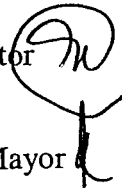



MEMORANDUM

RECEIVED

TO: Honorable Chairperson William Kaipo Asing and Members of the Kauai County Council

FROM: Ian K. Costa, Planning Director 

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

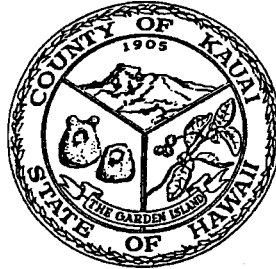
VIA: Hon. Bernard P. Carvalho, Mayor 

SUBJECT: Proposed Bill No. 2322, A Bill for and Ordinance Amending Section 8-26.1(d) to Extend the Deadline for Obtaining a Building Permit for an Additional Dwelling Unit from December 15, 2009 to December 15, 2014 for the Owners of Other Than Residential Zoned Lots.

DATE: August 26, 2009

Transmitted herewith for you review and recommendation is the Planning Commission's recommendation of Bill No. 2322 a proposed bill for an ordinance amending Section 8-26.1(d) of the Kauai County Code, relating to an extension to obtain a building permit for Additional Dwelling Units on lands zoned other than Residential.

WARD P. CARVALHO JR.
MAYOR



IAN K. COSTA
DIRECTOR OF PLANNING

GARY K. HEU
ADMINISTRATIVE ASSISTANT

IMAIKALANI P. AIU
DEPUTY DIRECTOR OF PLANNING

COUNTY OF KAUA'I
PLANNING DEPARTMENT
4444 RICE STREET
KAPULE BUILDING, SUITE A473
LIHU'E, KAUA'I, HAWAII 96766-1326

TELEPHONE: (808) 241-4050 FAX: (808) 241-6699

August 26, 2009

Honorable Chairman William "Kaipo" Asing and Members
Of the Kauai County Council
County of Kauai
4396 Rice Street
Lihue, HI 96766

Subject: Zoning Amendment ZA-2010-2
Proposed Bill No. 2322, A Bill for an Ordinance Amending Section 8-26.1(d) of the Kauai County Code to Extend the Deadline for Obtaining a Building Permit for an Additional Dwelling Unit from December 15, 2009 to December 15, 2014 For Holders of Additional Dwelling Unit Facilities Clearance Forms on Lands Zoned Other Than Residential
Applicant: Kauai County Council

The Planning Commission at its meeting held on August 25, 2009 voted 5 to 0 (2 absent) to recommend approval of Zoning Amendment ZA-2010-2 to extend the deadline for obtaining a building permit for Additional Dwelling Units from December 15, 2009 to December 15, 2014 for those owners and holders of an Additional Dwelling Unit Facilities Clearance Forms on lands zoned other than residential.

Transmitted herewith are the following:

1. Letter of Transmittal and proposed bill by the Kauai County Council;
2. Staff reports covering the proposed amendment;
3. Written public testimony presented during the public hearing; and
4. Public Hearing transcripts

Hon. Chairman William "Kaipo" Asing
and Members of the Kauai County Council
August 26, 2009
Page 2

Requirements regarding the Council's consideration of the proposed amendments are set forth in Section 8-22 of the Kauai County Code of Ordinances, 1987.


IAN K. COSTA

Enclosures

SUBJECT TO CHANGE

RE: Zoning Amendment ZA-2010-2
Proposed Bill No. 2322, A Bill for and Ordinance Amending
Section 8-26.1(d) to Extend the Deadline for Obtaining a Building
Permit for an Additional Dwelling Unit from December 15, 2009
to December 15, 2014 for the Owners of Other Than Residential
Zoned Lots.

APPLICANT: Kauai County Council

EVALUATION:

Staff has no objections to the five (5) year extension period through December 15, 2014, however, in order to uphold the intent of prohibiting ADUs in the Agriculture District (A) and Open District (O), no further extensions should be granted hereafter. Furthermore, because this ability of a potential second unit could be transferable, holders and any successors of certified facilities clearance forms that are part of this inventory of pending ADUs are advised that the lack of notice of the new deadline should not be a reason for future extensions.

CONCLUSION

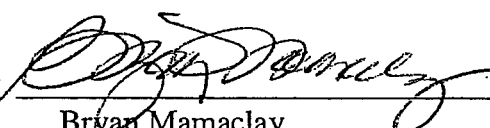
It is concluded that the proposed extension can be considered provided that the five (5) year period is absolute and finite. Otherwise, continued extensions will undermine the effort to limit and control the dispersal of residential and urban use outside of residential zoned areas. It is finally concluded that in granting the five (5) year extension, the following factors were considered:

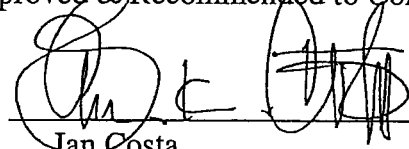
- the number of "grandfathered" ADUs in the Agriculture and Open District is known and has been capped via the facilities clearance form; and
- the build out of these ADUs within a limited time frame should be accounted for during the extension period.

RECOMMENDATION

Based on the foregoing, it is recommended that Zoning Amendment ZA-2010-2 be approved, by amending the corresponding dates in Section 8-26.1(d) and Section 8-26.1(d)8 as proposed in Bill No. 2322.

Approved & Recommended to Commission:

By 
Bryan Mamaclay
Planner

By 
Ian Costa
Planning Director

Date: 8/25/09

E.2.d.
AUG 25 2009

TO: Planning Commission

RE: Zoning Amendment ZA-2010-2
Proposed Bill No. 2322, A Bill for and Ordinance Amending
Section 8-26.1(d) to Extend the Deadline for Obtaining a Building
Permit for an Additional Dwelling Unit from December 15, 2009
to December 15, 2014 for the Owners of Other Than Residential
Zoned Lots.

APPLICANT: Kauai County Council

Background

CZO Section 8-26.2 - The permitting of Additional Dwelling Units (ADU), originally referred to as Ohana Units, was first considered with the adoption of Ord. No. 430 (Ohana Ordinance) in August 1982. At that time, ADUs were allowed and limited to the Residential District, provided certain criteria relating to lot size and requirements of other review agencies were met.

This section of the code does not cite any expiration or "sunset" date for ADUs within the Residential District.

CZO Section 8-26.1 - In February 1989, Ordinance No. 551 was adopted to allow construction of ADUs on lands zoned other than residential such as lands zoned Open District (O) and Agriculture District (A). The shift of ADUs into other than residential zoned lands was prompted by findings of the proposed ordinance that cited a need to address the housing and rental shortage on Kauai. At the same time, it was also found that there was a need to "limit and control the dispersal of residential and urban use within the agricultural lands". To balance this need, the final adoption of Ord. No. 551 limited ADUs on other than residential zoned lands for a period of two (2) years. The Planning Department and Planning Commission's position and recommendation in reviewing the proposed ordinance are found on the attached transmittal dated *May 25, 1988*.

Since the adoption of the Ord. No. 551, four (4) ordinances followed (Ord. No. 594, Ord. No. 644, Ord. No. 707, and Ord. No. 729) to extend the expiration of ADUs on lands zoned other than residential from the period December 31, 1991 to December 31, 2006. It must be emphasized that the Planning Department and Planning Commission, throughout the review of the aforementioned zoning ordinances, have consistently recommended denial of the extensions allowing ADUs on lands zoned other than residential.

CZO Section 8-26.1(d) - In March 2006, Bill No. 2173 was proposed by the County Council to further extend the construction of ADUs on lands zoned other than residential. Consistent with its previous recommendations, the Planning Department and Planning Commission recommended denial of the proposed ordinance which would have approved

E.2.d.1.

Aug 25 2000

the extension for a period of ten (10) years through December 31, 2016. The Planning Department's position statement and recommendation are noted in the attached staff report (*Item #D.3. dated August 22, 2006*).

After the Planning Commission transmitted to the County Council its recommendation on Bill No. 2173, *Ord. No. 843* (attached) was adopted in November 2006. The passage of this ordinance provides the current provisions of CZO Section 8-26.1(d). In reference to SECTION 1, "Findings and Purpose" of the adopted ordinance, it was found that the ADU law:

- "has caused the unintended consequences of residential growth on lands not primarily intended for residential use, and has thwarted one of the main goals of the Kauai General Plan to 'limit and control the dispersal of residential and urban use within agricultural lands';
- "has fueled speculation and the fragmentation of land, which increased rather than decreased the cost of housing";
- "has added a potential of 3,200 units to "Agriculture" and "Open" zoned lands; and
- if not terminated, it will generate low-density sprawl that could destroy the rural character of Kauai without providing affordable housing in effective and efficient ways".

In view of the foregoing findings and highlighting the adoption of this ordinance, ADUs are now prohibited on lands zoned other than residential from this point on in 2006. However, as a result of "sun-setting" ADUs outside of residential zoned areas, the current provisions of this section of the code addressed and approved an extension to obtain building permits to construct the ADUs, the deadline of which expires on December 15, 2009.

APPLICANT'S REQUEST

The Kauai County Council is proposing Bill No. 2322 for adoption into ordinance in order to extend the deadline to obtain building permits beyond December 15, 2009. The proposed ordinance simply amends two dates cited in CZO Section 8-26.1.

- First, in Section 8-26.1(d) November 26, 2006 is proposed to be cited as it corresponds with "the adoption of this ordinance" which is proposed to be deleted in brackets.
- Second, the extension would be a period of five (5) years to December 15, 2014 as noted in Section 8-26.1(d)8 of the proposed ordinance, replacing the current deadline of December 15, 2009.

In proposing the extension request, the County Council finds, in reference to SECTION 1, "Findings and Purpose" of the proposed ordinance, "that due to the recession and tight credit market, lot owners have been unable to obtain financing to construct housing".

Other than the date changes, there are no other amendments sought in the proposed ordinance. The extension for obtaining a building for an ADU is granted for those persons meeting the relevant criteria as established in Section 8-26.1(d) of the ordinance.

ADDITIONAL FINDINGS

As presented to the Planning Commission at its meeting held on June 13, 2006 during the review of Bill No. 2173, the following are noted relative to the inventory of ADUs on Kauai at that time:

From October 1982 to May 12, 2006, the Planning Department issued approximately 1,362 zoning permits for the construction of ADUs. Of this total, approximately 963 units were approved within the Residential District, 314 units within the Agriculture District (A) and 85 units within the Open District (O). The location of the ADUs by planning areas (Zone 1-5) and zoning district are noted below:

TMK	Residential	Agriculture (A)	Open (O)
Zone 1	76	1	8
Zone 2	277	68	7
Zone 3	203	0	7
Zone 4	315	225	32
Zone 5	92	20	31

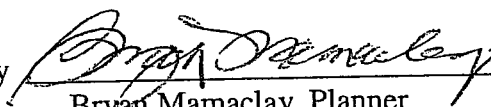
Zone 1 = Waimea-Kekaha-Hanapepe-Eleele; Zone 2 = Kalaheo-Omao-Lawai-Koloa-Poipu; Zone 3 = Lihue; Zone 4 = Kawaihau (Wailua/Kapaa); Zone 5 = Moloaa to Haena

Based on ADU inventory data retrieved by the Planning Department in July, 2009, approximately 375 ADU Facilities Clearance Forms have been certified as of June 15, 2007 for construction of an ADU on lands zoned other than residential. Of the 375 ADU Facilities Clearance Forms issued, the following are noted relative to the status of building permit application:

No App.	Plan Check	Approved	Expired*	Cert. Occ.	Cancelled*	Total
281	45	37	1	7	4	375

*may be renewed

In addition to lands zoned Agriculture District (O) and Open District (O) within the State Agricultural Land Use District, the pending inventory of ADUs are also zoned Open District (O) and situated within the State Urban or Rural Land Use Districts.

By 
Bryan Mamaclay, Planner

Date: 8/19/09

TONY T. KUNIMURA
MAYOR



TOM H. SHIGEMOTO
Planning Director

ROLAND D. SAGUM, III
Deputy Planning Director

Telephone (808)245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

May 25, 1988

COPY

Honorable Chairman and Members
of the Council
County of Kauai
Lihue, Hawaii 96766

Re: Amendments to Section 8-3.3 (d) of Ordinance No. 164 (CZO), as amended,
Relating to Ohana Units

BACKGROUND:

On March 9, 1988, the Planning Commission held a public hearing on proposed Bill No. 1182, relating to Ohana units, which would:

1. Permit ohana units in the Agriculture and Open zones, where such units are currently permitted only within Residential zoned areas on Kauai; and
2. Eliminate the requirement for a 16 ft. minimum paved roadway width and leave this to the approval of the County Engineer.

EVALUATION:

In considering these proposed amendments to the ohana ordinance, we recognize that any issue relative to increasing the affordable housing inventory on Kauai will generate strong public sentiment. However, the technical merits must be closely examined relative to the intent of the zoning districts involved, and public health, safety and welfare.

Honorable Chairman and Members
of the Council
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Sixteen (16) Feet Minimum Paved Roadway Width - Relative to eliminating the 16 ft. minimum paved roadway width and leaving this to the approval of the County Engineer, we note that both the County Engineer (for public health and safety, and the necessity for proper infrastructure planning) and Fire Department (for safe access for Fire Department machinery, apparatus and operators) have expressed concerns relative to eliminating the existing paved access requirements. To the contrary, the counties are now recognizing that the existing 16 ft. requirement should be increased to 18 ft., which was the original width desired by Public Works.

As reflected in the document "Ohana Zoning: A Five Year Review," prepared by Susan Jaworowski of the Legislative Reference Bureau:

"The state ohana zoning statute does not set forth infrastructure requirements for ohana zoning. The statute merely requires the counties to 'determine that public facilities are adequate to service the additional dwelling units permitted by this subsection.' The House Standing Committee Report goes into a little more detail: 'The counties are allowed to condition the applicability of 'ohana zoning' to specific residential areas upon satisfaction of plan review and reasonable health, safety and welfare requirements. Thus, ohana zoning would not be allowed in a particular neighborhood if the existing infrastructure of streets and sewer and water systems cannot support the increased density.'" (Emphasis added.)

We do not believe that the elimination of the 16 ft. paved roadway width would be in keeping with the State ohana statute in assuring "reasonable health, safety and welfare requirements." The elimination of the 16 ft. paved roadway width and leaving it to the approval of the County Engineer compromises detrimentally a very important and necessary requirement for traffic safety and further relegates this highly discretionary and subjective authority to one individual in the County. We feel the County Engineer is qualified to make the decision but the legal ramifications, if an accident occurs, and the question of discrimination can be avoided if standards are adopted and applied.

Public health, safety and welfare, through proper infrastructure and planning, should not be made to sacrifice in order to achieve additional housing inventory for the County.

Honorable Chairman and Members
of the Council
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Ohana Units in the Open District (O) - As reflected by Section 8-8.1 of the Comprehensive Zoning Ordinance, the purpose of the Open District (O) is:

- (a) To preserve, maintain or improve the essential characteristics of land and water areas that are:
 - (1) of significant value to the public as scenic or recreational resources;
 - (2) important to the overall structure and organization of urban areas and which provide accessible and usable open areas for recreational and aesthetic purposes;
 - (3) necessary to insulate or buffer the public and places of residence from undesirable environmental factors caused by, or related to, particular uses such as noise, dust, and visually offensive elements.
- (b) To preserve, maintain or improve the essential functions of physical and ecological systems, forms or forces which significantly affect the general health, safety and welfare.
- (c) To define and regulate use and development within areas which may be potentially hazardous.
- (d) To include areas indicated on the County General Plan as open or as parks.
- (e) To provide for other areas which because of more detailed analysis, or because of changing settlement characteristics, are determined to be of significant value to the public.
(Ord. No. 164, August 17, 1972; Sec. 8-8.1, R.C.O. 1976)

Based on the above intent and purpose of the Open zone, it is clear such zoning was not intended for primarily residential purposes, irrespective of the County's need for housing, or Bill No. 1182 intent of increasing the housing supply. Placing additional dwelling units in areas with flood, tsunami, drainage or slope constraints or in other potentially hazardous areas would be contrary to the intent and purpose of the Open zone, as well as present potentially-adverse impacts to the public health, safety and

Honorable Chairman and Members
of the Council
Page 4
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welfare of the community as well as the potential residents of the ohana unit. Until all alternatives for developing additional housing are exhausted in residentially-zoned areas, it is not necessary to utilize Open zoned lands for ohana units.

Ohana Units in the Agriculture District (A) - As reflected by Section 8-7.1 of the Comprehensive Zoning Ordinance, the purpose of the Agriculture District (A) is:

- (a) To protect the agricultural potential of lands within the County of Kauai to insure a resource base adequate to meet the needs and activities of the present and future.
- (b) To assure a reasonable relationship between the availability of agriculture lands for various agriculture uses and the feasibility of those uses.
- (c) To limit and control the dispersal of residential and urban use within agriculture lands.

Similar to the intent and purpose of the Open District (O), it is clear that such zoning was not intended for residential purposes to increase the island's housing supply. To the contrary, item (c) above is specific, "to limit and control the dispersal of residential and urban use within agriculture lands."

COMMENTS:

- a. The original intent of the ohana dwelling unit concept was unique and commendable which was to provide for family (ohana) housing, although it was generally understood that controlling use to family members was unenforceable. The resulting effort by the State, and now the County of Kauai, is to further expand and promote housing whereby the concept is no longer for family housing, but general housing, period. The further misuse of the ohana term should be discontinued because it creates misconceptions in the public eye.
- b. We concur with the City and County of Honolulu. "...areas designated for agricultural and open space purposes should be used primarily for these purposes, not for housing. If additional housing is needed, zoning should be changed and infrastructure and support services should be planned accordingly."

Honorable Chairman and Members
of the Council

Page 5

May 25, 1988

- c. Based on the information on Attachment 2, we feel that there are more than an adequate number (4,500) of Rural and Urban properties that can qualify for ohana units.

RECOMMENDATION:

The Planning Commission, 1/therefore, based on the foregoing, urges the Kauai County Council not to pass the proposed Bill No. 1182, except to amend Ordinance No. 430 to:

1. increase the paved roadway width requirement from 16 ft. to 18 ft;
and
2. establish a maximum "ohana" unit size, based on the square footage of the lot (similar to Maui).



SUNSHYNE COSTA
Chairman, Planning Commission

1/ By a vote of 6 to 0 (1 abstention) taken on May 11, 1988, the Planning Commission directed that this communication be transmitted to the Kauai County Council.

COUNTY OF KAUAI
PLANNING DEPARTMENT
LIHUE, KAUAI

SUBJECT TO CHANGE

TO: Planning Commission

RE: Proposed Draft Bill No. 2173 amending Chapter 8, Kauai County Code 1987, relating to Additional Dwelling Units on other than residentially zoned lands.

EVALUATION:

The current provisions of Section 8-26.1 of the Kauai County Code 1987, allows property owners to obtain permits for Additional Dwelling Units (ADU) on other than residentially zoned lands up until December 31, 2006. The proposed Bill seeks to extend the sunset or expiration date for additional dwelling units on other than residentially zoned lands from December 31, 2006 to December 31, 2016. The ADU provision applies to properties which based on the land size and zoning qualifies for only one single family residential dwelling unit.

Ordinance No. 551 (adopted in 1989) was the initial ordinance which allowed the construction of Additional Dwelling Units (ADU) on properties within zoning districts other than the Residential District, such as the Agriculture and Open Districts. As stated in the "Findings and Purpose" of Ordinance No. 551 it was found that there was a housing and rental shortage on Kauai. While there was a need to address the housing problem, it was also found that there was a need to "limit and control the dispersal of residential and urban use within the agricultural lands". To balance the need for immediate housing and the need to preserve and protect agricultural lands, Ordinance No. 551 allowed ADU's on other than residential zoned lands for a period of three years expiring on December 31, 1991. The County has approved four (4) subsequent Ordinances which extended the expiration date of Ordinance No. 551 from December 31, 1991 to December 31, 2006. These Ordinances are identified as Ordinance Nos. 594, 644, 707, and 729. In evaluating the Bills for these ordinances the Planning Department had the following concerns and comments.

Density – The ADU provision applies only to lots which based on the land size and zoning qualifies for only one single family residential dwelling unit. The ADU provision increases or "doubles" the residential density on certain Agriculture District and Open District properties. Specifically properties that have land areas of 3.99 acres or less within the Agriculture District may qualify for an ADU.

Under Section 8-8.5 of the Kauai County Code (KCC), properties that may qualify for an ADU which area situated within the Open District include lands that are three (3) acres or less in size when the located within an area designated "Urban" or "Rural" by the State Land Use Commission, and lands more five (5) acres in size when the parcel is located within an area designated as "Agriculture" by the State Land Use Commission (up to 9.99 acres is size).

D. M.

AUG 2 2 2006

Additional Dwelling Units within the Open District – As stated in Section 8-8.1 of the KCC, the purpose of the Open District (O) is as follows:

- “(a) To preserve, maintain or improve the essential characteristics of land and water areas that are:
 - (1) of significant value to the public as scenic or recreational resources;
 - (2) important to the overall structure and organization of urban areas and which provide accessible and usable open areas for recreational and aesthetic purposes;
 - (3) necessary to insulate or buffer the public and places of residence from undesirable environmental factors caused by, or related to, particular uses such as noise, dust, and visually offensive elements.
- (b) To preserve, maintain or improve the essential functions of physical and ecological systems, forms or forces which significantly affect the general health, safety and welfare.
- (c) To define and regulate use and development within areas which may be potentially hazardous.
- (d) To include areas indicated on the County General Plan as open or as parks.
- (e) To provide for other areas which because of more detailed analysis, or because of changing settlement characteristics, are determined to be of significant value to the public.

Section 8-8.5 of the KCC provides the following development standards for Land Coverage within the Open District:

- (a) The amount of land coverage created, including buildings and pavement, shall not exceed ten per cent (10%) of the lot or parcel area.
- (b) No existing structure, use or improvement shall be increased in size, or any new structure, use or improvement undertaken so as to exceed the ten per cent (10%) land coverage limitation.
- (c) At least three thousand (3,000) square feet of land coverage shall be permissible on any parcel of record existing prior to or on September 1, 1972.

Consistent with the comments made during the review of Ordinance No. 551 by the Planning Commission in 1988, the Planning Department continues to express concerns regarding the potential effects of allowing ADUs on lands within both the Agriculture and Open Districts. Specifically, allowing increases in density through the ADU process on lands in the Open District and the Constraint District, which are generally subject to certain hazards such as flood

and high coastal hazards, drainage and/or slope constraints, may be contrary to the intent and purpose of the Open District as established by the Comprehensive Zoning Ordinance (CZO). The CZO requires additional review and studies, such as, soils, drainage, and geologic reports for the development of properties within the Constraint District. The purpose and intent of such reviews and studies are to minimize potential threat to public health and safety, and to maintain physical, biologic, and ecologic forms or systems.

Additional Dwelling Units within the Open District – As stated in Section 8-7.1 of the KCC, the purpose of the Agriculture District (A) is as follows:

- “ (a) To protect the agriculture potential of lands within the County of Kauai to insure a resource base adequate to meet the needs and activities of the present and future.
- (b) To assure a reasonable relationship between the availability of agriculture lands for various agriculture uses and the feasibility of those uses.
- (c) To limit and control the dispersal of residential and urban use within agriculture lands.

During the review of Ordinance No. 551 by the Planning Commission in 1988, the Planning Department and Commission also recognized the importance of preserving and protecting valuable agricultural lands by limiting and controlling the dispersal of residential and urban type uses within the Agriculture District.

The Planning Department believes that these comments regarding the ADU provisions for both the Agriculture and Open District lands are still applicable under the assessment of proposed Bill No. 2173. As discussed in Section 5.2.2 of the Kauai General Plan, Agricultural subdivisions may have a higher operational cost per unit for County Services, such as, fire protection, water supply, and refuse collection when compared to residential developments in the Urban District areas. Residential development in more remote Agricultural areas may result in higher long term cost per unit for repair or replacement of roads and water supply or facilities as these lots are farther away from the Urban Centers and are space further apart over a larger tracts of land. In contrast, appropriately planned residential developments which are within Urban District or in proximity to the Urban District may provide for more effective use of public infrastructure and services.

Other Zoning Districts – The ADU provision has not been applied to lands within the Commercial, Industrial, Resort, and Special Planning Area-A. The Planning Department permit files show that no zoning permits were issued for Additional Dwelling units on properties within these zoning districts.

PUBLIC HEARING TESTIMONY:

During the public hearings for the proposed bill held on June 13, 2006 and July 11, 2006, written testimony and verbal testimony was received by the Planning Commission on the proposed bill and the ADU program.

Some of the testimony in support of the proposed bill, asked for the extension of the sunset date to allow for the construction of ADUs for family members. Several of the testimony received in support bill asked for the sunset date to be extended as they have purchased CPR Units or desire to CPR their property in the Agriculture or Open District.

Testimony in opposition to extending the sunset date, expressed concerns that the proposed bill would encourage continued construction of large houses on agricultural, open, and rural lands. These houses may subsequently be either CPR'd for use by gentleman estates or used as transient vacation rentals.


There was also testimony which indicated that the original intent of the Ohana Ordinance, which was to provide housing opportunities for family or relatives, was very "honorable". However, the majority of the Ohana Units are not being used by family members. Instead, the term Ohana Unit has been changed to ADUs. The ADUs are being CPR'd and being sold separately or treated as a real estate investment. The original intent should be restored with the inclusion of special provisions to reduce speculation of ADU's on Ag and Open zoned lands.

RECOMMENDATION:

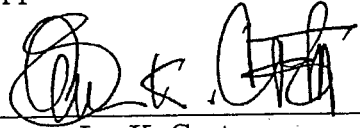
In view of the issue of housing on Kauai, especially for family members, the Planning Department recognizes the complexity of the proposed Bill. However, the Department remains equally concerned with maintaining the intent and purpose of the Open and Agriculture Districts pursuant to the Comprehensive Zoning Ordinance.

The Planning Department also recognizes the difficulty in enforcement of requirements Chapter 205, ^{Hawaii, Revised Statutes} relative to "farm dwellings" on properties within the State Agricultural Land Use District. The inclusion of additional density provides additional enforcement requirements on the Planning Department.

Based on the foregoing, it is recommended that proposed Bill No. 2173 not be approved. In view of the issues that have emerged over the past 16 years of the existence of the ADU provision on properties zoned other than Residential District, the Planning Department remains available to assist the Planning Commission and County Council with this matter.

By 
Myles S. Hironaka

Approved & Recommended to Commission


Ian K. Costa
Planning Director

Date: 8/17/06