



KA'ANAPALI COFFEE FARMS
FARM DWELLING SITE RULES AND GUIDELINES

[Amended and Restated Effective February 5, 2021]

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[Table of Contents amended 06/22/11; amended 01/17/13; amended 02/05/21]

1. INTRODUCTION

Ka'anapali Coffee Farms is a private agricultural community that weaves contemporary island living into the rich farming culture of West Maui. These Ka'anapali Coffee Farms Farm Dwelling Site Rules and Guidelines have been prepared and adopted pursuant to the Agricultural Lease to assist the Agricultural Lease Compliance Committee in the process of conducting design review of proposed farm dwellings and other accessory structures within this contemporary agricultural framework and to assure compliance with the Subdivision Declaration and Agricultural Lease.

These Farm Dwelling Site Rules and Guidelines supplement other documents and requirements affecting the Ka'anapali Coffee Farms. These include, without limitation, the following:

- o Various federal, state and county statutes, ordinances, plans, codes, rules, regulations and standards;
- o The Subdivision Declaration;
- o The Agricultural Lot Purchase Agreement;
- o The Agricultural Lease; and
- o The Agricultural Lot Plot Plan.

2. KA`ANAPALI - AN HISTORICAL OVERVIEW

Ka'anapali has a history as rich and bountiful as its land, water, and sea. Ancient Hawaiian villages were alive with artistry and culture. Vast sugar plantations fostered tight-knit communities of workers' families. The sunny shores, views of three other islands and a stunning mountain backdrop lured tourists long before the world's first beach resort was built here. Indeed, where nature provides so much, people have grown and prospered with plenty of time to play.

In their legends and chants, Hawaiians reveal sharp attention to nature and its workings. The Kumulipo creation chant describes the natural world and the first movements of life, naming every creature visible to the naked eye.

Hawaiians passed down their observations in stories. Their chants and mele depict a cosmos of invention and cyclical creation and renewal. They tell the story of their Islands being pulled up from the sea by the demi-god Maui, condensing geologic reality into a poetic version that applauded strength, bravery and perseverance. Other tales like those of Pele give narrative shape to volcanic eruptions, dusty craters, and black fields of rock.

Pele touched many places on Maui before making her permanent home at Kilauea on the island of Hawai'i. On Maui, she buried her fire stick first at Pu'u Keka'a, just south of Ka'anapali. Chased out by her sister Namakaokaha'i, Pele left her footprint at Pu'u Laina, not far away. She then found temporary shelter at Haleakala, but was eventually shut out there too. Maui's south shore last experienced Pele's wrath in the late 1700s when an eruption changed the coastline at what is now called La Perouse Bay.

Stories abound throughout the Ka'anapali area. The Pohaku Moemoe, or Sleeping Stone, marks the adventures of Maui and his lazy friend, Moemoe. Industrious, ambitious Maui set off to snare the sun above Haleakala, ignoring Moemoe's advice to first rest and relax. After successfully slowing the sun, Maui helped his friend sleep peacefully forever by turning him to stone.

On the south side of Ka`anapali, guardian spirits in the form of owls live at Ke Ana Pueo (Owl Cave). One of the spirits named Wahine Pe`e saved the lives of innocents held for sacrifice at the temple. One day Wahine Pe`e was hailed by a small girl who had seen her brother Ka`ili dragged off to the temple by warriors. Wahine Pe`e found Ka`ili, untied him, and taught him to walk backwards to leave a false trail. Once the warriors learned of Ka`ili's escape, they followed his footsteps but came to a dead end at the temple. Ka`ili and his sister returned safely to their family. Pohaku Pe`e stands near Pohaku Moemoe, holding the enduring spirit of Wahine Pe`e.

In this part of the island, Pu`u Keka`a is also known as `uhanalele, or the soul-leaping place of Maui. It was here, at Black Rock, that chief Kahekili jumped into the sea, proving his bravery and ability to lead.

Maui's economy depended on sugar for decades. In West Maui, Pioneer Mill Company, Limited was the primary sugar grower and processor. When high labor costs began to diminish sugar industry profits in the years following World War II, tourism was the new industry rising to take its place.

On Maui, tourism had a weak start due to the arduous nature of travel. Inter-island steamship service started in 1852 with the Constitution crossing the channel between O`ahu and Lahaina. At Lahaina, passengers were rowed ashore then continued the journey by horse or on foot. Railroads on plantations hauled sugarcane but weren't used at this time for passenger service.

In 1923, the first modern inter-island passenger ship - Haleakala - was christened. It carried 300 passengers and offered first-class staterooms with private baths and Irish linen for passage from Honolulu. Travel by sea became comfortable but it remained expensive. In 1927, Maui saw only 428 visitors.

The airplane brought dramatic change to tourism on Maui. Inter-island service began in 1929 - the flight from Honolulu to Ma`alaea airfield took 75 minutes - and by the 1950s, Maui was receiving 10,000 tourists each year. With the sugar industry now declining rapidly, sugar plantations looking for alternatives for their lands turned to tourism.

American Factors (known commonly as "Amfac"), a Hawaiian company that traced its roots to the 1800s, had accepted sugar company stock during tough times for sugar growers. By the early 1900's, Amfac was a shareholder of Pioneer Mill, which by 1940, held 15,000 acres of sugar land in West Maui; by 1961 Amfac owned 100% of Pioneer Mill. Amfac had long considered converting its agricultural lands to urban resort use. Pioneer Mill's extensive sugar interests in West Maui included Ka`anapali's white sand beaches and also featured views of Lana`i and Moloka`i, perennially sunny lands sloping toward the mountains, and easy access to historically picturesque Lahaina, where the mill itself was located.

As early as 1953, Amfac studied the possibility of building an unplanned tourist destination resort that would contain everything in one location: accommodations, beaches, restaurants, shops, golf courses. In 1959, Amfac broke ground for its first hotel at Ka`anapali. In 1962 the first of two golf courses opened and since that time has consistently sparked development of a true tourist industry on Maui.

Today, the Ka`anapali area is acknowledged as one of the first master-planned resort communities in the world and competes with Waikiki as a top tourist destination in the State of Hawai`i.

[Section 2 amended 06/22/11]

3. DEFINITIONS

Certain words and phrases appear throughout these Design Guidelines with the initial letter of the word or words capitalized. Unless defined elsewhere in these Design Guidelines or unless the context clearly requires otherwise, the words set forth in these Design Guidelines shall have the meanings defined and/or described below.

[Section 3 introduction amended 02/05/21]

3.1. Agricultural Lease means that certain Ka`anapali Coffee Farms (Phase 1) Agricultural Lease (Phase 1) dated June 26, 2006, a memorandum of which is recorded at the Bureau of Conveyances of the State of Hawaii as Document No. 2006-132211, made by and among PM Land, Declarant, and the Lot Owners Association (as Farming Tenant), as it may be amended or extended in accordance with the terms thereof.

[Section 3.1 amended 06/22/11]

3.2. Agricultural Lease Compliance Committee or ALCC means the committee established by the Subdivision Declaration which reviews and approves, disapproves, or conditionally approves all plans, submittals, applications, and requests made or tendered to it to construct Improvements on the Farm Dwelling Sites or the Driveway Areas by Agricultural Lot Owners pursuant to the provisions of the Agricultural Lease, the Subdivision Declaration and these Design Guidelines.

3.3. Agricultural Lot or Agricultural Lots means the subdivided lots within the Project intended for agricultural activities and designated as such in the Subdivision Declaration.

3.4. Agricultural Lot Owner means the owner(s) of each Agricultural Lot, other than PM Land or Declarant.

3.5. Agricultural Lot Plot Plan refers to the plot plan for each Agricultural Lot, as described in and pursuant to the Agricultural Lease, as it may be modified from time to time in accordance with the Agricultural Lease.

3.6. Agricultural Lot Purchase Agreement refers to the respective Ka`anapali Coffee Farms Agricultural Lot Purchase Agreement entered into by and between the Agricultural Lot Owner and PM Land for the purchase of the Agricultural Lot.

3.7. ALCC Administrator shall have the meaning set forth in Section 11.5.5.

[Section 3.7 added 02/05/21]

3.8. Architect means a professional architect duly licensed in the State of Hawaii.

[Section 3.8 originally appeared as Section 3.7; Section 3.7 re-numbered as Section 3.8 02/05/21]

3.9. BMP means Best Management Practices.

[Section 3.6 originally appeared as Section 3.8; Section 3.8 re-numbered as Section 3.9 02/05/21]

3.10. Civil Engineer means a professional engineer duly licensed in the State of Hawaii.

[Section 3.10 originally appeared as Section 3.9; Section 3.9 re-numbered as Section 3.10 02/05/21]

3.11. Common Areas means those areas defined as Common Areas in the Subdivision Declaration.

[Section 3.11 originally appeared as Section 3.10; Section 3.10 re-numbered as Section 3.11 02/05/21]

3.12. Declarant means the "Declarant" under the Subdivision Declaration, Kaanapali Development Corp., now known as Kaanapali Land Management Corp., a Hawaii corporation, and its successors or assigns.

[Section 3.12 originally appeared as Section 3.11 Section 3.11 amended 06/22/11; Section 3.11 re-numbered as Section 3.12 02/05/21]

3.13. Design Guidelines means these Farm Dwelling Site Rules and Guidelines, as may be amended.

[Section 3.13 originally appeared as Section 3.12; Section 3.12 re-numbered as Section 3.13 02/05/21]

3.14. Design Review Application means the application submitted to the ALCC pursuant to Section 6. See Addendum "A" for the Design Review Application form.

[Section 3.14 originally appeared as Section 3.13; Section 3.13 amended 01/17/13; Section 3.13 re-number as Section 3.14 02/05/21]

3.15. Driveway Area means the area (if any) of each Agricultural Lot designated for a driveway connecting the Farm Dwelling Site with the Project roadways and any common driveways, as designated and shown on each Agricultural Lot's Agricultural Lot Plot Plan, and which has been relinquished from use and possession by the Farming Tenant pursuant to and in accordance with the Agricultural Lease.

[Section 3.15 originally appeared as Section 3.14; Section 3.14 re-numbered as Section 3.15 02/05/21]

3.16. Enclosed Area refers to the size of the area measured in gross square feet, but not including areas covered by roofing but which are otherwise open on at least three sides.

[Section 3.16 amended 02/05/21]

3.17. Farm Dwelling means a building or structure constructed on a Farm Dwelling Site as a "farm dwelling" in compliance with HRS Chapter 205 and MCC Title 19, and in accordance with the Agricultural Lease.

[Section 3.17 originally appeared as Section 3.15. Section 3.15 was renumbered to Section 3.17 02/05/21]

3.18. Farm Dwelling Site refers to the area within each Agricultural Lot designated as such on each Agricultural Lot Plot Plan, and which has been relinquished from use and possession by the Farming Tenant pursuant to and in accordance with the Agricultural Lease.

[Section 3.18 originally appeared as Section 3.16. Section 3.16 was renumbered to Section 3.18 02/05/21]

3.19. Farm Dwelling Site Removal Date refers to the date a Farm Dwelling Site and corresponding Driveway Area within an Agricultural Lot is relinquished from use and possession by the Farming Tenant pursuant to and in accordance with the Agricultural Lease.

[Section 3.19 originally appeared as Section 3.17. Section 3.17 was renumbered to Section 3.17 02/05/21]

3.20. Farm Land means that portion of each Agricultural Lot excluding the Farm Dwelling Site and Driveway Area.

[Section 3.20 originally appeared as Section 3.18. Previous Section 3.18 amended 06/22/11; Section 3.18 was renumbered to Section 3.20 02/05/21]

3.21. Farming Tenant means the Lot Owners Association, in its capacity as tenant under the Agricultural Lease.

[Section 3.21 originally appeared as Section 3.19. Section 3.19 was renumbered to Section 3.21 02/05/21]

3.22. Final Inspection Survey means the survey commissioned by the Agricultural Lot Owner prepared by a Surveyor, which fully documents the "as-built" conditions and construction on the Agricultural Lot, as described in Section 6.14.

[Section 3.22 originally appeared as Section 3.20. Previous Section 3.20 amended 01/17/13; Section 3.20 was renumbered to Section 3.22 02/05/21]

3.23. Final Review means the process of final review by the ALCC as specified in Section 6.8.

[Section 3.23 originally appeared as Section 3.21. Previous Section 3.21 amended 01/17/13; Section 3.21 was renumbered to Section 3.23 02/05/21]

3.24. Final Transition Date means the date until which the Declarant will maintain control over the Lot Owners Association, as provided in the Subdivision Declaration.

[Section 3.24 originally appeared as Section 3.22. Section 3.22 was renumbered to Section 3.24 02/05/21]

3.25. General Contractor means a contractor duly licensed as a General Building Contractor in the State of Hawaii, and whose principal place of business is located on Maui (unless otherwise approved by the ALCC).

[Section 3.25 inserted 02/05/21]

3.26. HRS Chapter 205 means Hawaii Revised Statutes Chapter 205, as may be amended from time to time.

[Section 3.26 originally appeared as Section 3.23. Section 3.23 was renumbered to Section 3.26 02/05/21]

3.27. Improvement means any building, structure, parking area, fence, wall, hedge, shrub, tree, landscaping feature, planting, pole, driveway, sign, changes in any exterior color or shape, grading and all other site work, including, without limitation, excavation, embankment, road construction, utility improvements, removal of trees or plantings and so forth, and any new exterior construction or exterior improvement which may not be included in the foregoing. "Improvement" does not include turf, shrub, or tree repair or replacement of a magnitude which does not change exterior colors or exterior improvements. "Improvement" does include both original improvements and all alterations.

[Section 3.27 originally appeared as Section 3.24. Section 3.24 was renumbered to Section 3.27 02/05/21]

3.28. Landscape Architect means a professional landscape architect duly licensed in the State of Hawaii.

[Section 3.28 originally appeared as Section 3.25. Section 3.25 was renumbered to Section 3.28 02/05/21]

3.29. Kope North means Ka`anapali Coffee Farms Agricultural Lot 53-A within the Project, and all Agricultural Lots, if any, subdivided therefrom in accordance with the Subdivision Declaration and applicable Supplemental Declaration(s).

[Section 3.29 inserted 02/05/21]

3.30. Lot Owners Association or LOA means the Ka`anapali Coffee Farms Lot Owners Association, a Hawaii nonprofit corporation, its successors and assigns, formed or to be formed for the purposes described in the Subdivision Declaration and in the articles of incorporation and the bylaws of the Lot Owners Association.

[Section 3.30 originally appeared as Section 3.26. Section 3.26 was renumbered to Section 3.30 02/05/21]

3.31. Maximum Actual Building Height means the limitation of building height of structures on an Agricultural Lot, specified in Section 8.6.

[Section 3.31 originally appeared as Section 3.27. Section 3.27 was renumbered to Section 3.31 02/05/21]

3.32. Mokka Point means Ka`anapali Coffee Farms Agricultural Lots 11-A, 12-A, 13, 14, 15 and 52-A within the Project.

[Section 3.32 inserted 06/22/11 as Section 3.28; amended 01/17/13; Section 3.28 was renumbered to Section 3.32 02/05/21]

3.33. MCC Title 19 means Maui County Code Title 19, as may be amended from time to time.

[Section 3.33 originally appeared as Section 3.28. Section 3.28 was renumbered to Section 3.29 01/17/13; Section 3.29 was renumbered to Section 3.33 02/05/21]

3.34. PM Land means PM Land Company, LLC, a Delaware limited liability company.

[Section 3.34 originally appeared as Section 3.29. Section 3.29 was renumbered to Section 3.30 01/17/13; re-numbered to Section 3.34 02/05/21]

3.35. Project and Ka`anapali Coffee Farms shall each mean the planned development created by and subject to the Subdivision Declaration, as well as all of the Improvements now or hereafter located thereon as described in the Subdivision Declaration and any Supplemental Declaration.

[Section 3.35 originally appeared as Section 3.30. Section 3.30 was renumbered to Section 3.31 and amended 01/17/13; Section 3.31 was re-numbered to 3.35 02/05/21]

3.36. Schedule of Fees means the schedule of fees set out on Addendum "D", as the same may be amended from time to time pursuant to Section 11.13.

[Section 3.36 inserted as Section 3.32 01/17/13; Section 3.32 was re-numbered to Section 3.36 and amended 02/05/21]

3.37. Subdivision Declaration means that certain Ka`anapali Coffee Farms Declaration of Covenants, Conditions and Easements dated June 26, 2006, recorded at the Bureau of Conveyances of the State of Hawaii as Document No. 2006-132210 and any Supplemental or Amended Declaration.

[Section 3.37 originally appeared as Section 3.31; Section 3.31 was amended 06/22/11; Section 3.31 was renumbered as Section 3.33 01/17/13; Section 3.31 was renumbered to Section 3.37 02/05/21]

3.38. Supplemental Declaration is as defined in the Subdivision Declaration.

[Section 3.38 inserted 02/05/21]

3.39. Surveyor means a professional land surveyor duly licensed in the State of Hawaii.

[Section 3.39 originally appeared as Section 3.32; Section 3.32 was renumbered to Section 3.34 01/17/13; Section 3.34 was re-numbered to Section 3.39 02/05/21]

4. PURPOSE – LIMITING CONDITIONS

These Design Guidelines are adopted pursuant to the Agricultural Lease, and set forth certain regulations, restrictions, architectural and construction standards, and design guidelines and procedures applicable to construction and other activities within each Farm Dwelling Site and associated Driveway Area by an Agricultural Lot Owner. These Design Guidelines are intended to ensure compatibility of the Farm Dwelling, and use by the Agricultural Lot Owner of the Farm Dwelling Site, with the Project's purpose as an agricultural subdivision and the Farming Tenant's interests pursuant to the Agricultural Lease.

As provided in the Agricultural Lease, no Agricultural Lot Owner shall install, construct, reconstruct, refinish, alter or maintain any structure or other improvement (including utility lines or conduits) on such Owner's Agricultural Lot (or apply for any governmental permit in connection therewith), make any excavation, or cut or remove any trees from such Agricultural Lot, or do any act that would affect the drainage onto or from such Agricultural Lot, until the Agricultural Lot Owner first obtains written approval from the Agricultural Lease Compliance Committee pursuant to the Subdivision Declaration and in compliance with these Design Guidelines.

These Design Guidelines supplement the Agricultural Lease, and shall not be deemed or interpreted to limit the effect of any provision of the Agricultural Lease or the Subdivision Declaration.

These Design Guidelines, as amended from time to time in accordance with the Agricultural Lease, are binding on all Agricultural Lot Owners, and each Agricultural Lot Owner is required to comply with these Design Guidelines. Any failure to comply with these Design Guidelines is subject to the remedies provided in the Agricultural Lease, the Subdivision Declaration and these Design Guidelines, as applicable.

IMPORTANT NOTICE: The Project, including each Agricultural Lot, is located within the State of Hawaii agricultural land use district, pursuant to HRS Chapter 205, and within the County agricultural zoning district, pursuant to MCC Title 19. For so long as such designations remain in effect and applicable, all uses of Agricultural Lots shall be in compliance with applicable provisions of HRS Chapter 205 and MCC Title 19 relating to permissible uses within the agricultural districts. Without limiting the generality of the foregoing or any provision of the Agricultural Lease, any dwelling constructed or to be constructed on an Agricultural Lot must qualify as a Farm Dwelling, and must comply with HRS Chapter 205 and MCC Title 19 relating to agricultural districts, and civil penalties may be imposed against the Agricultural Lot Owner for non compliance with HRS Chapter 205 and/or MCC Title 19. These Design Guidelines are not intended to assure compliance with HRS Chapter 205 or MCC Title 19, and neither Declarant nor the Agricultural Lease Compliance Committee makes any representations, warranties or other assurances whatsoever relating to compliance with HRS Chapter 205 or MCC Title 19, including the ability of the Agricultural Lot Owner to construct or maintain a Farm Dwelling on the Agricultural Lot.

[Section 4 amended 01/17/13]

5. AGRICULTURAL LEASE COMPLIANCE COMMITTEE

5.1. Purpose and Function. The Agricultural Lease Compliance Committee (“ALCC”) is established pursuant to the Subdivision Declaration to manage and administer the mutual interests of the Agricultural Lot Owners under the Agricultural Lease, and for the purpose of perpetuating the Project as a cohesive agricultural community. As provided in the Subdivision Declaration, the ALCC shall interpret and implement these Design Guidelines.

[Section 5.1 amended 01/17/13]

5.2. Scope of Responsibility and Powers. As provided in the Subdivision Declaration, the ALCC shall review and approve, disapprove, or conditionally approve all plans, submittals, applications and requests made or tendered to it by Agricultural Lot Owners or the Board pursuant to or in accordance with the Agricultural Lease, the Subdivision Declaration and these Design Guidelines. In connection therewith, the ALCC may investigate and consider the design, layout, landscaping, architecture, drainage plans and implications, and other features of all proposed Improvements to or within a Farm Dwelling Site.

5.3. No Liability for Approval or Conditions; Waiver; Indemnity. No approval of or conditions imposed in connection with any approval of plans or specifications by the ALCC shall be construed as representing or implying that (i) such plans and specifications will result in properly designed Improvements if followed, or (ii) any Improvement built in accordance therewith are built in a good and workmanlike manner, or (iii) such Improvements will comply with applicable laws, ordinances and regulations, including without limitation, HRS Chapter 205 and MCC Title 19. Neither the Lot Owners Association, the ALCC, PM Land nor Declarant assumes any liability or responsibility in connection with the review and approval of any plans and specifications, or for assuring compliance with these Design Guidelines, or for any defect in any Improvements constructed or installed from such plans and specifications and the Agricultural Lot Owner waives any claims in connection therewith against the Lot Owners Association, the ALCC, PM Land and Declarant and the officers, directors, shareholders, members, managers, employees, consultants and agents of any of them (the “Association-Related Entities”). The Agricultural Lot Owner shall defend (using legal counsel acceptable to the LOA and the ALCC), indemnify, and hold harmless the LOA, the ALCC and the LOA-Related Entities from and against, and reimburse the LOA, the ALCC and the LOA-Related Entities for, any and all actual or alleged claims, damages, expenses, costs, fees (including, but not limited to, attorney, accountant, paralegal, expert, and escrow fees), fines and/or penalties (collectively “Costs”) which may be imposed upon, claimed against or incurred or suffered by the LOA, the ALCC and/or the LOA-Related Entities and which, in whole or in part, directly or indirectly, arise from or are in any way connected with any of the following, except to the extent resulting from the gross negligence or willful misconduct of the LOA or the ALCC: (a) any act, omission or negligence of the Agricultural Lot Owner or the Agricultural Lot Owner’s partners, officers, directors, agents, employees, invitees or contractors; (b) any application for approval from the ALCC; (c) any approval or condition of approval given or imposed by the ALCC or any denial of approval; (d) any grant or denial of any request for a variance; (e) any condition or requirement imposed in these Design Guidelines with respect to any construction activities on or about the Agricultural Lot or with respect to the construction of any Improvement on any Agricultural Lot; (f) any condition existing on or created in or about the Agricultural Lot by any Person; (g) any defect in any construction of any Improvements on the Agricultural Lot, (h) any accident, personal injury, including death, or property damage occurring on or about the Agricultural Lot arising out of or in connection with any Improvement constructed on any Agricultural Lot or any construction activities on or about the Agricultural Lot; and (i) any breach, violation or nonperformance of any of Agricultural Lot Owner’s obligations under these Design Guidelines.

[Section 5.3 amended 01/17/13]

5.4. Consultants. The ALCC may hire and pay consulting architects, landscape architects, engineers, inspectors and/or attorneys in order to advise and assist the ALCC in performing its duties, the costs of which may be charged to an Agricultural Lot Owner in connection with a specific Design Review Application or other request for approval in addition to any other fees and costs that the ALCC may charge under these Design Guidelines.

[Section 5.4 inserted 01/17/13; amended 02/05/21]

5.5. Basis for Approval of Improvements. As provided in the Subdivision Declaration, the Agricultural Lease Compliance Committee may approve plans and specifications submitted to it only if the Agricultural Lease Compliance Committee finds, without limitation, that:

5.5.1. Such plans and specifications conform in all respects with the Agricultural Lease, including without limitation, the Agricultural Lot Plot Plan and these Design Guidelines, subject only to duly approved variances in accordance with the Subdivision Declaration, the Agricultural Lease and these Design Guidelines.

5.5.2. Such plans and specifications conform in all respects with the Project Drainage Plan, established in accordance with Section 9.03 of the Subdivision Declaration.

5.5.3. Such plans and specifications conform in all respects with applicable provisions of any Cultural Resource Preservation Plans adopted by Declarant under the Declaration.

5.5.4. Such plans and specifications provide for appropriate connection to and use of the Irrigation Distribution System and the Potable Water System established under the Subdivision Declaration and other applicable rules and requirements.

5.5.5. Such plans and specifications provide for appropriate wastewater disposal, in accordance with County and other applicable rules and requirements.

[Section 5.5 inserted 01/17/13]

6. DESIGN REVIEW PROCEDURES

6.1. Introduction. The following is an outline of the procedures for plan submissions for site development and the construction of Farm Dwellings and accessory structures within the Project.

6.1.1. All projects shall be either a "Major Project" or a "Minor Project", as determined in accordance with Section 6.1.2 below. Minor Projects are subject to an abbreviated procedure and submittal package, as determined by the ALCC in consultation with the Agricultural Lot Owner.

6.1.2. The ALCC reserves the right to evaluate the project value, the nature of the project and its anticipated impact on other properties and projects to determine whether a project is a Major Project or a Minor Project, subject to the following:

6.1.2.1. All initial applications for a Farm Dwelling, Farming Shed and/or Accessory Farm Dwelling shall be a Major Project, whether submitted individually or in combination, and regardless of individual or combined value of the structures.

6.1.2.2. Projects that are greater than \$100,000 in value (the "Major Project Threshold") are not eligible to be considered a Minor Project. The Major Project Threshold shall automatically adjust as of January 1 of each year (each, an "Adjustment Date") by

a percentage equal to the percentage increase in the CPI U (defined below) over the CPI Measurement Period (defined below); provided, however, the Major Project Threshold shall never decrease. For the purposes of these Design Guidelines, "CPI-U" shall mean the "Consumer Price Index – All Urban Consumers, All Items (Honolulu, HI) (1982-84=100)" published by the Bureau of Labor Statistics of the United States Department of Labor, using the respective CPI-U values published nearest and prior to the beginning and end dates of the relevant CPI Measurement Period. The "CPI Measurement Period" shall be the one-year period that ends on December 31 before the applicable Adjustment Date. If the CPI-U base year 1982-84 (or other base year for a substituted index) is changed, the denominator figure used in making the computation in this Section 6.1.2.2 shall accordingly be changed so that all increases in the CPI U from the first day of the CPI Measurement Period are taken into account notwithstanding any such change in such CPI-U base year. For purposes of this Section 6.1.2.2, "value" shall be the estimated construction cost thereof, supported, if requested by the ALCC, by a written estimate provided by the General Contractor.

6.1.3. All plans shall be submitted by mail or personal delivery to the ALCC, in care of Ka'anapali Coffee Farms, 275 Lahainaluna Road, Lahaina, HI 96761.

6.1.4. Each Agricultural Lot Owner should review the following relevant documents in connection with these Design Guidelines:

- o Agricultural Lot Purchase Agreement;
- o Agricultural Lease;
- o Subdivision Declaration; and
- o Agricultural Lot Plot Plan.

[Section 6.1 amended 01/17/13; amended and divided into subsections 02/05/21]

6.2. Retain Licensed Professional Design Consultants and Construction Supervision. Each Agricultural Lot Owner in the Project is required to select and engage the services of an Architect, Landscape Architect, Civil Engineer, and Surveyor (and Structural Engineer as required) for design consultation and plan preparation, and to select and engage a General Contractor as the responsible person to oversee and supervise the building process. The General Contractor shall have adequate work experience for the design and/or construction supervision of Improvements within the Farm Dwelling Site and Driveway Area of the Agricultural Lot Owner's Agricultural Lot, and be in good standing with the LOA and Declarant (i.e. no uncured, or history of, violations or citations relating to past or pending construction within the Project or other Declarant projects).

[Section 6.2 amended 06/22/11; amended 02/05/21]

6.3. Design Submittals.

6.3.1. Seal of Design Consultant: All design submittals to the ALCC shall bear the seal and signature of the design professional responsible for the materials submitted. Professional seals shall be of an owner, officer, or principal of the firm responsible for the work. Design work performed by unlicensed individuals or firms which bear the seal and signature of a design professional not directly related to that individual or firm as stated above will not be accepted. If required by the ALCC, the design professional sealing and signing the work may be required to demonstrate that relationship.

6.3.2. Plans: All design plans shall be provided in PDF format and on Architectural "D" size (24 inch x 36 inch) or Architectural "E1" size (30 inch x 42 inch) paper. Partial sets or odd sized submittals will not be accepted. All submittals shall be dated.

[Section 6.3.2 amended 06/22/11; amended 02/05/21]

6.4. Pre-Design Meeting. Agricultural Lot Owners are encouraged to make arrangements to meet with their Architect and the ALCC Administrator prior to commencing with the design of the project to review design and procedural requirements, and to identify the suggested limits of the Topographic Survey.

[Section 6.4 amended 06/22/11; amended 02/05/21]

6.5. Design Review Fee. A non-refundable Design Review Fee in the amount set forth in the Schedule of Fees attached hereto as Addendum "D" is due with the submittal of the Design Review Application to cover the costs of the five review phases noted in this Section 6 (conceptual, preliminary, final, construction, and final inspection). Fees for re-reviews, additional consultations, site visits, reconsiderations and appeals are charged to the Agricultural Lot Owner in accordance with the Schedule of Fees attached hereto as Addendum "D".

[Section 6.5 amended 01/17/13; amended 02/05/21]

6.6. Conceptual Review. Conceptual schematic plans shall be submitted which illustrate the design intentions and direction of the site, and building(s) development intended for the property. The following items must be submitted to the ALCC for conceptual review ("Conceptual Review") and shall include a PDF copy and one (1) set of each of the plans which, if indicated below in italics, are, prepared and stamped by the appropriate design professional duly licensed in the State of Hawaii:

- o Design Review Application – *Architect*
- o The conceptual schematic plans – *Architect*
- o A site boundary survey of the entire Agricultural Lot at 1:30 scale (the "Boundary Survey") and a separate topographic survey map of the Farm Dwelling Site and Driveway Area at 1:10 scale (the "Topographic Survey") prepared by a surveyor licensed in the State of Hawaii is required to be provided for the Conceptual Review and all subsequent review phases. – *Surveyor*

The Boundary Survey must show all property lines, the location and perimeter of the Farm Dwelling Site and Driveway Area defined by metes and bounds, and existing utilities and easements (including the site numbers for any archaeological easements within the Agricultural Lot, as depicted on the Agricultural Lot Plot Plan). The Topographic Survey should show the buildable area corner elevations (noting the referenced benchmark and datum), existing grade contours at 2 foot intervals, existing utilities and easements, and existing salient site features, including agricultural (crop) rows within and surrounding the Farm Dwelling Site and Driveway Area.

The Boundary Survey and Topographic Survey are to be used to show existing site conditions and should not be used to show intended design information.

[Section 6.6 amended 06/22/11; amended 02/05/21]

6.7. Preliminary Review. The following items must be submitted to the ALCC for preliminary review ("Preliminary Review") and shall include a PDF copy and two (2) sets of each of the plans, which, if indicated below in italics, are prepared and stamped by the appropriate design professionals duly licensed in the State of Hawaii:

- o Design Review Application- *Architect*
- o Agricultural Lot Plot Plan- *Architect*
- o Topographic and Boundary Surveys- *Surveyor*
- o Architectural Site Plan(s) following the scales of the Topographic and Boundary Surveys- *Surveyor*
- o Preliminary Landscape Plan- *Landscape Architect*
- o Preliminary Grading and Drainage Plan(s)- *Civil Engineer*
- o Preliminary BMP Plan(s)- *Civil Engineer*
- o Architectural Site Plan(s)- *Architect*
- o Architectural Floor Plans at 1/4"=1'-0" scale- *Architect*
- o Architectural Exterior Elevations at 1/4"=1'-0" scale- *Architect*
- o Architectural Roof Plan at 1/8"=1'-0" scale- *Architect*
- o Architectural Site/Building Sections at 1/8"=1'-0" scale- *Architect*
- o Preliminary Mechanical Equipment Enclosure Detail(s) at 1/2"=1'-0" scale - *Landscape Architect, Architect, Structural Engineer, Civil Engineer*
- o Preliminary Wall and Fence Detail(s) at 3/4"=1'-0" scale - *Landscape Architect, Architect, Structural Engineer*
- o Waste Water Systems Plans & Details – *Mechanical or Civil Engineer*
- o Proposed Schedule of Construction Milestones (the "Schedule of Construction Milestones "), to include estimated dates for (i) submission of materials to ALCC for Final Review under Section 6.8; (ii) submission of materials to County of Maui for building permit under Section 6.10; (iii) submission of materials to ALCC for Final Review Approval (defined below); (iv) Commencement of Construction; (v) Completion of Construction; (vi) date of occupancy; and (vii) other dates reasonably requested by the ALCC.

[Section 6.7 amended 06/22/11; amended 02/05/21]

6.8. Final Review. The following items must be submitted to the ALCC for final review ("Final Review") and shall include four sets of each of the plans, which, if indicated below in italics, are prepared and stamped by the appropriate design professionals duly licensed in the State of Hawaii:

- o Design Review Application- *Architect*
- o Agricultural Lot Plot Plan- *Architect*
- o Topographic and Boundary Surveys- *Surveyor*
- o Architectural Site Plan(s) following the scales of the Topographic and Boundary Surveys- *Surveyor*
- o Final Landscape and Irrigation Plans- *Landscape Architect*
- o Final Grading and Drainage Plan(s)- *Civil Engineer*
- o Final BMP Plan(s)- *Civil Engineer*
- o Drainage Report (or Drainage Certification Letter) – *Civil Engineer*
- o Architectural Site Plan(s)- *Architect*
- o Architectural Floor Plans at 1/4"=1'-0" scale- *Architect*
- o Architectural Exterior Elevations at 1/4"=1'-0" scale- *Architect*
- o Architectural Roof Plan at 1/8"=1'-0" scale- *Architect*
- o Architectural Site/Building Sections at 1/8"=1'-0" scale- *Architect*
- o Architectural Building Sections at 1/4"=1'-0" scale- *Architect*
- o Architectural Wall Sections at 3/4"=1'-0" scale- *Architect*
- o Final Mechanical Equipment Enclosure Detail(s) at 1/2"=1'-0" scale - *Landscape Architect, Architect, Structural Engineer, Civil Engineer*
- o Final Wall and Fence Detail(s) at 3/4"=1'-0" scale - *Landscape Architect, Architect, Structural Engineer*
- o Waste Water System Plans & Details – *Mechanical or Civil Engineer*

- o Material samples, colors, and product data as required by these Design Guidelines, including a Finish Materials Schedule - *Architect*.
- o Updated Schedule of Construction Milestones, if applicable.

[Section 6.8 amended 06/22/11; amended 01/17/13; amended 02/05/21]

6.9. Scope of Review. The ALCC will review the Design Review Application and design and other submittals for conformance with the rules, standards, guidelines, and other associated requirements set forth in the Agricultural Lease, the Subdivision Declaration, and these Design Guidelines, and return appropriate written comments. Plans that require revisions must be re-submitted for approval by the ALCC. The Final Review shall result in either an approval (the "Final Review Approval") or disapproval of the final plans by the ALCC. All approvals and comments shall be communicated only in writing to the Agricultural Lot Owner. No verbal approvals or comments shall be considered as valid.

Design approval by the ALCC in no way relieves the Agricultural Lot Owner or any other party of the responsibility of ensuring that the plans and Improvements comply with all applicable statutes, ordinances, plans, codes, rules, regulations and standards. Similarly, compliance with Maui County codes and ordinances does not relieve the Agricultural Lot Owner of the responsibility of complying with the design requirements of the ALCC.

[Section 6.9 amended 02/05/21]

6.10. Submission of Plans to the County of Maui and Final Approval.

6.10.1. Following the ALCC's approval of the Final Review plans and design materials, the Agricultural Lot Owner shall, at the Agricultural Lot Owner's expense, submit the approved plans to the County of Maui and other agencies having jurisdiction for required permits, and apply for the building permit. The Agricultural Lot Owner shall be responsible, at the Agricultural Lot Owner's expense, for providing to the County of Maui any required Farm Plan, certifications, information or other submittals required by the County of Maui in connection with applying for, obtaining or complying with the building permit.

6.10.2. Following the issuance of the building permit, the Agricultural Lot Owner shall submit a copy of the building permit and approved building plans to the ALCC for a final plan check and approval, together with written certification that the building plans, as approved by the County of Maui for purposes of the building permit, have not changed from those previously approved by the ALCC, or, if changes were made, clearly identifying any and all changes (which changes, if any, shall be subject to ALCC review and approval, and, if considered material as solely determined by the ALCC, shall be subject to re-review fee(s) pursuant to Section 6.5). The ALCC may then issue a final written approval with any and all appropriate conditions of approval (the "Final Approval"). The Final Approval shall be valid for two years from the date of Final Approval (the "Final Approval Expiration Date"), unless a longer period has been expressly set by the ALCC for the Final Approval Expiration, at its sole discretion. The Final Approval shall irrevocably expire on the Final Approval Expiration Date; provided, the Agricultural Lot Owner may, upon payment of the Request for Final Approval Extension Fee shown in the Schedule of Fees attached hereto as Addendum "D", apply in writing for a one-time, six month extension of the Final Approval Expiration Date. If Commencement of Construction (defined below) has not commenced by the Final Approval Expiration Date (as and if extended), the Agricultural Lot Owner may not Commence Construction (defined below) without re-submission of all plans and payment of all fees required by this Section 6 for Design Review, Conceptual Review, Preliminary Review, and Final Approval, as if the submissions for review and approval were being made for the first time.

[Section 6.10 amended 06/22/11; amended 01/17/13; amended and divided into sub-sections 02/05/21]

6.11. Commencement of Construction. An Agricultural Lot Owner shall not Commence Construction on an Agricultural Lot until all of the following items are completed with respect to the Improvement(s) to be constructed thereon: (i) The ALCC has issued Final Approval; (ii) the Agricultural Lot Owner has submitted the required Construction Deposit described in Section 6.12 to the Lot Owners Association; (iii) the Agricultural Lot Owner has submitted a PDF copy of the building permit and complete set of approved building plans to the ALCC; (iv) the Agricultural Lot Owner has submitted the certificate of insurance required by Section 10.18; (v) the limits of the Farm Dwelling Site have been staked/pinned by a licensed surveyor; (vi) the Agricultural Lot Owner has scheduled and completed a preconstruction meeting with the ALCC; and (vii) the Farm Dwelling Site Removal Date has passed and the Agricultural Lot Owner has complied with any and all requirements set forth in the Agricultural Lease relating to the removal of the Farm Dwelling Site and Driveway Area from the Farm Land and the Farming Tenant's operations in accordance with the Agricultural Lease. No grading, site work, placement of building materials or equipment, or temporary or permanent construction or installation of any type may take place on an Agricultural Lot until such time. For the purpose of these Design Guidelines, "Commence Construction" or "Commencement of Construction" shall mean any site work, excavation, grading, clearing and grubbing, utilities installation, setting of foundations, installation or construction of temporary or permanent structures for construction purposes, or any other construction of Improvements or on-site activities related thereto that impact the site, except for geotechnical investigative work approved in writing on a case by case basis by the ALCC. For all purposes of these Design Guidelines, the "Date of Commencement of Construction" shall be as provided in writing by the ALCC in a confirmation letter to the Agricultural Lot Owner following completion of all items listed above in this Section 6.11.

Prior to the Commencement of Construction, the Agricultural Lot Owner shall install all environmental controls as approved in the BMP plan.

[Section 6.11 amended 01/17/13; amended 02/05/21]

6.12. Construction Deposit.

Prior to Commencement of Construction, the Agricultural Lot Owner shall deposit a "Construction Deposit" in the amount set forth in the Schedule of Fees attached hereto as Addendum "D." The Construction Deposit shall be held by the LOA for the purpose of securing performance by the Agricultural Lot Owner of its obligations under these Design Guidelines, including, without limitation, the obligation to reimburse the Construction Repair Costs to the LOA and payment of any fees and/or fines charged to the Agricultural Lot Owner pursuant to the Schedule of Fees.

Without limiting any of the provisions set forth in the Agricultural Lease and/or the Subdivision Declaration, if the Construction Repair Costs are not reimbursed to the LOA, or if the Agricultural Lot Owner defaults in its obligations with respect to any of its other obligations under these Design Guidelines, the LOA shall have the right, upon written notice to the Agricultural Lot Owner, to draw from the Construction Deposit for reimbursement of any costs or expenses incurred by the LOA resulting directly or indirectly from the Agricultural Lot Owner's default, including the right to be reimbursed for Construction Repair Costs and payment of any fees charged to the Agricultural Lot Owner pursuant to the Schedule of Fees.

The Construction Deposit shall not be considered to be held in trust by the LOA for the benefit of the Agricultural Lot Owner, and shall not be considered a measure of or limitation on the LOA's damages in the case of default by the Agricultural Lot Owner under these Design Guidelines. The Construction Deposit shall not earn interest for the Agricultural Lot Owner and may be commingled with other funds of the LOA. If the LOA applies any of the Construction Deposit to any of the above and the Certificate of Completion has not yet been issued to the Agricultural Lot Owner, the Agricultural Lot Owner shall, immediately upon written demand,

replenish the Construction Deposit to its full amount. If the Agricultural Lot Owner has fully reimbursed the LOA for all Construction Repair Costs and paid all fees charged to the Agricultural Lot Owner, the Construction Deposit, or any balance remaining, will be released within thirty days from the issuance of the Certificate of Completion; provided; however, if the Agricultural Lot Owner has made application for separate initial approvals, each requiring separate Construction Deposits, the LOA shall hold all Construction Deposits until Certificates of Completion are issued by the ALCC as set forth in Section 6.15 for all Improvements submitted for approval have been issued with respect to all structures for which approval was sought and for which a Construction Deposit was required.

[Section 6.12 originally appeared as Section 11.6. Section 11.6 was moved to and renumbered as Section 6.12 06/22/11; amended 01/17/13; amended 02/05/21]

6.13. Site and Construction Review. The ALCC may conduct periodic site reviews at reasonable times and hours to observe the construction of the Improvements in relation to the design standards and approved plans. No advance notice of such site visits shall be required; provided that the ALCC shall make reasonable efforts to minimize disruption to construction or other activities occurring on the site.

Notwithstanding the foregoing, the ALCC shall not be responsible for conducting any detailed inspections to ensure compliance with the design standards and approved plans; the Agricultural Lot Owner shall be responsible for ensuring all such compliance.

If during the course of the work, the ALCC determines or has good reason to believe that the work, procedures, or methods of construction that are being performed do not meet or otherwise comply with the design standards and approved plans, written notification shall be provided by the ALCC to the Agricultural Lot Owner stating the objections, and the Agricultural Lot Owner shall (i) immediately correct the deficiencies or (ii) request a reconsideration of the ALCC's notice in accordance with Section 11.8 and halt construction of the non-compliant work, procedures or methods of construction until and unless the reconsideration and/or appeal has been resolved in the Agricultural Lot Owner's favor.

[Section 6.13 originally appeared as Section 6.12. Section 6.12 was renumbered as Section 6.13 06/22/11; amended 02/05/21]

6.14. Final Inspection Survey. Upon completion of the Improvements, including without limitation, all landscaping and finish work, in accordance with the plans and specifications approved by the ALCC, the Agricultural Lot Owner shall commission the Surveyor to prepare a final inspection survey ("Final Inspection Survey") fully documenting the "as-built" conditions on the Agricultural Lot.

The following items must be included in the Final Inspection Survey:

- o Agricultural Lot boundaries;
- o Farm Dwelling Site limits;
- o Building footprint(s);
- o Driveways and driveway aprons;
- o Building setback lines;
- o Easements and rights-of-way;
- o Structures within the easement(s);
- o Structures within 10' (feet) of the Farm Dwelling Site limits;
- o Coffee tree rows inside, or outside the Farm Dwelling Site limits which are within 15' (feet) of the limits;
- o Provide written certification by a licensed Surveyor that the structures are in compliance with the maximum height limits as specified in the Ag Lease Agreement Design Guidelines.

- o Provide written certifications from the Architect, the Engineer, the General Contractor and the Agricultural Lot Owner that the "as built" conditions are consistent and in compliance with the design materials and building plans, as submitted to and approved by the ALCC for Final Approval (or clearly identifying any and all changes, which shall be subject to ALCC review and approval and, if considered material, subject to re-review fee(s) pursuant to Section 6.5).

[Section 6.14 originally appeared as Section 6.13. Section 6.13 was renumbered as Section 6.14 and amended 06/22/11; amended 02/05/21]

6.15. Certificate of Completion.

The Agricultural Lot Owner shall notify the ALCC Administrator of the completion of all Improvements, including landscape plantings, and submit (i) one (1) PDF copy and one (1) 24" x 36" 1/8 inch scale full sized copies of the Final Inspection Survey, (ii) a copy of the completed County of Maui Building Inspection Report and executed Final Building Inspection from the County of Maui and (iii) a request for a Certificate of Completion as required below, to the ALCC for review and approval. Upon approval of the submitted documents, the ALCC will schedule an on-site review for verification of completion of the Improvements in accordance with the design standards and approved plans.

Upon confirmation by the ALCC that all Improvements have been satisfactorily completed in accordance with the approved plans and that Final Building Inspection approval from the County of Maui has occurred, the ALCC will issue a certificate of completion ("Certificate of Completion") and arrange for return of the Construction Deposit (as applicable). Occupancy of the Farm Dwelling may take place only after the Certificate of Completion has been issued. No other portion of the Farm Dwelling Site (including without limitation a Farming Shed, mobile homes, vehicles, tents, campers, or temporary structures placed thereon, or any other Improvements to the Farm Dwelling Site) may be occupied in any way for residential or overnight lodging purposes.

Except as provided in the Kope North Modifications to the Farm Dwelling Site Rules and Regulations attached to these Design Guidelines as Addendum "B-2", Improvements shall be completed and in receipt of the County of Maui Certificate of Completion within two years from the Date of Commencement of Construction, unless a shorter or longer period has been approved by the ALCC, in its sole discretion, as part of the Final Review Approval.

[Section 6.15 originally appeared as Section 6.14. Section 6.14 was renumbered as Section 6.15 and amended 06/22/11; amended 01/17/13; amended 02/05/21]

6.16. Time Extensions

Except as otherwise provided in these Design Guidelines, the Agricultural Lot Owner may request the ALCC for time extensions, which the ALCC may grant, condition or deny in its sole discretion; provided, however, a request for an applicable extension of time will not be unreasonably withheld if work on the overall Project commenced promptly after approval, work has been continuous, significant and regular progress has been made and the site has been maintained at all times. Each application for extension must be submitted in writing to the ALCC, together with the non-refundable Request for Extension Fee and/or other applicable fee(s) shown in Addendum "D" and together with information and documentation supporting the request for extension. Failure to complete the Improvements within the required time(s) shall, in addition to any other remedies provided for in the Agricultural Lease, the Subdivision Declaration or these Design Guidelines, subject the Agricultural Lot Owner to assessment by the ALCC of any fees applicable to such failures set forth in Addendum "D".

[Section 6.16 added 02/05/21; portions of Section 6.16 originally appeared as part of Section 6.15; amended 02/05/21]

7. AGRICULTURAL LOT STANDARDS AND CRITERIA

7.1. Introduction. As shown on the Agricultural Lot Plot Plans, a portion of each Agricultural Lot is designated as the Farm Dwelling Site and the Driveway Area (except where the Farm Dwelling Site abuts the Common Area roadway). The remainder of the Agricultural Lot is referred to herein as the Farm Land.

Within the Farm Land portion of the Agricultural Lot, Agricultural Lot Owners are limited to (i) construction of a single driveway, leading from Common Area roadway or common driveway to the Farm Dwelling Site, which must be located within the Driveway Area as shown on the Agricultural Lot Plot Plan (or, where there is no designated Driveway Area, at such location as directed and/or approved by the ALCC); (ii) minimal grading associated with the construction of the driveway in a manner that will not interfere with agricultural activities on the Farm Land; and (iii) installation of any utility lines that cannot be located entirely within the Farm Dwelling Site or Driveway Area; provided, however, that any such utility lines may only be placed adjacent and parallel to the Common Area roadway lot, from the tie-in point of the utility to the Driveway Area, and as directed and/or approved by the ALCC.

Within the Farm Dwelling Site, Agricultural Lot Owners may construct various site elements (see this Section 7) and various farm structures (see Section 8). Amendments to the location or size of Farm Dwelling Sites and/or Driveway Areas as shown on Agricultural Lot Plot Plans are discussed in Section 7.12 of these Design Guidelines.

[Section 7.1 amended 01/17/13]

7.2. Grading & Drainage. Grading of the Agricultural Lots may be required in some cases. Regardless of the amount of proposed site work, grading and drainage plans for each Agricultural Lot shall be submitted for review and approval by the ALCC as part of the design review processes set forth in Section 6.

Grading of the Agricultural Lot is permitted only within the Farm Dwelling Site and Driveway Area portions of the property. Grading of the Driveway Area shall be limited to the minimal amount necessary for construction of the driveway, which must be located within the Driveway Area (see the Agricultural Lot Plot Plan).

Any increase in storm runoff attributable to the improvements on the Farm Dwelling Site, based on a 50-year 1-hour storm recurrence interval shall be retained entirely within the Farm Dwelling Site portion of each Agricultural Lot. Drainage design shall comply with the "Rules for the Design of Storm Drainage Facilities in the County of Maui."

All newly graded slopes must be of 3:1 gradient or less, except as specifically approved by the ALCC to meet unusual existing site conditions.

Grading and drainage designs for each Agricultural Lot shall take into consideration and respect the pre-existing drainage patterns for the property. Drainage designs which require substantial alteration of the existing drainage patterns will not be approved.

All grading, drainage retention and Best Management Practices (BMP) plans shall be prepared and stamped by a civil engineer duly licensed in the State of Hawaii and shall be submitted for review and approval by the ALCC as part of the design review processes set forth in Section 6.

[Section 7.2 amended 06/22/11; amended 01/17/13]

7.3. Site Walls. All masonry site retaining walls shall be constructed (or veneered) with Blue Rock, Lava rock, or other natural stone on exposed surfaces. Synthetic stone that closely resembles natural stone will be reviewed on a case by case basis. Walls are encouraged to be constructed with a dry-bed or mortarless appearance.

All site walls must be located entirely within the Farm Dwelling Site and may not project into the Farm Land, although they may be located on the perimeter of the Farm Dwelling Site.

Site walls may not exceed 6'-0" (six feet) in height as measured from finish grade on either side of the wall, and 4'-0" (four feet) in height within the yard setback as measured from finish or existing grade, whichever is lower. The yard setback is 25'-0" (twenty five feet) from the Agricultural Lot front property line and 15'-0" (fifteen feet) from the Agricultural Lot side and rear property lines. All site walls greater than 4'-0" (four feet) in height must have details prepared and stamped by a structural engineer or architect duly licensed in the State of Hawaii, which shall be submitted for review and approval by the ALCC as set forth in Section 6.

Parallel site walls must be separated by at least 12'-0" (twelve feet), measured perpendicularly from each other. Modifications to this rule may be approved on a case by case basis, at the sole discretion of the ALCC, with consideration to the appearance of massing, and the locations from which such walls may be visible from the street or adjacent Agricultural Lots. Massing of such walls may be mitigated by the use of differing materials, styles, colors, etc.

Privacy walls, which must be attached to the building structure and may not retain soil, may not exceed 6'-0" (six feet) in height. Privacy walls must be finished to match the building exterior or masonry site wall.

[Section 7.3 amended 06/22/11; amended 01/17/13; amended 02/05/21]

7.4. Wood Fences. Wood split-rail fences may be constructed within the Farm Dwelling Site but may not project into the Farm Land, although they may be located on the perimeter of the Farm Dwelling Site. Wood split-rail fences shall be constructed with at least three horizontal wood members of at least 2"x4" in width and depth and must have vertical supports at least 12'-0" (twelve feet) on center.

Wood kiawe post agricultural fences with hog-wire may be used in conjunction with horizontal wood rails. Wire shall be set to the inside of the fence. Vertical wood supports shall be placed at maximum 12'-0" (twelve feet) on center.

Fences may not exceed 4'-6" (four feet six inches) in height as measured from finish grade on either side of the fence. The vertical supports may be up to 5'-0" (five feet) in height.

No metal posts, vinyl or chain-link fencing are permitted within the Farm Dwelling Site. No barbed-wire may be placed within any Farm Dwelling Site.

No wood picket or solid wood panel fences are permitted around the perimeter of the Farm Dwelling Site.

Fences are considered a design element and shall be subject to ALCC approval. Fence details must be included in the plans and design materials submitted for review and approval by the ALCC as set forth in Section 6.

7.5. Entry Gates. Entry Gates may be constructed at the driveway entry into each Farm Dwelling Site. Gates shall be considered a custom design element; stock metal or wood gates are not permitted.

All gates must be located entirely within the Farm Dwelling Site and may not project into the Farm Land, although they may be located on the perimeter of the Farm Dwelling Site.

Gates may not exceed 6'-0" (six feet) in height as measured from finish grade on either side of the gate.

All gates shall be subject to ALCC approval. Gate location and details must be included in the plans and design materials submitted for review and approval by the ALCC as set forth in Section 6.

7.6. Driveways and Parking Areas.

Driveways shall be designed to have minimal effect on the Farm Land and farming operations.

Driveway aprons abutting the Common Area roadway shall be constructed of poured in place concrete.

Driveways outside of the Farm Dwelling Site must be located within the Driveway Area shown on the Agricultural Lot Plot Plan and shall be constructed of either asphalt paving, poured in place concrete, bricks or pavers.

Driveways located within the Farm Dwelling Site may be located at the discretion of the Agricultural Lot Owner but may not be located within 6' (six feet) of a side property line or boundary of the Agricultural Lot (except as required to connect with the driveway in the Driveway Area or if within a designated Driveway Easement as referenced in the Subdivision Declaration), or approved otherwise by the ALCC due to site specific conditions. Within the Farm Dwelling Site, driveways may be finished with pavers, exposed aggregate concrete, patterned, stamped or textured poured in place concrete or asphalt paving. (Where the Farm Dwelling Site abuts the Common Area roadway, the driveway location at the boundary between the Common Area roadway and the Farm Dwelling Site shall be as directed or approved by the ALCC.) No walls or fencing shall be permitted within a Driveway Area except at its common boundary with the Farm Dwelling Site, and then only in compliance with this Section 7; provided, however, that ALCC approval may be sought for guardrails in locations with significant slope.

It should be a design goal to limit the amount of paved areas as much as possible, and to limit the impact of these areas on immediate neighbors and the overall neighborhood. Driveway/parking schemes with excessive paving will not be approved. The ALCC will have final determination on excessive paving design.

Details and dimensions of the proposed driveways, along with the locations of the driveways, aprons and paved parking areas, must be included in the plans and design materials submitted for review and approval of the ALCC as set forth in Section 6.

[Section 7.6 amended 06/22/11; amended 02/05/21]

7.7. Pools, Spas and Water Features. Pools, spas and water features, including pool enclosures installed for safety, aesthetic and/or other purposes, may be constructed within the buildable area of each Farm Dwelling Site only as approved by the ALCC in accordance with these Design Guidelines.

Pools, spas or water features may not be located within twelve feet (12'-0") of the boundary of the Farm Dwelling Site.

All pools and spas must be in-ground custom pools, and should be professionally designed and installed. Above ground or modular pools or spas are not permitted.

Pumps, heaters and other equipment associated with these features must be enclosed as required in Section 8.12, Utilities & Mechanical Equipment.

All pools and spas must provide for the retention and/or disposal of water discharge solely within the Farm Dwelling Site and not onto the Farm Land.

Pool enclosures are considered a design element and should be professional designed and installed and must complement the design of the Farm Dwelling.

Details of pool, spa and water features, along with their equipment enclosures and all other enclosures, must be included in the plans and design materials submitted for review and approval of the ALCC as set forth in Section 6.

[Section 7.7 amended 06/22/11; amended 02/05/21]

7.8. Building Setbacks. The front, side and rear building setback areas for each Farm Dwelling Site have been individually developed for all of the Agricultural Lots and are shown on the Agricultural Lot Plot Plans. No portion of a building structure, including without limitation, walls with enclosed finished spaces, lanais, and decks, may extend into the building setbacks shown on the Plot Plan for the Agricultural Lot, except that roof overhangs may project into setbacks up to four feet (4' 0") and into hard surface areas at grade level.

[Section 7.8 amended 06/22/11]

7.9. Easements. Certain Agricultural Lots within the Project are affected by various easements, as shown on the individual Agricultural Lot Plot Plans and/or as referenced in the Subdivision Declaration.

The following restrictions apply to Agricultural Lots affected by easements:

- o No Agricultural Lot Owner shall use, or cause or permit the use of, an easement area in any manner which will interfere with the use of the easement for its intended purpose as set forth in the Subdivision Declaration;
- o No permanent structures, site walls, fences, drainage, or septic systems may be located within an easement area;
- o No improvements other than limited landscaping and irrigation (which will likely be subject to restrictions) may be located within an easement area. Plants and trees with invasive root systems are discouraged. In certain cases based upon unusual site conditions and the nature of the easement area, the ALCC may consider allowing specific items such as driveways in the easement area;
- o No grading is allowed in an easement area; and
- o Roof overhangs may not project into an easement area.

[typo corrected 02/05/21]

7.10. Septic Systems. Each Agricultural Lot Owner must provide its own individual engineered waste water system.

Waste water systems must be located entirely within the Farm Dwelling Site portion of the Agricultural Lot and must meet all requirements of the State of Hawaii Department of Health and the County of Maui.

All waste water systems must be designed and stamped by a mechanical or civil engineer duly licensed in the State of Hawaii. Details of the waste water system must be included in the plans and design materials submitted for review and approval of the ALCC as set forth in Section 6.

7.11. Backflow Preventers. Reduced pressure backflow preventers shall be installed on each of the potable and non-potable waterlines in the Agricultural Lot at the point where the waterlines enter the Agricultural Lot.

[Section 7.11 inserted 06/22/11]

7.12. Amendments to Agricultural Lot Plot Plans. Amendments to the location or size of Farm Dwelling Sites and/or Driveway Areas as shown on Agricultural Lot Plot Plans are governed by the Agricultural Lease and, except if otherwise provided in the Agricultural Lease, require a petition of the Agricultural Lot Owner to the Farming Tenant, approval of the petition by the Farming Tenant and the ALCC and, until the Final Transition Date, Declarant's written approval (which approval Declarant may grant or withhold in Declarant's sole and absolute discretion). Requests by an Agricultural Lot Owner for approval by the ALCC of amendments to an Agricultural Lot Plot Plan, including, without limitation, amendment to the location and/or size of a Farm Dwelling Site and/or Driveway Area shown on an Agricultural Lot Plot Plan, shall be made on a Design Review Application form and shall (i) include payment of the non-refundable Agricultural Lot Plot Plan Amendment Review Fee specified in the Schedule of Fees attached hereto as Addendum "D", (ii) specify in detail the amendment being requested and (iii) include such maps, plans, drawings, documents, information and arguments that the Agricultural Lot Owner desires be considered by the ALCC in deciding on the amendment request and that the ALCC might otherwise reasonably request. In the case of amendments to Agricultural Lot Plot Plans included as part of a Design Review Application for the construction of a Farm Dwelling on the Farm Dwelling Site shown on the Agricultural Lot Plot Plan for which an amendment is requested, the Agricultural Lot Plot Plan Amendment Review Fee may be waived by the ALCC upon payment of the Design Review Fee. The Agricultural Lot Owner requesting ALCC approval of the amendment to the Agricultural Lot Plot Plan shall be responsible for making the petition to the Farming Tenant and for satisfying any requirements set by the Farming Tenant with respect to such petition.

[Section 7.12 inserted 01/17/13; amended 02/05/21]

8. BUILDING STANDARDS & CRITERIA

8.1. Introduction. Each Farm Dwelling within the Project shall meet the standards of architectural quality consistent with the original intent of the Farming Tenant and should complement existing Farm Dwellings and properties within the Project.

Architectural themes of prospective Farm Dwellings should reflect the context of Hawaii with an emphasis on island-style, tropical contemporary, or plantation-style architecture. Architectural characteristics such as hip roofs, broad roof overhangs, covered outdoor living areas, and blended indoor-outdoor living should be incorporated into the design.

Overtly regional architectural styles common to areas on the mainland or elsewhere are discouraged. Architectural themes common to the Hawaiian Islands or other tropical Pacific Islands are encouraged.

Generic stock plan designs or those previously designed for mass production are not permitted.

Building plans for structures previously approved within Kaanapali Coffee Farms may not be reused, including plans deemed significantly similar to existing (or approved) structures within Ka'anapali Coffee Farms, as interpreted by the ALCC.

The architectural plans shall be prepared and stamped by an architect duly licensed in the State of Hawaii. See Section 6.

[Section 8.1 amended 06/22/11; amended 02/05/21]

8.2. Allowable Structures. Structures on each Agricultural Lot shall be limited to a Primary Farm Dwelling (which may include an attached Garage), an Accessory Farm Dwelling (not to exceed one thousand square feet of developable area), and a Farming Shed (accessory structure).

All structures must be located within the allowable building area on the Farm Dwelling Site portion of the property as shown on the Agricultural Lot Plot Plan for each Agricultural Lot.

8.3. Structures Defined.

8.3.1. Primary Farm Dwelling refers to the main residence and the primary architectural structure on the Farm Dwelling Site. This structure must be constructed with the initial development of the Farm Dwelling Site structures.

[Section 8.3.1 amended 06/22/11]

8.3.2. Garage refers to the garage which shall be used for the primary storage of automobiles and other equipment. This structure must be constructed concurrently with the Primary Farm Dwelling.

[Section 8.3.2 amended 06/22/11]

8.3.3. Accessory Farm Dwelling refers to an optional structure intended for a secondary Farm Dwelling and should architecturally complement the Primary Farm Dwelling. The Accessory Farm Dwelling shall not exceed one thousand square feet of developable area in accordance with MCC Title 19, Section 19.30A.050 B.1 and may include an attached Garage (which shall be included as part of the one thousand square feet of developable area).*

[Section 8.3.3 amended 02/05/21]

8.3.4. Farming Shed refers to an optional structure intended for the secondary storage of vehicles and other equipment and materials accessory to farming activities. This structure should architecturally complement the Primary Farm Dwelling.* A Farming Shed may not be occupied in any way for residential or overnight lodging purposes.

* Plans and design materials for all proposed structures and constructed improvements to the Farm Dwelling Site must be submitted to the ALCC for review and approval prior to construction as set forth in Section 6.

8.4. Number of Structures Allowed per Agricultural Lot. No more than the following number of structures are permitted on each Farm Dwelling Site: One (1) Primary Farm Dwelling with one (1) attached Garage; one (1) Accessory Farm Dwelling with one (1) attached Garage; and one (1) Farming Shed (accessory structure).

Notwithstanding the foregoing, a maximum total of three (3) separate building structures as defined above are permitted on each Agricultural Lot. All building structures, landscape and grading shall be contained within the Farm Dwelling Site.

[Section 8.4 amended 06/22/11; amended 02/05/21]

8.5. Minimum Size/Maximum Size. Except for structures located on Agricultural Lots within Mokka Point or Kope North, the Enclosed Areas of structures permitted on an Agricultural Lot shall be subject to the following maximum and minimum areas:

- 8.5.1. Primary Farm Dwelling:** 3,000 s.f. minimum;
15,000 s.f. maximum.
- 8.5.2. Garage (attached):** 500 s.f. minimum;
1,500 s.f. maximum.
- 8.5.3. Accessory Farm Dwelling:** 500 s.f. minimum;
1,000 s.f. maximum
- 8.5.4. Farming Shed**
(accessory structure): 2,500 s.f. maximum.

The Enclosed Areas of structures located on Agricultural Lots within Mokka Point or Kope North shall comply with the requirements set forth in the Mokka Point Modifications or the Kope North Modifications to the Farm Dwelling Site Rules and Regulations attached to these Design Guidelines as Addendum "B-1" and "B-2", respectively, and incorporated herein by reference.

[Section 8.5 amended 01/17/13; amended 02/05/21]

8.6. Stories & Maximum Actual Building Height. All structures on each Agricultural Lot shall meet the story and height restrictions set forth below, as may be amended from time to time; provided, however, that if any County of Maui restrictions are stricter than the restrictions contained herein, the County of Maui restrictions shall apply. Basements shall not count as a separate story.

8.6.1. Primary Farm Dwelling: two (2) stories maximum; thirty feet (30'-0") Maximum Actual Building Height as defined below.

The Enclosed Area of any second floor of a Primary Farm Dwelling may not exceed 75% of the Enclosed Area of the first floor level.

[Section 8.6.1 amended 02/05/21]

8.6.2. Garage (attached): one (1) story maximum; twenty-four feet (24'-0") Maximum Actual Building Height.

[Section 8.6.2 amended 06/22/11]

8.6.3. Accessory Farm Dwelling: one (1) story maximum; twenty-four feet (24'-0") Maximum Actual Building Height.

[Section 8.6.3 amended 01/17/13; typo corrected 02/05/21]

8.6.4. Farming Shed (accessory structure): one (1) story maximum; twenty-four feet (24'-0") Maximum Actual Building Height.

[Section 8.6.4 amended 01/17/13; amended 02/05/21; typo corrected 02/05/21]

8.6.5. Intentionally Omitted.

[Section 8.6.5 inserted 06/22/11; deleted 01/17/13]

Basements are defined as Enclosed Areas for storage (and/or mechanical / utilities facilities serving the Farm Dwelling) use only with at least 80% of the vertical height of the space located below finished grade on all four sides, as determined by the ALCC at its sole discretion. Access to the space shall be from the interior of the structure. One "Bilco-door" exit to the exterior is permitted.

[Amended 02/05/21]

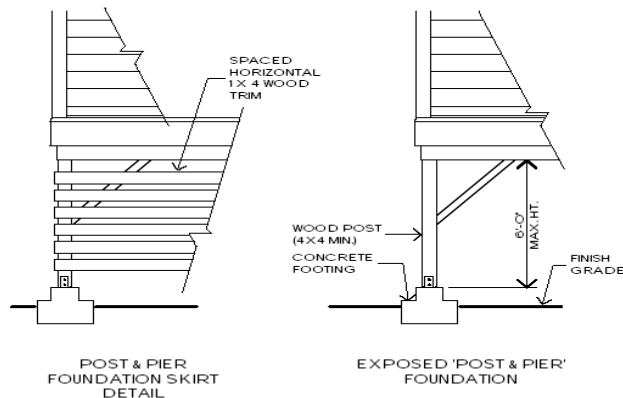
Maximum Actual Building Height means the vertical distance (expressed in feet and inches) measured from the highest point of the structure – including the finished roofing -- to a corresponding point directly below on the natural (existing) or finish grade, whichever is lower, and shall be clearly noted in the plans and design materials submitted for ALCC review and approval as set forth in Section 6.

8.7. Foundations. Foundations are defined as the lowest structural support system of a structure, and exposed foundations are the structural support elements located below the lowest finished floor of the structure and grade.

Foundations for the Farm Dwelling Site buildings may be constructed of wood and concrete (post and pier), concrete (slab on grade), or structural concrete or concrete masonry (CMU) stem-wall, all as further described below.

[Section 8.7 amended 06/22/11]

8.7.1. Post and Pier: Exposed post and pier foundations as part of a farm plantation design aesthetic are encouraged, particularly for the Primary and Accessory Farm Dwellings. See Illustration 1. The vertical wood posts shall be a minimum of 4"x4" in width and depth and shall bear directly on engineered concrete footings. The maximum exposed height of the posts shall be 6' (six feet). The spaces between the vertical posts must be in-filled with a quality trim material such as 1"x4" wood skirting, placed in a horizontal, grid, or diagonal pattern. The use of prefabricated lattice panels manufactured with light gauge wood or plastic will not be permitted.



8.7.2. Slab on Grade: Concrete slab on grade foundations may be permitted. Slab on grade may be used in conjunction with either of the two (2) other foundation systems noted.

8.7.3. Structural Concrete / CMU Stem-Wall: Structural concrete and Concrete Masonry Unit stem-wall foundations may be permitted as part of either of the above-described foundation systems as required for structural integrity. The exposed portion (above finish grade) of a concrete or masonry foundation may not exceed 4' (four feet) and must be veneered with stone when the exposed portion is greater than 1' (one foot). See Section 8.11.

[Section 8.7.3 amended 06/22/11]

8.8. Massing. As noted in Section 8.6, Stories & Maximum Actual Building Height, the Enclosed Area of the second floor of any two-story Primary Farm Dwelling shall not exceed 75% of the Enclosed Area of the first floor level. This is intended to create a “stepping back” of the second level from the footprint of the first to help prevent the Farm Dwelling from having a boxy appearance. Where the second level wall stacks directly above the first level wall, the wall plane must be broken up with an architectural element such as a floor cantilever, pent-roof, projecting lanai, or strong trim element. In no event, however, shall the stacking of the exterior walls occur within more than forty percent (40 %) of any single building elevation.

The footprint of the building shall be varied to increase the modulation of the walls and roofline and long uninterrupted perimeter walls should be avoided. Each elevation of the Farm Dwellings must have a minimum of (3) three outside corners. Long planar walls in excess of (45'-0") forty five feet in length will not be permitted.

Roof eaves and ridges must similarly be varied with long uninterrupted planes not to exceed (50'-0") fifty feet in length without variation.

[Section 8.8 amended 06/22/11; amended 02/05/21]

8.9. Roofs and Roofing. Roof design is an integral part of the overall quality of the architectural definition of the building structures as noted in the introduction to this section and as such will receive considerable attention of the ALCC in the evaluation of the design.

8.9.1. Style:

Single pitch and split-pitch hip roofs with broad overhangs suggestive of Island-Style architecture are encouraged. Architectural solutions resulting in breaking the roof into smaller elements with varying ridge lines are also encouraged. Large imposing single roof elements are discouraged.

Gable roofs may be acceptable, but should be used in conjunction with hip roofs and should not be the dominant roof element, but considered for secondary elements such as dormers and Dutch hips.

Parapet roofs are generally not acceptable, but may be reviewed and approved by the ALCC, at their sole discretion, where the parapet is designed to complement and enhance the architectural theme of the structure from all visible elevations and plan views.

Shed, conical, saw-tooth and other roof styles are strongly discouraged.

[Section 8.9.1 amended 06/22/11]

8.9.2. Materials:

Acceptable materials include standing seam copper sheet (pre-patinaed); factory finished standing seam metal sheet; factory finished corrugated metal sheet (permitted on accessory buildings only); cedar shingles, concrete or clay roofing tile, or non-reflective solar shingles/tiles.

Asphalt shingles, reflective or Mission-style tile roofing are not permitted.

Other roofing materials of similar quality, shape and color may be submitted for review and approval by the ALCC. Submittal must be in the form of actual full size material samples (i.e. a complete roof tile or a minimum 24"x24" finished sample) and accompanied by product specification and literature.

[Section 8.9.2 amended 02/05/21]

8.9.3. Roof Slope:

Roofs may be single or split-pitch.

Single pitch roofs must be minimum 5:12 pitch and maximum 10:12 pitch.

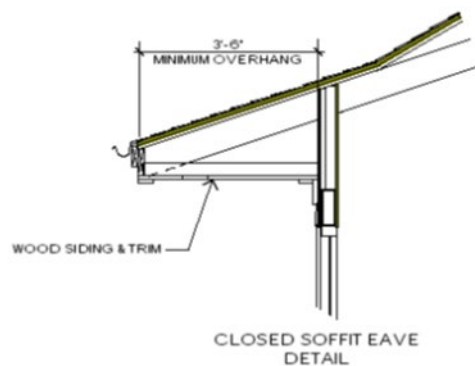
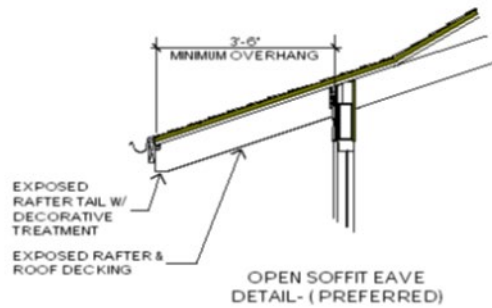
Split-pitch roofs must be minimum 3:12 pitch on the lower pitch, which may not exceed 50% of the total roof area and the upper pitch must be a minimum 6:12 pitch and maximum 10:12 pitch.

Low-slope or flat roofs (pitches less than 2:12) are strongly discouraged and will only be permitted in small areas when strongly dictated by the design. Low slope roofs must be concealed behind a parapet or otherwise hidden from view. In no case shall the total area of the low slope roof exceed 10% of the total roof area.

8.9.4. Roof Overhang:

The minimum roof overhang as measured horizontally from face of vertical wall supporting the roof to end of structural roof elements shall be three feet six inches (3'-6").

The use of open soffits and exposed rafter tails are strongly encouraged. See Illustration 2. In cases where closed soffits are proposed and deemed acceptable by the ALCC, they must be finished with wood (or cement based) siding and trim. Stucco soffits are not permitted.



**ILLUSTRATION 2
ROOF OVERHANG**

8.9.5. Roof Penetrations: Stacks and vents, excluding chimneys, shall be painted to match the dominant roof color and located to minimize their visual impact upon adjacent properties.

8.9.6. Fireplaces/Chimneys: The use of wood or gas burning heating is permitted, however the portion of the chimney exposed to the exterior must be treated as a design element and are subject to review by the ALCC. All exposed flue chases shall be veneered with stone or approved brick. Exposed metal-bestos chimneys or chimney chases veneered with wood are not permitted. Chimney caps are required and shall be of stone or copper.

8.9.7. Viewing Decks/Lanais:

Roof terraces, balconies, lanais, lookouts, or any similar viewing areas shall not be permitted to be higher than the floor elevation of an adjacent interior habitable space, and must only be accessible from that space.

Lanais proposed for the second floor should be well integrated into the design of the building structure and may be supported by posts or columns to grade if the supports are less than 10' (ten feet) in height and shall have a minimum slenderness ratio of 1:10.

Lanai railings shall be considered a design element and shall have a custom appearance.

[Section 8.9.7 amended 02/05/21]

8.9.8. Roof Mounted Elements:

Cupolas, chimneys or other architectural roof elements may be permitted upon review by the ALCC. Where permitted by code these elements may extend a maximum 5' (five feet) beyond the maximum allowable roof heights noted in Section 8.6, Stories and Maximum Actual Building Height.

Roof mounted antennas, dishes or other communication devices are not permitted; provided, however, that small direct broadcast satellite services (DBS) and multi-channel multi-point distribution (MMDS) dish installations and antennas which are one meter in diameter or less may be permitted with ALCC approval.

Solar water heating and/or photovoltaic solar systems are permitted on the roof in accordance with Section 8.13.

[Section 8.9.8 amended 01/17/13]

8.10. Windows, Doors & Glazing. Windows and sliding glass door systems may be wood, metal, clad or vinyl framed. Manufacturer and material and the window/sliding glass must be specified and color samples of the frame must be submitted to the ALCC for review and approval as part of the design reviews forth in Section 6.

Frame and sash colors matching or complementing the exterior building colors are encouraged. Bronze or silver anodized metal frames are not permitted.

Reflective or mirror glazing is not permitted.

Individual windows must be at least 900 square inches (minimum 30"x 30") in size unless strongly dictated by the design.

All windows, exterior doors and sliding glass door openings must have an exterior trim element at least three and one-half inches (3-1/2") wide. Size and type of trim must be specified. Window/door trim color must match or complement the window/door frame color.

Window types shall be fixed, awning, casement or vertical sliding (single or double hung). Horizontal sliding windows or windows with the horizontal dimension exceeding the vertical dimension are discouraged.

Primary windows should be vertically oriented with the horizontal dimension of the window no greater than 70% of the vertical dimension. See Illustration 3.

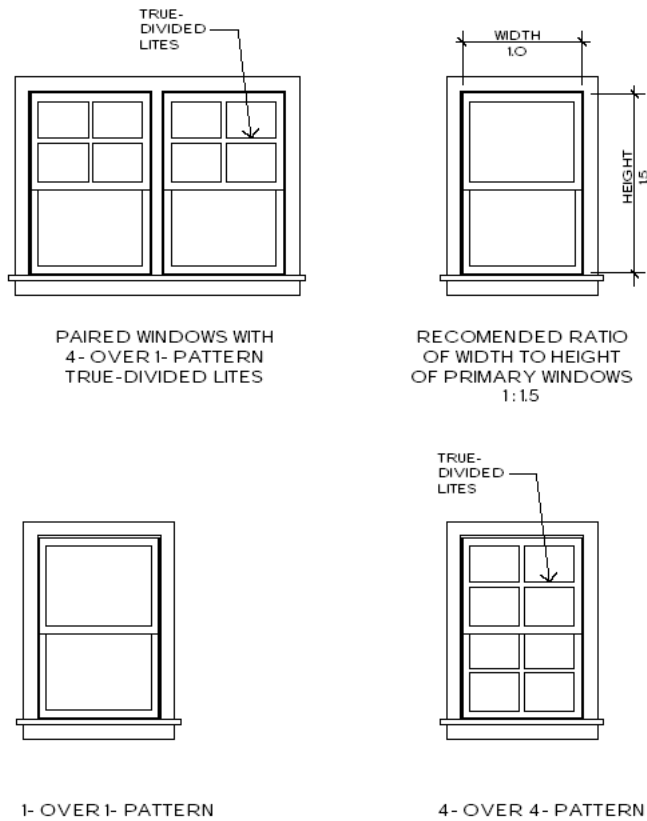
Secondary windows may be square with minimum sized as noted above, maximum size not to exceed 60"x 60".

True-divided lites in windows are encouraged with acceptable pattern configurations ranging from 4 over 4 to 1 over 1. See Illustration 3.

Large expanses of uninterrupted glazing or sliding glass doors are discouraged. The use of French-door systems is encouraged.

Window style, size, layout and composition are an important part of the design review. The ALCC will review the window scheme for each building elevation and will make appropriate recommendations.

[Section 8.10 amended 06/22/11]



**ILLUSTRATION 3
WINDOWS**

8.11. Materials & Colors.

8.11.1. Building Materials:

All exterior building materials shall be clearly specified in the plans and design materials to be submitted for ALCC review and approval as set forth in Section 6. As part of the Final Review submittals, the Agricultural Lot Owner shall submit the “Finish Materials Schedule” attached hereto as Addendum “C”.

Acceptable materials include cedar wood shingles; solar singles; horizontal wood lap (clapboard) siding; vertical wood siding; board & batten wood siding; cement based horizontal siding ("Hardi-Board") and cement plaster (stucco). Cement plaster (stucco) may only be used in conjunction with other approved siding materials and may not exceed 50% of the total vertical exterior surface of the structure.

Stone may be an acceptable exterior building material when used as a foundation veneer, wainscot or accent material, or column veneer. It should not exceed 50% of the total of the vertical exterior surface of the structure. Samples of all proposed stone must be submitted to the ALCC for review and approval.

Samples of all proposed exterior materials as noted above must be reviewed and approved by the ALCC.

Wood trims, including window and door trims, corner trims, band-boards etc., are encouraged.

Prohibited materials include T-111 plywood siding; un-painted wood; metal siding, or any used materials.

In some cases the ALCC will permit the use of synthetic cement-based wood siding and trims based upon review of submitted product data, specifications and samples.

[Section 8.11.1 amended 01/17/13; amended 02/05/21]

8.11.2. Building Colors:

All exterior colors shall be earth tones. Proposed colors of all exterior building elements must be specified and submitted for approval with the Final Review materials. Manufacturer and color must be specified and a color sample at least 3"x3" in size for each separate color shall be provided.

The exterior colors of all buildings within a Farm Dwelling Site must be consistent.

8.12. Utilities & Mechanical Equipment. All equipment areas such as pool equipment, air-conditioning equipment, LPG tanks, electrical meters etc. shall be enclosed to minimize noise impacts to neighbors, and where visible from the street or adjacent Agricultural Lots. All such enclosures shall be located within the buildable area of the Farm Dwelling Site and shall be designed to complement the main building, masonry site wall, or surrounding landscape. Ground mounted photovoltaic panels are exempt from requiring an enclosure if approved and installed in accordance with Section 8.13. No mechanical equipment, except for solar and photovoltaic panels (see Section 8.13), and attic fans and vents may be located on the roof. Ground mounted satellite dishes shall be screened from view where visible from the street or adjacent Agricultural Lots, unless prior written approval from the ALCC is obtained due to limiting site conditions.

[Section 8.12 amended 06/22/11; amended 01/17/13]

8.13. Solar & Renewable Energy/Water Conservation. All Farm Dwellings in the Project are encouraged to utilize solar water heating and/or photovoltaic solar systems.

Roof mounted solar/photovoltaic panels associated with solar water heating and/or photovoltaic solar systems shall be surface mounted flush and parallel to the finish roofing.

Ground mounted photovoltaic panels shall be positioned and/or enhanced with landscaping and/or architectural features to minimize the impacts to neighbors and street views.

Windmills or other energy generating devices not described above and storage units are not permitted without express written approval from the ALCC.

[Section 8.13 amended 06/22/11; amended 01/17/13]

8.14. Intentionally Omitted

[Section 8.14, including accompanying Illustration 4, deleted 06/22/11]

9. LANDSCAPING DESIGN, INSTALLATION AND MAINTENANCE STANDARDS

9.1. Intent.

The Ka'anapali Coffee Farms Lot Owners Association considers landscaping a critical design element for the community and for the individual homes within the existing coffee farms. Agricultural Lot Owners shall not be permitted to install any landscaping outside of the Farm Dwelling Site and Driveway Area, unless agreed otherwise in writing with the LOA for purposes of maintaining areas unsuitable for active farming by the LOA. Landscaping design should be integrated into the design of each Farm Dwelling Site from its inception. Accordingly, Agricultural Lot Owners are required to submit for ALCC review and approval appropriate landscaping plans for the Preliminary Review, Final Review and subsequent reviews as set forth in Section 6.

General landscaping guidelines include the following:

- o The use of water conserving landscaping materials is strongly encouraged.
- o The planting scheme should attempt to have as strong an impact as possible at the time of installation.
- o Plant compositions should employ simple plant massing, and a limited palette of plant types in order to build unity and cohesiveness within the context of the surrounding coffee trees.

Landscaping plans shall be reviewed for conformance with minimum planting sizes, quantities, and design considerations specified in these Design Guidelines. The ALCC cannot anticipate all potential view considerations from adjoining properties. Lot Owners are expected to maintain all plantings in such a way that the makai views from adjoining properties are preserved. Any approval by the ALCC of landscaping plans shall not be deemed or in any way construed to be a warranty or guarantee that such plans will maintain the views from the surrounding properties.

[Section 9.1 amended 06/22/11; typo corrected 02/05/21]

9.2. Buffer Planting and Screening. Front and side yard hard surface areas must be visually screened from adjacent lots and road right of ways.

9.3. Landscaping Completion. All landscaping work shall be satisfactorily completed by the date of the final on-site review set forth in Section 6.14. Appropriate planting techniques and maintenance shall be implemented to achieve complete coverage within three months of planting.

9.3.1. Planting Soil: Planting, fill soil, and top soil brought to the site by the Owner shall be free of clay, termites and/or other deleterious materials, including nut sedge seeds.

9.3.2. Planting Setbacks: No large trees may be planted within twelve (12) feet of the boundary limits of the Farm Dwelling Site or any utility easements.

[Section 9.3.2 amended 06/22/11]

9.4. Slope Preservation. Grass is permissible except where the existing slope is greater than 3:1. On 3:1 and greater slopes, ground cover selected must be able to cover 90% of the slope within ninety (90) days.

9.5. Minimum Landscaping Requirements.

The following are general minimum standards required for each Farm Dwelling Site and Driveway Area and should be considered as a guide for the Agricultural Lot Owner as to the expected mix and intensity of the landscaping materials.

- o Ultimate Tree Size: except for palms, species should be selected with growth characteristics which will not substantially exceed the height of the Maximum Actual Building Height of thirty feet (30'-0").
- o Prohibited Trees: trees with growth characteristics which would substantially exceed the maximum allowable building height, such as Monkey Pod, Banyan, and Eucalyptus, and tall, narrow vertical trees such as Cook Pine are prohibited.
- o Site landscaping shall incorporate a variety of medium and small shade, flowering and fruit trees, combined with shrubs and hedges to break up massing and accent structures.

[Section 9.5 amended 01/17/13]

9.6. Plant/Tree Palette.

9.6.1. The ALCC shall have the right to reject or request removal of any plant material that the Farming Tenant or Declarant considers to be invasive or potentially harmful or disruptive to farming activities on the Farm Land or in the vicinity of the Project, or to affect surrounding views. The landscape architect is encouraged to utilize native and drought tolerant materials.

9.6.2. No invasive species identified by State of Hawaii Department of Land and Natural Resources, or University of Hawaii Extension Service are allowed.

9.7. Lawn/Ground Cover. Complete horizontal coverage of lawn and ground cover area must be accomplished within three (3) months of planting.

9.8. Street Tree Program. The LOA will maintain the street trees and lawns in street Common Areas throughout the community. The cluster spacing of such trees is important to the integrity of the planting design. It is essential that the Agricultural Lot Owner and all contractors make efforts to protect street trees and irrigation systems during construction. If they are destroyed or damaged, the Agricultural Lot Owner shall be charged for the replacement of the tree(s), lawn and/or irrigation system. Replacement cost shall be the current market value of each item, as determined by the LOA.

9.9. Irrigation/Water Source.

9.9.1. All irrigation systems shall utilize non-potable water provided at the metered stub. Automatic timers are mandatory. Wells are not allowed. Planting beds should be

designed with drip irrigation wherever feasible.

9.9.2. All Farm Dwelling Sites, once cleared, must have some form of dust control and erosion control before and after construction and be irrigated before and after construction to maintain grassing and ground cover.

9.9.3. Construction of driveways across Common Areas may result in the removal of grassing and/or landscaping as well as the need to modify or adjust the irrigation lines (including but not limited to the need to properly protect irrigation lines) within the Common Areas. The Agricultural Lot Owner shall be responsible for properly coordinating all work within the Common Areas with the Farming Tenant and the LOA.

9.9.4. Irrigation plans shall include a water demand calculation identifying the number of irrigation stations, flow, and run-times. Irrigation systems shall be designed for no more than 20 gallons per minute flow at any one time, and no more than an average of 2,300 gallons per day.

[Section 9.9.4 amended 06/22/11; amended 01/17/13]

9.9.5. If there are any conflicts with this Section 9.9 and the Water Delivery Agreement, the Water Delivery Agreement shall take precedence.

[Section 9.9.5 inserted 01/17/13]

9.10. Landscape Lighting: Landscape lighting shall be low voltage, and shall be shielded or directed to not shine directly toward neighboring lots.

[Section 9.10 inserted 01/17/13]

9.11. Landscape Maintenance.

9.11.1. Association Responsibilities: Common Areas, including without limitation, community right-of-way areas, entries and landscaping easements within the Project, are to be maintained by the LOA.

9.11.2. Owner Responsibilities:

Each Agricultural Lot Owner shall maintain its Farm Dwelling Site after the clearing of crop plants to the standards set by the LOA and/or the Declarant. These standards will include the upkeep of the cleared site to manage dust control effectively and to maintain the site in an attractive condition. Requirements may include grassing, the installation of the non-potable water meter and temporary irrigation if construction activity has not commenced. The LOA reserves the right to maintain the Farm Dwelling Site and charge the Lot Owner for such work.

From and after the Farm Dwelling Site Removal Date, each Agricultural Lot Owner shall maintain its Farm Dwelling Site and Driveway Area in an attractive condition according to the standards set by the LOA. The minimum requirement of maintenance includes fertilizing, watering, pruning, trimming, weeding, and other miscellaneous maintenance procedures on a regular basis, so as to have healthy, well kept, and orderly appearance. All dead, diseased or drying plants shall be treated and/or removed and replaced. All irrigation systems are to be kept in proper working condition. Adjustment, repair and cleaning of the irrigation system should be done on a regular basis.

10. JOB SITE RULES

[Section 10 heading amended 01/17/13; amended 02/05/21]

Each Agricultural Lot Owner, other than PM Land or Declarant, shall comply and shall cause its General Contractor, subcontractors, consultants, suppliers and any and all other agents or guests to comply with the rules, restrictions, requirements and provisions set forth below in this Section 10 (collectively "Job Site Rules"). Additional, supplementary and/or clarifying Job Site Rules may be adopted from time to time by the ALCC, in consideration of then-current conditions or circumstances and/or unique conditions or circumstances relating to all or individual Agricultural Lots and with written notice to the affected Agricultural Lot Owners, which shall be binding upon the affected Agricultural Lot Owners as Job Site Rules for all purpose of these Design Guidelines.

[Section 10 amended 02/05/21]

10.1. All construction activities, parked vehicles, materials, temporary structures, dumpsters, toilets, etc. must be located within the boundaries of the Farm Dwelling Site.

10.2. Each Agricultural Lot Owner must implement dust control measures to minimize the spreading of dust, dirt, and debris onto neighboring lots or streets. Watering the site at frequent intervals and/or the placement of mulch on exposed soil areas is required, at a minimum.

10.3. It is required that all construction sites be maintained in a clean and orderly fashion throughout the construction process.

10.4. The Farm Dwelling Site shall be maintained at all times from and after the Farm Dwelling Site Removal Date. Neighboring Lots and/or the Farm Land shall not be used for the storage or dumping of construction debris, dirt, trash, or similar items.

10.5. All construction traffic shall enter the Project through construction entrance(s), as established by the Declarant from time to time.

10.6. All employees, contractors, and other agents of the Agricultural Lot Owner who are permitted entry to the Farm Dwelling must be registered with the LOA prior to such entry.

[Section 10.6 amended 01/17/13]

10.7. Construction hours are currently set between 7:30 a.m. to 6:00 p.m., six (6) days a week (excluding Sundays and nationally recognized holidays) but are subject to rules and regulations as published by the ALCC from time to time.

10.8. Each Agricultural Lot Owner is required to post and keep on record with the ALCC a twenty-four (24) hour emergency phone number.

10.9. Each Agricultural Lot Owner is required to provide portable restroom facilities on the job site.

10.10. Each Agricultural Lot Owner is required to provide a trash dumpster for the construction activities.

10.11. No flags, banners, or signs, other than one (1) construction sign will be permitted, except as otherwise approved by the ALCC. Construction sites may have one (1) construction sign up to 36" x 24" to identify lot number, lot address, Owner, General Contractor, Architect, and

telephone numbers. Signage is meant to be informational for deliveries and covenant enforcement, not as advertising, and must be approved by the ALCC.

[Section 10.11 amended 06/22/11; amended 02/05/21]

10.12. No dumping of debris or excess material(s) shall be permitted anywhere within the Ka'anapali area, including, but not limited to, any LOA property, any Agricultural Lots, and any other lands owned by Declarant or its affiliates. All such debris and excess materials shall be disposed of in accordance with applicable laws and ordinances.

[Section 10.12 amended 02/05/21]

10.13. No Hazardous Materials (as defined in the Subdivision Declaration) shall be stored or drained into, on, or under any Agricultural Lot or within the Project, except as may be permitted under, and in accordance with, the Subdivision Declaration. No Hazardous Materials, including without limitation, Hazardous Materials released through the rinsing of equipment, shall be allowed to drain into any Agricultural Lot, street or other area within the Project.

[Section 10.13 amended 02/05/21]

10.14. Infractions of the Job Site Rules shall, in addition to any other remedies provided for in the Agricultural Lease, the Subdivision Declaration or these Design Guidelines, subject the Agricultural Lot Owner to assessment by the ALCC of any fees applicable to such infractions set forth in Addendum "D".

[Section 10.14 amended 01/17/13; amended 02/05/21]

10.15. Members of the ALCC shall be allowed access to each job site at all times.

10.16. The edge of the asphalt paved roadway shall be protected by an at-grade concrete curb, or other method approved by the ALCC, at all locations used for temporary or permanent access to the agricultural lot. The asphalt edge protection shall be installed at the earliest time possible, and prior to construction or any significant traffic from the asphalt roadway to the agricultural lot.

[Section 10.16 inserted 06/22/11]

10.17. Without limiting any of the provisions set forth in the Agricultural Lease and/or the Subdivision Declaration, the Agricultural Lot Owner shall be responsible for any damage caused to any LOA facility or feature or to the Common Areas of the LOA and shall reimburse the LOA for any and all costs and expenses incurred by the LOA for repair or replacement of the damaged structure, feature or Common Areas (the "Construction Repair Costs").

[Section 10.17 inserted 01/17/13]

10.18. In connection with any Design Review Application and during the entire course of any construction on an Agricultural Lot, the Agricultural Lot Owner will cause to be maintained, at such Agricultural Lot Owner's sole expense, policies of insurance of the types and limits set forth on Addendum "E" attached hereto, which types and limits may be amended by the ALCC, in its sole discretion and from time to time with due regard to then-prevailing prudent business practice in the State of Hawaii. Any policy required hereunder shall be endorsed to provide that the policy may not be cancelled except with not less than thirty days notice to the LOA. The Agricultural Lot Owner shall provide to the ALCC with its Design Review Application written certificate or other evidence satisfactory to the ALCC that the Agricultural Lot Owner has procured the insurance required by this Section. The LOA, the ALCC, Declarant and PM Land shall be named as additional insureds under any policies required by this Section.

[Section 10.18 inserted 01/17/13]

11. ALCC POLICIES AND GUIDELINES

11.1. Policy Statement.

In general, the ALCC's objective is to avoid harsh contrasts in the landscaping and architectural themes of the Project, to ensure that any improvements and landscaping do not interfere with the Farming Tenant's farming operations, and to foster thoughtful design so that there is harmony among the Farm Dwellings within the Project, while accommodating individual tastes and preferences to the extent practicable.

[Section 11.1 amended 01/17/13]

11.2. Limitation of Responsibilities.

The primary goal of the ALCC is to review the applications, plans, specifications, materials, and samples submitted to determine if the proposed improvements comply with the requirements set forth in the Agricultural Lease, the Subdivision Declaration and these Design Guidelines, which primarily concern aesthetic and siting issues. The ALCC's review does not cover other design and non-design compliance issues, including but not limited to, the following:

- o The structural adequacy, quality, capacity, utility, safety features, or performance capabilities of the proposed improvement or structure, components and materials used therein;
- o Soil conditions such as compaction, erosion, and stability;
- o Compliance with any or all building codes and safety related codes, ordinances, statutes, and other governmental laws and regulations;
- o Contractor performance or quality of work issues; and
- o Maintenance and life cycle issues concerning the components and materials of improvements once constructed or installed.

11.3. Meetings of the ALCC. The ALCC will schedule meetings as requests are received.

11.4. Enforcement Powers.

Without limiting any other provision of these Design Guidelines or of the enforcement provisions set forth in the Agricultural Lease and/or the Subdivision Declaration, (a) should a violation of a requirement, restriction, standard and/or criteria set forth in the Subdivision Declaration, the Agricultural Lease, or these Design Guidelines or set by the ALCC occur, the Board of Directors (the "Board") of the LOA shall have the right to injunctive relief to require the Agricultural Lot Owner to cease, remove, and/or alter any improvement which does not comply with such requirements, restrictions, standards and/or criteria; (b) should an Agricultural Lot Owner fail to perform any obligation required of such Agricultural Lot Owner set forth in these Design Guidelines, the Board of the LOA shall have the right, but not the obligation, to perform such obligation on the behalf of the Agricultural Lot Owner and to be reimbursed for all costs and expenses incurred by the LOA in connection with such performance, and (c) in all cases, the LOA shall be entitled to recover its costs and expenses in enforcing the Agricultural Lot Owner's obligations under these Design Guidelines, including, without limitation, the fees of attorneys and other professionals, together with interest thereon at the maximum rate allowed by law from the

date the expense or cost is incurred until the date paid, and the LOA shall have the right, but not the obligation, in the LOA's sole discretion, to draw on the Construction Deposit or any other deposit held by the LOA for such reimbursement or recovery.

Approval by the ALCC does not negate the obligation of an Agricultural Lot Owner to secure any and all required governmental approvals. If such approvals are required and are not obtained by the Agricultural Lot Owner, the ALCC and/or the applicable governmental agency may take whatever action is necessary against the Agricultural Lot Owner to obtain compliance.

[Section 11.4 amended 01/17/13]

11.5. Members; Officers; Administration.

11.5.1. As provided in the Subdivision Declaration, the ALCC shall consist of a chairperson and at least two but no more than four additional members. Persons appointed to the ALCC need not be members of the LOA. Until the Final Transition Date, Declarant has the right to appoint, remove and replace all members of the ALCC.

[typo corrected 02/05/21]

11.5.2. Upon termination of Declarant's right to appoint ALCC members after the Final Transition Date, members of the ALCC shall serve at the pleasure of the Board of the LOA and shall be appointed, removed and replaced by the Board of the LOA. Declarant may, by written notice to the Board of the LOA, relinquish Declarant's right to appoint, remove and replace one or more of the members of the ALCC, and in such case, any such member shall thereafter be appointed, removed and replaced by the Board of the LOA. So long as Declarant has a right to appoint one or more of the members of the ALCC, Declarant shall have the right to appoint the chairperson of the ALCC.

11.5.3. As a committee of the Board of the LOA, all fees imposed by the ALCC pursuant to these Design Guidelines and all expenses incurred by the ALCC shall, except as provided in the Subdivision Declaration, be fees and expenses of the LOA.

11.5.4. In accordance with the Subdivision Declaration, the ALCC may adopt rules and regulations for the transaction of business, scheduling of meetings, conduct of meetings, and related matters. The ALCC may also adopt criteria, consistent with these Design Guidelines, to be used in making its determination to approve, disapprove, or conditionally approve any matter submitted to it for decision.

11.5.5. The ALCC may appoint an administrator (the "ALCC Administrator") to handle the day-to-day responsibilities of processing submissions and communicating with Agricultural Lot Owners, including the following services:

- o Explanation and interpretation of the Agricultural Lot and building standards and criteria as contained in the Subdivision Declaration, the Agricultural Lease and these Design Guidelines;
- o Providing access to samples, displays, and pictorial reviews exhibiting acceptable architectural designs which exemplify the architectural styles desired by the ALCC;
- o Participating in a pre-design conference to consider existing data relating to a particular Agricultural Lot, i.e., adjacent Agricultural Lots, nearby or planned structures, easements, setbacks, etc.;

- o Reviewing plans and designs for compatibility with the overall design concepts of the Project and compliance with Project Documents; and
- o Reviewing job progress, providing ALCC inspections and processing applicable ALCC documentation and/or certifications.

[The heading of Section 11.5 amended 01/17/13; Sections 11.5.1, 11.5.2., 11.5.3 and 11.5.4 inserted 01/17/13; Section 11.5.5 originally appeared as the text of Section 11.5. The text of Section 11.5 was re-numbered as Section 11.5.5 01/17/13; amended 02/05/21]

11.6. Moved to Section 6.12

[Section 11.6 was moved to Section 6.12 06/22/11]

11.7. Application Withdrawal.

A request to withdraw a Design Review Application may be made without prejudice, provided the request for withdrawal is made in writing and submitted to the ALCC prior to any ALCC review and/or action on the application.

11.8. Request for Reconsideration; Appeals from Final Decisions.

11.8.1. If a Design Review Application, or any part thereof, has been denied, or if an approval is granted subject to conditions which the Agricultural Lot Owner questions or disagrees, or if an affected Agricultural Lot Owner otherwise disagrees with any other approval granted, denied or conditioned by the ALCC or with any notice of non-compliance received from the ALCC, the affected Agricultural Lot Owner may request (the "Reconsideration Request") a meeting (the "Reconsideration Meeting") with the ALCC to review and reconsider the ALCC decision (or portion thereof) or notice that is disputed. The Reconsideration Request shall be in writing and shall (i) include payment of the non-refundable Reconsideration Fee specified in the Schedule of Fees attached hereto as Addendum "D", (ii) specify in detail the ALCC decision or portions thereof disputed by the Agricultural Lot Owner and (iii) include such maps, plans, drawings, documents, affidavits, information and arguments that the Agricultural Lot Owner desires be considered by the ALCC in deciding on the Reconsideration Request and that the ALCC might otherwise reasonably request. The Reconsideration Meeting shall be held within fifteen days of receipt by the ALCC of the complete Reconsideration Request, unless mutually agreed otherwise by the ALCC and the requesting Agricultural Lot Owner. Within fifteen days after the Reconsideration Meeting, the ALCC will advise the Agricultural Lot Owner in writing of its final decision (the "Final Decision").

[The text of Section 11.8.1 originally appeared as Section 11.8. The text of Section 11.8 was numbered as Section 11.8.1 and amended 01/17/13]

11.8.2. No appeal may be taken from a decision of the ALCC until a Final Decision has been issued pursuant to Section 11.8.1. Affected Lot Owners may appeal (the "Appeal") an ALCC Final Decision by written notice to the Board of the LOA (the "Appeal Notice"). The Appeal Notice shall (i) include payment of the non-refundable Appeal Fee specified in the Schedule of Fees attached hereto as Addendum "D", (ii) specify in detail the ALCC Final Decision or portions thereof being appealed by the Agricultural Lot Owner and (iii) include all maps, plans, drawings, documents, affidavits, information and arguments that the appellant desires be considered by the Board for the purposes of deciding the Appeal and that the Board might otherwise reasonably request. Unless a complete Appeal Notice is received by the Board within fifteen days of the ALCC's Final Decision, the Final Decision shall be final, binding and non-appealable. The Board shall consider the Appeal and issue a written decision not later than thirty (30) days after receipt by the LOA of the complete Appeal Notice, or at such later regular or special meeting agreed to by the LOA, the ALCC and the appellant.

[Section 11.8.2 inserted 01/17/13]

[Section 11.8 heading amended 01/17/13]

11.9. Waiver and Additional Requirements.

The ALCC will have the right to waive or amend any of the requirements set forth herein, or will have the right to require additional or more stringent requirements as to any proposed improvement or request for approval, if the ALCC deems such requirements appropriate.

[Section 11.9 amended 01/17/13]

11.10. Variances.

All variance requests must be made in writing and accompanied by any fees required by the Schedule of Fees set forth in Addendum "D." Any variance granted shall be considered unique to that particular application and shall have no value as a precedent for future variance requests. The granting of any variance by the ALCC shall not be a waiver of its right to deny other requests for variances. No variances or waivers from strict compliance with these Design Guidelines shall be granted by the ALCC prior to the Final Transition Date without the written approval of Declarant.

[Section 11.10 amended 01/17/13]

11.11. Design Document Changes.

An Agricultural Lot Owner must notify the ALCC prior to making any changes to or constructing any Improvements different than those shown in the approved plans (including, without limitation, any change in location of any Improvements within, or locating Improvements outside of, the Farm Dwelling Site as shown on the Agricultural Lot Plot Plan). A letter with applicable support data (as required) must be submitted to the ALCC for the file. Any major deviations (as solely determined by the ALCC) may require full ALCC approval prior to commencement of changes (which shall be subject to re-review and other fee(s) pursuant to Section 6.5).

[Section 11.11 amended 02/05/21]

11.12. Summary. The following summary is included as a brief recap of the major steps in obtaining ALCC approval for each of the design reviews and is not meant to amend or replace other sections hereof.

11.12.1. The Agricultural Lot Owner submits the appropriate Design Review Application to the ALCC, together with the required submittals and the review fee. A sample application form is attached as Addendum "A"; however the Agricultural Lot Owner is responsible for ensuring that the application contains all information and includes all submittals, required by the Agricultural Lease, the Subdivision Declaration, and these Design Guidelines in order to facilitate ALCC review thereof.

[Section 11.12.1 amended 01/17/13]

11.12.2. A member of the ALCC inspects the location of the proposed improvement prior to the meeting of the ALCC.

11.12.3. The ALCC, upon a majority vote of its members, approves or takes exception to the Design Review Application within forty-five calendar days, and the

Agricultural Lot Owner is notified that the application has been approved, approved with conditions, or disapproved. Reasons for the disapproval are provided.

[Section 11.12.3 amended 01/17/13]

11.12.4. In some cases, the ALCC may disapprove a Design Review Application if the application inadequately describes the requested improvement, or if the ALCC requires a second opportunity to visit the Agricultural Lot prior to making its decision.

11.12.5. If the Design Review Application is disapproved and the Agricultural Lot Owner does not understand the ALCC's comments or concerns, the Agricultural Lot Owner should contact the ALCC Administrator.

11.12.6. In the majority of cases involving minor problems, the ALCC's concerns and suggested solutions can be clarified for the applicant. A revised application may then be submitted and reviewed in the same fashion as the initial application.

11.12.7. The Agricultural Lot Owner may also meet personally with the ALCC to discuss the application and request reconsideration and the ALCC shall issue a Final Decision.

[Section 11.12.7 was amended 01/17/13]

11.12.8. Appeals of ALCC Final Decisions may be made by affected Agricultural Lot Owners to the LOA within fifteen days of the Final Decision.

[Section 11.12.8 was inserted 01/17/13]

11.13. Schedule of Fees. The Subdivision Declaration authorizes the ALCC to adopt a schedule of fees payable by Agricultural Lot Owners in connection with the processing of submittals, and to establish the time and manner in which such fees shall be paid. The Schedule of Fees attached hereto as Addendum "D" (the "Schedule of Fees"), as the same may be amended from time to time, shall be binding upon all Agricultural Lot Owners. All fees payable pursuant to the Schedule of Fees attached hereto as Addendum "D" shall be paid to the LOA. The Schedule of Fees may be amended by the ALCC, with the approval of the LOA, on written notice to the Agricultural Lot Owners. All fees payable by an Agricultural Lot Owner under these Design Guidelines shall be a "Benefited Assessment" under Section 7.05 of the Declaration, payable and enforceable as provided in Section 7 of the Declaration and secured by the Assessment Lien provided for in Section 7.15 of the Declaration.

[Section 11.13 inserted 01/17/13]

11.14. Amendments. As provided in the Agricultural Lease, these Design Guidelines may be modified or amended by the Farming Tenant from time to time, with written notice thereof to the Agricultural Lot Owners, provided that any such amendment, prior to the Final Transition Date, shall require the prior written approval of the Declarant, which approval may be granted or withheld in the Declarant's sole and absolute discretion. Any amendments to these Design Guidelines shall apply only to construction and modifications commenced after the effective date of such amendment, and shall not apply to require modifications to or removal of Improvements previously approved by the ALCC once the approved construction or modification has commenced.

[Section 11.14 inserted 01/17/13; amended 02/05/21]

12. Section 12.1 moved to Addendum “C”

[Section 12.1 moved to Addendum “C” 01/17/13; Remainder of Section 12 deleted 01/17/13]

13. Section 13 moved to Addendum “A”

[Section 13 moved to Addendum “A” 01/17/13]

KĀ'ANAPALI



COFFEE FARMS

ADDENDUM "A"

DESIGN REVIEW APPLICATION

DATE: _____

TO: ALCC

BUYER:

Name

Street

City State Zip

() _____ () _____
Phone (note Home, Bus. or Cell) Phone (note Home, Bus. or Cell)

Email address

BUILDER:

Name HI Lic. #

Street

City State Zip

() _____ () _____
Business phone Cell phone

Email address

ARCHITECT:

Name HI Lic. #

Street

City State Zip
() _____ () _____
Phone Fax

Email address

LANDSCAPE
ARCHITECT:

Name HI Lic. #

Street

City State Zip
() _____ () _____
Phone Fax

Email address

CIVIL
ENGINEER:

Name HI Lic. #

Street

City State Zip
() _____ () _____
Phone Fax

Email address

Additional
Consultant:
(Mechanical/
Surveyor/
Or Structural)

Name HI Lic. #

Street

City State Zip
() _____ () _____
Phone Fax

Email address

LOT NO. _____ PHASE NO. _____

LOT ADDRESS _____

This application is being submitted for:	<u>Check One</u>
Conceptual review	_____
Preliminary Review	_____
Final Review	_____

GENERAL PROJECT INFORMATION

Total Lot Area (acres): _____

Farm Dwelling Area (sq. ft.): _____

Proposed No. of Structures: _____

Description of Structures*: _____

* see Section 8.3 of the Farm Dwelling Site Rules and Guidelines

Max. "Actual Building Height" above Existing Grade:

Single-Family Farm Dwelling Area (feet/inches): _____

Structure-2 (feet/inches): _____

Structure-3 (feet/inches): _____

Total Building Area*:

Single-Family Farm Dwelling Area (sq. ft.): _____

Structure-2 (sq. ft.): _____

Structure-3 (sq. ft.): _____

* see Section 8.5 of the Farm Dwelling Site Rules and Guidelines

EXTERIOR FEATURES**COLOR/FINISH****DESCRIPTION**

Driveway	_____	_____
Foundation	_____	_____
Siding	_____	_____
Trim	_____	_____
Stucco	_____	_____
Stone (Building)	_____	_____
Stone (Site)	_____	_____
Stone (Walls)	_____	_____
Windows	_____	_____
Window Trim (exterior)	_____	_____
Doors (exterior)	_____	_____
Doors (garage/storage)	_____	_____
Roofing	_____	_____
Fascia	_____	_____
Soffit	_____	_____
Gutters	_____	_____
Chimney	_____	_____
Lanais	_____	_____
Pool Deck	_____	_____

The preceding application is submitted to the ALCC for review.

Requested design documents are attached.

Submitted by:

Title: _____

Firm _____

Date: _____

Affix Hawaii Architectural Stamp and sign below:

Exp. Date: _____

[Addendum "A" originally appeared as Section 13 of the Design Guidelines; Section 13 amended 06/22/11; Section 13 re-numbered as Addendum "A" and revised 01/17/13]

ADDENDUM "B-1"

**MOKKA POINT MODIFICATIONS TO THE
FARM DWELLING SITE RULES AND GUIDELINES**

Unless otherwise defined herein, capitalized terms used in this Mokka Point Modifications to the Farm Dwelling Site Rules and Guidelines (the "**Mokka Point Modifications**") shall have the meanings given such terms in the Farm Dwelling Site Rules and Guidelines, as amended (the "**Design Guidelines**").

The following modifications to the Design Guidelines apply only to Agricultural Lots located in Mokka Point.

With respect to all Agricultural Lots located in Mokka Point, replace Section 8.5 in its entirety with the following:

"8. BUILDING STANDARDS & CRITERIA

"8.5 Minimum Size / Maximum Size –

The Enclosed Areas of the structures shall be subject to the following maximum and minimum areas:

- | | |
|---|--|
| "8.5.1 Primary Farm Dwelling: | 2,250 s.f. minimum;
3,000 s.f. maximum* |
| "8.5.2 Garage (attached): | 500 s.f. minimum;
750 s.f. maximum* |
| "8.5.3 Accessory Farm Dwelling: | 500 s.f. minimum;
1,000 s.f. maximum* |
| "8.5.4 Farming Shed
(accessory structure): | 2,500 s.f. maximum* |

" * The combined Enclosed Area of the Primary Farm Dwelling, Garage, Accessory Farm Dwelling and Farming Shed shall not exceed 5,500 s.f."

Except as expressly modified by these Mokka Point Modifications, the Design Guidelines shall remain in full force and effect and shall apply to all Agricultural Lots in Mokka Point.

[Addendum "B" originally inserted as Addendum "A" 06/22/11; re-numbered as Addendum "B" and amended 01/17/13; re-numbered as Addendum "B-1" and amended 02/05/21]

ADDENDUM “B-2”

**KOPE NORTH MODIFICATIONS TO THE
FARM DWELLING SITE RULES AND GUIDELINES**

Unless otherwise defined herein, capitalized terms used in this Kope North Modifications to the Farm Dwelling Site Rules and Guidelines (the “**Kope North Modifications**”) shall have the meanings given such terms in the Farm Dwelling Site Rules and Guidelines, as amended (the “**Design Guidelines**”).

The following modifications to the Design Guidelines apply only to Agricultural Lots located in Kope North.

1. **Infrastructure Improvements.** Infrastructure improvements (e.g., roads, etc.) proposed or required for Kope North shall be designed and constructed pursuant to and in accordance with all requirements of the County in connection with such subdivision, and also in accordance with all requirements, if any, of the applicable Supplemental Declaration. Copies of all plans for such infrastructure improvements, as approved by the County, shall be submitted to the ALCC. Unless otherwise approved by the ALCC, in its sole discretion, construction of all such infrastructure shall commence within one (1) year after final County subdivision approval and shall be completed within two (2) years after final County subdivision approval (or such shorter periods as may be required by the County).

2. **Wood Fences.** Notwithstanding anything to the contrary in Section 7.4, wood fences located on any Agricultural Lots located in Kope North may not exceed 6’0” (six feet) in height, as measured from finish grade on either side of the fence, and the vertical supports may not exceed 6’-6” (6 feet, 6 inches) in height, as measured from finish grade on either side of the vertical support; provided, however, no fence in excess of 4’-6” (5’-0” vertical supports) shall be visible from any location from any road.

3. **Minimum Size / Maximum Size.** With respect to all Agricultural Lots located in Kope North, Section 8.5, is replaced in its entirety with the following:

“8.5 Minimum Size / Maximum Size.

“8.5.1 Except as provided in Section 8.5.2 of these Kope North Modifications, the Enclosed Areas of structures permitted on an Agricultural Lot in Kope North shall be subject to the following maximum and minimum areas:

- | | | |
|-----|--|---|
| “a | Primary Farm Dwelling: | 3,000 s.f. minimum;
15,000 s.f. maximum. |
| “b. | Garage (attached): | 500 s.f. minimum;
1,500 s.f. maximum. |
| “c. | Accessory Farm Dwelling: | 500 s.f. minimum;
1,000 s.f. maximum |
| “d. | Farming Shed
(accessory structure): | 2,500 s.f. maximum. |

“8.5.2 Notwithstanding the restrictions set forth in Section 8.5.1 of these Kope North Modifications, and provided that, to the extent required, Maui County grants a variance therefor, the Enclosed Area of the structures located on one,

but not more than one, Agricultural Lot located in Kope North, shall be subject to the following maximum and minimum areas:

- | | | |
|-----|--|--|
| “a. | Primary Farm Dwelling: | 3,000 s.f. minimum;
25,000 s.f. maximum |
| “b. | Garage (attached): | 500 s.f. minimum;
3,000 s.f. maximum |
| “c. | Accessory Farm Dwelling: | 500 s.f. minimum;
3,000 s.f. maximum |
| “d. | Farming Shed
(accessory structure): | 3,500 s.f. maximum |

“The identification of which Agricultural Lot, if any, to which the square footage limitations set forth of this Section 8.5.2 shall apply shall be made by the subdivider of Lot 53-A in accordance with the applicable Supplemental Declaration, with written notice to the ALCC and in no event later than the first to occur of (i) submittal to the ALCC of the initial application for a Farm Dwelling, Farming Shed and/or Accessory Farm Dwelling within Kope North or (ii) submittal to the County of an application for subdivision approval affecting any portion of Kope North. Once made, the identification of which Agricultural Lot to this Section 8.5.2 shall apply shall not be changed without the agreement of the Owners of the affected Agricultural Lots in Kope North, with the approval of the Declarant (prior to the Final Transition Date), or the ALCC and the Board (after the Final Transition Date).”

4. **Massing.** As to a Primary Farm Dwelling presented with a tropical contemporary architectural theme or design aesthetic, Section 8.8 is modified as follows:

“8.8 **Massing.** There shall be no limitation on the percentage that the Enclosed Area of the second floor of a Primary Farm Dwelling may bear in relation to the Enclosed Area of the first floor level. The footprint of the building shall be varied to increase the modulation of the walls and roofline and long uninterrupted perimeter walls should be avoided. Each elevation of the Primary Farm Dwelling in excess of (45'-0") forty-five feet must have a minimum of (3) three outside corners.

“**Roof Slope.** With respect to all Agricultural Lots located in Kope North, Section 8.9.3 is revised as necessary to provide that, if tropical contemporary architecture is presented for approval, low slope or flat roofs (pitches less than 2:12) or high slope (pitches greater than 10:12) will be permitted; however, only when dictated by the design and when architecturally appropriate, as determined by the ALCC.”

5. **Windows, Doors and Glazing.** As to structures presented with a tropical contemporary architectural theme or design aesthetic, Section 8.10 is modified as follows:

“8.10 **Windows, Doors & Glazing.** Windows and sliding glass door systems may be wood, metal, clad or vinyl framed. Manufacturer and material and the window/sliding glass must be specified and color samples of the frame must be submitted to the ALCC for review and approval as part of the design reviews forth in Section 6.

“Frame and sash colors matching or complementing the exterior building colors are encouraged. Bronze or silver anodized metal frames are not permitted.

“Reflective or mirror glazing is not permitted.

“Individual windows must be at least 900 square inches (minimum 30"x 30") in size unless strongly dictated by the design.

“All windows, exterior doors and sliding glass door openings must have an exterior trim element at least three and one-half inches (3-1/2") wide. Size and type of trim must be specified. Window/door trim color must match or complement the window/door frame color.

“Window types shall be fixed, awning, casement or vertical sliding (single or double hung).

“Window style, size, layout and composition are an important part of the design review. The ALCC will review the window scheme for each building elevation and will make appropriate recommendations.”

Except as expressly modified by these Kope North Modifications, or as otherwise proved in the applicable Supplemental Declaration(s), the Design Guidelines shall remain in full force and effect and shall apply to all Agricultural Lots in Kope North.

[Addendum "B-2" added 02/05/21]



ADDENDUM "C"

FINISH MATERIALS SCHEDULE

In order to provide a systematic and uniform review of the proposed construction materials, a matrix is included below which highlights certain materials which require specification in the materials submitted for Final Review. The matrix also outlines the submittal requirement for each material item. All materials submitted shall be grouped together and labeled.

"Details" noted below may be provided in the drawing submittal.

"Samples" shall be actual samples of the proposed material at least 4"x4" in size except in the case of roofing which must either be a whole roof tile or shingle or a sample at least 12"x12" in size for metal roofing.

"Color Samples" may be the actual material or color swatches on a suitable background.

	Data	Sample	Details	Color Sample	Product (Data)
1.	Finish Roofing	X		X	X
2.	Building Siding		X*	X	
3.	Exterior Plaster		X*	X	
4.	Stone Veneer	X*	X*	X	
5.	Building Trim		X*	X	X
6.	Gutters and Flashing		X	X*	
7.	Lanai Railings		X	X	X*
8.	Exterior Doors			X*	X
9.	Garage Door			X*	X
10.	Windows			X*	X
11.	Fences & Walls		X	X*	

* noted items may be provided as a specification separately or provided within the drawing submittal in lieu of actual details, color sample and/or product data.

[Addendum "C" originally appeared as Section 12.1 of the Design Guidelines; Section 12.1 was re-numbered as Addendum "C" and amended 01/17/13]

ADDENDUM “D”

SCHEDULE OF FEES

The following fees shall be payable by an Agricultural Lot Owner, at the time, in the manner and for the purposes set forth in the applicable Section. Unless specified in the applicable Section, all fees shall be (i) non-refundable, (ii) payable upon written invoice from the ALCC and (iii) if not paid when due, subject to interest at the lesser of twelve (12) percent per annum or the maximum rate allowed by law from the date due until the date paid. The Schedule of Fees shall not be construed to be a waiver by the LOA of any right of the LOA under the Declaration, the Bylaws or these Design Guidelines or otherwise at law or in equity, nor a measure of any damages to which it may be entitled.

Completed applications for initial approval of a Farm Dwelling, Farming Shed and/or Accessory Farm Dwelling when submitted at the same time shall be considered as a single application and subject to a single Design Review Fee and single Construction Deposit. An application for initial approval of any Farm Dwelling, Farming Shed and/or Accessory Farm Dwelling submitted at any different time shall be considered a new and separate application and subject to a separate Design Review Fee and separate Construction Deposit. The designation of a future Farm Dwelling, Farming Shed and/or Accessory Farm Dwelling on a submitted plan, without being accompanied by all required plans, elevations and other information required by these Design Guidelines, shall not be considered an application for initial approval of such structure, nor considered part of a single application.

<u>Section</u>	<u>Description</u>	<u>Amount:</u>
6.5	Design Review Fee (Major)	\$5,000, non-refundable
6.5	Design Review Fee (Minor)	\$1,000, non-refundable
6.5	Re-reviews, additional consultations, site visits	\$200/re-review, plus time, materials and other costs, non-refundable
6.10.5	Request for Final Approval Extension Fee	\$500, non-refundable
6.11	Commencement of Construction in violation of Section 6.11	\$250/day, until cured
6.12	Construction Deposit (Major)	\$20,000, refundable
6.12	Construction Deposit (Minor)	\$5,000, refundable
6.15	Occupancy of Improvements in violation of Section 6.15	\$250/day, until cured
6.15	Failure to complete improvements after not less than seven (7) days written notice from the Board	Up to \$500 per day, until cured (Certificate of Completion issued by the ALCC)
6.16	Request for Extension Fee	\$200, non-refundable
7.12	Agricultural Lot Plot Plan Amendment Review Fee	\$2,000, non-refundable
10.2	Inadequate Dust Control Measures	\$500/Notice
10.4	Dumping of Debris and/or Materials	\$500/Notice
10.7	Construction Outside of Approved Days/Times	\$250/Notice
10.2, 10.4, 10.12	Construction Site Not Maintained to Standards	\$500/Notice

10.14	Infraction of Job Site Rules after not less than seven (7) days written notice from the Board	\$500/day per infraction, until cured
10.16	Failure to Install Concrete Header	\$500/Notice + Cost to Repair Road
10.17	Damage to Common Area Elements	Reimburse Expense
11.8.1	Reconsideration Application Fee	\$200, non-refundable
11.8.2.	Appeal Fee	\$500, non-refundable
11.10	Variance Approval Fee	\$500, non-refundable
11.10	After-The-Fact Variance Approval Fee	\$1,500, non-refundable
11.11	Construction of Improvements in violation of Section 11.11	\$250/day, until cured
Misc.	Requests for ALCC review or approval not specified above	\$500 application fee for each request, plus time, materials and other costs, non-refundable

[Addendum "D" inserted 01/17/13; amended and restated 7/26/2019; amended 02/05/21]

ADDENDUM "E"

SCHEDULE OF INSURANCE POLICY TYPES AND LIMITS

The types and limits of insurance set forth below are hereby required pursuant to Section 10.18 of these Design Guidelines. Agricultural Lot Owners shall also comply with any requirements for such insurance set forth in Section 10.18 of these Design Guidelines.

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| 1. Insurance against claims (i) for personal injury, death and broad form property damage arising out of the construction of the Improvements on the Agricultural Lot and any activities of the Agricultural Lot Owner and any officers, directors, shareholders, managers, members, agents, employees, contractors, invitees and guests of the Agricultural Lot Owner on or the Agricultural Lot in connection with such construction, and (ii) arising out of the indemnity obligations of the Agricultural Lot Owner under these Design Guidelines. | \$2,000,000, for injury to one or more persons in any one accident or occurrence and for property damage |
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[Addendum "E" inserted 01/17/13]