

BEFORE THE PLANNING COMMISSION
OF THE CITY AND COUNTY OF HONOLULU
OF THE STATE OF HAWAII

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IN THE MATTER OF THE APPLICATION OF)	FILE NO. 2022/SUP-4
)	
KUALOA RANCH INC.)	FINDINGS OF FACT
)	CONCLUSIONS OF LAW
FOR A)	AND DECISION AND ORDER
)	
STATE SPECIAL USE PERMIT)	
)	

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER

The Planning Commission of the City and County of Honolulu ("Commission" or "PC"), having examined the complete record of the proceedings on State Special Use Permit ("SUP") Application File No. 2022/SUP-4, filed by Kualoa Ranch, Inc. ("Applicant"), to update an existing State SUP(File No. 85/SUP-2) to reflect the current level of operations and to provide improvements for expansion ("Petition"). The Petition includes the display and sales of non-agricultural products with accessory parking at Ranch Headquarters, vehicle parking for the movie exhibit at Battery Cooper, and the allowance of weddings and events at Ranch Headquarters and Palikū Gardens ("Project") on approximately 12.8 acres of land in the State Agricultural District identified by Tax Map Key (TMK) Nos. (1) 4-9-004: Portion (Por.) 002 and (1) 4-9-005 Por. 001 in the Ko'olau Poko and Ko'olau Loa Districts of O'ahu ("Petition Area"). Upon consideration of the matters discussed herein and upon consideration of the

record, the Commission hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The City and County of Honolulu, Department of Planning and Permitting (the “DPP”), accepted the SUP Application (the “Application”), pursuant to Hawai‘i Revised Statutes (“HRS”), Section 205-6, and Planning Commission Rules (“Commission Rules”) Section 2-40.

2. The Commission received a report from the Director of the DPP dated February 3, 2023. The report provides an analysis of the request and a recommendation for approval of the Application subject to conditions. The Director also recommended that the existing SUP and conditions of approval, File No. 85/SUP-2, be superseded by the current SUP File No. 2022/SUP-4.

3. On March 8 and October 18, 2023, the Commission considered the Petition. Public testimony was received. After due deliberation, the Commission approved the Petition subject to certain conditions.

DESCRIPTION OF THE PROPERTY

4. The Project involves approximately 12.8-acres out of the approximately 4,000-acres of Kualoa Ranch land (“Ranch”), located in the Ko‘olau Poko and Ko‘olau Loa Districts of O‘ahu, Hawai‘i. The Petition Area is displayed in Exhibit A.

5. The Kualoa Ranch Headquarters (“Headquarters”) portion of the Petition Area involves approximately 11.7-acres. The Palikū Gardens portion of the

Petition Area involves 0.9-acres. Both Headquarters and Palikū Garden Petition Areas are located on TMK Nos. (1) 4-9-004: Por. 002 and (1) 4-9-005 Por. 001.

6. The Battery Cooper portion of the Petition Area involves 0.2-acres of TMK Nos. (1) 4-9-005 Por. 001 and (1) 5-1-001: Por. 001.

7. The Petition Area is located within the State Land Use Agricultural District and is zoned as AG-2 General Agricultural District.

8. Headquarters is accessed from Kamehameha Highway. The Battery Cooper and Palikū Gardens sites are accessed using internal Ranch roads branching from the Headquarters site.

9. The majority of the Petition Area is located within the region encompassed by the Ko'olau Poko Sustainable Communities Plan ("KPSCP"), with the exception of the northern portion of the Battery Cooper Petition Area, which is located in the Ko'olau Loa Sustainable Communities Plan ("KLSCP"). The Petition Area is designated as "Agricultural Areas" in the KPSCP and KLSCP. These areas are delineated as lands suitable for crop growing, grazing and livestock raising, flower cultivation, nurseries, orchards, aquaculture, or similar activities.

10. The Ranch comprises approximately 4,000 acres of land on O'ahu's windward coast, encompassing an area of three ahupua'a: Hakipu'u, Kualoa, and Ka'a'awa. Approximately 1,600 acres, or 42 percent of the total land, is located within the State Land Use Agricultural District. Most of this land is used as active pasture for various stages of beef production. The Ranch's diversified agriculture production is concentrated at the mouth of Ka'a'awa and Hakipu'u Valleys. The

Ranch also owns the mauka portions of the three ahupua'a, located in the State Land Use Conservation District and comprising around 57 percent of the Ranch.

11. Ka'a'awa town is approximately three miles to the north of Headquarters with Waiāhole around the same distance to the south. Kamehameha Highway and residential homes run along the eastern coast, makai of the majority of the Ranch.

12. As of 2014, the "Climate of Hawai'i," Department of Geography, University of Hawai'i at Mānoa database indicates the average annual temperature in the Kualoa region is generally within the low 70s (degrees Fahrenheit). Precipitation in the area is moderate, with annual rainfall averaging 54 inches, the majority of which occurs during the winter months. Annual wind speeds average approximately 3.9 to 6.2 miles per hour.

13. According to the U.S. Department of Agriculture ("USDA"), Soil Conservation Service, the Petition Area located at Ranch Headquarters contains soils classified as Waialua stony silty clay (WIB), three to eight percent slopes, which is used for sugarcane, diversified agriculture, orchards, and pasture. Headquarters also contains Mokulē'ia clay loam, zero to two percent slopes, which is used for sugarcane diversified agriculture, and pasture.

14. The Palikū Gardens Petition Area contains soils classified as Waialua very stony silty clay (WmD), 12 to 20 percent slopes, and Waialua stony silty clay, three to eight percent slopes (WIB). Workability is difficult, so the soil is primarily suitable for pastures.

15. The Battery Cooper Petition Area contains rock outcrop (rRO) with steep slopes that are not suitable for agriculture.

16. The Agricultural Lands of Importance to the State of Hawai'i ("ALISH") Map, prepared by the State Department of Agriculture ("DOA"), classifies lands into three categories: 1) Prime Agricultural Land, 2) Unique Agricultural Land, and 3) Other Important Agricultural Land. According to the ALISH Map, the Petition Area is mostly classified as Non-Prime or "Other Important Agricultural Land" under the ALISH system. Other Important Agricultural Land is defined as lands that are important for producing food, feed, fiber, or forage crops in the State of Hawai'i, but also exhibit limiting properties, such as seasonal wetness, erodibility, etc. The classification notes that the lands are important state or local lands for production, but need irrigation or require commercial production or management. All of the Battery Cooper and most of the Palikū portions of the Petition Area were not put into an ALISH classification.

17. According to the Land Study Bureau ("LSB") overall master productivity rating system, the Petition Areas comprise of C, D, and E rated soils. The LSB rating system is based on the agricultural productivity of soils throughout the State, accounting for characteristics such as texture, slope, salinity, erodibility, and rainfall. The productivity ratings are used to designate each area as Class A, B, C, D, or E. Class A represents the most productive soils and Class E represents the least productive soils.

18. The Petition Areas do not involve land designated as Important Agricultural Lands ("IAL"), as defined by HRS, Chapter 205, Part III. On June, 29,

2018, Kualoa Ranch filed a petition for Declaratory Order (LUC Docket No. DR18-62) to voluntarily designate approximately 51.5 percent of the Ranch as IAL, pursuant to HRS, Sections 205-44 and 205-45. The request included approximately 761.55 acres of agricultural land in Hakipu'u, Kualoa, and Ka'a'awa Valleys, identified by TMKs 4-9-002: 001 (por.); 4-9-004: 002 (por.); 4-9-005: 001 (por.); 5-1-001: 001 (por.), 016 (por.), 025 (por.); 5-1-004: 001 (por.); and 5-1-007: 001 (por.). The LUC's Findings of Fact, Conclusions of Law, and Decision and Order was approved on October 29, 2018. Through a formal boundary interpretation with the LUC, the Applicant verified that the Battery Cooper portion of the Petition Area is not located within the boundaries of the IAL designation.

BACKGROUND OF THE KUALOA RANCH

19. The Kualoa region has significant historical importance and is considered one of the most spiritually sacred locations on O'ahu due to historical accounts and Native Hawaiian stories. The Kualoa ahupua'a was listed on the National Register of Historic Places in 1974.

20. The Ranch is owned and managed by the descendants of Dr. Gerrit P. Judd, who was an advisor of King Kamehameha III. Dr. Judd purchased the Kualoa ahupua'a from King Kamehameha III in 1850. Between 1863 and 1870, the first sugar mill on O'ahu, Kualoa Sugar Mill, was built and operated by his son, Charles H. Judd. The 35-foot coral brick smoke stack and the remains of the mill can be seen today along Kamehameha Highway near the entrance to the Ranch Headquarters. Sugar production eventually discontinued after years of inadequate

rainfall. Cattle ranching operations began in the 1870s, after the demise of sugar at the Ranch, and continues today.

21. In the early 1980s, the Ranch began diversifying its income sources and shifted towards recreational enterprises to financially support the Ranch. In 1985, the Ranch offered services that catered to visitors, including horseback riding, jet skiing, helicopter rides, scuba diving, windsurfing, and canoe rides.

22. On December 23, 1985, the PC approved SUP 85/SUP-2 for Kualoa Ranch covering 2.45 acres allowing certain recreational activities subject to conditions.

23. On November 6, 1985, a Conditional Use Permit ("CUP"), 85/CUP-15, was approved to permit the various outdoor land and ocean-oriented recreation activities and facilities across all 4,000 acres of the Ranch.

24. At the time of these SUP proceedings, the Ranch hosted approximately 1,000-1,500 daily ticketed visitors. Daily ticketed visitors come to experience the various tours and activities offered by the Ranch.

25. The Ranch hosted some larger events, such as the Hawai'i State Farm Fair and the Spartan Race, which attracted large amounts of visitors to the Ranch. The Applicant elected to discontinue hosting these larger events. However, there are certain special events that are hosted by the Ranch which directly benefit the surrounding community, such as the Ka'a'awa Elementary 5K Fun Run, a fundraiser for Ka'a'awa and Waiāhole Elementary Schools.

DESCRIPTION OF THE PROPOSED USE

26. Kualoa Ranch proposes an update to an existing State SUP to reflect the current level of operations and to provide improvements for expansion. The Petition includes the display and sales of non-agricultural products with accessory parking at Ranch Headquarters, vehicle parking for the movie exhibit at Battery Cooper, and the allowance of weddings and events at Ranch Headquarters and Palikū Gardens.¹

Kualoa Ranch Headquarters

27. The Applicant plans to construct various facility improvements for the Headquarters, including a new Visitor Center, an expansion of the parking lot, three new tour depots, two new administrative offices, an employee building, a new horseback riding stable, and a farmer's market venue. The current depots for the Ranch and Movie Sites Tour and Jungle Expedition will be deconstructed and the current horseback riding stable will be converted to the Movie Sites Tour Depot. Utility work will include internal road improvements, wastewater, water, and drainage.

28. The existing 7,488-square foot Visitor Center welcomes guests to Kualoa Ranch through a guest service counter, where visitors receive tour and activity information about the Ranch. The existing Visitor Center also includes Auntie Pat's Paniolo Cafe, a restaurant which features locally-raised grass-fed

¹ A preschool in Hakipu'u (0.6-acres), a wedding and events facility in Ka'a'awa (0.25-acres), and a wedding and events area in Moli'i Gardens (1.1-acres) were originally proposed in the SUP application. These areas have since been removed from the Petition by the Applicant and were not approved by the Commission.

Kualoa beef burgers; and JJ's Outpost, a gift shop that sells non-agricultural products, Ranch logo wear, and Ranch souvenirs.

29. The Applicant proposes the addition of two new buildings to distribute current Visitor Center activities into three separate buildings. The proposed 3,970-square foot Arrival Pavilion would be used primarily for visitor orientation and ticketing. The proposed 3,840-square foot Kualoa Market would display and sell agricultural products, Ranch logo wear and souvenirs, and non-agricultural products. The existing Visitor Center building would be utilized solely for food services with an expansion to the current kitchen and cafe. The expansion of the Visitor Center would increase its size to 15,298 square feet. The Petition requests the ability to continue the display and sales of non-agricultural products in this building.

30. The Ranch House Pavilion and Garden is located at Headquarters and involves a covered pavilion area, seating up to 300 people. The garden area has picnic style seating that can accommodate up to 200 guests. The Ranch House has a floor area of approximately 15,000 square feet, including the entry, dining area, covered veranda, meeting room, preparation kitchen, office, storage and service area, and restroom facilities. The Petition includes a request to allow weddings and other private events at the Ranch House Pavilion and Garden.

31. There are currently 218 standard parking stalls, six American with Disabilities Act ("ADA") compliant, and nine coach bus stalls located at the Headquarters portion of the Petition Area. The total number of parking spaces will increase to 306 standard stalls, eight ADA compliant stalls, and 10 spaces for coach

buses. In addition, the Applicant intends to provide a bicycle corral, motorcycle parking, and an electric vehicle stall. The Applicant estimates the parking is sufficient to accommodate the expected demand at the Ranch as a result of implementation of the Project.

Battery Cooper

32. Battery Cooper was a World War II coastal defense gun battery that is now being used as a showcase for the movies and television shows that have been filmed on the Ranch. Battery Cooper is a feature of many of the tours at the Ranch, but is not directly accessory to the agricultural uses of the Ranch therefore, it is included as one of the sites in this Petition. The Battery Cooper portion of the Petition Area involves 0.2-acres for vehicle staging and parking for tours visiting the exhibit. No improvements are proposed at the site.

Palikū Pavilion and Gardens

33. The facility was previously a 2,000-square foot, .22 caliber rifle target range. This use was discontinued in 2011 and is now used to host weddings and wedding receptions. The existing pavilion is 5,000 square feet that can seat up to 150 guests. The pavilion contains restrooms, a partial kitchen, and a large history room. A gravel parking area is adjacent to the site. The Petition proposes allowing weddings and related events at this site.

NEED FOR THE PROPOSED USE

34. The Project would financially support the expansion, diversification, and preservation of agricultural operations at the Ranch, and assist in preserving the continuity of the Ranch's landholdings.

35. According to the Ranch's 2021 Sustainability Annual Report, the Ranch provided locally-grown, sustainably-raised produce from 60 crop varieties and three types of proteins for a total of 63,592 pounds of food (21,580 pounds of produce, 31,083 pounds of beef, 6,765 pounds of pork, and 4,163 pounds of shrimp). In addition, they harvested 41,810 oysters and produced 8,800 chocolate bars. Out of 275 total staff, 45 are dedicated to their agricultural program. At the end of 2020, the Ranch coordinated with eight partner farms and local agricultural businesses to provide their local products in the Ranch's on-site farmer's market, where they sell their agricultural products to visitors and local communities. The Ranch indicates this level of agricultural production is made possible due to the non-agricultural uses conducted at the Ranch.

36. The application mentions plans to expand the cattle herd from the current 600 heads of grass-fed cattle by leasing other ranch lands on O'ahu to raise additional cattle. The Applicant is also investing in rehabilitating agricultural lands that have gone fallow, resurrecting 50 acres over the next 10 years. The application reports a monthly revenue of \$54,625 from the utilization of 1,645-acres of land in 2019. It is also reported that the number of employees in 2019-2020, before the economic effects of the COVID-19 pandemic were felt, was 370 employees; 24 of which were dedicated to agriculture, livestock, and aquaculture operations.

In 2022, 275 total staff were employed with 45 employees dedicated to agricultural operations.

IMPACTS UPON THE RESOURCES OF THE AREA

37. The ahupua'a of Kualoa was listed on the National Register of Historic Places in 1974, triggering the need for the proposed action to satisfy the requirements of HRS, Chapter 343, and Hawai'i Administrative Rules ("HAR"), Chapter 200. A Final Environmental Assessment ("EA") was published with a Finding of No Significant Impact on August, 8, 2018. The Final EA was prepared as a prerequisite requirement for obtaining land use permits for existing and proposed uses and structures at Kualoa Ranch.

Air Quality

38. Construction activities at the Ranch are not expected to generate significant air quality impacts. Job site watering will be conducted to minimize dust loss during construction. Construction equipment and vehicles will be properly maintained to minimize emissions.

Stormwater

39. Best management practices ("BMP") will be implemented to manage soils at each construction site. A National Pollutant Discharge Elimination System Construction Permit is required because grading of the project site will involve one acre or more. Construction will be located away from natural stream areas at the Ranch, which will minimize the potential for top soil erosion and runoff to reach surface water. The application mentions Low Impact Development and BMP are

planned at Kualoa. Based on future soil percolation testing, possible post-construction stormwater BMP could include bio filtration (vegetated bio-filters, vegetated buffer strips), or alternate compliance (sand filter, detention basin). Kualoa is also considering using stormwater for irrigation to reduce potable water demand. These and other actions will be further described in a Storm Water Quality Strategic Plan during the design stage, as required by the DPP Administrative Rules, Section 20-3-50, Relating to Water Quality.

Operational Noise

40. The Petition Areas are set back from residential properties far enough for proposed operations to not have negative impacts to nearby residents.

Cultural and Historical Resources

41. A *Ka Pa'akai* analysis was performed to assess the identification and protection of any cultural, historical, or natural resources in the Petition Area, including tradition and customary Native Hawaiian rights pursuant to *Ka Pa'akai v. LUC*, 94 Hawai'i 31, 7 P.3d 1068 (2000). The Court in *Ka Pa'akai* held that the following analysis is to be conducted for the Petition:

1. The identity and scope of valued cultural, historical, or natural resources in the Petition Area, including the extent to which traditional and customary native Hawaiian rights are exercised in the Petition Area;
2. The extent to which those resources - including traditional and customary native Hawaiian rights - will be affected or impaired by the proposed action; and
3. The feasible action, if any, to be taken by the LUC to reasonably protect native Hawaiian rights if they are found to exist.

42. The *Ka Pa'akai* Analysis concludes that no historical resources were identified in the Petition Area. The findings of the botanical survey conducted for the Petition Area show a mix of non-native, native, and ornamental species comprising 260 taxa in 71 families. Eight of the 260 taxa are considered native, but are common, widely distributed species, and most are on the site as part of the planted landscaping. Many of the native species are in a small native plant garden on the property. The Petition will not affect or impair these plants.

43. In the event that any previously unidentified historic sites or native Hawaiian burials are encountered during site work and construction phases, all work in the immediate area will cease and the State Historic Preservation Division ("SHPD") will be notified. Work in the area will be suspended until further recommendations are made for the appropriate treatment of cultural materials.

44. Additionally, the Cultural Impact Assessment in the 2018 Final EA found no evidence of the exercise of traditional and customary native Hawaiian rights within the Petition Area. Gathering for pau riders and parades have occurred outside the Petition Area. Gatherings for Lā'au lapa'au (medicinal healing) stopped a number of years ago.

45. An Archaeological Assessment was conducted by Keala Pono Archaeological Consulting, LLC for the Petition Area in April and July 2015, and is included in the Final EA.

46. No surface archaeological remains were found during pedestrian surveying. The entire property has been disturbed by modern activity at the Ranch, including landscaping of the lawns and construction of buildings. Likewise,

subsurface testing did not yield any evidence of subsurface archaeological features or deposits. Two possible historic artifacts were recovered from one of the trenches in the Palikū portion of the Petition Area, and one from the trench in the Headquarters portion of the Petition Area. The archaeological assessment concludes they are likely ranching or military-related artifacts.

47. The archaeological assessment recommended archaeological monitoring for the lower elevations of Headquarters, where sandy deposits were encountered. The recommendation was proposed because of the possibility of encountering human burials in intact beach sand deposits. It is possible that human remains may be discovered during construction activities, even though no such evidence was found during the survey.

48. The SHPD accepted the archeological assessment by letter dated December 19, 2016.

49. Should human burial remains be discovered during construction activities, work in the vicinity of the remains should cease and the SHPD should be contacted.

Endangered Species

50. Considerations and mitigation measures for endangered or threatened Hawaiian water birds will be implemented by the Applicant in areas where water birds are known to be present, including reduced speed limits, informing project personnel and contractors about their presence, BMP regarding work in aquatic environments, biological monitors, minimizing time standing water is present, placing signage, and closing trash receptacles.

51. According to the United States Department of Interior Fish and Wildlife Service, the endangered Hawaiian hoary bat; endangered Hawaiian petrel, endangered Hawai'i distinct population of band-rumped storm-petrel, and threatened Newell's shearwater may traverse the Petition Areas. Endangered or threatened Hawaiian seabirds may also traverse the project area at night during breeding season. No seabird nestings are located within the proposed project sites, but use of outdoor lights could have a potential impact to birds, as lighting can disorient seabirds which can result in their downing or harm. Exterior facility lighting will be shielded to reduce the potential for interactions of nocturnally flying seabirds with external lights or other structures. Automatic motion sensor switches and controls on all outdoor lights can be installed or lights manually turned off when human activity is not occurring in the lighted area. The Applicant will educate staff about seabird fallout and inform staff that downed seabirds can be taken to Sea Life Park for rehabilitation.

52. The Hawaiian hoary bat may also utilize project site areas. To avoid any potential negative impacts to roosting bats, woody vegetation taller than 15 feet will not be removed during pupping season (between June 1 and September 15). The use of new sections of barbed wire will be minimized.

Rural Character

53. The Applicant will comply with the Revised Ordinances of Honolulu, Section 21-3.50-4, for maximum building heights (15 to 25 feet) for improvements at Headquarters. The Petition Area and parking will be screened from public roadways with landscaping, and architectural features will align with the area's rural character.

Social Impacts

54. The Petition will have minimal impact on population increases or decreases in the area. The Petition supports economic objectives of the state and county by expanding and enhancing recreational and educational opportunities at Kualoa Ranch, while supporting the employment of around 300 employees—most of whom are local, and many of which identify as part-Hawaiian. Job opportunities are scarce in rural areas of O‘ahu and the Ranch provides the opportunity for residents of upper Ko‘olau Poko, Ko‘olau Loa, and the North Shore regions to not have to commute to town for employment. The Project will strengthen the financial sustainability of the Ranch to support the continuation and expansion of agricultural pursuits and education.

ADEQUACY OF PUBLIC FACILITIES AND UTILITIES

Roadways

55. Kamehameha Highway is the primary arterial highway in Windward O‘ahu. It is a two-way, two-lane State highway with a posted speed of 35 miles per hour. The primary access to the Ranch is the existing Kualoa Ranch Driveway along Kamehameha Highway. The driveway to the Ranch Headquarters is controlled by a stop sign at its T-intersection with Kamehameha Highway. An exclusive left-turn lane is not provided onto northbound Kamehameha Highway at the Kualoa Ranch Driveway.

56. The Palikū Gardens and Battery Cooper portions of the Petition Area are accessed via internal ranch roads. The LUC had concerns about the omission of internal

connecting roads from the Petition Area. The Applicant mentions in their response that internal roads are all used for agricultural purposes and are not used exclusively for SUP activities.

57. A Transportation Impact Assessment ("TIA") was conducted for the project in May 2018 and is available in Appendix E of the Final EA. During the Saturday peak hour of traffic, with the proposed Kualoa Ranch Improvements, the left-turn and right-turn movements from Kualoa Ranch Driveway onto Kamehameha Highway is expected to operate at Level-of-Service ("LOS") "F" and LOS "C", respectively. However, left-turn movement on northbound Kamehameha Highway into the Ranch is expected to continue to operate at LOS "A" during the Saturday peak hour of traffic with the proposed Ranch improvements. The TIA provided three traffic improvements:

1. Widen the Kualoa Ranch Driveway to provide separate left-turn and right-turn lanes at Kamehameha Highway.
2. Widen the Kualoa Ranch Driveway to accommodate the bus turning movements to and/or from Kamehameha Highway.
3. Implement the special event traffic control plans on Saturdays, as necessary.

58. The DOT provided comments on the Petition reaffirming the need for these improvements.

Wastewater

59. There is no municipal sewer system within the general area of the Ranch. At the Headquarters, the State DOH records indicate the presence of two individual wastewater systems ("IWS"), one that serves the Visitor's Center and

another that serves the Ranch House. The Visitor's Center IWS was constructed in 2005 and was designed to treat and dispose 2,000 gallons per day ("GPD") of wastewater. The Ranch House IWS was constructed around 2013 and was designed to treat and dispose of 1,000 GPD of wastewater.

60. Wastewater flows from Headquarters improvements are anticipated to be an additional 14,240 GPD, according to the Preliminary Engineering Report provided as Appendix F in the Final EA. A packaged wastewater treatment plant with absorption bed is a necessary improvement to support the expansion. The Applicant intends to receive the required approval from the DOH for the individual wastewater treatment and disposal system.

Water Supply

61. Headquarters improvements are projected to increase daily potable water demand by approximately 17,800 GPD. The BWS determined the existing water system is currently adequate to accommodate the proposed Ranch improvements, according to the agency's January 22, 2018, comments on the Draft EA. A final decision on the availability of water will be confirmed by BWS when the building permit applications are submitted to the DPP for approval.

Drainage

62. None of the Petition Area contains municipal subsurface drainage systems. Stormwater from these sites generally sheet flow towards the ocean. The Applicant will use BMP for stormwater management to maintain on-site infiltration and prevent polluted runoff during storm events. The Petition will not impact public stormwater infrastructure.

School Improvements

63. No residential use is being proposed and school improvements would not be required.

Police

64. Kualoa Ranch falls within HPD's District 4. The main station for District 4 is located in Kaneohe, approximately 10.2 miles away from the property. HPD provided comments related to adequate notice be made to the public in the event of potential road closures during the construction period since it is the only thoroughfare in the area.

Fire Protection

65. The nearest fire station is about three miles away at Honolulu Fire Station 21 in Ka'a'awa. To provide adequate response time throughout the region, a future fire station is already planned at Kualoa according to the Ko'olau Poko Sustainable Communities Plan. Existing BWS record drawings depict two fire hydrants located near the Visitor's Center, serviced by a 12-inch water line through an eight-inch detector check meter. Building permits for new buildings or renovations will be circulated to the HFD for review. Any firefighting infrastructure required by the HFD may be imposed at that time.

CONFORMANCE WITH THE SUP GUIDELINES

66. The guidelines for determining “unusual and reasonable” uses for granting of a SUP are provided for in HAR, Section 15-15-95 (b). The Project is consistent with these guidelines as follows:

Guideline 1: *The use shall not be contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.* HRS, Chapter 205, seeks to protect agricultural lands and ensure their continued availability for agricultural use. It provides that the State Land Use Agricultural District shall also include lands with a high capacity for agricultural production, grazing, and other agricultural uses. The proposed uses are for the purpose of financially supporting the expansion and preservation of agricultural operations at the Ranch, and preserving the continuity of the Ranch's landholdings.

Guideline 2: *The desired use would not adversely affect surrounding property.* As previously stated, the use would not adversely affect surrounding property.

Guideline 3: *The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police, and fire protection.* As previously stated, the Project would not require improvements or otherwise burden public infrastructure. The Applicant has agreed to make roadway improvements and upgrade necessary infrastructure all within capacity of existing services. Police or fire

protection services recommended close coordination and planned for future improvements.

Guideline 4: *Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established.* Since the decline of sugarcane and pineapple production on O'ahu, local agriculture has struggled to compete with global markets internationally and domestically. With the exception of seed crops, macadamia nuts, and coffee, the majority of agricultural production in the State is grown to serve domestic consumption, including pineapples. Yet, for a number of crops, consumption volumes in Hawai'i are too small to support large, efficient farms that utilize economies of scale.

Due to the mounting challenges of agricultural operations in Hawai'i, agricultural land use regulation across the State has trended towards accommodating farmers seeking alternative uses and revenue streams that can coexist with and perpetuate the bona fide agricultural operations. As codified in HRS, Sections 205-4.5(a)(13) and (14), agriculture land use regulations across the State have trended towards allowing uses that are not necessarily directly accessory to the primary agricultural use, in the traditional sense, but instead provide monetary assistance to the farming operations occurring on the site, so long as the non-agricultural use does not interfere with agricultural operations. The Petitioner, and descendants, have long prided their land stewardship over a century and have largely

preserved the Ranch, despite the mounting urban development pressures facing large landowners on O'ahu.

Guideline 5: *The land upon which the proposed use is sought is unsuited for the uses permitted within the district.* The Petition Area is rated C, D, and E under the LSB system. The Petition Area is likely suitable for agriculture production, but exhibits properties, such as seasonal wetness, erodibility, limited rooting zone, slope, flooding, or drought, that excludes them from the Prime or Unique ALISH classifications. Most of the Petition Areas are being used for livestock raising and where occurring, the growing of crops. Aside from the few acres of non-agricultural use, the majority of the 1,600-acres of Ranch land in the State Land Use Agricultural District is suited and will continue to be used for livestock grazing, crop production, and aquaculture of local consumption. The added financial boost from these uses in the Petition Area relieve the pressure to support and sustain the bona fide agriculture and agricultural educational activities currently occurring at the Ranch.

CONFORMANCE WITH THE COASTAL ZONE MANAGEMENT PROGRAM

70. The Battery Cooper portion of the Petition Area is within the Shoreline Management Area (SMA), however no development has been conducted since the World War II coastal defense gun battery was built by the military and no SMA permit is required.

RULINGS ON PROPOSED FINDINGS OF FACT

71. Any of the proposed Findings of Fact submitted by any party not already ruled upon by the Commission by adoption, or rejected by clearly contrary Findings of Fact, are hereby denied and rejected.

Any Conclusions of Law herein improperly designated as a Findings of Fact should be deemed or construed as a Conclusion of Law; and Findings of Fact herein improperly designated as a Conclusion of Law should be deemed or construed as a Findings of Fact.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to HRS, Section 205-6, and the Rules of the Planning Commission, Chapter 2, Subchapter 4.

2. Based upon the record and pursuant to HRS, Section 205-6 and Rules of the Planning Commission, Chapter 2, Subchapter 4, the Commission finds that the Project meets the guidelines for determining an "unusual and reasonable use" and "would promote the effectiveness and objectives" of HRS, Chapter 205, within the State Land Use Agricultural District.

3. The Project constitutes an unusual and reasonable use within the agricultural district other than those for which the district is classified, and complies with HRS, Section 205-6(a).

4. The Project constitutes an exceptional situation where the use desired would not change the essential character of the district nor be inconsistent therewith.

Save Sunset Beach Coalition v. City and County of Honolulu, 102 Hawai'i 465, 482, 78 P.3d 1, 18 (2003).

5. The Project constitutes a use that would promote the effectiveness and objectives of HRS, Chapter 205, and complies with HRS, Section 205-6(c).

6. The Project is consistent with the "overarching purpose" of HRS, Chapter 205 which is to "protect and conserve natural resources and foster intelligent, effective, and orderly land allocation and development." *Kaua'i Springs v. Planning Commission*, 130 Hawai'i 407, 426, 312 P.3d 283, 302 (2013).

7. The Commission has considered Article XI, Section 1, of the Hawai'i State Constitution and finds that the Project is in compliance and non-violative therewith. Article XI, Section 1, of the Hawai'i State Constitution states that all public natural resources are held in trust by the State for the benefit of the people. When an agency is confronted with its duty to perform as a public trustee under the public trust doctrine, it must preserve the rights of present and future generations in the waters of the State.

8. Article XI, Section 3, of the Hawai'i State Constitution requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands.

9. The Commission has considered Article XI, section 3, of the Hawai'i State Constitution and finds that the Project is in compliance and non-violative therewith.

10. Article XII, Section 7, of the Hawai'i State Constitution requires the State to protect Native Hawaiian traditional and customary rights. The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by ahupua'a tenants who are

descendants of Native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.

11. The Commission has considered Article XII, Section 7, of the Hawai'i State Constitution and finds that the Project is in compliance and non-violative therewith.

12. The State, Counties and their agencies are obligated to protect the reasonable exercise of customarily and traditionally exercised Native Hawaiian rights to the extent feasible. *Public Access Shoreline Hawai'i v. Hawai'i County Planning Commission*, 79 Hawai'i 425, 903 P.2d 1246 (1996). The Commission has considered such responsibilities and obligations and finds the Project to be consistent and non-violative therewith.

13. The Commission is empowered to preserve and protect customary and traditional rights of Native Hawaiians. *Ka Pa'akai O Ka 'Aina v. Land Use Commission*, 94 Hawai'i 31. The Commission has considered such responsibilities and obligations and finds the Project to be consistent and non-violative therewith.

14. The Commission finds the DPP and the Applicant have satisfied the Notice requirements contained in HRS, Section 205-6 and Rules of the Planning Commission, Chapter 2, Subchapter 4.

15. The proposal would permit the Applicant to conduct uses not normally permitted in the State Land Use Agricultural District to financially support the maintenance and expansion of agricultural operations and preserve the open-spaces and green landscape of the almost 4,000 acres of land managed by the Applicant.

16. The proposal is in compliance with relevant State and City policies and no adverse public infrastructure impacts are anticipated. Thus, Project is “unusual and reasonable” as set forth in HRS, Section 205-6, and the five guidelines pursuant to Rules of the Planning Commission, Section 2-45.

DECISION AND ORDER

Having duly considered the complete record in this matter and the oral arguments presented by the Applicant in this proceeding, and a motion having been duly made and seconded at a meeting conducted on October 18, 2023, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by the Planning Commission of the City and County of Honolulu (“PC”) Rules of the Planning Commission, Section 2-46, and there being good cause for the motion, the PC hereby APPROVES the Application, subject to the conditions listed below.

The uses allowed under Special Use Permit (“SUP”) 85/SUP-2 and all associated conditions are superseded by this SUP, File No. 2022/SUP-4.

The conditions are as follows:

1. Uses permitted by this SUP in the Petition Area will be as follows: at Kualoa Ranch Headquarters, the display and sales of non-agricultural products and an expansion of the existing parking lot for a total of 306 standard stalls, eight American with Disabilities Act compliant parking stalls, and 10 coach bus stalls; at Battery Cooper, existing vehicle parking and staging for the movie exhibit; and at the Palikū Gardens, and Kualoa Ranch Headquarters, the allowance of weddings and private

events. The extent of allowed uses shall not go beyond representations made by the Applicant in the Petition and during the PC hearings.

2. The Applicant shall submit a metes and bounds description of the Petition Area to the Department of Planning and Permitting (DPP) for review and approval within ninety (90) days following an approval from the PC. The area of the metes and bounds description and survey map shall not exceed the representations made by the Applicant in the Petition and all uses approved by this SUP shall fall within the area described by the approved metes and bounds description and map.

3. Prior to building permit approval for new structures, the Applicant shall be responsible for obtaining:

(a) An approved major or minor modification to the existing Conditional Use Permit ("CUP"), 85/CUP-2, to reflect the current levels of operation at the Kualoa Ranch. The CUP must clearly describe all existing activities approved under 85/CUP-2, how the new activities will be integrated with the existing uses, and how the collective operations and their total impacts will be mitigated. A presentation to the Ko'olau Loa Neighborhood Board #28 and Kahalu'u Neighborhood Board #29 is required before the CUP application is submitted to the DPP.

(b) An approved outdoor lighting plan with catalog cuts showing exterior fixtures are fully shielded and that the level of lighting in lumens is appropriate for its intended use. Outdoor light fixtures should have a color temperature of no greater than 3,000 degrees Kelvin to protect wildlife, human health, and the night sky. The outdoor lighting plan should apply dimming or motion controls during night time hours.

(c) An approved archaeological monitoring plan meeting the requirements of the Hawai'i Administrative Rules, Section 13-279-4, for the portions of the Project related to the Kualoa Ranch Headquarters survey area. Evidence of the State Historic Preservation Division's approval of the monitoring plan shall be submitted to the DPP.

4. The Applicant shall be restricted to hosting no more than one (1) wedding or private event each day, but not to exceed six (6) per week. Weddings and private events at each site shall be limited as follows: Palikū Gardens and Ranch House Pavilion and Garden shall have hours of operation limited to 9:00 a.m. to 10:00 p.m. daily with no more than 200 guests.

5. To assist the DPP in monitoring the growth of agricultural pursuits being assisted by the Kualoa Ranch's diversified income streams, the Applicant shall provide an Agricultural Plan detailing plans to expand agricultural production. The Agricultural Plan shall include, but not be limited to, a description of short- and long-term goals related to the expansion of agricultural pursuits at the Kualoa Ranch, as well as the identification of performance indicators to measure the achievement of such goals. The first Agricultural Plan shall be submitted to the DPP for review and approval within one (1) year after the date of the PC's Decision and Order.

An updated Agricultural Plan shall be submitted to the DPP for review and approval every five (5) years thereafter. Information requested by the DPP related to the Agricultural Plan shall be provided by the Applicant in an Annual Compliance Report. If at any time the Director of the DPP determines that the Applicant is not putting forth a good faith effort to achieve the goals established in the approved

Agricultural Plan, the PC shall determine whether probable cause exists to re-evaluate the SUP pursuant to Rules of the PC, Section 2-50 of the related to re-evaluation and revocation.

6. To formalize representations made to the DPP during the processing of this SUP, the Applicant shall discontinue hosting “large special events”, defined as “special events” of 500 attendees or more. “Special events” are events, such as races and farm fairs, that are not part of usual Kualoa Ranch activities. For all other “special events”, parking shall be accommodated at the Kualoa Ranch Headquarters parking lot, rather than in Ka‘a‘awa Valley. In order to hold “special events” of under 500 attendees, the Applicant shall request to make a presentation of the “special event” to the Ko‘olau Loa Neighborhood Board #28 and the Kahalu‘u Neighborhood Board #29. Both neighborhood boards shall be given the opportunity to approve the event. Weddings and private events approved by this SUP are not considered “special events”.

7. The Applicant shall establish a hotline and a dedicated email address for immediate and prompt responses to questions, concerns, or comments from the community and other stakeholders.

8. On or before December 31 of each year following the year the SUP is approved, the Applicant or its successor, must file an Annual Compliance Report with the DPP, and present that report in person to the PC for the first three years, that demonstrates the Applicant’s compliance with each condition of approval. The Annual Compliance Report shall also include:

(a) Consistent performance measures to track the achievement of the Agricultural Plan’s long- and short-term goals; a narrative on the successes and

challenges of the Ranch's agricultural pursuits; yearly summaries of agricultural production and operations; and the number of staff dedicated solely to agricultural endeavors compared with the number of total staff.

(b) A complete list of complaints received from the telephone hotline, or other means, and the Applicant's actions to resolve complaints.

9. The Applicant shall implement recommendations from the Traffic Impact Assessment, at no cost to the State, and before the issuance of the Kualoa Ranch Headquarters certificate of occupancy, of which includes:

(a) Widening the Kualoa Ranch driveway to provide separate left-turn and right-turn lanes at Kamehameha Highway.

(b) Widening the Kualoa Ranch driveway to accommodate the bus turning movements to and/or from Kamehameha Highway.

(c) Implementing special event traffic control plans, as necessary.

10. The Applicant shall establish the proposed uses in substantial compliance with the representations made to the PC in obtaining the SUP and in the application submission. Failure to do so may result in the revocation of the permit.

11. Major modifications to: (1) The approved site plan; (2) Amendments to the conditions of approval; (3) Any increases in acreage of the Petition Area; or (4) Change in approved uses stated herein, will be subject to the review and approval of the PC. Minor modifications, including minor additions to accessory uses and structures in the approved area, are subject to review and approval by the Director of the DPP.

12. The Applicant shall notify the Director of the DPP and the PC of any changes in uses in the Petition Area; termination of any uses in the Petition Area;

and/or transfer in ownership of the Petition Area or any uses in the Petition Area. The PC shall then, in consultation with the Director of the DPP, determine the appropriate disposition of this SUP.

13. Whenever the PC shall have reason that there has been a failure to perform according to the conditions imposed, the PC shall issue and serve upon the party bound by the conditions an order to show cause why the change granted for the property should not be revoked, per Rules of the PC, Section 2-48.

DATED: Honolulu, Hawai'i, Dec. 15, 2023.

PLANNING COMMISSION
CITY AND COUNTY OF HONOLULU
STATE OF HAWAII

By: 

Pane Meatoga III
Chair

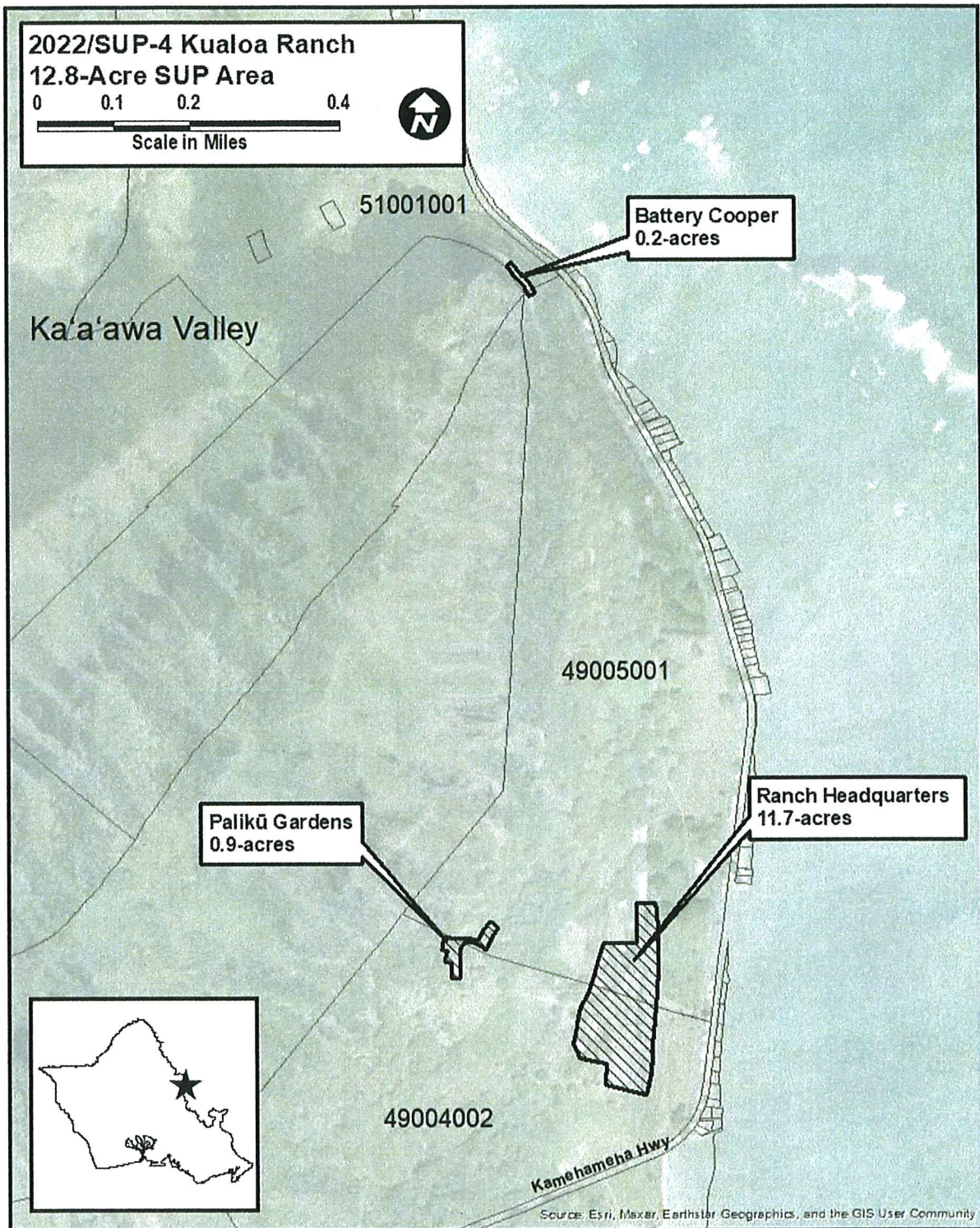


EXHIBIT A