

JONATHAN S. DURRETT, ESQ.
DIRECT: 808.792.1211
JDURRETT@DLMHAWAII.COM

KALANI A. MORSE, ESQ.
DIRECT: 808.792.1213
KMORSE@DLMHAWAII.COM

SHAUNA L.S. BELL, ESQ.
DIRECT: 808.792.1212
SBELL@DLMHAWAII.COM

ALYSSA JOHNSON, ESQ.
DIRECT: 808.792.1218
AJOHNSON@DLMHAWAII.COM

December 16, 2025

Dawn Takeuchi Apuna, Director
Department of Planning and Permitting
City and County of Honolulu
711 Kapiolani Boulevard, Suite 1600
Honolulu, Hawai'i 96813

Re: Kaukonahua Ranch's Response to DPP's Notice of Reconsideration of The Ranch's Conditional Use Permit

Dear Director Takeuchi Apuna:

Our office represents permittees Kaukonahua Ranch, LLC and K View, LLC, owners of the Kaukonahua Ranch (the "Ranch") where 2019/CUP-18 (the "CUP") permits the construction and operation of the Kamananui agribusiness project as an accessory use that will occupy a tiny portion of the Ranch's 2,300+ agriculturally-zoned acres situated in the Kaukonahua valley in Waialu'a, Hawai'i.

This response will address the concerns and issues raised in the City and County of Honolulu Department of Planning & Permitting ("DPP")'s Notice of Reconsideration (the "Notice"), dated November 29, 2025, which was received by the Ranch's planners on Monday December 1, 2025.

DPP's Rules of Practice & Procedure (RPP) § 4-3(a) allow the Director to reconsider a previous action of the Director of her own accord under the circumstances described in RPP § 4-2, where there is:

- (1) New evidence not included in the record upon which the original action was based;
- (2) Changed conditions, facts, or circumstances upon which the original action was based; or
- (3) Failure to comply with conditions attached to the action or within the scope.

Each of these criteria are addressed below.

I. DPP’S STATED BASIS FOR RECONSIDERATION OF THE CUP: NEW EVIDENCE/CHANGED CONDITIONS

A. ARMY COMMENTS

DPP’s Notice erroneously asserts that: “US Army Garrison Hawaii (Army) did not submit comments to the Director prior to the approval of the CUP. In addition, the Army did not provide any clear indication of public safety concerns related to munitions fallout prior to the approval of the CUP.” *See* Notice, Exhibit A at Pg. 2.

1. *Army Offered Comments Years Ago, before DPP issued the CUP*

All parties, including DPP, were made aware of Army’s safety concerns long ago. Despite years of correspondence with the Army since then, the Army still has not provided functional clarity about their “public safety” concerns.

About a month before DPP issued the CUP on May 28, 2019, the Army sent DPP an April 29, 2019 letter that listed concerns about Army flight operations and munitions fallout in a surface danger zone (“SDZ”) that traditionally extended from Schofield onto the Ranch. This was supposedly due to the Army’s historic operation of its practice firing range on the northern end of Schofield Barracks. *See* Army Letter, Exhibit B.

That initial Army letter to DPP cited a number of internal Army/Department of Defense rules and regulations that govern the scope and nature Army training operations, none of which impose any obligations on DPP or the Ranch. While the Army Letter attempted to make the case that DPP should be concerned about the CUP because of “undue risks to the civilian populations” posed by Army training operations, it failed to identify any clear authority specifying how the Department of Defense’s rules in any way justified *or required* DPP to impose any kind of land use limitations on the Ranch.

B. ARMY HAS NO AUTHORITY OVER LAND USES OR CONSTRUCTION ON PRIVATE LANDS THAT IT NEITHER OWNS, POSSESSES, NOR CONTROLS.

Jurisdiction over zoning and use of private lands lies solely within the purview of the states and their respective municipalities (in this case, DPP). Unless a branch of the DOD owns or otherwise asserts some sort of *possessory* interest in a particular property or a relevant portion thereof, the Army has no legal interest or standing to oppose the use, possession, or dispossession of such property.

Here, neither the Army nor the Department of Defense hold any kind interest, easement, or encumbrance in the Ranch’s lands, all of which are solely owned solely by the Ranch’s private

owner.¹ In the CUP, DPP rightfully recognized the Ranch's constitutional property rights to undertake any legally permissible uses on its land, unburdened by its neighbor's uses or operations:

The Army opposes the Project because it would pose risks to anyone at the Project site and limit military training. Areas within the vicinity of the Project are used daily for military training. The Army and Marines conduct low level helicopter and aerial systems training in the restricted area. The proposed gondola and zipline will not permit this type of training. The Army commented that any building within restricted airspace degrades the Army's ability to maintain readiness and causes undue risks to civilians. The Army also commented that military operations may impose significant noise impacts upon the Project site from helicopter and unmanned systems engines at any hour. ***There are no Federal regulations related to military operations and restricted airspace that limit the Applicant's right to use the space above its property.*** The Applicant is encouraged to maintain ongoing dialogue with the Army to ensure the safety of the users of both sites. No condition of approval is necessary.

See CUP at pgs. 22-23 (emphasis added).

C. ARMY FILED ITS ZBA APPEAL, CITING AIRSPACE "RIGHTS"

Shortly thereafter, the Army filed an appeal of the CUP with the City's Zoning Board of Appeals. See 2019/ZBA-3. In that appeal, Army restated safety concerns arising from its training operations on Schofield Barracks and above the Ranch. This time however, instead of citing to Department of Defense regulations or rules, the Army cited to an altogether different agency, the Federal Aviation Administration (FAA), and voiced their airspace use concerns.

In its appeal memo, the Army erroneously claimed that "restricted airspace" above the Ranch somehow precluded the Ranch's use of its own lands as permitted. The FAA, however, generally restricts all aviators, including Department of Defense aircraft, from flying low (in the surface – 9,000 feet restricted airspace altitudes) above privately occupied lands.

The specialized training exemption granted to the Army merely allows them to conduct flights above the Ranch and other lands in the area at lower altitudes than otherwise permitted by the FAA. The applicable altitude limit, however, is measured up from the highest point on the private property owner's lands. Thus, whether a landowner is permitted to build 10-foot wall or a 300-foot tower on their lands, the surface-level "floor" of the restricted airspace exemption (allowing Army to fly from surface – 9,000 feet) starts at and moves up with the land and all newly improved structures on it.

¹ The title policy for the Ranch's lands does not contain any mentions of any kind of restrictive covenants, let alone any in favor of the Army or the Department of Defense.

Despite FAA regulations being clear, the Army's appeal memo nevertheless argued (incorrectly) that DPP got it wrong when DPP concluded that the Army (rather than the Ranch) would have to alter training and operations:

On page 22 of the Board[DPP]'s analysis it addresses potential impact of Restricted Airspace in a manner seeming to reflect a misunderstanding of FAA processes. The Board acknowledges the hazards gondola lines present, but then merely concludes the Army will have to cease hazardous training in this area.

See Army Appeal, Exhibit C at pgs. 4-5. Nevertheless, the Army quickly withdrew its appeal and ceased pursuing arguments premised on DPP having any jurisdiction or obligation to protect or restore Army's training goals and practices at the expense of a landowner's private property and land use rights. Unfortunately, those erroneous arguments appear to have resurfaced in the Army's latest letter of concern to DPP, along with the same airspace and SDZ issues from 2019 as well.

D. THE ARMY CANNOT UTILIZE FAA AIRSPACE RULES AND MILITARY EXEMPTIONS (MTR'S) TO PRECLUDE PRIVATE PROPERTY USES

The U.S. Department of Defense, including all branches of the military, must follow FAA rules with respect to airspace usage and heed the FAA's control over aerospace flight. *See* 49 U.S.C. §§ 40103(a) and (b). Certain types of military flights in certain areas are granted specific and limited exemptions to some FAA rules, like Military Training Routes, or MTRs. These MTRs are designated areas where Department of Defense aircraft may operate under specific exemptions and are permitted to fly in certain areas, patterns, and/or maneuvers that would otherwise be prohibited by FAA rules and regulations.

These exemptions do not function as blanket land use prohibitions on private lands. The Army, like any other neighbor, cannot conduct operations that unilaterally impose use limits or diminish land values on adjacent private properties. In particular, the Army's specific flight and munitions related training in the Schofield area must be curtailed and restructured to ensure that they do not infringe on others' private property rights and permitted land uses.

Not only does the Department of Defense lack any authority or legal standing to dictate zoning or restrict private and permitted uses on private lands it does not own, but the FAA similarly lacks such broad authority as well. While the FAA is empowered to require visibility markers for proposed construction and impose other mitigation/safety protocols for structures that could be deemed potentially hazardous to air navigation, this aviation safety authority extends solely to the airspace surrounding any structures erected on the surface of private lands, ensuring that such structures are properly identified and marked for air traffic safety purposes.

E. THE ARMY'S SDZ'S OR FLIGHT OPERATIONS OVER THE RANCH ARE NOT IN DPP'S JURISDICTION

The CUP's diminishment of the Army's unilateral uses of the Ranch's property is not a concern that DPP should be weighing. DPP has no zoning/land use/permitting jurisdiction over Army installations. Indeed, Congress has not explicitly waived federal sovereignty over the Schofield Barracks installation.

Similarly, just as DPP has *zero* jurisdiction over Army's use of its own lands, DPP has neither the obligation nor the right to restrict land uses on neighboring private properties for the purpose of enabling, expanding, or preserving Army operations on or above private lands subject to DPP's land use jurisdiction.

Indeed, the City's conclusions (both in their correspondence to the Ranch and in the CUP) regarding the Army's lack of authority to unilaterally utilize/devalue the Ranch's lands and airspace for its own operations are well supported in law. In August of 2019, Ranch counsel shared a legal memo with the City's Corporation Counsel, setting forth just a few of the many authorities establishing the legal rules and standards that prohibit Army's operations from infringing on private property rights and uses. That memo also clarified that the FAA's jurisdiction is focused on air traffic and aviation hazard warning systems/markings needed on the structures, and does not cover zoning or building permits, which jurisdiction remains with the State/DPP.² The City agreed.

² "If any portion of the SDZ [Surface Danger Zone related to munitions fallout] are located outside of a military installation, it is incumbent on the Army, not the private land owner [or DPP], to alter the borders and parameters of the SDZ to ensure that munitions operations within the SDZ on the neighboring military installation create *Zero risk* to the general public.

For the Army to imply in its letter that that Schofield Barracks SDZs presently create a safety hazard for civilians lawfully using Kamananui (a non-military installation) is tantamount to an admission by the Army that its present operations violate Army regulations related to SDZs and infringes on Kamananui property rights. Indeed, Army regulations provide that a specific written agreement with private landowners be entered into before the Army's SDZ may infringe upon or otherwise utilize private, non-military installation lands. See A.R. 385-63/MCO 3570.1C (23 May 2025) at ¶ 2-7:

Use of non-Department of Defense property [...] (*property not under jurisdiction, custody, or control of the Secretary of Defense*) for live-fire exercises requires the approval of ACOM, ASCC, or DRU commanders; COMMARFORRES; Commander, MCICOM; or the regional commanders of Marine Corps installations with RTA complexes. [...] b. The danger zones for non-DOD training areas must meet the requirements of the facility. This regulation/order will be followed to the extent possible. Danger zones must meet applicable environmental and local regulations. *A legal review is required for any formal agreement with the owners of the non-DoD property.* ...Specific guidelines for use agreements include—(1) Weapons and ammunition intended for use. (2) Procedures for range operations, to include ammunition accountability. (3) Agreement outlining the scope of accountability and liability in the event of property damage or injury to military or non-military personnel as a result of Army/Marine Corps operations. (4) Airspace requirements, as required by Federal Aviation Administration. (5) Operational procedures to notify the public of training operations. (6) Risk management plan showing residual risk level for the operation (approved by the appropriate command level), control and supervision measures. (7) Specify positive control measures for access to the training area(s) by authorized personnel, and for excluding unauthorized personnel. (8) Specific procedures for decontaminating training area(s) prior to release from Army/Marine Corps control if required. See https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/r385_63.pdf.

F. DPP'S MINOR MODIFICATION OF THE CUP FOR AIRSPACE CLEARANCE PURPOSES

In September of 2019, the City's Corporation Counsel notified Ranch Counsel that DPP would be issuing a modification to the CUP to: 1) note the height of the project's ropeway lines [ie: ziplines], and 2) reference the applicability of the FAA notice requirement under 14 CFR Part 77. Corporation Counsel specified that "The CUP will not be made contingent upon a specific finding by the FAA. We agree that would be a misapplication of the regulations." See Email from M. Stebbins, Esq., Exhibit D (emphasis in original).

On October 4, 2019, the City issued a minor modification of the CUP, specifically addressing the airspace use concerns raised by the Army and adding a condition to the CUP, requiring that the Ranch secure approval/issuance of a notice of construction from the FAA for the structures related to the Ranch's Kamananui Agribusiness Project. See DPP's Minor Modification (2019/MOD-87), Exhibit E at pg. 3 ("The Applicant is responsible for ensuring that the final plans for the Project comply with all applicable government regulations, including 14 C.F.R. Part 77").

The Ranch has been working for years on properly satisfying this condition and intends to fully comply with all FAA regulations and requirements, in compliance with DPP's October 14, 2019 minor modification of the CUP.

G. THE RANCH COORDINATES AND NEGOTIATES WITH THE ARMY

Upon learning of the Army's SDZ and airspace training concerns in 2019, the Ranch immediately sought to engage with Army leadership and Army legal counsel, in the spirit of the CUP's admonishment to "maintain ongoing dialogue with the Army": Army's legal counsel, however, immediately clarified that with respect to the airspace and SDZ concerns raised in the Army's initial letter of concern, the Army's legal counsel did *not* see any legal issues to be addressed and questioned the value of meeting to discuss the Army's operational concerns as a neighbor to the Ranch:

[...] the issues as I understand them are not legal in nature as much as they are operational. I believe the command has already issued a posit[i]on paper / spoken on this matter concerning those, correct? As a legal advisor my input at this point may have little or no impact on what are viewed as operations issues.

[No part of the Ranch is under the possession, custody, or control of the Secretary of Defense.] The Army's implied conclusion that its historic operations and airspace exemption rights [should] somehow impose limitations on Kamananui's exercise of its property rights is simply wrong and turns on its head the constitutional right of private property owners to protection from governmental takings without redress. See EXECUTIVE ORDER 12630 (15 Mar. 1988, 53 FR 8859, 3 CFR, 1988 Comp., p. 554 ("governmental action may amount to a taking even though the action results in less than a complete deprivation of all use or value, or of all separate and distinct interests in the same private property and even if the action constituting a taking is temporary in nature.")).

See email with Army Counsel, Exhibit F.

Despite the lack of engagement from Army's legal counsel, the Ranch proceeded with its good neighbor policy, providing over the following years many ranch tours for numerous Army officials. After a period of ongoing information sharing and discussions with the Army, Army attorneys notified the Ranch and the City's Corporation Counsel that it would be withdrawing its appeal with the CUP from the Zoning Board of Appeals, which it formally did in December 2019.

The Army and the Ranch continued to discuss the Army's SDZ (munitions fallout) concerns with respect to the Ranch. When the Ranch asked whether their people working on the Ranch were safe, Army did not provide any statement confirming any specific safety concerns for those on the Ranch as a result of Army training operations. Even after withdrawing its ZBA appeal, at no point did the Army ever directly inform or warn the Ranch that any portion of the Ranch was unsafe due to Army training operations.

This squares with the Army counsel's initial comments about no legal issues being at play. It is a stark and unavoidable legal reality that the Army cannot unilaterally create or use SDZ's that extend beyond Army installations or into lands not controlled or owned by the Army or DOD. In fact, at one point in 2020, Army command told the Ranch it was "less concerned by the gondola construction sites, having seen them in three dimensions," stating instead that their "bigger concern is the Ma'ili jeep trail and the area between it and the Schofield installation boundary. I think we can provide you with some recommendations to minimize risk." The Ranch remains open to considering all such risk management recommendations from the Army.

The Ranch and the Army continued to discuss and negotiate the concept of a "potential transfer of property interest [to the Army] that will facilitate continued training by air crews flying from Schofield Barracks." They also explored the concept of the Army purchasing a property interest in a small percentage of Ranch acreage along the Ranch's southern border with Schofield. That concept was aimed at providing the Army with a "buffer" zone that would allow the Army to exercise control over those lands (and presumably resume prior training practices that caused their SDZ to encroach slightly on the Ranch's southern border).

H. ARMY'S PROCEDURAL OPPORTUNITY TO APPEAL THE CUP HAS LONG SINCE PASSED.

Army utilized its procedural opportunities to raise these concerns, sharing its airspace and SDZ concerns with DPP and filing its ZBA appeal. After the Army withdrew its appeal of the CUP from the ZBA, the deadline for appeals have passed.

The Army's references to cattle being killed have never verified by the Ranch. Last year, the Army did contact Ranch staff to inform them that some cattle had been shot on the Army's shooting range, on the Army's property, not on Ranch lands. Ranch staff asked Army for the opportunity to come identify whether the cattle belonged to Ranch or not and possibly retrieve the

carcass. Army never responded to that request but did instruct Ranch staff that they were strictly forbidden from going onto Army property to identify or retrieve cattle carcasses. As such, the Ranch cannot comment on the situation beyond simply reiterating that the Army has no choice but to ensure that its training operations do not affect the safe use of the Ranch, even down to 1/1,000,000 of a possibility of someone getting hurt by munitions fallout. By contrast, the Ranch's obligation, as always, is to prevent those on the Ranch from trespassing onto lands owned by the Department of Defense.

If Army wants to conduct training in a manner that renders Ranch lands unsafe, it may only do so after purchasing such lands or otherwise striking a deal with the Ranch, as required by centuries of common law, the U.S. constitution, and Army regulations, giving Army possession or control of such lands. Regardless of how such agreements play out, if at all, the Army cannot weaponize municipal zoning objections or attempt to deputize local permitting departments to help them circumvent their legal their clear legal obligations to operate safely and protect neighbors and the general public from any risks that could arise from their training and firing range operations.

I. PROTECTIONS AND DISTANCE FROM THE ARMY FIRING RANGE

The Army can readily utilize simple signage and fencing to warn and protect others from crossing into the Army's border and entering their SDZ. Indeed, the Army is required to install such barriers and warnings per Army and Department of Defense regulations. These rules clarify that the Army has clear legal and regulatory obligations to install and maintain SDZ barriers or fences around firing ranges and training areas on its own installations, particularly when those areas pose any risk to the public or unauthorized personnel.

These specific obligation arise from legal rules that are clearly binding on the Army (and no one else), including: Department of Defense Policy: DoDI 6055.07 (Mishap Notification, Investigation, Reporting, and Record Keeping) ("It is Do[W] policy to: [...] b. Protect the public from risk of death, injury, illness, or property damage because of Do[W] activities.")³. *See also* Army regulation 385-63 (Range Safety), which is the Army's primary range safety regulation; Chapter 3-3 explicitly requires that deviations (including use of non-Army lands) from SDZ requirements can only be approved when access to the SDZ and other safety factors can be controlled by physical barriers (fences, gates, signs, etc.).⁴

Moreover, Paragraph 4-3(a).(1)(a) of ARMY REGULATION AR 385-63 / MCO 3570.1C, 23 May 2025 (Range Safety Policy) requires that any "Deviations applied to ***danger zones extending beyond [...] installation boundaries must be*** based on the ability to sufficiently contain projectiles, hazardous fragments, laser beams, and both vertical and horizontal ricochets ***within*** the authorized

³ See <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/605507p.pdf>

⁴ See [https://www.marines.mil/Portals/1/Publications/MCO%203570.1D%20\(SECURED\).pdf?ver=J-ucCxHi0EoilX2zklPkHQ%3d%3d](https://www.marines.mil/Portals/1/Publications/MCO%203570.1D%20(SECURED).pdf?ver=J-ucCxHi0EoilX2zklPkHQ%3d%3d)

range impact areas and installation boundaries and *areas under military control* (for example, *leased land or training areas acquired through memorandum of agreement or memorandum of understanding*).⁵ Indeed, just about every permanent or semi-permanent firing range or training complex on a U.S. Army installation has default regulatory requirements dictating that the Army employ a controlled perimeter: almost always a fence with locked gates and warning signs.⁶

J. THE RANCH HAS ALREADY APPLIED TO MODIFY THE PROJECT AND MOVE PEOPLE EVEN FURTHER AWAY FROM ARMY’S PROPOSED BUFFER ZONES.

In addition to the Army’s obligation to protect the public and neighbors from any risk arising from its firing range operations, hundreds of acres of agricultural and preservation Ranch lands stand between the Kamananui agribusiness operations and Schofield’s northern border.

In the intervening years, while the Army and the Ranch discussed the possibility of a small buffer area along the Schofield border, the Ranch was busy collecting, assessing, and incorporating ACE feedback (including the Army’s) into the Kamananui agribusiness project and the Ranch’s mix of agricultural operations and projects. The Ranch *started looking at* refining design the layouts and alignments for the Kamananui agribusiness project. As a result of such planning and ACE feedback, the Ranch submitted its applications for minor modifications.

These modifications have the ancillary benefit of moving agribusiness operations much farther away from the Ranch’s southern border with Schofield Barracks and placing hundreds of acres of an “ag-use only” or “preservation only” lands between the agribusiness project areas and the Ranch’s southern border with Schofield.

The Ranch remain opens to working with the Army and the Department of Defense to help ensure that Army aviators and other Department of Defense personnel can preserve readiness operations to the best extent possible given the increased uses on the Ranch. No one cares more than the Ranch when it comes to keeping people and animals⁷ safe on the Ranch, placing the

⁵ Neither the USACE nor the Army has any such formal agreement with the Ranch for anything, including the specific SDZ they reference.

⁶ While some of the Army’s very remote training areas may not be fenced due to their temporary nature or reliance on natural barriers, extensive signage, and road guards instead of continuous fencing, the relatively permanent status of the Army’s SDZ/firing range at Schofield Barracks, the Ranch’s pending agribusiness operations, and the concerns specified in the Army’s recent letters to the City, all readily establish that the Army’s SDZ is not very remote and thus requires the Army to erect effective barriers like fencing to prevent unauthorized access to Army lands, firing ranges, and SDZ’s. Scaring the local municipal permitting authority (DPP) into stripping private landowners of their constitutionally protected land use rights, rather than installing the fences/barriers required by the Army to prevent unauthorized access to its own SDZ, is entirely untenable and DPP should not want any part of it.

⁷ As to animals and the cattle purportedly shot on Army lands, per Army Range Safety regulations, any Army installation with a firing range must have a Range Management Authority (RMA) that is required to: “Prohibit unnecessary access (for example, livestock grazing and recreational uses, such as hunting and hiking) and *take appropriate action to deter unauthorized access* to areas known or suspected to contain UXO or other munitions that have experienced abnormal environments.” See Paragraph 1-24-(f.)(21) of ARMY REGULATION AR 385-63 / MCO

highest importance on maintaining a safe environment for all. Amidst the years of discussion and negotiation with the Army, the Army has never informed the Ranch that the Army's current and future operations pose a safety risk or threat to the Ranch or those on the Ranch.

K. THE "REMOTE POSSIBILITY" OF UNEXPLODED ORDINANCE ON THE RANCH.

The Army's recent letters of concern to the City mention the "remote possibility" of unexploded ordinance (UXO) on the Ranch. Years ago, when Army first raised its SDZ and airspace training concerns, and in the correspondence that followed, there was never any mention of any "remote possibilities of UXO" on the Ranch. Indeed, neither the Army's initial letter of concern to DPP, before the CUP was issued back in 2019, nor the Army's ZBA appeal after the CUP was issued, made any mention of concerns about the "remote possibility" of unexploded ordinance (UXO) on the Ranch.

For years after the Army withdrew their ZBA appeal, the Army and the Ranch continued to communicate and negotiate over a possible transfer of property interest for a small portion of the Ranch's southern acreage along the Schofield border. Despite identifying its concerns over drone/aircrew training and SDZ boundaries, the Army never mentioned any concerns about the "remote possibility" of UXO on the Ranch.

In 2022, an outside civilian agent, tasked with helping the Army determine the value of a proposed easement for Army use of Ranch lands, asked about possible UXO on the Ranch. The Ranch then asked the Army to confirm whether the Army had any concerns about possible UXO on Ranch property. Army counsel responded by informing the Ranch that they were not aware of any specific UXO being present on the Ranch and that they were not aware of any maps or written documents establishing that to be the case.

Army legal counsel further clarified that if any prior surveys had resulted in the generation of a map or other written document indicating the presence of UXO on the Ranch, such documents would have to appear in a recorded deed encumbrance. While there was some mention of a government survey done on the Ranch fifteen years or so prior, back when Dole still owned the Ranch, the Army has never provided the Ranch with such information and the title report for the Ranch's parcels contains no such references to any recorded encumbrances.

Most recently, in 2024, when the Army and the Ranch briefly resumed communications and negotiations over the possible value and Army use of Ranch lands, at a meeting between U.S. Army Garrison, Hawaii ("USAGH") and the Ranch, USAGH leadership brought up concerns

3570.1C, 23 May 2025 (Range Safety Policy) (emphasis added). Per the other applicable sections in the same range safety regulations, putting up signs and building Army fences on Army land are entirely appropriate actions that will deter unauthorized access to Army lands and SDZ's; by contrast, unilaterally precluding land uses on adjacent private property is clearly not appropriate. *See* FNs 6 and 7 above.

about the potential for UXO on the Ranch. The Ranch again asked the Army to confirm and provide clarity regarding possible UXO on the Ranch. Army never responded.

USAGH leadership now expresses concerns to the City about the “remote possibility” of UXO on the Ranch, for the first time in writing, in its written testimony to the City Council in October of 2025. USAGH’s Nov. 7, 2025 letter of concern to DPP is the first time USAGH shared any kinds of details about possible UXO on the Ranch.

L. THE ARMY CANNOT SHIFT OR AVOID ITS CLEAR RESPONSIBILITIES TO KEEP OTHERS SAFE.

As far as possible UXO is concerned, there are numerous certified private contractors capable of performing radar and magnetic surveys of the Ranch areas identified as areas where the Army has indicated that there may be a “remote possibility” of UXO. If the “remote possibility” mentioned by USAGH turns out to be a real concern, these same contractors are readily authorized and capable of promptly removing the same with qualified personnel.

Incidentally, in the 7 years since acquiring the Ranch, and for decades prior, some of the largest herds cattle herds on the island of O’ahu have persistently roamed the highest and lowest reaches of the Kaukonahua Valley, all without any UXO incidents on the Ranch.

The Army cannot force others to take over its responsibilities and obligations to ensure public safety, as well as the safety of Army installations and training operations.

The Army cannot expect the public, the community, private landowners, or DPP to shoulder its safety responsibilities. Whether it airspace training, SDZ munitions fall out, or UXO, if the Army operates in a manner that endangers the Ranch, they must either purchase, lease, or take control of those lands in a manner that allows the Army to make them safe in light of their intended training operations. Indeed, no landowner can operate dangerously on or near their property border and then compel their neighbors to move out or relinquish property rights in the name of allowing unsafe operations to continue unimpeded.⁸ The Army is no exception.

These issues were identified years ago and are readily addressed going forward:

- DPP’s Minor Modification to the CUP (2019/MOD-87) already addresses the airspace use issues raised by Army back in 2019, and again in their recent letters to DPP and the City Council.
- Army never specified that people and animals on the Ranch were unsafe, due to ongoing training exercises at the Army’s North Range/SDZ. DPP has been aware of the Army’s SDZ concerns since prior to the issuance of the CUP. DPP has already (correctly) concluded that the Army bears sole and full responsibility to manage, alter, or curtail its operations to eliminate munitions fallout/SDZ and other Army training risks to the Ranch.

Moreover, the Ranch has already revised and proposed modifications for project designs and operations that will help keep people far away from the Army's areas of concern along the Schofield border.

Finally, UXO surveys by certified *private* contractors can readily address the Army's stated concerns regarding the "remote possibility" of UXO on the Ranch. *See* USAGH Commander Colonel Rachel Sullivan's Testimony to Honolulu City Council re: Resolution 25-235, Exhibit G.

M. DLNR/DOFAW COMMENTS

1. *DOFAW/DLNR Provided DPP with Extensive Comments Before DPP Issued the CUP.*

Contrary to of multiple statements in both DOFAW's recent letter of concern to DPP and in the Notice⁹, DLNR actually submitted numerous and detailed comments to DPP **prior to** DPP's approval of the CUP. Many of those pre-CUP comments already addressed the issues recently raised again by the DLNR.

Indeed, DPP clearly incorporated those comments into the CUP. *See* 2019-CUP/18 where the CUP clearly specifies that DLNR/DAR/DOFAW weighed in on various issues, **prior to DPP's issuance of the cup**, including many of the issues raised by the DLNR's recent letter of concern to DPP, and incorporates them into the CUP and the CUP's conditions:

I. LIST OF AGENCY COMMENTS RECEIVED BY DPP:

G. Agency comments: Comments on the Project were received from:

1. City and County of Honolulu:

- Board of Water Supply (BWS)
- Department of Emergency Management (OEM)
- Department of Facilities Maintenance (DFM)
- Honolulu Fire Department (HFD)

2. State of Hawaii:

- Department of Agriculture (DOA)
- ***Department of Land and Natural Resources (DLNR)***
 - ***Division of Aquatic Resources (DAR)***
 - ***Division of Forestry and Wildlife (DOFAW)***
 - ***Commission on Water Resources Management (CWRM)***
 - ***Engineering Division***
- Department of Health (DOH), Wastewater Branch
- Office of Planning

⁹ *See* pg. 2 of DPP's Notice of Reconsideration: ("The State of Hawai'i Department of Land and Natural Resources Division of Forestry and Wildlife (**DOFAW**) **did not submit comments to the Director prior to the approval of the CUP**. However, DOFAW submitted comments to the Director related to proposed modifications of the CUP in relation to 2024/MOD-68 and 2025/MOD-55.").

- Department of Transportation (DOT)

3. Federal: U.S. Army Garrison Hawaii (Army)

See CUP at pg. 7 (emphases added).

II. WILDFIRES:

f. Fire, Police, and Emergency Services: The Project site has a history and risk of wildfires. The **DOFAW commented** that fire is a great threat to the property, **and recommended** the Applicant should develop a wildfire mitigation plan in consultation with neighboring landowners (including the Army), DOFAW, the City and County of Honolulu, and the Hawaii Wildfire Management Organization. This should be a condition of approval.

See CUP at pg. 17 (emphasis added).

III. SEABIRDS/CRITICAL HABITAT/HAWAIIAN HOARY BAT/WATERBIRDS/PUEO/ETC.:

The DAR [DLNR's Division of Aquatic Resources] **commented** that portions of Kaukonahua Stream are known to harbor the native goby (O'opu nakea). Impacts on the goby will be mitigated by consultation and permitting through the CWRM for construction and water usage, as well as best management practices during construction. **DAR also commented** that site work should be scheduled during periods of minimal rainfall and lands denuded of vegetation be replanted or covered as quickly as possible to control erosion. This should be a condition of approval. [...]

To *minimize impacts to seabirds*, nighttime work that requires outdoor lighting should be avoided during the seabird fledging season (September 15 through December 15). This should be a condition of approval.

To *minimize impacts* to the endangered **Hawaiian hoary bat**, woody plants taller than 15 feet should not be disturbed, removed, or trimmed during the bat birthing and pup rearing season (June 1 through September 15). This should be a condition of approval.

If any State listed waterbirds (such as the Hawaiian Duck, Hawaiian Stilt, Hawaiian Coot, and Hawaiian Common Gallinule) are present during construction activities, then all activities within 100 feet must cease, and the bird must not be approached. Work may continue after the bird leaves the area of its own accord. ***If a nest is discovered at any point, the Applicant must contact the DOFAW Office*** at 587-0166. This should be a condition of approval.

The **DOFAW commented** that Pueo are most active during dawn and dusk twilights. Prior to the issuance of a building permit or any ground disturbance for agribusiness activities, a qualified biologist must conduct twilight surveys to determine whether the species is present and if it could be impacted by construction or operations. Documentation of the ***survey must be submitted to the DOFAW*** and the DPP. If Pueo nests are present, a buffer zone should be established in which no clearing occurs until nesting ceases, and ***DOFAW staff should be notified***. This should be a condition of approval.

See CUP at pgs. 19-20 (emphases added).

IV. IRONWOOD AND INVASIVE SPECIES MITIGATION PLAN:

The DOFAW commented that the landscaping plan includes Ironwood, which is an invasive species in Hawaii. The Army Natural Resources Manager also commented that the agricultural master plan lists some Polynesian plants for use that are at risk of spreading and becoming naturalized, including noni, ohe, and mountain apple. The landscaping plan and agricultural master plan must be revised to remove any invasive species and plants that are at risk of naturalization.

Further, the Applicant must create an invasive species mitigation plan, which incorporates the ***following recommendations from DOFAW***: importing any off-island plant or soil material; consulting the Oahu Invasive Species Committee to learn of high-risk invasive species in the area and mitigate spread; cleaning all gear and pets before and after entering the area; cleaning gear that may contain soil, such as boots and vehicles, with 70 percent alcohol solution to prevent the spread of Rapid Ohia Death and other pathogens; encourage visitors to stay on designated trails and roads at all times; and consider implementing biosecurity protocols such as decontamination stations at trailheads or points of entry into conservation areas for cleaning footwear and other equipment that can harbor invasive species. A copy of the ***plan must be submitted to the DOFAW*** and the DPP. This should be a condition of approval.

See CUP at pg. 21 (emphases added).

As indicated above, and throughout the CUP, DPP received extensive comments from DLNR, including DOFAW and DAR. Moreover, DPP incorporated those comments and imposed related and specific conditions in the CUP, in accordance with DLNR/DOFAW's requests and comments on the Ranch's CUP application.

2. The Ranch has been working on Condition Compliance with DLNR/DOFAW

In reliance on those comments and conditions from 2019, the Ranch has since spent the intervening years investing significant amounts of time, money, and resources into satisfying those conditions imposed by DPP in the CUP, all at DOFAW's suggestion.

Indeed, the Ranch first began meeting and corresponding with the various division staff at DLNR starting back in 2017, aiming to discuss and work on a number of important matters, including: road usage, fire breaks, public access and recreational opportunities for DOFAW, providing DOFAW with beneficial access to the Ranch for conservation/preservation efforts, and forestry work on and around the Ranch.

In more recent years, the Ranch and its agricultural/forestry consultants: the Hawaii Agricultural Research Center (HARC), have been increasing their related work, corresponding and

coordinating with DLNR staff to work on getting agency comment and feedback on the various surveys, plans, and other submissions to DLNR/DOFAW, as required by the CUP.

This history of engagement with DLNR does not square well with the statements in both DPP's Notice of Reconsideration and DLNR's recent letter of concern to DPP: both posit a purported lack of engagement or progress in work needed to satisfy the CUP's conditions.

By contrast, the Ranch has specifically documented the ongoing work and its correspondence with DLNR/DOFAW. *See* the Ranch's recent Clarification Letter to DLNR and the attached surveys, reports, etc. at Exhibits H and Exhibits H-2 through H-7. This letter and its attached exhibits also address each of the three main conditions flagged by DOFAW in its October 23, 2025 letter of concern to DPP:

- I. **Wildfire Mitigation Plan:** DOFAW comments were already received, reviewed, and adopted by DPP in 2019, as a permit condition of the CUP. The Ranch developed the plan in collaboration with Hawaii Wildfire Management Organization, community members, DOFAW staff, and HFD; the Plans has already proven effective in real-world wildfire events; actively supports community safety
- II. **Threatened & Endangered Species:** DOFAW comments were already adopted and made permit conditions by DPP back in 2019. Comprehensive botanical survey conducted with DOFAW and USFWS coordination; Pueo Owl surveys completed with no findings in project areas; species management plans reflects agency guidance and plans will be updated based on recent feedback from agencies. The draft Threatened & Endangered Species Survey Plan was transmitted to DPP on November 18, 2025 and DOFAW on ___, 2025
- III. **Invasive Species Management:** Already flagged as a concern by DOFAW, which comments were already adopted and made a permit condition by DPP back in 2019. Operational protocols implemented immediately upon CUP issuance; comprehensive management plan completed and submitted for agency review and comments to confirm final plan acceptance by DOFAW. The Invasive Species Mitigation Plan was transmitted to DPP on December 8, 2025.

DOFAW's recent letter of concern to DPP also included comments related to increased foot and vehicular traffic. DOT has already provided its comments as to vehicular traffic with respect to the highways, and any vehicular and foot traffic through or near preservations are the same as they were back in 2019. One exception is that the minor modifications proposed will actually drive such traffic further way from such areas while pushing the same into the more active agricultural areas in other parts of the Kaukonahua valley.

Indeed, DOFAW already provided comments to DPP, before the CUP issued, stating that the Ranch needed to "encourage visitors to stay on designated trails and roads at all times;" *See* CUP at ¶ e on pg. 21. DPP has already made the same a condition. *See* CUP at ¶ B.13 on pg. 26.

DOFAW's recent letter of concern to DPP also included comments related to plant selection, potential tree loss, and watershed protection. Each can readily be addressed by the expected and ongoing feedback from DOFAW on the various plans, studies, reports, and approvals

that involve DOFAW feedback. None of these issues are new or changed. They are either the same as, or natural extensions of, the comments made by DOFAW and adopted by DPP as conditions back in 2019 when DPP issued the CUP.

N. OHA's COMMENTS

Unlike Army and DOFAW, the Office of Hawaiian Affairs ("OHA") did NOT submit comments to the Director prior to the approval of the CUP.¹⁰ OHA did submit comments to the Director regarding 2025/MOD-55, expressing concerns that the approved uses in the CUP will result in adverse land use impacts to: agricultural zoned land, visual site planes, traffic to the surrounding area, and cultural resources. *See* OHA's October 13, 2025 letter of Concern to DPP, Exhibit I.

DPP has already reviewed agricultural zoning rules and visual impacts of the project. DOT has already commented on traffic in the surrounding area with its suggestions.

OHA's jurisdiction over private developments is only advisory and consultative and limited in scope; all land-use, permitting, and zoning authority rests with state agencies, counties, and federal entities who are already tracking such matters. OHA does have some *advisory influence* over archeology, Native Hawaiian/Cultural Resources, burial site treatment plans, impacts on iwi kupuna, etc., and can advocate for mitigation on such issues.

After OHA submitted its October 13, 2025 letter of concern to DPP, OHA archaeological staff visited the Ranch in early November 2024 to meet with the Ranch's archeological experts and consultants, to gain first hand perspective and hopefully an understanding of and appreciation for the value of the artifacts on the Ranch and the Ranch's firm commitment to properly preserve and respectfully showcase the same.

The same applies to any burial sites and other valuable items that may be found on the Ranch. Current surveys have already verified that no such items have been located in or near the areas slated for the agribusiness project and operations. *See* End of Fieldwork Report for the proposed Kaukonahua Ranch Agribusiness Expansion and Development project literature review and field inspection (LRFI) in the ahupua'a of Kamananui, moku of Waialua, island of O'ahu , Exhibit J.

Similarly, OHA was recently provided with a copy of the Ka Pa'akai analysis performed by the Ranch's cultural analysis experts. OHA initially provided some informal feedback on the same and the Ranch's cultural analysis experts are working on addressing that feedback. The Ranch's current understanding from OHA is that if DPP wants specific comments from OHA, DPP

¹⁰ Given the Supreme Court Hawai'i's recent decision in the *Ka Pa'akai* case [*cite*], decided after DPP's issuance of the CUP in 2019, DPP issued a recent modification to the CUP requiring that the Ranch conduct and submit a Ka Pa'akai analysis.

needs to formally transmit the draft Ka Pa‘akai analysis to OHA along with any requests for specific comments.

Finally, OHA’s recent letter of concern to DPP asks whether the Project site is appropriate as a location for the conditional use, raising a number of questions as to agriculture and environmental that were repeated by DPP as concerns to be addressed in this response to DPP’s Notice of Reconsideration. As such, these concerns are addressed in the relevant sections below.

II. DPP CONCERNS/COMPLIANCE WITH CUP CONDITIONS

A. NO NEW INFORMATION ABOUT AGRICULTURAL USES AND CONDITIONS

DPP’s Notice posits that the Ranch, through its various correspondence with DPP (including minor modification applications), has somehow “disclosed *new* information” that calls into question the feasibility of its agricultural plans due to inadequate water/wildfire risks.¹¹

Wildfire risks on the Ranch, however were identified by DOFAW back in 2019, when DPP issued the CUP. In fact, the CUP explicitly cites DOFAW’s comments as the basis for the CUP’s condition requiring the Ranch to create a wildfire mitigation plan, which the Ranch has done.

Based on this information from DOFAW and DPP in the CUP, the Ranch set about consulting with its agricultural experts to determine which agricultural uses and projects made the most sense and had the strongest likelihood of sustainable production, given the identified risks and conditions on the Ranch.

The Ranch and its experts determined that those issues (and CUP conditions requiring a 300 tree/acre density) would lead to unsustainable risks and poor growing conditions, warranting a transition from forestry to grazing operations as the most appropriate agricultural use for many areas across the Kaukonahua valley. Sustainability and wildfire fuel management, and the Ranch’s long history of grazing use all supported that shift.

None of this information is “new” as it was already identified, considered, and addressed in the original CUP.

¹¹ The Ranch has Ample Water Supply. The CUP provides that “[t]he four primary water sources for the Project are an existing private well, an existing irrigation ditch system, the potential to drill a well in Kaukonahua Valley, and recycled water from the proposed wastewater treatment system.” The Department of Agriculture also commented to DPP that the site’s annual rainfall is insufficient for year-round cultivation, making supplemental irrigation a critical part of the Project. Despite the current drought conditions and limited rainfall levels throughout the dry summer, the Ranch’s current supplemental water sources have sustained crop production and expanding cattle herds, with ample amounts of additional well and ditch water readily available without any required permits. *See* Exhibit K.

1. *The following reasons all support the inevitable conclusion that agricultural uses on the land are sufficient to satisfy CUP conditions:*

The Ranch's application for the CUP included a "***Conceptual*** Land Use Map," illustrating what its anticipated agricultural uses could be, to help ensure that 50% of the Ranch's lands were being utilized for active agricultural production. DPP then issued the CUP, adopting the same copy of the Ranch's "***Conceptual*** Land Use Map" as an exhibit to the CUP. There was no specific mandate or rule in the CUP requiring that the mix of agricultural uses proposed in the "***Conceptual*** Land Use Map" be locked in stone or clarifying that the CUP otherwise prohibits agricultural changes needed to adjust to ranching developments, weather, market conditions, etc.

Rather, the Decision and Order section of the CUP (where DPP's specified conditions are articulated) merely states that for any Ranch lands to count towards the 50% active agricultural use requirement, grazing areas needed a minimum number of cattle and the forestry areas needed a minimum number of trees per acre if such lands were to be counted. No other timelines, deadlines, or ag use mixes were mandated. This makes sense as sustainable farming and ranching operations ***must change and adapt*** their agricultural uses when any myriad of environmental or market conditions warrant such changes and adaptations.

Indeed, in terms of permits and conditions, this plain reading of the CUP makes sense for the following critical reasons:

- a. Changes to the mix of primary agricultural uses on the Ranch do not require permits, modifications, or approvals*

Conditional Use Permits authorize specific accessory uses on agricultural lands. Here, the CUP authorizes agribusiness uses and dictates conditions for those agribusiness uses to mitigate any adverse effects of those accessory uses. The primary agricultural uses on the Ranch, however, require neither permits nor conditions. Grazing, forestry, crop production, etc. are all primary uses clearly authorized by the State Land Use Statute (HRS §205) and the City Land Use Ordinance (Revised Ordinances of Honolulu § 21-5.40); no permits or conditions required.

Thus, any reading of the CUP that restricts the Ranch's agricultural uses or locks the Ranch into specific or particular primary uses (that are listed on a conceptual map and do not require permits) is a strained reading indeed. It would stand reason on its head to require agricultural landowners to seek permits or permit modifications each time they wanted to update the mix and scope of their statutorily-authorized, primary agricultural uses, projects, and operations on their land.

Indeed, farmers and ranchers are free to swap a portion of grazing areas from cows to goats, plant agave, koa, beans, papayas, or even mix them all up in a sustainable silvopasture application of agroforestry practices. Same if the farmer wants to convert forestry areas into honeybee apiaries or aquaculture production facilities. All are permitted primary uses and requiring permits or

modifications for trying new or different uses does not square with a plain reading of State and City land use laws.

Indeed, planning and permitting departments, including DPP, are not agricultural experts and the applicable land use laws and ordinances (and the CUP) wisely contemplate that farmers and ranchers need to adapt and switch primary uses. If farmers need to switch from hardwood forestry to basil to calamansi plantings, or even introduce grazing goats or pigs at various points, all are free to update and adjust as needed to keep up with market changes or newly identified environmental hazards, much like the wildfire concerns that DOFAW warned the Ranch and DPP about back in 2019.

To attempt to hold the Ranch's hand to the fire and require strict adherence to a "**Conceptual** land use plan" is tantamount to setting the Ranch up for agricultural failures as environmental conditions and agricultural markets morph, change, and render some primary agricultural uses less sustainable than others. Thus, land use laws and the CUP all wisely steer clear of articulating any permits or specific requirements on the particular mix of primary agricultural uses on the Ranch.

Finally, to illustrate the critical distinction, if the Ranch were to request a lowering of the percentage of land required to be in active agricultural production, or a change to the number of cattle or trees required to count acreage towards the 50% requirement clearly articulated in the Decision and Order section of the CUP, such a request would clearly require a modification of permit conditions. No such change has been requested by the Ranch and in fact, more than 58% of the Ranch is currently active with various agriculture uses.

Despite these clear and understandable reasons for updating the mix of agricultural uses on the Ranch, DPP appears to adopt to a strained reading of the CUP that locks the Ranch into a very specific mix of agricultural uses, none of which require permits. Nevertheless, the Ranch has repeatedly asked DPP staff and City officials whether there is any requirement for the Ranch to apply for and secure a modification of the CUP each time it needed to update, change, relocate, or alter the mix of primary ag uses or projects across the 2,300 acres of the Ranch. None have responded in the affirmative or indicated that such modifications would be required or expected.

Nevertheless, DPP's Notice asserts that reconsideration of the CUP is appropriate due to alleged failures to satisfy the CUP's "agricultural conditions." Such assertion appear to be premised on an ominous interpretation that ignores the stark reality that all farmers and ranchers require flexibility if they are to ensure sustainable agricultural production over time.

b. There are no deadlines or time limits for the Ranch's Agricultural Operations.

Setting aside DPP's untenable interpretations that prohibit changes to the Ranch's mix of agricultural uses, the **timing** of DPP's reconsideration of the CUP is wholly premature. Indeed, the CUP clearly specifies that the 50% active agricultural use condition need only be satisfied "prior to the issuance of building permits or any ground disturbance for agribusiness activities."

See 2019/CUP-18, Exhibit L at pg. 25, ¶ B.1. The only other reference to this in the CUP conditions is the companion requirement that 50% of Ranch must be actively used for primary agricultural production **while agribusiness operations are ongoing**. Building permits have not been applied for, much less issued, no ground has been broken for agribusiness activities, and the agribusiness operations permitted by the CUP are certainly **not** ongoing.

There are no other specifically articulated conditions in the CUP requiring the Ranch to document compliance with the 50% active agriculture condition prior to commencing the development of agribusiness activities. Even if agribusiness operations were somehow underway, well over 50% of the Ranch's 2,300+ acres are currently being actively utilized for agricultural operations that are already authorized by State and City land use laws.

c. The CUP does not require adherence to the agricultural implementation timelines initially projected by the Ranch

The DPP's Notice erroneously assumes that Condition A of the CUP somehow transforms the Ranch's proposed agricultural expansion projections into mandatory deadlines that are now enforceable conditions of the CUP. Condition A of the permit, however, only generically states that the: "[o]peration and development of site and facility shall be **in general conformance with** the approved Project, as described herein and shown on plans and drawings attached hereto as Exhibits C through P." See 2019/CUP-18, Exhibit L at pg. 24.

Neither Condition A, nor any of the other express conditions in the CUP specify any implementation timelines/deadlines. The Ranch's proposed agricultural implementation chart is listed in the descriptive Proposal section of the CUP. That is the only place where the Ranch's **proposed** timelines and projections are mentioned in the CUP; a reflection of the Ranch's conceptual proposal at the time of its application for the CUP.

The Ranch's proposed agricultural plans and timelines are NOT mentioned anywhere else in the CUP document. They are not referenced in the CUP's Findings of Fact section. They are not mentioned in the CUP's analysis section. They are certainly not mentioned in the CUP's Decision and Order section where all the other conditions in the CUP are listed.

To be enforceable, a condition must be: 1) expressly clear and specific, 2) reasonable and appropriate, and 3); related to or have a clear nexus to mitigation of anticipated negative effects of the uses authorized by the permit. See Hawaii's Administrative Procedure Act, Hawaii Revised Statutes § 91-14, requiring that agency decision not be "arbitrary, or capricious" or a "clearly unwarranted exercise of discretion."

Here, the timelines/deadlines that DPP's Notice references cannot and should not be belatedly imposed via an arbitrary and overbroad application of the general language in Condition A. Imposing agricultural implementation timelines after the fact cannot be done with language that is neither express nor clear.

Moreover, the appropriateness or reasonableness of such timelines are not mentioned let alone discussed or analyzed in any Findings of Fact or Analysis in the CUP. All conditions must be supported by and related to such factual findings and analysis.

Even if the after-the-fact imposition of proposed timelines are somehow found sufficiently clear and appropriate despite the general rather than specific language in Condition A, such timelines still fail to have any nexus or relation to clearly articulated, time-related, adverse impacts that the impositions of proposed timelines as a condition would purport to address or mitigate.

To illustrate, just about every other condition in the long list of conditions in the CUP either relates to or purports to mitigate of some adverse effect of the accessory uses permitted by the CUP. Exactly what adverse effect of the agribusiness is DPP hoping to mitigate by holding the Ranch to the agricultural implementation timelines that were proposed prior to groundtruthing the lands, running test plots for native trees and crops, experimenting with expanded cattle grazing operations and experiencing real-world wildfires?

Moreover, what potential adverse affects from permitted agribusiness operations would be cured or mitigated by the Ranch having blindly planted trees six years ago without first testing to see which varieties and genetic strains could survive conditions on the Ranch?

Finally, how is the enforcement of agricultural timelines now supposed to mitigate the adverse effects of agribusiness operations that don't exist yet?

The CUP already adequately regulates the clear concerns of preserving and promoting primary agricultural uses vs. accessory uses. It does so unmistakably by imposing the "before permit issuance and ground disturbance" standard for all agribusiness activities, which requires satisfaction of all conditions first.

These concerns and adverse effects of the agribusiness are clearly and specifically articulated in Analysis section of the CUP. *See* CUP at pg. 22 ("To assure that agriculture is the primary use of the site, at least 50 percent of the site must be utilized for agricultural uses *prior to* the issuance of any building permit.") (emphasis added).

What other adverse effects could potentially be mitigated by forcing the proposed agricultural timelines? Aside from accessory use concerns, none are mentioned in the Findings of Fact, Analysis, Decision and Order, or any other part of the CUP.

2. The Notice's interpretation and application of Condition A are unsupported and untenable

Nothing in the CUP's conditions specify deadlines for agricultural operations or imposes specific mixes of agricultural uses on the Ranch. Moreover, nothing else indicates that a modification to the permit is needed each time the rancher decides to introduce new crops, experiment with new species, move fences, plant agave vs. koa, vs. milo, etc.

By contrast, DPP's Notice seeks to apply the "*in general conformance with*" phrase of Condition A so broadly that it would transform the entire CUP document and every fact, plan, idea, concept, proposal, comment, or phrase mentioned therein into a specific condition that the Ranch must somehow satisfy. For example, the Proposal section of the CUP's recites various items from the Ranch's CUP applications, merely mentioning a number of the Ranch's proposed concepts, ideas and plans: agricultural research, breadfruit, bananas, sugar cane, taro, sweet potato, cacao, goats, sheep, grass-fed beef, koa, sandalwood, invasive weed management, exclusion of feral ungulates, hiking, biking, ATV's, story-telling, culinary events, and farmer's markets. *See* CUP at pgs. 2-3.

Of all these items listed in the "Proposal" section of the CUP, only the trapping of feral pigs and invasive weed management are mentioned as proposed items in the fact Finding of Fact or Analysis sections of the CUP. Only one of all these items is mentioned as a specific condition in the Decision and Order section of the CUP: "invasive species and plants that are at risk of naturalization. *See* CUP at pg. 26.

Thus, given the Notice's overbroad interpretation and application of Condition A in the CUP, would the Ranch be required halt agribusiness operations if, for example, the Ranch's beef were fed grain instead of grass, or farmer's markets were not held, or if the cacao crops failed to thrive, or the planned agricultural research had to be put on hold for any reason, or sandalwood trees died, or story-telling operations ceased, etc. etc.

Such absurd consequences are readily avoided by abstaining from tortured readings of the CUP. Instead, both the Ranch and DPP are expected and entitled to rely on a plain reading of the specific conditions articulated in the Decision and Order section of the CUP. To illustrate the point further, the beginning of the Analysis section of the CUP clearly states that the "Director may allow a conditional use that satisfies *the following criteria*", reinforcing the rule that Conditions must be backed by clear fact finding and analysis.

Here, the CUP's Analysis section goes on to identify and analyze all those land use ordinance provisions and other factors that justify the various conditions, ie: the adverse impacts arising from or related to accessory uses that the conditions imposed by the Decision and Order section clearly aim to mitigate. *See* CUP at pgs. 7-24. (emphasis added). Thus, the CUP clearly indicates that conditions are dependent on details and facts found and cited in the Analysis section. The CUP contains no fact finding or analysis of agricultural deadlines or specific mixes of primary agricultural uses. Thus, aside from the 50% active agriculture conditions and criteria in the Decision and Order section, there are no other "agricultural conditions" in the CUP.

Strained, overbroad, and undocumented interpretations of Condition A's general language must be shunned in order to protect the Ranch from twisting one sentence about "general conformance" to: a) force implementation of agriculture uses that were only proposed conceptually, regardless of their proven unsustainability, b) impose deadlines after the fact and without clear notice, and c) fabricate conditions that mitigate no adverse impacts from accessory uses that are not even present on the Ranch yet.

No agricultural or land use law justifies imposing such an untenable stranglehold over primary agricultural uses that require no permits or modifications. Nevertheless, the Ranch is now being penalized for taking time to get things right, both with respect to its agricultural uses and the permitted agribusiness. The Ranch's timeline since the 2019 issuance of the CUP has been filled with investment into critical activities aimed at thoughtfully satisfying CUP conditions, pursuing agricultural sustainability, and ensuring proper planning. This includes:

- a) Taking heed of DOFAW's wildfire warnings in the CUP,
- b) Utilizing the time during the Covid-19 pandemic and government shutdowns to work with agricultural experts to plant test crops and be deliberate and prudent about implementing various agricultural uses and projects,
- c) Working with the most experienced forester in the state to ground truth forestry concepts, establish native hardwood test plots, consider wildfire and coconut rhinoceros beetle impacts, and design forestry and agroforestry operations that will be sustainable on the Ranch,
- d) Expanding grazing operations to bring herd levels way above required minimums and help control fuel loads for wildfire prevention purposes, and
- e) Engaging in an ongoing dialogue with DPP staff and city official to attempt recording of the satisfaction of CUP conditions.

3. DPP has already clarified that the Ranch is free to take its time on Agriculture

For years now, the Ranch has been corresponding with DPP staff regarding the satisfaction of the CUP's 50% active agricultural use condition, including discussions about the need to optimize the mix of agricultural uses on the Ranch to keep up with environmental, agricultural, and market conditions. On or around March 25, 2021, long after DPP issued the CUP, the Ranch reached out to inquire about when it needed to start providing annual reports to DPP regarding the Ranch's agricultural uses, to ensure ongoing satisfaction of the 50% active ag use condition. In response, DPP confirmed the lack of time limits on fulfilling the CUP's agricultural conditions:

As we discussed, you must satisfy the conditions of the CUP in order to begin the agribusiness activities. There is no time limit for when you must meet those conditions. For example, some land use permits stipulate that the conditions be met within one year of approval, or the permit is void. There are no such conditions associated with this CUP. You may not begin agribusiness activities until the conditions are met, but ***the CUP will not lapse if the conditions are not met within a certain time frame.***

The same applies to the annual report - agribusiness activities may not begin until we receive a satisfactory report and determine that condition has been satisfied. The

CUP will not lapse if the first report comes in more than a year after the date the CUP was approved; you simply will not be able to start agribusiness activities until then. Once the first report is deemed satisfactory, you will need to provide annual reports from then on in order to keep the agribusiness in operation.

See Exhibit M (emphasis added).

The Ranch relied on both the CUP and the clarifications from DPP and took its time with implementation and focused on determining what agricultural uses would be most sustainable on the Ranch. The same is true for compliance with all other conditions in the CUP.¹²

Throughout the years of correspondence with DPP, not once did DPP indicate, as it now appears to in its Notice, that it would be interpreting the CUP as having any kind of agricultural implementation deadlines besides the “prior to building permit” standard that is clearly specified in the CUP’s Decision and Order section and already clearly confirmed by DPP staff.

The Ranch has not applied for any building permits for the agribusiness project. Even if it had, the only appropriate response to such a permit application would be to delay issuance of any such permits until all required conditions are satisfied, including documentation of 50% of the Ranch in active agricultural use.

There are numerous projects on O’ahu with very old permits that similarly contain references to possible project deadlines, but which do not have expiration dates or condition deadlines, just like the CUP. The Ranch should be treated equally and fairly. It should not be forced to expend valuable time and resources to justify or “re-qualify” its approved project, simply because opposition to the project seeks to misapply and misinterpret the CUP as requiring conditions and timelines that simply do not exist. DPP should not entertain or lend its jurisdictional powers to such endeavors.

III. COMMUNITY INVOLVEMENT AND INPUT

DPP’s Notice also cites a purported lack of community involvement as justification for reconsideration of the CUP.

The Ranch has been engaging with the community about the project, at its own pace and in its own way for 7+ years. At the outset, prior to DPP’s issuance of the CUP, and at the behest of the DPP director’s request, the project proponent and Ranch landowner Joey Houssian presented the initial vision for the Kamananui Agribusiness project directly to the public and neighborhood leaders at a meeting of the North Shore Neighborhood Board (NSNB).

¹² The Ranch recently provided DPP with a status update on compliance with the conditions in the CUP. Attached as Exhibit –M-1 is an updated chart reporting on the same.

In that meeting, the gondola was presented and discussed as a very real possibility if DPP were to grant the permit. See NSNB meeting agenda at: https://www4.honolulu.gov/docushare/dsweb/Get/Document-334076/27_2018_03Ag.pdf, attached as Exhibit N- (“Kamanui Property on Kaukonahua Road (mauka) by Poamoho Estates – Dawn Chang”). See also NSNB Meeting minutes from the 27 March 2018 meeting:

Kamananui Property: Joey Houssian was introduced who is the owner of the property in the Kamanui area along Kaukonahua Road. Houssian thanked the Board for hearing him out. Houssian noted his desire to create an ecotourist destination paired with integrated agriculture. In March 2017, Houssian purchased a piece of property in the Kamananui area. The property’s area is 2,100 acres and is zoned as Agg[sic]-2. Houssian is *not interested in developing on his property but is interested in opening the land to the public*. Houssian explained his desire to create a multi layered land use structure for his property and has spoken with local ranchers to understand the landscape of his property. Houssian additionally noted his *aspiration to be able to invite the public to visit his property*. Houssian noted that his attendance at the neighborhood board meeting was to collect input from the community on how the land could be used to benefit the public. The desire to pursue cultural agriculture including taro and promote eco-tourism will be a positive addition to the area. Camping, hiking, and zip lining areas are being considered as additional uses of the property. Solar powered chair lifts or *gondolas are being considered* to transport visitors.

See NSNB March 2018 Meeting Minutes, Exhibit O at pg. 5:
https://www4.honolulu.gov/docushare/dsweb/Get/Document-334067/27_2018_03Min.pdf.
(emphases added).

The meeting minutes show that NSNB leadership and board members were present for the meeting. See *Id.* At pg. 1. Per the meeting minutes, the NSNB board members and other meeting attendees then engaged in a substantive discussion with Mr. Houssian about the Project, as follows:

Questions, comments, and concerns followed:

1. **Disability Access:** Martin asked and Houssian responded that disability access throughout the property is being considered.
2. **Land Use:** Leinau noted that the Kamananui property provides a fantastic opportunity for recreational use. Philips noted that she had an opportunity to visit the area and commented on the stunning landscape. Philips noted that this is a good example of focusing tourists and Houssian added that it is also important to get the community interested in the project and promote the use of the area for local people. The property will hopefully be used as a nature education center for the community.

Shirai noted his concerns with the over use of lands across Hawaii and encouraged Houssian to take care of his property and the life that lives off of it.

3. **Public Notice:** McElheny thanked Houssian for his early dialogue with the community and urged him to ensure the stream water is clean in the area. McElheny noted his interest in the layered use of the land.

4. **Traffic and Affordability:** Justice asked Houssian to consider the traffic that will be brought to the area and asked that prices remain affordable for local visitors.

5. **Access:** Shirai urged Houssian to restrict access to the area to ensure the area is kept pristine.

6. **Project:** Andersen encouraged Houssian to follow through on the project. Green thanked Houssian for his efforts to communicate with the community and also noted the dangers of fire in the area.

7. **Project Failure:** A resident asked and Houssian responded that there is no plan in place in case the project fails. Houssian concluded that even if his project fails, the conservation of the surrounding land will be his main priority.¹³

See Id. at pg. 5. The discussion ended with brief applause for Mr. Houssian's presentation and the minutes for the meeting were approved by the Board, including votes from board leadership. *Id.*

Despite this clearly documented record of initially discussing the project with the community and the public at the NSNB meeting, including the proposed use of ziplines and a gondola to help provide public access, leaders of the NSNB have repeatedly gone on record in recent months to make untrue statements and promote the inaccurate and false narrative that there has been no such communication or presentation to the public or the neighborhood board.

In community meetings and other neighborhood Board meetings across the island, these leaders have repeatedly and falsely asserted that Mr. Houssain either: a) did not come to speak to the NSNB at all, or b) when he did present to the NSNB he was "dishonest" and did not disclose the use of a gondola. *See e.g.:* NSNB presentation at the Waianae Coast Neighborhood Board

¹³ The Ranch's commitments to all these concerns and features still stand: promoting ecological modes of public access with gondola, community use of the land and features, preservation of critical habitats, preserving ag and open areas with an aversion to traditional development/subdivision, disability access, and use of the Ranch for a nature education center by the community. All remain true today and the Ranch's submissions to DPP continue to reflect the same.

Meeting on October 7, 2025 (<https://olelo.granicus.com/player/clip/93546>): “They’ve never reached out to us, they’ve never talked to us, so as far as we’re concerned, it’s crap, they’re not talking to us.” “Seven years into planning, the developer has never presented to the public.”

CONCLUSIONS

Difficult to see this as an agricultural project; and numerous concerns remain unanswered.

Seven years into planning, the developer has never presented to the public. They have refused to participate in public meetings, claiming they are still not ready.

We ask this neighborhood board to approve the resolution requesting DPP to deny the modification application and revoke the Conditional Use Permit, Minor.

Written comments can be submitted to:

Department of Planning and Permitting
RE: Kaukonahua Ranch / Kamananui Agribusiness

Tuesday, October 7, 2025 WAIANAE NEIGHBORHOOD BOARD MEETING
Meetings are held every 1st Tuesday of the Month
Regular Meeting Agenda found @ www.honolulu.gov/nco
WATCH ON 'OLELONET ON DEMAND' olelo.org/olelonet

See also e.g. NSNB presentation to the Diamond Head Neighborhood Board meeting at <https://olelo.granicus.com/player/clip/93215>, w/ screenshot:

CONCLUSIONS

Difficult to see this as an agricultural project; and numerous concerns remain unanswered.

Seven years into planning, the developer has never presented to the public. They have refused to participate in public meetings, claiming they are still not ready.

We ask this neighborhood board to approve the resolution requesting DPP to deny the modification application and revoke the Conditional Use Permit, Minor.

Written comments can be submitted to:

Honolulu Department of Planning and Permitting
RE: Kaukonahua Ranch / Kamananui Agribusiness
Email: DPP@honolulu.gov

Thursday, August 14, 2025 Diamond Head Kapahulu St. Louis NEIGHBORHOOD BOARD MEETING
Meetings are held every 2nd Thursday of the Month
Regular Meeting Agenda found @ www.honolulu.gov/nco
WATCH ON 'OLELONET ON DEMAND' olelo.org/olelonet

See also NSNB presentation to multi-board (NS, Wahiawa, Mililani, Mililani Mauka) meeting at <https://www.youtube.com/watch?v=wjqJecFHMqk> w/ screenshot:

CONCLUSIONS

Difficult to see this as an agricultural project; and numerous concerns remain unanswered.

Seven years into planning, the developer has never presented to the public. They refused to participate tonight, claiming they are still not ready.

We ask the neighborhood boards to approve the resolution requesting DPP to deny the modification application and revoke the Conditional Use Permit, Minor.

Written comments can be submitted to:
 Honolulu Department of Planning and Permitting
 RE: Kaukonahua Ranch / Kamananui Agribusiness
 Email: DPP@honolulu.gov

Special Multi-Board Meeting July 2025 - North Shore/ Wahiawā/ Mililani Mauka/ Mililani-Waipio
 City and County Neighborhood Commission Office
 432 subscribers
 Subscribe

False statements like this have typically been accompanied by insults and name calling, accusing Mr. Houssian and Ranch team members of dishonesty, deception, alleging unpermitted construction work being done on the Ranch, refusal to meet and discuss, not being from and not caring about Hawaii, and other barbs. Such comments were typically paired and reinforced with statements that the Ranch has been deceptive or evasive, and refusing to communicate with the neighborhood board about the gondola.

To the contrary: since its first NSNB presentation in March of 2018, and for years after receiving the CUP, the Ranch continued to correspond with and update the NSNB and others. Heres’ a small sampling of those updates. On May 4, 2018, Joey Houssian sent the NSNB follow up letter to thank everyone for their feedback and discussion during his presentation, making special mention of how he planned to incorporate that feedback into plans going forward:

I enjoyed and appreciated how open the board was to hearing and asking hard questions and having a variety of agenda items.

I really appreciate the Board’s genuine interest in our project. Their thoughtful questions, comments and suggestions will be particularly helpful as our Team goes through the planning and design process. Sometimes it is difficult to know when the right time to publicly present a project to the community, so it was encouraging to have several of the Board and community members thank us for our early outreach.

In addition, we heard a lot of great comments. Several of the comments supported the recreational activities as not only being consistent with the North Shore Sustainable Community Plan but liked the idea of “focused” tourism activities in a

single area to avoid people “running amok.” With respect to the recreational activities, we heard that they should be accessible (including to those with disabilities) and affordable for locals (not the \$200 zip lines rides) and not only for the visitors. Other comments focused on being mindful of how valuable and fragile the water resources are (especially Kaukonahua Stream and watershed) in this area when considering appropriate agricultural uses like cattle ranching or even planting dry land taro.

There were several comments that asked us to consider not only koa and sandalwood that may have long-term forestry objectives, but also flora that can be gathered and harvested for consumption and used in traditional and customary Native Hawaiian practices. There were comments about managing the property not only for forestry and agriculture, but also fire mitigation and prevention. I really appreciated the comments about maintaining and preserving the cultural integrity of the area, and I take that responsibility very seriously.

Finally, for those who might be interested, I offered a site tour of our property, and we welcome the opportunity to share Kamananui with the Board and community members. I would personally like to be present, and will contact you with some dates and times in June for visits to the site. I hope to see as many of you as possible at that time.

Since our presentation in March, we have had several meetings with the Department of Planning and Permitting (DPP) and have confirmed our next steps, which will be the submission of a Conditional Use Permit (minor) that will encapsulate what was described in our NSNB presentation. I am committed to keeping you updated on this process and welcome any and all ongoing feedback, ideas and suggestions for the project.

Thank you again for your interest in Kamananui and for your support. I am looking forward to the future and creating an experience that we can all be very proud of.

This update letter was also sent to the Mayor, city council members, state house and senate representatives, and DPP leaders. *See Update Letter, Exhibit P.*

In March 2019, the Ranch again provided an update to the NSNB Ranch. Here’s an excerpt about community engagement and involvement:

COMMUNITY:

North Shore Community Board & Community Outreach – We completed tours with all North Shore Community Board Members that have expressed interest in visiting the property and are very pleased with reactions and comments from those who visit the property and really experience what it is and what it is not. This includes Kathleen Pahinui, Jenny Vierra, Casi Gentzel, Carol Phillips and Bob Leinau (several members also toured with friends who also helped with great feedback).

We continue to be available for tours for all other Board members at their convenience. Others who have toured the property include Rep. Gil Riviere, Council Member Heidi Tsuneyoshi (and members of her staff).

Hawaiian Island Land Trust – We hosted Kawika Burgess from HILT and continue to explore opportunity to create a conservation easement on the property.

Fire & Rescue - We also toured key representatives of the Honolulu Fire Department coordinated with regional chief Robert Thurston. We gathered key members of Fire & Rescue and the Waialua Fire Department to establish safety, rescue and fire response planning protocols.

See Kamananui Newsletter/NSNB Update, Exhibit Q.

The Ranch also sent a year end update to the community:

In the interest of expanding much-needed dialogue and providing our neighbors with accurate first hand knowledge and information about our intentions and aspirations for Kamananui and the North Shore Community, we plan to expand our periodic site visit offerings to include regular and ongoing guided tours, beginning as early as Spring 2020.

In doing so, we hope to learn from those who visit and hopefully address many of the understandable fears and anxieties some may have about the project. While some of those concerns may be fueled in part by a need for more publicly available information, we hope to clarify the handful of factual inaccuracies being attributed to our conceptual plans.

By inviting the community to experience the ‘āina firsthand, we also hope to facilitate the process of reconnecting those with historical and lineal ties to Kamananui, enabling them to help restore and revive appropriate cultural protocols and practices we learned were once present such as hula, lua and la‘au lapa‘au. Additionally, it is our hope that some who visit will help us properly identify wahi pana and wahi kapu, significant or sacred sites, that should be afforded additional protections in the interest of preserving their cultural, spiritual, and historic value. To mālama ‘āina properly and appropriately, we are committed to a deliberate and inclusive planning process. This is a most important priority.

See December 2019 Update, Exhibit R.

Then came the lockdowns of the COVID - 19 pandemic. The Ranch used the time to further its work on developing agricultural operations, engage further with experts, learn from ground truthing efforts and experiences, and reflect all those learnings in modification proposals, including ongoing community feedback and insights.

All throughout the pandemic and thereafter, the Ranch continually met with community members and leaders, neighbors, politicians, and agency staff and others, providing countless Ranch tours to the same. Ranch staff estimate at providing well over 50 Ranch tours to various community members in various capacities, all part of the Ranch’s sustained and long terms efforts to gain feedback and insights and explore partnerships and opportunities and inform proposed

minor modifications. Now that the Ranch has spent *years* gathering input and feedback from community members, far more than most projects gather, it is becoming clearer which members of the community are actually interested in providing constructive feedback to make the project better and more community friendly, and which members have no interest in providing constructive feedback but rather want to stop the project altogether, going so far as to attempt to change the law to prohibit the project. Many of these opponents are the same ones falsely claiming that the community has not been involved or consulted.

To that end, the Ranch has been tracking community feedback from recent NB meetings, council hearings, and taking into consideration all relevant info, though much of the feedback is based on or assumes inaccurate or incomplete information. Large portions of that feedback is based on inaccurate news reporting and false/alarming misinformation being spread in NB meetings and on social media: “the gondola is going to top of Mt. Ka’ala” “the gondola is coming to Koko/Diamond head”, “the gondola is also coming over the mountain to the west side”, “they are currently up there doing construction and destroying the mountain right now, even though they are not supposed to”, etc.

Often accompanying such untruths are aggressive, angry, and unproductive rhetoric about the Ranch: “they should be allowed to own that land”, “we shouldn’t let them ever build anything, ever” “do not believe anything they say, they are all liars” “I’ve spoken to them and they can’t be trusted”, etc.

Given the tenor and tone of such comments being published and made by board members and leaders in open public forums, as well as the track record of violent incidents erupting at neighborhood board meetings discussing developments in the North Shore area, the Ranch has repeatedly asked NSNB leaders for opportunities to discuss plans for appropriate , safe, and measured community engagement meetings that the Ranch could cooperate and participate in.

Those requests have been repeatedly ignored and were instead responded to with disrespectful rhetoric and name calling in public meetings: telling crowds and the media that the developers lack the respect to come speak to them in person, going all the way back to when they supposedly failed to come present to them at the neighborhood board. The Ranch provided written clarification on the inaccuracies in the agenda and other written materials circulated about the Ranch and the Project (*see* letters to NSNB and Waianae NB, Exhibit S). Here are a few relevant excerpts:

A story titled “Gondola development project proposed for North Shore” ran on KHON 2 News on May 19, 2025, which referenced our Minor Modification submittal. That story did not include reference to the fact that our Minor Modification document/plan *reduces the scope and scale of our operation* of the approved Conditional Use Permit which is a very important detail.

As anticipated, the gondola part of our operation is garnering the most interest in the community and the media. The proposed top station of the gondola in the Minor

Modification shows a realignment from a previous elevation of over 1,700 feet down to 1,250 feet (450 feet lower), more ***than 2.5 miles away from, and a half mile lower*** than the summit of Mount Ka‘ala (see enclosed map).

While references to Mount Ka‘ala being the highest peak on O‘ahu in the news and social media channels is true, any suggestion that our gondola will be going to the summit is inaccurate and misleading. The highest elevation of our ranch is 2,400 feet (the summit of Mount Ka‘ala is over 4,000 feet). [...]

We are also aware that over Fall 2024, members of the North Shore Neighborhood Board made reports to the DPP that we were building or conducting unpermitted uses on our ranch. We immediately responded to City Councilmember Matt Weyer with an invitation to visit our property and see our operations firsthand.

He accepted and also brought members of the NSNB with him on that tour where we showcased how we are conducting active agriculture on the majority of our challenging terrain through ranching, forestry, crops in the valley, and wildfire mitigation, as well as answered questions related to future agritourism plans.

We proudly showcased that we are stewarding ‘āina with a level of great respect and responsibility that matches or exceeds other landowners in the area. It is our hope that NSNB members will acknowledge and value the extensive agricultural and land management work we are actively doing.

Finally, it is disheartening to see community petitions circulating against our project that include gross misrepresentations of the facts and misleading information being shared on a wide scale. The community deserves the facts and to help set the record straight, we have created an informational document that responds to each of the inaccurate and/or misleading assertions noted in the petition. You will find that in the attachment to this letter.

See May 27, 2025 letter to the NSNB, Exhibit T.

Again, while there are clearly those who do not like the project, there are no legal violations and many of those who continue to push the false narrative about the alleged “lack of community outreach” are the very ones who have engaged with the Ranch repeatedly and have not provided any constructive feedback, repeating instead various iterations of the same false narrative that the Ranch has somehow refused to consult with the community.

A few months later, when project opponents organized another anti-project rally, the Ranch again attempted to provide clarifications and set the record straight in matters of critical importance. Here are some relevant excerpts:

The scope of impact on the land has been represented as a concern. To help quantify the actual impact of the planned project, the current plans would see ***less than one one-thousandth*** (1.94 acres) of the total 2,400 acres of Ranch lands be developed

with agribusiness structures, including the gondola. The rest of the Ranch will remain in diversified agriculture and habitat preservation. [...]

We are aware of ongoing discourse, concerns, and curiosity about our project, and we understand and respect all perspectives including those who do not support this project. Our existing permit contains stringent conditions and requirements that address many of these concerns shared by some members of the community. Below are updates on some of these key topics:

Agriculture – We have heard concerns that the Kamananui project is agri-washing.” The Ranch is currently active on approximately **59% of all Ranch lands with ranching, native forestry and crop production**. Working with the Hawai‘i Agricultural Research Center, our current agricultural outputs include cattle, koa (with additional sandalwood and lama saplings going in this fall), agave, dragon fruit, ‘ulu, bananas, papaya and mushrooms. All forestry and plant stock has utilized different varieties for testing purposes, and we are harvesting the best seed stock to support future expansion of our forestry and crop production. A list of additional agricultural expansion we are exploring include:

- Farmers markets
- Farm plots for local farmer
- Educational and cultural programming
- Agave production
- Lo‘i Kalo on Kaukonahua Stream terraces
- Green house and nursery expansion

We are committed to working with community partners on future expansion and uses of agricultural lands at Kaukonahua Ranch.

Traffic - Our traffic and community visitation plans will effectively address and mitigate traffic implications. The Ranch is committed to improving safety on Kaukonahua Road for all. The current Minor Modification document proposes a new turn-off location and turning lanes that will create a more user-friendly entrance than the currently permitted entrance.

The Ranch’s traffic consultants are committed to working with all relevant state and county traffic officials to ensure that traffic plans comply with all applicable requirements. It is worth noting that our traffic analysis has highlighted that our peak visitation will be mid-day, avoiding the current morning and afternoon peak traffic times on Kaukonahua Road.

See July 30, 2025 Community Update letter to Wahiawa, Mililani, Mililani Mauka and NS Neighborhood Boards, Exhibit U.

Then, in October of 2025, the Ranch reached out to the Waianae Coast Neighborhood Board to ensure that they corrected the record on inaccurate statements being made about the gondola coming over the mountain to the Wai'anae district:

- **Waianae Neighborhood Impacts** – _Despite some inaccurate statements saying otherwise, Kaukonahua Ranch does not own and does not plan to own any lands in the Waianae district. There are no plans to connects our ranch's agricultural or agribusiness activities beyond the immediate area of our current 2400-acre Ranch in the Kaukonahua Valley. The Ranch's location has no connection or direct link to the Wai'anae Coast or the Wai'anae district. We anticipate that many members from the local community, including those from the Waianae district will benefit from having access to lands that have not ever been accessible to the community, as well as provide potential jobs to community members.

[...]

- **Future Community Outreach** – _Once we have officially defined the project scope in consultation with the DPP regarding proposed minor modifications to the existing permitted plan, we look forward to hosting a number of community outreach events that will allow for more constructive feedback and create broader opportunities for the community to engage in the future of Kaukonahua Ranch and its agricultural and agribusiness plans. The vision of the Ranch is to create unprecedented public access to lands and resources that have not been accessible for over 100 years and to create public access similar to what is found at state parks (not theme parks) and other gondola-enabled locations across the globe.

See October 6, 2025 update letter to Wai'anae Coast Neighborhood Board, Exhibit S.

Given all the inaccuracies, misinformation campaigns, name calling, hostilities and accusations (including no shortage of inflamed testimony and rhetoric about how the Ranch is breaking the law, exploiting legal loopholes, destroying and violating the sacred nature of Mt. Ka'ala, commencing construction with permits, and colluding with DPP and corrupt Honolulu politicians, etc.), and considering the recent incidences of political violence around the country and the local history of assaults at neighborhood board meetings in the north shore area, the Ranch is in no hurry to attend any anti-project rallies. Particularly when they are promoted and organized by project opponents who have sworn to stop the project, rather than demonstrating any interest in providing actual constructive feedback to help make the project a valuable community asset, as contemplated by the CUP.

Moreover, given all the above, the Ranch encourages to DPP to: a) give serious consideration to the need for a public hearing, b) take reasonable measures to ensure public safety, and c) provide a controlled hearing forum that is safe and secure for all.

Despite all the above, the Ranch remains committed to continued outreach and productive engagement with the community. After all, the earliest statements regarding the community access nature of the project still holds and the Ranch looks forward to engaging with the community more

to help ensure community access and involvement helps make the educational, agricultural, restoration, and cultural programs and projects a vibrant daily reality at the Ranch.

Numerous supporters have privately expressed their support for many aspects of the Kamananui project. Many who live in the North Shore community have expressed fears about publicly supporting the project. NSNB leaders and others have every right to dislike and oppose this community access project, but the unsavory tactics being utilized are having a bullhorn/social contagion/bullying effect: many have shared their understandable fears of being publicly defamed, insulted, singled out, and/or “called out” in a manner similar to the aggressive and false comments that have already been published and publicly levied at the Ranch owners and neighbors.

This is all particularly telling in light of the results of a recent survey conducted by a local polling company. Those results show that when the agribusiness project is described neutrally¹⁴, close to 3 out of 4 O’ahu residents polled were either partially or strongly support having such a project built on O’ahu. *See Executive Summary of Survey results, Exhibit V.*

The Ranch has invested significant amounts of time, money, and energy into gathering community feedback and incorporating the same into its plans and operations. The concerns reflected in the Notice regarding the purported inadequacy of community involvement are unfounded and reflect the sentiments of the false misinformation campaign that NSNB leaders have been promoting at City meetings across the island.

IV. ENVIRONMENTAL REVIEW UNDER HRS § 343 NEITHER REQUIRED NOR WARRANTED

No environmental assessment or impact statement required by HRS Chapter 343 for, either the CUP or the Ranch’s Proposed Minor Modification to CUP as neither trigger the requirements for an **environmental assessment (EA)** or **environmental impact statement (EIS)**. Hawaii’s Environmental Policy Act (“HEPA” or “HRS § 343”).

The CUP already determined that the Kamananui agribusiness project did not trigger any applicable HEPA requirements, and thus no EA or EIS was required. The currently pending minor modification application merely proposes to refine an already-approved project in ways that largely **reduce impacts**, enhance sustainability, and remain fully consistent with the CUP’s original scope and intent. HRS § 343-5 specifies the environmental review is only required for applicant-proposed "actions" that meet specific triggers (e.g., use of state/county lands/funds, certain districts, or proposed wastewater systems) and require discretionary agency approval, unless exempt.

Here, the Ranch’s proposed minor modifications do not propose a new action. Rather it aims to adjust an already-approved CUP without altering its fundamental character. Indeed, the core actions and uses (agribusiness accessory to agriculture, including gondola/ziplines/tours) remain

¹⁴ *Insert text of project description from Survey.*

the same as when approved in 2019. Minor modifications to existing approvals—especially those reducing scope—do not trigger environmental review unless they have more than minimal or insignificant effects.

DPP guidance confirms that refinements like building consolidations, relocations for reduced visibility, and efficiency improvements do not require new EAs. Even if some of them were actually were “New” or “changed”, none of the allegedly “new information” or “changed conditions” cited by DPP’s Notice have anything to do with any of the specific EA triggers in HRS § 343:

- The Kamananui Agribusiness project involves no use of state/county lands/funds, no rezoning or reclassification of lands
- None of the Ranch’s lands or any of the proposed uses are within a shoreline area, a historic site, or the conservation district.
- There are no waste to energy facilities, landfills oil refineries, or power generating facilities over 5MW contemplated.

The only possible trigger could be the packaged wastewater facilities already approved by the CUP, but even there, the appropriate exemptions remain:

- Neither the CUP nor the proposed minor modifications contemplate capacity changes to any proposed "wastewater units" only minor sanitation upgrades that will remain below allowable capacity levels and otherwise be fully compliant with all applicable Department of Health rules and regulations governing wastewater.
- While the Minor Modification does propose switching some of the composting toilets to more traditional low-flow toilets, that proposed switch is DOH-compliant, the wastewater system remains fully packaged, and onsite (some graywater potentially useable for landscape irrigation) and outflows remain far below any potential thresholds. There is no proposal for new "wastewater systems" or "treatment units."
- **Exemption applies:** Agencies maintain exemption lists for actions with minimal/no significant effects (HAR § 11-200.1 et seq.). Minor facility alterations, footprint reductions, and agricultural enhancements routinely qualify as exempt from the EA and EIS requirements of HRS § 343. The Ranch’s proposed minor modifications demonstrably lessen impacts (e.g., visual, land disturbance, wastewater), consolidate structures and reduce disturbance, enhance accessibility/cultural protections, Provide community benefits, and respond to real-world issues (wildfires, pests, geography, etc.) and promote sustainability.

Without any aspect of the Project to trigger HRS 343’s EA or EIS requirements, and without any changed conditions or other information directly impacting one of the HEPA’s specifically listed triggers, no environmental review is required by HRS Chapter 343. DPP should feel free to support sustainable agriculture on O’ahu and rely on the State of Hawaii Department of Health to ensure compliance with all applicable wastewater rules and any other triggering conditions, as already required by the CUP.

V. APPROPRIATENESS OF PROJECT

In the specific language of the CUP, it is clear that DPP has already analyzed the appropriateness of the Project in light of each of the relevant conditional use standards in the City's Land Use Ordinance:

General requirements:

(a) The director may allow a conditional use on a finding that the proposed use satisfies the following criteria:

- (1) The proposed use is permitted as a conditional use in the underlying zoning district and conforms to the requirements of this chapter;
- (2) The site is suitable for the proposed use considering size, shape, location, topography, infrastructure, and natural features;
- (3) The proposed use will not alter the character of the surrounding area in a manner substantially limiting, impairing, or precluding the use of surrounding properties for the principal uses permitted in the underlying zoning district; and
- (4) The use at its proposed location will provide a service or facility which will contribute to the general welfare of the community-at-large or surrounding neighborhood.

See ROH § 21-2.90-2. As to each of the above criteria in Section (a) of the General Requirements for conditional use permits, DPP has already specified in the CUP the ways in which the project satisfies these General requirements:

1. *"The proposed use is permitted as a conditional use in the underlying zoning district and conforms to the requirements of the LUO. Agribusiness activities are permitted in the AG-1 Restricted Agricultural District and AG-2 General Agricultural District with an approved Conditional Use Permit (CUP) (minor)."*

See CUP at pg. 7.

2. *"Size, Shape, Location, and Topography: The size and shape of the Project site can easily accommodate the proposed uses. The site's natural topography accommodates the proposed uses at their proposed locations."* Id. at pg. 13.

1. There have been no significant changes to the Ranch since DPP issued the CUP, let alone any changes that might warrant a review of this finding.
2. DPP concluded that the Ranch is suitable for the proposed infrastructure because the Project provides adequate supporting systems for water, wastewater, drainage, traffic,

refuse, and emergency services, relying on private/on-site solutions where no municipal services exist. While deficiencies were identified (primarily in water allocation details, wastewater treatment design for the No Pass Zone, and emergency rescue planning), DPP found these can be fully resolved through specific conditions of approval rather than denying the permit, making the site acceptable for the infrastructure with those imposed conditions.

3. DPP also found that, although the project site contains highly significant natural features including protected scenic views of the Waianae Mountains, numerous unsurveyed traditional Hawaiian cultural and archaeological sites, and approximately 254 acres of federally designated critical habitat for dozens of endangered species, the site remains suitable because potentially severe adverse impacts to views, cultural/historic resources, and native flora/fauna can be adequately avoided, minimized, or mitigated through a series of strict conditions of approval (including building size limits, color/lighting restrictions, mandatory SHPD, USFWS, DOFAW consultations and permits, invasive-species removal/restoration, wildlife protection protocols, and an invasive-species mitigation plan), all of which were already addressed by the CUP.
4. With these conditions imposed, the DPP concluded that the project will not substantially harm the site's important natural features.

3. *"The proposed use will not alter the character of the surrounding area in a manner substantially limiting, impairing or precluding the use of surrounding properties for the principal uses permitted in the underlying zoning district. The proposed Project will not alter the character of the surrounding area in a manner substantially limiting, impairing, or precluding the use of surrounding properties."* *Id.* at pg. 22.

1. DPP already conclude that the proposed project will not substantially alter the character of the surrounding area or impair the agricultural use of neighboring properties because, of imposed conditions—requiring at least 50% of the site to be in active agricultural production before any recreational structures are built, limiting operating hours, prohibiting amplified sound at night, and requiring road improvements.

4. *“The use at its proposed location will provide a service or facility which will contribute to the general welfare of the community-at-large or surrounding neighborhood. The NSSCP states, “Agriculture-based tourism is an alternative revenue-generating activity that combines education about agricultural products with recreation and the experience of interacting with the land and the grower.” It also states, “By providing an additional revenue source, such visitor-related activities can supplement farm incomes and contribute to the economic viability and stability of the farm.” The proposed agribusiness activities provide an additional revenue source to the economic viability and stability of over 1,000 acres of active agricultural use. The Project will also allow the public to access the property, contribute to ecological restoration in USFWS-designated critical habitat, educate the public about agriculture and Hawaiian crops, and provide local food and agricultural products.” Id. at pgs. 23-24.*

DPP found that the project will contribute to the general welfare of the North Shore community and the island at-large by supporting the economic viability of thousands of acres of active agriculture, providing agriculture-based tours and education consistent with the NSSCP, increasing public access to local food and Hawaiian crops, and funding ecological restoration in designated critical habitat.

While acknowledging potential negative traffic, visual, environmental, and land-value impacts, the DPP concludes that these can be adequately mitigated through the imposed conditions of approval, thereby ensuring the project’s overall benefits to the community outweigh its drawbacks.

In addition to the many reasons already specified by DPP in the CUP, the Ranch offers the following items that demonstrate how the project satisfies all applicable requirements; each section below addresses major components of the CUP and demonstrates why the Ranch is the optimal location for this integrated agribusiness and community access project.

A. TRAFFIC AND SITE ACCESS

The Ranch's main entrance and exit are strategically located on Kaukonahua Road, an established transportation corridor. The Ranch has commissioned a detailed Traffic Impact Analysis Report (TIAR) demonstrating that:

- i. Adequate space exists to construct appropriate turning and acceleration lanes that will not impede traffic flow on Kaukonahua Road;
- ii. Project-generated traffic will have minimal impact on daily traffic volumes, with peak visitation times occurring during off-peak commuter periods; and
- iii. The site's location on an existing major road eliminates the need for new right-of-way acquisitions or disruption to residential areas.

This analysis confirms that the project site is appropriate for agribusiness conditional use based on demonstrated traffic compatibility with existing infrastructure.

The average number of visitors to the North Shore on a typical day was recently estimated to be around 12,088 (4,412,130 visitor days/365 days). *See https://files.hawaii.gov/dbedt/economic/reports/north_shore_visitors_report_final_sept_2024.pdf?referrer=grok.com* Even when operating at the highest visitor counts contemplated by the CUP, the Ranch would only divert a very small percentage of the existing visitor traffic in the area. Some of the earliest feedback the Ranch received from the North Shore community was the positive notion that having a portion of those visitors concentrated in one vast park like areas, with their cars parked for hours at the Ranch, far away from the more frequented visitor areas of the North Shore (ie: Laniakea/turtle beach, Haleiwa town, Waimea bay, etc.), which is anticipated to actually help relieve some of the visitor congestion on the North Shore.

The proposed driveway access point for the project site is also appropriate insofar as it aims to align, coordinate, and economize access points on both sides of Kaukonahua road, as suggested by the Ranch's traffic consultants as being efficient and consistent with community requests for combined alignment of such driveway access points.

B. COMMUNITY ACCESS/GONDOLA SYSTEM

The Ranch's varied terrain presents significant challenges for activating significant agricultural uses at the more remote and higher elevations of the Kaukonahua Valley. Specialized transportation infrastructure makes that possible where steep grades, elevation changes, and vegetation density would otherwise make impede uses in such areas. It also greatly enhances community access and partnership opportunities on the Ranch. As such, the gondola is functionally essential for the Ranch's agricultural diversification and community access expansion strategies:

- i. Forestry Operations: Provides direct access to upper valley zones where Koa, Sandalwood, and Lama species are being cultivated for seed propagation and native Wai'anae forestry expansion.
- ii. Silvopasture and Crops: Enables management of integrated crop and livestock operations at higher elevations where various species and symbiotic production systems are most viable.
- iii. Operational Support/minimized footprint: Allows transport of staff, tools, equipment, plant materials, nutrients, and small ruminants (goats/sheep) to active agricultural zones in an extremely ecological manner. with the smallest footprint possible compared to all other forms of large scale agricultural/visitor transport.

The specific community access gondola system slated for the Ranch is uniquely suited to the site's topographic and operational requirements in ways that alternative transportation methods cannot achieve. Indeed a road network capable of supporting bus service and cargo transport, and significant restoration projects would require extensive grading and land disturbance across multiple hectares, permanent visual scarring of the landscape, daily operational impacts from moving fuel-burning vehicles sensitive ecological zones.

By contrast, the gondola represents the most ecologically efficient and lowest-impact agricultural transportation method available for accessing upper elevation agricultural zones on

the Ranch. These site-specific advantage makes the community access/gondola transport system highly appropriate for primary and conditional uses on the Ranch. The proposed route for the community access/gondola system has been strategically designed to maximize integration with agricultural features and activity zones:

- i. Mid-Station Zone: Provides access to lower valley crops, cultural sites, southern ridgeline grazing areas, and future forestry operations while facilitating community connection to hiking and biking trails, cultural/archeological preservation areas, etc.
- ii. Top Station Zone: Positioned immediately adjacent to the Ranch's forestry cultivation zones (Koa, Sandalwood, and Lama) and crop areas including community farm plots, cultural crops, and flowers for traditional medicinal uses (lā'au lapa'au) and cultural practices (hula halau).

The proposed route for the community access/gondola system was designed to minimize the system's visual impacts. The Ranch will paint and wrap towers and cabins with landscape-blending colors to ensure limited visual intrusion from neighboring properties, as required by the CUP.

C. HIKING AND BIKING TRAIL NETWORKS

With thousands of acres across the vast reaches of the Kaukonahua Valley, with significant elevation changes and varied topography and ecosystems makes Ranch an ideal and attractive location for the permitted hiking and biking trail networks. The remote and rural nature of the Ranch and the Kaukonahua valley makes the areas exceptionally appropriate for recreation. As stated in the CUP, the permitted activities will helping preserve these remote area, preventing the Kaukonahua valley from being further subdivided and developed. Making the upland areas of the valley and the lowland archeological areas more accessible with the community access gondola system will also help achieving the education and cultural access objectives specified by the CUP including:

- i. The trail system that will enable guests to explore diverse agricultural activities across the Ranch's varied ecological zones and provide public access to cultural preservation sites along the Kaukonahua stream and valley floor, which have now been identified for preservation through the Ranch's archeological survey work.
- ii. For the first time in over 100 years, the agribusiness plan provides community and public access to lands that have been historically restricted.
- iii. The site's topography and agricultural diversity will support unprecedented community engagement with active agricultural and cultural practices.

Ultimately, the project site's geographic scale and featured diversity make it uniquely appropriate for integrated trail-based community engagement and educational programming, as contemplated by the CUP.

D. LAND MANAGEMENT AND STEWARDSHIP

The CUP establishes conditions that demonstrate the project site's appropriateness through measurable stewardship outcomes. The Ranch has made significant progress on and completed many of the agency-required stewardship plans. Many of the corresponding management practices have already been implemented.

First, the Ranch completed the Community Wildfire Mitigation Plan and established a community working group. The primary mitigation strategy of expanded cattle grazing to suppress fuel loads along the Schofield boundary (historically the primary wildfire source) and other upland areas of the Ranch has already proven operationally effective.

In June 2025, these expanded grazing efforts were the primary defense mechanism that stopped a significant multi-day fire incident, as confirmed by key personnel from the Department of Land and Natural Resources, Division of Forestry and Wildlife, and the Army. In fact, Natural Resource Management from USAGH credited the Ranch's wildfire mitigation efforts, including firebreaks and grazing strategies as the "saving grace" in preventing the fire from spreading further.

The Ranch is appropriately positioned to serve as a community leader and asset for hazard mitigation efforts that will only expand under the Ranch's ability to implement and operate the agribusiness approved by the CUP.

Second, based on CUP conditions and agency guidance, the Ranch has completed comprehensive biological surveys, a Threatened and Endangered Species Management Plan, and a Pueo owl survey. The project site will have formal, agency-approved species management protocols in place. The CUP will help ensure ongoing and enhanced investments in stewardship of sensitive species that would not be sustainable without agribusiness operations moving forward.

Third, the Ranch has never previously conducted systematic invasive species mitigation. The Ranch has now established comprehensive footwear cleaning protocols for all ranch workers to prevent disease and seed spread which will expand and update as Ranch activities expand – including procedures enacted for all future guests to the Ranch.

The Ranch has also established a formal invasive species management plan which has been submitted for regulatory agency review and comment. The CUP has created the framework for first-time invasive species mitigation at landscape scale.

Fourth, as required by the CUP, the Ranch has: (1) completed an Archeological Impact Study (AIS) identifying and planning preservation for significant cultural sites in the valley, (2) completed a Ka Pa'akai Report addressing cultural resource concerns, and (3) identified key cultural zones to be integrated into agribusiness and community education programming.

Full implementation of the CUP will transform the Ranch from a largely passive, cattle ranch with a long unregulated and unmanaged history, to an active and vibrant ecological preservation and agriculturally progressive destination with formally managed and protected

cultural resource and community engagement/educational programs and protocols. Without such implementation, identified cultural sites will remain disconnected from community stewardship and education opportunities.

Finally, the Ranch's agricultural and cultural diversity provides a unique resource for community engagement and partnerships and development of valuable cultural and educational programs, including conservation and restoration programs. The Ranch will provide a unique place for school and community groups to participate in cultural farming and restoration practices, experience authentic learning experiences with active agricultural operations, and provide public access to archeologically significant sites. The CUP framework enables the Ranch to serve dual functions as a working agricultural operation and community educational resource, demonstrating exceptional appropriateness for the approved conditional uses.

E. ECONOMIC BENEFITS AND LOCAL EMPLOYMENT

Full implementation of the CUP project on the Ranch will help accelerate the creation of an extensive base of hundreds of local employment opportunities across multiple skill levels and positions, including salaried management positions, skilled safety patrol staff, ecological program managers, skilled repair and mechanical maintenance crews, community engagement and programming staff, and food and crop processing operators, and a number of other hourly and part-time positions.

These employment opportunities will be located within close proximity to residential communities, reducing commute burden on local workers and providing job security within the North Shore region where extensive commuting is often necessary for employment. The Ranch's scale and the diversity of operational requirements make the Project uniquely appropriate for generating meaningful employment opportunities for locals at a variety of skill levels and salary ranges.

F. CATTLE MANAGEMENT AND OPERATIONAL ENHANCEMENT

The Ranch's diverse zones, varied topography, and mixed boundary conditions (fenced areas and naturally confined terrain) require advanced management systems. Confirmation of the CUP and the associated minor modification will permit the Ranch to install new and enhanced fencing across vulnerable boundary zones and implement GPS collar systems on all cattle for real-time location monitoring and movement control that will deploy leading-edge livestock management technology appropriate to the Ranch's ecological complexity, the vast size and varied topography of the Kaukonahua valley, and the forested terrain in upland areas frequented by the herds.

The CUP's framework will continue to enhance the Ranch's cattle management and production capabilities, significantly beyond what would be possible without the CUP in place. The Ranch's diverse geography and boundary conditions make it ideally suited for demonstrating advanced agricultural management practices that would be financially difficult to justify without the support and investment of the agribusiness operations.

G. AGRICULTURAL LAND PRESERVATION AND REGIONAL FOOD SECURITY

The CUP is critically important for preserving the Ranch as a large-scale active agricultural operation. As pointed out by the CUP, absent the conditional use framework, current and/or future owners face pressure to pursue alternative "highest and best use" real estate schemes for the Ranch's approximately 2,300 acres.

Neighboring agricultural properties throughout the North Shore recently have undergone subdivision into 5-acre or smaller parcels through Condominium Property Regime (CPR) structures, commonly referred to as "Gentleman Farms." This agricultural subdivision trend is already creeping its way up the more norther portion of the Kaukonahua Valley, fragmenting agricultural tracts that were once used solely for agricultural production and converting them into gentleman farms. This fragmentation diminishes large-scale agricultural production capacities, reduces island food security, and undermines agricultural resilience. Absent the CUP, further subdivision is otherwise all but inevitable and will more permanently prevent the establishment and maintenance of agricultural operations requiring substantial land tracts, and compound the fragmentation of O'ahu's already diminished agricultural landscape.

The site's scale, topography, and historical use make it uniquely appropriate for preservation of large-scale agricultural operations that would be impossible on subdivided parcels. The CUP is already clear about its goal to help prevent such cumulative adverse impacts in the agricultural district, particularly on the North Shore of O'ahu.

The CUP is of highest importance for preserving the Kaukonahua Valley as one of the few remaining, large-scale active agricultural operations on Oahu. These few remaining ag sites are critical to the public interest and essential to help contribute to the significant challenges O'ahu in particular faces with respect to regional food security and agricultural resilience. Indeed, Kaukonahua Ranch is one of the largest cattle ranches on O'ahu and its herd sizes are growing fast. The CUP is clear about the appropriateness of the permitted agribusiness project as a means to preserve the Ranch and incentivize the agricultural perpetuation goals established by the State of Hawai'i, the City and County of Honolulu, and the North Shore of O'ahu.

H. ALIGNMENT WITH NORTH SHORE SUSTAINABLE COMMUNITIES PLAN

Current working drafts of the North Shore Sustainable Communities Plan (“NSSCP”) set forth a long-term vision for the future of the North Shore, articulating goals, guiding principles, policies, and actions that support the realization of that vision. The CUP aligns with the vision set forth in the NSSCP, and plays a crucial role in ensuring the realization of that vision in years to come.

The NSSCP sets forth a number of important principles, many of which are well served by the Ranch and implementation of the agribusiness project authorized by the CUP, including:

Manage Development (Principle 1)

NSSCP Goal: Utilize the Community Growth Boundary (CGB) as a tool to guide development and preserve open space and agricultural areas in the region. Focus new development within the CGB to areas contiguous with existing residential and commercial uses. Preserve lands outside of the CGB for agriculture and other important values such as open space, scenic vistas, and natural and cultural resources.

CUP Alignment: All development contemplated by the CUP is permitted as functional structures that are either primary or accessory to agricultural uses, including greenhouses, agricultural products drying and processing houses, storage, water tanks and pumps, agribusiness pavilions and support structures, a wastewater treatment pavilion, gondola and zipline structures, and restroom facilities. (See CUP at pg. 3). Promotion of agriculture remains central to the focus of the Project.

Any accessory structures/uses remain incidental and secondary to the primary uses on the Ranch. Indeed, the total acreage to be occupied by all structures authorized for construction under the CUP amount to less than one-one-thousandth (1/1000th) of the Ranch’s total acreage, ie: less than 2 acres on a 2,300 acre ranch.

Moreover, as already describe above, the CUP preserve agricultural lands, open spaces, scenic vistas, and natural and cultural resources in the Kaukonahua valley, preventing further creep of gentleman farms further up the valley.

Provide High Quality Parks and Outdoor Spaces (Principle 5).

NSSCP Goal: Maintain and create accessible, quality parks, open spaces, and natural areas. Ensure community-based park facilities are maintained and built to accommodate use by both residents and visitors to the region. Manage access to outdoor spaces to safeguard against overuse and ensure long-term sustainability. Enhance recreational access to coastal and mauka resources while protecting their ecological value.

CUP Alignment: As specified above, the CUP will preserve open spaces and natural areas and provide the community with permitted access to outdoor recreation, including hiking trails and agricultural, ecological, and cultural education opportunities.

Integrate Sustainable Practice (Principle 7)

NSSCP Goal: Enhance the region's ability to sustain its character and lifestyle while managing change in ways that promote the long-term health of the land and community resources for current and future generations. Take measurable actions to preserve the natural environment, reduce carbon emissions, promote local food production, reduce waste, conserve water, support green enterprise, and uplift existing sustainable practices in the community

CUP Alignment: The CUP imposes conditions requiring the conservation of natural resources and wildlife in the Kaukonahua valley. The implementation of the CUP will help accelerate much investment into the community access, preservation, and long term health of these valuable resources for current and future generations.

Issuance of the CUP is one of the most tangible measurable actions the City has undertaken to: preserve the natural environment (guaranteed ag/no more gentleman farms in valley/preservation and restoration programs), reduce carbon emissions (ecological use of gondola with low footprint), promote local food production (50% active ag use/production and experimental crop tests, ag partnerships, community gardens, etc.), reduce waste, conserve water, support green enterprise (Ranch committed to no-chemical ag practices, water conservation, recycling, and other green/conservation practices), and uplift existing sustainable practices (Ranch educational tours and programs to showcase, preserve, and promote all of the above).

Preserve Historic & Cultural Heritage (Principle 8)

NSSCP Goal: Preserve cultural resources using frameworks like the ahupua'a system and integrate sustainability into decision-making via public input. Preserve mo'olelo, traditional place names, and community knowledge for current and future generations. Maintain and protect access to areas for traditional cultural practices.

CUP Alignment: By highlighting Native Hawaiian agricultural traditions and involving kama'aina and community groups as partners in restoration of sustainable food production practices and operations, the Ranch will help honor cultural narratives, foster community ties, and support participatory planning and program implementations. Per the CUP, the Ranch and its archeological experts have started consultation with the DNLR State Historic Preservation Division (SHPD) regarding formal archaeological inventory surveys and preservation of the rich histories and artifacts in the Kaukonahua valley.

Explicit support for diversified agriculture and ag businesses (Principle 10).

NSSCP Goal: Protect and retain productive agricultural lands. Support and expand a diversified agricultural industry on the North Shore to support community resilience and reduce O'ahu's dependence on imported food. Maintain sufficient infrastructure to support agriculture and encourage development of appropriately sited agricultural support industries to enhance economic opportunities for local agricultural enterprises.

CUP Alignment: The NSSCP expressly encourages and supports many of the CUP's primary objectives: protecting and retaining important agricultural lands for active farming, ranching, and crop production, preventing the land from being bought and sold by various investors and developers who will subdivide and fragment the land via agricultural subdivisions, CPR projects, and the proliferation of other residentially-focused projects in an area that is outside of the NSSCP's Community Growth Boundary.

Expand Economic Opportunity and Community Benefits (Principle 11)

NSSCP Goal: Foster job creation, professional services, and community well-being by building on agriculture and tourism clusters, with policies for equitable growth and infrastructure support.

CUP Alignment: The Ranch and the Kamananui agribusiness project as contemplated by the CUP will create a healthy variety of entry, mid, and upper level jobs for locals in hospitality, conservation, agriculture, education, etc. It will also stimulate ancillary businesses (e.g., farmers markets for local vendors, agricultural supply chain expansion, etc.), and engage residents, aligning with broader economic diversification and offer lower-impact agricultural alternatives to O'ahu's visitor-based economy.

Sustainable tourism management

NSSCP Goal: Manage tourism impacts to protect rural amenities, focusing on low-volume, high-value experiences that integrate with local assets like landscapes, while addressing overcrowding and infrastructure strain. Further, the Plan has a goal of managing the number of visitors to "hot spot" attractions and educating visitors on being more sensitive to, and appreciative of, local values and traditions. (NSSCP pg. 25).

CUP Alignment: Again, the Ranch will offer culturally-informed tours along with cultural and educational programs and activities that will be promote visitor understanding and appreciation for local values and traditions, including agricultural history and innovation, archeological preservation and historical narratives, ecological preservation and restoration, and island sensitivities. All these activities will be accessory and secondary to the principal agricultural uses of the land, including cattle ranching, agricultural research, and new crop cultivation, forestry, and agroforestry, per HRS § 205-4.5.

Environmental Protection and Climate Resilience

NSSCP Goal: Safeguard natural resources (e.g., water, wetlands, gulches) and address climate change, natural hazards, and energy efficiency through integrated sustainability principles.

CUP Alignment: The CUP is replete with conditions that require the Ranch and the agribusiness operation to safeguard the water and wildlife of the Kaukonahua valley and manage the natural hazards in the area (wildfire, invasive species, etc.). Moreover, the community access/gondola system provides one of the most energy efficient and sustainable means of accomplishing all the other goals set forth by the NSSCP, as listed above.

VI. CONCLUSION

DPP's Notice of Reconsideration of CUP (the "Notice") asserts that this reconsideration is based on the "Permittees failure to demonstrate compliance with all permit conditions since 2019." The CUP, however, admittedly has no deadlines or trigger events besides issuance of building permits or breaking ground for agribusiness activities. No such thing has happened; the Ranch has neither requested building permits sought implementation of agribusiness activities.

Moreover, the Ranch's Minor Mod applications only sought to shrink the scope of project and refine its layout. Rather than rush into anything, the Ranch instead weathered the delays and uncertainties due to COVID, took the time to learn about what agricultural uses and agribusiness operations will/won't work in the Kaukonahua Valley.

The Ranch also invested time to consider feedback from agencies, community members, and experts ("ACE"). Based on the ACE feedback, ground truthing, and other learnings, the Ranch invested heavily in:

- Refining the Ranch's ag mix, focusing on test plots/crops and growing cattle operations,
- Hiring experienced professionals to commence preliminary work needed for satisfaction of the CUP's many, complex, and costly conditions,
- Refining/updating/reducing the scope, layout, and details of the Agribusiness project, and
- Submitting minor mod applications aimed at accomplishing the same.

The Ranch is now appear to be getting penalized for taking the time to do things right. The Ranch has invested significant amounts of time, energy, and money into all the above. Meanwhile, nothing in the CUP specified that the Ranch needed to accelerate satisfaction of any CUP conditions or meet any kind of deadline. All CUP conditions that can be underway and moving towards satisfaction (i.e.: pre construction) are well underway and many are close to completion.

DPP has been aware for years that the Ranch has been focusing on refinements to agricultural operations and the agribusiness project. The Ranch has been seeking clarity and direction on the same, before full satisfaction of conditions. The finalizing of many conditions will be dictated or affected by the extent to which proposed refinements in the Minor Modification application are approved.

During all this correspondence, DPP neither stated nor implied that the timing of condition satisfaction had any urgency or that lack thereof would have negative consequences for the Ranch or the CUP. Rather, DPP recently asked the Ranch to provide updates as to status of condition satisfaction, well ahead of the Ranch's intended timeline.

This represents a very recent change from DPP's long standing position that condition satisfaction, including reports and studies that could and should only be submitted once all

conditions were satisfied and Ranch was ready for building permits/ground breaking for the Agribusiness project.

Along with this sudden change of direction and increased requirements for processing the Minor Modification application, DPP informed the Ranch that it needed these reports in order to properly consider/process the Ranch's minor mod application. While none of the modifications proposed require completion of any conditions or submission of any required surveys or reports. Nevertheless, the Ranch responded to DPP's requests cooperatively. DPP's Notice now cites these partially satisfied conditions and works in progress for various reports and surveys as somehow providing a justification for reconsidering the CUP.

The Ranch reasonably relied on all the above (including the plain language of the CUP and its ongoing correspondence with DPP) and invested its time and money in the work of a significant team of experts, consultants and operators, all efforts aimed at satisfaction of CUP conditions.

We trust that DPP will make a thorough study of the record and the many considerations DPP made when it first considered the comments from the Army, DOFAW, and many other agencies, and issued a CUP that aligns with and significantly advances and accomplishes many of the laudable goals set forth by the NSSCP.

The record is extensive, the issues are complex, and unfortunately misinformation is abundant when it comes to the CUP and the Ranch. The Ranch continues to move forward with expanded public outreach and engagement initiatives, recognizing the need to provide the real story of Kamananui and the Kaukonahua Ranch, so that the community and agency regulators have something more to go on beyond the inaccurate accusations and narratives foisted upon the public and the media by project opponents willing to way whatever it takes to kill a project they don't like. The Ranch takes responsibility for this effort and hopefully this response is a strong step in the right direction, at least as far as DPP is concerned.

Please feel free to reach out with any questions or clarifications as we are always open for more dialogue and discussion to help deepen your understandings of where we have been and where we are going with respect to the Ranch and the CUP.

Thank you for your attention and understanding with respect to these urgent and critical matters.

Sincerely,

A handwritten signature in black ink, appearing to be 'Kalani A. Morse', with a stylized, flowing script.

KALANI A. MORSE, ESQ.
JONATHAN S. DURRETT, ESQ.
SHAUNA L. S. BELL, ESQ.
ALYSSA JOHNSON, ESQ.

ATTORNEYS FOR
KAUKONAHUA RANCH, LLC AND
K VIEW, LLC

Cc: Mayor Rick Blangiardi
Managing Director Michael Formby
Assistant DPP Director Bryan Gallagher
DPP Staff: Elizabeth Kreuger, Joyce Shoji, Shelby Frangk