are a permissible residential use within a Numila Cottage. All other uses are prohibited.

T3 Numila - Plantation Camp (T3N-PC)**D. Building Placement****1. Front Thoroughfare Setbacks**

- i. There is a 20-foot minimum setback from the front thoroughfare.
- ii. There is a 35-foot maximum setback from the front thoroughfare.

2. Building-to-Building Setbacks

-  i. There is a 30-foot minimum setback between cottages.
- ii. There is 10-foot minimum setback from all structures (i.e., from primary structures or other accessory structures)

3. Side Thoroughfare Setbacks

- i. There is a 20-foot minimum setback from the side thoroughfare for primary structures.
- ii. There is a 35-foot minimum setback from the side thoroughfare for accessory structures.

E. Parking**1. Required Spaces**

- i. 1 off-thoroughfare parking stall is required per primary structures.
- ii. Each primary structure shall have a detached garage or carport.
- iii. Garage or carport structures may be shared between 2 primary structures, and these shared garages shall accommodate at least 2 vehicles.

2. Parking Setback

- i. All off-thoroughfare parking areas shall be located behind the respective primary structures' rear wall.

F. Accessory Structures

- i. Non-habitable detached accessory structures do not require a building type and shall be located behind the rear of the primary structure.
- ii. Accessory structures are allowed throughout this transect.
- iii. Accessory structures shall not exceed 600 square feet in size.
- iv. Accessory structures shall be limited to no more than 2 per primary structure.
- v. Permissible roof types for accessory structures are Gable, Hip, Flat, and single-sloping shed roofs.
- vi. All accessory structures shall have a maximum of 9 feet from the finished floor to top of wall plate.
- vii. Accessory structures have a 10-foot setback from all structures (accessory or primary).
- viii. Fences may encroach into the front or side setback; however, fences shall not exceed 4 feet in height.
-  ix. All fences within 5 feet of any other structure (accessory and primary) shall be constructed with non-combustible materials.

G. *Community Parking Facility

- i. The Community Parking Facility may be constructed to accommodate the required parking stalls.
- ii. The Community Parking Facility is allowed throughout this transect.
- iii. There is a 10-foot minimum setback from the front thoroughfare for the Community Parking Facility.

2.1.020 T3 Numila Luna - Plantation Camp (T3NL-PC)



General note: the illustration above is intended to provide a brief overview of the transect zone and is descriptive in nature.

A. Transect Zone Intent and Description

This Zone maintains the historical pattern and intensity of the Numila Plantation Camp while allowing new construction to occur on sites that were previously demolished.

B. Building Types

1. Permissible Building Types Standards

i. Luna Cottage I	2.2.030
ii. Luna Cottage II	2.2.040
iii. *Community Parking Facility	2.2.050

- With the exception of accessory structures, all other building types are prohibited.

C. Use Table

i. Residential Uses	Permitted Use
ii. Home Businesses	Permitted Use
iii. Dormitory	Permitted Use

- Residential use within the building types is the only permissible use within this transect. Home businesses are a permissible residential use within the above building types. All other uses are prohibited.

T3 Numila Luna - Plantation Camp (T3NL-PC)**D. Building Placement****1. Front Thoroughfare Setbacks**

- i. There is a 20-foot minimum setback from the front thoroughfare.
- ii. There is a 35-foot maximum setback from the front thoroughfare.

2. Building-to-Building Setbacks

- i. There is a 30-foot minimum setback between cottages.
- ii. There is 10-foot minimum setback from all structures (i.e., from primary structures or other accessory structures)

E. Parking**1. Required Spaces**

- i. 1 off-thoroughfare parking stall is required per primary structure. The required stall can be located in a Community Parking Facility.
- ii. Each primary structure shall have a garage or carport.
- iii. Garage or carport structures may be shared between 2 cottages, and these shared garages shall accommodate at least 2 vehicles.

2. Parking Setback

- i. All off-thoroughfare parking areas shall be setback behind the respective primary structures' rear wall.

F. Accessory Structures

- i. Non-habitable detached accessory structures do not require a building type and shall be located behind the rear of the primary structure.
- ii. Accessory structures are allowed throughout this transect.
- iii. Accessory structures shall not exceed 600 square feet in size.
- iv. Accessory structures shall be limited to no more than 2 per primary structure.
- v. Permissible roof types for accessory structures are Gable, Hip, Flat, and single-sloping shed roofs.
- vi. All accessory structures shall have a maximum of 9 feet from the finished floor to top of wall plate.
- vii. Accessory structures have a 10-foot setback from all structures (accessory or primary).
- viii. Fences may encroach into the front or side setback; however, fences shall not exceed 4 feet in height.
- ix. All fences within 5 feet of any other structure (accessory and primary) shall be constructed with non-combustible materials.

G. *Community Parking Facility

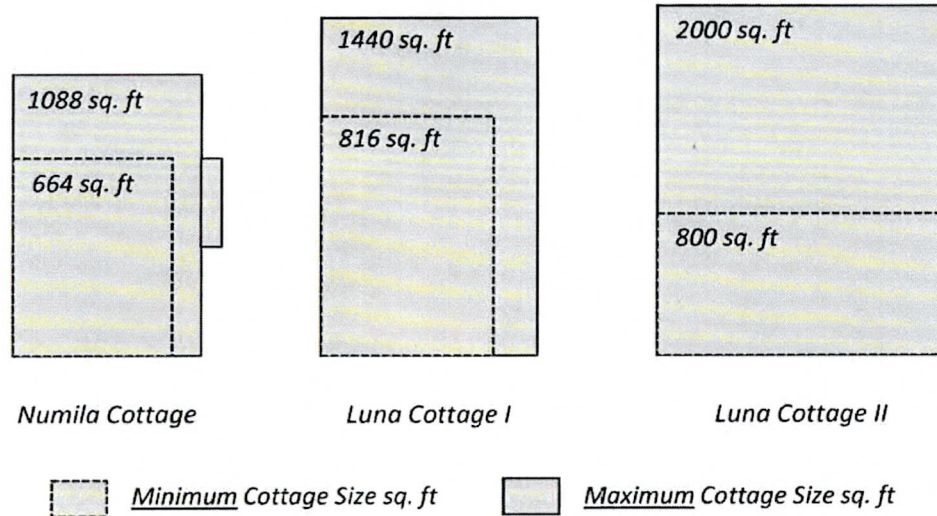
- i. The Community Parking Facility may be constructed to accommodate the required parking stalls.
- ii. The Community Parking Facility is allowed throughout this transect.
- iii. There is a 10-foot minimum setback from the front thoroughfare for the Community Parking Facility.

Article 2: Transect Descriptions and Building Types

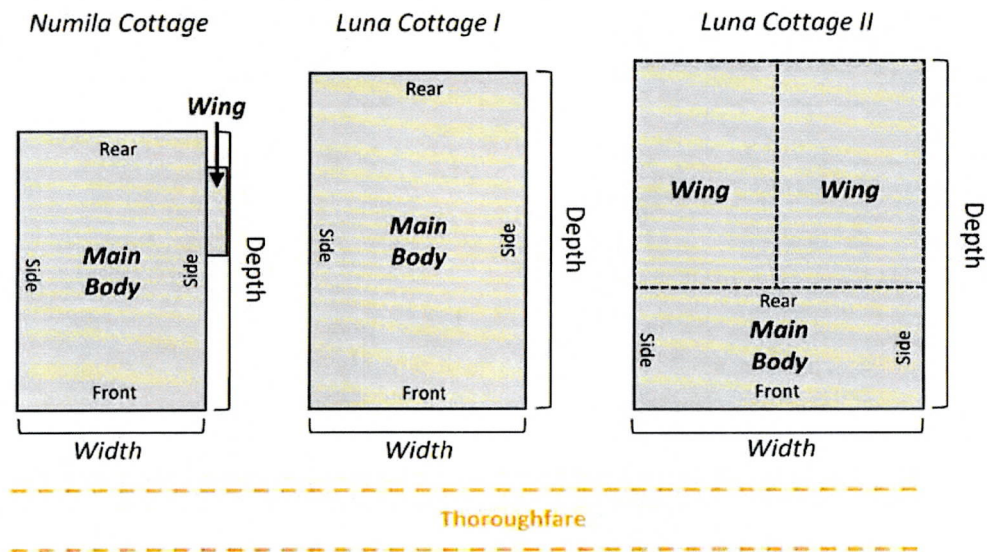
Sub-Article 2.2: Numila Camp Building Types 20-35

2.2.010	Building Type Massing Comparisons and Layouts	20
2.2.020	Numila Cottage	21-22
2.2.030	Luna Cottage I	23-24
2.2.040	Luna Cottage II	25-26
2.2.050	Community Parking Facility	35

2.2.010 Numila Camp Building Type Overview

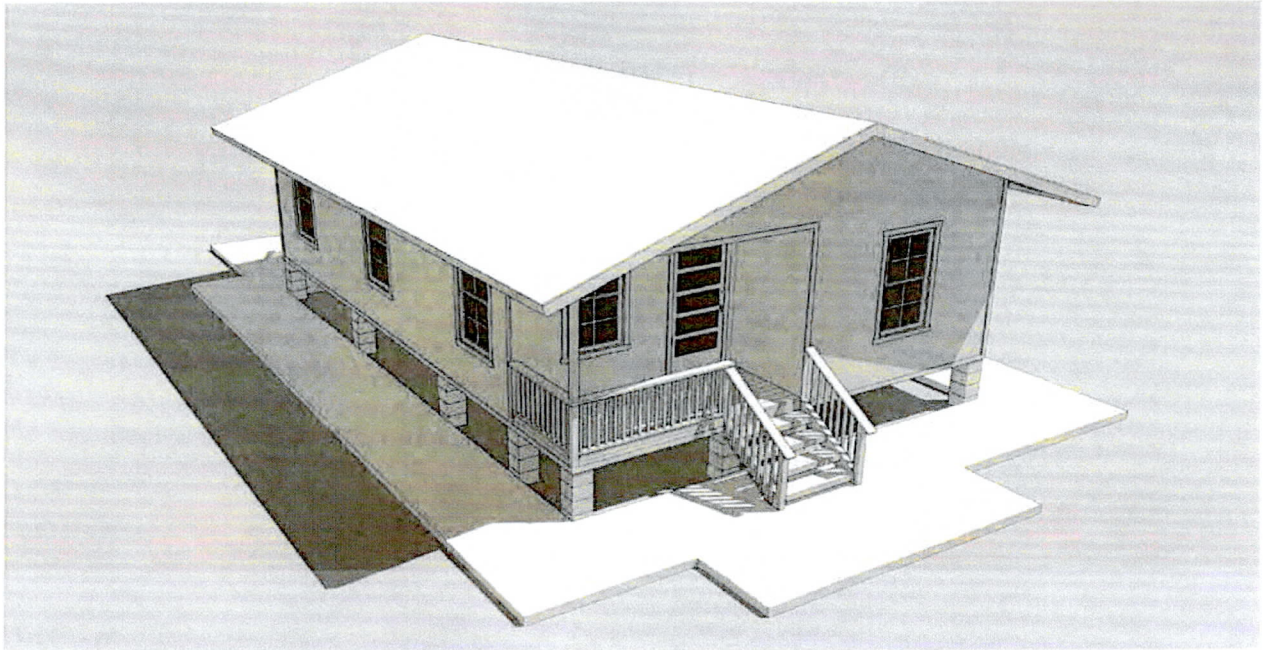
A. Transects T3N and T3NL Building Type minimum and/or maximum sq. ft thresholds

Numila Cottage, Luna Cottage I, and Luna Cottage II building types can range in size and configuration in a manner consistent with historical building massing. Minimum and/or Maximum building types sizes are outlined above.

B. Transects T3N, T3H, and T3NL Building Type width and depth measurements

The Numila Cottage, Luna Cottage I, and Luna Cottage II building types are assigned a primary thoroughfare with the front wall of the corresponding cottages sitting parallel to the primary thoroughfare. Therefore, all structure walls parallel to the primary thoroughfare utilize width measurements and a structure walls perpendicular to the primary thoroughfare utilize depth measurements. *The HSPA Cottage does not have to be associated with a thoroughfare, however it still maintains front, side, and rear designations consistent with its fixed size and character constraints.

2.2.020 Numila Cottage



General note: the illustration above is intended to provide a brief overview of the building type and is descriptive in nature.

A. Description

Numila Cottage: This building type is a medium-sized detached residential structure, and it is used for single family occupancy. This building type is inspired by the various plantation camp homes that were located throughout Camp 9-B, which housed laborers. Some of the homes in the Camp 9-B section were originally relocated from the Camp 9-C portion of Numila Plantation Camp.

B. Building Size and Massing

1. Massing

- i. A Numila Cottage shall have 1 main body section.
- ii. No more than 1 main body is permissible for each Numila Cottage.
- iii. A Numila Cottage may have 1 wing attached to the main body.
- iv. The wing shall be located entirely along 1 of the main body's side walls.

2. Main Body

- i. The minimum width of the main body shall be 22 feet and a maximum of 26 feet.
- ii. The minimum depth of the main body shall be 28 feet and a maximum of 40 feet.

B. Building Size and Massing (continued)

3. Wing(s)

- i. The width of the wing shall be no more than 4 feet maximum.
- ii. The depth of the wing shall be no more than 12 feet maximum.

C. Building Frontages

- i. A Numila Cottage shall have at least 1 frontage type.
- ii. The permissible frontage types are: Lānai, Projecting; Lānai, Engaged; Lānai, Hybrid. All other frontage types are prohibited.

D. Building Rear Exit

- i. A Numila Cottage may a Rear Exit type. The permissible Rear Exit types are: Rear Exit, Stoop; Rear Exit, Engaged; Rear Exit, Enclosed.

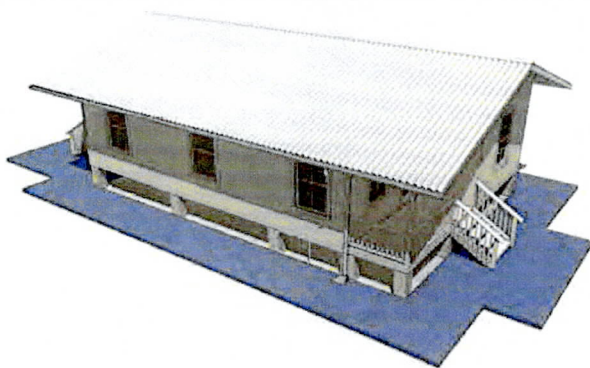
E. Pedestrian Access

- i. The main entrance location shall be located in the frontage of the Numila Cottage.

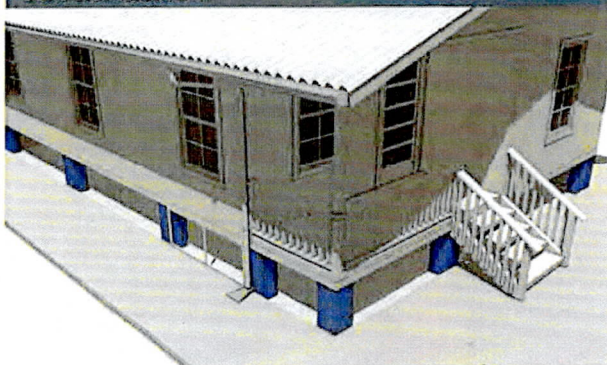
2.2.020 Numila Cottage

F. Height

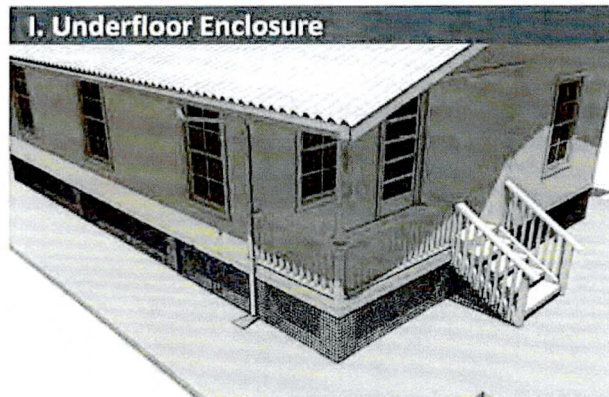
- i. The Numila Cottage shall have a maximum height of 9 feet from the finished floor to the top of wall plate.
- ii. Finished grade at the main entry shall not be greater than 4 feet above existing grade.

G. Zone 0: 5-Foot Noncombustible Zone (NCZ) Requirements

- 🔥 i. For any newly proposed Numila Cottage a 5-foot groundcover comprised of concrete hardscape with a depth of at least 4 inches shall be constructed in the NCZ.

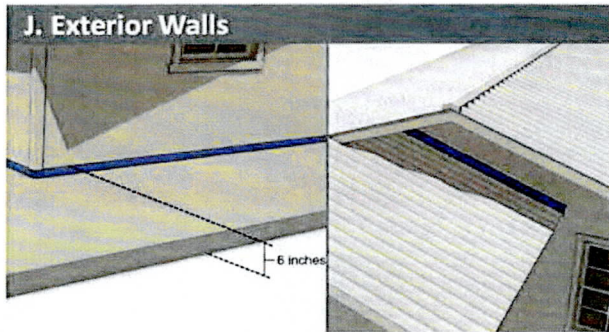
H. Foundation

- i. The Numila Cottage shall have a post-on-pier foundation that does not exceed 4 feet height, except as required by the County of Kauai Floodplain Management Program.
- 🔥 i. The post-on-pier foundation shall be constructed with non-combustible materials.

I. Underfloor Enclosure

- 🔥 i. Numila Cottages 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:
 - 🔥 a. Extended down to be flush with grade and abut against the adjacent 5-foot concrete hardscape groundcover required; and,
 - 🔥 b. Any associated material including but not limited to framing material or covering material (such as lattice) shall be noncombustible; and,
 - 🔥 c. 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.

2.2.020 Numila Cottage



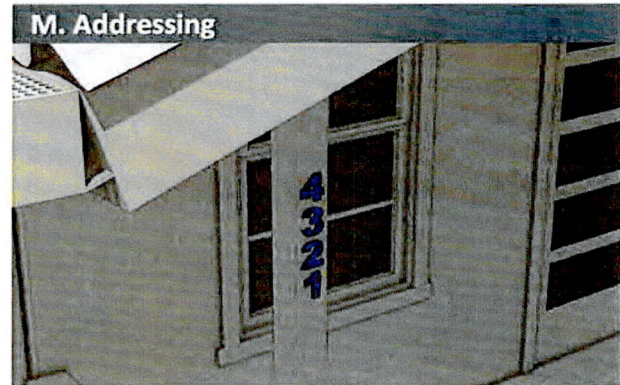
- i. A minimum of 6 inches of noncombustible material vertically on the exterior of the wall shall be installed at the ground, decking, and roof intersections.

K. Siding

- i. All siding material shall be wood or have the appearance of wood (as determined by the Director)
- ii. All siding shall be vertically aligned.

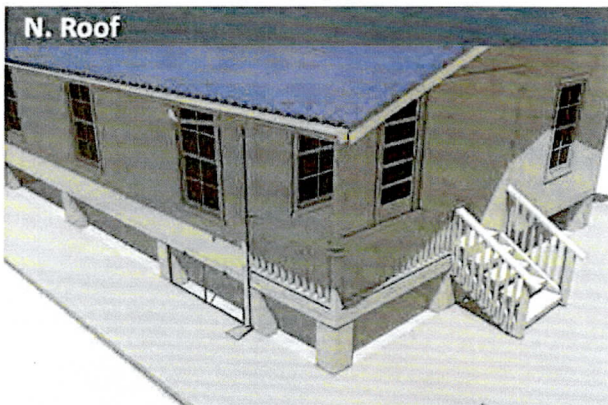
L. Exterior Glazing

- i. All windows shall be single or double hung.
- ii. As an exception, slider windows may be granted for kitchens or bathrooms; however, slider windows shall not face the front thoroughfare.
- iii. Each Numila Cottage's exterior windows, window walls, and glazed doors, windows within exterior doors shall be dual paned tempered glass or have a fire protection rating of not less than 20 minutes and tested to conform to ASTM E119.



- i. Each Numila Cottage shall have its address marked on its exterior thoroughfare facing wall, and it shall be clearly visible from the thoroughfare.

2.2.020 Numila Cottage

**1. Roof Pitch**

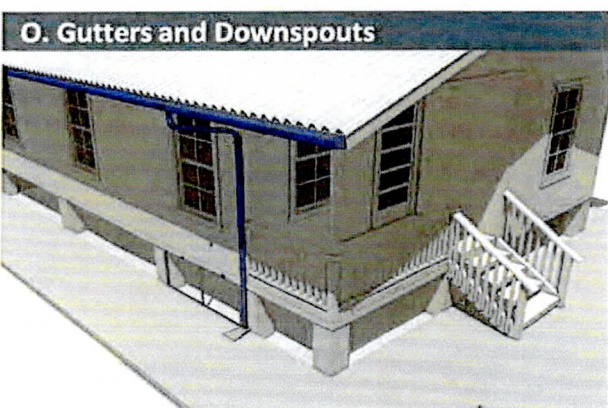
- i. The Numila Cottage roof pitch ratios shall be set at a 5:12 or 6:12 pitch.

2. Roof Material Type

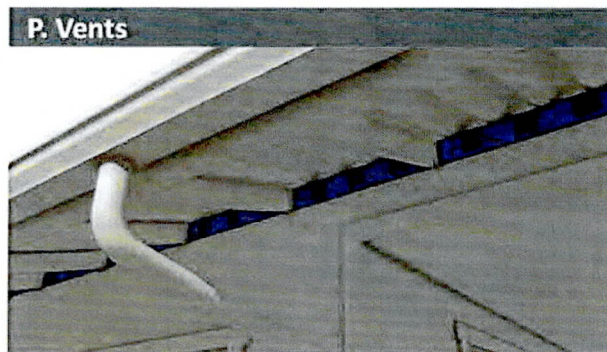
- i. Roofs shall have a roof assembly that complies with a Class A rating when testing in accordance with ASTM E108. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space shall be fire-stopped to prevent entry of flames or embers.

3. Miscellaneous

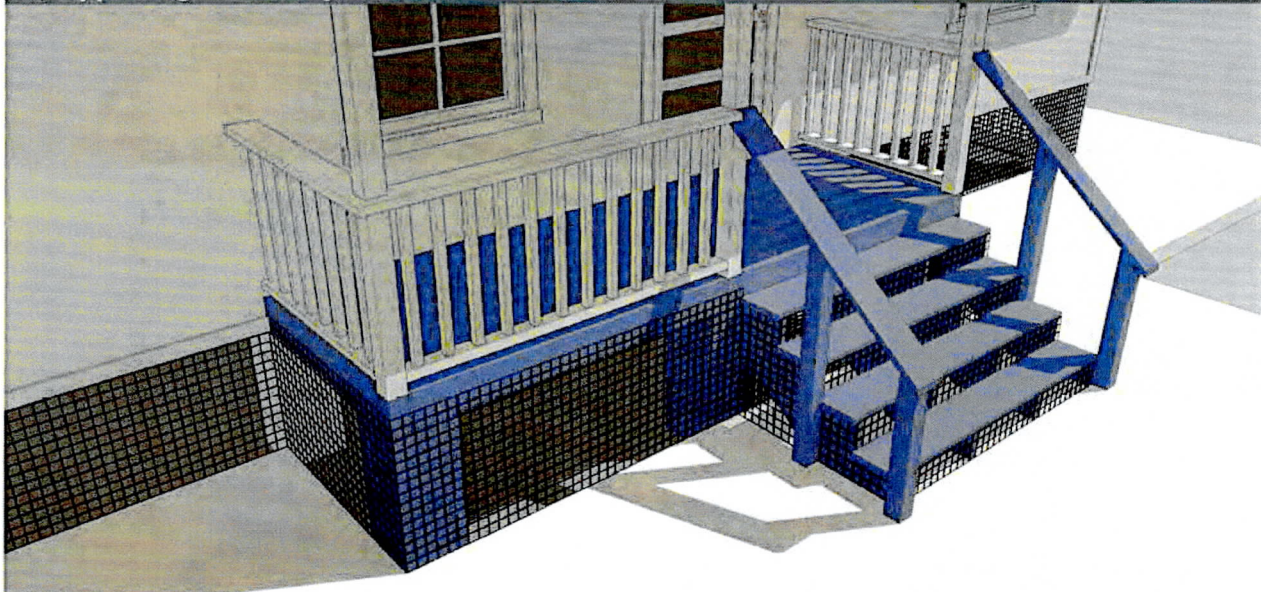
- i. The Numila Cottage roof types shall be Gable, Hip, or Dutch-Gable.



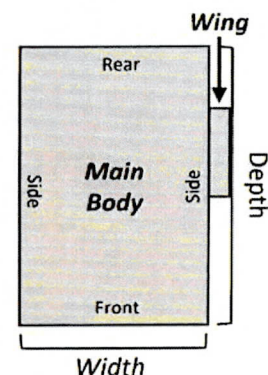
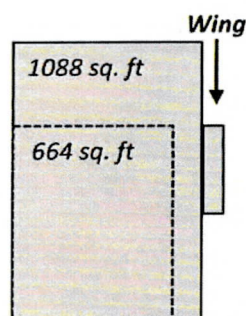
- i. Gutters and downspouts shall be constructed of metal material. Gutters shall be covered with a noncombustible material to prevent the accumulation of debris within the gutter.



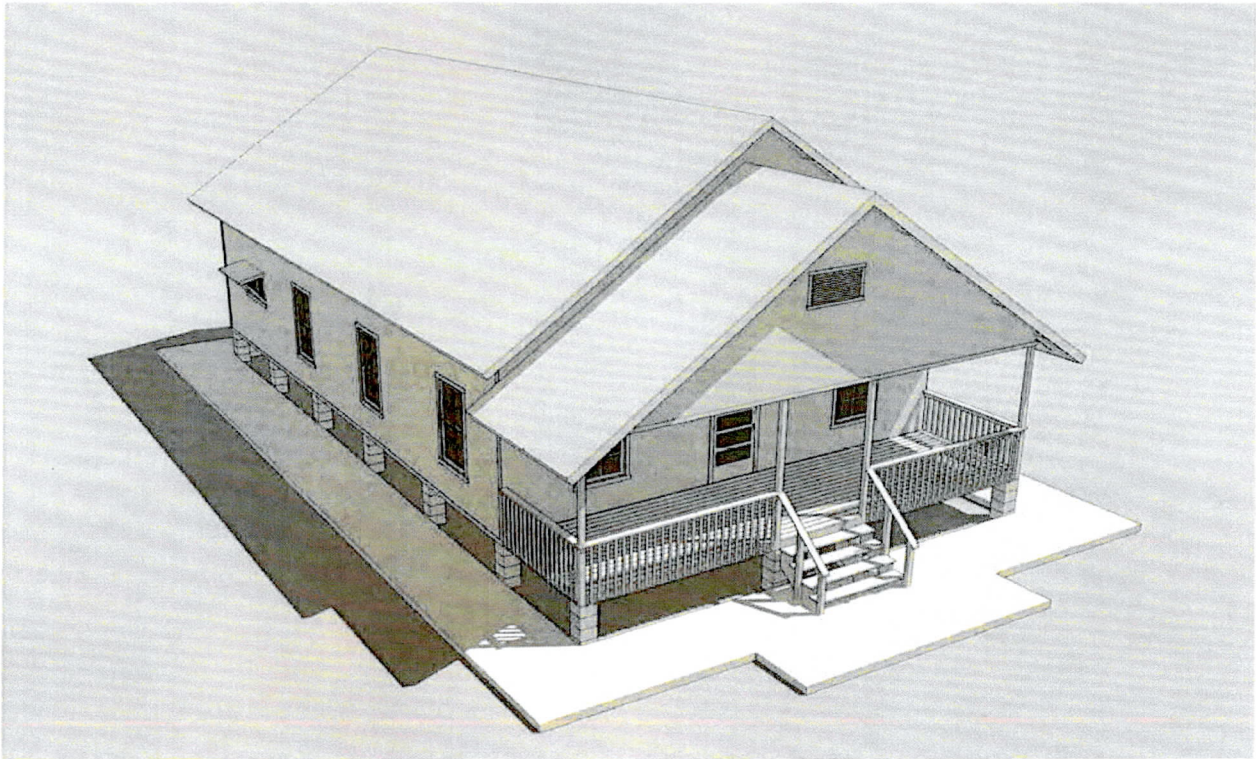
- i. Ventilation openings for enclosed attics (e.g., gable ends, ridge ends, and enclosed eave soffit spaces), enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, underfloor ventilation, foundations, and crawl spaces; under eaves and cornices; or for any other opening intended to permit ventilation, either in a horizontal or vertical surface, must resist the intrusion of burning embers and flames by meeting one of the following requirements:
 - a. Performance-based requirements: Corrosion-resistant ember and flame-resistant vents tested to conform to ASTM E2886.
 - b. Prescriptive-based requirements: Vents must be made of a noncombustible material and covered on the exterior with noncombustible corrosion-resistant mesh with openings not to exceed 1/16th inch (1.6 mm).
 - I. Exceptions: Dryer vents shall have a properly functioning solid louver or flap in lieu of mesh. Plumbing vents are excluded from these requirements.

Q. Appendages and Projections

- ✿ i. Unenclosed appendages and projections attached to buildings such as decks, lanais, 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). Construction of appendages and projections shall meet the following additional requirements:
- ✿ a. 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;
 - ✿ b. Noncombustible or ignition resistant material is required for all flooring material.
 - ✿ I. 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.
 - ✿ c. Noncombustible or ignition resistant material is required for all walls and posts that are perpendicular to the deck.
 - ✿ I. 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.

Building Type Details**Min and/or Max sq. ft thresholds****Width, Depth, and Wing Assignments**

2.2.030 Luna Cottage I



General note: the illustration above is intended to provide a brief overview of the building type and is descriptive in nature.

A. Description

Luna Cottage I: This building type is a medium-to-large-sized detached residential structure, and it may be used for single family occupancy or dormitory uses. This building type is inspired by the Camp 9-A building type found in House #164, 165, and 166, which housed skilled labor and supervisors or "luna".

B. Building Size and Massing

1. Massing

- i. A Luna Cottage I shall have 1 main body section.
- ii. No more than 1 main body is permissible for each Luna Cottage I.
- iii. Wings are prohibited on the Luna Cottage I.

2. Main Body

- i. The minimum width of the main body shall be 24 feet and a maximum of 30 feet.
- ii. The minimum depth of the main body shall be 34 feet and a maximum of 48 feet maximum.

C. Building Frontages

- i. A Luna Cottage I shall have at least 1 frontage type. The permissible frontage type is Lānai, Projecting.

D. Building Rear Exit

- i. A Luna Cottage I may have a Rear Exit. The permissible Rear Exit types are: Stoop; Rearage, Enclosed. All other rearage types are prohibited.

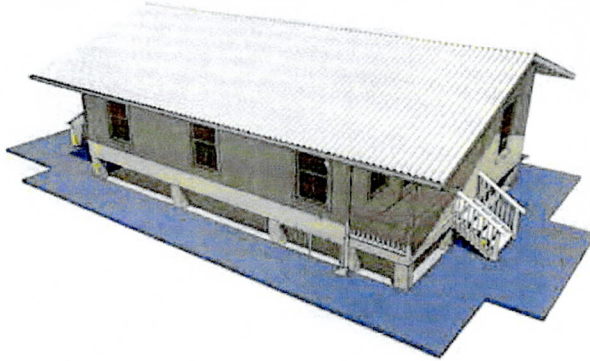
E. Pedestrian Access

- i. The main entrance shall be located in the front of the Luna Cottage I.

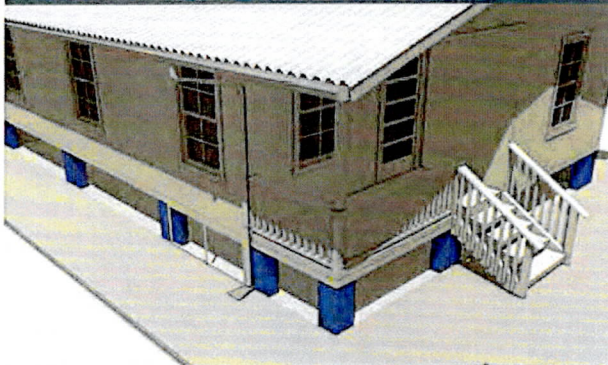
F. Height

- i. The Luna Cottage I shall have a maximum height of 12 feet from the finished floor to the top of wall plate.
- ii. Finished grade at the main entry shall not be greater than 4 feet above existing grade.

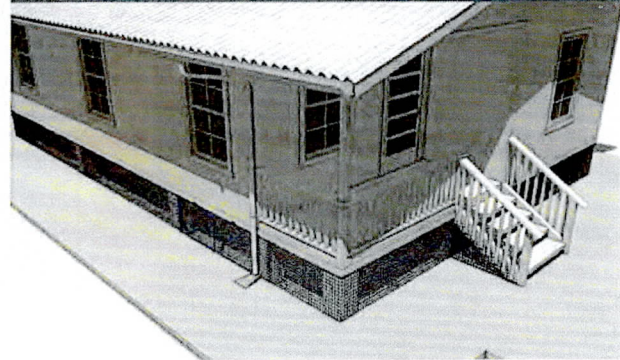
2.2.030 Luna Cottage I

G. Zone 0: 5-Foot Noncombustible Zone (NCZ) Requirements

- 🔥 i. For any newly proposed Luna Cottage I a 5-foot groundcover comprised of concrete hardscape with a depth of at least 4 inches shall be constructed in the NCZ.

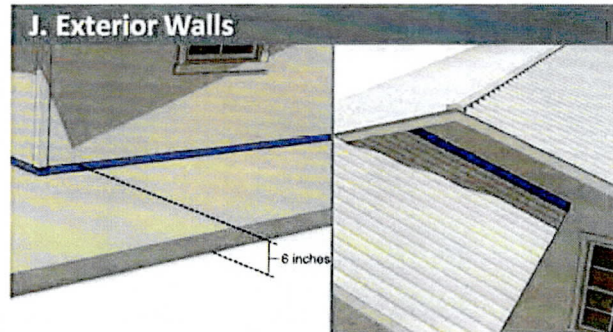
H. Foundation

- i. The Luna Cottage I shall have a post-on-pier foundation that does not exceed 4 feet height, except as required by the County of Kauai Floodplain Management Program.
 - 🔥 i. The post-on-pier foundation shall be constructed with non-combustible materials.

I. Underfloor Enclosure

- 🔥 i. A Luna Cottage I 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:
 - 🔥 a. Extended down to be flush with grade and abut against the adjacent 5-foot concrete hardscape groundcover required; and,
 - 🔥 b. Any associated material including but not limited to framing material or covering material (such as lattice) shall be noncombustible; and,
 - 🔥 c. 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.

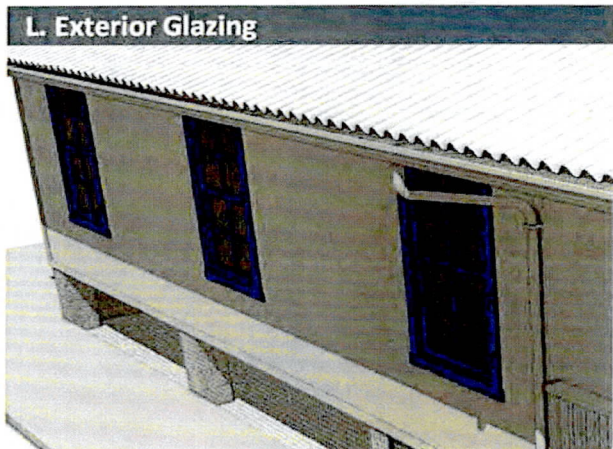
2.2.030 Luna Cottage I



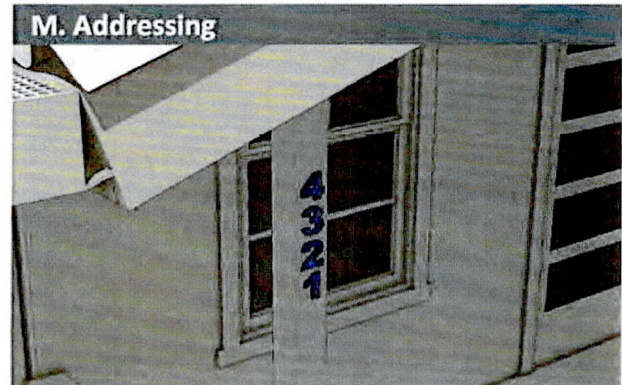
- i. A minimum of 6 inches of noncombustible material vertically on the exterior of the wall shall be installed at the ground, decking, and roof intersections.

K. Siding

- i. All siding material shall be wood or have the appearance of wood (as determined by the Director)
- ii. All siding shall be vertically aligned.

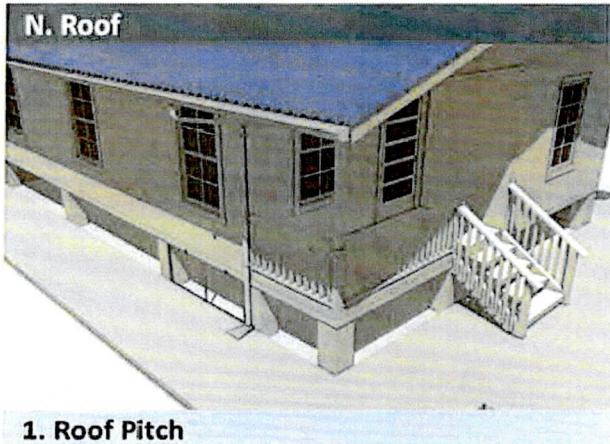


- i. All windows shall be single or double hung.
- ii. As an exception, slider windows may be granted for kitchens or bathrooms; however, slider windows shall not face the front thoroughfare.
- iii. Each Luna Cottage I exterior windows, window walls, and glazed doors, windows within exterior doors shall be dual paned tempered glass or have a fire protection rating of not less than 20 minutes and tested to conform to ASTM E119.



- i. Each Luna Cottage I shall have its address marked on its exterior thoroughfare facing wall, and it shall be clearly visible from the thoroughfare.

2.2.030 Luna Cottage I

**1. Roof Pitch**

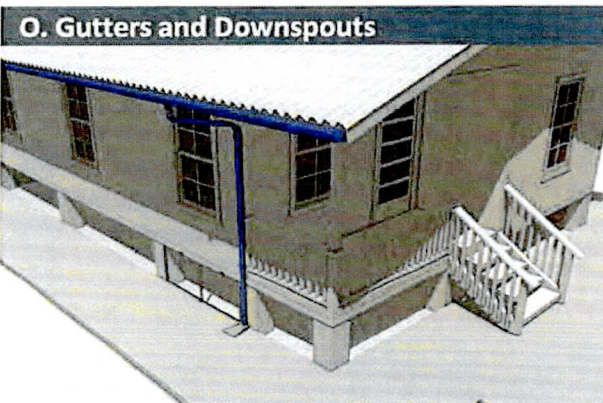
- i. The Luna Cottage I roof pitch ratio shall be set at an 8:12 pitch.

2. Roof Material Type

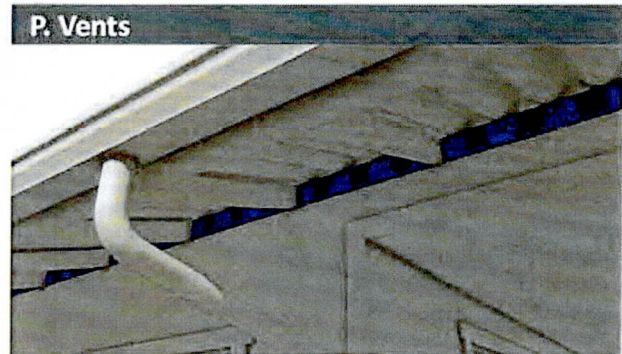
- 🔥 i. Roofs shall have a roof assembly that complies with a Class A rating when testing in accordance with ASTM E108. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space shall be fire-stopped to prevent entry of flames or embers.

3. Miscellaneous

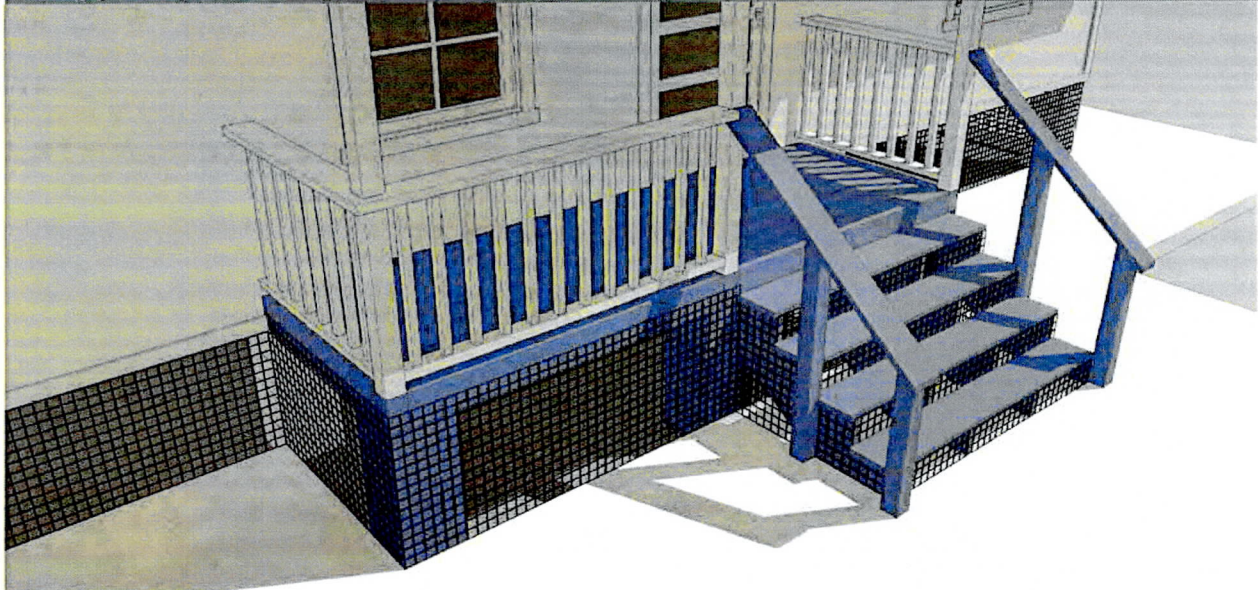
- i. The Luna Cottage I roof types shall be Gable.



- 🔥 i. 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.

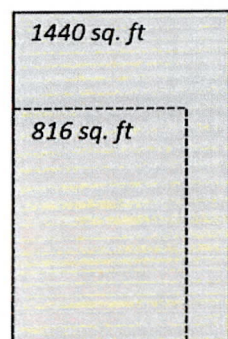
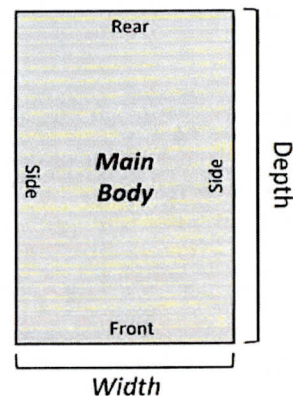


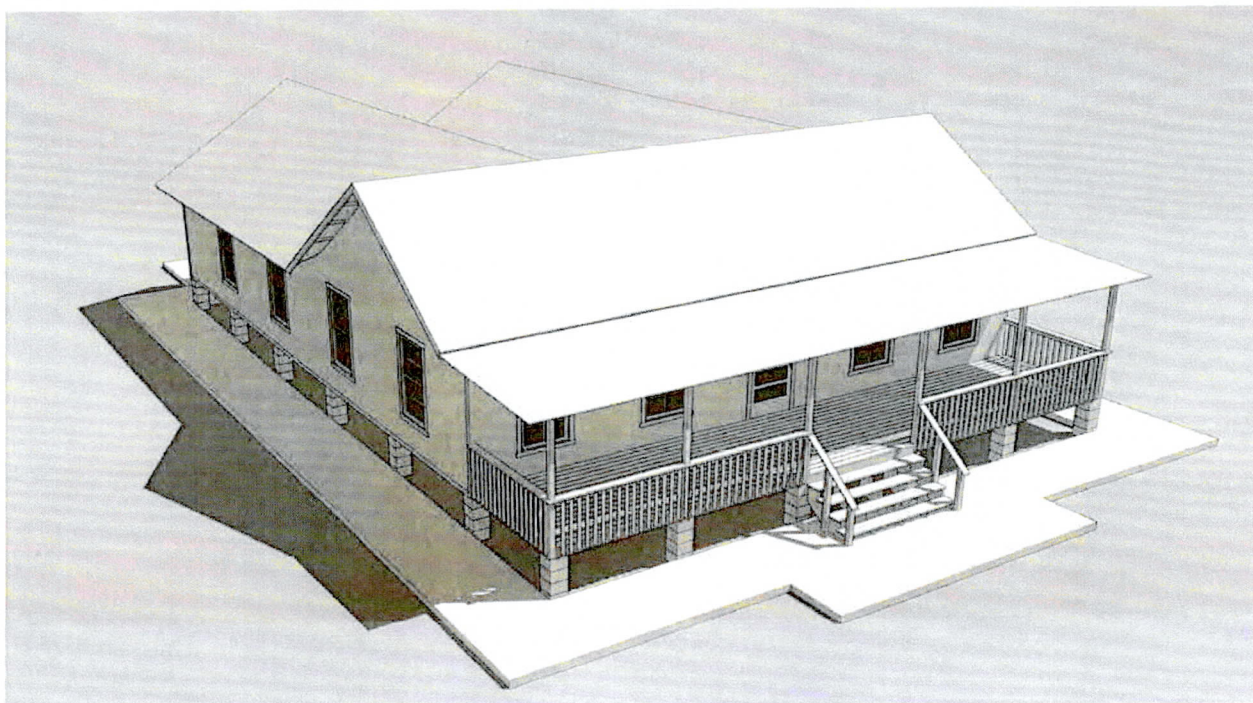
- 🔥 i. Ventilation openings for enclosed attics (e.g., gable ends, ridge ends, and enclosed eave soffit spaces), enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, underfloor ventilation, foundations, and crawl spaces; under eaves and cornices; or for any other opening intended to permit ventilation, either in a horizontal or vertical surface, must resist the intrusion of burning embers and flames by meeting one of the following requirements:
 - 🔥 a. Performance-based requirements: Corrosion-resistant ember and flame-resistant vents tested to conform to ASTM E2885.
 - 🔥 b. Prescriptive-based requirements: Vents must be made of a noncombustible material and covered on the exterior with noncombustible corrosion-resistant mesh with openings not to exceed 1/16th inch (1.6 mm).
 - 🔥 l. Exceptions: Dryer vents shall have a properly functioning solid louver or flap in lieu of mesh. Plumbing vents are excluded from these requirements.

Q. Appendages and Projections

- i. Unenclosed appendages and projections attached to buildings such as decks, lanais, 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). Construction of appendages and projections shall meet the following additional requirements:

 - a. 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;
 - b. Noncombustible or ignition resistant material is required for all flooring material.
 - i. 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.
 - c. Noncombustible or ignition resistant material is required for all walls and posts that are perpendicular to the deck.
 - i. 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.

Building Type Details**Min and/or Max sq. ft thresholds****Width, Depth, and Wing Assignments**



General note: the illustration above is intended to provide a brief overview of the building type and is descriptive in nature.

A. Description

Luna Cottage II: This building type is a medium-to-large-sized detached residential structure, and it may be used for single family occupancy or dormitory uses. This building type is inspired by the Camp 9-A building type in House #152, which housed skilled labor and supervisors or "luna".

B. Building Size and Massing

1. Massing

- i. A Luna Cottage II shall have 1 main body section.
- ii. No more than 1 main body is permissible for each Luna Cottage II.
- iii. A Luna Cottage II may have multiple wings attached to the main body.
- iv. The wing shall be attached to the rear of the main body.

B. Building Size and Massing (continued)

2. Main Body

- i. The width of the main body shall be a maximum of 40 feet.
- ii. The depth of the main body shall be a maximum of 20 feet.

3. Wing(s)

- i. The width of the wings shall be a maximum of 20 feet.
- ii. The depth of the wings shall be a maximum of 30 feet.

C. Building Frontages

- i. A Luna Cottage II shall have at least one frontage type. The permissible frontage type is Lānai, Projecting.
- ii. The frontage shall span the entire width of the main body.

D. Building Rear Exit

- i. A Luna Cottage II may have a Rear Exit type. The permissible Rear Exit types are: Stoop; Rearage, Enclosed. All other Rear Exit types are prohibited.

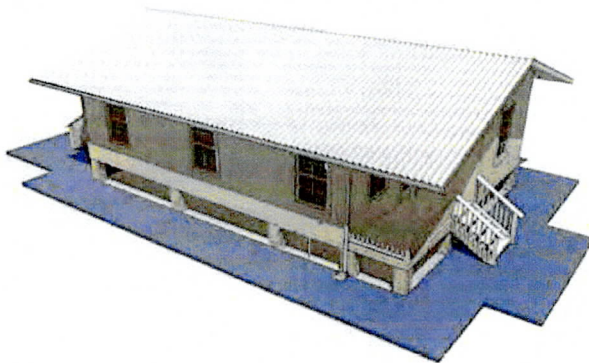
2.2.040 Luna Cottage II

E. Pedestrian Access

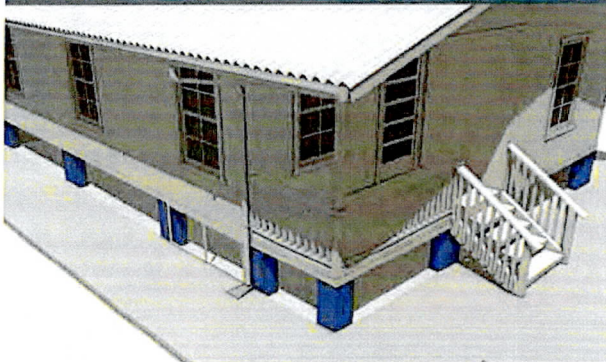
- i. The main entrance location shall be located in the front of the Luna Cottage II.

F. Height

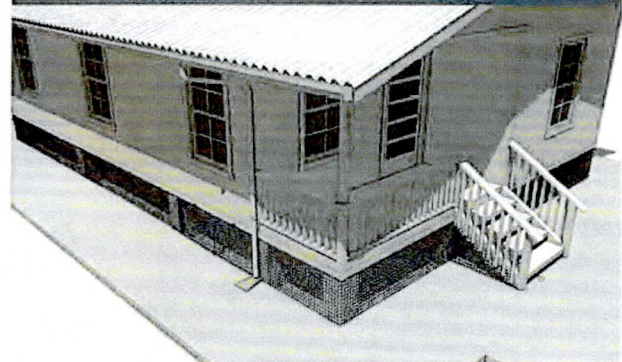
- i. The Luna Cottage II shall have a maximum height limit of 9 feet from the finished floor to the top of wall plate.

G. Zone 0: 5-Foot Noncombustible Zone (NCZ) Requirements

- i. For any newly proposed Luna Cottage II a 5-foot groundcover comprised of concrete hardscape with a depth of at least 4 inches shall be constructed in the NCZ.

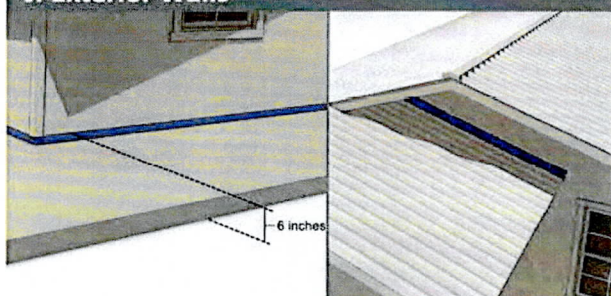
H. Foundation

- i. The Luna Cottage II shall have a post-on-pier foundation that does not exceed 4 feet height, except as required by the County of Kauai Floodplain Management Program.
 - i. The post-on-pier foundation shall be constructed with non-combustible materials.

I. Underfloor Enclosure

- i. A Luna Cottage II 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:
 - a. Extended down to be flush with grade and abut against the adjacent 5-foot concrete hardscape groundcover required; and,
 - b. Any associated material including but not limited to framing material or covering material (such as lattice) shall be noncombustible; and,
 - c. 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.

2.2.040 Luna Cottage II

J. Exterior Walls

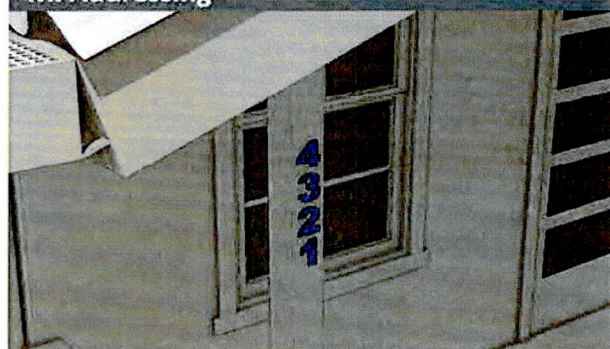
- i. A minimum of 6 inches of noncombustible material vertically on the exterior of the wall shall be installed at the ground, decking, and roof intersections.

K. Siding

- i. All siding material shall be wood or have the appearance of wood (as determined by the Director)
- ii. All siding shall be vertically aligned.

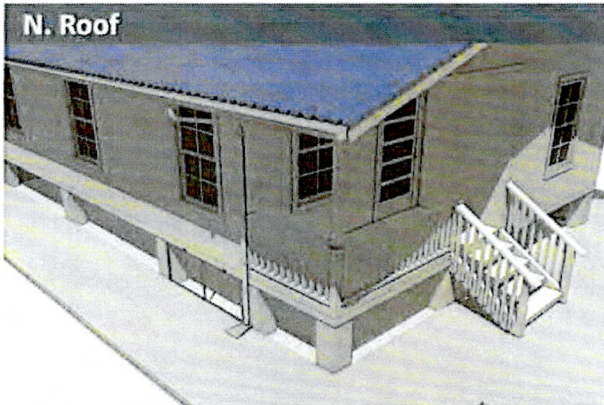
L. Exterior Glazing

- i. All windows shall be single or double hung.
- ii. As an exception, slider windows may be granted for kitchens or bathrooms; however, slider windows shall not face the front thoroughfare.
- iii. Each Luna Cottage II exterior windows, window walls, and glazed doors, windows within exterior doors shall be dual paned tempered glass or have a fire protection rating of not less than 20 minutes and tested to conform to ASTM E119.

M. Addressing

- i. Each Luna Cottage II shall have its address marked on its exterior thoroughfare facing wall, and it shall be clearly visible from the thoroughfare.

2.2.040 Luna Cottage II

**1. Roof Pitch**

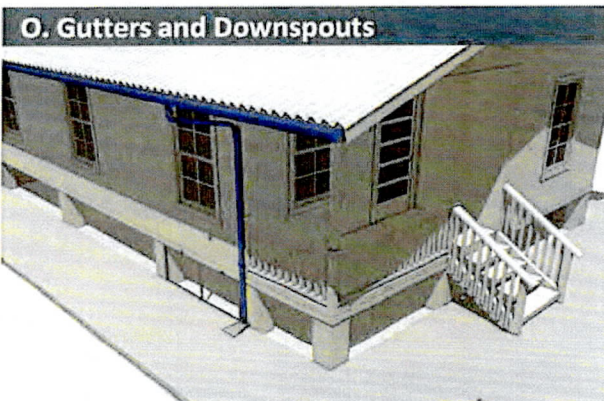
- i. The Luna Cottage II roof pitch ratio shall be set at an 8:12 pitch.

2. Roof Material Type

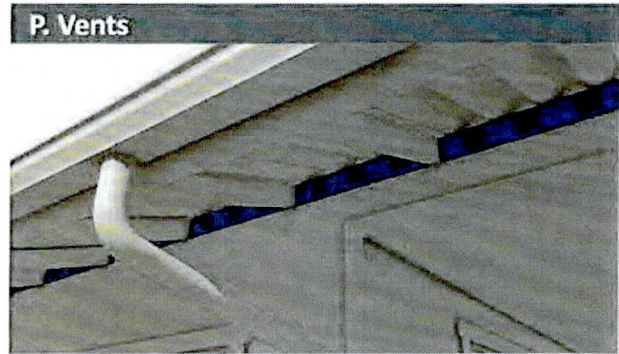
- i. Roofs shall have a roof assembly that complies with a Class A rating when testing in accordance with ASTM E108. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space shall be fire-stopped to prevent entry of flames or embers.

3. Miscellaneous

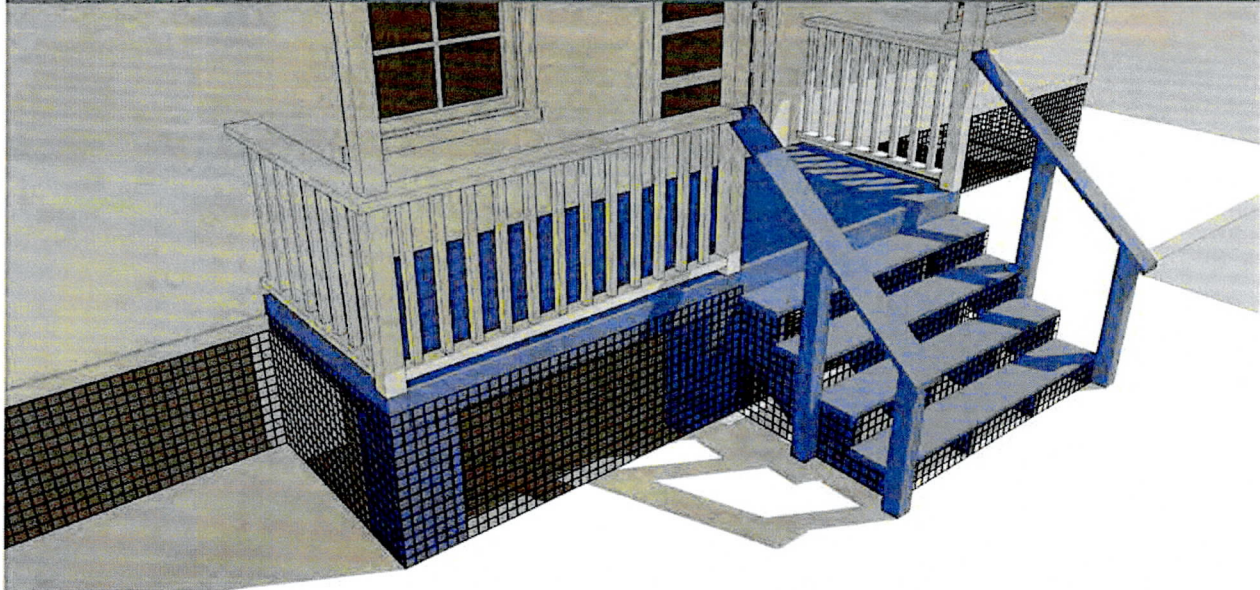
- i. The Luna Cottage II roof types shall be Gable.



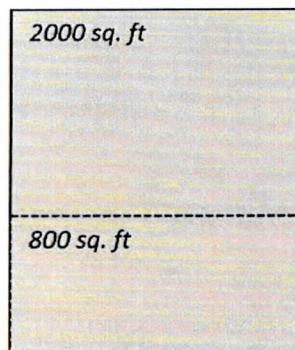
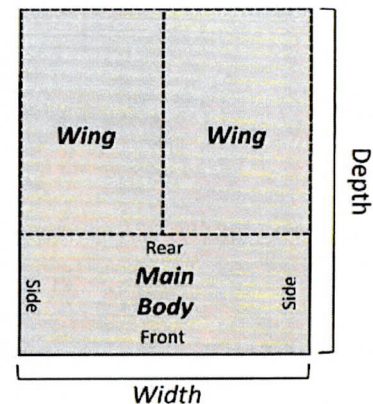
- i. Gutters and downspouts shall be constructed of metal material. Gutters shall be covered with a noncombustible material to prevent the accumulation of debris within the gutter.



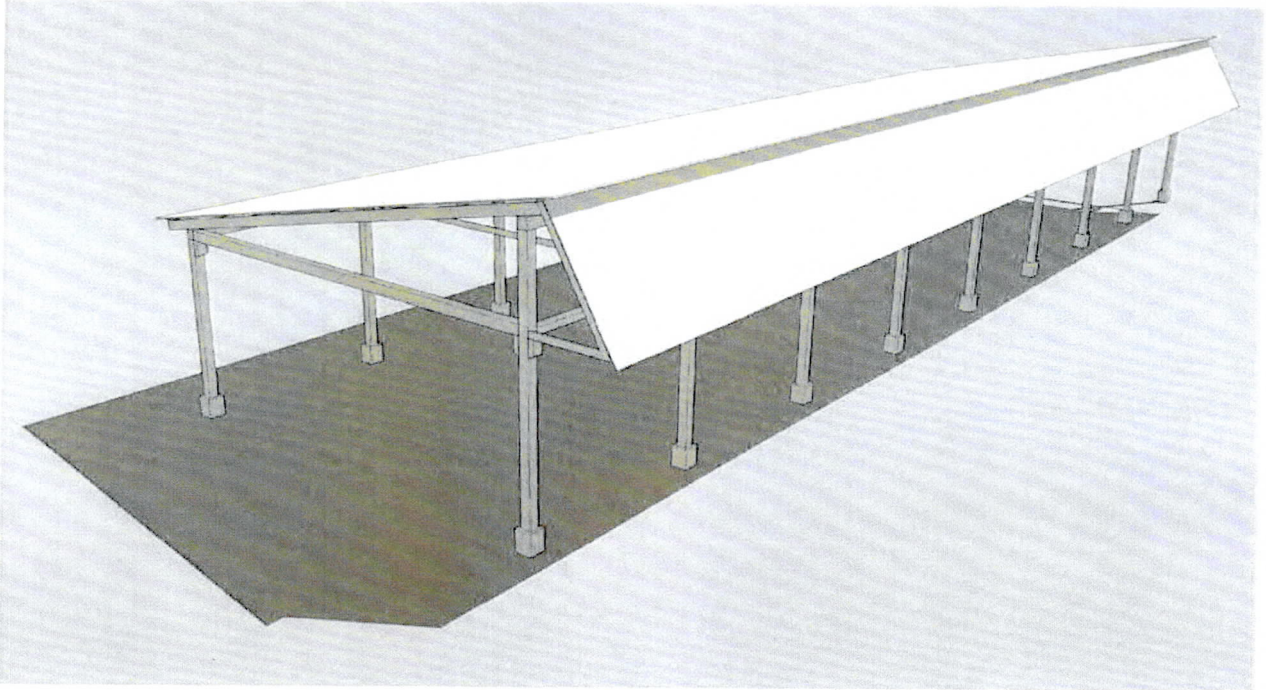
- i. Ventilation openings for enclosed attics (e.g., gable ends, ridge ends, and enclosed eave soffit spaces), enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, underfloor ventilation, foundations, and crawl spaces; under eaves and cornices; or for any other opening intended to permit ventilation, either in a horizontal or vertical surface, must resist the intrusion of burning embers and flames by meeting one of the following requirements:
 - a. Performance-based requirements: Corrosion-resistant ember and flame-resistant vents tested to conform to ASTM E2886.
 - b. Prescriptive-based requirements: Vents must be made of a noncombustible material and covered on the exterior with noncombustible corrosion-resistant mesh with openings not to exceed 1/16th inch (1.6 mm).
 - I. Exceptions: Dryer vents shall have a properly functioning solid louver or flap in lieu of mesh. Plumbing vents are excluded from these requirements.

Q. Appendages and Projections

- i. Unenclosed appendages and projections attached to buildings such as decks, lanais, 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). Construction of appendages and projections shall meet the following additional requirements:
 - a. 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;
 - b. Noncombustible or ignition resistant material is required for all flooring material.
 - i. 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.
 - c. Noncombustible or ignition resistant material is required for all walls and posts that are perpendicular to the deck.
 - i. 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.

Building Type Details**Min and/or Max sq. ft thresholds****Width, Depth, and Wing Assignments**

2.2.050 Community Parking Facility (BFG)



General note: the illustration above is intended to provide a brief overview of the building type and is descriptive in nature.

A. Description

Community Parking Facility: This building type is a detached parking structure and is associated with residential uses.

B. Building Size and Massing

1. Massing

- i. A Community Parking Facility shall have 1 main body section.
- ii. No more than 1 main body is permissible for each Community Parking Facility.
- iii. The Main body shall not exceed 120 ft in width and 30 feet in depth.
- iv. The maximum height shall be no more than 20 ft.

C. Roof Material Type

- i. Roof shall have a roof assembly that complies with a Class A rating when testing 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.

D. Exterior Walls

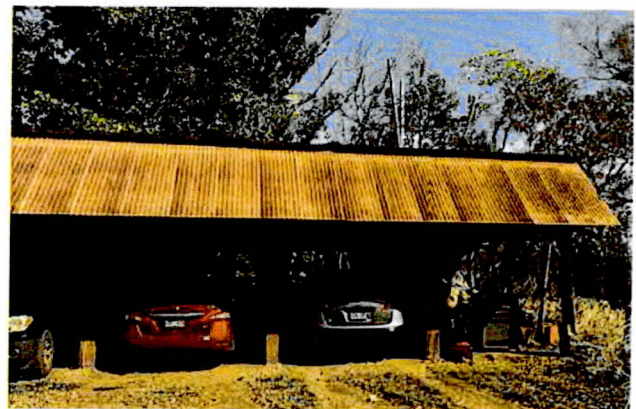
- i. Exterior walls and enclosure of the Community Parking Facility is prohibited.

E. Foundation and Posts

- i. The Community Parking Facility foundations and post shall be constructed with non-combustible material.

E. Miscellaneous

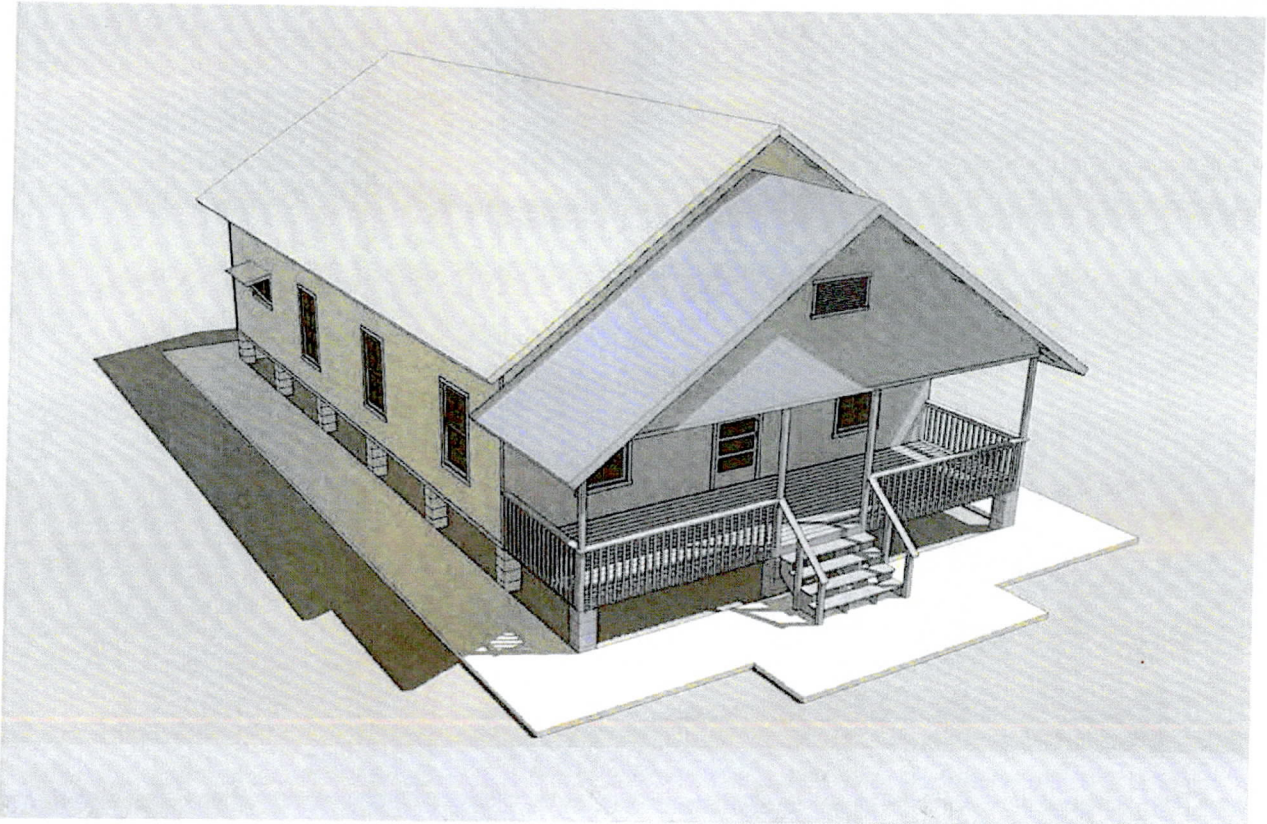
- i. The Community Parking Facility does not require a 50foot ground cover comprised of concert hardscape.



General note: Kaumakani Village Shared Parking Structure

Article 2: Transect Descriptions and Building Types

Sub-Article 2.3: Numila Camp Building Type Frontages		37-40
2.3.010	Lānai, Projecting	37
2.3.020	Lānai, Engaged	38
2.3.030	Lānai, Hybrid	39
2.3.040	Stoop	40



General note: the illustration above is intended to provide a brief overview of the Frontage type and is descriptive in nature.

A. Description

Lānai, Projecting: The main façade of the building has a small to medium setback from the thoroughfare. The Lanai, Projecting is open on 3 sides.

B. Location

- i. The Lānai, Projecting shall be located on the front of the cottage facing the thoroughfare.

C. Size

- i. The width of the frontage shall be no greater than the width of the front of the main body.
- ii. The depth of the frontage shall be a maximum of 8 feet, excluding the stairs.
- iii. The height of the Lānai shall be a minimum of 8 feet.

2.3.010 Lānai, Projecting

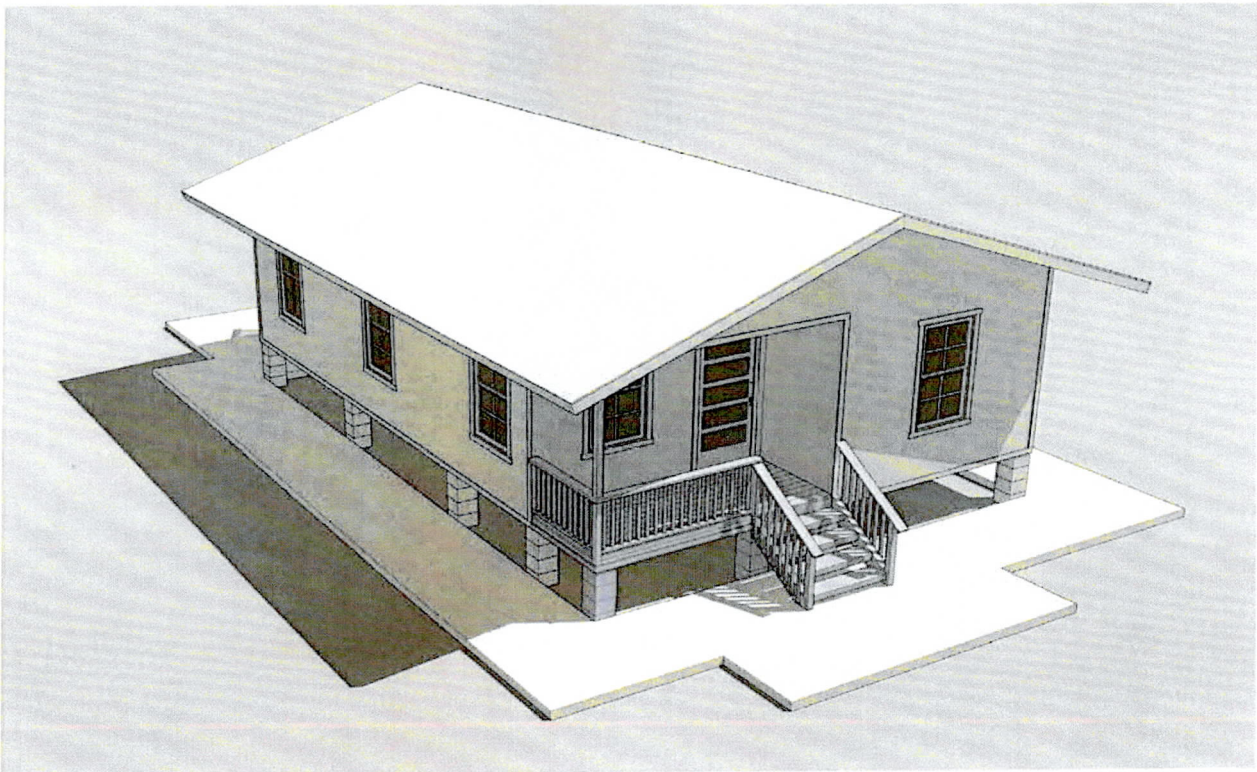


General note: the illustration above is intended to provide a brief overview of the Frontage appendages and projection requirements and is descriptive in nature.

D. Lanai, Projecting: Appendages and Projections

- 🔥 i. Unenclosed appendages and projections attached to buildings such as decks, lanais, 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). Construction of appendages and projections shall meet the following additional requirements:
 - 🔥 a. 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;
 - 🔥 b. Noncombustible or ignition resistant material is required for all flooring material.
 - 🔥 I. 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.
 - 🔥 c. Noncombustible or ignition resistant material is required for all walls and posts that are perpendicular to the deck.
 - 🔥 I. 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.

2.3.020 Lānai, Engaged



General note: the illustration above is intended to provide a brief overview of the Frontage type and is descriptive in nature.

A. Description

Lānai, Engaged: The main façade of the building has a small to medium setback from the thoroughfare. The Lanai, Engaged has 2 adjacent sides of the Lanai that are engaged to the building while the other two sides are open.

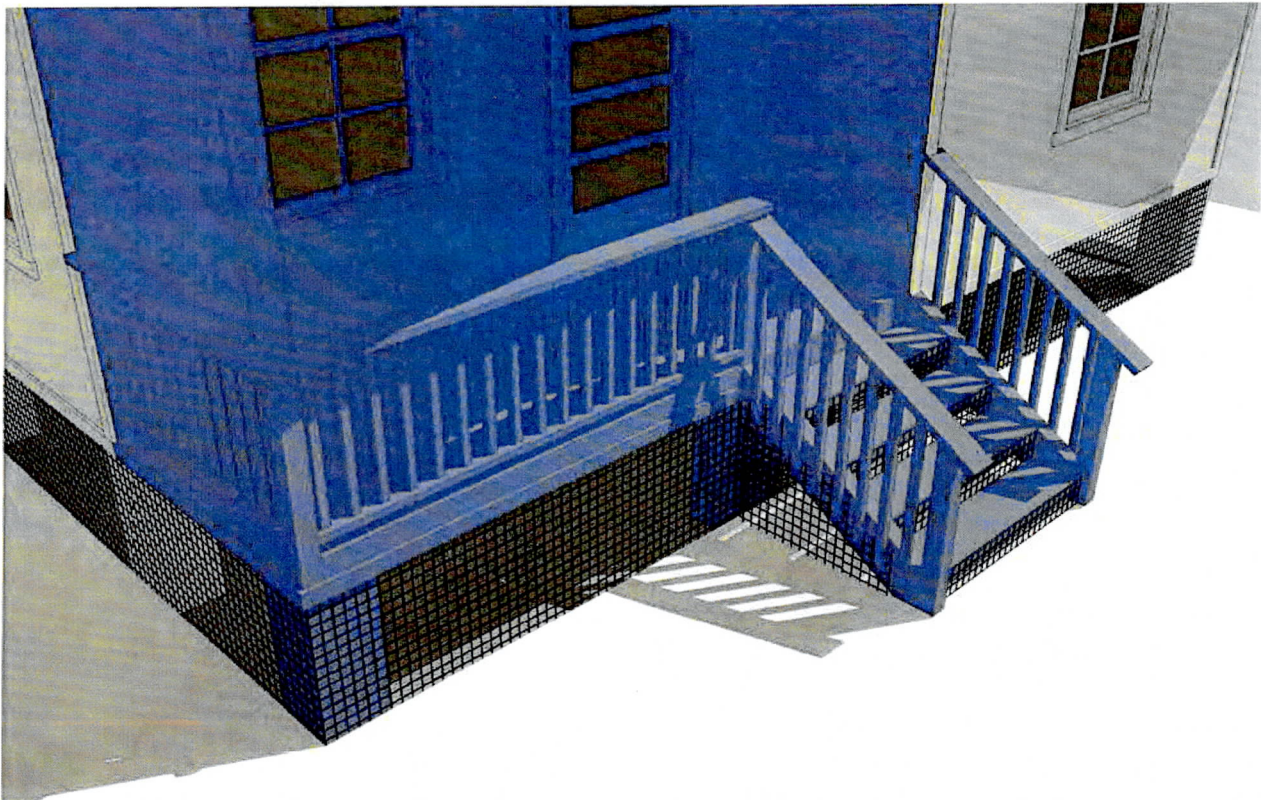
B. Location

- i. The Lānai, Engaged shall be located on the front of the cottage facing the thoroughfare.

C. Size

- i. The width of the frontage shall be half the width of the building's front wall.
- ii. The depth of the Lānai, Engaged shall be 5 feet, excluding the stairs.
- iii. The height of the Lānai, Engaged shall be a minimum of 8 feet.

2.3.020 Lānai, Engaged

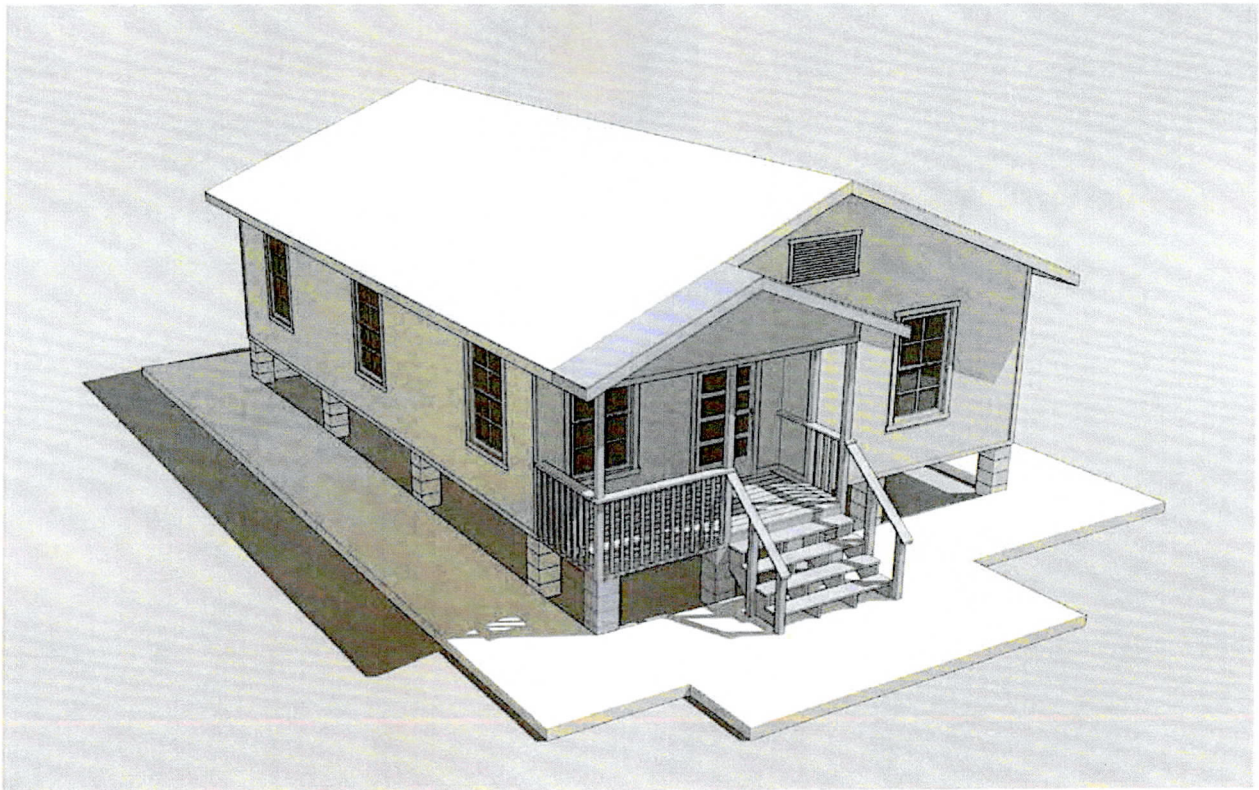


General note: the illustration above is intended to provide a brief overview of the Frontage appendages and projection requirements and is descriptive in nature.

D. Lanai, Projecting: Appendages and Projections

- 🔥 i. Unenclosed appendages and projections attached to buildings such as decks, lanais, 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). Construction of appendages and projections shall meet the following additional requirements:
 - 🔥 a. 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;
 - 🔥 b. Noncombustible or ignition resistant material is required for all flooring material.
 - 🔥 I. 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.
 - 🔥 c. Noncombustible or ignition resistant material is required for all walls and posts that are perpendicular to the deck.
 - 🔥 I. 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.

2.3.030 Lānai, Hybrid



General note: the illustration above is intended to provide a brief overview of the Frontage type and is descriptive in nature.

A. Description

Lānai, Hybrid: The main façade of the building has a small to medium setback from the thoroughfare. The Lānai, Hybrid has a portion of space where two adjacent sides are engaged to the building while the other two sides are open, and the other portion of the space is open on 3 sides. It's architecturally non-binary.

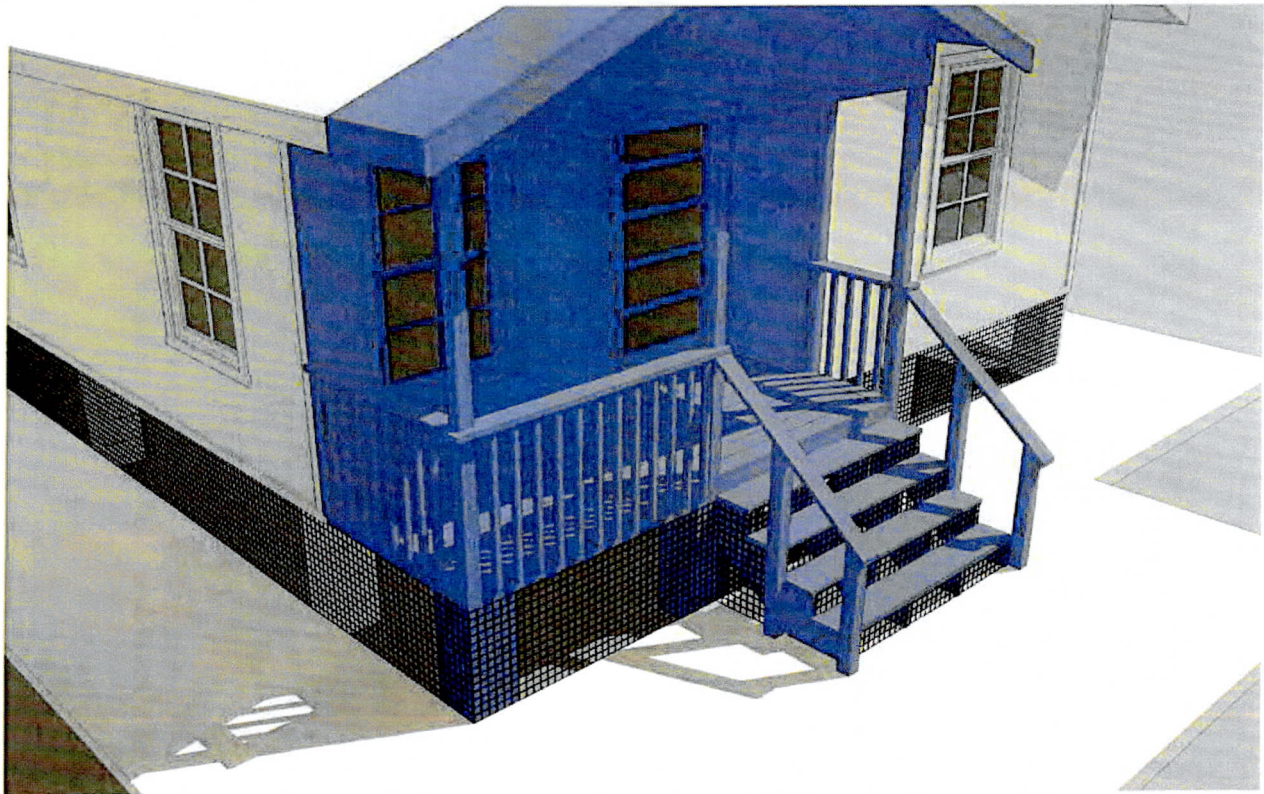
B. Location

- i. The Lānai, Hybrid shall be located on the front of the cottage facing the thoroughfare.

C. Size

- i. The width of the frontage shall be half the width of the building's front wall.
- ii. The depth of the Lānai, Hybrid shall be 5 feet, excluding the stairs
- iii. The height of the Lānai, Hybrid shall be a minimum of 8 feet.

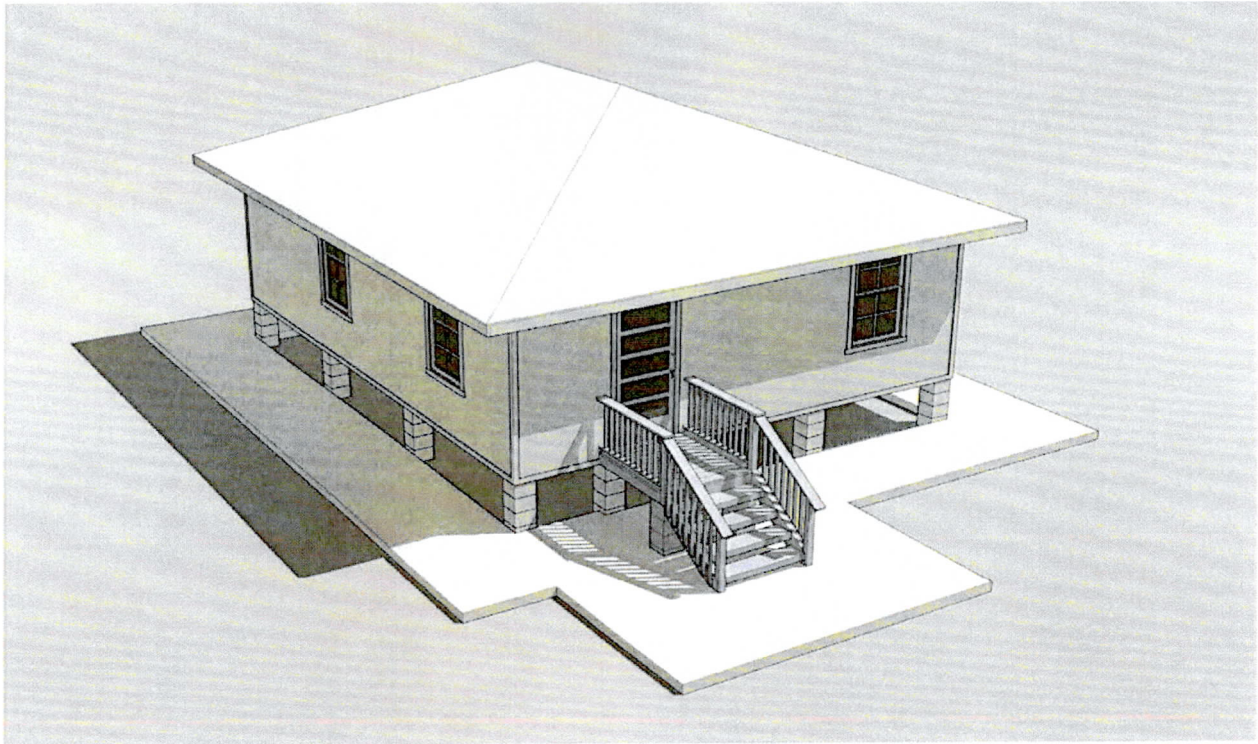
2.3.030 Lānai, Hybrid



General note: the illustration above is intended to provide a brief overview of the Frontage appendages and projection requirements and is descriptive in nature.

D. Lanai, Projecting: Appendages and Projections

- i. Unenclosed appendages and projections attached to buildings such as decks, lanais, 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). Construction of appendages and projections shall meet the following additional requirements:
 - a. 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;
 - b. Noncombustible or ignition resistant material is required for all flooring material.
 - I. 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.
 - c. Noncombustible or ignition resistant material is required for all walls and posts that are perpendicular to the deck.
 - I. 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.

2.3.040 Stoop

General note: the illustration above is intended to provide a brief overview of the Frontage type and is descriptive in nature.

A. Description

Stoop: The main façade of the building is near the frontage line. This type is appropriate for residential uses with small setbacks.

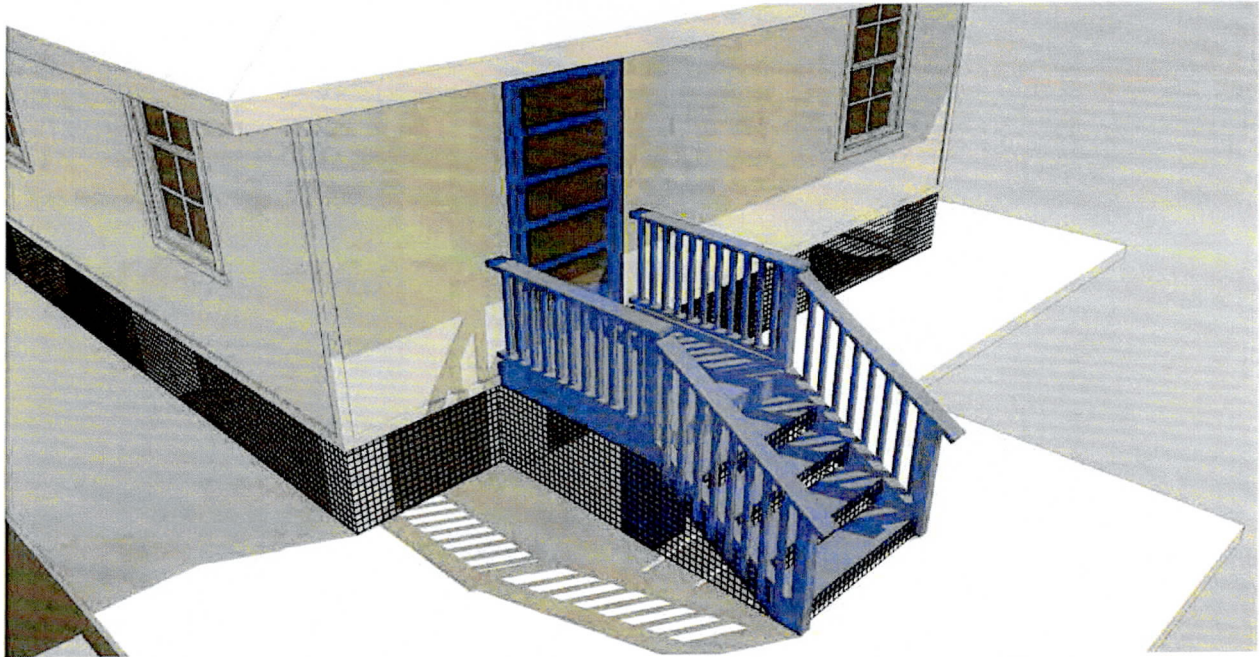
B. Location

- i. The Stoop shall be located on the front of the building facing the thoroughfare.

C. Size

- i. The width of the stoop shall be a minimum of five feet and maximum of eight feet.
- ii. The depth of the Stoop shall be 5 feet, excluding the stairs.

2.3.040 Stoop



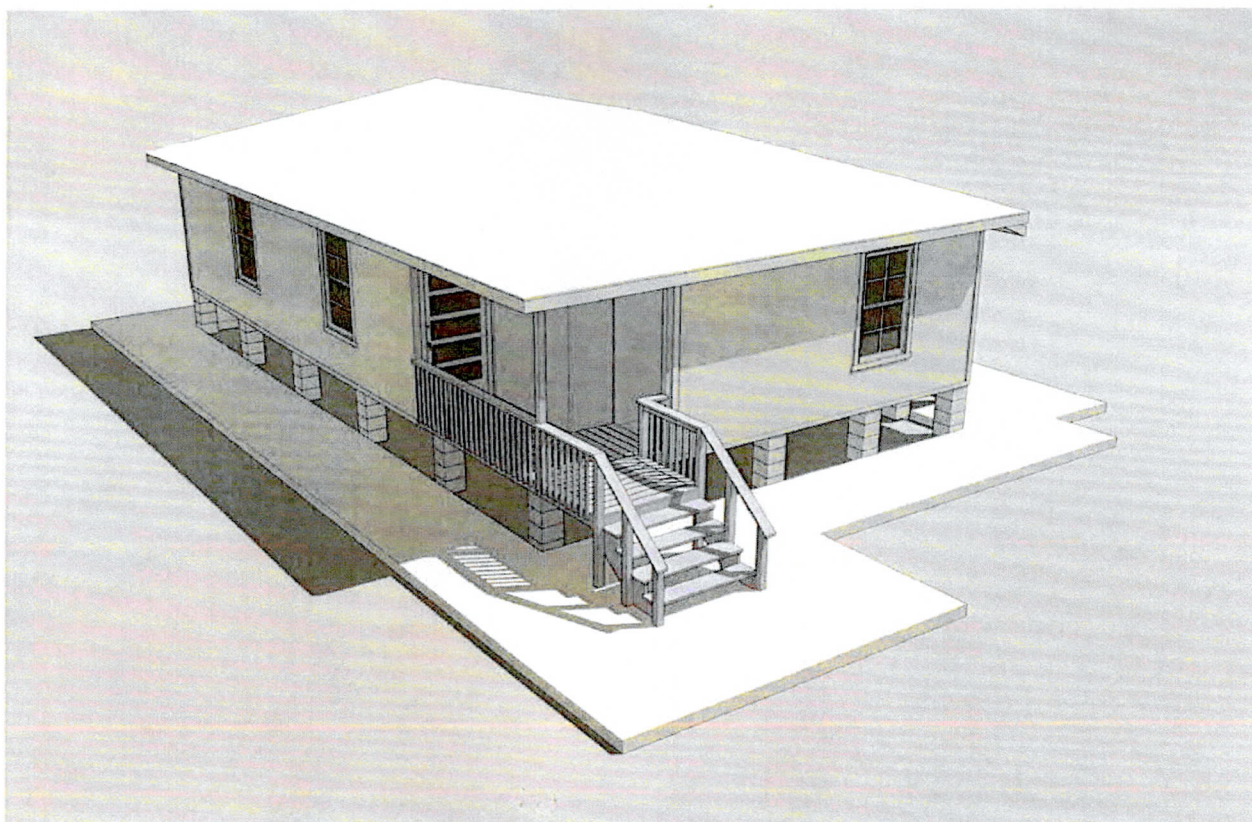
General note: the illustration above is intended to provide a brief overview of the Frontage appendages and projection requirements and is descriptive in nature.

D. Stoop: Appendages and Projections

- 🔥 i. Unenclosed appendages and projections attached to buildings such as decks, lanais, 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). Construction of appendages and projections shall meet the following additional requirements:
 - 🔥 a. 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;
 - 🔥 b. Noncombustible or ignition resistant material is required for all flooring material.
 - 🔥 l. 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.
 - 🔥 c. Noncombustible or ignition resistant material is required for all walls and posts that are perpendicular to the deck.
 - 🔥 l. 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.

Article 2: Transect Descriptions and Building Types

Sub-Article 2.4:	Numila Camp Building Type Rear Exit	47-52
2.4.020	Rear Exit, Engaged	47-48
2.4.030	Rear Exit, Enclosed	49-50
2.4.010	Rear Exit, Stoop	51-52

2.4.010 Rear Exit, Engaged

General note: the illustration above is intended to provide a brief overview of the Rear Exit type and is descriptive in nature.

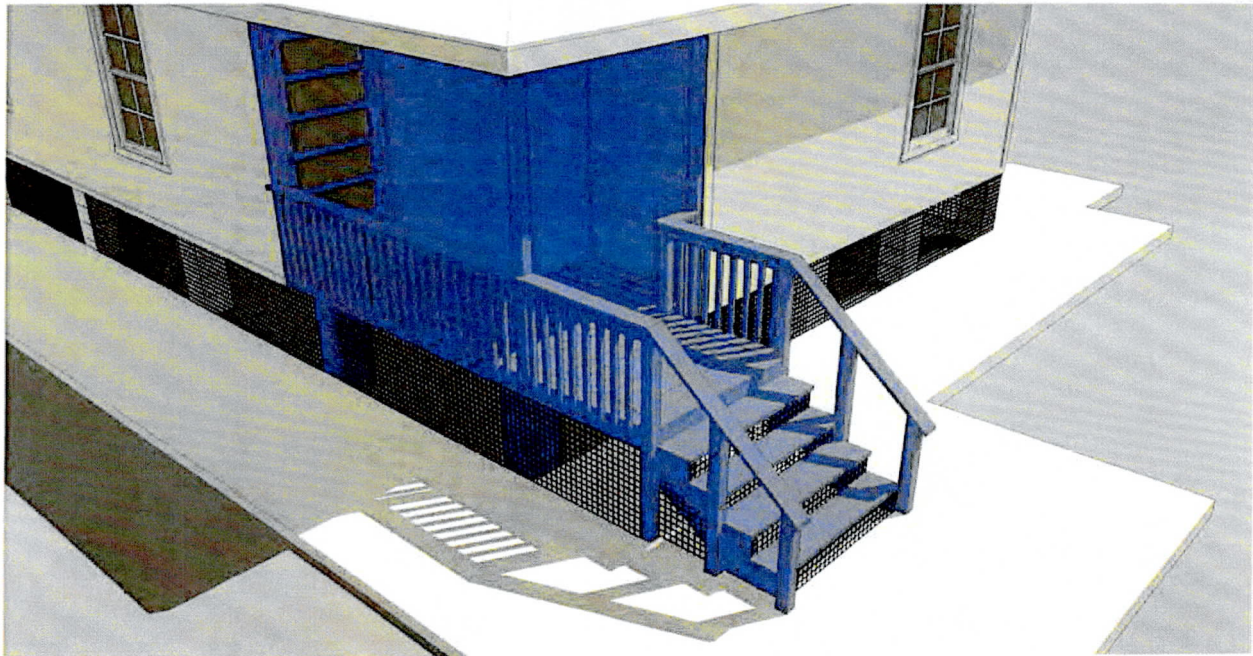
A. Description

Rear Exit, Engaged: This rear entryway links the outdoors with the interior, offering access to rear accessory structures and spaces. The resulting rear entryway may accommodate utilities including a shower, toilet, wash basin, or laundry in this versatile and practical area. The Rear Exit, Engaged has two adjacent sides on the rear of the building that are engaged to the building while the other 2 sides are open.

B. Size

- i. The width of the Rear Exit, Engaged shall be no greater than the width of the rear of the building.
- ii. The depth of the Rear Exit, Engaged shall be 12 feet maximum, excluding the stairs.

2.4.010 Rear Exit, Engaged

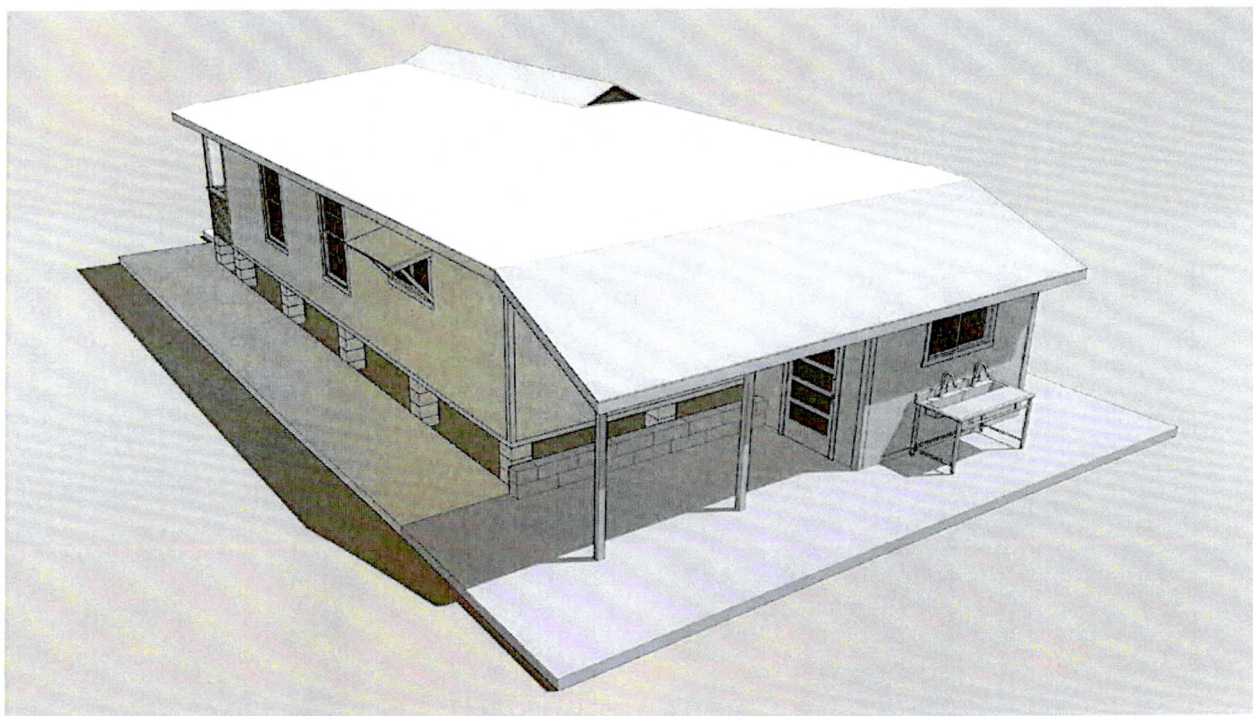


General note: the illustration above is intended to provide a brief overview of the Frontage appendages and projection requirements and is descriptive in nature.

D. Lanai, Projecting: Appendages and Projections

- 🔥 i. Unenclosed appendages and projections attached to buildings such as decks, lanais, 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). Construction of appendages and projections shall meet the following additional requirements:
 - 🔥 a. 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;
 - 🔥 b. Noncombustible or ignition resistant material is required for all flooring material.
 - 🔥 I. 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.
 - 🔥 c. Noncombustible or ignition resistant material is required for all walls and posts that are perpendicular to the deck.
 - 🔥 I. 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.

2.4.020 Rear Exit, Enclosed



General note: the illustrations above are intended to provide a brief overview of the Rear Exit, type and is descriptive in nature.

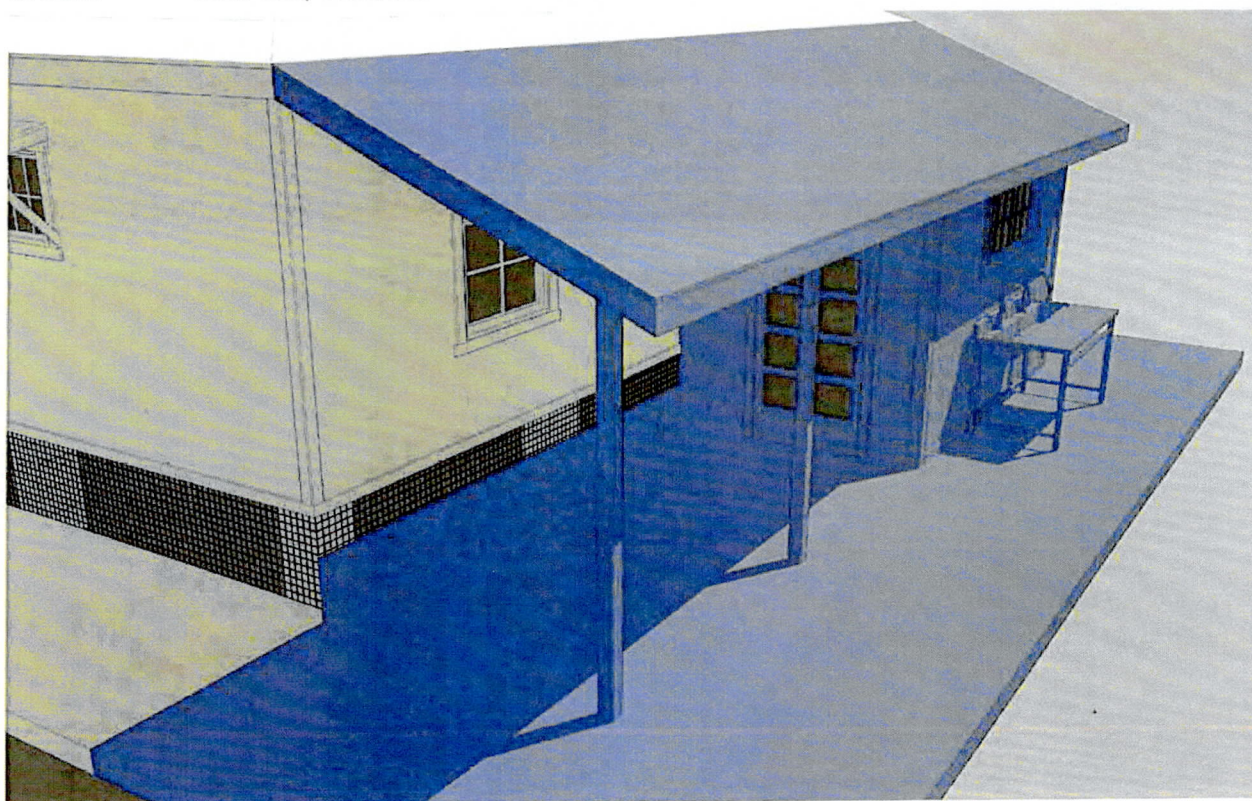
A. Description

Rear Exit, Enclosed: This rear entryway links the outdoors with the interior, offering access to rear accessory structures and spaces. The resulting rear entryway may accommodate space for utilities such as a shower, toilet, wash basin, or laundry in this versatile and practical area. The Rear Exit, Enclosed is attached to the rear or in line with the rear of the structure. It is enclosed on at least 3 sides and has a rear entry.

B. Size

- i. The width of the Rear Exit, Enclosed shall be no greater than the width of the rear of the building.
- ii. The depth of the Rear Exit, Enclosed shall be 12 feet maximum, excluding the stairs.

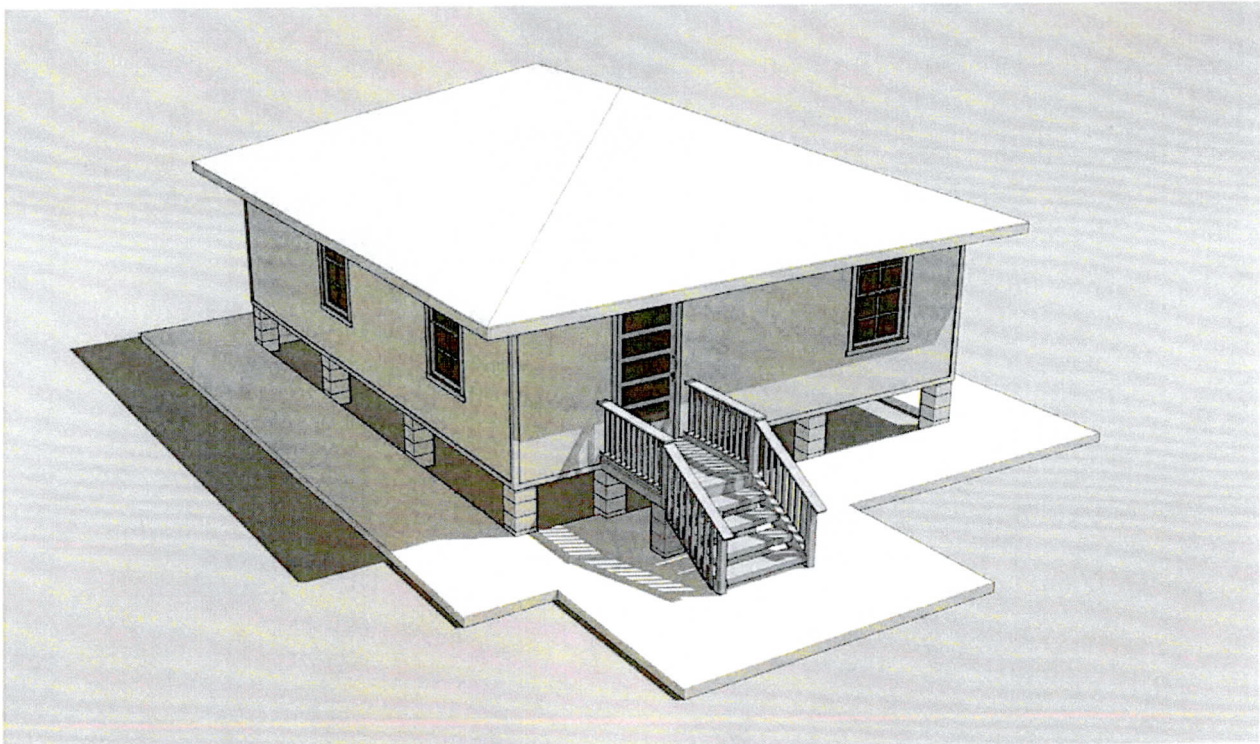
2.4.020 Rear Exit, Enclosed



General note: the illustration above is intended to provide a brief overview of the Frontage appendages and projection requirements and is descriptive in nature.

D. Lanai, Projecting: Appendages and Projections

- i. Unenclosed appendages and projections attached to buildings such as decks, lanais, 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). Construction of appendages and projections shall meet the following additional requirements:
 - a. 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;
 - b. Noncombustible or ignition resistant material is required for all flooring material.
 - i. 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.
 - c. Noncombustible or ignition resistant material is required for all walls and posts that are perpendicular to the deck.
 - i. 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.

2.4.030 Rear Exit, Stoop

General note: the illustration above is intended to provide a brief overview of the Rear Exit type and is descriptive in nature.

A. Description

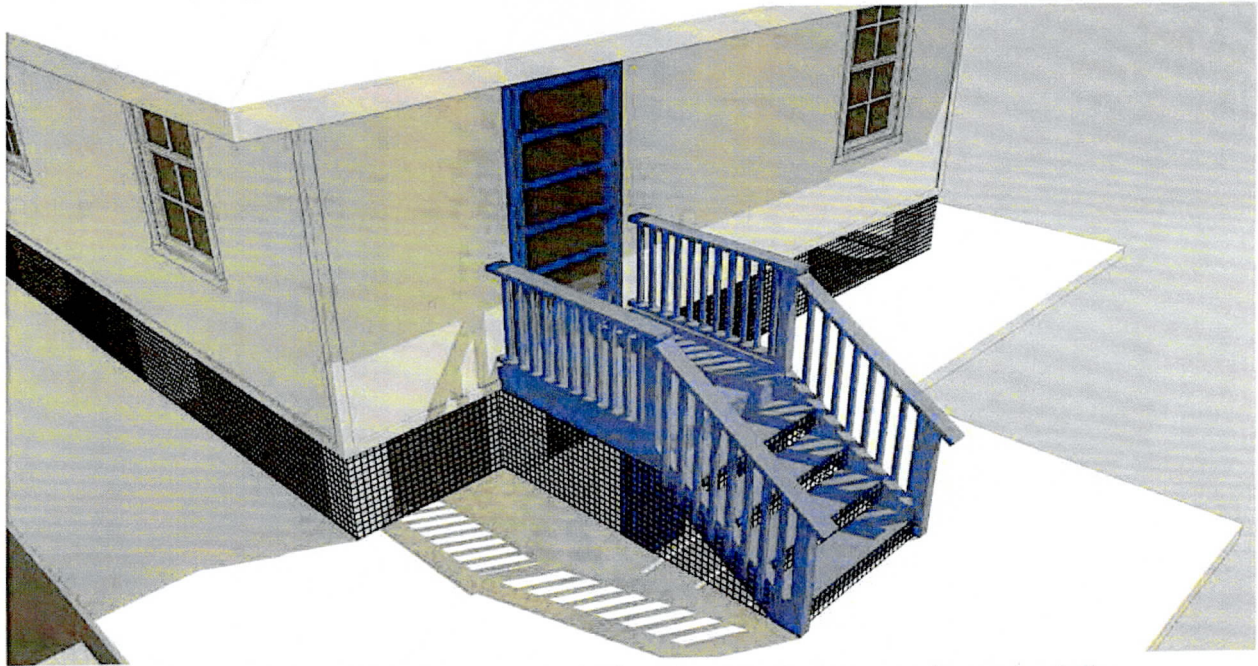
Rear Exit, Stoop: Provides access to rear accessory structures and spaces. A Rear Exit stoop is a rear entrance that may have a small series of steps and a small platform.

B. Size

- i. The width of the Rear Exit, Stoop shall be 8 feet maximum.
- ii. The depth of the Rear Exit, Stoop shall be 8 feet maximum, excluding the stairs.

C. Miscellaneous

- i. Stoops must have a roof.



General note: the illustration above is intended to provide a brief overview of the Frontage appendages and projection requirements and is descriptive in nature.

D. Stoop: Appendages and Projections

- 🔥 i. Unenclosed appendages and projections attached to buildings such as decks, lanais, 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). Construction of appendages and projections shall meet the following additional requirements:
 - 🔥 a. 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;
 - 🔥 b. Noncombustible or ignition resistant material is required for all flooring material.
 - 🔥 I. 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.
 - 🔥 c. Noncombustible or ignition resistant material is required for all walls and posts that are perpendicular to the deck.
 - 🔥 I. 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.

Article 3: Maintenance Requirements

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3.1.040	Zone 2: 30-Foot to 100-Foot Resilient Landscape Requirements	60-62
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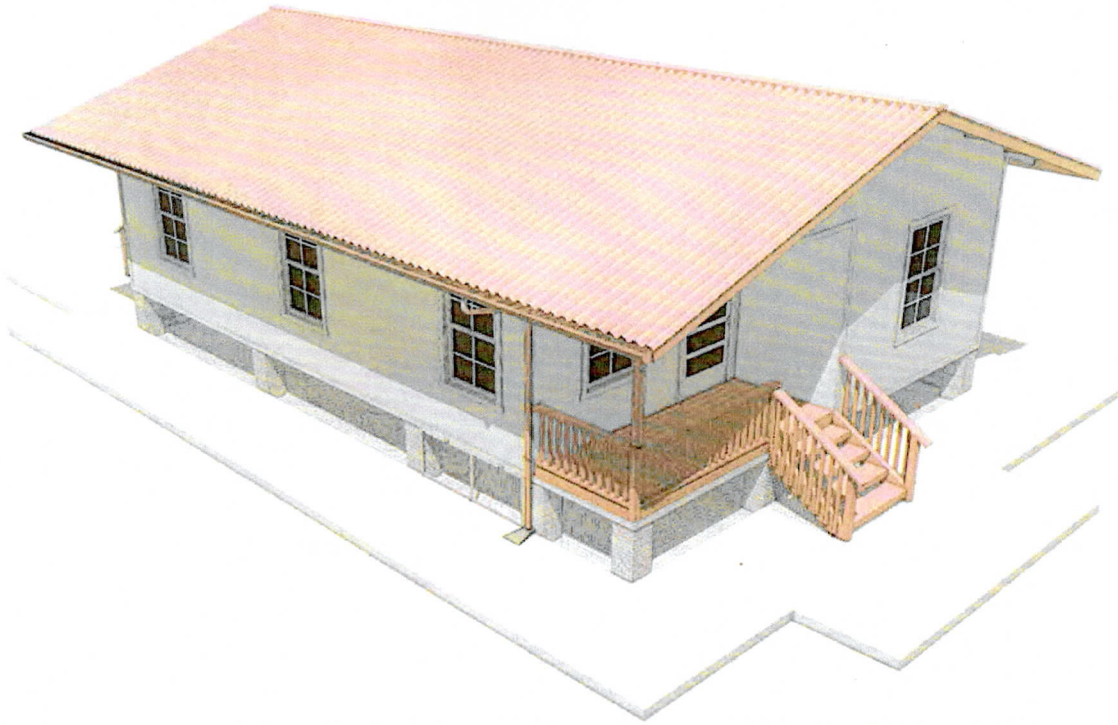
Sub-Article 3.2: Fire Prevention Outreach and Education Requirements	65
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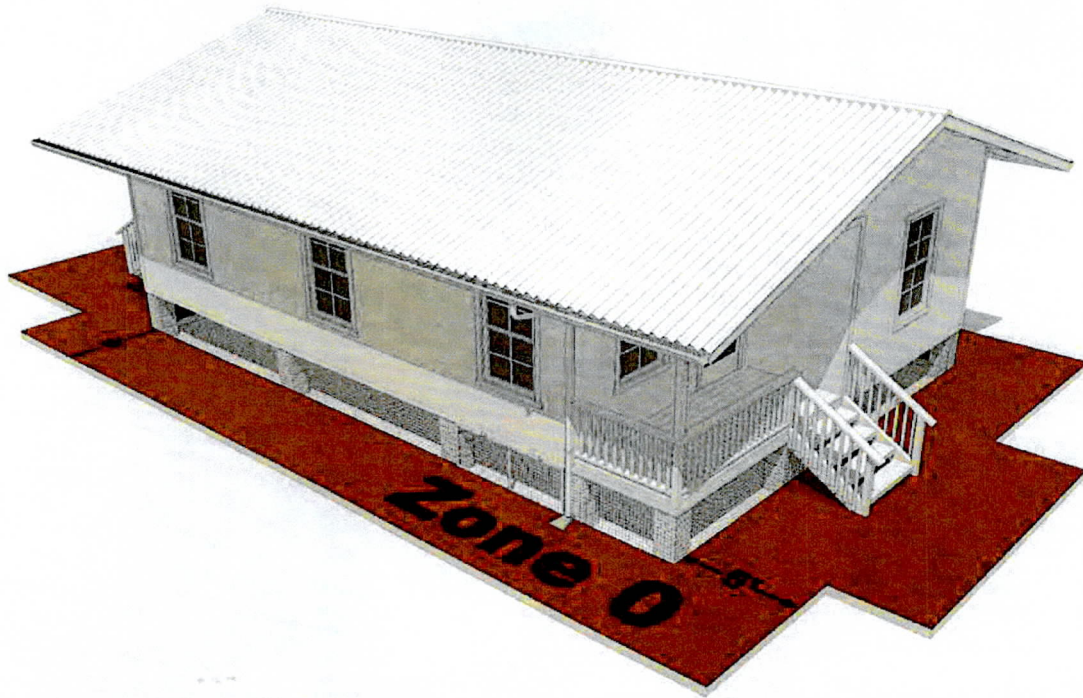
Article 3: Maintenance Requirements

Sub-Article 3.1: Maintenance Requirements		55-63
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3.1.010 Maintenance Requirements. Primary Structure Zone

**Primary Structure Zone**

- i. 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).
- ii. Gutters and downspouts shall be kept clear of debris such as leaves and pine needles.
- iii. Unenclosed appendages and projections attached to buildings such as decks, lānais, porches, carports, and stoops shall meet the following requirement:
 - a. 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.
 - b. The requirements of this subsection may be waived for Area B identified in the Plantation Camp WUI Viewer if an alternative maintenance management plan is accepted and approved by the Fire Department.



Zone 0: 5-Foot Noncombustible Zone (NCZ)

- i. Maintenance Requirements. This zone is the most critical zone of defensible space and requires the most stringent fuel reduction and regular maintenance to protect against wildfire. In the NCZ the following regulations shall apply:
 - a. Ground cover within the NCZ shall be noncombustible and free of debris such as leaves and pine needles.
 - b. Fire-prone vegetation overhanging the roof is prohibited within the NCZ.
 - c. Only noncombustible items or materials are allowed. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.
 - d. The requirements of Subsection 8-8A.5(d)(2) may be waived for
 - e. Area B identified in the Plantation Camp WUI Viewer if an alternative vegetation management plan is accepted and approved by the Fire Department.



Zone 1: 30-Foot Defensible Space Requirements

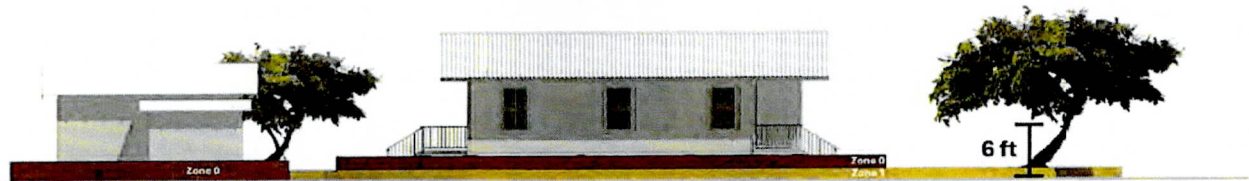
A. Maintenance Requirements

- i. 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 lanais, 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.
- ii. 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.
- iii. 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 lanais, porches, and stoops).
- iv. The following plant species are exempt from the requirements of this subsection):
 - a. *Colocasia esculenta*, also known as kalo or taro.
 - b. *Musa*, also known as banana.
- v. The requirements of this subsection may be waived from Area B identified in the Plantation Camp WUI Viewer if an alternative vegetation management plan is accepted and approved by the Fire Department.

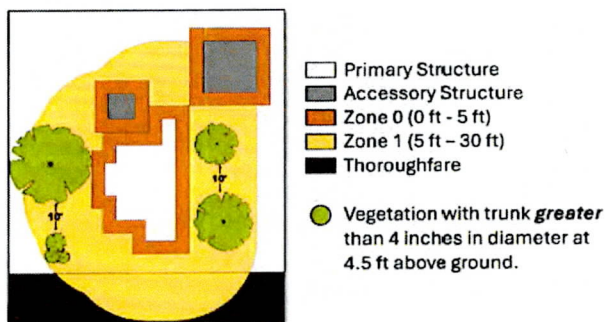
3.1.030 Maintenance Requirements. Zone 1: 30-Foot Defensible Space Requirements

Vegetation with canopies within 30 feet of a primary structure shall be maintained as follows:

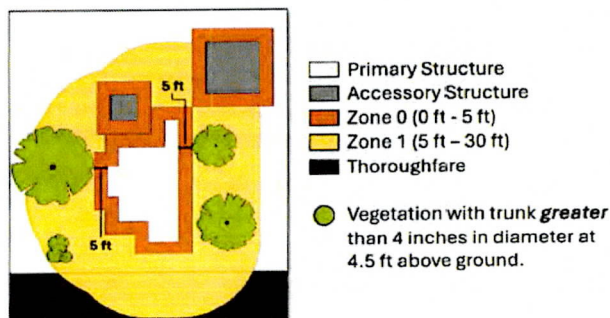
B. Vegetation with a trunk of 4 inches in diameter or greater when measured at a height of 4.5 feet above ground:



- i. Shall have limbs and branches pruned to a minimum height of 6 feet off the ground.



- ii. Shall have a minimum of 10 horizontal feet of spacing between the tree canopy and the next closet tree, shrub, or bush canopy, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.

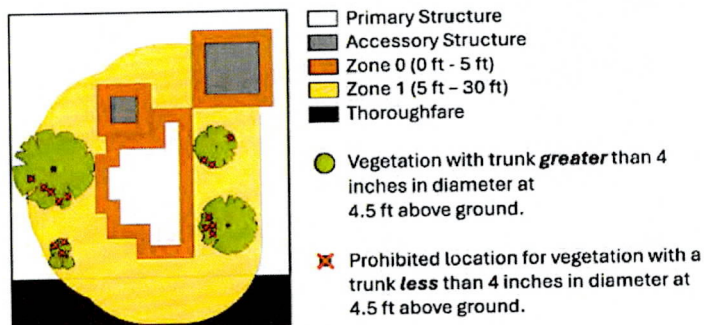


- iii. Shall have a minimum of 5 horizontal feet between a tree canopy and the primary structure.

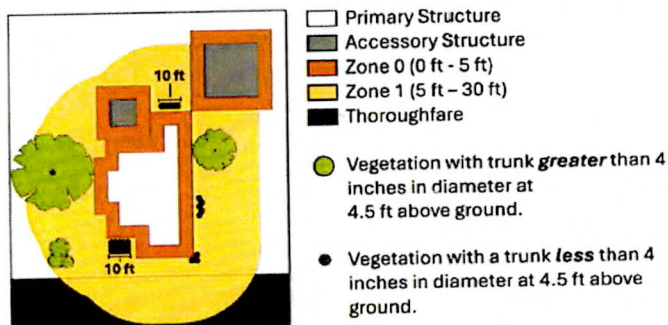
3.1.030 Maintenance Requirements. Zone 1: 30-Foot Defensible Space Requirements

Vegetation with canopies within 30 feet of a primary structure shall be maintained as follows:

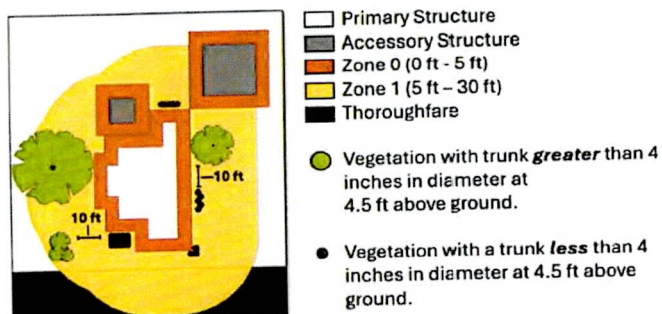
B. Vegetation with a trunk less than 4 inches in diameter when measured at a height of 4.5 feet above ground:



i. Are prohibited under large trees

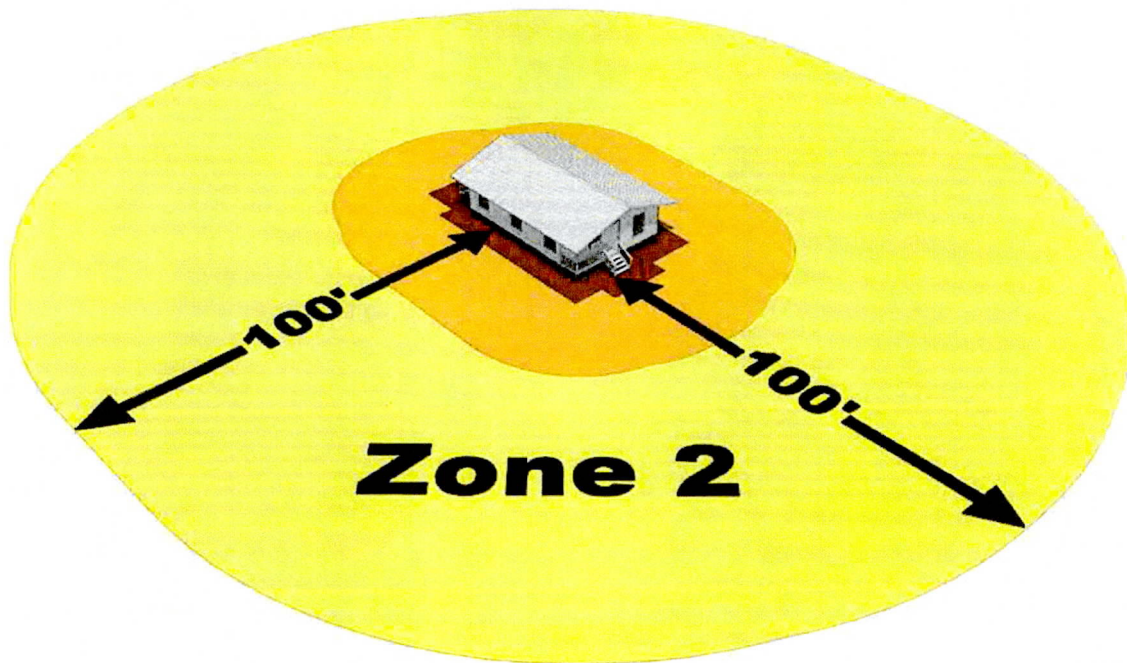


ii. Are prohibited from having a canopy larger than 10 feet in horizontal diameter but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.



iii. Shall have a minimum horizontal space between canopies of at least 10 feet

3.1.040 Maintenance Requirements. Zone 2: 30 Foot to 100 Foot Resilient Landscape Requirements

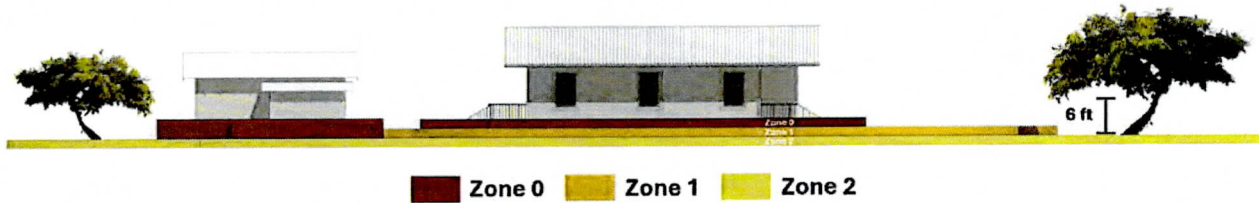
**Zone 2: 30-Foot to 100-Foot Resilient Landscape Requirements****A. Maintenance Requirements**

- i. The Plantation Camp District shall manage Zone 2 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.
- ii. The following plant species are exempt from the requirements of this subsection:
 - a. *Colocasia esculenta*, also known as kalo or taro.
 - b. *Musa*, also known as banana.
 - c. Any species planted for cultivation and sales that is part of an agricultural operations larger than (1) acres is as determined by the Planning Director, and the species are maintained in a manner reviewed and approved by the Fire Chief.
- iii. The requirements of this subsection may be waived from Area B identified in the Plantation Camp WUI Viewer if an alternative vegetation management plan is accepted and approved by the Fire Department.

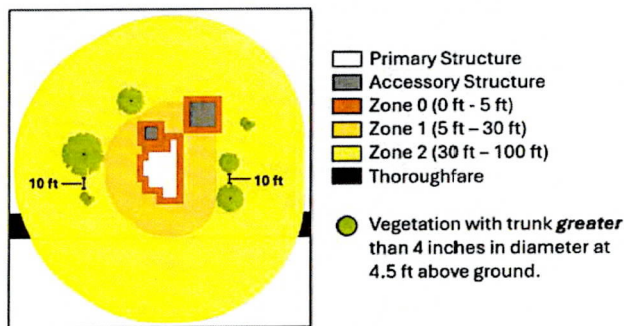
3.1.040 Maintenance Requirements. Zone 2: 30 Foot to 100 Foot Resilient Landscape Requirements

Excluding fire-prone vegetation, vegetation with canopies shall be maintained as follows:

B. Vegetation with a trunk of 4 inches in diameter or greater when measured at a height of 4.5 feet above ground:



- i. Shall have limbs and branches pruned to a minimum height of 6 feet off the ground.

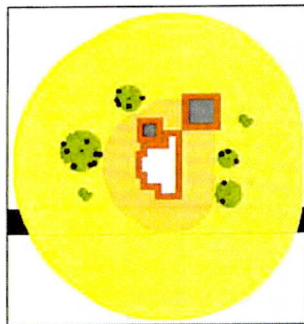


- ii. Shall have a minimum of 10 horizontal feet of spacing between the tree canopy and the next closet tree, shrub, or bush canopy, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.

3.1.040 Maintenance Requirements. Zone 2: 30 Foot to 100 Foot Resilient Landscape Requirements

Vegetation with canopies within 30-100 feet of a primary structure shall be maintained as follows:

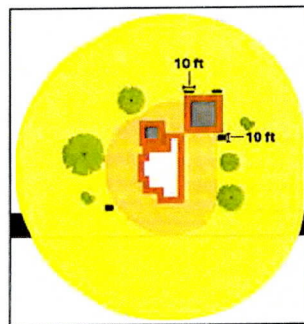
B. Vegetation with a trunk less than 4 inches in diameter when measured at a height of 4.5 feet above ground:



- 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.

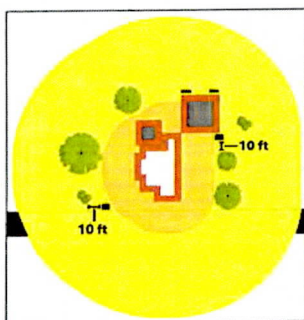
- i. Are prohibited under large trees



- 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.

- ii. Are prohibited from having a canopy larger than 10 feet in horizontal diameter but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.

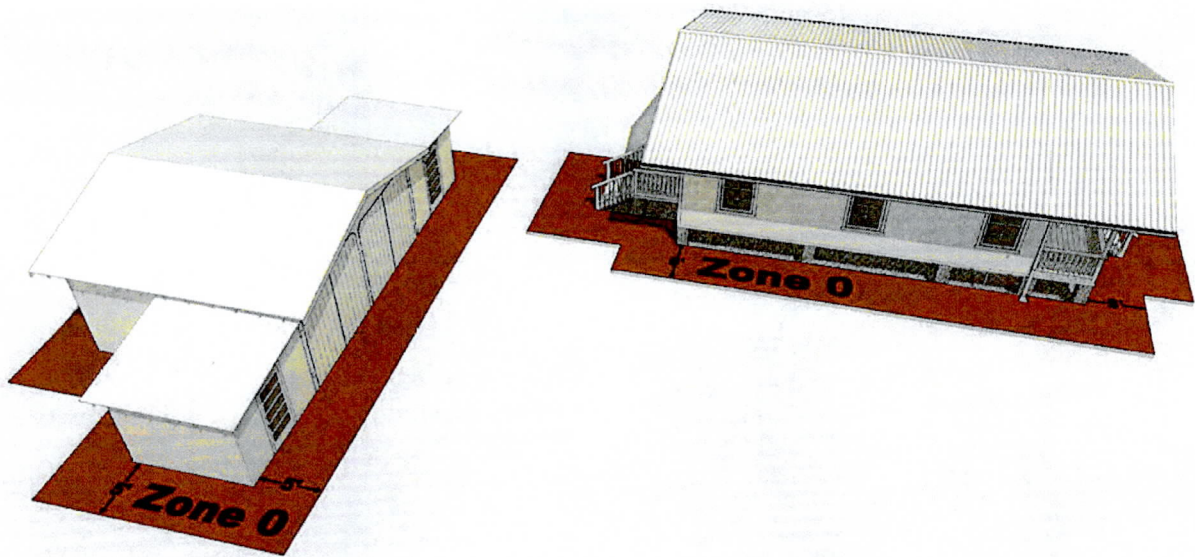


- Primary Structure
- Accessory Structure
- Zone 0 (0 ft - 5 ft)
- Zone 1 (5 ft - 30 ft)
- Zone 2 (30 ft - 100 ft)
- Thoroughfare

- 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.

- i. Shall have a minimum horizontal space between canopies of at least 10 feet

3.1.050 Maintenance Requirements. Other Requirements for Accessory Structures

**Other Requirements for Accessory Structures****A. Maintenance Requirements**

- i. 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.
 - a. The requirement may be waived for Area B identified in the Plantation Camp WUI Viewer if an alternative vegetation management plan is accepted and approved by the Fire Department.

Article 3: Maintenance Requirements

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Sub-Article 3.2: Fire Prevention Outreach and Education Requirements

3.2.010 Standards:

- i. Conduct a workshop titled "How to Have a Fire Adapted Home and Community". At least once a year, the landowner shall coordinate with the Fire Department, Kauai Emergency Management Agency, and the Planning Department to set up and conduct a workshop(s) for camp tenants that teach the principles of fire prevention and evacuation. Topics for discussion must include but not be limited to defensible space, landscaping, and home hardening. Landowner must demonstrate good faith efforts to ensure that at least one member or representative of each household attends each workshop. Workshops must be scheduled for evenings or weekends when most homeowners are available. Material must be available at the workshops that promote fire risk reduction practices and strategies.
- ii. A report on the workshop format and participation shall be provided to the Fire Department and Planning Department on June 30 every calendar year.
- iii. Defensible Space Clean-up Event. At least once a year, and in coordination with the Fire Department and Planning Department, the landowner shall hold a defensible space clean-up of the camp with camp tenants. Clean-up activities shall include but not be limited to the following:
 - a. Remove combustible material from the NCZ.
 - b. Remove flammable vegetative material from roofs and gutters.
 - c. Trim shrubs and vines to 30 feet away from primary structures.
 - d. Trim overhanging limbs.
 - e. Remove hazardous or flammable debris from properties.
- iv. A report on the clean-up event format and participation shall be provided to the Fire Department and Planning Department on June 30 every calendar year.

Article 4: Neighborhood Standards

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Article 4: Neighborhood Standards

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Sub-Article 4.1: Thoroughfare Standards

- 4.1.010 Purpose: The purpose of this article is to provide optional standards for proposed thoroughfares within the plantation camp zones.
- 4.1.020 Applicability: Any proposed thoroughfares within the plantation camp zones.
- 4.1.030 Standards:
- i. All proposed roads and thoroughfares shall meet the County of Kauai Street Design Manual requirements as determined by the County Engineer.
 - ii. The County Engineer may approve a thoroughfare that does not meet the Street Design Manual standards within the Plantation Camp Zones if the following criteria are met:
 - a. The thoroughfare is 18 to 20 ft. in width;
 - b. The thoroughfare is paved or comprised of a compacted surface approved by the Fire Department for emergency vehicle access;
 - c. On street parking is prohibited;
 - d. The thoroughfare's associated residences have access to a shared parking facility within a standard pedestrian shed.
 - e. The shared parking facility has at least one parking stall for each of the associated residences it services.
 - f. All of the residential units proposed on the thoroughfare are setback from the thoroughfare no more than 20 ft.
- 4.1.040 Additional Access Roadway Requirements:
- ↻ A. Prior to building permit approval within any of the plantation camps, the landowner shall execute an emergency access plan for each of the respective camps approved by the Fire Department, Kauai Emergency Management Agency, and State Department of Transportation.
 - ↻ B. Prior to any final subdivision map approval in Special Planning Area P (SPA-P), the Numila Plantation Camp Walkable Mixed-Use District for Numila Camp, and subject to the approval of the Department of Public Works, Fire Department, Planning Department, and State Department of Transportation, the landowner shall establish at least two publicly available multimodal vehicular access roads and easements to SPA-P. These additional access roads and easements shall connect SPA-P Numila Camp to Kaumuali'i Highway and provide a right-of-way of sufficient width to accommodate two-way vehicular traffic, as required by the Department of Public Works. The access roads and easements shall be unobstructed and maintained for multimodal and vehicular use. The access roads and easements shall be clearly defined through metes and bounds descriptions, depicted on a map prepared by a Licensed Professional Land Surveyor, and recorded with the Bureau of Conveyances.

Article 4: Neighborhood Standards

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Sub-Article 4.2: Civic Space Standards

- 4.2.010 **Purpose:** The purpose of this article is to establish civic space standards for plantation camp civic space. Civic buildings and civic spaces provide important gathering places for communities and access to outdoor activities. The civic buildings and civic spaces should be carefully located and accessible to all. The following standards shall be met by providing and locating civic buildings and civic spaces.
- 4.2.020 **Standards:** The design of civic spaces shall meet the standards set forth in Sub-Article 3.2.
- 4.2.030 **Civic Spaces:** The standards established in the Sub-Article provide the transect zones with a diverse palette of parks and other publicly accessible civic spaces that are essential components of walkable urban environments.

The service area, size frontage and disposition of elements of standards of each civic space types are regulatory. The illustration and description of each civic space type are illustrative in nature and not regulatory.

- i. **Service Area.** Describes how the civic space relates to the County as a whole and the area that will be served by the civic space.
- ii. **Size.** The overall range of allowed sizes of the civic space.
- iii. **Frontage.** The relationship along property lines of a civic space to adjacent building or lots.
 - a. **Building.** Civic spaces that are listed as having a “Building” Frontage shall have the fronts of buildings, either attached to the park or across a thoroughfare, facing onto the civic space for a minimum of three-quarters of the perimeter.
 - b. **Independent.** Civic spaces that are listed as having an “Independent” frontage shall have the fronts of buildings, either attached to the park or across a thoroughfare, facing on to the civic space to the maximum extent possible, but may have the side or rear of a building or lot front on to the civic space.
- iv. **Disposition of Elements.** The placement of objects within the civic space.
 - a. **Natural.** Civic spaces with natural character are designed in a natural manner with no formal arrangement of elements.
 - b. **Formal.** Civic spaces with a formal character have a more rigid layout that follows geometric forms and has trees and other elements arranged in formal patterns.
 - c. **Informal.** Civic spaces with an informal character have a mix of formal and natural characteristics.

Typical Facilities. Provides a list of the typical facilities found within the civic space. This list is not intended to be a complete list of facilities allowed nor is it intended that every civic space could contain each of the facilities listed.

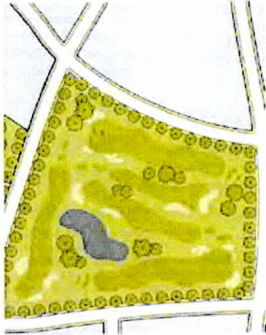
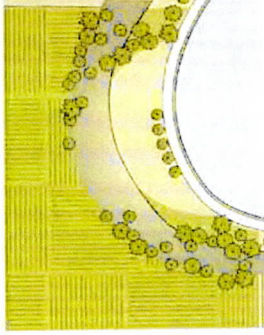
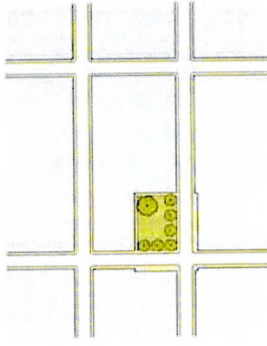
Ownership and Maintenance of Required Open Space, and Civic Space. Open space areas shall be maintained as permanent open space and/or civic space through one or more of the following options:

- i. Establishment of an entity to manage and maintain the open space by the property owner, in a form that ensures long-term maintenance and management;
- ii. Conveyance of the land to a property owners' or homeowners' association that holds the land in common ownership and will be responsible for managing and maintain it for its intended purposes;
- iii. Conveyance of the land to a third-party beneficiary, such as a nonprofit environmental or civic organization, that is organized for , capable of, and willing to accept responsibility for managing and maintaining the land for its intended purposes; or
- iv. Dedication of the land to the County or other appropriate public agency that is organized for, capable of, and willing to accept responsibility for managing and maintaining the land for its intended purposes.

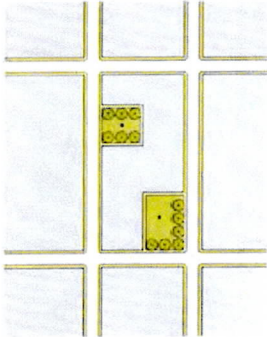
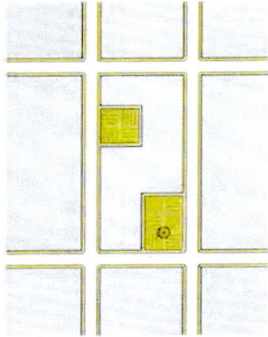
The civic spaces specified in Table 4.2.040 (Civic Space Type Standards) are allowed by right or with the specified approvals in the designated transect zones.

Sub-Article 4.2: Civic Space Standards

4.2.040 Civic Space Type Standards

Civic Space Type	Special Use Park	Overlook Park	Pocket Park
Illustration			
Description	A space that is civic in nature but that does not fit into any pre-established civic space type category.	An open space that provides space for viewing scenic or historically significant vistas, usually from a height.	An open space available for informal activities in close proximity to neighborhood residences.
Location & Size			
Location			
Service Area	Regional	Regional	Neighborhood
Size			
Minimum	No Minimum	No Minimum	4,000 square feet
Maximum	No Maximum	No Maximum	1 acre
Character			
Frontage	Building or Independent	Independent	Building
Disposition of Elements	Natural, Formal, or Informal	Natural or Informal	Formal or Informal
Typical Facilities	Passive and Active Recreation, Accessory Structure, Drinking Fountains, Community Facility < 5,000 gross square feet, Paths and Trails.	Passive Recreation, Accessory Structure, Drinking Fountains, Paths and Trails.	Passive Recreation, Accessory Structure, Drinking Fountains, Paths and Trails.

4.2.040 Civic Space Type Standards (continued)

Civic Space Type	Playground	Community Garden
Illustration		
Description	An open space designed and equipped for the recreation of children. A Playground should be fenced and may include an open shelter. Playgrounds may be included within other civic spaces.	An open space designed as a grouping of garden plots that are available to nearby residents for small-scale cultivation. Community Gardens may be included within other civic spaces.
Location & Size		
Location		
Service Area	Neighborhood	Neighborhood
Size		
Minimum	No Minimum	No Minimum
Maximum	No Maximum	No Maximum
Character		
Frontage	Independent or Building	Independent or Building
Disposition of Elements	Formal or Informal	Formal or Informal
Typical Facilities	Accessory Structure, Drinking Fountains, Paths and Trails.	Accessory Structure, Drinking Fountains, Paths and Trails.

Article 5: Administration and Procedures

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Sub-Article 5.1: Purpose and Applicability

- 5.1.010 Purpose: This Article establishes procedures for the preparation, filing, and processing of applications for development permits and other entitlements required by this Code.
- 5.1.020 Applicability:
- This Form-Based Code applies to any construction, development, activity, or use within the land zoned with the SPA designation as shown in Figure 1.2.010 (Numila Transect Map).
 - The requirements of this Code are in addition to all applicable federal, state, and county laws and regulations governing land use and development, including Chapter 8 (Comprehensive Zoning Ordinance) and Chapter 9 (Subdivision), Kaua'i County Code 1987, as amended.
 - In case of conflict between any provision of this Code, Kaua'i County Code Chapter 8 (Comprehensive Zoning Ordinance) ("CZO"), and any other Kaua'i County Code, rule, or regulation conflict, this Code shall apply.
- 5.1.030 Review Authority:
- Table 5.1.030.A (Review Authority) identifies the County official or body responsible for reviewing and making decisions on each type of application required by this Code.
 - All applications for property located within the Plan Area are subject to the review and approval of the review authority(s) identified in Table 5.1.030.A Review Authority.

Table: 5.1.030.A: Review Authority

Approval	Reference	Planning Director	Planning Commission	County Council
Zoning Permits				
Class I	Subsec. 8-3.1(c) CZO	Decision	Appeal	
Class II	Subsec. 8-3.1(d) CZO	Decision	Appeal	
Class III	Subsec. 8-3.1(e) CZO	Decision	Appeal	
Class IV	Subsec. 8-3.1(f) CZO	Recommend	Appeal/Decision	
Use Permit	Sec. 8-3.2 CZO	Recommend	Appeal/Decision	
Variance	Sec. 8-3.2 CZO	Recommend	Appeal/Decision	
Amendment	Sec. 8-3.2 CZO	Recommend	Recommend	Decision
Minor Modification	5.2.040	Decision	Appeal/Decision	

- 5.1.040** **Concurrent Processing:** Multiple applications for the same project will be processed concurrently, reviewed, and approved or denied by the highest review authority designated by this Code for any of the permits or approvals (i.e., a project for which applications for a Class II Zoning Permit and a Use Permit are filed must have both applications decided by the Planning Commission, instead of the Director first deciding on the Zoning Permit as otherwise required by Table 5.1.030.A (Review Authority)).
- 5.1.050** **Rules of Interpretation:**
- i. **Authority.** The Director has the authority to interpret any provision of this Code. Whenever the Director determines that the meaning or applicability of any Code requirement is subject to interpretation, the Director may issue an official interpretation. The Director may also refer any issue of interpretation to the Planning Commission for their determination.
 - ii. **Language.**
 - a. The words “shall,” “must,” “will,” “is to,” and “are to” are always mandatory;
 - b. “Should is not mandatory but is strongly recommended; and “may” is permissive;
 - c. The present tense includes the past and future tenses; and the future tense includes the present;
 - d. The singular number includes the plural number, and the plural the singular, unless the natural construction of the word indicates otherwise; and
 - e. The words “includes” and “including” shall mean “including but not limited to”.
 - f. “Applicant” means an owner or any person who has full written authorization of the owner.
 - g. “Owner” means the holders of equitable and legal title of land in fee simple.
 - h. When used in this Code, the terms “Code,” “this Code,” or “Form-Based Code” means the West Kaua’i Form-Based Code
 - iii. **Time Limits.** Whenever a number of days is specified in this Code, the number of days shall be construed as consecutive calendar days. A time limit shall extend to 4:30 p.m. on the following working day where the last of the specified number of days falls on a weekend or holiday.
 - iv. **Uses Not Listed.** The Director has the authority to determine other unlisted uses as similar in nature to those listed in the respective Use Tables of Article 2 (Specific to Transect Zones) as requiring a use permit, and that those similar uses may also be permissible in that respective Transect Zone with a Use Permit

Article 5: Administration and Procedures

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Sub-Article 5.2: Permits and Approvals

5.2.010 Zoning Permits:

- i. No person shall undertake any construction or development or carry on any activity, or use, for which a zoning permit is required by this Code, or obtain a building permit for construction, development, activity, or use regulated by this Code, without first obtaining the required permit.
- ii. To obtain any permit, the applicant shall show compliance with the standards established in this Code and shall submit, where necessary, a plot plan as required by CZO Sec. 8-4.6(d).
- iii. Applications for zoning permits as required in this Code shall be processed in accordance with CZO Sec. 8-3.1 (Zoning Permits).
- iv. For any Zoning Permit, the designated Review Authority may approve, with or without conditions, or deny the permit. The following Zoning Permits are required for the following activities:
 - a. Class I Permit. A Class I Permit must be obtained for construction or development not located in a Constraint District or a Special Treatment District where the construction or development does not require a Use Permit or a Variance Permit and:
 - I. For non-residential or mixed-use projects that are generally permitted; or
 - II. For residential projects, the project consists of no more than one (1) dwelling unit.
 - b. Class II Permit. A Class II Permit must be obtained for construction or development of a residential project consisting of between two (2) to ten (10) dwelling units that are not located in a Constraint District or a Special Treatment District where the construction or development does not require a Use Permit or a Variance Permit.
 - c. Class III Permit. A Class III Permit must be obtained for construction or development where the construction or development does not require a Variance Permit or a Use Permit and:
 - I. For any project where a Class I or Class II Zoning Permit would otherwise be required, except that the development is located in a Constraint District or a Special Treatment District; or
 - II. For residential projects, the project consists of between eleven (11) and fifty (50) units; or

a. **Class IV Permit.** A Class IV Permit must be obtained for construction or development, whether or not the development is located in a Constraint District or Special Treatment District where:

- I. For non-residential or mixed-use projects that require a use permit; or
- II. For residential projects, the project consists of fifty-one (51) or more dwelling units; or
- III. For any project, a Class I, II, or III Permit would otherwise be required, except that a Use Permit or a Variance Permit is required.

v. **After-the-Fact Permits.** In addition to the Zoning Permit filing and processing fee(s), an application for a Zoning Permit for a structure partially or fully constructed without the required approvals and/or a use that has commenced prior to the required approvals shall have an additional filing, inspection, and processing fee(s) which is double that of the original filing and processing fee(s) or five hundred dollars (\$500.00), whichever is greater.

5.2.020 Use Permits:

No person shall undertake any construction or development, or carry on any activity or use for which a Use Permit is required by this Code, or obtain a building permit for construction, development, activity or use for which a Use Permit is required by this Code, without first obtaining a Use Permit in accordance with CZO Sec. 8-3.2 (Use Permits).

5.2.030 Variance:

Request for a variance from the provisions of this Code must comply with the requirements in CZO Sec. 8-3.3 (Variance).

5.2.040 Minor Modifications:

The Planning Director may approve minor modifications of up to 10% of all dimensional requirements for all building types.

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Sub-Article 5.3: Administration and Enforcement

5.3.010 Amendments:

This Code may be amended in compliance with the requirements in CZO Sec. 8-3.4.

5.3.020 Non-Conforming Provisions:

Nothing in the Numila Form-Based Code shall restrict or prevent an applicant from re-constructing or repairing a structure in a respective Plantation Camp transect pursuant to Section 8-8A2, subsections (a) and (b), of the Kauai County Code, 1987, as amended.

Any new densities, structures, and uses, proposed in a respective Plantation Camp transect beyond those permissible within Section 8-8A of the Kauai County Code, 1987, as amended, shall be in conformance with the rules, regulations, and standards of the subject Numila Form-Based Code.

5.3.030 Appeals:

- A. An applicant who seeks to appeal from an adverse decision of the Director or designee shall file a notice of appeal with the Director and the Planning Commission within thirty (30) days after the adverse decision.
- B. If the appeal is from the denial of a Class III Zoning Permit, the Director shall make the notice public and shall notify any persons who have duly requested notice of appeals.
- C. The Planning Commission shall consider the appeal at a public session within sixty (60) days of the filing of the notice of appeal and shall render its decision within that period.

5.3.040 Fee Exemptions:

- A. A Zoning Permit application for a housing project or portions of housing projects that are developed to be affordable to low-income households as determined by the Housing Director or authorized representative of the County Housing Agency shall be exempt from the filing and processing fee required in CZO Subsection 8-3.1(b)(1), provided such projects conform to applicable provisions of the County's affordable housing program.
- B. A Zoning Permit application for a housing project or portions of housing projects that are developed to be affordable as determined by the Housing Director or authorized representative of the County Housing Agency shall be exempt from one-half (1/2) of the filing and processing fee required in CZO Subsection 8-3.1(b)(1), provided such projects conform to applicable provisions of the County's affordable housing program.
- C. No exemptions shall be afforded for such housing projects from any fees or costs arising from compliance with CZO Subsection 8-3.1(f)(4) or (h).

5.3.050 Enforcement:

- A. Enforcement, legal procedures, and penalties for violations of any of the regulations and standards within the Plantation Camp Form-Based Code are established pursuant to section 10-7.2 of the Kauai County Code, 1987, as amended.

Article 6: Definitions

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Sub-Article 6.1: Definitions of Terms and Phrases

6.1.010 Definitions

This Section provides definitions for specialized terms and phrases used in this Article. All other applicable definitions in Chapter 8 of the Kauai County Code or CZO apply.

Advancing Standards Transforming Markets (ASTM) – Means the organization (formerly referred to as the American Society for Testing and Materials) that develops standards and publishes voluntary consensus technical international standards for a wide range of materials, products, systems, and services.

Area A – means the area identified by the Plantation Camp WUI Viewer that is within the Plantation Camp District boundaries and is vacant or undeveloped on XXX Ordinance Adoption Date XXX.

Area B – means the area identified by the Plantation Camp WUI Viewer that is within the Plantation Camp District boundaries and was previously developed and is an existing built environment on XXX Ordinance Adoption Date XXX."

Civic Space – An outdoor area dedicated for civic activities. See Sub-Article 35.2 (Civic Space Standards).

Civic Building – A structure operated by governmental or not-for-profit organizations and limited to civic and related uses.

County – means the County of Kaua'i.

County Engineer – The County Engineer of the Department of Public Works of the County of Kauai.

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.

Director – Planning Director of the County of Kauai.

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.

Foundation – The lowest load-bearing part of a building, typically including structural placement below ground level.

Front – The front section of the building facing the thoroughfare or a civic space. If two or more portions of a building face a thoroughfare or a civic space, the Director shall determine which portion of the building is the front.

Frontage – The main entrance of a building located between the front of a building and a thoroughfare or civic space.

Glazing – The glass component of a building's façade.

Gable Roof – A roof with two sloping side and a gable, or wall, at each end.

Hip Gable/Dutch Gable Roof – Is a roof with a small gable at the top of a hip roof.

Hip Roof – A roof that slopes upward from all sides of the structure, having no vertical ends.

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: Cement (or fiber-cement) shingles or sheets, Ferrous shingles or sheets, or Slate shingles.

Noncombustible zone (NCZ) – means the area of land that extends 5 feet measured perpendicularly from the edge of the exterior walls of a structure and any unenclosed appendages or projections (including but not limited to lānais, porches, and stoops).

Plantation Camp Wildland Urban Interface (WUI) Viewer – means an online atlas in effect on XXX Ordinance Adoption Date XXX generated through an analysis of the Kaua'i Community Wildfire Protection Plan, 2024, additional consultation with the Kauai Fire Department, Kaua'i Emergency Management Agency, and the Hawai'i Wildfire Management Organization. The Viewer indicates the Plantation Camp WUI district boundaries.

Main Body – The main body constitutes the primary structure.

Mechanical Equipment Storage – small roofed accessory structure, attached or detached, that is no larger than 40 square feet in size.

Post-on-Pier – Type of development where the weight of the structure is distributed across a series of posts installed under the home and mounted to piers, which are typically masonry blocks arranged to distribute the weight evenly.

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.

Rear – Section of the building the opposite front of the building.

Rear Exit – Doorway situated on the Rear of the building.

Residential Use – The use of a structure or site for human habitation that may include a home, abode, or place where an individual is actually living at a specific point in time. Residences do not include transient accommodations such as transient hotels, motels, tourist cabins, or trailer courts, and dormitories, fraternity or sorority houses.

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.

Setback – A designated minimal amount of space required between a structure and the thoroughfare.

Shed Roof – A flat roof that slopes in one direction and may lean against another wall or building.

Side – Section of the building running perpendicular to the front and rear of the building.

Structure, Accessory – means a structure that is subordinate to, and the use of which is incidental to that of the primary structure or use on the same lot or parcel and not used for human occupancy of habitation. An accessory structure is not a primary structure.

Structure, Primary – means a structure that is used for the principal use permitted in the zoning district. In the Plantation Camp primary structures include but are not limited to residential dwelling units, commercial buildings, and schools. A primary structure is not an accessory structure.

Substantial Improvement – means any cumulative series of repairs, reconstruction, improvements, or additions to a structure over a 10-year period, where the cumulative cost equals or exceeds 50% of the market value of the structure before the start of construction of the first improvement during that 10-year period. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The value of any substantial improvement shall be determined by the Planning Director or his/her authorized representative. The term does not, however, include any project for improvement of a structure to correct existing violations of a State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Thoroughfare – A road or path designed for multiple users, including pedestrians, bicyclists, and vehicles.

Transect Zone – A defined area that meets the organization of the human habitat with a development intensity that meets natural and/or build form characteristics.

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.

Wing – A wing is part of a building that is subordinate to the main body.

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.

Shanlee Jimenez

From: c. diamond <kaimanacd22@yahoo.com>
Sent: Sunday, August 9, 2026 5:55 PM
To: Planning Department; Kaaina Hull
Subject: Vines SSD 2027-3 CDiamond PC Comments
Attachments: Vines SSD 2027-3 CDiamond PC Comments.pdf; Vines PC SSD 2027-3 attachments.pdf

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

Aloha, Please distribute attached testimony to the Commissioners re NOT accepting SSD 2027-3 Exemption (Attachments separate).
Mahalo, Caren Diamond

H.4.a.
SEP 08, 2026

County of Kauai Planning Commission
4444 Rice Street, Suite A473,
Lihue, Hawaii, 96766
planningdepartment@kauai.gov

August 8, 2026

Vines Family Trust; Theron Vines, Jr. & Geneil P. Vines
5-7062 Kuhio Hwy.
Wainiha, HI. 96714

To Planning Commission Chair Ako, Vice Chair Cox and Commissioners,

Re: SSD 2027-3 (August 11, 2026 Planning Commission Meeting Agenda Item)
SHORELINE SETBACK DETERMINATIONS

SSD-2027-3	Theron & Geneil Vines	5-8-011:011	Wainiha	Repairs to existing home / Work deemed unsubstantial (25.6%) per DPW letter dated May 15, 2026.
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Planning Commissioners should not accept approval of this “after the fact” Exemption to the Shoreline Setback Ordinance. This project does not fit the conditions required to grant Exemption 2.



MLS photo

The approval is in conflict with the requirements of Exemption 2 as the structure was expanded on the seaward side, and the project includes “Development” without associated permits, the repairs have not been permitted, Special Management Area requirements and other laws under HRS Chapter 205A have not been met. This is an After the Fact Exemption after receiving County Violation Notices with no building permit approval.

FIRST NOTICE OF VIOLATION – CZO dated August 8, 2025--VIOLATION:

On 7/16/2025, Planning Inspector Leslie Milnes, through his investigative research along with the on-site inspection noted and observed the remodeling of the single family dwelling (SFD) has occurred by way of installing new window replacements, new exterior 1 x 6 T & G siding, interior drywall refurbishing, new kitchen and bathroom cabinets, counter tops, finish flooring, along with the construction/placement of a concrete patio and the erection of a trellis structure upon the patio slab seaward of the SFD. This verifies that the activity of the commencement of construction The above stated activity of remodeling the single-family

Exemption 2

Pursuant to §8-27.7, those structures and uses found exempt in Table 2 (see pg. 7) including repairs to a lawfully existing structure, including nonconforming structures, provided that:

- (A) The repairs DO NOT enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;*
- (B) The repairs DO NOT constitute a substantial improvement of the structure;*
- (C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.*
- (D) The Planning Director determines that the proposal complies with the definition of “repair” under Sec. 8-1.5, Kaua’i County Code 1987, as amended.*
- (x) Letter from the Department of Public Works stating that the proposed project does NOT constitute “Substantial Improvement,” pursuant to §8-27.2 (If applicable, will require valuation of project).*

dwelling (SFD) along with the construction/placement of a concrete patio and the erection of a trellis structure is noted as development without permits on the subject property and constitutes a violation of the Comprehensive Zoning Ordinance. of unpermitted structures and remodeling of the SFD were present on subject property. **It is noted no SMA or Zoning Permits have been submitted or issued for the above activities.**

Section 5.0 DEVELOPMENTS PROPOSED WITHIN THE SPECIAL MANAGEMENT AREA SUBJECT TO REVIEW

Any use, activity, or operation proposed within the Special Management Area defined as "development" pursuant to Section 1.4 F above shall be subject to the review of the Director, Planning Department, and Planning Commission under these Rules and Regulations ...The activity of remodeling the single family dwelling (SFD) along with the construction/placement of a concrete patio and the erection of a trellis structure is considered "development" pursuant to SMA Section 205A-22 (1) (A) & (8). This activity without an SMA permit is a violation of HRS §205A-28 and HRS §205A-22. "DEVELOPMENTS PROPOSED WITHIN THE SPECIAL MANAGEMENT AREA SUBJECT TO REVIEW."

Question: Why is the County granting SSD 2027-3 Exemption 2 and why BEFORE the applicant has SMA approval, BEFORE the applicant completed their responsibility to remove the encroachments seaward of the shoreline that limit safe public access along the beach, BEFORE After the Fact Building permits are approved?

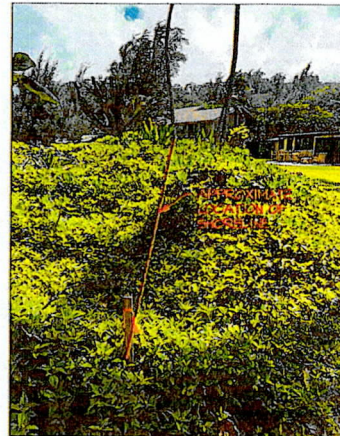
Shoreline

This property was originally built in 1958 and was a classic old style Hā'ena cottage. It never had a shoreline certified. The state has jurisdiction over lands seaward of the shoreline, the county administers the setback from the shoreline. This Shoreline Setback Determination affects public rights and the public beach. The applicant's shoreline was officially rejected, but the maps are used in SSD2027-3 anyway. Applicants were required to remove the vegetative encroachments seaward of the proposed shoreline. The shoreline was rejected because the landowner did not remove the vegetative encroachments. These encroachments onto the public beach should be required to be removed before after the fact approval for this development is given. Both recent applications to certify the shoreline were rejected by the State due to the extensive vegetation encroachments that block safe lateral access along the beach. The shoreline location and map used in SSD-2027-3 was officially rejected by the state. The shoreline rejection was noticed in the OEQC Bulletin dated February 8, 2026. See attachment A, Applicants Map and Photo proposed shoreline, State Surveyor Letter to remove vegetation seaward of the shoreline and Rejection Notice.

Shoreline application KA-498 was published in the OEQC on June 8, 2025. The proposed shoreline was the second **rejected proposed shoreline** for this same property, (previous application KA-465).

Pursuant to Hawaii Administrative Rules 13-222-19, property owners are required to resolve vegetative encroachments that interfere with the natural shoreline processes before the shoreline is certified. As this landowner would not resolve the vegetative encroachments, the proposed shoreline was rejected by the State. October 10, 2025, the Hawaii State Surveyor, Reid Siarot correspondence: *Response refer to: K-089(25), KA-498*

*This shoreline was inspected on the ground on June 18, 2025 and as a result, the proposed shoreline was determined to be in an acceptable location. **Before we can proceed, DLNR's Hawai'i Administrative Rules 13-222-19 require the vegetation on the makai side of the shoreline be removed.** Please contact Rebecca Anderson at (808) 587-0420 for questions on the shoreline encroachment. After completion of the above, please submit confirmation of the removal of the vegetation on the seaward side of the shoreline so that the certification process can be completed.*



Thick copious salt tolerant vegetation encroachments cover the entire coastal dune and keep expanding evermore seaward creating coastal squeeze on the beautiful sandy beach here limiting safe public access along the beach. The vegetation has encroached exponentially here, creating a thick vegetative barrier that blocks the beach transit corridor hindering the public right of access during times of high surf and tides. *The Hawai'i Supreme Court stated it is axiomatic that the "longstanding public use of Hawaii's beaches . . . has ripened into a customary right."* *Diamond II*, 319 P.3d at 1034 (quoting *Cty. of Hawai'i v. Sotomura*, 517 P.2d 57, 61-62 (Haw. 1973)).

The exemption to the county setback laws must not result in the loss of public trust lands. Planning Commissioners should not accept approval of this application; at the minimum Planning should require the landowner to remove the vegetative encroachments as directed by the State before any approval.

AFTER THE FACT SSD 2027-3 application does not reference the exemption being sought is an After the Fact exemption for repairs and additions done without permits.

8-27.7 SSD 2027-3 is dated 7/27/2026 and is subject to the requirements of the provisions for Repair in Article 27 of Chapter 8, Kaua'i County Code including Sec. 8-27.7 (6) (E) and(F)

(E) To ensure that proposed repairs under Sec. 8-27.2, Kaua'i County Code 1987, as amended, do not constitute a substantial improvement, the Director shall require the applicant to provide the following:

(ii) A cost breakdown estimate of the proposed repair project through a "Non-Substantial Improvement Job Cost Breakdown Worksheet." The worksheet shall be submitted to and maintained by the Director and shall include all costs of the subject repair project including but not limited to costs associated with site work. Masonry, plumbing, electrical work, carpentry (framing and finish work), drywall, glass and glazing, painting, flooring, appliances, cabinetry, and all labor.

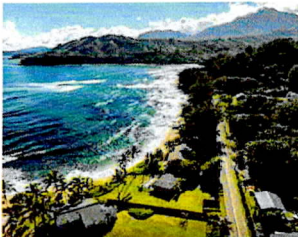
(iii) The applicant shall submit a signed declaration acknowledging understanding and agreeing the repair exemption cost figures estimated in the "Non-Substantial Improvement Job Cost Breakdown Worksheet" are subject to review after the completion of the proposed repairs for consistency with the actual and proposed repairs.

(v) Within 60 days of the notification of completion or while the repair project is still ongoing the Director may require the applicant to submit receipts for each of the improvements listed on the "Non-Substantial Improvement Job Cost Breakdown Worksheet" and any other construction materials, labor and associated costs necessitated by the repairs that have been completed. If the applicant cannot provide receipts, the Director may establish the fair market cost for each of the improvements for which receipts cannot be provided.

Note: The cost breakdown provided by applicant seems very incomplete, many of the required cost breakdowns were not included. N/A is used far too often. A review of the repairs pursuant to 8-27.7 (6) (E) and(F) costs and receipts should be required for all the previously finished work, including materials and labor along with documentation of the expenses for the work. Additionally, the cost breakdown provided is just \$6,670. less than the amount required to mandate a certified shoreline.

8-27.7(6)(F) A certified state shoreline survey is required for any repairs exceeding \$125,000 and shall be included in the application for a shoreline setback determination.

Special Management Area Minor Permit SMA(M)-2024-2 There are no SMA permits for this development. Previous Special Management Area Minor Permit SMA(M)-2024-2 and SSD 2024-7 was for a Six (6) foot high natural cedar fence here. Along with the fence being constructed, the structure was repaired/renovated and expanded on the seaward side without SSD, SMA, Certified Shoreline, Building Permits or DOH cesspool conversion. The fence blocks beautiful views to the ocean from the highway in conflict with HRS 205A-2 and applicant should be required to restore the view from the highway to the ocean that always existed here.



§205A-2 Coastal zone management program; objectives and policies.

(c) Policies (3) Scenic and open space resources; (B) Ensure that new developments are compatible with their visual environment by designing and locating those developments to minimize the alteration of natural landforms and existing public views to and along the shoreline.

Unsubstantial Improvement Determination

In Shoreline Setback Application 2027-3 Unsubstantial Improvement Determination, attachment B, The County Engineer wrote *Shoreline Setback Application - Retroactive Determination of Unsubstantial Improvement*

Improvements were made to 5-7062 Kuhio Highway in Hanalei.

*Cost of Improvements: **The were no building permits within the past ten years; however, the following improvements were made to the structure, including: new exterior siding, new windows, new flooring, cabinets, counters, appliances, a patio, and trellis.** The cost of the improvements to the structure is estimated to be **\$118,330**. This is based on a cost estimate provided by Architectural Design Contractors, Inc. dated October 31, 2025.*

Residential Appraisal Report

File No.: 25-709 Katharine Otsuji Additional Comments:

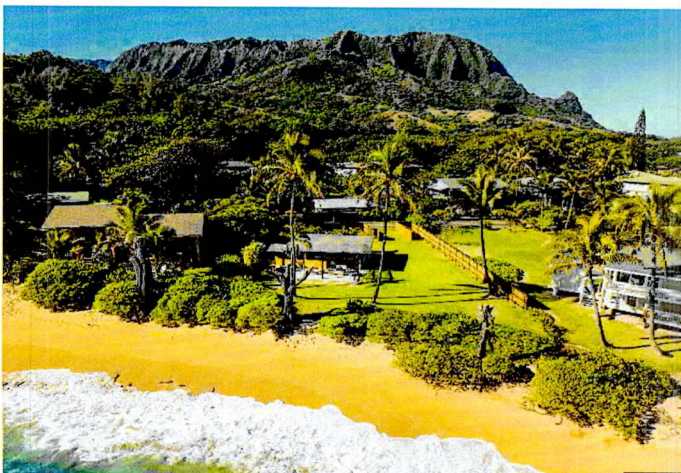
Description of Improvements: According to tax office records; the subject dwelling was built in 1958. It is a 1-bedroom 1.5 bath house with approximately 752 square feet of living area. According to the owner, the .5 bath by laundry was always there; the full bath may have been an addition...

*Improvements done since the date of value include but are not limited to the following: **New exterior siding; new windows; new flooring; cabinets, counters and appliances. A Patio and trellis were added at the rear.** The subject's footprint did not change **(except for the Patio)**. The roof and roofing are the same. The new exterior siding is decorative; it was installed over the existing siding that is T1-11 (as per the owner).*

My note: What is called “the rear” in this application happens to the seaward side along the ocean. There is no “except” in 8-27.7(6)(A)§ 8-27.7. Permitted structures within the shoreline setback area. The following structures are permitted in the shoreline setback area. All structures and/or landscaping not specifically permitted in this section are prohibited without a variance.

(6) Repairs to a lawfully existing structure, including nonconforming structures, provided that:

(A) The repairs do not enlarge, add to or expand the structure; increase the size or degree of nonconformity; or intensify the use of the structure or its impact on coastal processes;



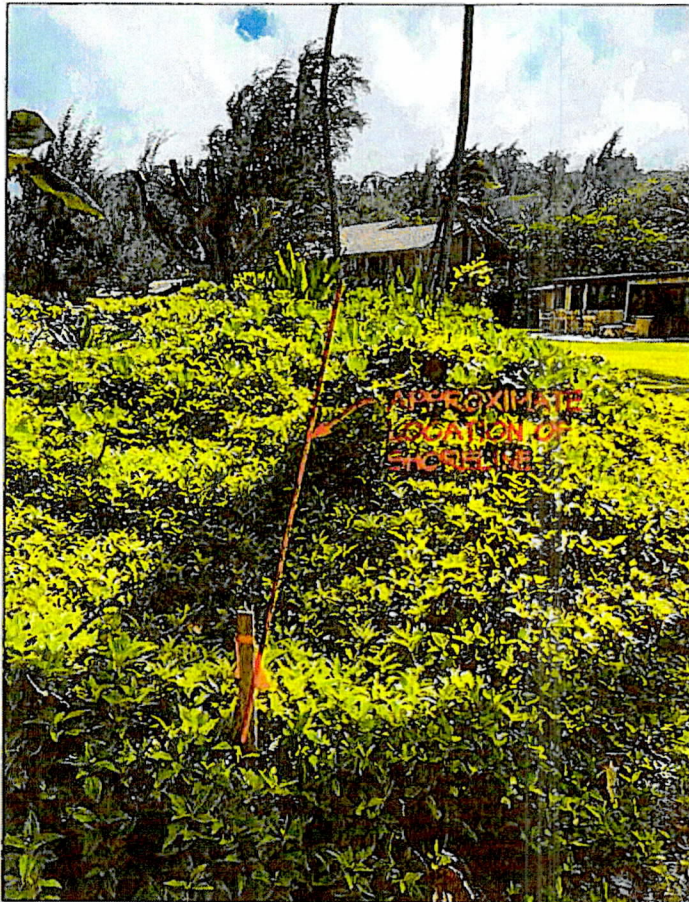
All photos from MLS# 716531 and MLS # 727481, see attachment C

For all the above reasons, please remove SSD-2027-3 from the PC August 11, 2026 Shoreline Setback Determination Approvals. Mahalo for your consideration, Caren Diamond

Caren Diamond

Attachment A

- KA-498 proposed shoreline map and photos
- letter from Reid Siarot, State Surveyor,
- OEQC shoreline rejection

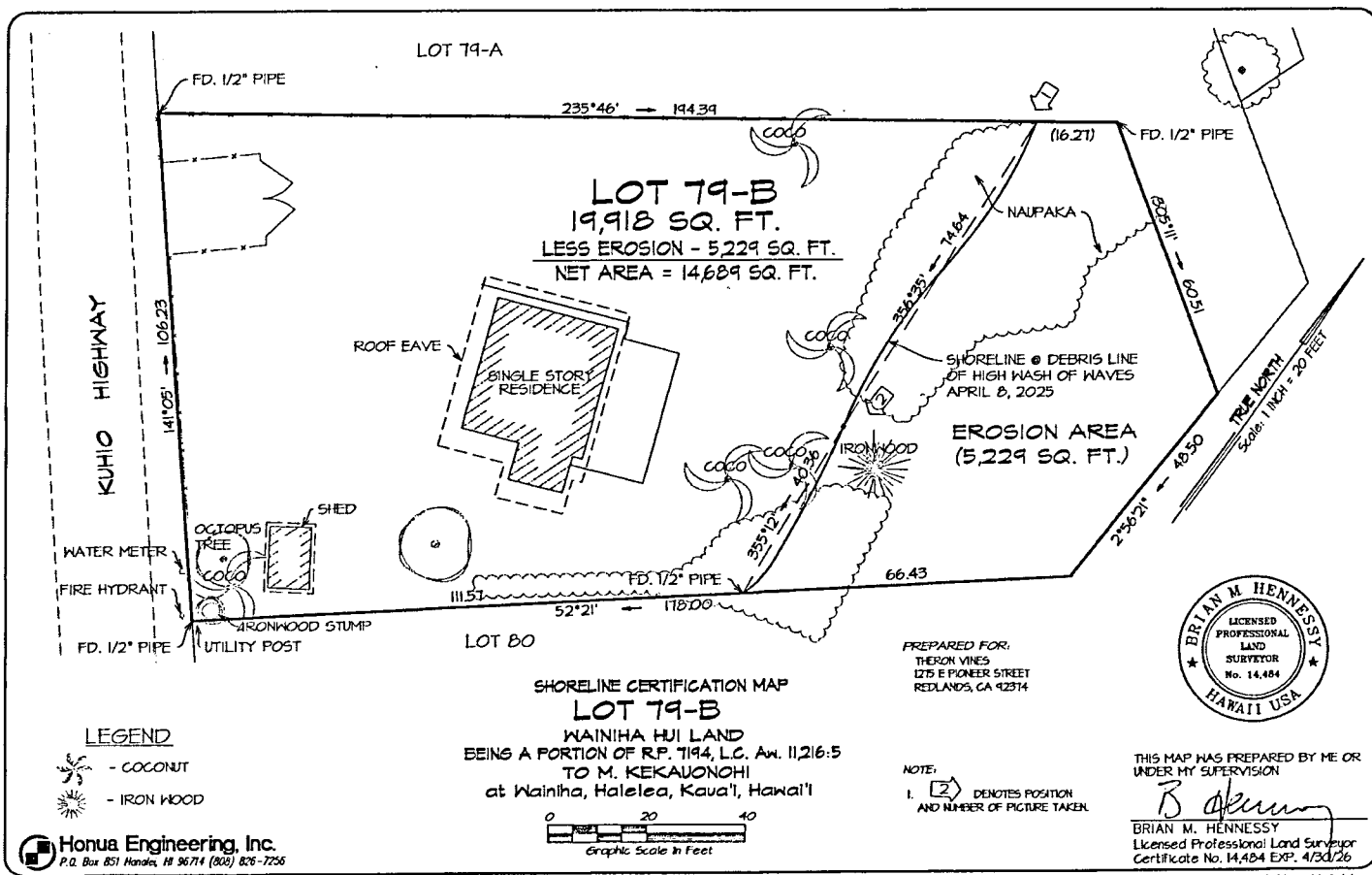


APRIL 8, 2025
TIME: 12:00 PM

SHORELINE CERTIFICATION
PHOTOGRAPHS

LOT 79-B

WAINIHA HUI LAND
BEING A PORTION OF R.P. 7194, L.C. Aw. 11,216:5
TO M. KEKAUONOHI
at Wainiha, Halelea, Kava'i, Hawai'i



Honua Engineering, Inc.
P.O. Box 851 Hanalei, HI 96714 (808) 826-7256

Tax Map Key: (4) 5-B-11.11

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



KEITH A. REGAN
COMPTROLLER
KA LUNA HO'OMALU HANA LAULĀ

MEOH-LENG SILLIMAN
DEPUTY COMPTROLLER
KA HOPE LUNA HO'OMALU HANA LAULĀ

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA 'OIHANA LOIHELU A LAWELAWÉ LAULĀ
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

Response refer to:
K-089(25)
KA-498

October 10, 2025

Mr. Brian Hennessy
Honua Engineering, Inc.
P.O. Box 851
Hanalei, Hawai'i 96714-0851

Dear Mr. Hennessy:

Subject: Shoreline Certification Application
TMK 5-8-11: 11
Owner: Vines Family Trust; Theron L. Vines, Jr. & Geneil P.
Vines, Trustees
Wainiha, Halele'a, Kaua'i, Hawai'i

This shoreline was inspected on the ground on June 18, 2025 and as a result, the proposed shoreline was determined to be in an acceptable location. Before we can proceed, DLNR's Hawai'i Administrative Rules 13-222-19 require the vegetation on the makai side of the shoreline be removed. Please contact Rebecca Anderson at (808) 587-0420 for questions on the shoreline encroachment.

After completion of the above, please submit confirmation of the removal of the vegetation on the seaward side of the shoreline so that the certification process can be completed.

Should you have any questions on this application, please call me at 586-0390.

Very truly yours,

A handwritten signature in black ink, appearing to read "Reid K. Siarot".
REID K. SIAROT
State Land Surveyor

cc: Rebecca Anderson



The Environmental Notice

February 8, 2026

JOSH GREEN, M.D., GOVERNOR
MARY ALICE EVANS, DIRECTOR

The Environmental Notice provides public notice for projects undergoing environmental review in Hawai'i as mandated under Section 343-3, Hawai'i Revised Statutes, the Environmental Impact Statement Law. Along with publishing Environmental Assessments (EAs) and Environmental Impact Statements (EISs) for projects in Hawai'i. The Environmental Notice also includes other items related to the shoreline, coastal zone, and federal activities.



The SOH, represented by the UH, is proposing a subsea fiber optic cable system to the six main Hawaiian Islands.

photo from the [project's Draft EA](#)

235 South Beretania Street, Suite 702 • Honolulu, Hawai'i 96813 • (808) 586-4185 • dbedt.opsd.erp@hawaii.gov • <https://planning.hawaii.gov/erp/>

SHORELINE NOTICES

APPLICATIONS FOR SHORELINE CERTIFICATION

The shoreline certification applications below are available for review and comment at the Department of Land and Natural Resources offices on Kaua'i, Hawai'i, Maui, and Honolulu, 1151 Punchbowl Street, Room 220 ([HRS § 205A-42](#) and [HAR § 13-222-12](#)). **Maps and photos of each application file can be viewed [here](#). All comments shall be submitted in writing to the State Land Surveyor, 1151 Punchbowl Street, Room 210, Honolulu, HI 96813 and postmarked no later than 15 calendar days from the date of this public notice of the application.** For more information, contact Barry Cheung at barry.w.cheung@hawaii.gov.

File No.	Location	ZIP Code	TMK	Applicant	Owner
OA-2174	Kaluanui Stream Bridge, Kamehameha Highway	96717	(1) 5-3-009:047	ControlPoint Surveying, Inc.	City & County of Honolulu
OA-2175	47 Kailuana Place	96734	(1) 4-3-022:015:0002	Austin Tsutsumi & Associates, Inc.	Lilikoi HI LLC
MA-859	Kahalui Beach Road	96732	(2) 3-7-001:021 & 022	Ryan M. Suzuki	State of Hawaii Department of Transportation, Harbors Division

PROPOSED SHORELINE CERTIFICATIONS AND REJECTIONS

The shoreline notices below have been proposed for certification or rejection by the Department of Land and Natural Resources ([HRS § 205A-42](#) and [HAR § 13-222-26](#)). Any person or agency who wants to appeal shall file a notice of appeal in writing with DLNR no later than 20 calendar days from the date of this public notice. Send the appeal to the Board of Land and Natural Resources, 1151 Punchbowl Street, Room 220, Honolulu, Hawai'i 96813.

File No.	Status	Location	Zip Code	TMK	Applicant	Owner
OA-2147	Reject	68-327 Crozier Drive	96791	(1) 6-8-005:047	Gil P. Bumanglag	Revocable Trust of Reed H. Matsuura, Reed H. Matsuura, Trustee
OA-2154	Proposed	91-121 Olai Street	96707	(1) 9-1-026:027	Walter P. Thompson, Inc.	City & County of Honolulu
OA-2159	Proposed	4895 Kalaniana'ole Highway	96821	(1) 3-5-058:001	Engineers Surveyors Hawaii, Inc.	Robert P. Riggs Trust
OA-2164	Proposed	85-251 Farrington Highway	96792	(1) 8-5-002:018	Kenn Nishihira	State of Hawaii Department of Education
OA-2167	Proposed	4310 Kaikoo Place	96816	(1) 3-1-041:024	Walter P. Thompson, Inc.	Soichiro Fukutake Trust
OA-2169	Proposed	68-679B Crozier Drive	96761	(1) 6-8-006:020	Benjamin Guieb	Katy Swim & Felix Pivec
MA-848	Reject	355 Front Street	96761	(2) 4-6-003:011	Arthur P. Valencia	The David W. Medina & Catherine Medina Trust; David Medina & Catherine Medina, Trustees
MA-851	Proposed	1470 Halama Street	96753	(2) 3-9-009:025	Action Survey LLC	William Dee Burger Jr. & Mary E. Burger
HA-663	Proposed	Lot 47 Paradise Ala Kai Drive	96749	(3) 1-5-059:048	Thomas Pattison	Gary Edwin Reitz & Estella Rubianes Reitz
HA-664	Proposed	15-825 Paradise Ala Kai Drive	96749	(3) 1-5-059:052	Thomas Pattison	Mario A. Rovira & Miraflor Caina Rovira, Trustees, The 2013 Rovira Family Trust
KA-497	Reject	Kuhio Highway	96714	(4) 5-8-012:002	Honua Engineering, Inc.	Theron L. Vines & Geneil P. Vines
KA-498	Reject	5-7062 Kuhio Highway	96714	(4) 5-8-011:011	Honua Engineering, Inc.	Vines Family Trust, Theron L. Vines & Geneil P. Vines, Trustees

Attachment B

Unsubstantial Improvement Determination

ENGINEERING DIVISION

DEPARTMENT OF PUBLIC WORKS

TROY TANIGAWA, P.E., COUNTY ENGINEER

BOYD GAYAGAS, DEPUTY COUNTY ENGINEER



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

May 15, 2026

Vines Family Trust
P.O. Box 70
Redlands, CA 92373

Subject: Shoreline Setback Application – Retroactive Determination of Unsubstantial Improvement
Vines Family Trust
5-7062 Kūhiō Hwy
Hanalei, HI 96746
TMK: (4) 5-8-011:011

To Whom It May Concern:

The Kauai County Shoreline Setback and Coastal Protection Ordinance (Ordinance No. 579) Section 8-27.2 states:

“‘Substantial improvement’ means any cumulative series of repairs, reconstruction, improvements or additions to a structure over a ten (10) year period, where the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the first improvement during that ten (10) year period. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure....”

Improvements were made to 5-7062 Kūhiō Highway in Hanalei. To determine if the improvements are considered “substantial,” we compare the total cost of all improvements within the past 10 years to the market value of the structure before the start of construction of the first improvement. If the resulting ratio is less than 50%, then the improvements are determined to be “unsubstantial.” However, if the ratio is greater than or equal to 50%, the improvements are considered to be substantial, and the structure must comply with the Kaua’i County Floodplain Management Ordinance No. 831, the International Building Code, and the American Society of Civil Engineers Chapter 24 Flood Resistant Design and Construction.

Market Value:

The market value can be determined in one of two ways:

1. The applicant may choose to utilize a licensed appraiser, or
2. If the applicant does not utilize a licensed appraiser, the market value is determined by the County’s Real Property Assessment (RPA) Division as the “Replacement Cost New Less Depreciation”.

The applicant utilized a licensed appraiser to determine the market value for this structure. Per an appraisal by Katherine Otsuji of Appraisal Services Kauai, the market value of the structure is \$463,000 as of January 15, 2024.

Cost of Improvements:

There were no building permits within the past ten years; however, the following improvements were made to the structure, including: new exterior siding, new windows, new flooring, cabinets, counters, appliances, a patio, and trellis. The cost of the improvements to the structure is estimated to be \$118,330. This is based on a cost estimate provided by Architectural Design Contractors, Inc. dated October 31, 2025.

Summary:

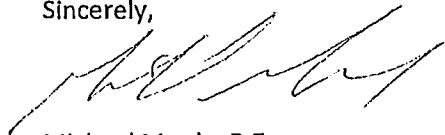
The ratio of the improvements to the market value is calculated as follows:

$$\frac{\text{Cost of Improvements (past 10 years): \$118,330}}{\text{Market Value: \$463,000}} = 0.256 \text{ or } 25.6\%$$

Since the total cost of improvements for the structure does not exceed 50% of the market value of the structure, the improvements are considered to be unsubstantial. Based on our records there were no other permits for these structures within the past ten years. However, if any other unpermitted work has been done, or if there are modifications to this application, our determination shall be considered void, and the structure(s) must be reevaluated.

If you have any questions or need additional information, contact Anthony Chandler at (808) 241-4884 or achandler@kauai.gov.

Sincerely,

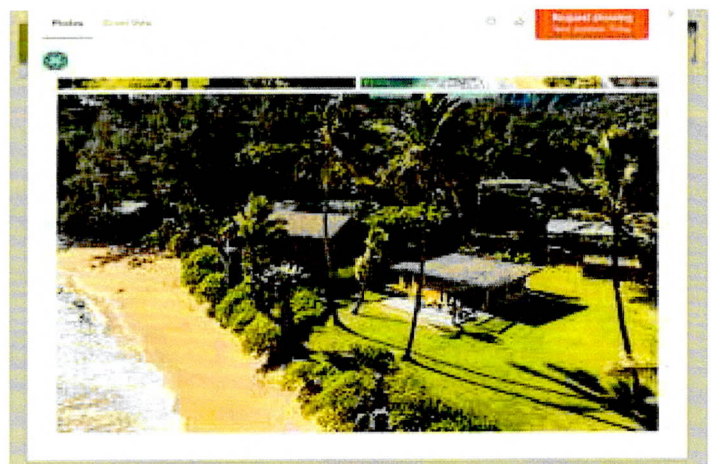
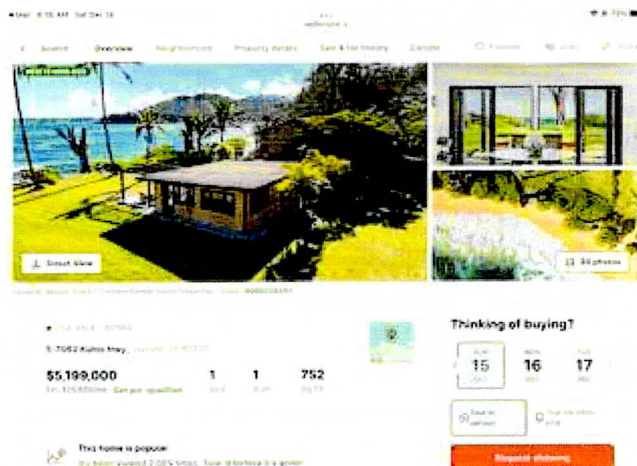


Michael Moule, P.E.
Chief, Engineering Division

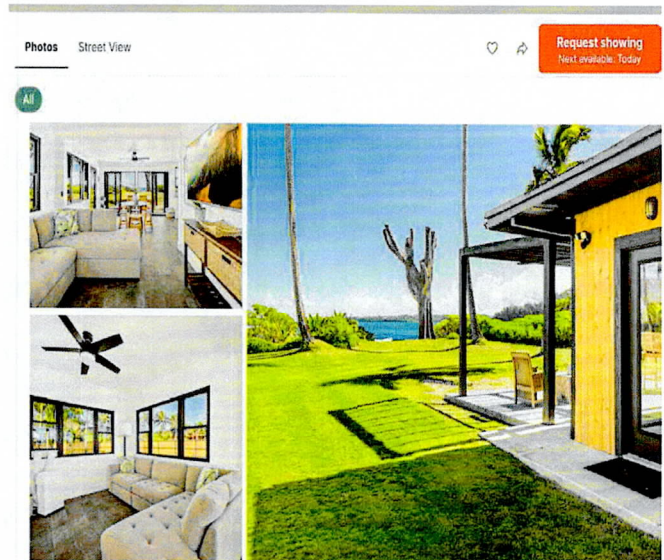
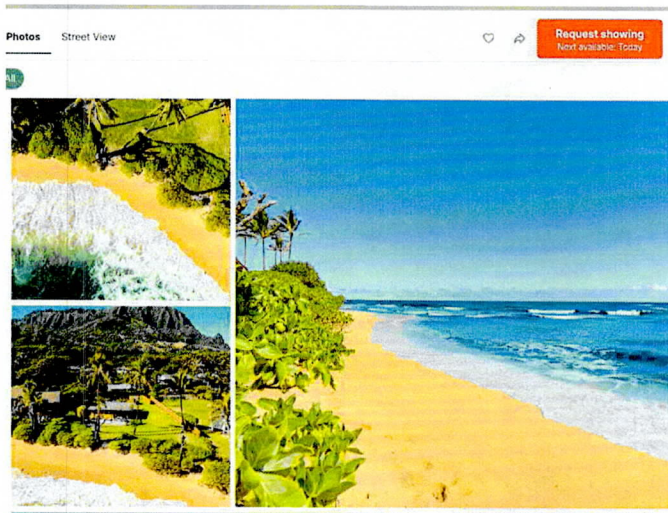
BW/AC

cc: Planning Department (Romio Idica)
Theron and Geneil Vines (ivinesdds@gmail.com)

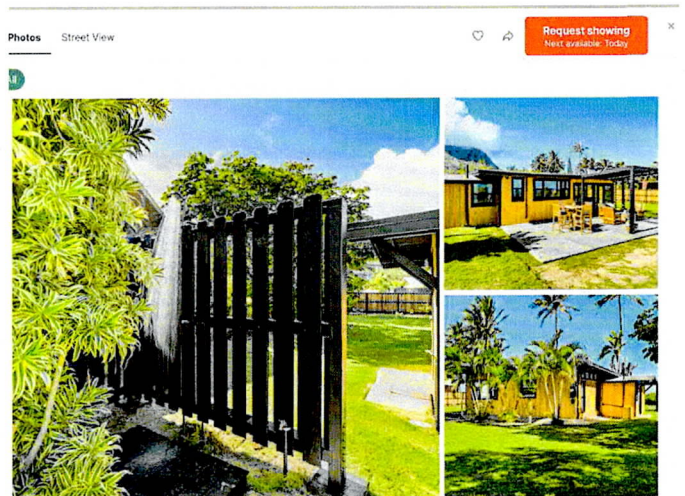
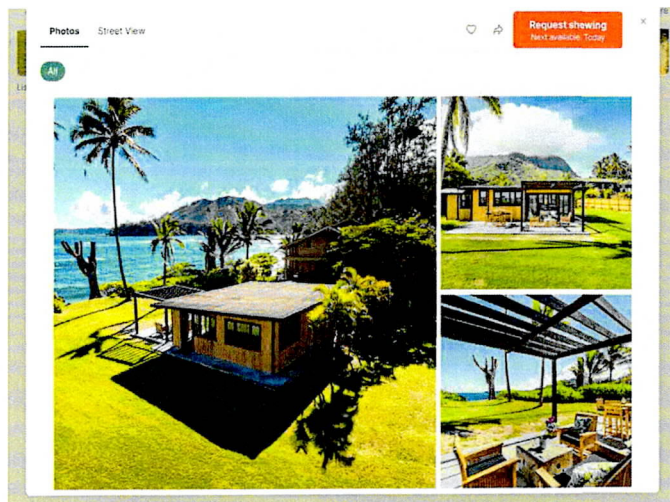
For Sale \$5,199,000 December 2024



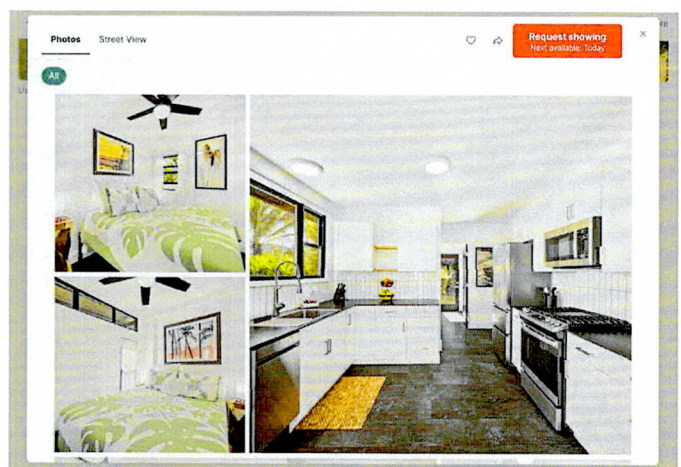
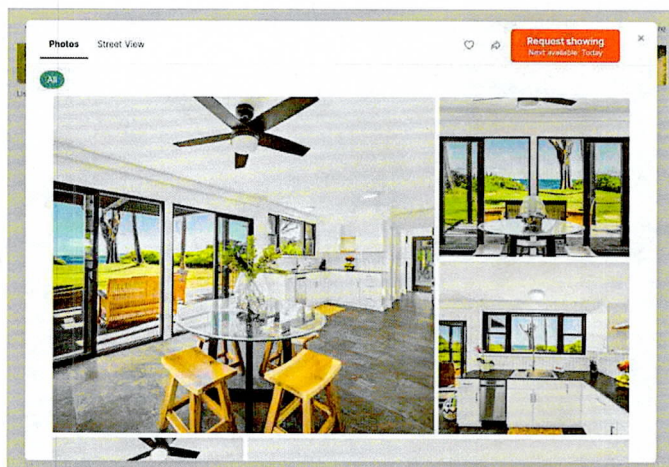
TMK 5-8-011:011 For Sale Photos MLS# 716531 and MLS # 727481



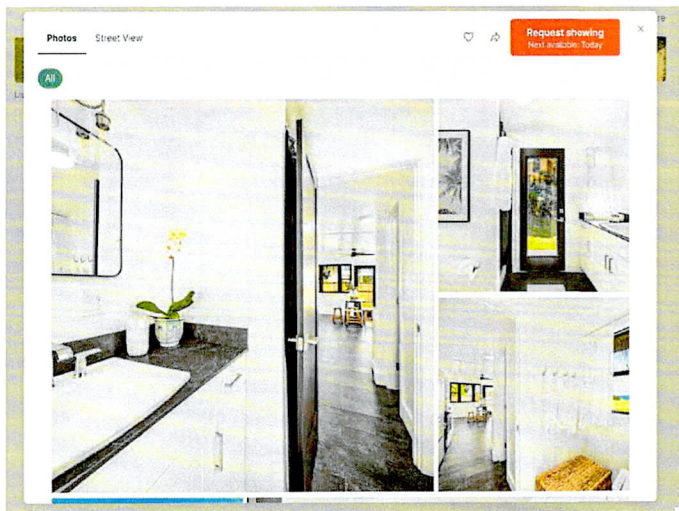
MLS pics



New Kitchen MLS pics



New Bathrooms/ MLS pics





← Search

Overview

Neighborhood

Property details

Sale & tax history

♡ Favorite

🔒 Hide



Street View



● FOR SALE

\$3,995,000 Est. \$24,104/mo — Get prequalified ●

1 bd • 1 ba • 752 sq ft

5-7062 Kuhio Hwy, Hanalei, HI 96722



Request showing

Tour for free, no strings attached

Start an offer

Make a winning offer with the help of a local agent

Ask a question (808) 559-1



This home is popular

It's in the top 10% of views. Tour it before it's gone!

Tomorrow, Feb 4

9:00 am • 10:00 am • 11:00 am • 12:00 pm • 1:00 pm • Check for more

About this home

Rare oceanfront opportunity on Kaua'i's North Shore: a massive 19,918 sq ft lot with 115 feet of direct beach frontage and an adorable, fully renovated beach cottage. Owners are already well into securing a Shoreline Certification for a second home, opening the door to endless possibilities. Set between the Waianae Ridge and the pristine sands of Kepuhi Beach, step outside to an uncrowded ocean playground—walks on the sand, swimming, snorkeling, kayaking, fishing, and unforgettable sunrises. Tunnels Beach, Nā Pali Coast trails, and Hanalei town are just minutes away. Move-in ready with brand-new everything—come make this your forever slice of paradise! Special Features * Outdoor Shower * Bonus Room * All New Appliances * New Flooring Throughout * New Kitchen Cabinets, Counter Tops, and Tile * New Windows and Sliding Glass Door in common area * AC, 3 portable units * Beautiful New Furnishings in the Home * New Teak Outdoor Furnishings *

Large Permitted Storage Shed * Newly Painted * New Ceiling Fans * 1.5 Baths

Show less ^

Summary of 5-7062 Kuhio Hwy

- 115 feet direct beach frontage with uncrowded shoreline and immediate ocean access.
- Fully renovated cottage with new kitchen, baths, flooring, and windows....

Show more v

 Single-family
Property Type

 1958
Year Built

 0.46 acres
Lot Size

 \$5,313
Price/Sq.Ft.

Listed by Essence Jemiola • Coldwell Banker Island Properties - Kauai
Contact: 8086515087

Listing updated: Feb 2, 2026 at 01:46pm

Redfin checked: a few seconds ago • Source: HI Information Service #727481

6 days on Redfin • 769 views • 46 favorites

See this home in person



We'll connect you with a local agent to show you this home, answer your questions, and assist you on your buying journey.

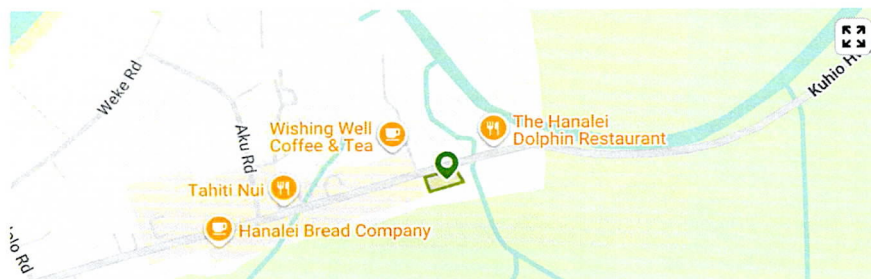
Next available tour time: **Tomorrow at 9:00 AM**

[Check tour times](#)

Open houses

No upcoming open houses.

Around this home



HI Information Service #727481

Jan 28, 2026	Listed	\$3,995,000 \$5,313/sq ft
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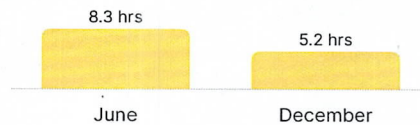
HI Information Service #716531

Dec 3, 2025	Listing Removed	—
Aug 29, 2025	Price Changed	\$4,500,000 \$5,984/sq ft
Apr 26, 2025	Price Changed	\$4,899,000 \$6,515/sq ft
Mar 14, 2025	Price Changed	\$4,999,000

Show more ▾

Sun exposure

In this area, properties receive around 8.3 hours in June and 5.2 hours in December, which is comparable to the U.S. average for solar exposure.



[View sun simulation](#)

Provided by Shadowmap

Ask a local expert

First name *

Last name *

Email *

Phone *

Write a message

[I'd like more home details](#)

[Any recent upgrades?](#)

[Is there an HOA?](#)

Submit

By submitting this form, you are creating a Redfin account and agree to Redfin's [Terms of Use](#) and [Privacy Policy](#). You also agree to receive calls/texts from Redfin and its affiliates, including for marketing purposes.

Attachment D

State Department of Health Wastewater Record/ Cesspool

EXISTING CESSPOOL INFORMATION FORM
WASTEWATER BRANCH-STATE OF HAWAII

TMK: (4)5-8-011:011 Lot No. 11 IWS Permit No. 54364
Property Owner: _____ Number of Bedrooms: 1
Project Address: 5-7062 Kuhio Hwy City: Wainiha 96746
Engineer: _____ Contractor: Dossey Darwin
Distance from Building (ft) 21' Distance from Property Line (ft) _____
Cesspool Diameter (ft) 8' Cesspool Cover Diameter (ft) 10' Cesspool Depth (ft) 20'
(Note: Cesspool Depth shall be measured from inlet piping to the bottom of the cesspool.)
Access Provided for Cesspool: (Please Circle One): Yes No Size of Access Opening (in) 4"
6" Inspection Port w/ Cap to Grade (Please Circle One): Yes No (N/A)
Type of Lining: Concrete Distance from Finished Ground to Top of Cover (ft): 1'4"
Water in Cesspool (Please Circle One): Yes No
If water in cesspool, distance from inlet piping to water level in cesspool (ft): 4'
Date Inspected by Engineer/Contractor: 9-12-15

As the engineer/contractor performing the inspection, I submit the above information and the plot plan as drawn below. I also submit that the existing cesspool is functioning, has not been pumped within the last twelve months, and does not discharge directly into the groundwater.

License Number: 515881
Engineer's/Contractor's Signature _____

Date: 9-12-15

PROVIDE PLOT PLAN IN SPACE PROVIDED BELOW:

