HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

No. 25-305

RESOLUTION

STRONGLY REQUESTING THAT THE DIRECTOR OF PLANNING AND PERMITTING DECLARE THE PREVIOUSLY APPROVED CONDITIONAL USE PERMIT–MINOR FOR KAMANANUI AGRIBUSINESS ACTIVITES NULL AND VOID, OR ALTERNATIVELY DENY MODIFICATIONS TO THE CONDITIONAL USE PERMIT–MINOR REQUESTED BY KAUKONAHUA RANCH, LLC.

WHEREAS, on May 28, 2019, the Director of the Department of Planning and Permitting ("DPP") approved a conditional use permit–minor (DPP File No. 2019/CUP-18) (the "2019 CUP") requested by Kaukonahua Ranch, LLC (the "Applicant") for Kamananui agribusiness activities on 2,320.52 acres of land (consisting of nine parcels) zoned AG-1 Restricted Agricultural District and AG-2 General Agricultural District, located on Kaukonahua Road in Waialua, O'ahu, and identified as Tax Map Keys 6-7-003:002, 006, and 007; 6-7-004:001 and 004; 6-5-001:019, 034, 038, and 043; and a portion of Kaukonahua Stream (the "Project"); and

WHEREAS, the Project's agribusiness activities are accessory to the Applicant's proposal to expand existing agricultural uses, and the Project also involves conducting ecological restoration of the Project site; and

WHEREAS, the Project's proposed agricultural uses include intensive cattle ranching (grass-fed beef production, possibly to include goats and sheep), agricultural research, crop cultivation (Hawaiian heritage plants, breadfruit, taro, sugarcane, sweet potato, cacao), forestry (primarily koa and sandalwood trees), and agroforestry (planting and harvesting of koa, sandalwood, bananas, breadfruit, and cacao); and

WHEREAS, the Project's proposed agribusiness activities include a gondola (for transporting people, agriculture equipment and materials, and other cargo), ziplines, tours (hiking and bicycling trails, and all-terrain vehicle activities), demonstration gardens, greenhouses, story-telling, retail, food and beverage sales, events (educational, culinary, and community organization events), and possibly a farmer's market; with a main 14-acre agribusiness center proposed to be located off of Kaukonahua Road; and

WHEREAS, while not considered to be an agricultural use, the Project also proposed ecological restoration, involving removing invasive weeds, restoring native plants, and trapping feral goats, pigs, and cattle; and

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WHEREAS, the Project anticipated accommodating a maximum of 1,650 visitors and 50 employees per day, and supporting Project infrastructure includes a new parking lot with 350 parking spaces, 8.43 miles of fencing, four new emergency helicopter landing zones, a new water supply system with irrigation lines, and a new wastewater treatment system with a septic tank and leach field; and

WHEREAS, the 2019 CUP included 17 conditions of approval that the Applicant was required to satisfy before proceeding with the Project; and

WHEREAS, six years after the 2019 CUP was approved, the Applicant has not provided detailed information demonstrating meaningful progress to achieve agricultural milestones and satisfy the Project's conditions of approval, which may justify the DPP Director declaring the 2019 CUP null and void under Condition Q of the 2019 CUP; and

WHEREAS, for example, it is questionable whether the Applicant has made significant progress in:

1. Adhering to the proposed timeline for expanded agricultural uses, and complying with the requirement that 50 percent or more of the Project site be dedicated to active agricultural use (required prior to the issuance of a building permit or ground disturbance for agribusiness activities):

    a. Crop cultivation – 5 acres in active crop cultivation starting in 2019, and 5 to 10 more acres every six to 12 months, for a total of 30 acres;

    b. Cattle ranching – three pastures to be fenced sequentially starting in 2019 (the first pasture is 387 acres, the second pasture is 268 acres, and the third pasture is 219 acres), for a total of 874 acres of pastureland with approximately 125 cattle (30 to 40 cattle per pasture);

    c. Forestry – approximately 20 acres per year starting in 2019, for a total of 611 acres in forestry (not all of the proposed 611 acres is suitable for forestry), with approximately 600 trees per suitable acre; and

d. Agroforestry – propagation starting in 2020, planting and cultivation starting in 2021, for a total of 30 acres of agroforestry within a 322-acre area, with approximately 400 trees per suitable acre;

2. Preparing a wildfire mitigation plan and invasive species mitigation plan;

3. Preparing a water demand analysis and plan for a private water system to provide water service (potable and non-potable for crop irrigation) and fire protection;

4. Preparing a plan and protocols for gondola rescues;

5. Obtaining a stream channel alteration permit for modifications to Kaukonahua Stream, if required;

6. Obtaining a determination letter from the State Historic Preservation Division regarding impacts to significant historic properties and any required protocols; and

7. Updating the Project's initial traffic impact analysis report ("TIAR") and preparing other required traffic and transportation studies and plans; and

WHEREAS, in the six years after the 2019 CUP was approved, applicable laws have significantly changed, so it may be prudent for the DPP Director to declare the 2019 CUP null and void, and if requested by the Applicant, consider the Project under a new conditional use permit ("CUP") application; and

WHEREAS, at the time the Project's 2019 CUP application was submitted and approved, "agribusiness" was defined as accessory uses conducted on the same site where agricultural products are cultivated or raised, including transportation facilities used to provide for tours of the agricultural parcel; and

WHEREAS, under Ordinance 25-2, which became effective on September 30, 2025, the term "agribusiness" was amended to "agritourism," which is defined as accessory agricultural-related tourism for recreational or educational purposes on zoning lots primarily used for ongoing crop production or livestock and poultry keeping; agricultural-related tourism activities include kayaking, hiking, mountain biking, boating, horseback riding, ziplining, and picnicking, and also include accessory destination

events, such as weddings, but does not include agricultural-related tourism for entertainment purposes, such as luau and performance-related shows; and

WHEREAS, some of the Project uses that previously fell within the definition of agribusiness under the Project's 2019 CUP no longer fall within the definition of "agritourism" under Ordinance 25-2, including retail activities, food and beverage sales, and certain types of events; and

WHEREAS, after the May 2019 issuance of the Project's 2019 CUP, in September 2020, the Hawai'i Supreme Court issued a decision in *Ka Pa'akai O Ka'Aina v. Land Use Commission*, which set forth an analytical framework to assist government agencies that provide discretionary approvals in making specific findings and conclusions to reasonably protect cultural, historic, or natural resources, or Native Hawaiian traditional and customary rights (the "*Ka Pa'akai* analysis"); and

WHEREAS, the Applicant recently conducted a *Ka Pa'akai* analysis for the Project site and represented that cultural practitioners will be allowed access to the Project site in accordance with Native Hawaiian rights to cultural, natural, and historical resources; however, the DPP, as the government agency approving the discretionary permit, must issue specific findings and conclusions, and include conditions of approval to ensure the protection of cultural, historic, or natural resources, or Native Hawaiian traditional and customary rights under *Ka Pa'akai*; and

WHEREAS, the Project site includes a portion of Mount Ka'ala, which holds deep cultural significance, is associated with Native Hawaiian traditions, and may contain iwi kūpuna (Native Hawaiian ancestral remains) and other archaeological sites; arguably, under *Ka Pa'akai*, the DPP has the duty and responsibility to include conditions to protect cultural, historic, or natural resources, or Native Hawaiian traditional and customary rights, which were not analyzed under the 2019 CUP; and

WHEREAS, On September 23, 2025, the Applicant submitted to the DPP an application for a minor modification to its 2019 CUP (DPP File No. 2025/MOD-55); among other things, the requested modifications would:

1. Add Tax Map Key 6-5-011:050.0001 to the Project, thereby increasing the total Project acreage by 6.45 acres;

2. Modify the gondola design, route, and locations;

3. Modify hiking and bicycle pathways;

4. Combine certain agricultural and agribusiness structures, including the expansion of visitor facilities such as a café and viewing platforms;

5. Replace the composting toilets at the gondola top station with traditional flushing toilets that may require transporting sewage to the individual wastewater system facility;

6. Relocate the Project's vehicle access driveway and make improvements to Kaukonahua Road; and

7. Reduce the forestry use from 611 acres to 51.5 acres, and eliminate the agroforestry use (formerly 322 acres); and

WHEREAS, the main criteria in determining whether a modification to a conditional use permit is major or minor is its potential impact on surrounding land uses; minor modification requests must be reasonable and consistent with the intent of the original permit, must not significantly increase the intensity or scope of the use, and must not create adverse land use impacts on the surrounding neighborhood; in contrast, major modification requests that do not satisfy the criteria for a minor modification require the submittal of an application for a new CUP; and

WHEREAS, in the Project's minor modification application, the Applicant represented that the modifications are based on more refined planning and operational information because the original agricultural and agribusiness activities were based on preliminary agricultural plans and agribusiness concepts; the Applicant also represented that the proposed modifications will not increase the capacity, scope, or intensity of the Project as approved under the 2019 CUP; and

WHEREAS, the minor modifications appear to focus on proceeding with agribusiness uses rather than expanding agricultural uses, but this would be counterproductive because Condition B.1 of the 2019 CUP requires that prior to the issuance of a building permit or any ground disturbance for agribusiness activities, 50 percent (1,160.26 acres) or more of the Project site must be in active agricultural use; and

WHEREAS, potential adverse impacts on surrounding land uses and neighborhoods are also an important consideration when determining whether a requested modification is minor or major; arguably, the Project's modification request may have environmental impacts, adversely affect neighboring property owners, and impair the eventual satisfaction of conditions previously imposed under the 2019 CUP; for example:

1. While modifications to the gondola lowered the elevation of the top station and reduced the number and footprint of the gondola towers, there is a question of whether the gondola will serve primarily as a sightseeing attraction rather than an agricultural transportation system to transport agricultural staff, equipment, materials, and other cargo (as initially represented). In addition, the forestry and agroforestry uses have been significantly reduced and most other agricultural activities occur at lower elevations, so there are questionable grounds for extending the gondola up the slopes of Mount Ka'ala, which holds deep cultural significance.

2. Under the 2019 CUP, forestry and agroforestry are included as an agricultural activity only if trees are planted to at least 300 trees per acre. The reduction in forestry from 611 acres to 51.5 acres and the elimination of agroforestry may make the condition requiring that 50 percent or more of the Project site be dedicated to active agricultural use difficult to achieve without further expansion of agricultural uses, which were not included in the Applicant's minor modification application.

3. Replacing composting toilets at the gondola top station with traditional flushing toilets may be problematic for several reasons. It may require transporting sewage to the wastewater facility and may increase wastewater flow. The Project initially included 33 composting toilet facilities with an anticipated wastewater flow of 13,375 gallons per day (equal to 47.8 single-unit dwellings). Any wastewater treatment system serving 50 or more single-unit dwellings or the equivalent is subject to an environmental assessment pursuant Chapter 343, Hawaii Revised Statutes ("HRS"), so any increase in wastewater flow resulting from the addition of traditional flushing toilets may trigger an environmental assessment. In addition, portions of the Project's sewer system may be in the Board of Water Supply ("BWS") No Pass Zone, which is an area where waste disposal facilities have the potential to contaminate groundwater resources. Moreover, a sewer line is proposed to cross

Kaukonahua Stream, with the potential of polluting Kaiaka Bay and the nearshore waters off O'ahu's North Shore. Furthermore, the addition of traditional flushing toilets at the gondola top station may indicate that the gondola will primarily be a sightseeing attraction.

4. The BWS does not have a water system serving the area, and private water systems must provide the Project with water service (potable and non-potable for crop irrigation) and for fire protection. The State of Hawai'i Department of Agriculture commented that the Project site's mean annual rainfall of 37 to 45 inches is not sufficient for year-round cultivation of most crops, so the supply of supplemental irrigation water is critical to establishing and maintaining proposed agricultural activities. Preparing a water demand analysis and plan for a private water system is critical to satisfy the condition requiring 50 percent or more of the Project site to be dedicated to active agricultural use, and any shortage of water, especially for fire protection, may adversely affect surrounding land uses and neighboring property owners.

5. Relocation of the access driveway along Kaukonahua Road and associated improvements to Kaukonahua Road may require an environmental assessment pursuant to HRS Chapter 343.

6. Expanding hiking and bicycling trails further into Mount Ka'ala, which is a culturally sensitive area, requires a determination letter from the State Historic Preservation Division and if appropriate, mitigation protocols. Mount Ka'ala is also a critical habitat for endangered species, including the 'ōpe'ape'a (Hawaiian hoary bat), pueo (Hawaiian Short-eared owl), kāhuli (Hawaiian tree snail), and 'ua'u (Hawaiian petrel), and the protection of and minimizing impacts to endangered fauna is critically important.

7. The modifications may have been requested because certain conditions in the 2019 CUP would be difficult to satisfy, or may suggest a priority for agribusiness activities over agricultural uses, which is not the intent of the agricultural zoning districts; and

WHEREAS, the City Council ("Council") believes the DPP Director should declare the 2019 CUP null and void because the Applicant has not demonstrated meaningful progress in satisfying agricultural milestones and conditions of approval, and

applicable laws in effect when the 2019 CUP was approved have significantly changed; and

WHEREAS, if the DPP Director declares the 2019 CUP null and void, the Applicant's request for minor modifications to the 2019 CUP would be rendered moot; and

WHEREAS, if the DPP Director does not declare the 2019 CUP null and void, the Council believes the DPP Director should deny the Applicant's request for minor modifications to the 2019 CUP because the modifications may have adverse environmental and other impacts on surrounding land uses and neighboring property owners, significantly alter the intent and intensity of the agribusiness use, and impair the satisfaction of conditions previously imposed under the 2019 CUP; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the Council strongly requests that the Director of Planning and Permitting declare Kaukonahua Ranch, LLC's previously approved conditional use permit–minor for Kamananui agribusiness activities (DPP File No. 2019/CUP-18) null and void; and

BE IT FURTHER RESOLVED that if the Director of Planning and Permitting does not declare Kaukonahua Ranch, LLC's previously approved conditional use permit–minor for Kamananui agribusiness activities as null and void, the Council strongly requests that the Director of Planning and Permitting deny the modifications requested by Kaukonahua Ranch, LLC under its minor modification application (DPP File No. 2025/MOD-55); and

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BE IT FINALLY RESOLVED that copies of this resolution be transmitted to Dawn Takeuchi Apuna, Director of Planning and Permitting, 650 South King Street, 7th Floor, Honolulu, Hawai'i 96813; Kaukonahua Ranch, LLC, Five Waterfront Plaza, 500 Ala Moana Blvd, Suite 400, Honolulu, Hawai'i 96813; and PBR Hawai'i & Associates, Inc., 1001 Bishop Street, Suite 650, Honolulu, Hawai'i 96813.

INTRODUCED BY:

DATE OF INTRODUCTION:

OCT 30 2025

Honolulu, Hawai'i

Councilmembers

Report Title:
Conditional Use Permit-Minor ("CUP-Minor"); Declare CUP-Minor Null and Void or Deny Modifications; Kamananui Agribusiness Activities; Kaukonahua Ranch, LLC; Department of Planning and Permitting ("DPP"); Waialua, O'ahu; Waialua, Oahu

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