

Roy Ho  
Chair

Member:  
Francis DeGracia

RECEIVED

Donna Apisa  
Vice Chair

20 SEP -1 P 1:51

COUNTY OF KAUAI PLANNING COMMISSION  
NOTICE OF SUBDIVISION COMMITTEE TELECONFERENCE AGENDA

**Tuesday, September 8, 2020**  
8:30 a.m. or shortly thereafter

Microsoft Teams Audio: +1 469-848-0234, Conference ID: 112 307 510#

The meeting will be held via Microsoft Teams conferencing only. Members of the public are invited to join this meeting by calling the number above with the conference ID information. You may testify during the video conference or submit written testimony in advance of the meeting via e-mail or mail. To avoid excessive noise/feedback, please mute your microphone except to testify.

- A. **CALL TO ORDER**
- B. **ROLL CALL**
- C. **APPROVAL OF AGENDA**
- D. **MINUTES of the meeting(s) of the Subdivision Committee**
  - 1. Minutes of Meeting on June 9, 2020
- E. **RECEIPT OF ITEMS FOR THE RECORD**
- F. **HEARINGS AND PUBLIC COMMENT** The Planning Commission will accept written testimony for any agenda item herein. Written testimony indicating your 1) name, and if applicable, your position/title and organization you are representing, and 2) the agenda item that you are providing comment on, may be submitted in writing to [planningdepartment@kauai.gov](mailto:planningdepartment@kauai.gov) or mailed to the County of Kauai Planning Department, 4444 Rice Street, Suite 473, Lihue, Hawaii 96766. Written testimony received by the Planning Department before 8:30 a.m. on Monday, September 7, 2020, will be distributed to all Planning Commissioners prior to the meeting. Written testimony received after 8:30 a.m. on Monday, September 7, 2020, will be summarized by the Clerk of the Commission during the meeting and added to the record thereafter.
- G. **GENERAL BUSINESS MATTERS**
- H. **UNFINISHED BUSINESS**

I. **NEW BUSINESS (For Action)**

1. **Tentative Subdivision Map Approval**

- a. Subdivision Application No. S-2021-11  
**(Kukui‘ula Development Co.)**  
Proposed 14-lot Subdivision  
TMK: (4) 2-6-019:048  
Kukui‘ula, Kaua‘i

1) Subdivision Report pertaining to this matter.

2. **Final Subdivision Map Approval**

- a. Subdivision Application No. S-2018-15  
**(Kīlauea Ohana Plateau, LLC.)**  
Proposed 10-lot Subdivision  
TMK: (4) 5-2-005:023  
Kīlauea, Kaua‘i

1) Subdivision Report pertaining to this matter.

- b. Subdivision Application No. S-2019-15  
**(Matthew Nelson/Stephanie & Katherine Skow)**  
Proposed 2-lot Subdivision  
TMK: (4) 4-7-006:019  
Keālia, Kaua‘i

1) Subdivision Report pertaining to this matter.

- c. Subdivision Application No. S-2019-19  
**(Kukui‘ula Development Co.)**  
Proposed 8-lot Subdivision  
TMK: (4) 2-6-022:019, 021  
Kukui‘ula, Kaua‘i

1) Subdivision Report pertaining to this matter.

- d. Subdivision Application No. S-2020-2  
**(Kukui‘ula Development Co.)**  
Proposed 13-lot Subdivision  
TMK: (4) 2-6-022:020  
Kukui‘ula, Kaua‘i

1) Subdivision Report pertaining to this matter.

**I. NEW BUSINESS (For Action) (Cont'd)**

3. Tentative Subdivision Extension Request

- a. Subdivision Application No. S-2018-12  
**(AOAO Kulana Condominium)**  
Proposed 2-lot Subdivision  
TMKs: (4) 4-4-003:089  
Kapa'a, Kaua'i  
  
1) Subdivision Report pertaining to this matter.
  
- b. Subdivision Application No. S-2019-3  
**(McBryde Sugar Co., LLC./Sunset Strip Properties, LLC.)**  
2-lot Subdivision  
TMKs: (4) 2-4-007:002, 020  
Kalāheo, Kaua'i  
Proposed 5-lot Boundary Adjustment  
  
1) Subdivision Report pertaining to this matter.
  
- c. Subdivision Application No. S-2019-8  
**(Stephanie Fernandes)**  
TMK: (4) 4-2-005:044  
Po'ipū, Kaua'i  
  
1) Subdivision Report pertaining to this matter.
  
- d. Subdivision Application No. S-2019-16  
**(Robert S./Kerrilyn R.V. Barros)**  
TMKs: (4) 2-5-008:005  
Lāwa'i, Kaua'i  
  
1) Subdivision Report pertaining to this matter.

**J. ADJOURNMENT**

**NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR [ASEGRETI@KAUAI.GOV](mailto:ASEGRETI@KAUAI.GOV) AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST. UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.**

KAUA'I PLANNING COMMISSION  
SUBDIVISION COMMITTEE MEETING  
**June 9, 2020**

The regular meeting of the Planning Commission Subdivision Committee of the County of Kaua'i was called to order at 8:30 a.m., Microsoft Teleconference. The following Commissioners were present:

Mr. Roy Ho  
Ms. Donna Apisa  
Mr. Francis DeGracia

Absent and Excused:

The following staff members were present: Planning Department Director Kaaina Hull – Planning Deputy Director Jodi Higuchi Sayegusa, Dale Cua, and Planning Commission Secretary Leslie Takasaki; Office of the County Attorney – Deputy County Attorney Matthew Bracken; Office of Boards and Commissions – Commission Support Clerk Arleen Kuwamura.

Discussion of the meeting, in effect, ensued:

**CALL TO ORDER**

Subdivision Committee Chair Ho: Called the meeting to order at 8:30 a.m.

**ROLL CALL**

Chair Ho: Mr. Hull will you start us off with our roll, please.

Planning Director Mr. Kaaina Hull: Good morning members of the Subdivision Committee. First order of business is Roll call. Commissioner Apisa.

Ms. Apisa: Here.

Mr. Hull: Commissioner DeGarcia.

Mr. DeGracia: Here

Mr. Hull: Chair Ho.

Chair Ho: Here

Mr. Hull: Chair Ho, you have a quorum. 3 Present.

## **APPROVAL OF AGENDA**

Mr. Hull: The next order of business is the Approval of the Agenda. The Department does not have any recommended changes to the agenda at this time.

Chair Ho: I need a motion please.

Mr. DeGracia: I move to approve the agenda.

Ms. Apisa: Seconded.

Chair Ho: The motion before us is to approval the agenda. All in favor? Aye (Unanimous voice vote) Motion approved. Motion carries 3:0.

## **MINUTES of the meeting(s) of the Subdivision Committee**

Mr. Hull: Next agenda Item, we have no Minutes.

## **RECEIPT OF ITEMS FOR THE RECORD (None)**

Mr. Hull: There is no Receipt of Items for the Record.

## **HEARINGS AND PUBLIC COMMENT**

Mr. Hull: Hearings and Public Comments. We did not receive any written testimony and looking at the participants, nobody has called in to participate in this meeting. Sorry, I should say, no members of the public have called in to participate in this meeting. So, we can move on to—

Chair Ho: Kaaina. One more thing, as we proceed in this; it used to be if one of the Commission members would want speak with either you, the attorney or someone on the Commission, they would ask for a recess and then have their discussion. How would we do this in this format now? If I wanted to speak to the attorney privately, yourself, or one of the Commission members? Do you want to think about it?

Mr. Hull: Really, I am going to be careful because our County Attorney may jump in here. I would say, Chair Ho, that if you have any thing you would like to discuss with us ahead of time. It is probably best to have that side bar discussion with us ahead of time. Technically, once we are in the meeting to preserve the record and in the interest of the Sunshine Law, although, it has been waived. It is best to keep everything on the record and in the meeting. If you want to have a side bar discussion about issues and preparing for it, definitely giving us a call or we can call you ahead of the meeting to talk things through.

Ms. Apisa: Sounds reasonable.

Chair Ho: Thank you.

**GENERAL BUSINESS MATTERS**

Mr. Hull: Moving on. We have no G, General Business Matters.

**UNFINISHED BUSINESS (For Action)**

Mr. Hull: We have no H, Unfinished Business.

**NEW BUSINESS (For Action)**

Tentative Subdivision Map Approval.

Subdivision Application No. S-2020-07 State of Hawaii,  
DLNR – Forestry Division Proposed 2-lot Subdivision  
TMK: (4) 1-8-008: 020 (Por.) Hanapepe, Kauai

Mr. Hull: Moving on to New Business Item I., tentative Subdivision Map Approval - Subdivision Application No. S-2020-07 State of Hawaii, DLNR – Forestry Division Proposed 2-lot Subdivision TMK: (4) 1-8-008: 020 (Por.) Hanapepe, Kauai and I will turn it over to Dale for the Subdivision Report.

Mr. Cua read the Subdivision Report for the record (on file with the Planning Department).

Staff Planner Mr. Dale Cua: Commissioners, the Department has received all the agency requirements and we have incorporated them into the subdivision report. As a result, we are recommending tentative subdivision approval of this application.

Chair Ho: Are there any questions for Mr. Cua, Commissioners?

Ms. Apisa: I have no questions.

Chair Ho: If there will be no questions, I entertain a motion, please.

Ms. Apisa: I move to approve Subdivision Application No. S-2020-07, State of Hawaii, DLNR-Forestry Division.

Mr. DeGracia: I second.

Chair Ho: The motion before us is to approve Application No. S-2020-07, for State of Hawaii, DLNR-Forestry Division. All in favor? Aye (Unanimous voice vote) Motion carries 3:0.

Ms. Apisa: Aye.

Chair Ho: Any one opposed?

Mr. DeGracia: Aye.

Ms. Apisa: Opposed?

Chair Ho: Mr. Hull can I call upon you to take the roll call vote, please?

Mr. Hull: Sure, Chair. The motion is to approve tentative subdivision application N0. S-2020-07. Commissioner Apisa.

Ms. Apisa: Aye.

Mr. Hull: Commissioner DeGracia.

Mr. DeGracia: Aye.

Chair Ho: Aye.

Mr. Hull: Motion passes, Chair. Motion Passes 3:0.

### **ADJOURNMENT**

Mr. Hull: And with that, we have no further subdivision items. That was a long one folks.

Chair Ho: We are approaching records here. I will ask for a motion to adjourn.

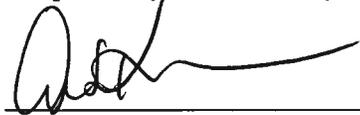
Ms. Apisa: I move to adjourn.

Mr. DeGracia: Seconded.

Chair Ho: Motion before us is to Adjourn. All in favor? Aye. (Unanimous voice vote) Motion carries 3:0. We are adjourned.

Subdivision Committee Chair Ho: adjourned the meeting at 8:37 a.m.

Respectfully submitted by:



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Arleen Kuwamura  
Commission Support Clerk

- ( ) Approved as circulated (add date of meeting approval).
- ( ) Approved as amended. See minutes of \_\_\_\_\_ meeting

**Ka'aina S. Hull**  
Director of Planning



**Jodi A. Higuchi Sayegusa**  
Deputy Director of Planning

**SUBJECT TO CHANGE**

**COUNTY OF KAUA'I**  
**PLANNING DEPARTMENT**  
**SUBDIVISION REPORT**

**I. SUMMARY**

**Action Required by Planning Commission:** Consideration of Subdivision Application No. S-2020-11 that subdivides a parcel into a total of fourteen (14) lots.

**Subdivision Permit No.** Application No. S-2020-11

**Name of Applicant(s)** KUKUI'ULA DEVELOPMENT COMPANY, LLC.

**II. PROJECT INFORMATION**

<b>Map Title</b>	Kukui'ula Parcel CC West Subdivision, Phase 2 – Subdivision of Lot 15 of Kukui'ula CC West Subdivision into Lots A through H, J through N, and P, Designation of Easement 1, Kōloa, Kona, Kaua'i, Hawai'i.		
<b>Tax Map Key(s):</b>	2-6-019:048	<b>Area:</b>	233,174 sq. ft.
<b>Zoning:</b>	Residential (R-10)		
<b>State Land Use District(s):</b>	Urban	<b>General Plan Designation:</b>	Residential Community
<b>AGENCY COMMENTS</b>			
<input checked="" type="checkbox"/> <b>COK Public Works</b>	7/09/2020	<input type="checkbox"/> <b>State DOT-Highways:</b>	
<input checked="" type="checkbox"/> <b>COK Water:</b>	7/20/2020	<input checked="" type="checkbox"/> <b>State Health:</b>	7/15/2020
<input type="checkbox"/> <b>Other(s)</b>		<input checked="" type="checkbox"/> <b>DLNR – SHPD:</b>	Pending
<b>EXISTING ROAD RIGHT-OF-WAY(S)</b>			
<b>Road Name</b>	<b>Existing Width</b>	<b>Required Width</b>	<b>Pavement YES NO Reserve</b>
Ike Kai Street	44 feet	44 feet	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>
Ala Kukui'ula	60 feet	44 feet	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>
			<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>APPLICABLE FEES</b>			
<b>Environmental Impact Assessment (EIA)</b>	\$6,000.00		
<b>Park Dedication</b>	To be determined		
<b>Appraisal Report Required</b>	Yes		

**III. EVALUATION**

The proposed development subdivides Lot 15 of the Kukui'ula CC West Subdivision into a total of twelve (12) residential lots, 2 remnant parcels and 1 roadway lot. The development shall be subject to the applicable requirements/conditions of Ordinance No. PM-2004-379 and the EIA & Park Fees shall be credited, as specified by the ordinance.

**IV. RECOMMENDATION**

TENATIVE APPROVAL	FINAL APPROVAL
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denied Tentative Approval subject to all requirements as noted on the follow pages: <div style="text-align: right; margin-top: 10px;">   <b>Director of Planning</b>      <b>Date</b> 8/21/2020         </div>	<input type="checkbox"/> Approval <input type="checkbox"/> Denied All conditions have been complied with
<b>Director of Planning</b> <b>Date</b>	<b>Director of Planning</b> <b>Date</b>

I-1-a.1

SEP 0 8 2020

## V. AGENCY REQUIREMENTS

- I. Requirements of the Planning Department:
  - a. An updated preliminary title report for the existing lot shall be submitted to the Planning Department for review.
  - b. All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - c. Pursuant to Ordinance No. PM-2004-370, the Applicant is allowed to credit Environmental Impact Assessment and Park Dedication fees for developments within their Project Area. Since the Applicant has not resolved with the Planning Department whether they will pay fees or provide improvements for credit, the following fees are being assessed:
    - 1) An Environmental Impact Assessment Fee of Six Thousand Dollars (\$6,000.00) shall be paid to the County of Kaua'i; and
    - 2) The Applicant shall pay a Park Dedication fee pursuant to Section 9-2.8 of the Kaua'i County Code Subdivision Ordinance. An appraisal report and price list shall be provided to the Planning Department to forward to the Real Properties Division to help calculate the fee amount.

The Applicant shall resolve with the Planning Department the method that will be utilized to satisfy these fee requirements prior to final subdivision approval.

- d. Relative to Condition No. 1.b. and prior to final subdivision map approval, the Applicant shall meet with the Planning Department to resolve the applicable requirements of Ordinance No. PM-2004-370. Specifically, the following conditions shall apply to this subdivision:

### **Conditions of Ordinance No. PM-2004-370:**

- o 3. (prohibition of Additional Dwelling Units)
  - o 7. (improvements to roadway system)
  - o 14. (EIA credit)
  - o 15. (recreation)
  - o 16. (park dedication credit)
  - o 23. (wastewater system master plan)
  - o 27. (solid waste management plan)
  - o 30. (blasting plan)
- e. There shall be no direct access permitted onto Ala Kukui'ula from Lots 35 & 36, and no direct access permitted onto Ala Kukui'ula from Lot M. Semi-circles denoting no direct access permitted shall be shown on the final subdivision map. These provisions shall be incorporated as a restrictive covenant for the subject lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - f. As represented on the preliminary subdivision map, Lots M & N are "unique" shaped lots that qualify for residential density based on the R-10 zoning designation. Prior to final subdivision approval, the Applicant shall disclose whether these lots will be further developed, and if so, the layout of these lots may be revised in order to accommodate future development. The Planning Department reserves the right to impose additional conditions relating to this matter while in the process of resolving this condition.

- g. The Applicant shall establish bus stops/shelters pursuant to Ordinance No. 406. The details shall be resolved with the Planning Department and Department of Public Works prior to construction plan approval.
- h. The Applicant is made aware that the streets designated within the subdivision must be officially named before the Department approves the construction plans. Street names should be in Hawaiian and be submitted to our Department for review and approval, along with a request letter and 12 maps (on 8½" x 14" paper). The maps should be detailed such that emergency vehicles, police services, postal deliveries, etc., are able to locate the street. References to roadway, such as the highway and other surrounding roads, should be shown on the street-naming map.
- i. The Subdivider shall comply with the requirements in Section 9-2.3(e) of the Kaua'i County Code (1987) relating to the provision of curbs, gutters and sidewalks along Ike Kai Street and Roadway Lot P. The extent of improvements shall be resolved with the Planning Department and Department of Public Works prior to final subdivision map approval.
- j. The Applicant shall prepare and obtain construction plan approvals for necessary road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.
- k. Relative to the requirements/standards set forth in Ordinance No. 777, the Applicant shall resolve with the Planning Department the provision of public access.
- l. The subdivider shall incorporate the features of the Conceptual Trail Master Plan (dated April 2004) within the project area, if applicable. The access plan shall be reviewed and approved by both the Planning and Parks & Recreation Departments. Furthermore, proper documents shall be prepared and ready for execution prior to final subdivision approval. The Planning Department reserves the right to impose additional conditions relating to this matter while in the process of resolving this condition.
1. Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kaua'i County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.
2. Requirements of the Department of Public Works (DPW):
  - a. The Parcel CC West Subdivision Draft Drainage Report dated May 2020 was prepared by Austin, Tsutsumi & Associates, Inc. for the subject development. The drainage concept as proposed in this drainage report must be followed to ensure and maintain stormwater quality form the project and to detain the increase in storm runoff to pre-development levels in accordance with the County's Storm Water Runoff System Manual.
  - b. Grading plans, construction plans, and specifications showing details and road construction, drainage structures, sewers, water mains, and all other utilities proposed to be construction in the subdivision shall be submitted for the department's review and approval.
  - c. Best Management Practices (BMP's) shall be provided at all times to the maximum extent practicable to prevent damage by sedimentation, erosion, and dust to streams, watercourses, natural areas, and the property of others.
3. Requirements of the Department of Water (DOW):
  - a. Prior to final subdivision approval, the Applicant shall be required to:
    - 1) Submit an update Kukui'ula Water Demand and System Capacity Tracking Matrix;

- 2) Be aware that the Facilities Reserve Charge (FRC) and the adequacy of source, storage, and transmission facilities for the proposed development will be dependent on the approved updated Kukui'ula Water Demand and System Capacity Tracking Matrix; and
- 3) Identify the proposed subdivision lot the water service will be assigned to. The DOW comments may change depending on the approved subdivision map.
- b. The subdivider shall prepare and receive DOW's approval of construction for the necessary water system facilities and either construction said facilities or post a performance bond for construction. These facilities shall also include:
  - 1) All facilities required in the approved Kukui'ula Water Master Plan for the proposed project.
  - c. If a bond is filed to secure final subdivision approval, the subdivider shall clearly letter the following on the approved construction plans, final subdivision map, and deeds:

“Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kaua'i.”

This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.
4. Requirements of the Department of Health (DOH):
  - a. The subject project is located within HOH's Poipu Water Reclamation Facility wastewater sewer system. All wastewater generated shall be disposed into HOH's Poipu Water Reclamation Facility sewer system. All lots in the proposed development/subdivision shall connect to HOH's Poipu Water Reclamation Facility sewer system.
  - b. Noise will be generated during the construction phase of this project. The applicable maximum permissible sound levels as stated in Title 11, Hawai'i Administrative Rules (HAR), Chapter 11-46, entitled “Community Noise Control” shall not be exceeded unless a noise permit is obtained from the State Department of Health (DOH).
  - c. Temporary fugitive dust emissions could be emitted when Lots 1-16 are developed. At that time, in accordance with Title 11, HAR, Chapter 11-60.1, entitled “Air Pollution Control”, effective measures for air pollution control shall be provided to minimize or prevent any fugitive dust emissions caused by the construction work from impacting the surrounding areas. This includes the off-site roadways used to enter/exit the project. The control measures include but are not limited to the use of water wagons, sprinkler systems, dust fences, etc.
  - d. The construction waste generated from the project shall be at a solid waste disposal facility that is in compliance with the applicable provisions of Title HAR, Chapter 11-58.1, entitled “Solid Waste Management Control”, the open burning of any of these wastes on or off site is prohibited).
  - e. The DOH Clean Water Branch (CWB) has reviewed the subject document and offers the following comments. Please note that the review is based solely on the information provided in the subject document and its compliance with Chapters 11-54 and 11-55 HAR. The Applicant is responsible for fulfilling additional requirements related to the program and it is recommended that the department's standard comments be reviewed at

<http://www.hawaii.gov/health/environmental/env-planning/landuse/CWB-standardcomment.pdf>.

- 1) Any project and its potential impacts to State waters must meet the following criteria:
  - A) Antidegradation policy (HAR, Section 11-54-1.1), which requires that the existing uses and the level of water quality necessary to protect the existing uses of the receiving State water be maintained and protected;
  - B) Designated uses (HAR, Section 11-54-3), as determined by the classification of the receiving State waters; and
  - C) Water quality criteria (HAR, Sections 11-54-4 and 11-54-8).
  
- f. The Applicant may be required to obtain a National Pollutant Discharge Elimination System (NPDES) permit coverage for discharges of wastewater, include storm water runoff, into State surface waters (HAR, Chapter 11-55).

For NPDES general permit coverage, a Notice of Intent (NOI) form must be submitted at least 30 calendar days before the commencement of the discharge. An application for a NPDES individual permit must be submitted at least 180 calendar days before the commencement of the discharge. To request NPDES permit coverage, you must submit the applicable form (“CWB Individual NPDES Form “ or CWB NOI Form”) through the e-Permitting Portal and the hard copy certification statement with the respective filing fee (\$1,000 for an individual NPDES Permit or \$500 for a Notice of General Permit Coverage). Please open the e-Permitting Portal website located at: <https://eha-cloud.doh.hawaii.gov/epermit/>. You will be asked to do a one-time registration to obtain your login and password. After you register, click on the Application Finder tool and located the appropriate form. Follow the instructions to complete and submit the form.
  
- g. It is the State’s position that all project must reduce, reuse, and recycle to protect, restore, and sustain water quality and beneficial uses of State waters. Project planning should:
  - 1) Treat storm water as a resource to be protect by integrating it into project planning and permitting. Storm water has long been recognized as a source of irritation that will not deplete potable water resources. What is often overlooked is that storm water recharges ground water supplies and feeds streams and estuaries; to ensure that these water cycles are not disrupted, storm water cannot be relegated as a waste product of impervious surfaces. Any project planning must recognize storm water as an asset that sustains and protects natural ecosystems and traditional beneficial uses of State waters, like community beautification, beach going, swimming, and fishing. The approaches necessary to do so, including low impact development methods or ecological bioengineering of drainage ways must be identified in the planning stages to allow designers opportunity to include those approaches up front, prior to seeking zoning, construction or building permits.
  - 2) Clearly articulate the State’s position on water quality and the beneficial uses of State waters. The plan should include statements regarding the implementation of methods to conserve natural resources (e.g. Minimizing potable water for irrigation, gray water re-use options, energy conservation through smart design) and improve water quality.
  - 3) Consider storm water Best Management Practice (BMP) approaches that minimize the use of potable water for irrigation through storm water storage and reuse, percolate storm water to recharge groundwater to revitalize natural hydrology, and treat storm water which is to be discharged.

- 4) Consider the use of green building practices, such as pervious pavement and landscaping with native vegetation, to improve water quality by reducing excessive fertilization, respectively.
- 5) Identify opportunities for retrofitting or bio-engineering existing storm water infrastructure to restore ecological function while maintaining, or even enhancing, hydraulic capacity. Particular consideration should be given to areas prone to flooding, or where the infrastructure is aged and will need to be rehabilitated.

For any questions, please visit website at <http://health.hawaii.gov/cwb/>, or contact the Engineering Section, CWB, at (808) 586-4309.

#### BMP Comments

- h. National Pollutant Discharge Elimination System (NPDES) permit coverage is required for pollutant discharges into State surface waters and for certain situations involving storm water (HAR, Chapter 11-55)
  - 1) Discharges into Class 2 or Class I State water can be covered under an NPDES general permit only if all of the NPDES general permit requirements are met. Please see the DOH-CWB website (<http://health.hawaii.gov/cwb/>) for the NDES general permits and instructions to request coverage.
  - 2) All other discharges into State surface waters (including discharges from Concentrated Animal Feed Operations) and discharges into Class 1 or Class AA State water require an NPDES individual permit. To request NPDES individual permit coverage, please see the DOW-CWB forms website located at: <http://health.hawaii.gov/cwb/site-map/clean-water-branch-home-page/forms/>
  - 3) NPDES permit coverage for storm water associated with construction activities is required if your project will result in the disturbance of one (1) acre or more of total land area. The total land area includes a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under a larger common plan of development or sale. NPDES permit coverage is required before the start of the construction activities.

Land disturbances includes, but is not limited to clearing, grading, grubbing, uprooting of vegetation, demolition (even if leaving foundation slab), staging, stockpiling, excavation into pavement areas which go down to the base course, and storage areas (including areas on the roadway to park equipment if these areas are blocked off from public usage, grassed areas, or bare ground).

- i. Please note that all discharges related to the project construction or operation activities, whether or not NPDES permit coverage and/or Section 401 WQC are required, must comply with the State's Water Quality Standards. Noncompliance with water quality requirements contained in HAR, Chapter 11-54 and/or permit requirements, specified in HAR, Chapter 11-55, may be subject to penalties of \$25,000 per day per violation.
5. The Applicant is advised the should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division and the Planning Department to determine mitigation measures.
  6. The Applicant is advised that prior to and/or during construction and use additional conditions may be imposed by government agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).

The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for SEPTEMBER 8, 2020 whereby the entire record should be considered prior to decision-making. The entire record should include but not be limited to:

- a. Pending government agency comments;
- b. Testimony from the general public and interested others; and
- c. The Applicant's response to staff's report and recommendation as provided herein.

By   
DALE A. CUA  
Planner

COUNTY OF KAUAI  
DEPARTMENT OF PUBLIC WORKS

TO: PLANNING DIRECTOR

S-2020-11

SUBDIVISION NO.

VIA: COUNTY ENGINEER

OWNER: Kukui`ula Development Co (Hawaii'i) LLC  
REGISTERED PROFESSIONAL LAND  
SURVEYOR:

FROM: ENGINEERING DIVISION

Erik Kaneshiro, PLS.

DATE: July 9, 2020

TAX MAP KEY: 2-6-019:048

RE: Kukui`ula Parcel CC West Subdivision, Phase 2  
Subdivision of Lot 15 of Kukui`ula Parcel CC West  
Subdivision into Lots A through H, J through N, and P  
and Designation of Easement 1. Being a Portion of Royal  
Patent 6714, Land Commission Award 7714-B, Apana 2  
to M. Kekuaiwa No M. Kekuanaoa Situated at Kōloa  
(Makai), Kōloa, Kona, Kaua`i, Hawaii`i

PRELIMINARY MAP **X**  
CONSTRUCTION PLANS (TITLE SHEET) \_\_\_\_\_  
CONSTRUCTION INSPECTION FEE \_\_\_\_\_  
AGREEMENT & BOND \_\_\_\_\_  
COMPLETION OF IMPROVEMENT \_\_\_\_\_  
FINAL MAP \_\_\_\_\_  
DEDICATION \_\_\_\_\_

PW 06.20.053

COMMENTS:

1. FORM & CONTENT OF MAP & SUPPLEMENTAL DOCUMENTS:

2. SEWER:

3. PARK:

4. DRAINAGE:

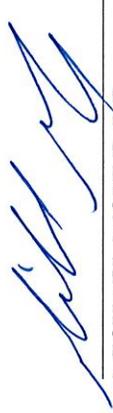
- The Parcel CC West Phase 2 Subdivision Draft Drainage Report dated May 2020 was prepared by Austin, Tsutsumi & Associates, Inc. for the subject development. The drainage concept as proposed in this drainage report must be followed to ensure and maintain stormwater quality from the project and to detain the increase in storm runoff to pre-development levels in accordance with the County's Storm Water Runoff System Manual.
5. ROAD:
- Grading plans, construction plans, and specifications showing details and road construction, drainage structures, sewers, water mains, and all other utilities proposed to be constructed in the subdivision shall be submitted for our review and approval.

6. OTHERS:

- Best Management Practices (BMP's) shall be provided at all times to the maximum extent practicable to prevent damage by sedimentation, erosion, and dust to streams, watercourses, natural areas, and the property of others.

- a. Transmitted herewith for your review & approval is the approved construction plan Title Sheets for: \_\_\_\_\_
- b. Engineer Estimate for Construction of Roads, Drainage and Sewer is estimated at \_\_\_\_\_
- c. Request Developer to deposit with Public Works Department a Construction Inspection Fee of \_\_\_\_\_
- d. As-built tracings have (not) been received \_\_\_\_\_
- e. Deed is approved \_\_\_\_\_
- f. Attached Deed requires revision(s) as follows \_\_\_\_\_

Sincerely,



MICHAEL MOULE, P.E.  
Chief, Engineering Division

MM/SI/PT  
Copy: S-2020-11

RECEIVED  
20 JUL 13 AM 12



4398 PUA LOKE STREET  
LIHU'E, KAUAI, HAWAII 96766  
PHONE: (808) 245-5400 / FAX: (808) 245-5813

Water has no substitute..... Conserve it!

**SUBDIVISION REPORT**

**TO: PLANNING DEPARTMENT**  
**FROM: DEPARTMENT OF WATER**

20 JUL 31 A652

TMK: 2-6-19:048 NAME: Parcel CC West Phase II SURVEYOR: Austin Tsutsumi REPORT NO: S-2020-11

RECEIVED

1. Domestic water is adequate. Tentative approval is recommended.
2. All requirements have been fully met and; therefore, Final approval is recommended.
3. Before final approval can be recommended, the subdivider must:
  - A. Pay the Department of Water the following charges in effect at the time of receipt. At the present time, these charges include:
  - 1) The Facilities Reserve Charge (FRC):
  - 2) Payment to install \_\_\_\_\_, or relocate \_\_\_\_\_, service connections(s) at the fixed cost of \$ \_\_\_\_\_ since final map approval, the subdivider causes a delay in the service connection installation after one year deposit (the subdivider will either be billed or returned the difference between this deposit and the actual cost of construction of \$ \_\_\_\_\_ for construction by the Department of Water.
  - B. Submit to the Department of Water a copy of the subdivider's permit to perform work upon a State highway from the State Highways Division
  - C. Prepare and receive Department of Water's approval of construction drawings for the necessary water system facilities and either construct said facilities or post a performance bond for construction. These facilities shall also include:
  - 1) All facilities required in the approved Kukui'ula Water Master Plan for the proposed project. Prepare and convey to the Department of Water a Right-of-Entry and Temporary Grant of Easement for the purpose of construction, repair, maintenance and operation of the subdivision water system improvements installed in other than County-owned property.
  - E. If a bond is filed, to secure final subdivision approval, the subdivider shall clearly letter the following on the approved construction plans, final subdivision map, and deeds:

"Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kauai."  
This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.
4. Installation of service connections will not be required until request for water service is made. The applicant for service will be charged the applicable service connection charges at that time.
5. Other (or remarks):

- A. Submit an updated Kukui'ula Water Demand and System Capacity Tracking Matrix.
- B. Be made aware that the Facilities Reserve Charge and the adequacy of source, storage, and transmission facilities for the proposed Development will be dependent on the approved updated Kukui'ula Water Demand and System Capacity Tracking Matrix.
- C. Identify the proposed subdivision lot the water service will be assigned to. DOW comments may change depending on the approved subdivision map.

*Michael K. Hinagami*  
200  
Edward Doi, P.E.  
Chief of Water Resources & Planning

Jul 20, 2020  
Date

SUBDIVISION REPORT No. S-2020-11



COUNTY OF KAUAI  
PLANNING DEPARTMENT  
1414 RICE STREET, SUITE A473, LIHUE, HI 96766  
(808) 241-4050  
PLANNING DEPT.

**SUBDIVISION APPLICATION ROUTING FORM**

DATE: Wednesday, June 17, 2020      20 JUL 24 17:44

Subdivision Map Review and Approval		RECEIVED
<b>REQUEST:</b>		
<input checked="" type="checkbox"/> Preliminary	<input type="checkbox"/> Final	
<input type="checkbox"/> Pre-Final	<input type="checkbox"/> Extension	
SUBDIVISION APPLICATION NO:	S-2020-11	
Owner(s)/Applicant(s):	Kukuila Development Parcel CC West Phase II	
Name of Surveyor/Engineer/Authorized Agent:		
Tax Map Key:	426019048	Assigned To: Dale
Improvements:		

**ROUTE TO:**

- County DPW-Engineering
- County DPW-Solidwaste
- County DPW-Wastewater
- County Fire Department
- County Housing Agency
- County Dept. of Parks and Rec.
- KHPRC
- County Water Dept.
- County Transportation
- State Highway Division-DOT
- DOT-STP
- State Health Dept.
- State Historic Preservation Div.
- U.S. Postal Service
- Other

COMMENTS: ( Comment Due Date: 7/17/2020 )

See comments on attached sheets.

July 15, 2020

Patrick Peck, REHS, MA, DAAS  
District Environmental Health Program Chief  
Kauai

Subdivision Application No.: **S-2020-11**  
Applicant: **Kukui'ula Development Company**

Based on our review of the application at this time, we have these environmental health concerns or comments for your consideration at this time.

1. The subject project is located within the HOH Utilities' Poipu Water Reclamation Facility wastewater sewer system. All wastewater generated shall be disposed into the HOH Utilities' Poipu Water Reclamation Facility sewer system. All lots in the proposed development/subdivision shall connect to the HOH Utilities' Poipu Water Reclamation Facility sewer system.
  2. Noise will be generated during the construction phase of this project. The applicable maximum permissible sound levels as stated in Title 11, Hawaii Administrative Rules, Chapter 11-46, "Community Noise Control" shall not be exceeded unless a noise permit is obtained from the State Department of Health (DOH).
  3. Temporary fugitive dust emissions will be emitted when construction and development of Lots 202-G-1, 202-G-2 commence. In accordance with Title 11, Hawaii Administrative Rules (HAR), Chapter 11-60.1 "Air Pollution Control", effective air pollution control measures shall be provided to prevent or minimize any fugitive dust emissions caused by construction work from affecting the surrounding areas. This includes the off-site roadways used to enter/exit the project. The control measures include but are not limited to the use of water wagons, sprinkler systems, dust fences, etc.
  4. The construction waste generated from the project shall be disposed of at a solid waste disposal facility that complies with the applicable provisions of Title 11, HAR, Chapter 11-58.1 "Solid Waste Management Control", the open burning of any of these wastes on or off site prohibited.
  5. The Department of Health (DOH), Clean Water Branch (CWB), acknowledges receipt of your letter, dated December 12, 2016, requesting comments on your project. The DOH-CWB has reviewed the subject document and offers these comments. Please note that our review is based solely on the information provided in the subject document and its compliance with the Hawaii Administrative Rules (HAR), Chapters 11-54 and 11-55. You may be responsible for fulfilling additional requirements related to our program. We recommend that you also read our standard comments on our website at: <http://health.hawaii.gov/epo/files/2013/05/Clean-Water-Branch-Std-Comments.pdf>
- I. Any project and its potential impacts to State waters must meet the following criteria:

- a. Antidegradation policy (HAR, Section 11-54-1.1), which requires that the existing uses and the level of water quality necessary to protect the existing uses of the receiving State water be maintained and protected.
  - b. Designated uses (HAR, Section 11-54-3), as determined by the classification of the receiving State waters.
  - c. Water quality criteria (HAR, Sections 11-54-4 through 11-54-8).
6. You may be required to obtain National Pollutant Discharge Elimination System (NPDES) permit coverage for discharges of wastewater, including storm water runoff, into State surface waters (HAR, Chapter 11-55).

For NPDES general permit coverage, a Notice of Intent (NOI) form must be submitted at least 30 calendar days before the commencement of the discharge. An application for a NPDES individual permit must be submitted at least 180 calendar days before the commencement of the discharge. To request NPDES permit coverage, you must submit the applicable form ("CWB Individual NPDES Form" or "CWB NOI Form") through the e-Permitting Portal and the hard copy certification statement with the respective filing fee (\$1,000 for an individual NPDES permit or \$500 for a Notice of General Permit Coverage). Please open the e-Permitting Portal website located at: <https://eha-cloud.doh.hawaii.gov/epemit/>. You will be asked to do a one-time registration to obtain your login and password. After you register, click on the Application Finder tool and locate the appropriate form. Follow the instructions to complete and submit the form.

7. If your project involves work in, over, or under waters of the United States, it is highly recommended that you contact the Army Corp of Engineers, Regulatory Branch (Tel: 835-4303) regarding their permitting requirements.
- Pursuant to Federal Water Pollution Control Act [commonly known as the "Clean Water Act" (CWA)], Paragraph 401(a)(1), a Section 401 Water Quality Certification (WQC) is required for "[a]ny applicant for Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may **result** in any discharge into the navigable waters..." (emphasis added). The term "discharge" is defined in CWA, Subsections 502(16), 502(12), and 502(6); Title 40 of the Code of Federal Regulations, Section 122.2; and Hawaii Administrative Rules (HAR), Chapter 11-54.
8. Please note that all discharges related to the project construction or operation activities, whether or not NPDES permit coverage and/or Section 401 WQC are required, must comply with the State's Water Quality Standards. Noncompliance with water quality requirements contained in HAR, Chapter 11-54, and/or permitting requirements, specified in HAR, Chapter 11-55, may be subject to penalties of \$25,000 per day per violation.

9. It is the State's position that all projects must reduce, reuse, and recycle to protect, restore, and sustain water quality and beneficial uses of State waters. Project planning should:
- a. Treat storm water as a resource to be protected by integrating it into project planning and permitting. Storm water has long been recognized as a source of irrigation that will not deplete potable water resources. What is often overlooked is that storm water recharges ground water supplies and feeds streams and estuaries; to ensure that these water cycles are not disrupted, storm water cannot be relegated as a waste product of impervious surfaces. Any project planning must recognize storm water as an asset that sustains and protects natural ecosystems and traditional beneficial uses of State waters, like community beautification, beach going, swimming, and fishing. The approaches necessary to do so, including low impact development methods or ecological bioengineering of drainage ways must be identified in the planning stages to allow designers opportunity to include those approaches up front, prior to seeking zoning, construction, or building permits.
  - b. Clearly articulate the State's position on water quality and the beneficial uses of State waters. The plan should include statements regarding the implementation of methods to conserve natural resources (e.g. minimizing potable water for irrigation, gray water re-use options, energy conservation through smart design) and improve water quality.
  - c. Consider storm water Best Management Practice (BMP) approaches that minimize the use of potable water for irrigation through storm water storage and reuse, percolate storm water to recharge groundwater to revitalize natural hydrology, and treat storm water which is to be discharged.
  - d. Consider the use of green building practices, such as pervious pavement and landscaping with native vegetation, to improve water quality by reducing excessive runoff and the need for excessive fertilization, respectively.
  - e. Identify opportunities for retrofitting or bio-engineering existing storm water infrastructure to restore ecological function while maintaining, or even enhancing, hydraulic capacity. Particular consideration should be given to areas prone to flooding, or where the infrastructure is aged and will need to be rehabilitated.

If you have any questions, please visit our website at:<http://health.hawaii.gov/cwb/>, or contact the Engineering Section, CWB, at (808) 586-4309.

### BMP comments

Effective site-specific Best Management Practice measures shall be implemented to confine and isolate the construction site/activities; minimize the potential adverse impacts to the adjacent receiving State waters; and to ensure the projects' associated discharges will comply with the applicable requirements of Title 11, HAR Chapter 11-54 "Water Quality Standards" requirements and HAR Chapter 342D.

10. National Pollutant Discharge Elimination System (NPDES) permit coverage is required for pollutant discharges into State surface waters and for certain situations involving storm water (HAR, Chapter 11-55).
  - a. Discharges into Class 2 or Class A State waters can be covered under an NPDES general permit only if all of the NPDES general permit requirements are met. Please see the DOH-CWB website (<http://health.hawaii.gov/cwb/>) for the NPDES general permits and instructions to request coverage.
  - b. All other discharges into State surface waters (including discharges from Concentrated Animal Feeding Operations) and discharges into Class 1 or Class AA State waters require an NPDES individual permit. To request NPDES individual permit coverage, please see the DOH-CWB forms website located at: <http://health.hawaii.gov/cwb/site-map/clean-water-branch-home-page/forms/>
  - c. NPDES permit coverage for storm water associated with construction activities is required if your project will result in the disturbance of one (1) acre or more of total land area. The total land area includes a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under a larger common plan of development or sale. NPDES permit coverage is required before the start of the construction activities.

Land disturbance includes, but is not limited to clearing, grading, grubbing, uprooting of vegetation, demolition (even if leaving foundation slab), staging, stockpiling, excavation into pavement areas which go down to the base course, and storage areas (including areas on the roadway to park equipment if these areas are blocked off from public usage, grassed areas, or bare ground).

11. Please note that all discharges related to the project construction or operation activities, whether or not NPDES permit coverage and/or Section 401 WQC are required, must comply with the State's Water Quality Standards. Noncompliance

with water quality requirements contained in HAR, Chapter 11-54, and/or permitting requirements, specified in HAR, Chapter 11-55, may be subject to penalties of \$25,000 per day per violation.

Due to the general nature of the application submitted, we reserve the right to implement future environmental health restrictions when information that is more detailed is submitted.

Michael A. Dahilig  
Director of Planning



Ka'āina S. Hull  
Deputy Director of Planning

COUNTY OF KAUA'I  
PLANNING DEPARTMENT  
**SUBDIVISION REPORT**

**SUBJECT TO CHANGE**

**I. SUMMARY**

**Action Required by Planning Commission:** Consideration of Subdivision Application No. S-2018-15 that subdivides a parcel into ten (10) lots.

**Subdivision Permit No.** Application No. S-2018-15

**Name of Applicant(s)** KILAUEA OHANA PLATEAU LLC AND THE COUNTY OF KAUA'I

**II. PROJECT INFORMATION**

<b>Map Title</b>	Subdivision of Lot 11-A-2-B into Lots 11-A-2-B-1 through 11-A-2-B-7, Roadway Lots A & B, and multi-Use Path Lot and designation of Easements W-1, Being portion of Grant 630 to Jules Dudoit at Namahana, Hanalei, Kauai, Hawaii		
<b>Tax Map Key(s):</b>	(4) 5-2-005:023	<b>Area:</b>	179.437 Acres
<b>Zoning:</b>	Residential (R-6) / Agriculture		
<b>State Land Use District(s):</b>	Urban / Agricultural	<b>General Plan Designation:</b>	Agricultural
<b>AGENCY COMMENTS</b>			
<input checked="" type="checkbox"/> COK Public Works	4/16/18	<input checked="" type="checkbox"/> State DOT-Highways:	3/27/18
<input checked="" type="checkbox"/> COK Water:	6/22/18	<input checked="" type="checkbox"/> State Health:	4/9/18
<input type="checkbox"/> Other(s)		<input type="checkbox"/> DLNR – SHPD:	2/21/18
<b>EXISTING ROAD RIGHT-OF-WAY(S)</b>			
Road Name	Existing Width	Required Width	Pavement YES NO Reserve
Kauapea Road	56 feet	56 feet	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>
Kuhio Hwy	80 feet	80 feet	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>APPLICABLE FEES</b>			
<b>Environmental Impact Assessment (EIA)</b>	\$1500.00		
<b>Park Dedication</b>	Yes		
<b>Appraisal Report Required</b>	Yes		

I.2.a.1  
SEP 0 8 2020

**III. EVALUATION**

The proposed development subdivides a property into seven (7) residential lots, two (2) roadway lots and one (1) Path Lot. Majority of the surrounding parcels are County zoned Agriculture and State Land Use District Agricultural with the exception to the south, which is County Zoned Residential (R-6), and State Land Use Urban.

In considering the project, the Applicant has represented their intention to dedicate Roadway Lot A and the Shared Multi-Use Path to the County of Kaua'i through memorandum of Understanding (MOU). In addition, newly created lots 11-A-2-B-3 through 11-A-2-B-6 will have no residential density with the exception to Lot 11-A-2-B-7. Prior to final subdivision map approval, the configuration of Lot 11-A-2-B-7 should comply with the lot length-to-width requirement specified in Section 8-8.3(e) of the Comprehensive Zoning Ordinance (CZO).

The residential subdivision situated to the south of the proposed subdivision was designated as employee housing for Princeville Corporation and the property was rezoned from Agriculture (A) to Residential (R-6) District through Zoning Amendment application ZA-88-4. The preliminary subdivision map indicates that a portion of the subject parcel

H.I.a.1  
SEP 11 2018

contains residential zoning. After further review, the zoning amendment map that was approved in 1988 by the County Council illustrates that the boundaries of the residential zoning district was not limited to the common boundary line of the subject parcel and the Kilauea Estates Subdivision. Therefore, the subject property does contain residential zoning as identified on the proposed preliminary map.

It is finally noted that the proposed development is exempt from the "one-time" subdivision restriction involving Agriculture zoned lands, pursuant to Section 8-8.3 (c) of the CZO as provided for in the MOU.

**IV. RECOMMENDATION**

TENTATIVE APPROVAL	FINAL APPROVAL
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denied	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denied
Tentative Approval subject to all requirements as noted on the following pages:  <i>Shannon J. Spiller</i> <b>Director of Planning</b>	All conditions have been complied with * Provided the Applicant pays the Park Dedication Fee and obtains approval fr. Dept. of Water Pay 9/8/2020. <i>[Signature]</i> <b>Director of Planning</b>
<b>Date</b> 8/10/18	<b>Date</b> 9/1/2020

**V. AGENCY REQUIREMENTS**

1. Requirements of the Planning Department:
  - a. An updated preliminary title report for each existing lot shall be submitted to the Planning Department for review
  - b. All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - c. Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kaua'i County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.
  - d. The Applicant shall pay a Park Dedication fee pursuant to Section 9-2.8 of the Kaua'i County Code Subdivision Ordinance. An appraisal report and price list shall be provided to the Planning Department to forward to the Real Properties Division to help calculate the fee amount.
  - e. An Environmental Impact Assessment Fee of One Thousand Five Hundred Dollars (\$1,500.00) shall be paid to the County of Kaua'i.
  - f. Newly created Lots 11-A-2-B-3 through 11-A-2-B-6 shall have no dwelling density. However, Lot 11-A-2-B-7 has a max dwelling density of five (5) units and this provision should be incorporated into the deed description of the subject parcels.
  - g. Due to the topography in the area and relative to the roadway improvements for Roadway Lot A and Road way Lot B, there shall be cut and fill reserves established to facilitate actual construction of the roadway (if necessary). The locations and extent of these reserves shall be resolved with the Department of Public Works and shall be shown on the final map. There shall be no new structures permitted within the reserves; new structures should be setback from the reserves. The reserves along with the restrictions shall be identified in the deed descriptions, draft copies of which shall be submitted to the Planning Department for review and approval.

- h. The Applicant shall prepare and obtain construction plan approvals for necessary road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.
  - i. The applicant is made aware that the streets designated within the subdivision must be officially named before the Department approves the construction plans. Street names should be in Hawaiian and be submitted to our Department for review and approval, along with a request letter and 12 maps (on 8½" x 14" paper). The maps should be detailed such that emergency vehicles, police services, postal deliveries, etc., are able to locate the street. References to roadway, such as the highway and other surrounding roads, should be shown on the street-naming map.
  - j. The Applicant is advised that uses on the newly-created lots shall be limited to those listed as permissible uses within the "A" Agricultural District in the State Land Use Commission Rules and Regulations. Dwellings on the lot shall mean a single-family dwelling located on and used in connection with a farm where agriculture activity provides income to the family occupying the dwelling. These restrictions shall be included in the covenants for the proposed lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - k. As represented by the applicant, Roadway Lot A and the Shared Multi-Use Path Lot shall be dedicated to the County of Kaua'i. As such, proper documents shall be prepared by the Applicant and be ready for execution prior to final subdivision map approval.
  - l. The applicant is advised that the subject subdivision application shall be exempt from the "one-time" agricultural subdivision restriction, per section 8-8.3(c) of the CZO, since it is a subdivision requested for public utility purposes and as provided for in the MOU.
  - m. The MOU shall be amended to reflect any changes to the lot configuration and to reflect any density allocations that may be provided for in the State Land Use Commission Urban District within any of the lots as designated.
2. Requirements of the Department of Water (DOW):
    - a. Locate and show existing water meter/s (with appropriate meter number) on the subdivision map for DOW's review and approval. Also, identify the proposed subdivision lot the existing water meters will be assigned to. DOW comment may change depending on the approved tentative map.
    - b. For Lots 11-A-2-B-1 through 11-A-2-B-6
 

Clearly letter on the final subdivision map and deeds:

      - i. "Domestic water service is not available from the Department of Water, County of Kauai."
      - ii. "Prior to building permit approvals, the applicant shall either complete a Waiver and Release Agreement with the Department of Water, County of Kaua'i or submit a copy of the deeds of the lot to the Department of Water that state that domestic water service is not available from the Department of Water, County of Kaua'i."
 

This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of the final subdivision approval by the Planning Department.
    - c. The water system improvements required for Kilauea Lighthouse Village – Kilauea Road and Ala Namahana Parkway Improvements must be completed and certification of Completion for the project must be issued by the DOW.
  3. Requirements of the Department of Public Works (DPW):

FORM & CONTENT OF MAP & SUPPLEMENTAL DOCUMENTS:

- a. The map does not comply with Section 3.031-J Form and Content of the Map of the Subdivision Ordinance No. 175, Paragraph J States " All maps shall show pertinent topographical information such as slopes and shapes of the land, approximate elevations, watercourses and drainage ways, and other information affecting the design of the subdivision." Additionally, the map needs to show the existing pavement width and whether the abutting roadways are paved and where the pavement ends. We recommend that the preliminary map be returned for the required information.

DRAINAGE:

- b. The Subdivision and subsequent development of residences and other impermeable surfacing will increase storm water flows rates. A drainage study needs to be made to evaluate the impacts of the increased storm runoffs. Measures to keep flow to pre-development conditions are required. Provisions need to be established to prevent structures from being built in flood prone areas and to preserve the natural function and capacity of the watercourses.

ROAD:

- c. The widened area of ROADWAY LOT A near the stream crossing should be extended to the northeast (on both sides of the lot) until it meets the bulge for the future roundabout.
- d. The 10' construction right-of-entry should also be shown along ROADWAY LOT A on the southeast side of the widened area near the stream crossing.
- e. Change the name of the MULTI –USE PATH LOT to "SHARE USE PATH LOT" or simply "PATH LOT" or "PATH LOT C." This lot must be widened to dimensions agreed to by the Department of Public Works prior to final subdivision approval.

OTHERS:

- f. A grading permit will be required for this project. The property size is more than 10 acres. The maximum area that may be opened for grading or grubbing at any one time is ten (10 acres). The area of land that may be opened shall not exceed ten (10) acres. Grading/grubbing shall be accomplished in increments not more than 10 acres. Best Management Practices (BMP's) shall be provided at all times to the maximum extent practicable to prevent damage by sedimentation, erosion and dust ti streams, water courses, natural areas and the properties of others.

4. Requirements for State Department of Health:

- a. All structures and wastewater disposal systems are not shown on the subdivision map. The State of Hawaii Department of Health (DOH) Wastewater Branch will not recommend final approval of the subdivision application until we have information on existing wastewater system. The applicant must have his/her engineer or contractor submit a completed exiting cesspool information card for each cesspool, identifying the location of all wastewater systems both cesspools and septic systems with associated structures and their relationship to existing and proposed property lines. Please add existing septic system to the subdivision map. The Applicant shall resolve this conditions with the State Department of Health prior to final subdivision map approval.
- b. The property may harbor rodents which will be dispersed to the surrounding areas when the site is cleared. In accordance with Chapter 11-26, entitled "Vector Control", Title 11, HAR, the applicant shall ascertain the presence or absence of rodents on the property.

- Should the presence of rodents be determined, the applicant shall eradicate the rodents prior to clearing the site.
- c. Noise will be generated when construction occurs on after the subdivision. The applicable maximum permissible sound levels as stated in Title 11, Hawaii Administrative Rules (HAR), Chapter 11-46, "Community Noise Control", shall not be exceeded, unless a noise permit is obtained from the State Department of Health (DOH).
  - d. Temporary fugitive dust emissions during site preparation and construction could impact the nearby residents when the subdivided lots are developed. In accordance with Chapter 11-60.1, entitled "Air Pollution Control", Title 11, HAR, effective air pollution control measures shall be provided to minimize or prevent any fugitive dust emission from impacting the surrounding areas. This includes but are not limited to the use of water wagons, sprinkler systems, dust fences, etc.
  - e. In accordance with Title 11, HAR, Chapter 11-58.1, "Solid Waste Management Control", when the lot is further developed, the grubbed material and construction waste that is generated shall be either recycled or disposed of at a solid waste disposal facility that complies with the DOH. The open burning of any of these wastes on or off site prohibited.
  - f. The Department of Health (DOH), Clean Water Branch (CWB) has reviewed the subject document and offers these comments. Please note that our review is based solely on the information provided in the subject documents and its compliance with the Hawaii Administrative Rules (HAR), Chapters 11-54 and 11-55. You may be responsible for fulfilling additional requirements related to our program. We recommend that you also read our standard comments on our website at: <http://health.hawaii.gov/epo/files/2013/05/Clean-Water-Branch-Std-Comments.pdf>
  - g. Any project and its potential impacts to State waters must meet the following criteria:
    - a. Antidegradation policy ( HAR, Section 11-54-1.1), which requires that the existing uses and the level of water quality necessary to protect the existing uses of the receiving State water be maintained and protected.
    - b. Designated uses (HAR, Section 11-54-3), as determined by the classification of the receiving State waters.
    - c. Water quality criteria (HAR, Sections 11-54-4 through 11-54-8).
  - h. You may be required to obtain National Pollutant Discharge Elimination System (NPDES) general permit coverage, for discharges of wastewater, including storm water runoff, into State surface waters (HAR, Chapter 11-55).
- For NPDES general permit coverage, a Notice of Intent (NOI) form must be submitted at least 30 calendar days before the commencement of the discharge. An application for a NPDES individual permit must be submitted at least 180 calendar days before the commencement of the discharge. To request NPDES permit form" or CWB NOI Form") through the e-Permitting Portal and the hard copy certification statement with the respective filling fee (\$1,000 for an individual NPDES permit or \$500 for a Notice of General Permit Coverage). Please open the e-permitting portal website located at: <https://eha-cloud.doh.hawaii.gov/epemit/>. You will be asked to do a one-time registration to obtain your login and password. After you register, click on the Application Finder tool and locate the appropriate form. Follow the instructions to complete and submit the form.

- i. If your project involves work in, over, or under waters of the United States, it is highly recommended that you contact the Army Corp of Engineers, Regulatory Branch (Tel: 835-4303) regarding their permitting requirements.

Pursuant to Federal water Pollution Control Act [commonly known as the “Clean Water Act”] Paragraph 401(a)(1), a Section 401 Water Quality Certification (WQC) is required for “[any applicant for Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters...” The term “discharge” is defined in CWA, Subsections 502(16), 502(12), and 502(6); Title 40 of the Code of Federal Regulations, Section 122.2; and Hawaii Administrative Rules (HAR), Chapter 11-54.
- j. Please note that all discharge related to the project construction or operation activities, whether or not NPDES permit coverage and/or Section 401 WQC are required, must comply with the State’s Water Quality Standards. Noncompliance with water quality requirements contained in HAR, Chapter 11-54, and/or permitting requirements, specified in HAR, Chapter 11-55, may be subject to penalties of \$25,000 per day per violation.
- k. It is the State’s position that all projects must reduce, reuse, and recycle to protect, restore, and sustain water quality and beneficial uses of State waters. Project planning should:
  - a. Treat storm water as a resource to be protected by integrating it into project planning and permitting. Storm water has long been recognized as a source or irrigation that will not deplete potable water resources. What is often overlooked is that storm water recharges ground water supplies and feeds streams and estuaries; to ensure that these water cycles are not disturbed, storm water cannot be regulated as a waste product of impervious surface. Any project planning must recognize storm water as an asset that sustains and protects natural ecosystems and traditional beneficial uses of the State waters, like community beautification, beach going, swimming, and fishing. The approaches necessary to do so, including low impact development methods or ecological bioengineering of drainage ways must be identified in planning stages to allow designers opportunity to include those approaches up front, prior to seeking zoning, construction, or building permits.
  - b. Clearly articulate the State’s position on water quality and the beneficial uses of State waters. The plan should include statements regarding the implementation of methods to conserve natural resources (e.g. minimizing potable water for irrigation, gray water re-use options, energy conservation through smart design) and improve water quality.
  - c. Consider storm water Best Management Practice (BMP) approaches that minimize the use of potable water for irrigation through storm water storage and reuse, percolate storm water to recharge ground water to revitalize natural hydrology, and treat storm water which is to be discharged.
  - d. Consider the use of green building practices, such as pervious pavement and landscaping with native vegetation, to improve water quality by reducing excessive runoff and the need for excessive fertilization, respectively.
  - e. Identify opportunities for retrofitting or bio-engineering existing storm water infrastructure to restore ecological function while maintaining, or even enhancing, hydraulic capacity. Particular consideration should be given to areas prone to flooding, or where the infrastructure is aged and will need to be rehabilitated.

If you have any questions, please visit our website at: <http://health.hawaii.gov/cwb/>, or contact the Engineering Section, CWB, at (808)586-5309

L. National Pollutant Discharge Elimination System (NPDES) permit coverage is required for pollutant discharge into State surface waters and for certain situations involving storm water (HAR, Chapter 11-55).

- a. Discharge into Class 2 or Class A State waters can be covered under an NPDES general permit only if all of the NPDES general permit requirements are met. Please see the DOH-CWB website (<http://health.hawaii.gov/cwb/>) for the NPDES general permits and instructions to request coverage.
- b. All other discharges into State surface waters (including discharges from Concentrated Animal Feeding Operations) and discharges into Class 1 or Class AA State waters require an NPDES individual permit. To request NPDES individual permit coverage, please see the DOH-CWB forms website located at: <http://health.hawaii.gov/cwb/site-map/clean-water-branch-home-page/forms/>
- c. NPDES permit coverage for storm water associated with construction activities is required if your project will result in the disturbance of one (1) acre or more of total land area. The total land area includes a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under a larger common plan of development or sale. NPDES permit coverage is required before the start of the construction activities.  
  
Land disturbance includes, but is not limited to clearing, grading, grubbing, uprooting of vegetation, demolition (even if leaving foundation slab), staging, stockpiling, excavation into pavement areas which go down to the base course, and storage areas (including areas on the roadway to park equipment if these areas are blocked off from public usage, grassed areas, or bare ground).
- m. Please note that all discharges related to the project construction or operation activities, whether or not NPDES permit coverage and/or Section 401 WQC are required, must comply with the State's Water Quality Standards. Noncompliance with water quality requirements contained in HAR, Chapter 11-54, and/or permitting requirements, specified in HAR, Chapter 11-55, may be subject to penalties of \$25,000 per day per violation.

5. Requirements of the State Department of Transportation:

Pursuant to the MOU, the County of Kauai will be dedicating Roadway Lot A as future Kilauea town by-pass road. Prior to its construction of the Roadway Lot A, the County of Kauai shall resolve the following:

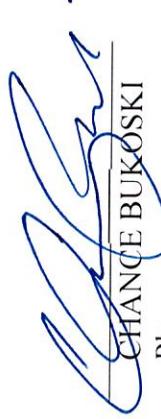
- a. Please provide land use/ development the roadway and intersection are intended to support. The intersection should be designed for the identified land use.
- b. Kuhio Highway is denoted "no vehicle access permitted" at the location of the proposed intersection. Access rights must be requested from HDOT.
- c. What is the status of the LUC and County zoning process for the development?
- d. Has an EIS and TIAR been completed for the development?

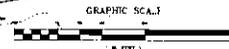
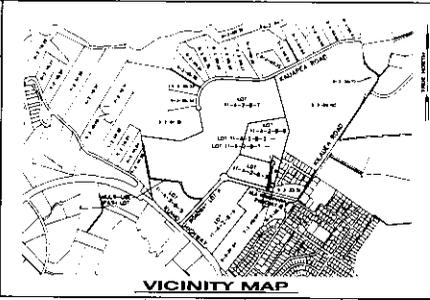
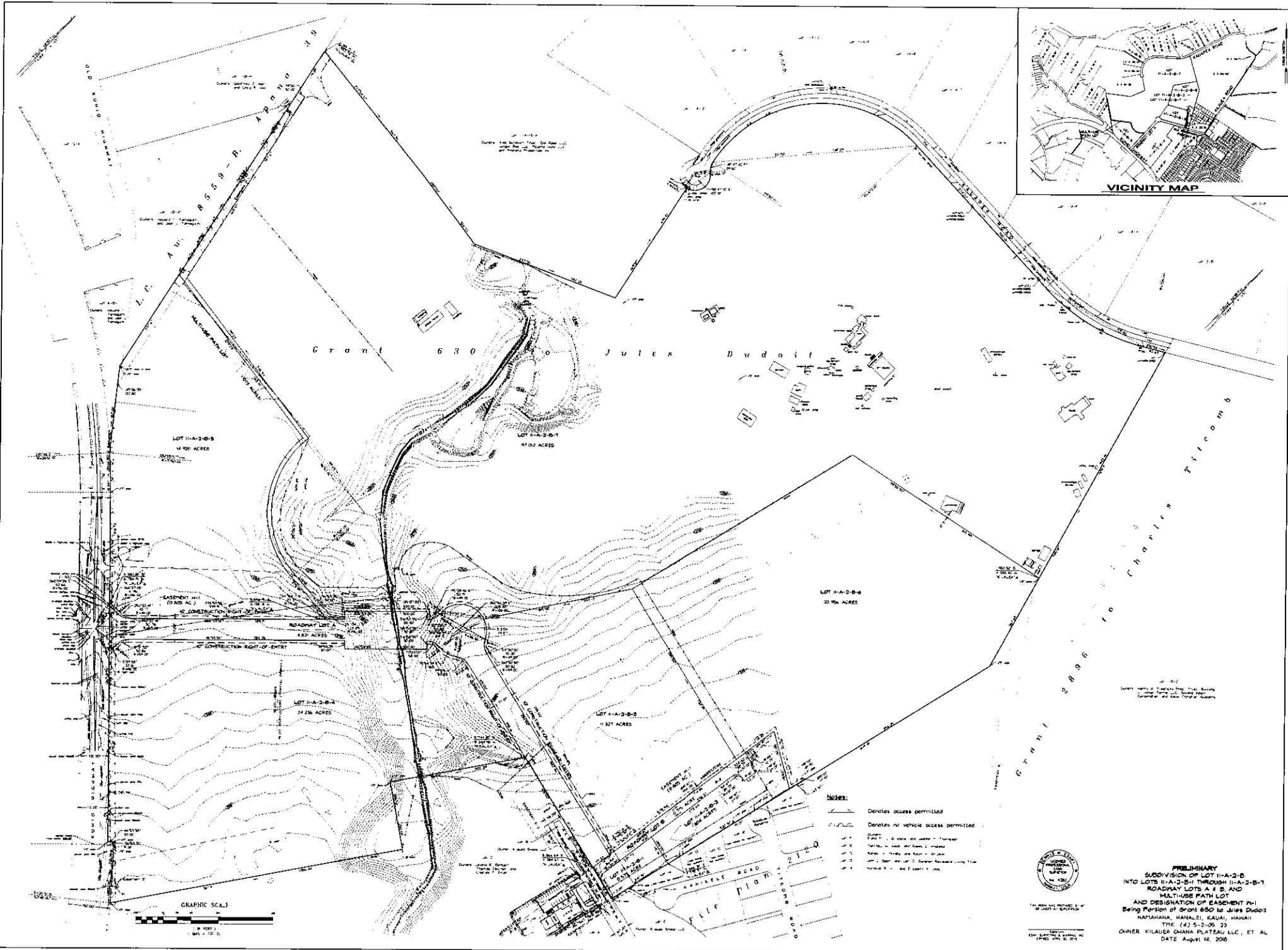
6. The Applicant is advised the should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division and the Planning Department to determine mitigation measures.

7. The Applicant is advised that prior to and/or during construction and use additional conditions may be imposed by government agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).

The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for AUGUST 28, 2018 whereby the entire record should be considered prior to decision making. The entire record should include but not be limited to:

- a. Pending government agency comments;
- b. Testimony from the general public and interested others; and
- c. The Applicant's response to staff's report and recommendation as provided herein.

By   
CHANCE BUKOSKI  
Planner



- Notes:**
- Denotes access permitted
  - - - Denotes no vehicle access permitted
  - 1/4" = 10' (Scale of map)
  - 1/8" = 10' (Scale of easement)
  - 1/16" = 10' (Scale of lot)
  - 1/32" = 10' (Scale of easement)
  - 1/64" = 10' (Scale of lot)



**PRELIMINARY**  
 SUBDIVISION OF LOT 11-A-2-B  
 INTO LOTS 11-A-2-B-1 THROUGH 11-A-2-B-6  
 ROADWAY LOTS A & B, AND  
 MULTIPURPOSE PATH LOT  
 AND DESIGNATION OF EASEMENT #1  
 Being Portion of Grant 630 to Jules Dudoit  
 NAPIAHANA, HAWAII, KAUAI, HAWAII  
 TRC (43) 5-2-09, 23  
 OWNER KILAUEA OHANA PLATEAU LLC, ET AL  
 DATE August 14, 2016

**Ka'āina S. Hull**  
Director of Planning



**Jodi A. Higuchi Sayegusa**  
Deputy Director of Planning

**COUNTY OF KAUA'I  
PLANNING DEPARTMENT**

**SUBJECT TO CHANGE**

**SUBDIVISION REPORT**

**I. SUMMARY**

**Action Required by Planning Commission:** Consideration of Subdivision Application No. S-2019-15 that subdivides a parcel into two (2) lots.

**Subdivision Permit No.** Application No. S-2019-15

**Name of Applicant(s)** MATTEW NELSON, STEPHANIE & KATHRINE SKOW

**II. PROJECT INFORMATION**

<b>Map Title</b>	Subdivision of Lot 18-A into Lots 18-A-1 and 18-A-2, being portion of R.P. 5680, L.C. Aw. 11216, AP to Kekauonohi at Keālia, Kawaihau, Kaua'i, Hawaii'i		
<b>Tax Map Key(s):</b>	4-7-006:019	<b>Area:</b>	3.219 Acres
<b>Zoning:</b>	Residential (R-6)/Agriculture (A)		
<b>State Land Use District(s):</b>	Urban/Agricultural	<b>General Plan Designation:</b>	Residential Community/ Agriculture
<b>AGENCY COMMENTS</b>			
<input checked="" type="checkbox"/> <b>COK Public Works</b>	3/27/19	<input type="checkbox"/> <b>State DOT-Highways:</b>	
<input checked="" type="checkbox"/> <b>COK Water:</b>	4/15/19	<input checked="" type="checkbox"/> <b>State Health:</b>	3/11/19
<input type="checkbox"/> <b>Other(s)</b>		<input type="checkbox"/> <b>DLNR – SHPD:</b>	
<b>EXISTING ROAD RIGHT-OF-WAY(S)</b>			
<b>Road Name</b>	<b>Existing Width</b>	<b>Required Width</b>	<b>Pavement YES</b> <b>Reserve NO</b>
Kamole Road	40 feet	44 feet	<input checked="" type="checkbox"/> <input type="checkbox"/> 2 feet
Kapoli Road	40 feet	40 feet	<input checked="" type="checkbox"/> <input type="checkbox"/>
Kūhiō Highway	80 feet	80 feet	<input checked="" type="checkbox"/> <input type="checkbox"/>
<b>APPLICABLE FEES</b>			
<b>Environmental Impact Assessment (EIA)</b>	\$250.00		
<b>Park Dedication</b>	\$150.00		
<b>Appraisal Report Required</b>	N/A		

**III. EVALUATION**

The proposed development subdivides a parcel into two (2) lots. The surrounding parcels are County zoned Agriculture and Residential Districts. The intent of the proposal is to separate the lots with the various zoning designations. As proposed, Lot 18-A-1 will be zoned Residential District (R-6) and within the State Land Use Urban District. Lot 18-A-2 will be zoned Agriculture District (A) and within the State Land Use Agricultural District.

There was a previous subdivision application (S-2012-5) that consolidated Lot 18 of the Kamole Subdivision and 1-A of the Keālia Kai Subdivision. It was considered a boundary adjustment between the two lots which resulted in the creation of Lots 18-A and Lot 1-A-1.

Following the approval of Subdivision Application No. S-2012-05, the board for the Keālia Kai Association took issue of the density with the subdivision and the Applicants (as the successor owners) of the subject property. The Keālia Kai Association and the Applicants agreed to resolve this issue by filing this subdivision application for the subdivision of Lot 18-A.

**I.2.b.1.**

**I.1.a.1.**

**SEP 0 8 2020**

**MAY 2 8 2019**

### III. EVALUATION (Cont'd)

In an effort to address this density issue, the applicants have agreed to enter into a memorandum deed restriction to further restrict Lot 18, Lot 18-A, and Lot 1-A-1 to limit the density to only one (1) home on each of the lots. For further details, please refer to the Applicant's request as exhibit A.

For Density Calculations: See table below

Proposed Sub Application	Sub Application No.	Former Lots & Density
Lot 18-A-1 (R-6): One Dwelling	S-2012-05 Lot 18-A (R-6 & Ag): Two Dwellings	Lot 18 Density (R-6) (Kamole): One Dwelling
Lot 18-A-2 (Ag): One Dwelling	Lot 1-A-1(Ag): One Dwelling	Lot 1 (AG) (Keālia Kai): Two Dwellings
Lot 1-A-1 (Ag): Remains One Dwelling		

### IV. RECOMMENDATION

TENTATIVE APPROVAL	FINAL APPROVAL
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denied	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denied
Tentative Approval subject to all requirements as noted on the follow pages:  	All conditions have been complied with  
Director of Planning Date: 5/23/19	Director of Planning Date: 9/1/2020

### V. AGENCY REQUIREMENTS

1. Requirements of the Planning Department:
  - a. An updated preliminary title report for each existing lot shall be submitted to the Planning Department for review.
  - b. All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - c. Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kaua'i County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.
  - d. The Subdivider shall comply with the requirements in Section 9-2.3(e) of the Kaua'i County Code (1987) relating to the provision of curbs, gutters and sidewalks along Kamole Road. The extent of improvements shall be resolved with the Planning Department and Department of Public Works prior to final subdivision map approval.
  - e. Relative to Condition No. 1.d., the applicant shall prepare and obtain construction plan approvals for necessary road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.

- f. A Park Dedication Fee of One Hundred Fifty Dollars (\$150.00) shall be paid to the County of Kaua'i.
  - g. A two (2) feet wide future road widening reserve shall be established along the frontage of Kamole Road. There shall be no new structures permitted within the reserve, and any new structures shall be setback from the reserve. The reserve, along with the restrictions, shall be incorporated into the deed descriptions of the affected lots, of which draft copies shall be submitted to the Planning Department for review and approval.
  - h. The Applicant is advised that uses on the newly-created lots shall be limited to those listed as permissible uses within the "A" Agricultural District in the State Land Use Commission Rules and Regulations. Dwellings on the lot shall mean a single-family dwelling located on and used in connection with a farm where agriculture activity provides income to the family occupying the dwelling. These restrictions shall be included in the covenants for the proposed lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - i. There shall be no direct access permitted onto Kūhiō Highway from any of the lots within the subdivision. Semi-circles denoting "No Direct Access Permitted" shall be shown on the final subdivision map. This provision shall be incorporated as a restrictive covenant for the subject lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - j. Prior to final subdivision map approval, the Applicant shall prepare and execute an agreement that limits the residential density on proposed Lots 18-A-1, 18-A-2, and 1-A-1 to one (1) dwelling unit.
2. Requirements of the Department of Water (DOW):

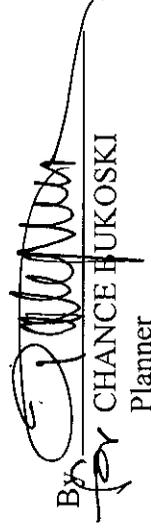
The subdivider shall clearly letter the following information on the final subdivision map and deeds:

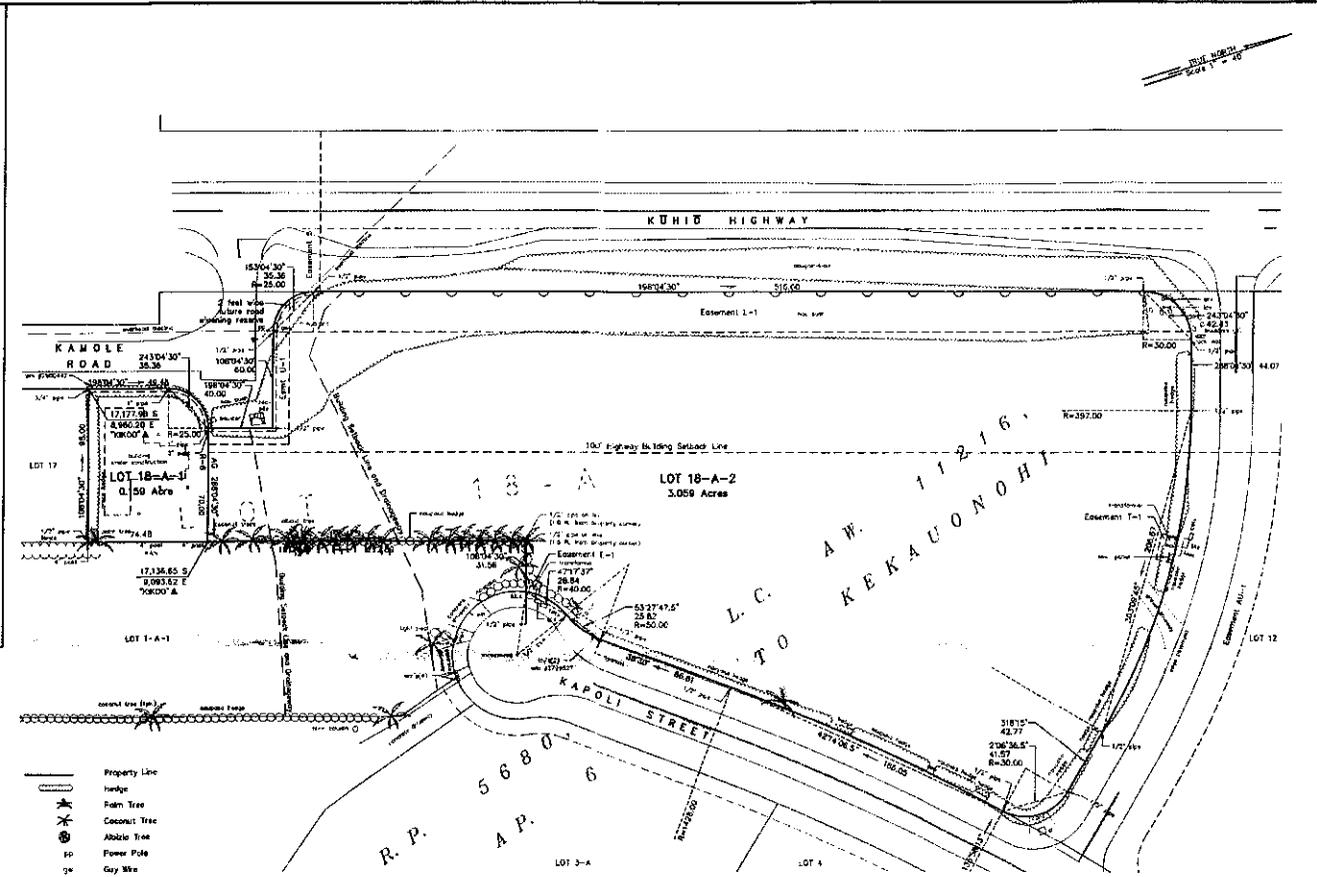
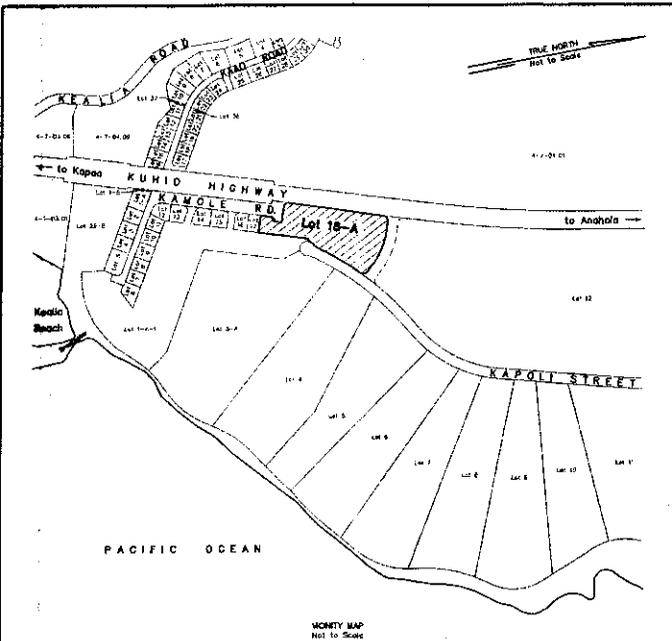
    - a. "Domestic Water service will not be available from the Department of Water, County of Kaua'i."
    - b. "Prior to building permit approvals, the applicant shall either complete a Waiver and Release Agreement with the Department of Water, County of Kauai or submit a copy of the deeds of the lot to the Department of Water that state that domestic water service is not available from the Department of Water, County of Kaua'i."
  3. Requirements of the Department of Public Works:
    - a. Access to Lot 18-A-1 shall be from Kamole Road. Access to Lot 18-A-2 shall be from Kapoli Street.
  4. Requirements of the Department of Health (DOH):
    - a. The Department of Health (DOH) Wastewater Branch does not concur with the subdivision request. Under the provision of Title 11, Hawaii Administrative Rules (HAR) Chapter 11-62, a minimum lot size of 10,000 square feet is required in order to utilize individual wastewater systems.
    - b. Noise will be generated when construction occurs on after the subdivision. The applicable maximum permissible sound levels as stated in Title 11, Hawaii Administrative Rules (HAR), Chapter 11-46, "Community Noise Control", shall not be exceeded, unless a noise permit is obtained from the State Department of Health (DOH).
    - c. The property may harbor rodents which will be dispersed to the surrounding areas when the site is cleared. In accordance with Chapter 11-26, entitled

- "Vector Control", Title 11, HAR, the applicant shall ascertain the presence or absence of rodents on the property. Should the presence of rodents be determined, the applicant shall eradicate the rodents prior to clearing the site.
- d. Temporary fugitive dust emissions during site preparation and construction could impact the nearby residents when the subdivided lots are developed. In accordance with Chapter 11-60.1, entitled "Air Pollution Control", Title 11, HAR, effective air pollution control measures shall be provided to minimize or prevent any fugitive dust emission from impacting the surrounding areas.
  - e. In accordance with Title 11, HAR, Chapter 11-58.1, "Solid Management Control", the construction waste that is generated by the project shall be disposed of at a solid waste disposal facility that complies with the DOH. The open burning of any of these wastes on or off site is prohibited.
5. The Applicant is advised the should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division and the Planning Department to determine mitigation measures.
6. The Applicant is advised that prior to and/or during construction and use additional conditions may be imposed by government agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).

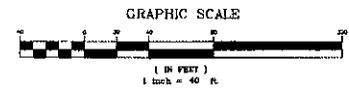
The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for MAY 28, 2019 whereby the entire record should be considered prior to decision-making. The entire record should include but not be limited to:

- a. Pending government agency comments;
- b. Testimony from the general public and interested others; and
- c. The Applicant's response to staff's report and recommendation as provided herein.

  
for CHANCE BUKOSKI  
Planner



- Property Line
- hedge
- Fern Tree
- Coconut Tree
- Abutilon Tree
- Flower Pole
- Guy Wire
- Pub Box (KSC)
- Pub Box (CATV)
- Pub Box (ground telecommunications)
- Water Meter
- Irrigation Control Valve
- Air Relief Valve



**LEGEND**

No Vehicular Access Permitted

Vehicular Access Permitted



THIS WORK WAS PREPARED BY ME  
 OR UNDER MY SUPERVISION

*Thomas M. Esaki*

Signature  
 ESAKI SURVEYING & MAPPING, INC.  
 EXPIRES: APRIL 30, 2026

**PRELIMINARY**  
**SUBDIVISION OF LOT 18-A**  
**INTO LOTS 18-A-1 AND 18-A-2**  
 Being portion of R. P. 5680,  
 L.C. A.W. 11216, Ap. 6 to Kekaunohi  
 KEALIA, KAWAHIAU, KAUAI, HAWAII  
 Tax Map Key: (4) 4-7-006: 019  
 Owners: Matthew O. Nelson, Stephanie L. Skow,  
 and Katherine Louise Skow  
 Date: February 8, 2019



COUNTY OF KAUA'I  
PLANNING DEPARTMENT

**SUBJECT TO CHANGE**

SUBDIVISION REPORT

**I. SUMMARY**

**Action Required by Planning Commission:** Consideration of Subdivision Application No. S-2019-19 that involves a subdivision of a parcel into eight (8) lots.

**Subdivision Permit No.** Application No. S-2019-19

**Name of Applicant(s)** KUKUIULA DEVELOPMENT COMPANY LLC

**II. PROJECT INFORMATION**

<b>Map Title</b>	Kukuiula Parcel G Subdivision, Consolidation of Lot U of the Kukuiula Parcel A Subdivision, Phase I and Lot 13 of Kukuiula Parcel F Subdivision and Resubdivision into Lots 1 to 8, Inclusive.		
<b>Tax Map Key(s):</b>	2-6-022:019 & 021	<b>Area:</b>	99.350 Acres
<b>Zoning:</b>	Residential (R-4), Open, Special-Treatment Open		
<b>State Land Use District(s):</b>	Urban	<b>General Plan Designation:</b>	Residential Community
<b>AGENCY COMMENTS</b>			
<input checked="" type="checkbox"/> <b>COK Public Works</b>	7/18/19	<input type="checkbox"/> <b>State DOT-Highways:</b>	
<input checked="" type="checkbox"/> <b>COK Water:</b>	8/27/19	<input checked="" type="checkbox"/> <b>State Health:</b>	7/15/19
<input type="checkbox"/> <b>Other(s)</b>		<input type="checkbox"/> <b>DLNR – SHPD:</b>	
<b>EXISTING ROAD RIGHT-OF-WAY(S)</b>			
<b>Road Name</b>	<b>Existing Width</b>	<b>Required Width</b>	<b>Pavement YES NO Reserve</b>
Ala Kukui'ula	60 feet	60 feet	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>
Ala Makani Kai	56 feet	56 feet	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>APPLICABLE FEES</b>			
<b>Environmental Impact Assessment (EIA)</b>	\$2000.00		
<b>Park Dedication</b>	Appraisal Report Req'd		
<b>Appraisal Report Required</b>	Yes		

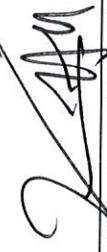
**III. EVALUATION**

The proposed development subdivides of a parcel into six (6) lots, one (1) roadway lot, and the remainder of a large lot. The surrounding parcels are County zoned Residential, Open, Open Special-Treatment Districts and with State Land Use Urban District.

It should be noted that two of the proposed lots do not conform to the lot configuration standards within the Residential (R-4) zoning district, per Section 8-4.4(a) of the Kaua'i County Code (1987). However, they will be considered as remnant parcels to be utilized for utility (Lot 5) and drainage purposes (Lot 6). As a result, there will be no residential density assigned to these parcels and this restriction should be incorporated into the deed descriptions of the affected lots.

**I.2.C.1. I-1.b.1**

**IV. RECOMMENDATION**

TENTATIVE APPROVAL	FINAL APPROVAL
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denied Tentative Approval subject to all requirements as noted on the follow pages:  	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denied All conditions have been complied with
	
Director of Planning	Director of Planning
9/4/19	9/1/2020
Date	Date

**V. AGENCY REQUIREMENTS**

1. Requirements of the Planning Department:
  - a. An updated preliminary title report for the existing lot shall be submitted to the Planning Department for review.
  - b. All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - c. As represented on the preliminary subdivision map, Lot 5 shall be utilized for utility purposes and Lot 6 appears to be used for drainage purposes. As shown, these lots do not conform to the lot configuration standards contained in Section 8-4.4(a) of the Kaua'i County Code (1987). As a result, there will be no residential density assigned to these parcels and this restriction should be incorporated into the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - d. Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kaua'i County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.
  - e. Pursuant to Ordinance No. PM-2004-370, the Applicant is allowed to credit Environmental Impact Assessment and Park Dedication fees for developments within their Project Area. Since the Applicant has not resolved with the Planning Department whether they will pay fees or provide improvements for credit, the following fees are being assessed:
    - (1) An Environmental Impact Assessment Fee of Two Thousand Dollars (\$2,000.00) shall be paid to the County of Kaua'i; and
    - (2) The Applicant shall pay a Park Dedication fee pursuant to Section 9-2.8 of the Kaua'i County Code Subdivision Ordinance. An appraisal report and price list shall be provided to the Planning Department to forward to the Real Properties Division to help calculate the fee amount.
    - (3) The Applicant shall resolve with the Planning Department the method that will be utilized to satisfy these fee requirements prior to final subdivision approval.
  - f. Relative to Condition No. 1.d. and prior to final subdivision map approval, the Applicant shall meet with the Planning Department to resolve the applicable requirements of Ordinance No. PM-2004-370. Specifically, the following conditions shall apply to this subdivision:
 

**Conditions of Ordinance No. PM-2004-370:**

- o 3. (prohibition of Additional Dwelling Units)
- o 7. (improvements to roadway system)
- o 14. (EIA credit)
- o 15. (recreation)
- o 16. (park dedication credit)
- o 23. (wastewater system master plan)
- o 27. (solid waste management plan)
- o 30. (blasting plan)

g. The applicant is made aware that the streets designated within the subdivision must be officially named before the Department approves the construction plans. Street names should be in Hawaiian and be submitted to our Department for review and approval, along with a request letter and 12 maps (on 8½" x 14" paper). The maps should be detailed such that emergency vehicles, police services, postal deliveries, etc., are able to locate the street. References to roadway, such as the highway and other surrounding roads, should be shown on the street-naming map.

h. The Subdivider shall comply with the requirements in Section 9-2.3(e) of the Kaua'i County Code (1987) relating to the provision of swales and sidewalks along Ala Kukuila Road, Roadway Lot 7 and Ala Makani Kai Road. The extent of improvements shall be resolved with the Planning Department and Department of Public Works prior to final subdivision map approval.

i. Relative to Condition No. 1.h. above, the Applicant shall prepare and obtain construction plan approvals for necessary road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.

j. The Subdivider shall indicate the respective zoning districts on the Final Subdivision Map since the project involves multiple zoning districts. Relative to Condition No. 1.h. above, the Applicant shall prepare and obtain construction plan approvals for necessary road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.

2. Requirements of the Department of Public (DPW):

DRAINAGE

a. Swales may be constructed in lieu of curbs and/or gutters provided that swales are in accordance with the drainage standards and design guidelines established by the Department of Public Works.

ROADS

b. All interior roadways shall remain private.

c. Grading Plans, construction plans, and specifications showing details and road construction, drainage structures, sewers, water mains, and all other utilities proposed to be constructed in the subdivision shall be submitted for the department's review and approval.

d. Subdivision roadways must be officially named prior to receiving final subdivision map and construction plan approval.

3. Requirements of the Department of Water (DOW):

a. The subdivider shall pay the Department of Water the applicable charges and/or any rate increase in effect at the time of receipt:

i) A Facilities Reserve Charge of \$14,115.00 \*\*;

\*\* See item d

b. Prepare and receive Department of Water's approval of construction drawings for the necessary water system facilities and either construct said facilities or post a performance bond for construction. These facilities shall also include:

1) All facilities required in the approved Kukui'ula Water Masterplan for the proposed project.

c. If a bond is filed, to secure final subdivision approval, the subdivider shall clearly letter the following on the approved construction plans, final subdivision map, and deeds:

“Domestic water service is not available until the construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kaua'i.”

This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.

#### OTHER

d. Kukui'ula Development Company (KDC) will be required to:

1. Submit an updated Kukui'ula Water Demand and System Capacity Tracking Matrix.
2. Be made aware that the Facilities Reserve Charge and adequacy of the source, storage, and transmission facilities for the proposed development will be dependent on the approved updated Kukui'ula Water Demand and System Capacity Tracking Matrix.

#### 4. Requirements of the Department of Health (DOH):

- a. The subject project is located within the Poipu Reclamation Facility wastewater sewer system. All wastewater generated shall be disposed into the Poipu Water Reclamation Facility sewer system. All lots in the proposed development/subdivision shall connect to the Poipu Water Reclamation Facility sewer system.
- b. Noise will be generated when construction occurs on after the subdivision. The applicable maximum permissible sound levels as stated in Title 11, Hawaii Administrative Rules (HAR), Chapter 11-46, “Community Noise Control”, shall not be exceeded, unless a noise permit is obtained from the State Department of Health (DOH).
- c. Temporary fugitive dust emissions during site preparation and construction could impact the nearby residents when the subdivided lots are developed. In accordance with Chapter 11-60.1, entitled "Air Pollution Control", Title 11, HAR, effective air pollution control measures shall be provided to minimize or prevent any fugitive dust emission from impacting the surrounding areas. This includes but are not limited to the use of water wagons, sprinkler systems, dust fences, etc.
- d. In accordance with Title 11, HAR, Chapter 11-58.1, “Solid Waste Management Control”, when the lot is further developed, the grubbed material and construction waste that is generated shall be either recycled or disposed of at a solid waste

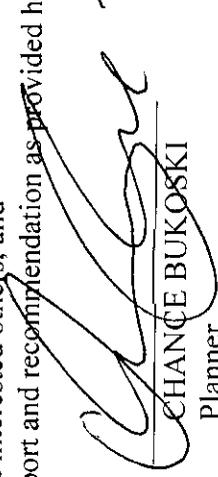
disposal facility that complies with the DOH. The open burning of any of these wastes on or off site prohibited.

5. The Applicant is advised the should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division and the Planning Department to determine mitigation measures.
6. The Applicant is advised that prior to and/or during construction and use additional conditions may be imposed by government agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).

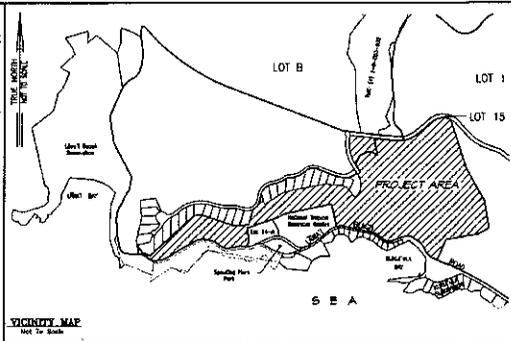
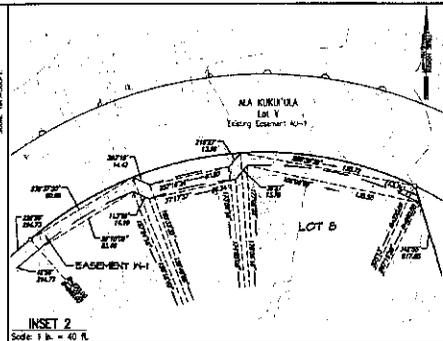
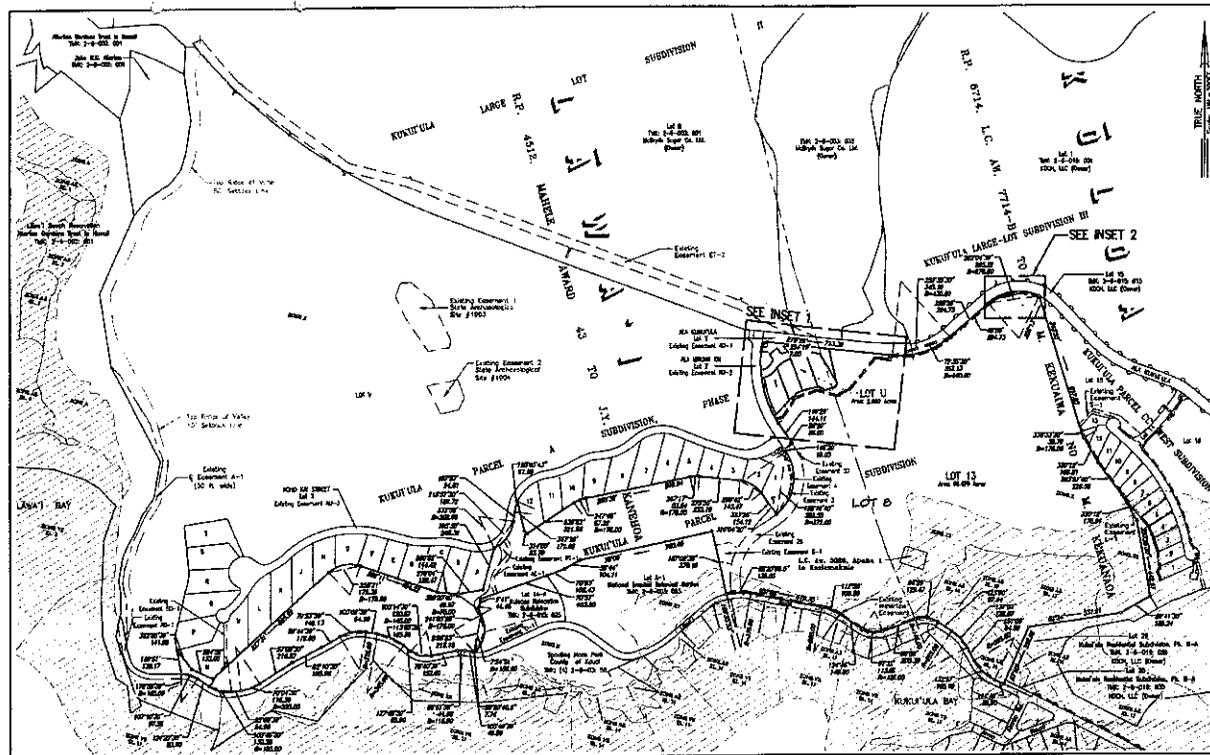
The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for SEPTEMBER 10, 2019 whereby the entire record should be considered prior to decision-making. The entire record should include but not be limited to:

- a. Pending government agency comments;
- b. Testimony from the general public and interested others; and
- c. The Applicant's response to staff's report and recommendation as ~~provided~~ herein.

By



CHANCE BUKOSKI  
Planner



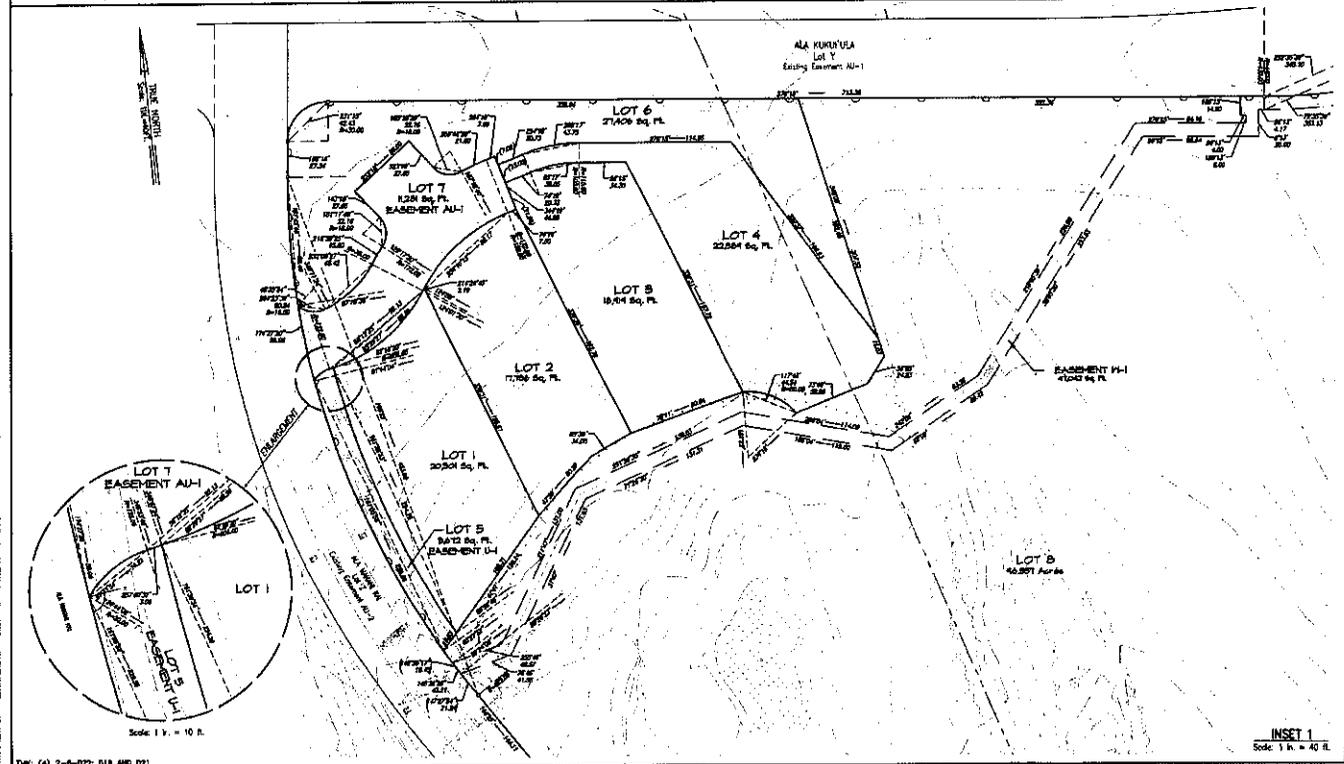
**KUKU'ULA PARCEL G SUBDIVISION**

CONSOLIDATION OF  
**LOT U OF KUKU'ULA PARCEL A SUBDIVISION, PHASE 1  
 AND LOT 13 OF KUKU'ULA PARCEL F SUBDIVISION  
 AND RESUBDIVISION OF SAID CONSOLIDATION INTO  
 LOTS 1 TO 8, INCLUSIVE,  
 AND DESIGNATION OF EASEMENTS, AU-1, U-1 AND W-1  
 AND DESIGNATION OF RESTRICTION OF VEHICULAR  
 ACCESS RIGHTS AFFECTING LOTS 5, 6 AND 8**

BEING ALL OF LAND COMMISSION AWARD 3020, APANA 1 TO KARIEMAKULE  
 AND PORTIONS OF ROYAL PATENT 8714, LAND COMMISSION AWARD 7714-B,  
 APANA 2 TO M. KEKUAHA NO M. KEKUANAOA AND  
 ROYAL PATENT 4812, MAKEE AWARD 43 TO J.Y. KANEHOA  
 SITUATED AS KŪLOA (MAKA) AND LA'AI,  
 KŪLOA, KONA, MAUI, HAWAII

TOTAL AREA = 89.950 ACRES

OWNER: KUKU'ULA DEVELOPMENT CO. (HAWAII), L.L.C.  
 ADDRESS: P.O. BOX 280  
 KŪLOA, HI 96756



Transferor/Grantee Record (TWR) Summary

Subdivision	Number of Lots	Number of Lots
	Delivered to	Released to
	State Trust	TWR
Phase 1 (S-2005-25) Y	0	0
Phase 1A (S-2005-21) 1046	0	0
Phase 1B (S-2005-1) 3063	0	0
Phase 1C (S-2004-3) 027	0	0
Large Lot 23 Phase 1 (S-2005-07)	0	0
Phase 1F (S-2005-1)	0	0
Phase 1G (S-2011-31) 641	20	0
Phase 1H (S-2005-14)	0	0
Phase 1I (S-2004-2)	0	0
<b>Total TWRs</b>	<b>20</b>	<b>0</b>

ADJOINING OWNERS: KUKU'ULA PARCEL G SUBDIVISION

Lot No.	Map Key	Owner
1	101	STATE TRUST
2	102	STATE TRUST
3	103	STATE TRUST
4	104	STATE TRUST
5	105	STATE TRUST
6	106	STATE TRUST
7	107	STATE TRUST
8	108	STATE TRUST
9	109	STATE TRUST
10	110	STATE TRUST
11	111	STATE TRUST
12	112	STATE TRUST
13	113	STATE TRUST
14	114	STATE TRUST
15	115	STATE TRUST
16	116	STATE TRUST
17	117	STATE TRUST
18	118	STATE TRUST
19	119	STATE TRUST
20	120	STATE TRUST

ADJOINING OWNERS: KUKU'ULA PARCEL F SUBDIVISION

Lot No.	Map Key	Owner
1	121	STATE TRUST
2	122	STATE TRUST
3	123	STATE TRUST
4	124	STATE TRUST
5	125	STATE TRUST
6	126	STATE TRUST
7	127	STATE TRUST
8	128	STATE TRUST
9	129	STATE TRUST
10	130	STATE TRUST
11	131	STATE TRUST
12	132	STATE TRUST
13	133	STATE TRUST
14	134	STATE TRUST
15	135	STATE TRUST
16	136	STATE TRUST
17	137	STATE TRUST
18	138	STATE TRUST
19	139	STATE TRUST
20	140	STATE TRUST

- NOTES:
- COORDINATES AND AREA(S) SHOWN ON THIS MAP ARE BASED ON GOVERNMENT SURVEY TRIANGULATION STATION "KŪLOA".
  - OWNERS OF ADJOINING PARCELS TAKEN FROM REAL PROPERTY TAX RECORDS.
  - FLOOD DATA FROM FEMA MAPS COMMUNITY - PARCEL NUMBER RECORD 0804 F AND 3000 022 H, 100 YEAR FLOOD PROOFING IS 3000 NO REFERENCE MARKERS SHOWN IN THE VICINITY OF THE SUBJECT PROPERTY.
  - SOILING WATER SERVICE WILL NOT BE AVAILABLE UNTIL THE REQUIRED CONSTRUCTION IMPROVEMENTS FOR THIS DEVELOPMENT ARE COMPLETED AND ACCEPTED BY THE DEPARTMENT OF WATER, COUNTY OF MAUI.
  - LOTS 8 AND 9 TO BE DESIGNATED AS LANDSCAPE LOTS. LOT 7 TO BE DESIGNATED AS A ROADSIDE LOT.
  - DENOTES NO VEHICULAR ACCESS PERMITTED
  - - - DENOTES ACCESS PERMITTED



ATA, T. T. & ASSOCIATES, INC.  
 509 BLANCK STREET, SUITE 201  
 KŪLOA, HI 96756

THIS WORK WAS PREPARED BY ME  
 OR UNDER MY SUPERVISION

*ATA*

LICENSED PROFESSIONAL LAND SURVEYOR  
 LICENSE NO. 10245  
 EXP. 04/20



**COUNTY OF KAUA'I  
PLANNING DEPARTMENT  
SUBDIVISION REPORT**

**SUBJECT TO CHANGE**

**I. SUMMARY**

**Action Required by Planning Commission:** Consideration of Subdivision Application No. S-2020-2 that involves a subdivision of a parcel into thirteen (13) lots.

**Subdivision Permit No.** Application No. S-2020-2

**Name of Applicant(s)** KUKUI'ULA DEVELOPMENT COMPANY, LLC

**II. PROJECT INFORMATION**

<b>Map Title</b>	Kukui'ula Parcel E Subdivision, Subdivision of Lot V of Kukui'ula Parcel A Subdivision. Phase I into lots 1 to 13, inclusive and designation of easement AU-1 Being A Portion of Royal Patent 4512, Mahele Award 43 to J.Y. Kanehoa situated as Koloa (Makai) and Lawai, Koloa, Kona, Kauai, Hawaii		
<b>Tax Map Key(s):</b>	2-6-022:020 Por	<b>Area:</b>	142.819 Acres
<b>Zoning:</b>	Residential (R-4), Open, & Special Treatment – Open		
<b>State Land Use District(s):</b>	Urban	<b>General Plan Designation:</b>	Residential Community
<b>AGENCY COMMENTS</b>			
<input checked="" type="checkbox"/> <b>COK Public Works</b>	9/12/19	<input type="checkbox"/> <b>State DOT-Highways:</b>	
<input checked="" type="checkbox"/> <b>COK Water:</b>	8/27/19	<input checked="" type="checkbox"/> <b>State Health:</b>	8/27/19
<input type="checkbox"/> <b>Other(s)</b>		<input checked="" type="checkbox"/> <b>DLNR – SHPD:</b>	8/23/19
<b>EXISTING ROAD RIGHT-OF-WAY(S)</b>			
<b>Road Name</b>	<b>Existing Width</b>	<b>Required Width</b>	<b>Pavement YES</b> <b>Reserve NO</b>
Ala Kukui'ula Road	60 feet	60 feet	<input checked="" type="checkbox"/> <input type="checkbox"/>
			<input type="checkbox"/> <input type="checkbox"/>
			<input type="checkbox"/> <input type="checkbox"/>
<b>APPLICABLE FEES</b>			
<b>Environmental Impact Assessment (EIA)</b>	\$6,000.00		
<b>Park Dedication</b>	Appraisal Report Req'd		
<b>Appraisal Report Required</b>	Yes		

**III. EVALUATION**

The proposed development subdivides a parcel into twelve (12) lots and one (1) roadway lot. The surrounding parcels to the south, east, and west are County zoned Residential District and State Land Use Urban District and there surrounding parcels to the north are County zoned Agriculture and State Land Use Agricultural District.

The proposed development shall be subject to the applicable requirements/conditions of Ordinance No. PM-2004-370 and the EIA & Park Fees shall be credited, as specified by the Ordinance.

**IV. RECOMMENDATION**

<b>TENTATIVE APPROVAL</b>		<b>FINAL APPROVAL</b>	
<input checked="" type="checkbox"/> Approval		<input checked="" type="checkbox"/> Approval	

<input type="checkbox"/> Denied	<input type="checkbox"/> Denied
Tentative Approval subject to all requirements as noted on the follow pages:	All conditions have been complied with
Director of Planning	Director of Planning
Date	Date
	<i>[Signature]</i> 9/1/2019

**V. AGENCY REQUIREMENTS**

1. Requirements of the Planning Department:
  - a. An updated preliminary title report for the existing lot shall be submitted to the Planning Department for review.
  - b. All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - c. Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kaua'i County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.
  - d. Pursuant to Ordinance No. PM-2004-370, the Applicant is allowed to credit Environmental Impact Assessment and Park Dedication fees for developments within their Project Area. Since the Applicant has not resolved with the Planning Department whether they will pay fees or provide improvements for credit, the following fees are being assessed:
    - (1) An Environmental Impact Assessment Fee of Six Thousand Dollars (\$6,000.00) shall be paid to the County of Kaua'i; and
    - The Applicant shall pay a Park Dedication fee pursuant to Section 9-2.8 of the Kaua'i County Code Subdivision Ordinance. An appraisal report and price list shall be provided to the Planning Department to forward to the Real Properties Division to help calculate the fee amount.
    - (2) The Applicant shall resolve with the Planning Department the method that will be utilized to satisfy these fee requirements prior to final subdivision approval.
  - e. Relative to Condition No. 1.d. and prior to final subdivision map approval, the Applicant shall meet with the Planning Department to resolve the applicable requirements of Ordinance No. PM-2004-370. Specifically, the following conditions shall apply to this subdivision:
    - o 3. (prohibition of Additional Dwelling Units)
    - o 7. (improvements to roadway system)
    - o 14. (EIA credit)
    - o 15. (recreation)
    - o 16. (park dedication credit)
    - o 23. (wastewater system master plan)
    - o 27. (solid waste management plan)
    - o 30. (blasting plan)

**Conditions of Ordinance No. PM-2004-370:**

- o 3. (prohibition of Additional Dwelling Units)
- o 7. (improvements to roadway system)
- o 14. (EIA credit)
- o 15. (recreation)
- o 16. (park dedication credit)
- o 23. (wastewater system master plan)
- o 27. (solid waste management plan)
- o 30. (blasting plan)

- f. The Applicant shall establish bus stops/shelters pursuant to Ordinance No. 406. The details shall be resolved with the Planning Department and Department of Public Works prior to construction plan approval.
- g. Relative to the requirements/standards set forth in Ordinance No. 777, the Applicant shall resolve with the Planning Department the provision of public access.
- h. The applicant is made aware that the streets designated within the subdivision must be officially named before the Department approves the construction plans. Street names should be in Hawaiian and be submitted to our Department for review and approval, along with a request letter and 12 maps (on 8½" x 14" paper). The maps should be detailed such that emergency vehicles, police services, postal deliveries, etc., are able to locate the street. References to roadway, such as the highway and other surrounding roads, should be shown on the street-naming map.
- i. The Subdivider shall comply with the requirements in Section 9-2.3(e) of the Kaua'i County Code (1987) relating to the provision of curbs, gutters and sidewalks along Roadway Lot 12. The extent of improvements shall be resolved with the Planning Department and Department of Public Works prior to final subdivision map approval.
- j. Relative to Condition No. 1.i. above, the applicant shall prepare and obtain construction plan approvals for necessary road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.

2. Requirements of the Department of Public (DPW):

DRAINAGE

- a. Swales may be constructed in lieu of curbs and/or gutters provided that swales are in accordance with the drainage standards and design guidelines established by the Department of Public Works.

ROADS

- b. All interior roadways shall remain private.
- c. Grading Plans, construction plans, and specifications showing details and road construction, drainage structures, sewers, water mains, and all other utilities proposed to be constructed in the subdivision shall be submitted for the department's review and approval.
- d. Subdivision roadways must be officially named prior to receiving final subdivision map and construction plan approval.

3. Requirements of the Department of Water (DOW):

- a. The subdivider shall pay the Department of Water the applicable charges and/or any rate increase in effect at the time of receipt:
  - i) A Facilities Reserve Charge of \$14,115.00 \*\*;
  - \*\* See item d & e
- b. Prepare and receive Department of Water's approval of construction drawings for the necessary water system facilities and either construct said facilities or post a performance bond for construction. These facilities shall also include:
  - 1) All facilities as required in the approved Kukui'ula Water Master Plan for the proposed project.

- c. If a bond is filed, to secure final subdivision approval, the subdivider shall clearly letter the following on the approved construction plans, final subdivision map, and deeds:  
  
“Domestic water service is not available until the construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kaua‘i.”
- This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.

OTHER

Kukui‘ula Development Company (KDC) will be required to:

- d. Submit an updated Kukui‘ula Water demand and System Capacity Tracking Matrix.
  - e. Be made aware that the Facilities Reserve Charge and the adequacy of source, storage, and transmission facilities for the proposed Development will be dependent on the approved updated Kukui‘ula Water Demand and System Capacity Tracking Matrix.
4. Requirements of the Department of Health (DOH):
- a. The subject project is located within HOH Utilities’ Poipu Water Reclamation Facility wastewater sewer system. All wastewater generated shall be disposed into the HOH Utilities’ Poipu Water Reclamation Facility sewer system. All lots in the proposed development/subdivision shall connect to the HOH Utilities’ Poipu Water Reclamation Facility sewer System. The applicant shall produce a “Will Serve” letter to the Department of Health (DOH) Wastewater Branch from HOH Utilities.
  - b. Temporary fugitive dust emissions could be emitted when construction and development of Lots 1-13 commence. In accordance with Chapter 11-60.1, entitled “Air Pollution Control”, Title 11, HAR, effective air pollution control measures shall be provided to minimize or prevent any fugitive dust emission caused by construction work from affecting the surrounding areas. This includes the off-site roadways used to enter/exit the project. The control measures include but are not limited to the use of water wagons, sprinkler systems, dust fences, etc.

- c. The construction waste from Lots 1- 13 when construction begins, shall be disposed of at a solid waste disposal facility that complies with the applicable provisions of Title 11, HAR, Chapter 11-58.1, “Solid Waste Management Control”, the open burning of any of these wastes on or off site prohibited.
- d. Noise will be generated during the construction begins on Lots 1-13. The applicable maximum permissible sound levels as stated in Title 11, Hawaii Administrative Rules (HAR), Chapter 11-46, “Community Noise Control”, unless a noise permit is obtained from the State Department of Health (DOH).
- e. The property may harbor rodents which will be dispersed to the surrounding areas when the site is cleared. In accordance with Chapter 11-26, entitled “Vector Control”, Title 11, HAR, the applicant shall ascertain the presence or absence of rodents on the property. Should the presence of rodents be determined, the applicant shall eradicate the rodents prior to clearing the site.

5. The Applicant is advised the should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the applicant shall

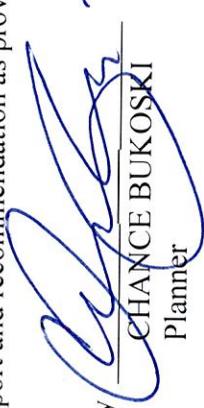
contact the State Department of Land and Natural Resources, Historic Preservation Division and the Planning Department to determine mitigation measures.

6. The Applicant is advised that prior to and/or during construction and use additional conditions may be imposed by government agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).

The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for OCTOBER 22, 2019 whereby the entire record should be considered prior to decision-making. The entire record should include but not be limited to:

- a. Pending government agency comments;
- b. Testimony from the general public and interested others; and
- c. The Applicant's response to staff's report and recommendation as provided herein.

By



CHANCE BUKOSKI  
Planner



**SUBJECT TO CHANGE**

COUNTY OF KAUAI  
PLANNING DEPARTMENT

TO: Subdivision Committee, Planning Commission

SUBJECT: Extension Request

PURPOSE:  File Final Subdivision Maps  
 Complete Subdivision Improvements  
 Other: \_\_\_\_\_

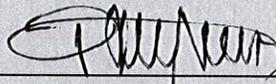
Subdiv. Application No.		Applicant(s)	
S-2018-12		AOAO Kulana Condominium	
Location:	Kapa'a	Tax Map Key:	(4) 4-4-003:089
Extension Request No. (1 <sup>st</sup> , 2 <sup>nd</sup> , etc.)		Tentative Approval Granted On:	Previous Ext. Expired On:
2 <sup>nd</sup>		May 22, 2018	May 22, 2020
Subdivision Bonded: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Deadline to Complete Improvements: Not Applicable	

**APPLICANT'S REASONS:** Additional time is being requested to comply with the conditions/requirements of tentative approval. The Applicant is currently with the various reviewing agencies in resolving the required infrastructure improvements for the subdivision.

**PLANNING DEPARTMENT  
EVALUATION & RECOMMENDATION**

**EVALUATION:** Please refer to next page...

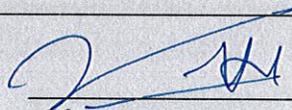
**RECOMMENDATION:** Please refer to next page...

  
Staff Planner  
19 Aug 2020  
Date

Approved and Recommended  
to Planning Commission

Denied

Comments:

  
Planning Director  
8/24/2020  
Date

**I.N.A.I.**

SEP 08 2020

## COUNTY OF KAUA'I PLANNING DEPARTMENT

Extension requests are primarily processed for the purpose of continuing a tentative approval for a subdivision application. An extension approval allows an applicant additional time to comply with the requirements in order to obtain final subdivision approval.

In determining whether additional time should be granted, an evaluation is made of the project's progress as well as compliance with the requirements of tentative approval. The evaluation is primarily based on determining whether the applicant is **progressively working** towards obtaining final subdivision approval with the various reviewing agencies. The **tentative approval conditions** are then re-evaluated to determine whether the conditions/requirements are adequate to address the impacts of the proposed development in consideration of the time that has lapsed.

Pending evaluation of an extension request, one of the following can occur:

1. The extension is approved without changes to the tentative approval requirements;
2. The extension is approved with modified time frames but no modifications or additions to the tentative approval requirements;
3. The extension is approved with modifications and/or additions to the requirements;  
and
4. The extension is denied.

### FINDINGS/BACKGROUND:

The proposed development involves a subdivision of a parcel into two (2) lots. The property is zoned Agriculture (A) District. This application was granted tentative approval by the Planning Commission on May 22, 2018 and this is the Applicant's **second** extension request of the tentative approval. The previous extension was granted to May 22, 2020.

The subject property is located southern side of Hauiki Road in the Kapa'a Homesteads (refer to attached map). The total area involved is approximately 1 acre and the surrounding parcels are situated with the State Agricultural Land Use District that have been developed as residences.

### PROGRESS OF THE SUBDIVISION:

In considering the extension request, it should be noted that the Applicant has been working to comply with all requirements of tentative approval. As represented, the Applicant is working

to resolve the requirements related to the subdivision, more particularly, the requirements imposed by both the COK Departments of Water (DOW) and Public Works (DPW) . Since it is uncertain as to when the Applicant will comply with the requirements of Tentative Approval, another time extension is being requested.

Based on these circumstances, the Applicant's reasons are justifiable and no problems are foreseen in granting the extension request. The Departments of Public Works and Water have no objections to the request.

Additionally, the Applicant should demonstrate further progress with the subdivision within one (1) year from the approval of this extension request. As such, the Applicant shall be made aware that in further considering extension requests involving the proposed development, the Applicant shall continue to submit to the Planning Department an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date in order to allow sufficient time to evaluate whether progress have been made and conditions satisfied.

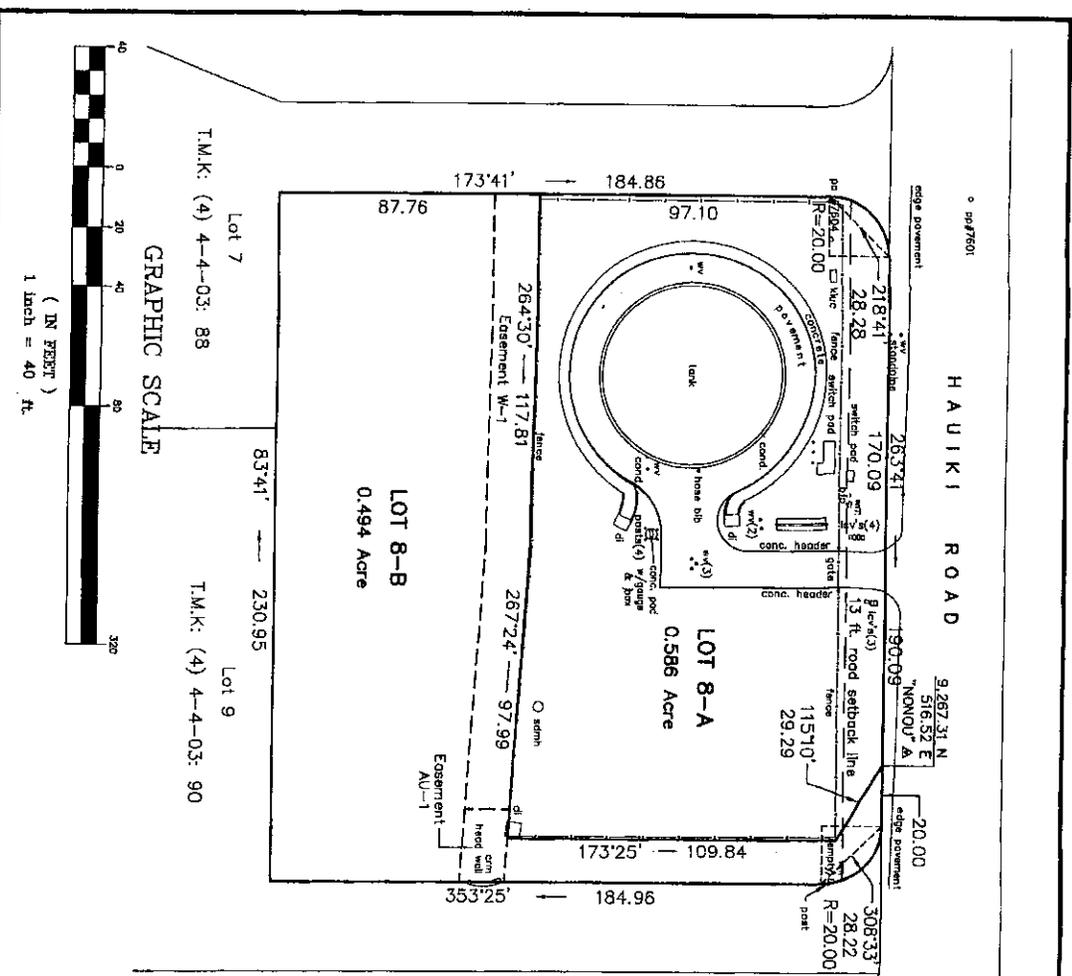
RECOMMENDATION:

It is recommended that an extension until **MAY 22, 2021** be granted to obtain final subdivision approval. However, the Applicant is made aware that an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements shall be submitted to the Planning Department for review for further extensions requests. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date.

Job Number: 17-21 MA  
 Drawing File: 17-21 subd.dwg

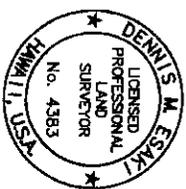
ESAKI SURVEYING & MAPPING, INC.  
 Civil Engineers - Land Surveyors - Planners

1610 Haleiukona Street  
 Lihue, Hawaii 96766



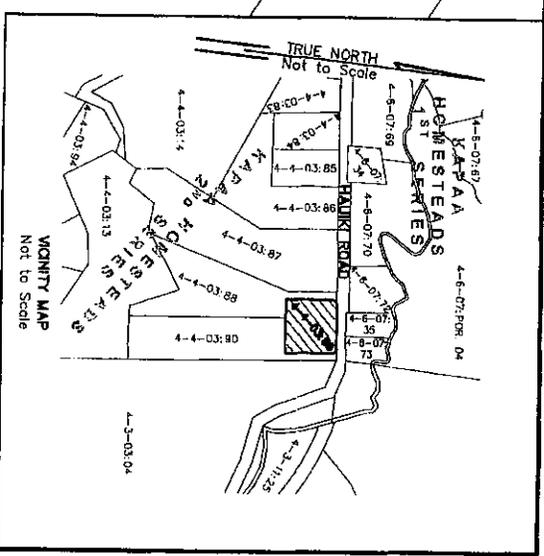
Lot 7  
 T.M.K. (4) 4-4-03: 88

Lot 9  
 T.M.K. (4) 4-4-03: 90



Signature: *[Handwritten Signature]*  
 THIS WORK WAS PREPARED BY ME  
 OR UNDER MY SUPERVISION  
 ESAKI SURVEYING & MAPPING, INC.  
 EXPIRES: APRIL 30, 2018

**PRELIMINARY**  
**KOLANA WATER TANK SUBDIVISION**  
 SUBDIVISION OF LOT 8  
 INTO LOTS 8-A AND 8-B  
 Being portion Grant 7286 to J. B. Souza  
 Being also portion of R.P. 7373,  
 L.C. Aw. 8559-B, Ap. 42  
 to William C. Lundillo  
 WAIPOULI, KAWAHAU, KAUAI, HAWAII  
 Tax Map Key: (4) 4-4-003: 089  
 Owner: Association of Apartment Owners  
 of Koluana Condominium  
 Date: February 28, 2018



COUNTY OF KAUAI  
PLANNING DEPARTMENT

**SUBJECT TO CHANGE**

**TO:** Subdivision Committee, Planning Commission

**SUBJECT:** Extension Request

**PURPOSE:**  File Final Subdivision Maps  
 Complete Subdivision Improvements  
 Other: \_\_\_\_\_

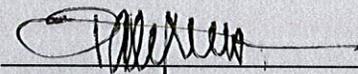
<b>Subdiv. Application No.</b>		<b>Applicant(s)</b>	
S-2019-3		McBryde Sugar Co., LLC./Sunset Strip Properties, LLC.	
<b>Location:</b>	Kalāheo	<b>Tax Map Key:</b>	(4) 2-4-007:002, 020
<b>Extension Request No. (1<sup>st</sup>, 2<sup>nd</sup>, etc.)</b>		<b>Tentative Approval Granted On:</b>	<b>Previous Ext. Expired On:</b>
<i>1st</i>		November 18, 2018	Not Applicable
<b>Subdivision Bonded:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<b>Deadline to Complete Improvements:</b> Not Applicable	

**APPLICANT'S REASONS:** Additional time is being requested to comply with the conditions/requirements of tentative approval. The Applicant is currently with the various reviewing agencies in resolving the required infrastructure improvements for the subdivision.

**PLANNING DEPARTMENT  
EVALUATION & RECOMMENDATION**

**EVALUATION:** Please refer to next page...

**RECOMMENDATION:** Please refer to next page...

  
\_\_\_\_\_  
Staff Planner

19 Aug 2020  
Date

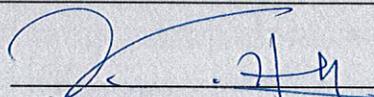
Approved and Recommended  
to Planning Commission

Denied

**Comments:**

\_\_\_\_\_

\_\_\_\_\_

  
\_\_\_\_\_  
Planning Director

8/24/2020  
Date

**I. N. B. I.**

## COUNTY OF KAUA'I PLANNING DEPARTMENT

Extension requests are primarily processed for the purpose of continuing a tentative approval for a subdivision application. An extension approval allows an applicant additional time to comply with the requirements in order to obtain final subdivision approval.

In determining whether additional time should be granted, an evaluation is made of the project's progress as well as compliance with the requirements of tentative approval. The evaluation is primarily based on determining whether the applicant is **progressively working** towards obtaining final subdivision approval with the various reviewing agencies. The **tentative approval conditions** are then re-evaluated to determine whether the conditions/requirements are adequate to address the impacts of the proposed development in consideration of the time that has lapsed.

Pending evaluation of an extension request, one of the following can occur:

1. The extension is approved without changes to the tentative approval requirements;
2. The extension is approved with modified time frames but no modifications or additions to the tentative approval requirements;
3. The extension is approved with modifications and/or additions to the requirements;  
and
4. The extension is denied.

### FINDINGS/BACKGROUND:

The proposed subdivision involves a boundary adjustment that consolidates sixteen (16) lots of the Brydeswood Phase II Subdivision and resubdivides into two (2) lots within the Agriculture (A)/Open (O) zoning districts. This application was granted tentative approval by the Planning Commission on November 18, 2018 and the Applicant's request is the *first* extension of the tentative approval.

The subject property is located along the mauka side of Kaumuali'i Highway in Kalāheo and adjacent to the Olu Pua Gardens site (refer to attached map). The total area involved is approximately 198.844 acres and the surrounding parcels are undeveloped fallow agriculture lands. The nearest residential development is approximately 1 mile east of the project site

### PROGRESS OF THE SUBDIVISION:

In considering the extension request, it should be noted that the Applicant has a lot of progress

with the development and has already submitted Final Subdivision maps for agency review. As represented, the Applicant has been trying to comply with the requirements of tentative approval.

The Applicant is still working to resolve the required infrastructure improvements associated with this application and determining the applicable requirements of the COK Departments of Water (DOW) and Public Works (DPW). Since it is uncertain as to when the Applicant will be in compliance with the requirements of Tentative Approval, another time extension is being requested.

Based on the foregoing circumstances, the Applicant's reasons are justifiable and no problems are foreseen in granting the extension request. The Departments of Public Works and Water have no objections to the request.

Additionally, the Applicant should demonstrate further progress with the subdivision within one (1) year from the approval of this extension request. As such, the Applicant shall be made aware that in further considering extension requests involving the proposed development, the Applicant shall continue to submit to the Planning Department an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date in order to allow sufficient time to evaluate whether progress have been made and conditions satisfied.

#### RECOMMENDATION:

It is recommended that an extension until **NOVEMBER 18, 2021** be granted to obtain final subdivision approval. However, the Applicant is made aware that an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements shall be submitted to the Planning Department for review for further extensions requests. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date.



KODANI & ASSOCIATES ENGINEERS, LLC

20 APR 24 11:01

April 14, 2020

REC

RE: BRYDESWOOD SUBD. S-2019-3

Mr. Chance Bukoski  
Planning Department  
County of Kauai

Dear Mr. Bukoski:

Please accept this letter as our Request for an Extension of Time for the subject project. Background history - the subject project was granted Tentative Approval (TA) on November 18, 2018. In Mid-October of 2019, we submitted a (pre)FINAL Subdivision Map for review and FINAL Approval by the Planning Commission.

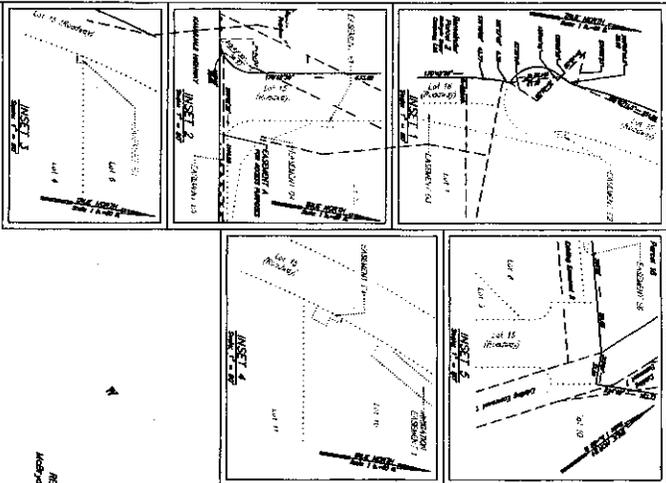
However, prior to obtaining FINAL approval, a revised subdivision map was submitted for review and approval – in summary, the revised subdivision map involved the consolidation of Lot 13 with Lot 14. This revision resulted in revised conditions by the Department of Water (DOW). We have subsequently received approval from the DOW to their revised conditions.

Currently, it's my understanding that a new set of the (pre)Final Subdivision Map has been submitted to the County for FINAL Subdivision Approval. That said, we humbly request that an extension of time be granted for the subject subdivision.

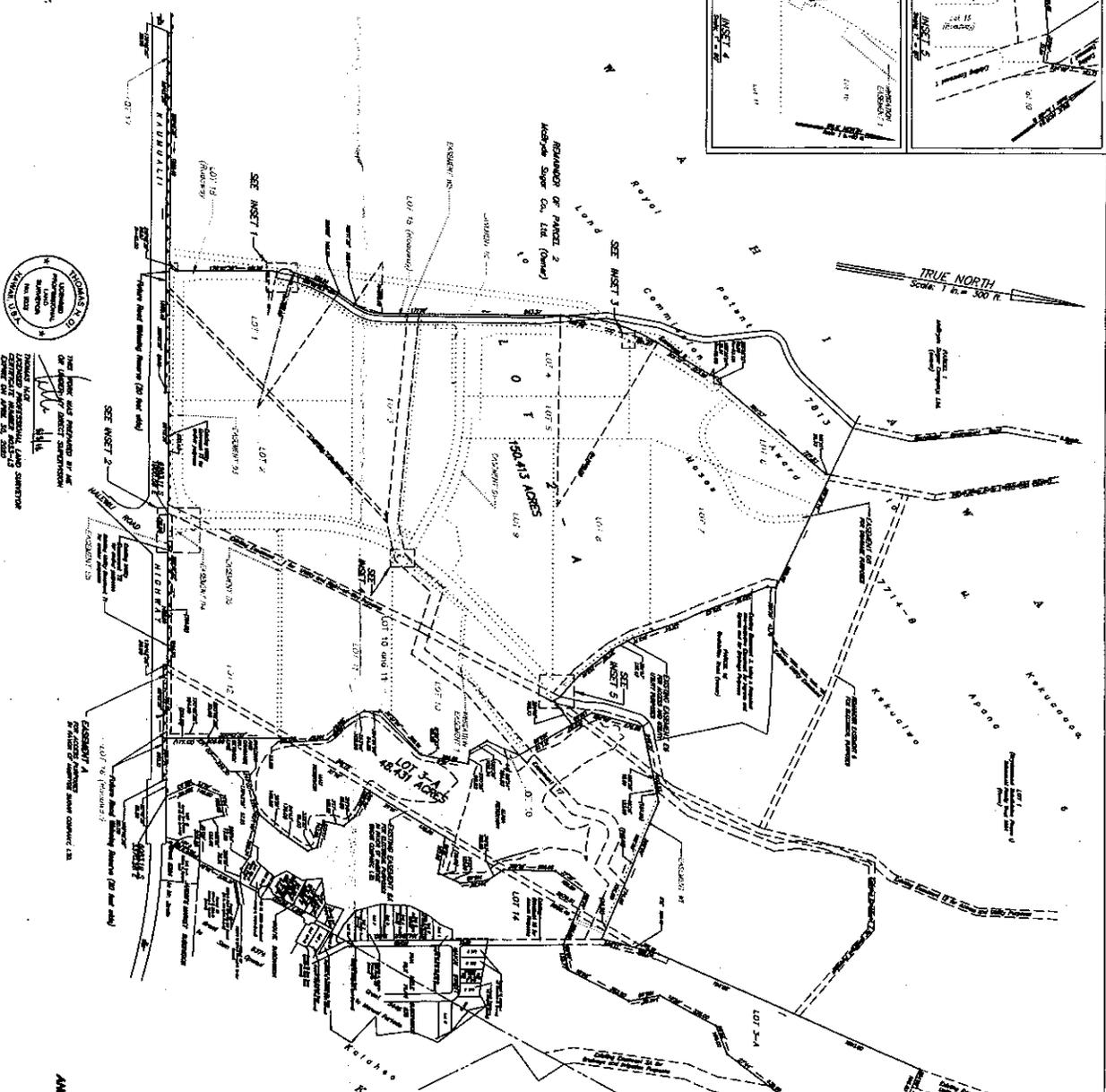
Should you have any questions, please feel free to contact our office.

Very truly yours,

Clyde T. Kodani



1. This map shows the boundaries of the proposed subdivision.
2. The boundaries of the lots are shown by solid lines.
3. The boundaries of the easements are shown by dashed lines.
4. The boundaries of the proposed subdivision are shown by dotted lines.



**DESIGNATION OF EASEMENT "A"**  
 AND ALSO REVERSE EASEMENTS "4", "6", "7", "8", "9", "10", "11", "12", "13", "14", "15"  
 PORTIONS OF EASEMENT "3" AND "2"

**CONSOLIDATION OF BRIDGWOOD SUBDIVISION, PHASE II LOTS 1 TO 13 INCLUSIVE, LOTS 15 TO 19 INCLUSIVE AND REMAINDER OF PARCELS 2 AND THE RESUBDIVISION OF THE SAID CONSOLIDATION INTO LOT 3-4 AND LOT 3-4 AND CANCELLATION OF**

**EASEMENT "1" AFFECTING LOT 4, LOT 5, AND LOT 9**  
**EASEMENT "2" AFFECTING LOT 1, LOT 2, AND LOT 3**  
**EASEMENT "3" AFFECTING LOT 1, LOT 2, AND LOT 3**  
**EASEMENT "4" AFFECTING LOT 1, LOT 2, AND LOT 3**  
**EASEMENT "5" AFFECTING LOT 1, LOT 2, AND LOT 3**  
**EASEMENT "6" AFFECTING LOT 1, LOT 2, AND LOT 3**  
**EASEMENT "7" AFFECTING LOT 1, LOT 2, AND LOT 3**  
**EASEMENT "8" AFFECTING LOT 1, LOT 2, AND LOT 3**  
**EASEMENT "9" AFFECTING LOT 1, LOT 2, AND LOT 3**  
**EASEMENT "10" AFFECTING LOT 1, LOT 2, AND LOT 3**  
**EASEMENT "11" AFFECTING LOT 1, LOT 2, AND LOT 3**  
**EASEMENT "12" AFFECTING LOT 1, LOT 2, AND LOT 3**  
**EASEMENT "13" AFFECTING LOT 1, LOT 2, AND LOT 3**  
**EASEMENT "14" AFFECTING LOT 1, LOT 2, AND LOT 3**  
**EASEMENT "15" AFFECTING LOT 1, LOT 2, AND LOT 3**

**PRELIMINARY**

**AND ALSO REVERSE EASEMENTS "4", "6", "7", "8", "9", "10", "11", "12", "13", "14", "15" PORTIONS OF EASEMENT "3" AND "2"**

COUNTY OF KAUAI  
PLANNING DEPARTMENT

**SUBJECT TO CHANGE**

**TO:** Subdivision Committee, Planning Commission

**SUBJECT:** Extension Request

**PURPOSE:**  File Final Subdivision Maps  
 Complete Subdivision Improvements  
 Other: \_\_\_\_\_

<b>Subdiv. Application No.</b>		<b>Applicant(s)</b>	
S-2019-8		Stephanie Fernandes	
<b>Location:</b>	Wailua Homesteads	<b>Tax Map Key:</b>	(4) 4-2-005:044
<b>Extension Request No. (1<sup>st</sup>, 2<sup>nd</sup>, etc.)</b>		<b>Tentative Approval Granted On:</b>	<b>Previous Ext. Expired On:</b>
<i>1st</i>		January 22, 2019	Not Applicable
<b>Subdivision Bonded:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<b>Deadline to Complete Improvements:</b> Not Applicable	

**APPLICANT'S REASONS:** Additional time is being requested to comply with the conditions/requirements of tentative approval. The Applicant is currently with the various reviewing agencies in resolving the required infrastructure improvements for the subdivision.

PLANNING DEPARTMENT EVALUATION & RECOMMENDATION	
<b>EVALUATION:</b> Please refer to next page...	
<b>RECOMMENDATION:</b> Please refer to next page...	
 _____ Staff Planner	19 Aug 2020 _____ Date
<input checked="" type="checkbox"/> Approved and Recommended to Planning Commission	<input type="checkbox"/> Denied
<b>Comments:</b> _____	
 _____ Planning Director	8/24/2020 _____ Date

## COUNTY OF KAUA‘I PLANNING DEPARTMENT

Extension requests are primarily processed for the purpose of continuing a tentative approval for a subdivision application. An extension approval allows an applicant additional time to comply with the requirements in order to obtain final subdivision approval.

In determining whether additional time should be granted, an evaluation is made of the project's progress as well as compliance with the requirements of tentative approval. The evaluation is primarily based on determining whether the applicant is **progressively working** towards obtaining final subdivision approval with the various reviewing agencies. The **tentative approval conditions** are then re-evaluated to determine whether the conditions/requirements are adequate to address the impacts of the proposed development in consideration of the time that has lapsed.

Pending evaluation of an extension request, one of the following can occur:

1. The extension is approved without changes to the tentative approval requirements;
2. The extension is approved with modified time frames but no modifications or additions to the tentative approval requirements;
3. The extension is approved with modifications and/or additions to the requirements;  
and
4. The extension is denied.

### FINDINGS/BACKGROUND:

The proposed development involves a subdivision of a parcel into five (5) lots in the Wailua Homesteads area. This application was granted tentative approval by the Planning Commission on January 22, 2019 and the Applicant's request is the *first* extension of the tentative approval.

The subject property is situated in close proximity to the Kuamo‘o Road/Kamalu Road intersection in Wailua Homesteads (refer to attached map). The total area involved is approximately 10.818 acres and the surrounding parcels are developed with single-family residences.

### PROGRESS OF THE SUBDIVISION:

In considering the extension request, it should be noted that the Applicant has made some progress in addressing the requirements of the subdivision. As represented, they are currently

resolving the housing requirements of the County Housing Agency as well as the infrastructure improvements with the COK Departments of Water (DOW) and Public Works (DPW). Since it is uncertain as to when the Applicant will be in compliance with the requirements of Tentative Approval, another time extension is being requested.

Based on the foregoing circumstances, the Applicant's reasons are justifiable and no problems are foreseen in granting the extension request. The Departments of Public Works and Water have no objections to the request.

Additionally, the Applicant should demonstrate further progress with the subdivision within one (1) year from the approval of this extension request. As such, the Applicant shall be made aware that in further considering extension requests involving the proposed development, the Applicant shall continue to submit to the Planning Department an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date in order to allow sufficient time to evaluate whether progress have been made and conditions satisfied.

RECOMMENDATION:

It is recommended that an extension until **JANUARY 22, 2021** be granted to obtain final subdivision approval. However, the Applicant is made aware that an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements shall be submitted to the Planning Department for review for further extensions requests. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date.

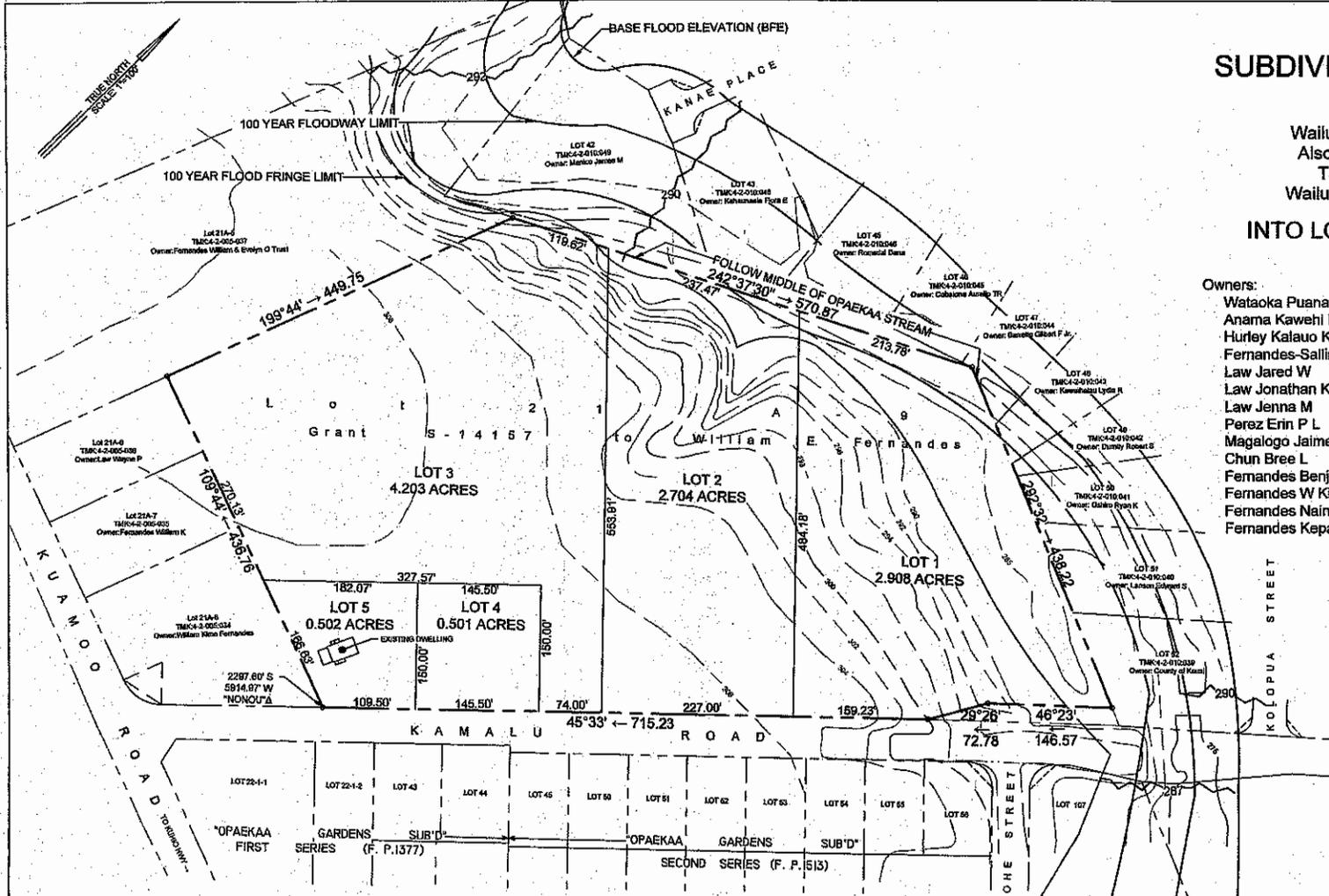
# PRELIMINARY SUBDIVISION OF LOT 21 A-9

Portion of Lot 21  
Wailua Homestead, First Series  
Also portion of Grant S-14157  
To William E. Fernandes  
Wailua, Kawaihau, Kauai, Hawaii

INTO LOTS 1 TO 5 INCLUSIVE

**Owners:**

Wataoka Puanani P H: 6231 Hauki Road Kapaa, HI. 96746  
Anama Kawehi K H  
Hurley Kalauo K P  
Fernandes-Salling John M K  
Law Jared W  
Law Jonathan K  
Law Jenna M  
Perez Erin P L  
Magalogo Jaime M L  
Chun Bree L  
Fernandes Benjamin B: 219 Kamalu Road Kapaa HI. 96746  
Fernandes W Kihei  
Fernandes Nainoa L  
Fernandes Kepa K.



**NOTES:**

1. Origin of azimuths and coordinates are referred to Government Survey Triangulation Station "NONOU".
2. Owners of adjoining lands as shown on plan are from records in the Real Property Mapping Branch.
3. Floodway and flood fringe limits are extrapolated from flood insurance rate map (FIRM) base map.
4. EK contours and other features are based on aerial orthophoto and google maps.



EXPIRES: APRIL 30, 2020  
THIS WORK WAS PREPARED BY ME  
OR UNDER MY SUPERVISION  
*C. Kodani*  
Signature

TMC 4-2-010-041 TALED 1/13  
10/19 Fernandes Sub. Map 4/16

KODANI & ASSOCIATES ENGINEERS, LLC  
5128 AKAHU STREET, LIHUE, KAUAI, HAWAII 96761

1" = 219.92 FT.  
DATE: 09/10/2016



**KODANI & ASSOCIATES ENGINEERS, LLC**

May 15, 2020

20 MAY 26 19 53

RECEIVED

Mr. Ka'aina Hull, Planning Director  
Planning Department  
County of Kauai  
4444 Rice Street, Suite 473  
Lihue, HI 96766

Attn: Mr. Dale Cua

**RE: Fernandes et. al. Subdivision (S-2019-8)**  
**TMK: 4-2-05:44**  
**Wailua Homesteads, Kauai, Hawaii**  
**KAE17-1705**

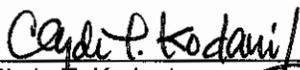
Gentlemen:

Please accept this letter as our request for an extension for the subject subdivision. We had hoped to complete the subdivision last year however, discussions regarding the County Housing Agency requirements are still ongoing. In addition, with the change of the Commissioner for this family subdivision, and the recent Coronavirus Pandemic, scheduling of the subject subdivision has been thrown into a flux.

We ask for your understanding and consideration to our request for an extension.

Should you have any questions, please feel free to contact our office.

Very truly yours,

  
\_\_\_\_\_  
Clyde T. Kodani  
President and CEO 

CTK:sds

c: Jonathan Chun, Belles Graham LLP

COUNTY OF KAUAI  
PLANNING DEPARTMENT

**SUBJECT TO CHANGE**

**TO:** Subdivision Committee, Planning Commission

**SUBJECT:** Extension Request

**PURPOSE:**  File Final Subdivision Maps  
 Complete Subdivision Improvements  
 Other: \_\_\_\_\_

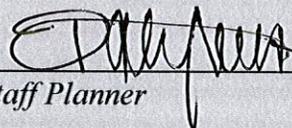
<b>Subdiv. Application No.</b>		<b>Applicant(s)</b>	
S-2019-16		Robert S./Kerrilyn R.V. Barros	
<b>Location:</b>	Wailua Homesteads	<b>Tax Map Key:</b>	(4) 2-5-008:005
<b>Extension Request No. (1<sup>st</sup>, 2<sup>nd</sup>, etc.)</b>		<b>Tentative Approval Granted On:</b>	<b>Previous Ext. Expired On:</b>
1 <sup>st</sup>		May 28, 2019	Not Applicable
<b>Subdivision Bonded:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<b>Deadline to Complete Improvements:</b> Not Applicable	

**APPLICANT'S REASONS:** Additional time is being requested to comply with the conditions/requirements of tentative approval. The Applicant is currently with the various reviewing agencies in resolving the required infrastructure improvements for the subdivision.

**PLANNING DEPARTMENT  
EVALUATION & RECOMMENDATION**

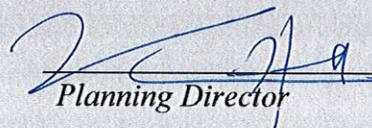
**EVALUATION:** Please refer to next page...

**RECOMMENDATION:** Please refer to next page...

  
 Staff Planner 19 Aug 2020  
Date

Approved and Recommended to Planning Commission  Denied

**Comments:** \_\_\_\_\_

  
 Planning Director 8/24/20  
Date

## COUNTY OF KAUA‘I PLANNING DEPARTMENT

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1. The extension is approved without changes to the tentative approval requirements;
2. The extension is approved with modified time frames but no modifications or additions to the tentative approval requirements;
3. The extension is approved with modifications and/or additions to the requirements; and
4. The extension is denied.

### FINDINGS/BACKGROUND:

The proposed development involves a subdivision of a parcel into two (2) in the Lāwa‘i area. This application was granted tentative approval by the Planning Commission on May 28, 2019 and the Applicant's request is the *first* extension of the tentative approval.

The subject property is immediately adjacent to the Lāwa‘i Ridge Residential Subdivision and approximately 1,000 feet east of the Kōloa Road/Hailima Road intersection in Lāwa‘i (refer to attached map). The total area involved is approximately 0.779 acre and the surrounding parcels are developed with single-family residences.

### PROGRESS OF THE SUBDIVISION:

In considering the extension request, it should be noted that the Applicant has made some progress in addressing the requirements of the subdivision. As represented, they are currently

resolving the housing requirements of the State Department of Health (DOH) and COK Department of Water (DOW). It is uncertain as to when the Applicant will comply with the requirements of Tentative Approval, therefore another time extension is being requested.

Based on the foregoing circumstances, the Applicant's reasons are justifiable and no problems are foreseen in granting the extension request. The Departments of Public Works and Water have no objections to the request.

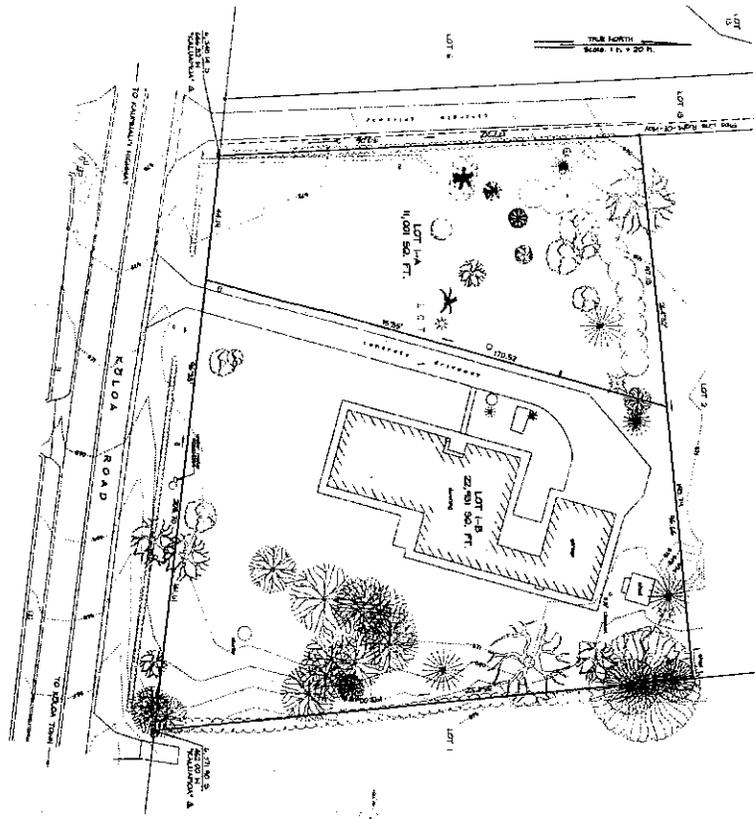
Additionally, the Applicant should demonstrate further progress with the subdivision within one (1) year from the approval of this extension request. As such, the Applicant shall be made aware that in further considering extension requests involving the proposed development, the Applicant shall continue to submit to the Planning Department an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date in order to allow sufficient time to evaluate whether progress have been made and conditions satisfied.

RECOMMENDATION:

It is recommended that an extension until **MAY 28, 2021** be granted to obtain final subdivision approval. However, the Applicant is made aware that an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements shall be submitted to the Planning Department for review for further extensions requests. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date.

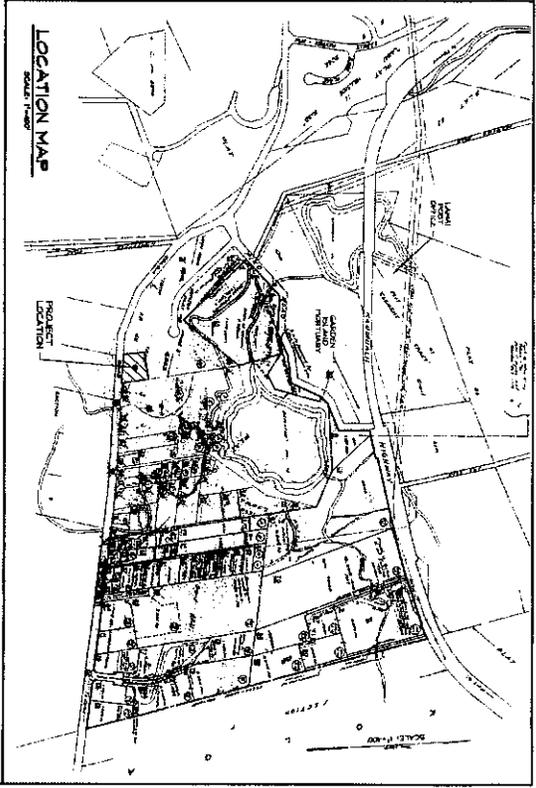
THESE PLANS WERE PREPARED BY THE ARCHITECTS AND ENGINEERS, INC. OF HONOLULU, HAWAII, UNDER CONTRACT TO THE HONOLULU CITY ENGINEERING DEPARTMENT.

THESE PLANS WERE PREPARED BY THE ARCHITECTS AND ENGINEERS, INC. OF HONOLULU, HAWAII, UNDER CONTRACT TO THE HONOLULU CITY ENGINEERING DEPARTMENT.



NOTES:  
 1. THESE PLANS WERE PREPARED BY THE ARCHITECTS AND ENGINEERS, INC. OF HONOLULU, HAWAII, UNDER CONTRACT TO THE HONOLULU CITY ENGINEERING DEPARTMENT.  
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 3. THESE PLANS WERE PREPARED BY THE ARCHITECTS AND ENGINEERS, INC. OF HONOLULU, HAWAII, UNDER CONTRACT TO THE HONOLULU CITY ENGINEERING DEPARTMENT.

- LEGEND**
- PALEO TREE
  - GRAND TREE
  - LYON TREE
  - LEAF TREE
  - LANANA TREE
  - ANANAS TREE
  - CHERRY TREE
  - LOHIAN TREE
  - ROSEWOOD TREE
  - CHRISTMAS TREE
  - ANACARDIUM TREE
  - OSTREA TREE
  - STAR TREE
  - FLAME TREE
  - PERSEUS TREE
  - FLORIDA TREE
  - LEMON TREE
  - BAHIA
  - CASTLE



THESE PLANS WERE PREPARED BY THE ARCHITECTS AND ENGINEERS, INC. OF HONOLULU, HAWAII, UNDER CONTRACT TO THE HONOLULU CITY ENGINEERING DEPARTMENT.



**SUBDIVISION OF LOT 1**  
 File Plan 471  
 Being a Portion of  
 Grant 5625 to Charles Blake  
 NTO  
 LOTS 1-A AND 1-B  
 LANA, KOLEA, KAUAI, HAWAII  
 Tax Map Key (4) 2-5-08 05  
 Owners: Robert S. and  
 Kathryn R. V. Barton, Jr.  
 Date: January 27, 2011  
 Drawing No. 2011

THESE PLANS WERE PREPARED BY THE ARCHITECTS AND ENGINEERS, INC. OF HONOLULU, HAWAII, UNDER CONTRACT TO THE HONOLULU CITY ENGINEERING DEPARTMENT.

# ESAKI SURVEYING & MAPPING, INC

1610 HALEUKANA STREET - LIHUE, KAUA'I, HAWAI'I 96766  
(808) 246-0625 ESM@ESAKIMAP.COM

May 22, 2020

Mr. Ka'āina S. Hull  
Director of Planning  
County of Kauai  
4444 Rice Street, Suite A473  
Lihue, HI 96766

**RE: SUBDIVISION EXTENSION REQUEST  
S-2019-16, ROBERT S. & KERRILYN R. V. BARROS  
T.M.K. (4) 2-5-08: 05  
LĀWA'I, KŌLOA, KAUA'I, HAWAI'I**

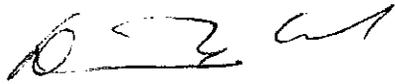
Dear Mr. Hull,

The subject subdivision received TENTATIVE APPROVAL by the Planning Commission at their meeting held on May 28, 2019.

The applicant is currently working on the Department of Health (DOH) requirements and requests more time to complete.

We respectfully request an extension in time of 1 year to file final subdivision map.

Thank you for your consideration,

  
Dennis M. Esaki

Agent for Applicant

Glenda Nogami Streufert  
Chair

Donna Apisa  
Vice Chair

RECEIVED

Members:  
Melvin Chiba  
Helen Cox  
Francis DeGracia  
Roy Ho  
Lori Otsuka

20 SEP -1 P1 52  
COUNTY OF KAUAI PLANNING COMMISSION  
NOTICE OF TELECONFERENCE AGENDA

Tuesday, September 8, 2020  
9:00 a.m. or shortly thereafter

Microsoft Teams Audio: +1 469-848-0234, Conference ID: 602 169 501#

The meeting will be held via Microsoft Teams conferencing only. Members of the public are invited to join this meeting by calling the number above with the conference ID information. You may testify during the video conference or submit written testimony in advance of the meeting via e-mail or mail. To avoid excessive noise/feedback, please mute your microphone except to testify.

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF AGENDA

D. MINUTES of the meeting(s) of the Planning Commission

1. Meeting of June 9, 2020

E. RECEIPT OF ITEMS FOR THE RECORD

F. HEARINGS AND PUBLIC COMMENT The Planning Commission will accept written testimony for any agenda item herein. Written testimony indicating your 1) name, and if applicable, your position/title and organization you are representing, and 2) the agenda item that you are providing comment on, may be submitted in writing to [planningdepartment@kauai.gov](mailto:planningdepartment@kauai.gov) or mailed to the County of Kauai Planning Department, 4444 Rice Street, Suite 473, Lihue, Hawaii 96766. Written testimony received by the Planning Department before 9:00 a.m. on Monday, September 7, 2020, will be distributed to Planning Commissioners prior to the meeting. Written testimony received after 9:00 a.m. on Monday, September 7, 2020, will be summarized by the Clerk of the Commission during the meeting and added to the record thereafter.

1. Continued Agency Hearing

2. New Agency Hearing

- a. Special Management Area Use Permit SMA(U)-2020-7, Class IV Zoning Permit Z-IV-2020-16, and Use Permit U-2020-13 to allow construction of a new craft brewery building and associated site improvements including on-site parking, driveway, pedestrian bridge, private wastewater system, and operation of food trucks, AND Amendments to Special Management Area Use Permit SMA(U)-88-4, Use Permit U-88-25, Variance Permit V-88-6, Class IV Zoning Permit Z-IV-88-30, as amended, and SMA(U)-2006-1, Project Development Use Permit PDU-2006-1, and Class IV Zoning Permit Z-IV-2006-1 to accommodate parking for the proposed development, allow

F. **HEARINGS AND PUBLIC COMMENT** (Cont'd)

2. **New Agency Hearing** (Cont'd)

a. *Hanalei Commercial Company, Inc./Na Pali Brewing Company, LLC.* (Cont'd)

increased land coverage, and reduction in the number of permitted Employee Housing within the eastern portion of Lot 17, involving parcels situated on the mauka side of Kuhio Highway in Hanalei Town, approx. 550 ft. east of the Kuhio Highway/Aku Road intersection, immediately adjacent to property identified as 5-5091 Kuhio Highway, Tax Map Keys: (4) 5-5-009:008 & 009, and containing a total area of 4.165 acres = *Hanalei Commercial Company, Inc./Na Pali Brewing Company, LLC.* [Director's Report, S1DR, and attachments to S2DR received by Commission Clerk 7/28/20.; Addition to Agenda received and hearing deferred 8/11/20; S3DR and S4DR received by Commission Clerk 8/18/20.]

1. Supplement No. 3 to Director's Report pertaining to this matter.
2. Supplement No. 4 to Director's Report pertaining to this matter.

3. **Continued Public Hearing**

4. **New Public Hearing**

5. **All remaining public testimony pursuant to HRS 92 (Sunshine Law)**

G. **CONSENT CALENDAR**

1. **Status Reports**

2. **Director's Report for Project Scheduled for Agency Hearing.**

H. **EXECUTIVE SESSION**

I. **GENERAL BUSINESS MATTERS**

1. Withdrawal of Petition to Appeal Decision of the Planning Director in the Matter of the Application of *Blaine Perrella* appealing zoning classification Determination and Allowable Building Area Determination for Unit B of Kukuna Seaside Estates on land located in Aliomanu, Kawaihau, Puna, Kauai, Hawaii Tax Map Key No. (4) 4-9-005:015 0002.
2. Applicant's Request to Amend Condition No. 16 of Class IV Zoning Permit Z-IV-2012-18, Use Permit U-2012-14, and Special Permit SP-2012-38 to extend the hours of operation involving the recreational shooting facility = *Benjamin Ellsworth (Kauai Eco Sporting Clays, LLC.)*.
  - a. Director's Report pertaining to this matter.

J. **COMMUNICATION (For Action)**

1. Housing Director Adam Roversi to provide a briefing on Bill No. 2774 and matters related to amendments to the County of Kauai's Housing Policy.

**J. COMMUNICATION (For Action) (Cont'd)**

2. Ian Jung, Esq., to provide a briefing on Class IV Zoning Permit Z-IV-2020 to develop a mixed use commercial/multi-family residential project containing spaces for retail, office, and restaurant operations, 62 residential units and associated improvements on a parcel situated within the Lihue Town Core area on the corner of Rice Street and Umi Street, further identified as 3016 Umi Street, Tax Map Key: 3-6-003:010, and containing a total area of 1.5313 acres.

**K. COMMITTEE REPORTS**

1. Subdivision Subdivision Action matters listed in the Subdivision Committee Agenda (attached)

**L. UNFINISHED BUSINESS (For Action)**

**M. NEW BUSINESS**

1. For Action – See Agenda F for Project Descriptions

**N. ANNOUNCEMENTS**

1. Topics for Future Meetings
2. The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter on October 13, 2020. The Planning Commission anticipates meeting via teleconference, but will announce its intended meeting method via an agenda electronically posted at least six days prior to the meeting date.

**O. ADJOURNMENT**

**EXECUTIVE SESSION:** The Commission may go into an executive session on an agenda item for one of the permitted purposes listed in Section 92-5(a) Hawaii Revised Statutes (“H.R.S.”), without noticing the executive session on the agenda where the executive session was not anticipated in advance. HRS Section 92-7(a). The executive session may only be held, however, upon an affirmative vote of two-thirds of the members present, which must also be the majority of the members to which the board is entitled. HRS Section 92-4. The reason for holding the executive session shall be publicly announced.

**NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR [ASEGRETI@KAUAI.GOV](mailto:ASEGRETI@KAUAI.GOV) AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST. UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.**

COUNTY OF KAUAI PLANNING COMMISSION  
NOTICE OF SUBDIVISION COMMITTEE TELECONFERENCE AGENDA

**Tuesday, September 8, 2020**  
8:30 a.m. or shortly thereafter

Microsoft Teams Audio: +1 469-848-0234, Conference ID: 112 307 510#

The meeting will be held via Microsoft Teams conferencing only. Members of the public are invited to join this meeting by calling the number above with the conference ID information. You may testify during the video conference or submit written testimony in advance of the meeting via e-mail or mail. To avoid excessive noise/feedback, please mute your microphone except to testify.

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. APPROVAL OF AGENDA**

**D. MINUTES of the meeting(s) of the Subdivision Committee**

1. Minutes of Meeting on June 9, 2020

**E. RECEIPT OF ITEMS FOR THE RECORD**

- F. HEARINGS AND PUBLIC COMMENT** The Planning Commission will accept written testimony for any agenda item herein. Written testimony indicating your 1) name, and if applicable, your position/title and organization you are representing, and 2) the agenda item that you are providing comment on, may be submitted in writing to [planningdepartment@kauai.gov](mailto:planningdepartment@kauai.gov) or mailed to the County of Kauai Planning Department, 4444 Rice Street, Suite 473, Lihue, Hawaii 96766. Written testimony received by the Planning Department before 8:30 a.m. on Monday, September 7, 2020, will be distributed to all Planning Commissioners prior to the meeting. Written testimony received after 8:30 a.m. on Monday, September 7, 2020, will be summarized by the Clerk of the Commission during the meeting and added to the record thereafter.

**G. GENERAL BUSINESS MATTERS**

**H. UNFINISHED BUSINESS**

**I. NEW BUSINESS (For Action)**

1. Tentative Subdivision Map Approval
  - a. Subdivision Application No. S-2021-11  
**(Kukui‘ula Development Co.)**  
Proposed 14-lot Subdivision  
TMK: (4) 2-6-019:048  
Kukui‘ula, Kaua‘i
    - 1) Subdivision Report pertaining to this matter.
2. Final Subdivision Map Approval
  - a. Subdivision Application No. S-2018-15  
**(Kilauea Ohana Plateau, LLC.)**  
Proposed 10-lot Subdivision  
TMK: (4) 5-2-005:023  
Kīlauea, Kaua‘i
    - 1) Subdivision Report pertaining to this matter.
  - b. Subdivision Application No. S-2019-15  
**(Matthew Nelson/Stephanie & Katherine Skow)**  
Proposed 2-lot Subdivision  
TMK: (4) 4-7-006:019  
Keālia, Kaua‘i
    - 1) Subdivision Report pertaining to this matter.
  - c. Subdivision Application No. S-2019-19  
**(Kukui‘ula Development Co.)**  
Proposed 8-lot Subdivision  
TMK: (4) 2-6-022:019, 021  
Kukui‘ula, Kaua‘i
    - 1) Subdivision Report pertaining to this matter.
  - d. Subdivision Application No. S-2020-2  
**(Kukui‘ula Development Co.)**  
Proposed 13-lot Subdivision  
TMK: (4) 2-6-022:020  
Kukui‘ula, Kaua‘i
    - 1) Subdivision Report pertaining to this matter.

I. **NEW BUSINESS (For Action) (Cont'd)**

3. **Tentative Subdivision Extension Request**

- a. Subdivision Application No. S-2018-12  
**(AOAO Kulana Condominium)**  
Proposed 2-lot Subdivision  
TMKs: (4) 4-4-003:089  
Kapa'a, Kaua'i  
  
1) Subdivision Report pertaining to this matter.
  
- b. Subdivision Application No. S-2019-3  
**(McBryde Sugar Co., LLC./Sunset Strip Properties, LLC.)**  
2-lot Subdivision  
TMKs: (4) 2-4-007:002, 020  
Kalāheo, Kaua'i  
Proposed 5-lot Boundary Adjustment  
  
1) Subdivision Report pertaining to this matter.
  
- c. Subdivision Application No. S-2019-8  
**(Stephanie Fernandes)**  
TMK: (4) 4-2-005:044  
Po'ipū, Kaua'i  
  
1) Subdivision Report pertaining to this matter.
  
- d. Subdivision Application No. S-2019-16  
**(Robert S./Kerrilyn R.V. Barros)**  
TMKs: (4) 2-5-008:005  
Lāwa'i, Kaua'i  
  
1) Subdivision Report pertaining to this matter.

J. **ADJOURNMENT**

**NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR [ASEGRETI@KAUAI.GOV](mailto:ASEGRETI@KAUAI.GOV) AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST. UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.**

Pursuant to Section 8-27.8 (6) of the Kaua'i County Code (1987), as amended, the following shoreline setback determinations by the Director are disclosed for purposes of public notification.

September 08, 2020

SHORELINE SETBACK DETERMINATIONS

<b>Application No.</b>	<b>Name of Applicant(s)</b>	<b>Property I.D. (Tax Map Key)</b>	<b>Location</b>	<b>Reasons</b>
SSD-2021-6	Kaua'i Beach Resort Association	(4) 3-7-003:015	Lihue	Repair Concrete spalling on Bldg. 1, 3, 4, and pool Bldg..
SSD-2021-7	David Schindele	(4) 2-8-017:026 0124	Kōloa	Storage and laundry room conversion
SSD-2021-8	Robert and Andi Ferguson	(4) 5-5-004-040	Hanalei	Covered Lāna'i addition, remodel, and replace roofing
SSD-2021-9	Three Coconuts, LLC	(4) 5-5-002:003	Hanalei	Fence, hot tub platform, and storage shed
SSD-2021-10	Stewart N. Husband	(4) 1-6-006:011 0001	Waimea	New Single Family Dwelling
SSD-2021-11	Kaupu Kea, LLC	(4) 5-1-004:015	Kīlauea	Demolition of Single family dwelling

KAUA'I PLANNING COMMISSION  
REGULAR MEETING  
**June 09, 2020**

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair Glenda Nogami Streufert at 9:04 a.m., - Microsoft Teams Audio +1 469-848-0234, Conference ID: 566 733 423# The following Commissioners were present:

Ms. Glenda Nogami Streufert  
Ms. Donna Apisa  
Mr. Melvin Chiba  
Ms. Helen Cox *(Joined Meeting 9:38 a.m.)*  
Mr. Francis DeGracia  
Mr. Roy Ho  
Ms. Lori Otsuka

The following staff members were present: Planning Department – Director Kaaina Hull, Deputy Director Jodi Higuchi Sayegusa, Myles Hironaka, Dale Cua, Marie Williams, and Planning Commission Secretary Leslie Takasaki; Office of the County Attorney – Deputy County Attorney Matthew Bracken; Office of Boards and Commissions – Administrator Ellen Ching, Support Clerk Arleen Kuwamura

Discussion of the meeting, in effect, ensued:

**CALL TO ORDER**

Chair Nogami Streufert: Called the meeting to order at 9:04 a.m.

**ROLL CALL**

Planning Director Mr. Kaaina Hull: Good morning, Commissioners. First order of business is roll call. Commissioner Cox

Ms. Cox: Here

Mr. Hull: Commissioner Apisa.

Ms. Apisa: Here.

Mr. Hull: Commissioner Ho.

Mr. Ho: Here.

Mr. Hull: Commissioner Chiba.

Mr. Chiba: Here.

Mr. Hull: Commissioner Otsuka.

Ms. Otsuka: Here.

Mr. Hull: Commissioner DeGracia.

Mr. DeGracia: Here.

Chair Nogami Streufert: Here

Mr. Hull: You have a quorum, Madame Chair. 7 present.

Chair Nogami Streufert: Before we go on with the Approval of Agenda. I would like to make an announcement and acknowledge that Kaaina Hull, Director of the Planning Department. Has received the Individual Achievement Award for Historic Preservation from the Historic Hawaii Foundation. This is a very prestigious award, and to understand it better I have asked our Deputy Planner and Attorney, Jodi Higuchi Sayegusa, to give us a little bit of information on this, please, Jodi.

County Deputy Director of Planning Department Jodi Higuchi Sayegusa: Sure. Historic Hawaii Foundation is a very renowned and reputable organization that is really at the forefront of all Historic Preservation, especially, in the State. The Foundation has recognized our very own Kaaina Hull, for the Individual Achievement Award for his leadership and planning and preservation. If you visited Kaaina in his office, home, or spent enough time with him, you would know that Kaaina has a passion for collecting antiques, which I think parallels his passion for historic preservation. In July of 2015, he and his family went to Paris, and he returned home (inaudible) his wife with two gramophones. He once explained that his fascination with these objects he collects is rooted in his appreciation for the history, craftsmanship, and the utility of these well used objects. I think, similarly, Kaaina has sought to honor significant and historic properties and sites, and prioritizes their preservation as Planning Director. These same values have shifted Kauai's conversation on historic preservation to a necessary part of the Land Use permitting process.

Recently, we have witnessed this passion in his leadership of the West Kauai Community Plan, and the West Kauai Form-Based Code. His previous accomplishments has also included reforming the Kauai Historic Preservation Commissions Rules and Regulations to formalize their analysis and determinations, he led Kauai County's efforts to preserve the Lihue Post Office, he oversaw the listing of the Hanapepe Bridge on the Hawaii and the National registry of Historic Places, he initiated Lihue's one and only Tiptop Clock Tower, and promoted concepts like "Place making" and "Urban Tacticalism" throughout Land Use at the County.

So we wanted to make sure this recognition was brought to the Commissions attention and ask that you folks help us celebrate our very own Kaaina Hull.

Ms. Cox: Congratulations!

Chair Nogami Streufert: I have asked Commissioner Otsuka, to say a few words because she was the one who brought it to our attention.

Ms. Otsuka: Aloha Kaaina. On behalf of the Planning Commission Chair Streufert, Vice Chair Apisa, myself, and the other Commission members. We would like to congratulate you on this well-deserved and prestigious award. With your continued passion and dedication for history and preservation, you truly deserve this. It is an honor to know you, and I look forward to continuing working with you and your team. Mahalo and Congratulations!

[Clapping and laughing]

Chair Nogami Streufert: I have been working with you for several years now and it is a pleasure working with you. You know the work that your Department continues to do, cannot be accomplished without leadership that is visionary and that is forward thinking and compassionate. So I really appreciate that, and I look forward to working with you. I know that all the Commissioners enjoy working with you. Thank you very much and congratulations! One for the County and one for you. Thank you.

Mr. Hull: Thank you Commissioners. I am not one for accolades and awards, so I do not have much to say. But it is definitely an honor. For me, it is an honor, but it reflects quite honestly, the work that the Department as a whole (Inaudible). It starts with the Kauai Historic Preservation Review Commission and the matters assigned to staff that Commission. Myles is on the line with us right now, and he definitely was a huge part of in spinning up that Commission with Ricky Tsuchiya, and now having Alex Wong and Marissa Valenciano really guiding it, with the stewardship of both Marie and Jodi. So it really is a whole team effort and if anything it recognizes our team. Thank you for the recognition.

Chair Nogami Streufert: It is great. It is both for the Department as well as for you, we appreciate it and I think it is great that Kauai gets this kind of recognition. (Inaudible). Can we have the Agenda, please?

### **APPROVAL OF AGENDA**

Mr. Hull: Madame Chair. The Department would have two requests for amendments to be made to the agenda. We know that there was some interest in the Agenda Item F. 4. A., Zoning Amendment ZA—

Chair Nogami Streufert: If you could call it. I am sorry, I should have asked the other Commissioners, if anyone else wanted to say anything before we moved on to the agenda. Okay, hearing none. Let us move on to the agenda.

Mr. Hull: As I was saying Madame Chair. The Department would request that Zoning Amendment ZA-2020-16, this is concerning the definition of “Applicant” be moved to the top of the agenda and –

Deputy Planning Director Jodi Higuchi Sayegusa: I am sorry to interject. I think we are having some issues with recording. Arleen from Boards and Commissions has just notified us that we need to take a quick pause so we can sort out the recording.

Mr. Hull: For the sake of keeping it official, Chair, you may want to state for the record, that we are taking a 10-minute recess or 5-minute recess.

Chair Nogami Streufert: We will take a 5-minute or 10-minute recess until we can get the recording.

The Commission recessed this portion of the meeting at 9:08 a.m.

The Commission reconvened this portion of the meeting at 9:14 a.m.

Chair Nogami Streufert: The meeting back to order.

Mr. Hull: Coming out of recess. Madame Chair, again, the Department would recommend that ZA-2020-16, be moved to the top of the agenda as the first Agenda Item in Hearings and Public Comment. And the Department ask, that the Executive Session be moved to the end of the agenda right before adjournment so that you folks could go into Executive Session at the end.

Ms. Apisa: I move to approve the agenda as amended.

Ms. Cox: I seconded.

Chair Nogami Streufert: It has been moved and seconded that we approve the agenda as amended. Are there any discussion? All those in favor? Aye. (Unanimous voice vote). This agenda has been approved. Motion carried. 7:0.

### **MINUTES of the meeting(s) of the Planning Commission**

Mr. Hull: There are no Minutes for this meeting.

### **RECEIPT OF ITEMS FOR THE RECORD (None)**

Mr. Hull: There are no Receipt of Items for the record.

### **HEARINGS AND PUBLIC COMMENT**

Mr. Hull: For Item F., Hearings and Public Comment. The Planning Commission accepts written testimony for agenda items. The Department has not received any written testimony for any of the Agenda Items at this time. However, I recognize there are five individuals who have called in to this meeting. If any of those members would like to orally testify at this time on any

agenda item, now would be your time to testify. Just please state your name for the record and I will leave certain pause to those who would like to testify. Now would be you time.

Mr. John Freeman: (Inaudible) this is John Freeman.

Mr. Hull: Hi John. Yes, we can hear you fine. Did you want to testify?

Mr. Freeman: Thank you very much. We are both watching closed caption, so I was not sure on how the connection I was. I did send in written testimony; did you not receive that for some reason? It shows us sending from my side, but I did send in written testimony.

Mr. Hull: John, when did you send that in?

Ms. Apisa: Which—

Mr. Freeman: (Inaudible)—

Mr. Hull: John, what time did you send that testimony in?

Mr. Freeman: It was about 8:15 a.m. or 8:20 a.m., I am guessing.

Mr. Hull: Okay. The Commissioners will not receive that until after this meeting. Written testimony needs to be submitted 24 hours in advance. We started the Subdivision Committee at 8:30 a.m. You can feel free to read that testimony on to the record if you like, but it also will be transmitted to the Commissioners, post the meeting.

Mr. Freeman: Okay. Just give me a second here to pull it out, I do want to take a quick look at it and give you some idea of what my concerns are. Basically, my written testimony, which I will stand on, deals...and it is what Christian and I, both deal with this particular Amendment redefining a couple of very vital terms within the CZO for the purpose of a clarification. My concern is that I feel it obscures rather than clarifies the def...I am sorry—I believe that it obscures rather than clarifies the definitions of those terms. It also, has the possibility of allowing people to think that the requirement for applying for a permit has not only changed but also, the requirement for being approved for a permit has changed. And that I do not see that as being the case. I am not an attorney. (Inaudible) but that is not what I pulled out about. I pulled up the requirement for applying is no longer requires a seventy-five percent, but that you would still process the application in the same method as any other application, is that correct?

Mr. Hull: Correct.

Mr. Freeman: Okay. My concerns are about the definitive language about the changes, the terminology. It looks like there is a lot of redactions done, no offense to anybody. But not anything really added. So the terminology “Is always having full equitable and legal title and land fee simple” I see that as being very problematic because equitable and legal title of one half of one percent, would still be equitable and legal title, is that correct?

Mr. Hull: Well John. I would say, at this time, it is time for public testimony. If you want to have a side conversation with myself or the Planner that is fine. But right now—

Mr. Freeman: Okay, so I will get away from the questions. I will go ahead and testify. I believe that for example, one percent share of full and equitable legal title in land and fee simple, would allow a person to apply for variance who only holds one percent of the fee simple title on the property. If by full, you mean, hundred percent of the owners have to apply? I think that it would be (inaudible) the Intermediate Court of Appeals decision, and it would be a threshold and it would be impossible to meet in over fifty percent of the cases.

If you mean only those people that have equitable title, no matter what the percentage is? Then you are also looking at people like the Remainder man or Reversionary interest of life estates. Now you are looking at potentially agreements of sales, perhaps, even purchase of money mortgages (inaudible). So there is a lot of problems with just saying “A equitable, full equitable legal title of land and fee simple.” It also does not specify “what land and fee simple” the subject land is kind of understood, but it does not specify that. So there could potentially be people that would say, “Hey I have got full and equitable title of land and fee simple, it’s just not this land and I have the right to apply for variance space on that.”

My concern is that as owners within the same CPR, as the Robert D. (inaudible) Trust who made these changes take place. We have concerns that they maybe gaming the system somewhat in trying to push through vacation rentals, under the process of being above board, and a hundred percent okay. I would point out that the County approved the Subdivision Documents for this Subdivision; Waipake one Subdivision in which short-term vacation rentals and hotel uses are one hundred percent disallowed. Similarly, the Puuawa CPR, which we are members, also, have that same restrictions. So my concern is that nobody (inaudible) impression that the changing of the requirement for “Owner” allows an owner not to have the seventy-five percent approval, but then it somehow upends a State law when we talk about condominiums. That is really my concern, is its really just thinking if that language could be clarified a little bit to be a little bit clearer, as to exactly what “owner” means rather than just saying that “legal equitable title.”

Mr. Hull: I am sorry, each speaker is allowed three minutes of time if you could wrap it up.

Mr. Freeman: Yes, absolutely. And then the last thing is the definition (inaudible) “land and fee simple.” If you look at condominium projects where the underlying land is owned as part of the common element, so that each individual within say two-hundred-ninety unit CPR has a pertinent interest in the land in common, the fee simple land. I would say that was legal and equitable title. So that would allow the way the language is currently written, would allow a minority of less than one-third of one percent or about one-third of one percent owner of a two-hundred and ninety unit project, to make application for a variance permit. I do not think that you folks should be wasting your time throwing things out the door, after they have been applied for on a constant basis. I think tightening up that language would make it so you can spend your time doing the things that are most important, is just a personal opinion. And so, that is about it for us. The only other thing that we had for our testimony is that we would like to see something added to the CZO that requires a landowner applying under the definition whatever that is what you come up with in the end (Inaudible) to give abutting and adjoining landowners notice that

there will be a public hearing on that variance request. We kind of feel like we have had to pull teeth over the last eighteen years to get information. We have been through five different attorneys, the County level, and three different Planning Directors—

Mr. Hull: John?

Mr. Freeman: Yes, I just want to...if there is any way to add that kind of language, so that we could be informed on things that are happening not only our neighborhood but within our CPR would be most appreciated. Thank you all so very much for your time and I am sorry I ran over. I really, really, appreciate your time. Thank you very much for all your good work.

Mr. Hull: Thank you.

Chair Nogami Streufert: Thank you.

Mr. Hull: Does any Commissioners have any questions for the testifier?

Chair Nogami Streufert: It appears to be more of (inaudible) for clarification of some of the concepts as opposed to objecting to any of the concepts, is that correct?

Mr. Hull: Yes, and I think Jodi can clarify when she goes into her staff report.

Chair Nogami Streufert: Thank you.

Mr. Hull: Looking. There are four other callers on the line. Is there anybody else that would like to testify on any of the agenda items? Seeing none.

### New Public Hearing

Zoning Amendment ZA-2020-16: A bill for an ordinance amending Chapter 8, Kauai County Code, 1987, as amended, relating to Comprehensive Zoning Ordinance (CZO). The proposal amends CZO Section 8-1.5 relating to the definitions of "Applicant" and Owner," CZO Section 8-3.1 relating to Zoning Applications, and CZO -Section 8-3.2(g) relating to the time to file appeals= *County of Kauai, Planning Department.*

Mr. Hull: We will move into the actual New Public Hearing. Item F.4. a. Zoning Amendment ZA-2020-16: A bill for an ordinance amending Chapter 8, Kauai County Code, 1987, as amended, relating to Comprehensive Zoning Ordinance (CZO). The proposal amends CZO Section 8-1.5 relating to the definitions of "Applicant" and Owner," CZO Section 8-3.1 relating to Zoning Applications, and CZO Section 8-3.2(g) relating to the time to file appeals. The applicant is the County of Kauai, Planning Department, and Jodi is our Planner, so I will turn it over to her.

Deputy Planning Director Jodi Higuchi Sayegusa: Good morning. So again, this proposal is a re-do and update from the recent Zoning Amendment that the Planning Commission voted to

approve on February 11, 2020. There were additional amendments to Kauai County Code Section 8-3.1(b) that were necessary in addition, to the amendments proposed to Kauai County Code 8-1.5 regarding the definitions of “Applicant” and “Owner.” Council Services informed us that the additional Amendments was beyond the scope of ZA-2016-3, and the bills title. So the Department respectfully asked the Council, that we have the opportunity to re-draft the Zoning Amendment, and bring it before the Planning Commission, which is what we are doing now. This updated Zoning Amendment seeks to do three main things.

Ms. Higuchi Sayegusa read the Project Description and Use, Additional Findings, and Preliminary Evaluation sections of the Director’s Report for the record (on file with the Planning Department).

Ms. Higuchi Sayegusa: That is in a nutshell what the proposal seeks to do, and I can answer any questions at this time.

Chair Nogami Streufert: Are there any questions from the Commissioners to the Planning Department?

Mr. Ho: I have a question, please.

Chair Nogami Streufert: Yes, please.

Mr. Ho: I have a question, please. Jodi, you say it is that “full and complete ownership is required” for this application?

Ms. Higuchi Sayegusa: Yes.

Mr. Ho: So you are eliminating any percentage holders in the ownership.

Ms. Higuchi Sayegusa: In affect, it is requiring and putting notice on applicants to “get all the ducks in the row.” So have all owners on the title to provide their consents or provide...often times, for instance, in the case of a CPR, there are clauses written into CPR declarations that specify any one Limited Common Element Owner can go ahead and file a zoning application involving their own limited common element. Either you identify and put forward the document, the CPR declaration that addresses, and gives authorization to any one owner to file their own zoning application. It could be a notarized signed statement from all the owners on title so that would just be filed and submitted alongside their zoning application. That is what we are asking for. It really just encourages the owners, co-owners, to make that type of arrangement via an agreement, or make sure it is already written in their CPR declaration or prior to submitting a zoning application with the Department.

Mr. Ho: So, backing up one more time Jodi. If an ownership has more than one owner to it, they, the owner that files the application must have all the other titleholders’ approval.

Ms. Higuchi Sayegusa: Yes.

Mr. Ho: And that has to be submitted to you how, in a written agreement or something like that?

Ms. Higuchi Sayegusa: Yes. Either through a written agreement that was already drafted, or you know, we have accepted pieces of paper with signatures on that says, "I give so and so permission to file a zoning application" and it has a sign off and notarized signature of all the owners on title.

Mr. Ho: Thank you.

Mr. Hull: And Commissioner Ho, just to chime in a little bit too, what Jodi is getting at in response to the question, is just given authorization by all the owners. What generally happens now with CPR's? CPR's are going to be many of the bread and butter of this, because it is multiple owners on a lot of record. Generally, CPRs will have already drafted within their CPR's the Power of Attorney being granted to each of the respective CPR owners to apply for zoning and building permits. There are some older CPRs where the Power of Attorney was not established. Indeed, in those situations the CPR owner that wants to apply for a zoning permit would have to go and get authorization of all of those...his fellow CPR owners, to be authorized to apply for it. Many of those older CPRs have gone through the process of updating to allow each one of them to have Power of Attorney, so they do not have to get those signatures.

But it is something we have experienced many, many of times given the way that the laws crafted of seventy-five percent. If you have five CPR unit owners on a lot of record, an applicant only needed four signatures. The fifth owner would come in say "I object totally, this is part of my lot, how can you approve this?" and we had to point to the law that allows for seventy-five percent, so we had to go off of that paper. Therefore, it is trying that situation to say, "Two CPR owners in particular, you folks either have to come into agreement and grant yourselves Power of Attorney. And if there is no agreement this is a civil issue that you have to resolve civilly between yourselves before you come to the Planning Department for an application."

Chair Nogami Streufert: Are there any other questions from the Commissioners?

Ms. Otsuka: I just have a statement. I think this Amendment streamlines the process for the Planning Department, and I think this way there is no question or doubt.

Mr. Hull: I have a quick question if you do not mind, Chair.

Chair Nogami Streufert: Yes, please.

Mr. Hull: Jodi, given the testifier and his particular concern about the statement of "Owner" now, just stating, means "The holders of equitable title land and fee simple." And whether that percentage is one percent or a hundred percent, as the phrase "Full equitable and legal title" the phrase "Full" is not in there. Your kind of been running points on this and you are the in-house Attorney so, I defer to you, but is that an issue?

Ms. Higuchi Sayegusa: So "Equitable and legal title" would be in effect and "Fee simple" is the whole thing. It is not a portion of it, it is not limitations and timelines, its "Fee simple" in

legalese is “all the sticks in the bundle” — all the property rights possible for a piece of land. And so, although we could insert it, but I think the way it sounds now “Equitable and legal title of land and fee simple” connotes all of it, all the sticks for all the land.

Mr. Hull: Yes, but I guess what I think the testifier was getting at is, what if there is just one person in a group of many people that hold title, can that one person therefore...or does that one person have to get the authorization of everybody listed?

Ms. Higuchi Sayegusa: No. The way it sets when we re-drafted the definition of “Owner” which means now, “Holders of equitable and legal title of land and fee simple” that is the definition of an “Owner” but of course, when we are talking about those who will apply, we are requiring that to be everybody on title. I think this definition was based pulled off and was pulled and mimicked from Honolulu definition, and we did do a survey of all the definitions throughout the various municipalities. Therefore, it is something that mimics the Standards uniformly across the State, and I think the definition does allow us the ability to make sure that is everybody who holds title of any particular land.

Ms. Apisa: This is Donna, if I could just make a comment. I think that no matter what you do, there is always going to be somebody who feels it is inequitable, but I think it is fair. I mean, one minority owner could withhold any application, but on the other hand, I think that is the risk of having multiple owners or CPR or Co-tenancy. You have to get along with your neighbors, and it should be on the owners and not on the Planning Department.

Ms. Higuchi Sayegusa: Yes, and we might have to look at further Administrative Rules that we could bring forward to the Commission, that makes it crystal clear in various scenarios what we will be accepting. I know that I have looked up some other municipalities even nationwide. So Santa Monica, has rules that set out, Okay, if you are a Trust, you are going to need this type of paperwork: you are going to need your corporation, you are going to need paperwork verifying who is the president, vice president etc. We could further define for the public sake what we will be accepting in various scenarios. However, this is definitely the first step to one align the ordinance to verify that it is owners and full owners on the title that will qualify to be an applicant.

Mr. Ho: Jodi. If you have to pass, amendments to strengthen the language of what we are looking at right now, the people or the owner who would challenge it. Will he automatically given a free pass, if he is not in the amendment now? Alternatively, do we have to have a code law to enforce?

Ms. Higuchi Sayegusa: And you know how we have been applying...given the case, the (inaudible case) the Department has already been really scrutinizing applications and making sure that applicants substantiate that they have authorization already. We have been applying the applicant of this owner threshold already, given the reservations of the Intermediate Court of Appeals.

Mr. Ho: Thank you.

Chair Nogami Streufert: There was a comment that was made by the testifier, that landowners

abutting and adjacent to the land that was being re-zoned should be...isn't there somewhere I recalled that there is something somewhere else that says that, that has to happen (inaudible).

Ms. Higuchi Sayegusa: Yes, and so under 8-3.1 I believe it is, it is already a requirement for search and zoning permits to require notification of landowners within a...is it twenty feet? Hundred—?

Mr. Hull: The requirements for a Class IV Zoning Permit, Use Permit, a Variance Permit, or a Special Permit that the landowner has to notify all property owners within three-hundred feet of their outer property line. So that requirement is already there. There is one loophole of individuals that does not get notified or contacted and that is the CPR owners within the lot itself. So, for example, if there is a five-unit CPR, four of those owners would be notified because they have to authorize or they have been given Power of Attorney. But if they had to authorized, they have been notified. But that fifth CPR owner on a lot of record is a part owner of the actually lot of record, so the applicant does not have to notify that fifth CPR owner because technically, that is their partner; however, if they don't have to get authorization under the seventy-five percent rule we have right now, that is the one individual that's never going to get notified. By pushing it up to the one hundred percent or the full title holder then the CPR that is proposing on an application, needs to not only notify all of their abutting property owners, but all of their CPR owners in order to get their authorization to apply for the permit. (Inaudible) they gave it Power of Attorney.

Chair Nogami Streufert: But the abutting and the adjacent property owners, do they have to...that is not included in this, I mean, it doesn't sound like there is anything that says that they have to agree to it.

Mr. Hull: No. The abutting property owners do not have to agree. They are just given a notice.

Chair Nogami Streufert: I have a question about this because this was all done, Kauai County from 1987 and there is a filing and processing fee of \$30.00. Which in today's dollars, because I looked it up on Alexa and it is about \$70.00 to \$75.00. Does the \$30.00's cover the cost that the County incurs with each one of these filings? Or should that be updated to include the increase that the 1987 dollar has to 2020?

Mr. Hull: So (inaudible) whenever you increase fees at the government level you have to go through a study to demonstrate the proportional nexus of the work the Department is doing, and the amount it is deriving in fees. We did one of those studies several years ago. I would say it was not 1987, but I want to say it was 2005 or 2006; we actually did update the fee structure. Class I Zoning Permits. Dale, correct me if I am wrong, were I believe \$5.00 even at the turn of the century. But when we updated it, it did move that Class I Zoning Permit up to \$30.00. I think there is strong argument to say we do a whole lot more work than \$30.00 per application, but that is what the study came out with; however, any desire to move it up and if you think that is appropriate, Chair. The Department can look at updating the study to re-access because it has been close to ten years since that study was done to re-access the proportional nexus between the fees and the permit process.

Chair Nogami Streufert: I think that would be appropriate based upon the natural situation that the County finds itself, not to make it more than what it worth but actually to come up with an

evaluation that is appropriate.

Mr. Hull: Well we will put that on our radar, Chair.

Chair Nogami Streufert: Are there any other questions from the Commissioners? If not, is there anyone in the audience or who is on this call? I cannot see anything, so I am not sure.

Mr. Hull: So, for the members of the public that have not testified at this point, is anybody who has called in would like to testify on this Agenda Item? Seeing none, Madame Chair. I will just state for the Departments position, we are all in a very unique time right now, as far as it comes to receiving public testimony. I think this is the first time...we have only had a few of these meeting but the testifier did mention he has submitted written testimony. It was not within our 24- hour window to get to you folks ahead of the meeting so I leave it up to you folks whether or not you would like to take action on this today. I think Jodi is ready or if you would like to defer it so that you could receive that testimony before taking action. We leave it at your discretion.

Chair Nogami Streufert: Go ahead.

Ms. Apisa: I think he gave it orally. So I am good with what he gave orally.

Chair Nogami Streufert: Okay. Do we have a motion? Let us see, what is the Departments recommendation at this point?

Ms. Higuchi Sayegusa continued read the Preliminary Recommendation section of the Director's Report for the record (on file with the Planning Department).

Ms. Higuchi Sayegusa: Yes. The Department ask that it be approved and transmitted to Council.

Chair Nogami Streufert: Do I have a motion from any of the Commissioners?

Ms. Apisa: I move that we approve Zoning Amendment ZA-2020-16 and move it on to the County Council.

Ms. Otsuka: I seconded.

Chair Nogami Streufert: It's been moved and seconded that we approve Zoning Amendment ZA-2020-16 and that it be forwarded to the County Council. Any discussion? If not, could we have a roll call vote, please?

Mr. Hull: Roll call. Commissioner Cox.

Ms. Cox: Aye.

Mr. Hull: Commissioner Apisa.

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ho.

Mr. Ho: Aye.

Mr. Hull: Commissioner Chiba.

Mr. Chiba: Aye.

Mr. Hull: Commissioner Otsuka.

Ms. Otsuka: Aye.

Mr. Hull: Commissioner DeGracia.

Mr. DeGracia: Aye.

Mr. Hull: Chair Streufert.

Chair Nogami Streufert: Aye.

Mr. Hull: Motion passes 7 Ayes: 0 Nays. Madame Chair.

Chair Nogami Streufert: It has been approved. Moving on.

Mr. Hull: I will state too that, I believe they may be on here. Jodi and I will reach out to John and Kristin folks to go over some clarifying points on their testimony. If we still do have possible amendments, it does not foreclose the opportunity to work it up at Council. But we will be reaching out to them.

Continued Agency Hearing

New Agency Hearing

Continued Public Hearing

Zoning Amendment ZA-2020-14: A bill for an ordinance amending Chapter 8, Kauai County Code, 1987, as amended, relating to Comprehensive Zoning Ordinance (CZO). The proposal amends Section 8-27 of the CZO relating to Shoreline Setback and Coastal Protection = County of Kauai, Planning Department. [Meeting cancelled 3/24/20, Director's Report received, and hearing continued 5/12/20.]

Mr. Hull: Next Agenda Item is F.3.a. Zoning Amendment ZA-2020-14: A bill for an ordinance amending Chapter 8, Kauai County Code, 1987, as amended, relating to Comprehensive Zoning Ordinance (CZO). The proposal amends Section 8-27 of the CZO relating to Shoreline Setback and Coastal Protection = County of Kauai, Planning Department.

Madame Chair and members of the Commission the Department is asking for a deferral on this agenda item. The Shoreline Setback Ordinance has been in play for several years and in a nutshell, the primary thrust of why we are submitting, and amendment request is to include an updated study for the Coastal Erosion Patterns here in Kauai. Dr. Chip Fletcher, with University of Hawaii (UH), has updated that study and so to get that new Data to incorporate it to our formula of (inaudible) setbacks is the primary thrust of this proposal; however, there have been some implementation issues, as well as clarifying amendments that we are looking at including that will help us implement it. And I am working with a working committee right now of Land Use attorneys and private citizens, people like Ian Jung and Karen Diamond folks who have had a vested interest in this Ordinance and its implementation. We are trying to work through some of these issues so I just ask that the Planning Commission give us a little extra time. I anticipate a one to two-month extension as necessary to weave through all these issues. But for right now, we are asking for a one-month deferral to the first meeting in July. I am here if you have any questions or comments as well.

Chair Nogami Streufert: Are there any questions for Kaaina?

Ms. Apisa: Just to ask is one-month adequate. You said one our two-months, but you know, if you need two.

Mr. Hull: Yes, I hope to have it where we are actually (inaudible) where we have common ground. So tentatively, we are working to set that up on the 26, and I think it is adequate enough time (inaudible) but two-months might actually be a little bit safer, quite honestly. So, I guess—

Chair Nogami Streufert: So, the first meeting in two-months will be August 11.

Mr. Hull: Yes, August 11.

Ms. Otsuka: Is that enough time?

Mr. Hull: Yes, August 11 would work for us.

Ms. Otsuka: I am ready to make a motion.

Chair Nogami Streufert: All right, please.

Ms. Otsuka: I move that we defer Zoning amendment ZA-2020-14 to August 11, meeting.

Ms. Cox: I second it.

Chair Nogami Streufert: It has been moved and seconded that we defer the consideration of an Ordinance amending Chapter 8 Kauai County Code, 1987, relating to the Comprehensive Zoning Ordinance that amends Section 8-27 of the Shoreline Setback and Coastal Protection to the August 11, 2020 meeting. Any Discussion? If not, ready for the vote? Let us do this in roll call also, please.

Mr. Hull: Roll call Madame Chair. Commissioner Cox.

Ms. Cox: Aye.

Mr. Hull: Commissioner Apisa.

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ho.

Mr. Ho: Aye.

Mr. Hull: Commissioner Chiba.

Mr. Chiba: Aye.

Mr. Hull: Commissioner Otsuka.

Ms. Otsuka: Aye.

Mr. Hull: Commissioner DeGracia.

Mr. DeGracia: Aye.

Mr. Hull: Chair Streufert.

Chair Nogami Streufert: Aye.

Mr. Hull: Motion passes 7 Ayes: 0 Nays. Madame Chair.

All remaining public testimony pursuant to HRS 92 (Sunshine Law)

## **CONSENT CALENDAR**

### **Status Reports**

Status Report (4/30/20) for Project Development use Permit PDU-2008-11, Use Permit U-2008-10, and Classs IV Zoning Permit Z-IV-2008-12, Tax Map Key No. 2-8-08:001 (Lot 185) from Ian K. Jung attorney for Koloa Village, LLC, as successor to Koloa Town LLC. (original Permittee).

Mr. Hull: Next on the Agenda Item we have G.1., Consent Calendar Status Report and this is a Status Report for Project Development Use Permit PDU-2008-11, Use Permit U-2008-10, and Class IV Zoning Permit Z-IV-2008-12, Tax Map Key No. 2-8-08:001 (Lot 185) from Ian K. Jung attorney for Koloa Village, LLC, as successor to Koloa Town LLC. (Original Permittee).

We have a Director's Report and Dale is our Planner on that.

Staff Planner Dale Cua: Good morning Chair and members of the Planning Commission. What you have before you again, is an extension request for this specific project.

Mr. Hull: Dale. Sorry, we are just on the Status Report.

Mr. Cua: Oh, the Status Report. I am sorry.

Mr. Hull: I apologize. As Clerk I messed up on that, this is on the Consent Calendar so without any objections, it is automatically received. So, if any Commissioner wanted to have the Status Report pulled off the Consent Calendar to discuss. Now would be the time otherwise, it is just to receive for the record. My apologies on that.

Chair Nogami Streufert: Are there any questions from the Commissioners or is there someone in the audience that would like to speak on this? I am sorry. Is there someone? Did I hear someone trying to speak?

Mr. Ian Jung: No. This is Ian Jung for the applicant, Koloa Village LLC. What I can do is give an update on the Status Report if the Commissioners would prefer during the time of the extension request Item that would make the most sense.

Chair Nogami Streufert: I think that would speed things up and it probably puts everything into context. So if we could do that, it might be better. This is just about the Status Report and receiving the status report or not receiving it. Do we have a motion for that?

Mr. Ho: I move that we accept the Status Report for Koloa Village, LLC.

Ms. Otsuka: I second.

Chair Nogami Streufert: It has been moved and seconded that we receive the Status Report on Koloa Village, LLC. Any discussion? If not, all those in favor? Aye (Unanimous voice vote) Any opposed? (None) Motion carried unanimously, 7:0.

Mr. Hull: Motion passes, Madame Chair.

## **GENERAL BUSINESS MATTERS**

**Planning Director briefing to the Commission on the Planning Departments' COVID 19 operations and logistics, as well as the Planning Department's Coordinated efforts with the Kauai Emergency management Agency (KEMA).**

Mr. Hull: Next, have General Business Matters. General Business Item I.1., Planning Director briefing to the Commission on the Planning Departments' COVID 19 operations and logistics, as well as the Planning Department's coordinated efforts with the Kauai Emergency management Agency (KEMA). So this is just an oral presentation at the request of the Commission at the last meeting to just update you on our COVID 19 status, and

response aspects. So, when Hawaii and America began to shut down, the Planning Department was relatively quick in...both Jodi, myself, and the managers in making the determination that in the interest of our employees, as well as the public that was trying to access the Planning Department. We sent everybody home to telework on March 27, 2020. We immediately began spinning up operations so that everything could be handled digitally that is normally handled over the course of the front counter window or complaints with our enforcement officer or Planning Commission proposals.

Part of the issue was being able to have people to...what is referred to as VPN into their computer systems, and that means to have direct asses to their desktop remotely from their homes. Because of security reasons, our IT Division does not allow personal home computers to VPN into their desktops. So as I sent everybody home on the 27<sup>th</sup> to telework, on the 28<sup>th</sup> I was working with our finance team to cannibalize all of our travel budget to purchase office laptops for our employees to be able to work remotely. As what some (inaudible) told to me was that laptops are the toilet paper 2.0 of the COVID emergency. Toilet paper went first and then the laptops, so it took some time to secure them. It took about three weeks for me to be fully staffed up with 28 Microsoft Surfaces for all our employees to work remotely that is what they have been doing, all our permitting processes are digitized.

You can fill them out on-line and submit them via email; we have the Digital Doc signature capacity so people can sign those digitally. So that was very important to have that setup in the immediate, and the one issue that we do have, and still have to do is payment, it cannot be done digitally yet by our office. So any payments get sent in for the Zoning Permits via regular mail, and that is the one area of inefficiency. But like I said, we spun everything up to process permits and have been, as well as complaints, as well as of course we had to take some time off from the Planning Commission to set you folks up, that has been set up now and we are handling it okay it seems. Dale and his shop are processing of course all the applications for things like Class IV Zoning Permits and Subdivisions digitally and getting it to you folks, so we are setup to be digital and teleworking.

I will say the discussions I have had with staff over this COVID response, and the fact not many of us are in with working directly with KEMA that is the Kauai Emergency Management Agency. We did have to dedicate two of our staff members Shanlee Jimenez and Donnie Sadora are full-time activated working at the Emergency Management Agency in direct response to the COVID Crisis. The message in discussion I have had with staff is while we are not directly involved in a lot of this, except for our enforcement team and we will get into that a little later. Our position as the Planning Department is we do have to review applications and ensure that everything meets regulations. But as we move out of...as we are amid an economic crisis that we are not going to know how long it is going to last.

One of my directives to our staff is tourism is not coming back anytime soon, and much of our recovery is quite honestly, will be within the construction and development industry. I have explained to our staff that we are not breaking any laws and we are not sweet dealing any developers. It is just that in so far as we are one of the primary permitting review agencies, we should not be a barrier to anybody that is left willing to invest and get projects going. They still have to meet our regulations, but if they have problems, and generally we don't...we have always adhered to "We are not a consulting firm" it is the applicants

responsibility and duty to understand the rules and regulations that get through to them. That is how we generally have handled it for years, and I have explained to our staff that right now during this time, we need to work with all the applicants regardless of who they are. Small mom and pop sheds on the side to large scale developers, as much as we can help them get through the process, we need to be there to ensure that again, our permit is not the barrier. They have to meet the regulations, but as far as we can help, we can give those phone calls to the Water Department or to the Department of Health to help facilitate and ease these permits through, that is our responsibility. Our emergency response is helping the economy return to what it what it needs to be.

And so, Dale and staff are very much taking that approach and trying to help as much as we can. We are also finding while some of the work we are doing right now is inefficient Some of it is very efficient. Teleworking for some of our permit reviews as well as trying to get the permits moving, on average front counter technicians will do about thirty to forty permits a week, and that is a good week. That is during normal times. Teleworking both Britni and Wesley Masumura, Britni Ludington-Braun and Wesley Masumura, are two essentially senior front counter individuals, last week did three hundred permits in one week. The efficiency with being able to do it via teleworking has really shown that when we get out of this eventually if granted by Human Resources, the Mayor's Office, and Union discussions I would like to have some of our staff teleworking, because again, it is entirely more efficient in some aspects. So that is where we are the permitting area.

On the enforcement area, zoning enforcement I can say that they are the one Division that is really interfacing also with KEMA, the Kauai Emergency Management Agency. Because when the shutdown happened, there were only a few hotels that were left open. Hotels and motels were designated as essential business, it could operate. Many of them shut down because they did not have enough guest warranting them staying open. But the few that have remained open have very specific quarantine measures in place as well as monitoring security enforcement to ensure that people that are still coming into Hawaii are adhering to the quarantine requirements. And in fact, many of the arrest that you see on Hawaii news now or on the Garden Island, many of those arrest are made in direct conjunction with a hotel monitoring staff explaining to guest that they cannot break quarantine and the guest continue to do it. And the hotel themselves, calling the police on their own guest to ensure that quarantine is maintained. So that is what has been happening at the hotel industry.

What our enforcement team was task to do is to monitor and ensure that vacation rentals are not operating during this time. Vacation are a main stay of our economy, and there are roughly four-thousands of them that operate during normal times. But because they don't...because the vast majority of them don't have the ability to monitor, screen, and ensure that their guest are adhering to quarantine policies the Governor did not categorize them as an essential business and they are prohibited from operating. And I can say for the vast majority of vacation rentals, they came into immediate compliance, they started taking their advertisements down. On any given day there is roughly six to seven-thousand advertisements for TVR's operating on Kauai. There are four-thousand and they have multiple advertisements here and there, but there is six to seven thousand within four days of Kauai and Hawaii going into shut down. The advertisements on the world-side web which our third-party contractor monitors had decreased from six to seven thousand to a thousand, there are only a thousand advertisements up. And when we went into

those advertisements, the vast majority of those advertisements had actually already blocked out the month of April and subsequently later in May, just saying “We are advertising but we are not taking any bookings for now.” But there were still some that were advertising availability and so TVR enforcement staff was notifying all of those, and I think we notified four or five hundred operators that they are not to be advertising availabilities during this time. And of those that got notice, almost all of them have come into compliance. There are still a handful of bad apples out there, that are actively trying to advertise their services for international and mainland travels to come here during the crisis, and so we are working to monitor and ensure that they do not operate.

We also have our vacation rental staff and sometimes myself, at the airport with the screening team to receive the mainland flights to ensure that they are not staying at TVR’s because again, it is too hard and we are unable to monitor quarantine at TVRs. So for the most part most of the people that are coming in are well behaved and many of them are residents returning home. But we have had a few issues, I think last week we had two individuals that were trying to stay in an

Illegal TVR that one of our enforcement officers were well aware of, and so that did result ultimately in a confrontation by the transients and ultimately an arrest by KPD of the individuals. We are still out there; our team is monitoring vacation rentals and incoming guests at the airport as well as on-line. We anticipate being part of the process for at least sometime here as we are in discussions about how the State is going to begin opening once the quarantine is lifted for inter-island travel coming here on the 15<sup>th</sup>. But as far as vacation rentals and their ability to be used by transpacific travelers that is looking and shaping up to be for some time, that is going to be prohibited. So, our staff will be required to help in monitoring those services.

And that in a nutshell is for the most part where our Division is at. Again, our permitting team is running digital, (inaudible) spun up now with Dale’s shop to review applications at the Planning Commission level, our enforcement team is primarily focused on vacation rental operations as they pertain to the COVID crisis, and then I can state that we are gradually beginning to fold people back to the office as well. Right now, there are five other employees besides me, on site here at the Planning Department. One of them is a front counter technician. We do take front counter appointments; it is by appointment only as we have to limit how many people come into our lobby because we share the lobby with Department of Motor Vehicles and the Finance Department. So, we do have front counter appointments available and it is relatively easy to make on-line on our web site, and we have some clerical staff in here as well to process the daily mail, the payroll, all those things that are necessary.

We will be opening up a little bit more and having a little more staff come in over the next few weeks as we begin to ease up, and you know, it is all contingent upon if there is a second spike or a second wave folding the Department back out while we are bringing more people back in. But to be honest, Commissioners, a fully staff department where everybody is no longer teleworking if I am given the authority, and HR and the Mayor’s Office might have some direction later. But if I am with the authority I have; I do not intend to bring our staff fully back into the office until the COVID situation has been fully resolved or say we have a vaccine. And that is just because as may of you are aware, the space issues of our office, there is no office that has as little space as for as many employees as our Department. We make do and I am not

complaining about it, but we literally have people working in some settings two to three feet away from each other, where social distancing just cannot happen. Being that we have the capacity to telework, I just feel we should fully use it as much as possible to ensure the safety of the office.

Chair Nogami Streufert: (Inaudible). Are there people who are having a problem with using digitized forms as specially the elderly or is there an alternative? Perhaps it is a little late for this time, but if we can have an (inaudible) would not like to see this but if we had to re-do this again, is there some kind of a fix for that or is there something in the works for them?

Mr. Hull: Yes. For those who cannot handle those forms and we come across it. One, we have the front counter appointments and you have to log on-line to do appointments, but I have also directed staff, if they call in to try and make an appointment, just make it up online for them. They can come in-person and do it now because that is now set-up. If we end up in a situation where we have to close things down again, indeed, it is digitized, but going back to the earlier point of we need to help them along as much as possible, we have actually had some of our front counter people like Britni, literally on the phone filling out the application for them. So the sooner we fill it for them, the one issue we ran into is we still need their signature to authorize it. And so, we still need to email it or send it to the applicant and have the applicant send it back. I can recall with one situation where Britni had filled out the application for the applicant and even sending it to them to DocuSign it and all they needed to do was type their name on it, the individual was uncomfortable doing it just did not know how to figure out the system. So that scenario is literally, we will mail it to you, and you mail it back to us. It is a lot more time consuming, but it is the best we can do, I guess.

Chair Nogami Streufert: And if they are any timelines that are associated then those are put on the side?

Mr. Hull: The timelines for filling out? There are no timelines for filling out the application. The Department only has timelines once the application is deemed complete, but it is fully in our arena once we deem it complete, so we have no problems meeting the deadlines.

Chair Nogami Streufert: Great. Any other questions? Commissioners?

Ms. Cox: Yes, I do. One is a question and one is just a comment. You mentioned, Kaaina, that right now it is more efficient for some of the processes through telework. I am just wondering...but then later you said, "Once we have the vaccine everybody will be back." So, I guess my comment is I hope we don't necessarily go back to the way things, I hope we actually use what you've learned and see if it makes more sense for people not (inaudible).

Mr. Hull: Sorry if I missed stated that, Commissioner Cox. Indeed, I am definitely with you, as far as there are some aspects of enforcement, say the TVR enforcement. TVR enforcement is done 99% digitally and therefore, can be done at home. Now all the staff has the equipment to work at home so the TVR enforcement aspect of it, I intend to put them on a teleworking schedule where they will have to cycle into the office every now and then, but indeed, they are teleworking. And to go back to the front counter technicians, once back to normal we have four

front counter tech. positions. Front counter technicians have two primary responsibilities and they are to review and act on permits and to engage the public at the front counter when they have questions and inquiries. So my desire is to ultimately, of those four rotate two by two's where it maybe one week or two weeks to where two are home teleworking and two are at the office and are able to engage with the public that comes in. As I said, the permit review process is entirely more efficient when they are at home. So, I am definitely with you, Commissioner Cox, that very much is my intent I have voiced that intent to both the Managing Director and the Mayor. Ultimately, it comes with the approval of not just our Human Resources Department but also with Union discussions. I cannot think that Unions will fully object to that, but I want to recognize that it is my intent to do that, but I do have to get the appropriate approvals.

Ms. Cox: Okay, great. Then my question was since you are the Planning Department. How involved have you been with thinking about how the...you mentioned that you have been in discussions about how tourism comes back, but are you also part of sort of a recovery plan group?

Mr. Hull: I am sorry; I had written down my presentation and had left out our nearest and dearest division, which is the Long-Range Division. The Long-Range are engaged with the Economic Recovery Response Panels. So there is a series of teams that the Mayor and his administration have set-up with private individuals, business owners, visitor industries people, and our Long-Range people sit on those panels and engage in those discussions. And so, we are definitely very much a part of that.

Ms. Cox: Okay, good. I thought so, but I just wanted clarification. Thanks.

Chair Nogami Streufert: Could I ask a question about the telework thing? There is difference between telework and flexible work schedules because telework is just doing work at home during the regular hour's vs the flexible work schedule where you tailor it too your telework schedule. Is there any type of flexibility for that? Because it seems like that would be something that would be very useful for this.

Mr. Hull: Yes, there is some need for teleworking to have some normalcy within the hours that we can get in touch with those folks that are working at home. There is that, but within that, as long as are not too off and we can allow for some coverage and interface with those teleworkers, we are absolutely open to flexible hours. And I can certainly say to some degree for the TVR enforcements, when we get back to some normalcy; right, one of the matters that some illegal TVR operators advertise are during off hours. So indeed, while our TVR inspectors will log on to the websites at midnight because some of those operators are thinking that "well, County staff is done at 4:30 p.m. but it is now midnight here but it is 8:00 a.m. in New York City so therefore, I can advertise. Joan, one of our TVR guru's Saturday at midnight she will be on-line monitoring these websites.

Chair Nogami Streufert: Great. Are there any other questions from the Commissioners?

Ms. Apisa: Just a comment. I want to give a shout out of recognition to Mike Laureta. Saturday I had a TVR question, so I just shot him an email while it was on my mind expecting to hear from him on Monday. However, within ten minutes I has a response back.

Chair Nogami Streufert: Great for flexible work schedules. Any other questions or comments?

Mr. Hull: Seeing none.

Request for Time Extension for Project Development Use Permit PDU-2008-11, Use Permit U-2008-10, and Class IV Zoning Permit Z-IV-2008-12, Tax Map Key No. 2-8-008:001 (Lot 185) from Ian K. Jung, attorney for Koloa Village, LLC, as successor to Kola Town LLC (original Permittee).

Mr. Hull: Next moving on to I.2. Request for Time Extension for Project Development Use Permit PDU-2008-11, Use Permit U-2008-10, and Class IV Zoning Permit Z-IV-2008-12, Tax Map Key No. 2-8-008:001 (Lot 185) from Ian K. Jung, attorney for Koloa Village, LLC, as successor to Kola Town LLC (original Permittee). We have a Director's Report Pertaining to this matter and I will turn it over to Dale.

Staff Planner Dale Cua: Good morning Chair and members of the Planning Commission. Again, what you have before you are consideration of applicants to amend Condition No. 21, of the project development Use Permit, Class IV Zoning Permit, and Use permit to allow additional time to complete the proposed development.

Mr. Cua read the Project Description and Use, Additional Findings, and Preliminary Evaluation sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: The request works together with the Status Report was submitted and it is the Departments recommendation to support the applicants request and that concludes the Director's Report regarding the project. Do you have any questions?

Chair Nogami Streufert: Are there any questions from the Commissioners to Dale?

Mr. Chiba: I have a question just for clarification. Does this extension include the completion of the housing (inaudible)?

Mr. Cua: Correct. So, the extension would be for both phases of the project.

Mr. Chiba: Thank you.

Mr. Ho: Dale?

Mr. Cua: Yes?

Mr. Ho: The project owner now is the second owner of the (inaudible) the original owners sold it to him. Is that correct?

Mr. Cua: I believe so, yes.

Mr. Ho: So, all Conditions of the first Permit is assumed by the second owner? Correct?

Mr. Cua: Correct. The project requirements run with the property.

Mr. Ho: I think at one time if I am not mistaken, they had asked as part of the building process, that the studios be dedicated to workforce housing. Am I correct in that assumption or is my memory failing me?

Mr. Cua: No. In their previous action that came before the Planning Commission and Ian, can correct me, but there was a proposal to integrate residential units within the commercial portion of the project.

Mr. Ho: My question would be having the number dedicated to workforce, has that number changed? Maybe—

Mr. Cua: Yes. That I am not sure in the number of workforce housing. I know they were hoping to address some of those requirements to the residential portion of the project.

Chair Nogami Streufert: Perhaps it is time to have the applicant come up and ask for us to hear their presentation and to ask questions of them if there are no other question for Dale? Could we have the applicant come up, please. Or (Inaudible).

Mr. Ian Jung: I will approach. Good morning Commissioners. This is Ian Jung, on behalf of Koloa Village, LLC. Thank you for the opportunity to present on our Extension Request by way of background, this project as Dale had indicated was a project entitled back to 2008. But after the recession in 2008, you know property when into foreclosure and the original lender took the property back in 2011. Then the current owner that is the owner now, acquired the property in 2014, and has been diligently chipping away at a lot of the Conditions that were approved under the original permit set. So as of right now, where we are at is, we have got vertical on all eight (inaudible) buildings that span about three-acre portions of the five-and-a-half-acre lot. And so, if you have driven by Koloa recently you can see a lot of the sticks going up. So, we have Waikomo side and Wili Wili side fully under construction there, as you see in Exhibit B., we do have a Conceptual Site Plan laid out you.

There are going to be eight (8) buildings within the commercial component. And Commissioner Ho's comment with regard to our recent amendment last year around this time, we went in to amend the first phase of the commercial component to allow for residential use on what was proposed to be the office space of the elevated floor of the first set of buildings. So, we did convert those into studio uses and there are going to be fourteen (14) of those studio uses. This project was approved Pre-Housing Ordinance, so we capitalized on the existing thirty-four (34) residential units and pulled fourteen (14) out of those thirty-four (34), to allow for that conversion. But if we do go to extend on our new unit counts in the residential section, which is phase two, then we will be subject to the Affordable Housing Ordinance to get that additional density.

However, we are monitoring, many of you know that the Affordable Housing Bill that is going through Council right now, has exempted projects like this, where it is Mixed Use Multi-family Dwelling Units that will be more for a middle-income type family to be exempt from the Affordable Housing Ordinance. So we are monitoring that and we probably accommodate that in the next year of so depending on what happens with the ordinance. The project is still slated to move forward to achieve those thirty-four (34) units and some additional residential units subject obviously, to the Affordable Housing Ordinance. The first phase is well under construction which will include fourteen (14) studio size rental units, which will be, I don't want to call them affordable" but they are or will qualify for the Affordable Rental Income Tax Incentive, so they will be at a rate that is considered affordable by the County.

Chair Nogami Streufert: Ian, does that mean that these are the units' second floor of the commercial buildings? Is that where these efficiency or apartments are going to be?

Mr. Jung: Correct, and they are going to be you know, when the (inaudible) took over he had a good meeting with some of the restaurant tours and business operators, and what they were saying they needed was smaller affordable units on-site that would account for potential employees to live there. So when we came back before the Commission in 2019, we re-designed those units to be three to four hundred units per square foot, studio size units that could accommodate a smaller micro unit for the overall project. And those would be in addition to the one, two, and three-bedroom units in the phase two residential component.

Chair Nogami Streufert: Is that indicated on any of the diagrams that you got here?

Mr. Jung: I did not indicate them in this plan as a part to what I do. I can get over to the Commission our June 19, submittal which identifies the floor plans for those units.

Chair Nogami Streufert: Right now, (inaudible) they are still office suites.

Mr. Jung: (Inaudible) sorry. I attached the wrong middle; I should have attached the right one. But I can get you that submittal which shows the floor plan layout for those three to four hundred per square foot units on building A and F.

Chair Nogami Streufert: A and F?

Mr. Jung: So, with regard to all the Conditions in our Status Report we chipped away at a number of those Conditions. We have the dedications into the County for the Landscape Plan, the road infrastructure, and all the outside improvements as you may have seen as you drive by all the array has been fully constructed. Our next step once we go vertical is to incorporate the Landscape Plan that was modified a year ago based on Planning's request. The Landscape Plan is in and has been recorded against the property (inaudible) and will run with the land as Commissioner Ho requested.

Mr. Ho: Ian, those units, those smaller studio units there, do they have cooking facilities within them?

Mr. Jung: I did not catch the question. They have (inaudible) facilities.

Mr. Ho: Cooking facilities, Ian.

Mr. Jung: Yes, they will have a kitchen. When we call it a studio, it will still have a micro kitchen unit.

Ms. Cox: Ian, I don't know if I followed you earlier, I think you clarified this, so by having those fourteen (14) studios you are reducing the number of other residential units or is the residential section still going to have the same?

Mr. Jung: Yes, and this is where it gets a little complicated because what happens post 2008, is we moved into the South Kauai Community Form-based Code. So that superseded our current Zoning Code which allocated a density spread that was allowable for the overall project. But with the South Kauai Community Plan, we can kind of come up with another concept of density based on the types of units and design of unit. So the next phase of once we start, some of the multi-family dwelling unit portions on phase two for the fourteen (14) that was deducted from the original residential project to go over to the commercial project side, we have to come back to Planning to see how we can now materialize an additional fourteen (14) into the residential project. So we are working through that now to figure out how to re-achieve the density that was pulled off the residential side of phase two, and fold in to phase one of the commercial side. So that is on-going, and we will come back to the Commission to modify the permits once we achieve a plan for that.

Ms. Cox: So, the intent then would actually be increase by fourteen (14) livable units over the whole project.

Mr. Jung: Correct, yes. There will be a net reduction to eliminate the office space to put in space that is more residential.

Ms. Cox: Okay, thanks.

Chair Nogami Streufert: Ian, I think you had mentioned that there was two buildings that you were going to be converting to these studio apartments A—

Mr. Jung: I am sorry. It is F and I., in the back. So, F. and H. as one building, and then I. in the back.

Chair Nogami Streufert: Those are not fronting Koloa Road. Fronting more of the Wili Wili Road?

Mr. Jung: Correct.

Chair Nogami Streufert: Is that going to be to the (inaudible) units, or the livable units or the houses?

Mr. Jung: I did not quite catch that question.

Chair Nogami Streufert: Is that adjacent to where the other phase two is going to be?

Mr. Jung: Yes, there is a parking lot that bisects the Koloa shops components and the Koloa resident's component so it will be relatively near each other, but there is a parking lot that will be in between those two sections. Yes, as a reason we are asking for another two years, is we expect construction of the shops component by the end of this year and then from a financial standpoint we will use that to leverage the residential construction for the residential side of the project.

Chair Nogami Streufert: And one year would be enough to develop the residential side of it?

Mr. Jung: That is the goal, because Shio is our Contractor and they are moving very quickly now that the construction has been allowed to re-start. Siding is actually going on as speak.

Chair Nogami Streufert: I am not sure if this is a question for either Dale or for you. Is there any requirement...is there any Condition in here a continuing Condition for Status Reports on an annual basis?

Mr. Cua: Yes. It is covered in Condition No. 20, of the original permit. So if you look at the very end of my Report, I mention Condition No. 20, which talks about the continual submittal of status report.

Chair Nogami Streufert: But this is separate from any permits that would be coming in to make any changes to the building or to the development, correct?

Mr. Cua: Correct. So this is specifically as it relates to Condition No. 21, which is the time to perform.

Mr. Ho: Ian, one question, please. The way these are configured, you have commercial bottom, and these units are above?

Mr. Jung: Yes. So it is a Mixed Use Project so we have retail on six (6) of the buildings on the first and second floor and then we are going to have retail and residential on two (2) of the buildings. You will see that there is a third-floor plate, but that third-floor plate is not for a third-floor per se, but there is three rooftop rental areas that can be utilized for restaurant space or office space. It is only two stories with a third-floor rooftop component on three of the buildings.

Chair Nogami Streufert: Is that only one unit on each one of the three buildings, on A, D, and E, is that correct?

Mr. Jung: Correct.

Chair Nogami Streufert: Dale, does the Plan fit into the Form-based Planning that is already being accepted?

Mr. Cua: Well actually, they have superseded the South Kauai Community Plan, but it was the Departments desire that they push these buildings closer to Koloa Road and they obliged to do it and though it worked to our benefit. They were not required to at the time back in 2008, but we were trying to work with the applicant at the time to keep the character of the town similar so by pushing up buildings closer to the roadways, and keeping the parking to the rear of the buildings.

Chair Nogami Streufert: And are there enough parking space at this point based upon the additional studio apartments?

Mr. Cua: There should be, yes.

Mr. Jung: If we were required to have on-site parking and then create a street-scape with outside parking that could accommodate greater Koloa, then there is more than enough parking right now to satisfy the requirements.

Chair Nogami Streufert: They question was to ask just because Koloa Town always does not have enough parking.

Mr. Cua: Yes.

Mr. Jung: Right.

Ms. Apisa: Nowhere does.

Mr. Ho: Ian, in your Exhibit "A". I am looking at a set of drawing there. I see sidewalks of the Koloa area, is the sidewalk part of your responsibility or is it the County's responsibility?

Mr. Jung: We were required to construct the streetscape, so the sidewalks are all constructed, and the parking is all constructed, and it is fully complete now. If you take a drive down there the only thing that is not installed within that area is the Landscape Plan, which is the next round once vertical construction is done. You could walk from the corner of Koloa Road and Wili Wili Road up to the next building, which would be the new Tasting Room and the Wine Shop up there and it is circled around the entirety of the property. And parking is included around the perimeter of the property as well, and it ranges from angle stalls to parallel stalls.

Chair Nogami Streufert: And you anticipate that the construction on this phase will be completed by the end of the year?

Mr. Jung: That is the goal. Whether that will have (inaudible) is another question. But yes, if you do take a spin down there, they are putting on siding and moving along pretty quickly here. We would anticipate them being down by the fourth (4<sup>th</sup>) quarter of 2020, is our projection.

Chair Nogami Streufert: All right. Any other questions for the Ian, the applicant or for the Department?

Mr. DeGracia: Ian, I have a question. So it looks like phase one might be completed by the end of the year, being that they are already working on the building siding going on. Are you folks anticipating phase two to start sometime next year? Do you folks have an estimated start time?

Mr. Jung: We had an estimated start time of the third quarter of this year for the residential side. But once the COVID situation, it hung us up because we had to stop construction and it delayed the process, so it is looking more like fourth (4<sup>th</sup>) quarter of this year or first quarter of 2021.

Mr. DeGracia: Thank you.

Ms. Cox: So, of the commercial being a little slow because of this whole situation. That is not going to prevent you from going ahead with the (inaudible) of the residential area.

Mr. Jung: It should not. But with the financing world and the way it is now, the idea was to leverage the commercial part to start with the residential. We will just have to wait and see what the markets are looking like when we come across that, but he plans are all underway. We are keeping our fingers crossed.

Chair Nogami Streufert: Are there any other questions? Did I hear someone? Then we are open for a motion.

Ms. Apisa: I move that we defer extension for Project Development Use Permit PDU-2008-1, Use Permit U-200-10, and Class IV Zoning Permit Z-IV-2008-12, TMK NO. 2-8-008:001. Lot 185, to June 10, 2022.

Chair Nogami Streufert: Is there a second?

Ms. Cox: (Inaudible) say approve. Because you went out right about...was it approved?

Chair Nogami Streufert: This is (inaudible) Condition No. 21, of Project Development Use Permit, Class IV Zoning Permit, and Use Permit to allow additional time to complete the proposed development.

Ms. Otsuka: So is it a deferral or is it approval—

Ms. Cox: Yes, that is what I—

Chair Nogami Streufert: It is to approve the amendment to extend—

Ms. Otsuka: Yes, to approve the amendment to allow a two-year extension is that correct. So that—

Mr. Jung: That would be preferred from the applicant's standpoint instead of a deferral.

Mr. Hull: Commissioner Apisa, just for clarity for the record. Is your motion to approve the request to extend?

Ms. Apisa: Yes.

Mr. Hull: Okay.

Ms. Cox: In that case, I second it.

Chair Nogami Streufert: It has been moved and seconded to approve the Amendment Condition No. 21, Project Development Use Permit, Class IV Zoning Permit, and Use Permit to allow additional two years' time to complete the proposed development to June 10, 2022. Is there any discussion? If not, could we have a roll call vote, please?

Mr. Hull: Roll call Madame Chair. Commissioner Cox.

Ms. Cox: Aye.

Mr. Hull: Commissioner Apisa.

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ho.

Mr. Ho: Aye.

Mr. Hull: Commissioner Chiba.

Mr. Chiba: Aye.

Mr. Hull: Commissioner Otsuka.

Ms. Otsuka: Aye.

Mr. Hull: Commissioner DeGracia.

Mr. DeGracia: Aye.

Mr. Hull: Chair Streufert.

Chair Nogami Streufert: Aye.

Mr. Hull: Motion passes 7 Ayes: 0 Nays. Madame Chair.

Mr. Jung: Thank you Commissioners.

Chair Nogami Streufert: Thank you.

Ms. Otsuka: Thank you.

Petition to Appeal Decision of the Planning Director; Exhibit “A” – “I”; Certificate of Service (5/6/20) by Jonathan J. Chun, Attorney for Appellant *David Houston 1997 Trust*, in the matter of the application of *David Houston 1997 Trust* appealing Notice of Violation & Order To Pay Fines executed on April 27, 2020 for property located in Moloaa Hui Lots, Kawaihau, Kauai, Hawaii, Tax Map Key No. (4) 4-9-014:020 0001.

- a. Memorandum (6/2/20) from Kaaina S. Hull, Clerk of the Commission, to Honorable Commissioners of the Kauai Planning Commission recommending referral of than Appeal of the Planning Director’s Decision Related to the Planning Director’s Notice of Violation & Order to Pay Fines for the unpermitted construction of a retaining wall along Moloaa Stream in Special Management Area of Moloaa, *David Houston 1997 Trust*, Tax map Key (4) 49014020, Moloaa Hue Lots, Kauai, received on May 18, 2020, for referral to Boards and Commissions as Contested Case File No. CC-2020-6.

Mr. Hull: Next moving on to I.3. Petition to Appeal Decision of the Planning Director; Exhibit “A” – “I”; Certificate of Service (5/6/20) by Jonathan J. Chun, Attorney for Appellant *David Houston 1997 Trust*, in the matter of the application of *David Houston 1997 Trust* appealing Notice of Violation & Order To Pay Fines executed on April 27, 2020 for property located in Moloaa Hui Lots, Kawaihau, Kauai, Hawaii, Tax Map Key No. (4) 4-9-014:020 0001.

And then you also have a memorandum from myself, Kaaina S. Hull, Clerk of the Commission, to Honorable Commissioners of the Kauai Planning Commission recommending referral of than Appeal of the Planning Director’s Decision Related to the Planning Director’s Notice of Violation & Order to Pay Fines for the unpermitted construction of a retaining wall along Moloaa Stream in Special Management Area of Moloaa, *David Houston 1997 Trust*, Tax map Key (4) 49014020, Moloaa Hue Lots, Kauai, received on May 18, 2020, for referral to Boards and Commissions as Contested Case File No. CC-2020-6.

Members of the Commission my apologies I was under impression that Jonathan Chun would be submitting a formal letter to you folks concerning this issue. Ultimately, what has transpired is that the Department and I, and the attorney representing the party have come to an agreement. They have paid the necessary fines, which we have stipulated, to being \$7500.00, as well as they are applying for the necessary permits. I had Leslie Takasaki the email that Jonathan Chun had sent me on Wednesday. My apologies, I was under the impression he was going to send something else, but that was his notice of withdrawal so you folks have it and wasn’t officially on the agenda but I can read it on to the record where Jonathan states, “my client has agreed to pay a fine in the amount of \$7500.00 to resolve the above Notice of Violation. Please prepare the necessary paperwork that needs to be signed to resolve the matter based on this resolution we will withdraw our Notice of Appeal to the Planning Commission.”

So that documentation has been submitted over and he is in the process of, I guess securing the

SMA Permits. If you folks have any questions about this case I am, free here to answer them. However, we will ultimately just be requesting that a motion be made to receive the petition to appeal, and a motion to receive as it might sound like that is an approval. It is not a motion to receive within parliamentary procedures really a motion to receive and put to bed and put to rest and it is no longer going to be reviewed. So, if you folks have any questions I am here, but given Jonathans request to withdraw. We would ask for a motion to receive.

Mr. Ho: The motion to receive will close this matter.

Mr. Hull: Correct.

Chair Nogami Streufert: Are there any other questions for Kaaina? We are ready for a motion then.

Ms. Apisa: I move that we receive the petition to appeal decision of the Planning Director.

Ms. Otsuka: I second.

Ms. Apisa: Exhibit “A” – “I”; Certificate of Service (5/6/20) by Jonathan J. Chun, Attorney for Appellant David Houston 1997 Trust, in the matter of the application of David Houston 1997 Trust appealing Notice of Violation & Order To Pay Fines executed

Chair Nogami Streufert: Is there a second?

Ms. Otsuka: I second.

Chair Nogami Streufert: Is there any discussion? The motion is to receive the Petition to appeal the Decision by the case by Jonathan Chun for appellant David Houston 1997 Trusts. Is there any discussion? If not, could we have a roll call vote, please?

Mr. Hull: Roll call Madame Chair. Commissioner Cox.

Ms. Cox: Aye.

Mr. Hull: Commissioner Apisa.

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ho.

Mr. Ho: Aye.

Mr. Hull: Commissioner Chiba.

Mr. Chiba: Aye.

Mr. Hull: Commissioner Otsuka.

Ms. Otsuka: Aye.

Mr. Hull: Commissioner DeGracia.

Mr. DeGracia: Aye.

Mr. Hull: Chair Streufert.

Chair Nogami Streufert: Aye.

Mr. Hull: Motion passes 7 Ayes: 0 Nays. Madame Chair.

### **COMMUNICATIONS (For Action)**

Mr. Hull: Moving right along we have no Communications for Actions.

### **COMMITTEE REPORTS**

#### **Subdivision**

Mr. Hull: Now we have Committee Reports, the Subdivision Committee Reports. I will turn it over to Commissioner Ho.

Mr. Ho: We had a rather lengthy meeting this morning one item for tentative map approval for State Department, DLNR, it was approved and that was our meeting.

Chair Nogami Streufert: Do we have a motion to accept the Committee Report?

Ms. Apisa: I move to accept the Subdivision Committee Report.

Ms. Cox: I second.

Chair Nogami Streufert: It has been moved and seconded that we accept the Subdivision Committee Report. Are there any questions for Commissioner Ho or for other members of the Subdivision? If not, all those in favor signify by saying aye? Aye. (Unanimous voice vote) Any opposed? (None) Motion carried 7:0.

### **UNFINISHED BUSINESS ( For Action)**

Mr. Hull: There is no Unfinished Business

### **NEW BUSINESS**

Mr. Hull: Now moving on there is no further New Business

**For Action- See Agenda F for Project Descriptions**

## ANNOUNCEMENTS

### Topics for Future Meetings

The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter on July 14 2020. The Planning Commission anticipates meeting via teleconference but will announce its intended meeting method via agenda electronically posted at least six days prior to the meeting date.

Mr. Hull: Announcement, Topics for Future Meetings. We have the Somers' case coming up. We do not have a second meeting in June. The next time we will be convening will be July 9, 2020. It states June 23, 2020, but we do no agenda items for that meeting. The next Planning Commission meeting will be, sorry, I said that wrong; it's July 14, 2020. At that meeting, we will have the Somer's request returning concerning the new barn extension building being proposed in Kilauea. As well as tentatively, I can say, we will be having Coco Palms to give their Status report. I have been playing phone tag with the representative who is over on the mainland, but as soon as we are done here, I hope to call him back, again, and hopefully, we will be able to get in touch bases, and set that meeting. Aside from requesting that meeting, as the Commission wanted me to at the last meeting, they do have a Status Report that is due at the end of this month. Once that officially comes in, and then indeed, they are required to go back to you to give that report. By request or by mandate, they must come back to you. I do not have any other future topics to discuss. Inaudible).

Mr. Ho: Is there an "H" on your agenda schedule there, Kaaina?

Mr. Hull: Yes. So that we moved to the end of the agenda, but before I turn it over to the County Attorney to go with you folks in Executive Session. I just wanted to check, if there are any other topics that you folks were interested in seeing on future agendas.

Ms. Apisa: I would just like to clarify. So we delete the June 23, 2020 meeting from our calendar, correct.

Mr. Hull: Yes. Correct. There will not be a June 23.

Ms. Apisa: Okay. It is gone.

Mr. Ho: Glenda, could I ask for 10 minutes? Our next item might be a lengthy one.

Chair Nogami Streufert: Before we do that, how about if we make a motion to go into Executive Session and to Adjourn after that, and shortly after that, we will take a 10-minute to 15-minute break. Would that work?

Mr. Ho: I thought we could do the recess now.

Chair Nogami Streufert: Is everyone in agreement with that? In addition, that we will go into the motion for Executive Session.

Ms. Apisa: (inaudible)?

Mr. Hull: Sorry. This is Kaaina. Just for technical purposes, because you folks are going to have to log off and then call back into Executive session. Is there any chance, Chair and

Commissioner Ho, that one of the Commissioners or the attorney: I cannot remember who is supposed to do it, read the executive session language and then go into executive session where you take a 10-minute recess before calling into the Executive Session meeting? Is that okay?

Chair Nogami Streufert: That is fine. So, Kaaina, you are saying that we have to log off this, and then log back on again.

Mr. Hull: No. If you go onto the Calendar on Teams, there is a separate Teams meeting for the Executive Session. Because it is just between you folks, you folks are the only ones that are invited in there. I cannot even go into that thing. If you folks have problems logging in to it, I am sure Matt will be administering it and can call you folks into it.

Chair Nogami Streufert: Do we need a motion to go into Executive Session and then to adjourn after that?

Mr. Ho: I move that we go into Executive Session.

Chair Nogami Streufert: And adjourn shortly thereafter.

Ms. Otsuka: Kaaina, do we need to read the whole Executive Session details?

Mr. Hull: I am looking at Matt on my screen right now. Matt, do they have to read that? Or do they have to read that language?

County Attorney Matthew Bracken: I can read a shorten version of it.

## **EXECUTIVE SESSION**

Pursuant to Hawaii Revised Statutes 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with County's legal counsel on questions, issues, status, and procedural matters. This consultation involves consideration of the powers, duties, privileges, and immunities, and/or liabilities of the Commission and the County as they relate to Civil NO. 18-0192 (JKW), Class IV Zoning Permit Z-IV-2007-1, Use Permit U-2007-1, Special Permit SP-2007-1 for property located at Tax Map Key NO. (4) 2-8-200: por. 005: *Kauai Springs, Inc.*

Mr. Bracken: Okay so, Pursuant to Hawaii Revised Statutes 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with County's legal counsel as it relates to the Kauai Springs, Inc. Appeal.

Pursuant to Hawaii Revised Statutes 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with County's legal counsel on the powers, duties, privileges, and immunities, and/or liabilities of the Commission as they relate to Contested Case Proceedings.

Mr. Bracken: The purpose of the second executive session is to consult with County's legal counsel as it relates to powers, duties, and privileges, of the Commission.

Chair Nogami Streufert: All those in favor of going into Executive Session and adjourning shortly thereafter, say aye. Aye. (Unanimous voice vote) Any opposed? (None) Motion carried 7:0.

The Commission moved into Executive Session at 11:00 a.m.

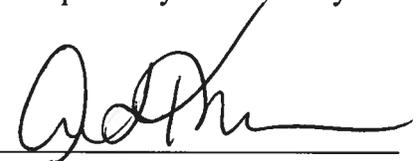
**ADJOURNMENT**

Chair Nogami Streufert: Seeing that we are at the end of our Agenda, the Chair will entertain a motion to adjourn.

Ms. Otsuka: I move to adjourn today's meeting.

Chair Nogami Streufert adjourned the meeting at 11:36 a.m.

Respectfully submitted by:



Arleen Kuwamura,  
Commission Support Clerk

( ) Approved as circulated (add date of meeting approval)

( ) Approved as amended. See minutes of \_\_\_\_\_ meeting.

**BELLES GRAHAM LLP**

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a Hawaii limited liability company

BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUAI

In The Matter Of The Application	)	<u>MASTER PERMIT</u>
	)	
Of	)	Special Management Area Use Permit
	)	SMA(U)-88-4; Use Permit U-88-25; Variance
HANAIEI COMMERCIAL INC., a Hawaii	)	Permit V-88-6; and Class IV Zoning Permit
corporation, and NA PALI BREWING	)	Z-IV-88-30
COMPANY L.L.C., a Hawaii limited	)	
liability company, for a Special Management	)	<u>2006 PERMIT</u>
Area Use Permit, Use Permit, Project	)	
Development Use Permit, and Class IV	)	Special Management Area Use Permit
Zoning Permit, and to amend Special	)	SMA(U)-2006-1; Project Development Use
Management Area Use Permit SMA(U)-88-4,	)	Permit PDU-2006-1; and Class IV Zoning
Use Permit U-88-25, Variance Permit V-88-6,	)	Permit Z-IV-2006-1
and Class IV Zoning Permit Z-IV-88-30, and	)	
Special Management Area Use Permit	)	
SMA(U)-2006-1, Project Development Use	)	<b>APPLICATION AND MOTION TO</b>
Permit PDU-2006-1, and Class IV Zoning	)	<b>AMEND MASTER PERMIT AND</b>
Permit Z-IV-2006-1, concerning property	)	<b>2006 PERMIT; EXHIBITS "A" - "F"</b>
located at Hanalei, Halale'a, Kauai, Hawaii,	)	
identified by Kauai Tax Map Key Nos.	)	
(4) 5-5-009:008 and 009,	)	
	)	
Applicant.	)	
	)	

**APPLICATION AND MOTION TO AMEND MASTER PERMIT AND 2006 PERMIT**  
**(HANALEI COMMERCIAL INC. AND NA PALI BREWING COMPANY L.L.C.)**

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**APPLICATION AND MOTION TO AMEND MASTER PERMIT AND 2006 PERMIT**

Come now HANAIEI COMMERCIAL INC., a Hawaii corporation ("HCI"), and NA PALI BREWING COMPANY L.L.C., a Hawaii limited liability company ("Na Pali Brewing"), Applicant in the above-captioned proceedings, by and through their undersigned attorneys, and requests the Planning Commission of the County of Kauai for a Special Management Area Use Permit, Use Permit, Project Development Use Permit, and Class IV Zoning Permit, and to amend Special Management Area Use Permit SMA(U)-88-4, Use Permit U-88-25, Variance Permit V-88-6, and Class IV Zoning Permit Z-IV-88-30, as amended (collectively, the "Master Permit"), and Special Management Area Use Permit SMA(U)-2006-1, Project Development Use Permit PDU-2006-1, and Class IV Zoning Permit Z-IV-2006-1 (collectively, the "2006 Permit"), as set forth herein. This request is made pursuant to Sections 1-6-16 and 1-12-9 of the Rules of Practice and Procedure of the Planning Commission of the County of Kauai ("PC Rules"), Sections 7.0 and 8.0 of the Special Management Area Rules And Regulations of the County of Kauai ("SMA Rules"), Sections 8-3.2 and 8-9.4(a) of the Comprehensive Zoning Ordinance of the County of Kauai ("CZO") relating to Use Permits, CZO Article 10 relating to Project Developments, and CZO Sections 8-3.1(f), 8-8.4(4) and 8-9.4(b) relating to Zoning Permits.

**SUMMARY**

The Hanalei Commercial Center ("HCC"), which is situated on certain property known as Lot 17, located in Hanalei, Kauai, Hawaii, was approved by the Planning Commission on April 27, 1988. The Master Permit allowed the following commercial uses on Lot 17: the renovation of two existing buildings; the relocation of two buildings (including the Hanalei School

Building); the construction of a new two-story building and two new single-story buildings; the construction of parking, together with driveways, sidewalks, culverts and related improvements; the renovation of an existing single-family residence for Employee Housing; the construction of a Sewage Treatment Plant ("STP"); and a Land Coverage Variance allowing 25% Land Coverage in the CZO Open District on Lot 17, provided that the Total Gross Floor Space in the HCC did not exceed 25,000 square feet.

On November 14, 2006, the Planning Commission approved an Amendment to the Master Permit and a new SMA Use Permit and Project Development Use Permit ("2006 Permit") which allowed the following new uses on Lot 17: the construction of thirty-five (35) new unpaved parking spaces; the construction of three (3) new single-family residences to be used for Employee Housing; the relocation of an access road to the mauka taro lands; and an increase in the allowable Land Coverage in the CZO Open District on Lot 17 from 25% to 33½%.

HCI owns a 7,822 square foot unimproved lot ("Parcel 9") located adjacent to the eastern end of Lot 17. The Applicant would like to develop a Craft Brewery on Parcel 9. In addition, the Applicant wishes to make parking and driveway improvements within the eastern portion of Lot 17 and to modify certain prior Conditions of Approval for the Master Permit and the 2006 Permit. To do this, the Applicant is requesting approvals from the Planning Commission to do the following:

1. To allow the development of a Craft Brewery on Parcel 9.
2. To increase the commercial parking in the eastern portion of Lot 17.
3. To allow a portion of the parking for the Craft Brewery to be located on Lot 17.

4. To extend and amend the configuration of the Driveway within the eastern portion of Lot 17.

5. To allow the development of a Sidewalk and Pedestrian Bridge within the eastern portion of Lot 17.

6. To reduce the permitted Employee Housing in the eastern portion of Lot 17 to the two existing single-family residences, so that the total available Employee Housing units for the Hanalei Commercial Center will be three (3) units.

7. To relocate the Taro Access within the eastern portion of Lot 17.

8. To increase the permitted land coverage in the portion of Lot 17 located in the CZO Open District to 45% (32,175 square feet), subject to the following restrictions:

a. The land coverage in the portion of Lot 17 located in the CZO Neighborhood Commercial District shall not exceed 80%.

b. The total enclosed Commercial Floor Space (i.e., enclosed floor space used exclusively for public commercial purposes) in the portion of Lot 17 located in the CZO Neighborhood Commercial District shall not exceed 25,000 square feet.

c. The total land coverages of both Employee Housing units shall not exceed 4,000 square feet.

d. The improvements within the portion of Lot 17 located in the CZO Open District shall be limited to: the two Employee Housing units; storage/equipment sheds; parking spaces; driveways; sidewalks; Taro Access; vehicular and pedestrian bridges; culverts; and signage, railings and other accessory structures related to such improvements.

9. To amend Condition 4.d. of the 2006 Permit to read as follows:

"d. Applicant shall maintain and update on a regular basis a list of Hanalei Center ~~[employee's]~~ employees (both current and retired) desiring the use of the employee housing units. At a minimum, such a list should identify the individual, family size, and starting date of employment at Hanalei Center. At the time of housing availability, all individuals should be contacted and provided an opportunity to confirm or deny their interest in the housing. ~~[Length of employment should be a primary consideration.]~~ Only upon this list being exhausted can the applicant consider "other employees on the North Shore." These lists, and all subsequent updates, should be provided to the Planning Department in order to confirm that the applicant's intent is being met."

10. To delete Condition 4.e. of the 2006 Permit.

#### SECTION 1. OWNER/SUBJECT PROPERTY.

1.1 Owner. HCI is the owner of the Subject Property ("Owner"), and has authorized Max W. J. Graham, Jr. and Ian K. Jung of Belles Graham LLP to file this Application pursuant to the Authorization attached as Exhibit "A".

1.2 Subject Property. The property which is the subject matter of this Application ("Subject Property") is located in Hanalei, Kauai, Hawaii, and is described as follows:

a. Lot 17 as shown on Map 2 filed with the Assistant Registrar of the Land Court of the State of Hawaii in Land Court Application No. 1160 containing an area of 3.985 acres and identified by Kauai Tax Map Key No. (4) 5-5-009:008 ("Lot 17").

b. Royal Patent 6461, Land Commission Award No. 597 containing an area of 7,822 square feet and identified by Kauai Tax Map Key No. (4) 5-5-009:009 ("Parcel 9").

1.3 Title. HCI's title to the Subject Property is shown on the Land Court Certificate of Title attached as Exhibit "B-1" and the Deed for Parcel 9 attached as Exhibit "B-2".

1.4 Applicant. HCI, as the owner of Parcel 9, has entered into a Lease with Na Pali Brewing for the lease of Parcel 9. Both parties are co-applicants in this Application, and will be jointly referred to as the "Applicant".

## SECTION 2. LOCATION AND LAND USE DESIGNATIONS OF PROPERTY.

2.1 Location. The Subject Property is located in Hanalei, Island and County of Kauai, State of Hawaii, as shown: on the Location Map attached as Exhibit "C-1"; and on Tax Map 5-5-09 attached as Exhibit "C-2" (Lot 17 is shown colored in yellow and Parcel 9 is shown colored in pink). The Subject Property is located in the ahupua'a of Hanalei, as shown on the Ahupua'a Boundary Map attached as Exhibit "C-3".

2.2 Land Use Designations. The respective State Land Use Commission ("SLUC"), Kaua'i General Plan, County of Kauai Comprehensive Zoning Ordinance ("CZO"), and other relevant land use designations for the Subject Property are described as follows:

a. SLUC. The Subject Property is located within the SLUC Urban District and as shown on the SLUC Map attached as Exhibit "C-4". The Subject Property has been located in the Urban District since the inception of the SLUC Districts.

b. Kaua'i General Plan. The North Shore Land Use Map (Figure 5-7) of the Kaua'i General Plan (2018), attached as Exhibit "C-5", appears to include the following portions of Lot 17 and Parcel 9 in the Neighborhood Center Land Use Designation: all of the CZO Neighborhood Commercial District portion of Lot 17; parts of the CZO Open District portions of Lot 17 (along Kuhio Highway and along the mauka boundary); and the portion of Parcel 9 along

Kuhio Highway. The remainder of the CZO Open District portion of Lot 17 and Parcel 9 are located in the Natural Land Use Designation.

c. CZO. The western half of Lot 17 (containing approximately 102,086.6 square feet) is located in the CZO Neighborhood Commercial/Project Development District ("Lot 17(CN)"). The eastern half of Lot 17 (containing approximately 71,500 square feet) is located in the CZO Open District ("Lot 17(O)"). All of Parcel 9 is located in the CZO Open District. The CZO Districts for the Subject Property are shown on Zoning Map ZM-HA700 attached as Exhibit "C-6".

d. Development Plan Area. The Subject Property is located within the North Shore Development Plan Area (Ord. No. 239, as amended). As shown on Figure 7 of the North Shore Development Plan Update ("NSDP Update") attached as Exhibit "C-7", the Subject Property has been placed in the Project Development/Neighbor Commercial and Open Recommended Zoning area of Hanalei Town.

e. Special Management Area. The Subject Property is located within the Special Management Area ("SMA") of the County of Kauai as shown on the SMA Map attached as Exhibit "C-8".

f. Shoreline/Shoreline Setback Area. None of the Subject Property is located along the Shoreline or within the Shoreline Setback Area as defined in HRS Chapter 205A, Part III, and CZO Article 27. The Subject Property is located approximately 1,400 feet from the closest Shoreline.

g. Heritage Resources. The Subject Property is shown on the North Shore Heritage Resource Map (Kauai General Plan, November 2018) attached as Exhibit "C-9" as being located adjacent to a portion of Kuhio Highway which is designated as a

Historic Belt Road. In addition, the following historic properties are located on Lot 17:

(i) The Hanalei Elementary School Building ("Hanalei School Building") (SIHP Number 50-30-03-09387) is located on Lot 17(CN) and is listed on both the Hawaii and National Registers of Historic Places.

(ii) A buried pond field deposit lo'i ("Lo'i") site (SIHP Number 50-30-10-401) is located on Lot 17.

(iii) An existing drainage ditch/auwai ("Auwai") (SIHP Number 50-30--10-400) crosses the Eastern Parking Area of Lot 17(O).

h. Sea Level Rise. Except for the Auwai located in the East Parking Area of Lot 17(O), the Subject Property is not located in the Sea Level Rise Exposure Area (3.2 ft. scenario) shown on the Pacific Islands Ocean Observing System Viewer Map attached as Exhibit "C-10".

2.3 Workforce Housing Requirements. The Housing Policy for the County of Kauai is not applicable in connection with use or zoning permits for commercial development and no workforce housing assessment is triggered by this Application.

2.4 Existing Permits.

a. Master Permit. The Hanalei Commercial Center ("HCC"), which is located on Lot 17, was approved by the Planning Commission on April 27, 1988 pursuant to the Master Permit as set forth in the letter from the Planning Department dated April 28, 1988 attached as Exhibit "D-1". The Master Permit was subject to twenty-two (22) conditions of approval ("Conditions") as shown on the Index of Permit Conditions attached as Exhibit "D-4" ("Permit Index"). The Master Permit allowed the following:

(i) The renovation of two existing buildings on Lot 17(CN) to be used for commercial purposes.

(ii) The relocation of two buildings (including the Hanalei School Building) onto Lot 17(CN) to be used for commercial purposes.

(iii) The construction of a new two-story building and two new single-story buildings on Lot 17(CN), to be used for commercial purposes.

(iv) The construction of a parking area on Lot 17(O), located on the east side of the HCC ("East Parking Area"), and a parking area on Lot 17(CN), located on the west side of the HCC ("West Parking Area"), together with Driveways, sidewalks, culverts and related improvements.

(v) The renovation of an existing single-family residence located within the East Parking Area on Lot 17(O) (the "Dawa House") to be used for Employee Housing.

(vi) The construction of a Sewage Treatment Plant ("STP") for the HCC. *[NOTE: The STP was later relocated to Lot 149 of Land Court Application No. 1160 ("Lot 149"), located on the west side of Lot 17.]*

(vii) A Land Coverage Variance allowing 25% Land Coverage in Lot 17(O), provided that the Total Gross Floor Space in Lot 17(CN) did not exceed 25,000 square feet.

b. 2006 Amendment/2006 Permit. On November 14, 2006, the Planning Commission approved an Amendment to the Master Permit as set forth in the letter from the Planning Department dated November 15, 2006 attached as Exhibit "D-2" ("2006

Amendment") and also approved the 2006 Permit for the HCC on Lot 17 as set forth in the letter from the Planning Department dated November 15, 2006 attached as Exhibit "D-3". The 2006 Amendment and the 2006 Permit were subject to nine (9) new Conditions, as shown on the Permit Index. The 2006 Amendment and 2006 Permit allowed the following:

(i) The construction of thirty-five (35) new unpaved parking spaces in the East Parking Area on Lot 17(O).

(ii) The construction of three (3) new single-family residences (in addition to the existing Employee Housing unit on Lot 149 and the Dawa House) within the East Parking Area of Lot 17(O) to be used for Employee Housing.

(iii) The relocation within Lot 17(O) of an access road to the taro lands mauka (north) of Lot 17 ("Taro Access").

(iv) The amendment of Conditions of the Master Permit increasing the allowable Land Coverage in Lot 17(O) from 25% to 33⅓%.

c. Parcel 9 Permits. No permits have been issued for Parcel 9.

### SECTION 3. PAST, EXISTING AND PROPOSED USES OF SUBJECT PROPERTY.

#### 3.1 Existing Improvements And Uses.

a. Parcel 9. Parcel 9 has no improvements.

b. Lot 17. The following uses and improvements are located on Lot 17:

(i) The HCC, which is composed of seven (7) buildings used for commercial purposes and is located within Lot 17(CN).

(ii) The East Parking Area, located within Lot 17(O), and the West Parking Area, located within Lot 17(CN), both of which serve the HCC.

(iii) Two new single-family residences, both of which are located in Lot 17(O) and are used for Employee Housing. *[Note: There is a third Employee Housing unit located on Lot 149.]* The Employee House No. 1 has a footprint of approximately 1,266 square feet. The Employee House No. 2 has a footprint of approximately 1,213 square feet. *[Note: the Dawa House has been demolished and removed from Lot 17.]*

3.2 Proposed New Improvements And Uses. The proposed development ("Project") includes the following:

a. Parcel 9.

(i) Craft Brewery. Na Pali Brewing proposes to construct a new, two-story commercial building on Parcel 9 to be used for the manufacturing and sale of beer (retail and wholesale). The Site Plan for the Craft Brewery Building is shown on Exhibit "E-1". As shown on the Craft Brewery Floor Plan attached as Exhibit "E-2", the Lower Floor of the Craft Brewery (containing 2,176 square feet) will be used primarily for manufacturing and office facilities, although it will contain a small area for retail sales. The Upper Floor of the Craft Brewery will contain a Tasting Room (872 square feet) and a covered Lanai (500 square feet) that will be used for the retail sale of beer. The Craft Brewery will allow three (3) food trucks ("Food Trucks") to park and operate on a rotating basis on the Parcel 9 premises. These Food Trucks will be allowed to park on the mauka side of the Craft Brewery building. Craft Brewery customers will be allowed to bring food from the Food Trucks into the Craft Brewery.

The retail sale of the beer will be made directly to the customers on premises. In addition, Na Pali Brewing intends to sell kegs of its beer to restaurants or other customers for off-premises use.

(ii) Operation Schedule. The Craft Brewery will operate seven (7) days a week. It will operate from 11:00 a.m. to 9:00 p.m. on Sunday through Thursday, and from 11:00 a.m. to 10:00 p.m. on Friday and Saturday.

(iii) Employees. The Craft Brewery will initially have three (3) full time and three (3) part time employees.

(iv) Parking. CZO Section 8-6.3(e)(3)(B) requires: one (1) parking space for every three (3) employees; and one (1) parking space for each 200 square feet of gross floor space used for retail purposes. Two (2) regular parking space and one (1) disabled parking space will be provided within Parcel 9. The remainder will be provided on Lot 17(O).

(v) Waste Disposal. Na Pali Brewing will install an Aerobic Treatment System ("ATS") connected to a Septic System and Leach Field located on Parcel 9 to dispose of normal wastewater (collectively, the "Individual Wastewater System" or "IWS"). The liquid wastes from the brewing process will not be deposited in the IWS but instead will be collected and recycled twice a month by a licensed sewage disposal vehicle and recycled or taken to a County treatment plant. The solid wastes from the brewing process will be delivered to agricultural operations to be used as livestock feed. Na Pali Brewing intends to adopt strategies that will allow it to recycle all of the waste materials generated by its brewing process.

b. Lot 17.

(i) New Parking And Driveway. Parking for the HCC is currently provided within the West Parking Area and in two areas within the East Parking Area on Lot 17(O). The portion of the East Parking Area located to the west of the Auwai (the Existing Parking Area") contains approximately 45 parking spaces. The portion of the East Parking Area located to the east of the Auwai (the "New Parking Area") currently contains approximately 16 parking spaces. These 16 spaces will be removed and the New Parking Area will be completely developed with 51 new geogrid parking spaces (for a net increase of 35 parking spaces). HCI will need to construct a new driveway ("New Driveway") within the New Parking Area to accommodate these changes. The New Parking Area and New Driveway are shown on the HCC Site Plan attached as Exhibit "E-3" ("HCC Site Plan"). All of these improvements will be located within Lot 17(O).

(ii) New Sidewalk And Bridge. HCI intends to build a new concrete sidewalk ("New Sidewalk") within Lot 17(O) which will extend the existing 4 foot wide concrete sidewalk from its eastern end, along Kuhio Highway (within the East Parking Area) to the new driveway entrance at the eastern Parcel 19 boundary, as shown on the HCC Site Plan. A pedestrian bridge ("Pedestrian Bridge") will be constructed across the Auwai as shown on the HCC Site Plan to connect the portions of the New Sidewalk located on either side of the Auwai. Finally, a pedestrian walkway with porous pavers will be constructed along the new central parking island in the East Parking Area, as shown on the HCC Site Plan. All of these improvements will be located within Lot 17(O).

(iii) Employee Housing. HCI does not intend to construct any further Employee Housing on Lot 17. HCI will continue to maintain and use the existing Employee House No. 1 and the Employee House No. 2 within Lot 17(O) as Employee Housing.

*[Note: There is a third Employee Housing unit located on Lot 149.]*

3.3 Land Coverage.

a. Parcel 9. Parcel 9 is a kuleana lot that was a parcel of record existing prior to September 1, 1972. Pursuant to CZO Section 8-9.2(a)(3), Parcel 9 is entitled to a maximum of 3,000 square feet of land coverage. The total land coverage on Parcel 9 will not exceed 3,000 square feet.

b. Lot 17(O). Pursuant to the 2006 Permit, Lot 17(O) is entitled to a maximum of 33 $\frac{1}{3}$ % (23,833.33 square feet) of land coverage. The Applicant is requesting that the permitted land coverage in Lot 17(O) be increased to 45% (32,175 square feet). The total land coverage after construction of the proposed improvements within Lot 17(O) will not exceed 32,175 square feet.

c. Lot 17(CN). Lot 17(CN) is entitled to a maximum of 80% (81,668.8 square feet) of land coverage. The current land coverage for the CZO Commercial District is 68,740 square feet, which is less than the permitted land coverage.

d. Lot 17/Total Land Coverage. The permitted land coverage for Lot 17 under the CZO is 7,150 square feet in the CZO Open District and 81,669.28 square feet in the CZO Commercial District, for a total of 88,819.28 square feet (51.17%). The Applicant is requesting that the total permitted land coverage be increased to 113,844.28 square feet (65.58%). The Project will comply with these restrictions.

SECTION 4. DESCRIPTION OF SUBJECT PROPERTY AND IDENTIFICATION OF SURROUNDING LANDS.

4.1 Adjacent Property. Immediately makai (north) of the Subject Property is Kuhio Highway. Immediately mauka (south) of the Subject Property is a 719.102 acre parcel known as Lot 4-A identified by Kauai Tax Map Key No. (4) 5-4-003:001, which is owned by Princeville Agricultural LLC. Lot 4-A is located in the SLUC Agricultural District and Conservation District, and in the CZO Agriculture and Open Districts. It contains unimproved lands and is used for pasture purposes and taro cultivation.

To the east of Parcel 9 is a 7,830 square feet lot (R. P. 6461/L. C. Aw. 597) identified by Kauai Tax Map Key No. (4) 5-5-009:010 which is owned by the Tasaka Trust. It is located in the SLUC Urban District and the CZO Open District. It is improved with a single-family residence. To the west of Lot 17 is a 0.824 acre parcel known as Lot 149 of Land Court Application No. 1160 (Map 32) identified by Kauai Tax Map Key No. (4) 5-5-009:022 which is owned by HCI. It is located in the SLUC Urban District and the CZO Agriculture District. It is improved with: predominantly unpaved parking (used by the HCC); a Sewage Treatment Plant ("STP") (used by the HCC); and a single-family residence (used for Employee Housing in conjunction with the HCC).

4.2 Natural Environment.

a. General Description. The Subject Property is composed of level lands.

b. Soil Rating (Land Study Bureau/UH). Because the Subject Property is located in the SLUC Urban District, it is not listed in the Detailed Land Classification - Island of Kauai prepared by the Land Study Bureau, University of Hawaii.

c. Rainfall. The average annual rainfall in the area of the Subject Property is 78 inches.

d. Botanical/Biological Resources. Lot 17 has been fully developed with commercial improvements, parking, and introduced landscaping. Parcel 9 is unimproved and is covered primarily with exotic grasses, hibiscus, ironwood trees, and coconut palm trees. There are no known threatened or endangered biological species utilizing, or threatened or endangered botanical species located on, the Subject Property.

e. Flood Zones. The Subject Property is located within Flood Zone AE (EI.12/13) as shown on the State Flood Hazard Assessment Map (which incorporates Federal Insurance Rate Map 150002-055E) attached as Exhibit "C-11".

f. Wetlands. There are no wetlands on the Subject Property.

#### SECTION 5. PERMITS REQUESTED AND REQUIRED.

5.1 Requested Approval. The Applicant is requesting that the Master Permit and the 2006 Permit be amended to allow the following:

- a. To allow the development of a Craft Brewery on Parcel 9.
- b. To increase the commercial parking in the East Parking Area on Lot 17(O).
- c. To allow a portion of the parking for the Craft Brewery to be located on Lot 17(O).
- d. To extend and amend the configuration of the Driveway within the East Parking Area of Lot 17(O).
- e. To allow the development of a Sidewalk and Pedestrian Bridge within the East Parking Area of Lot 17(O).

f. To reduce the permitted Employee Housing in the East Parking Area of Lot 17(O) to the two existing single-family residences, so that the total available Employee Housing units for the Hanalei Commercial Center will be three (3) units.

g. To relocate the Taro Access within the East Parking Area of Lot 17(O).

h. To increase the permitted land coverage in Lot 17(O) to 45% (32,175 square feet) provided that:

(i) The land coverage in Lot 17(CN) does not exceed 80%;

(ii) The total enclosed Commercial Floor Space (i.e., enclosed floor space used exclusively for public commercial purposes) in Lot 17(CN) does not exceed 25,000 square feet;

(iii) The total land coverages of both Employee Housing units does not exceed 4,000 square feet; and

(iv) The improvements within Lot 17(O) ("Lot 17(O) Improvements") are limited to: the two Employee Housing units; equipment sheds; parking spaces; driveways; sidewalks; Taro Access; vehicular and pedestrian bridges; culverts; and signage, railings and other accessory structures related to such improvements.

i. To amend Condition 4.d. of the 2006 Permit to read as follows:

"d. Applicant shall maintain and update on a regular basis a list of Hanalei Center ~~[employee's]~~ employees (both current and retired) desiring the use of the employee housing units. At a minimum, such a list should identify the individual, family size, and starting date of employment at Hanalei Center. At the time of housing availability, all individuals should be contacted and provided an opportunity to confirm or deny their interest in the housing. [~~Length~~

~~of employment should be a primary consideration.]~~  
Only upon this list being exhausted can the applicant consider "other employees on the North Shore." These lists, and all subsequent updates, should be provided to the Planning Department in order to confirm that the applicant's intent is being met."

- j. To delete Condition 4.e. of the 2006 Permit.

5.2 Legal Requirements for Approval. The proposed uses and amendments will require the following approvals by the Planning Commission:

- a. For the uses and improvements within Lot 17, the Master Permit and 2006 Permit will need to be amended in accordance with Sections 1-6-16 and 1-12-9 of the PC Rules.

- b. For the Craft Brewery and other improvements within Parcel 9, the Planning Commission will need to approve a new SMA Use Permit, CZO Use Permit, CZO Project Development Use Permit, and a CZO Class IV Zoning Permit.

5.3 Official Notice/Commission Records. Pursuant to Rule 1-6-17(j) and (k) of the PC Rules, the Applicant requests the Planning Commission to take Official Notice of, and to incorporate into the record of this Application, all of the materials, records, files, exhibits, documents, and evidence taken in the matter of the Master Permit and the 2006 Permit.

## SECTION 6. IMPACTS OF PROJECT.

6.1 Botanical Resources and Wildlife. There are no known endangered botanical resources or wildlife that will be affected by the Project. The Project will have no significant impact on any endangered or protected wildlife or vegetation in the area of the Subject Property.

6.2 Historical Resources. There are three (3) identified Historic Properties located on Lot 17: the Hanalei School building; remnants of a subsurface taro pond field ("Lo'i Field") (SIHP 50-30-10-401); and a portion of an irrigation ditch ("Auwai") (SIHP 50-30-10-400). As a condition of approval of the Master Permit, the Applicant had Joseph Kennedy of Archaeological Consultants of Hawaii Inc. prepare an Archaeological Report On Data Recovery And Additional Subsurface Testing (May 1991). A copy of the Archaeological Report is attached as Exhibit "F-1". The Archaeological Report was approved and accepted by the State Historic Preservation Division ("SHPD"), as reflected in the series of letters from SHPD attached as Exhibits "F-2" through "F-9" ("SHPD Approval Letters").

Consistent with the Archaeological Report, SHPD determined that the Lo'i Field and Auwai were significant under what is now HAR Section 13-284-6(b)(4) Criterion "d" as likely to yield information important for research on prehistory or history. To accomplish the data recovery, a series of seventeen (17) trenches were dug between the Auwai on the east and the western boundary of Lot 17. This subsurface testing and data recovery failed to uncover evidence of significant pre-historic or early historic use of the site.

Following is an analysis of the Historic Preservation Review Process as it applies to the Project:

a. Identification/Inventory [HAR Section 13-284-3(b)(1)]. The Archaeological Report identified the Auwai and Lo'i Field as Historic Properties. The Auwai is located within the Project Area, and the Lo'i Field would probably extend into the Project Area as well. *[Note: No trenches were dug in the Project Area.]* Other than these two (2) items, there are no other Historic Properties visible on the surface of the Project Area.

b. Evaluation of Significance [HAR Section 13-284-3(b)(2)]. The Auwai and Lo'i Field were previously determined to have significance under HAR Section 13-284-6(b)(4) Criterion "d" as likely to yield information important for research on prehistory or history.

c. Effect Determination [HAR Sections 13-284-3(b)(3) and 13-284-7]. The only Historic Properties within the Property that could be affected by the Project are the Hanalei School building, the Lo'i Field, and the Auwai. No other Historic Properties have been identified as being present within the Project Area.

(i) Hanalei School Building. The Hanalei School building is not located within the Project Area. It is located approximately 200 feet to the west of the closest boundary of the Project Area and approximately 500 feet from the proposed Craft Brewery building on Parcel 9. It is separated from the Project Area by the existing eastern parking area. As a result, because the Project will have no physical or visual impact on the Hanalei School building, a finding of "no historic properties affected" pursuant to HAR Section 13-284-7 would be appropriate for the Project's impact on the Hanalei School building in particular and the Project Area in general (other than the Lo'i Field and Auwai).

(ii) Lo'i Field/Auwai. The Auwai is located within the Project Area and will be impacted by the construction of the pedestrian bridge. The Lo'i Field would be expected to extend within the Project Area, to be of the same character as the portion examined on the western side of Lot 17, and to be impacted in a similar manner by the Project. Both the Lo'i Field and Auwai have been the subject of data recovery as described in the Archaeological Report, and no further information content would be expected from either site.

d. Mitigation Commitment [HAR Sections 13-284-3(b)(4) and 13-284-8]. In response to the impacts on the Lo'i Field and the Auwai, the Applicant agreed to have the Archaeological Report prepared in compliance with HAR Section 13-284-8.

e. Mitigation Plan [HAR Sections 13-284-3(b)(5) and 13-284-8]. Consistent with its commitment, the Applicant prepared and submitted the Archaeological Report to SHPD. The Archaeological Report was approved by SHPD as set forth in the SHPD Approval Letters.

f. Verification of Completion [HAR Sections 13-284-3(b)(6) and 13-284-9]. The mitigation work described in the Archaeological Report was completed to the satisfaction of SHPD as set forth in the SHPD Approval Letters.

g. Summary of Project's Completion of State Historic Preservation Review Process. Based upon the above and SHPD's acceptance of the Archaeological Report, the Applicant requests that the Planning Commission determine the following:

(i) That the Applicant has completed in full Paragraphs 6.3.a. through e., above, pursuant to HAR Section 13-284-3(b)(1)-(5);

(ii) That the Applicant has completed Paragraph 6.3.f., above, pursuant to HAR Section 13-284-3(b)(5)-(6) and Section 13-284-9(d), for all identified historic properties;

(iii) That pursuant to HRS Section 6E-42, SHPD has been allowed an opportunity to review and comment on the effect of the proposed Project on the historic properties and burial sites (consistent with HRS Section 6E-43); and

(iv) That the Applicant has met the requirements as set forth in HRS Section 6E-42 and HAR Section 13-284-3(b)(1)-(5).

Finally, in the event of inadvertent historic site or burial discovery, the Applicant will immediately contact SHPD and the Planning Department and follow the applicable provisions of HAR Chapters 13-280 and 13-300.

6.3 Air Quality/Noise. The Project will have little or no impact on the air quality and ambient noise levels in the area. Air quality and ambient noise levels may be affected at a very minimal level during future activities associated with the construction of the Craft Brewery and the Lot 17(O) Improvements. All vehicles or equipment used by the Applicant during construction will be properly muffled, housed and maintained to reduce any noise impacts or emission impacts. The Environmental Protection Agency (EPA) and State of Hawaii air quality standards will not be exceeded.

6.4 Flooding and Drainage. The Subject Property is situated within Flood Zone AE (El. 12/13), as shown on the State Flood Hazard Assessment map (which incorporates the data shown on Federal Insurance Rate Map 150002-055E). The Project will meet all of the requirements of the Flood Plain Management Ordinance of the County of Kauai, as contained in Chapter 15, Article 1, of the Kauai County Code, 1987. The Project will have no negative impact on flooding on or around the Subject Property. All drainage resulting from construction activities, from road use, and from the increase in land coverage will be retained on site or directed into the Auwai and subject to best management practices. No additional drainage will be allowed to significantly or negatively impact surrounding properties, including the mauka taro lands.

6.5 Utilities.

a. Potable Water. The Project will obtain potable water from the existing Department of Water ("DOW") water meters that serve the Subject Property. Existing DOW facilities in the Hanalei area are sufficient to provide the potable water and fire flow requirements for the Project.

b. Electric/Communications. The Project will obtain electric service from Kauai Island Utility Cooperative, and communication services from Oceanic Time Warner Cable, LLC (dba Spectrum) and/or Hawaiian Telcom, Inc. from existing electric and communications facilities presently serving the Subject Property. These facilities are presently adequate to provide the demand for such services that will be generated by the proposed Project.

6.6 Wastewater Treatment and Disposal. Wastewater generated by the HCC is collected and routed to the STP on Lot 149 via the existing sewer facilities servicing the Subject Property. The wastewater generated on Parcel 9 will be transmitted to an Aerobic Treatment System connected to a Septic Tank and Leach Field system on Parcel 9, as described in Section 3.2a.(v).

6.7 Solid Waste Disposal. Normal solid waste collection and disposal will be provided by HCI as part of its operation of the HCC and/or by Na Pali Brewing by private means. Normal solid waste will be taken to the County's Transfer Stations for disposal in the County Landfill. The liquid and solid wastes from the brewing process on Parcel 9 will be disposed of as described in Section 3.2.a.(v.).

6.8 Governmental Services. The Project will have the following impacts on governmental services:

a. Fire and Police Services. Fire services are available from the Princeville Fire Station, which is located approximately 2.25 miles from the Subject Property. Police services are available from the Princeville Police Sub-Station, which is located approximately 2.25 miles from the Subject Property. The Project will not significantly increase the need for existing fire and police services.

b. Schools. The closest schools are Hanalei Elementary School located in Hanalei, Kilauea Elementary School located in Kilauea, Kapaa Middle School located in Kapaa, and Kapaa High School located in Kapaa. The Project will not generate any significant increase in enrollment.

6.9 Economics. The Project will have the following economic impacts:

a. Jobs. The Project will create: 10 to 20 jobs on a temporary basis during the period of construction; six (6) permanent jobs (3 full time/3 part time) associated with the Craft Brewery operation; and two (2) to four (4) permanent/part-time jobs associated with the Food Trucks.

b. Housing. The Project will not result in the need for additional worker housing. The Craft Brewery employees and all contractors and their employees will be Kauai residents who are already living on Kauai. HCI will continue to provide three (3) Employee Housing units for use by HCC employees.

6.10 Population. The Project will not result in any significant increase in population.

6.11 Traffic Circulation. The major road which services the Subject Property is Kuhio Highway (a State highway). The Project will not significantly increase traffic on this road.

6.12 Heritage Resources. As shown on the North Shore Heritage Resource Map (Figure 5-14 of the Kauai General Plan), the Project is located along Kuhio Highway, which is designated as a Historic Belt Road. In addition, the following historic properties are located on Lot 17: the Hanalei School Building (SIHP Number 50-30-03-09387), which is located on Lot 17(CN), and which is listed on both the Hawaii and National Registers of Historic Places; the Lo'i, which is a buried pond field deposit lo'i site (SIHP Number 50-30-10-401), and which is located throughout Lot 17; and the Auwai, which is an existing drainage ditch (SIHP Number 50-30-10-400), and which is located within Lot 17(O).

The primary public view of the Project will be from Kuhio Highway (the "Vantage Point"). The Project will be designed to blend harmoniously into the surrounding environment. Building materials and exterior colors will be compatible with the surrounding environment. The Project will be landscaped as necessary so as to minimize visual impacts. The Lot 17(O) Improvements will be located at ground level and will not interfere with views from Kuhio Highway in a mauka direction. Numerous other buildings and structures in the area are visible from the Vantage Point. The proposed Project will be no more intrusive than any of these other visible structures. As discussed in Section 6.2, the Project will have no significant effects on any historic sites located on the Subject Property.

## SECTION 7. SLUC CONSIDERATIONS/STATE PLAN.

7.1 SLUC Urban District. The Subject Property is located within the SLUC Urban District. Permitted uses in the SLUC Urban District are set forth in HRS Section 205-2(b), which provides as follows:

"(b) Urban districts shall include activities or uses as provided by ordinances or regulations of the county within which the urban district is situated."

7.2 Project's Compliance with SLUC Urban District Standards. The use of the Subject Property for commercial purposes is recognized as a permissible use under HRS Section 205-2(b).

7.3 State Planning Act. The State Planning Act contains Objectives and Policies to assist the State in attaining its long-range planning Goals. Included in the Objectives and Policies are the following:

"a. **§226-6 Objectives and policies for the economy--in general.** (a) *Planning for the State's economy in general shall be directed toward achievement of the following objectives:*

(1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people, while at the same time stimulating the development and expansion of economic activities capitalizing on defense, dual-use, and science and technology assets, particularly on the neighbor islands where employment opportunities may be limited.

(2) A steadily growing and diversified economic base that is not overly dependent on a few industries, and includes the development and expansion of industries on the neighbor islands.

(b) *To achieve the general economic objectives, it shall be the policy of this State to:*

(1) Promote and encourage entrepreneurship within Hawaii by residents and nonresidents of the State.

(2) Expand Hawaii's national and international marketing, communication, and organizational ties, to increase the State's capacity to adjust to and capitalize upon economic changes and opportunities occurring outside the State.

(3) Promote Hawaii as an attractive market for environmentally and socially sound investment activities that benefit Hawaii's people.

(4) Transform and maintain Hawaii as a place that welcomes and facilitates innovative activity that may lead to commercial opportunities.

(5) Promote innovative activity that may pose initial risks, but ultimately contribute to the economy of Hawaii.

(6) Seek broader outlets for new or expanded Hawaii business investments.

(7) Expand existing markets and penetrate new markets for Hawaii's products and services.

(8) Assure that the basic economic needs of Hawaii's people are maintained in the event of disruptions in overseas transportation.

(9) Strive to achieve a level of construction activity responsive to, and consistent with, state growth objectives.

(10) Encourage the formation of cooperatives and other favorable marketing arrangements at the local or regional level to assist Hawaii's small scale producers, manufacturers, and distributors.

(11) Encourage labor-intensive activities that are economically satisfying and which offer opportunities for upward mobility.

(12) Encourage innovative activities that may not be labor-intensive, but may otherwise contribute to the economy of Hawaii.

(13) Foster greater cooperation and coordination between the government and private sectors in developing Hawaii's employment and economic growth opportunities.

(14) Stimulate the development and expansion of economic activities which will benefit areas with substantial or expected employment problems.

(15) Maintain acceptable working conditions and standards for Hawaii's workers.

(16) Provide equal employment opportunities for all segments of Hawaii's population through affirmative action and nondiscrimination measures.

(17) Stimulate the development and expansion of economic activities capitalizing on defense, dual-use, and science and technology assets, particularly on the neighbor island where employment opportunities may be limited.

(18) Encourage businesses that have favorable financial multiplier effects within Hawaii's economy, particularly with respect to emerging industries in science and technology.

(19) Promote and protect intangible resources in Hawaii, such as scenic beauty and the aloha spirit, which are vital to a healthy economy.

(20) Increase effective communication between the educational community and the private sector to develop relevant curricula and training programs to meet future employment needs in general, and requirements of new or innovative potential growth industries in particular.

(21) Foster a business climate in Hawaii-- including attitudes, tax and regulatory policies, and financial and

technical assistance programs--that is conducive to the expansion of existing enterprises and the creation and attraction of new business and industry.

b. **§226-8 Objective and policies for the economy--visitor industry.** (a) *Planning for the State's economy with regard to the visitor industry shall be directed towards the achievement of the objective of a visitor industry that constitutes a major component of steady growth for Hawaii's economy.*

(b) *To achieve the visitor industry objective, it shall be the policy of this State to:*

(1) Support and assist in the promotion of Hawaii's visitor attractions and facilities.

(2) Ensure that visitor industry activities are in keeping with the social, economic, and physical needs and aspirations of Hawaii's people.

(3) Improve the quality of existing visitor destination areas by utilizing Hawaii's strengths in science and technology.

(4) Encourage cooperation and coordination between the government and private sectors in developing and maintaining well-designed, adequately serviced visitor industry and related developments which are sensitive to neighboring communities and activities.

(5) Develop the industry in a manner that will continue to provide new job opportunities and steady employment for Hawaii's people.

(6) Provide opportunities for Hawaii's people to obtain job training and education that will allow for upward mobility within the visitor industry.

(7) Foster a recognition of the contribution of the visitor industry to Hawaii's economy and the need to perpetuate the aloha spirit.

(8) Foster an understanding by visitors of the aloha spirit and of the unique and sensitive character of Hawaii's cultures and values.

c. **§226-19 Objectives and policies for socio-cultural advancement--housing.** (a) *Planning for the State's socio-cultural advancement with regard to housing shall be directed toward the achievement of the following objectives:*

(1) Greater opportunities for Hawaii's people to secure reasonably priced, safe, sanitary, and livable homes, located in suitable environments that satisfactorily accommodate the needs and desires of families and individuals, through collaboration and

cooperation between government and nonprofit and for-profit developers to ensure that more rental and for sale affordable housing is made available to extremely low-, very low-, lower-, moderate-, and above moderate-income segments of Hawaii's population.

(2) The orderly development residential areas sensitive to community needs and other land uses.

(3) The development and provision of affordable rental housing by the State to meet the housing needs of Hawaii's people.

*(b) To achieve the housing objectives, it shall be the policy of this State to:*

(1) Effectively accommodate the housing needs of Hawaii's people.

(2) Stimulate and promote feasible approaches that increase affordable rental and for sale housing choices for extremely low-, very low-, lower-, moderate-, and above moderate-income households.

(3) Increase homeownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.

(4) Promote appropriate improvement, rehabilitation, and maintenance of existing rental and for sale housing units and residential areas.

(5) Promote design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas.

(6) Facilitate the use of available vacant, developable, and underutilized urban lands for housing.

(7) Foster a variety of lifestyles traditional to Hawaii through the design and maintenance of neighborhoods that reflect the culture and values of community.

(8) Promote research and development of methods to reduce the cost of housing construction in Hawaii."

7.4 Compliance with State Plan. The proposed Project will comply with the State Planning Act as follows:

a. Economy in General. The Project will: provide increased and diversified employment opportunities for Kaua'i residents; promote entrepreneurship by Kaua'i residents; and expand markets for Kaua'i products.

b. Visitor Industry. The Project will enhance the mix of commercial activities that can be used by Kaua'i residents as well as visitors. As such, it will support visitor attractions in the Hanalei Town area and contribute to job opportunities and employment for the Kaua'i community.

c. Housing. The HCC will continue for the foreseeable future to maintain the three (3) Employee Housing units to provide greater opportunities on Kaua'i for safe, sanitary and livable homes for Kaua'i residents employed in the HCC.

## SECTION 8. GENERAL PLAN CONSIDERATIONS.

8.1 Kaua'i General Plan Land Use Designation. The North Shore Land Use Map (Figure 5-7) of the Kaua'i General Plan appears to include the following portions of Lot 17 and Parcel 9 in the Neighborhood Center Land Use Designation: all of Lot 17(CN); parts of Lot 17(O) (along Kuhio Highway and along the mauka boundary); and the portion of Parcel 9 along Kuhio Highway. The remainder of Lot 17(O) and Parcel 9 are located in the Natural Land Use Designation.

a. Neighborhood Center Designation. Land uses in the Neighborhood Center Designation are described in Section 2.2.4 of the General Plan as follows:

### "4. Neighborhood Center

Neighborhood Center is a new designation focused on historic town cores and corresponds to existing or future areas appropriate for accommodating infill development and growth. Centers consist of mixed-use core with a cluster of retail and service activity, civic spaces and primary destinations, along with residential uses. This core area can support an interconnected network of streets and blocks that encourage multimodal transportation access. Centers typically comprise a mix of detached and attached buildings between 1-5 stories in height.

. . . .

***Changes from the Previous General Plan Land Use Map***

Neighborhood Center is a new designation. It updates the previous Town Center boundary and replaces Urban Center and Residential Community in some areas. The designation works with Neighborhood General to indicate existing and new mixed use centers where growth and revitalization should be prioritized."

- b. Natural Designation. Land uses in the Natural Designation are

described in Section 2.2.1 of the General Plan as follows:

"1. Natural

Areas designated as Natural have either limited development capacity or are not suitable for development due to topography, hazards vulnerability, sensitive resources, and other constraints. They include all State Land Use Conservation District lands and some County Open Zoning District land. These areas include the many ridges, waterfalls, river valleys, and rugged coastlines of the island that comprise its open spaces and scenic views. Very few residential uses are found in the Natural designation and are generally not encouraged.

. . . .

***Changes from the Previous General Plan Land Use Map***

Natural replaces the Open Designation in the previous General Plan. The Open Designation included undeveloped natural areas as well as some areas that are vegetated but developed and actively managed, such as golf courses."

8.2 Goals. The overall Goals contained in Section 1.3 of the Kaua'i General Plan, and the Project's compliance therewith, are as follows:

- a. Goal 1 – A Sustainable Island. The Project is an example of responsible growth in an area designated for commercial and open space uses by the general public.

b. Goal 2 – A Unique and Beautiful Place. The Project will compliment the natural, cultural, social and built environmental assets of the Hanalei Town area and Community. It will provide commercial opportunities and uses that are compatible with similar uses in the area.

c. Goal 3 – A Healthy and Resilient People. The Project will have minimal visual impacts and will have no significant negative impacts on the Historic Sites or Hawaiian cultural practices. It will not be located close enough to the shoreline to be affected by sea level rise.

d. Goal 4 – An Equitable Place, with Opportunity for All. The Project will support and enhance economic and business opportunities, jobs, and housing opportunities on Kaua'i.

8.3 Policies. The Project will comply with the Policies contained in Section 1.4 of the Kaua'i General Plan as follows:

a. Manage Growth to Preserve Rural Character. The Project will not detract from the rural characteristics of Kaua'i. It will provide appropriate opportunities for commercial activities within the designated growth boundaries of the Hanalei Town area.

b. Provide Local Housing. The Project will not have any negative effects on affordable housing opportunities for Kaua'i residents. It will be part of the HCC, which maintains three (3) Employee Housing units for HCC employees.

c. Recognize the Identity of Kaua'i's Individual Towns and Districts. The Project will provide commercial opportunities that are consistent with the planning goals for the Hanalei Town area.

d. Design Healthy and Complete Neighborhoods. The Project will be a compliment to healthy and complete neighborhoods by providing close, walkable access to commercial activities in the Hanalei Town area.

e. Make Strategic Infrastructure Investments. The HCC has provided the necessary infrastructure (including a STP, Employee Housing, improvements to Kuhio Highway, and sidewalk) to offset any negative impacts it may have on public facilities.

f. Reduce the Cost of Living. The Project will help provide affordable commercial activities for the Hanalei Town community.

g. Build a Balanced Transportation System. The Project will not substantially increase traffic or congestion problems. It will provide additional and much needed parking for Hanalei Town.

h. Protect Kaua'i's Scenic Beauty. The Project will have a positive influence on the visual resources in Hanalei. The Lot 17(O) Improvements will be located for the most part at ground level and will not detract from views from Kuhio Highway looking toward the mountains (mauka).

i. Uphold Kaua'i as a Unique Visitor Destination. The Project will provide commercial opportunities for visitors, including the unique Craft Brewery.

j. Help Business Thrive. The Project will provide commercial opportunities for residents and visitors, who in turn will generate increased revenues for business and commercial activities in the Hanalei Town area.

k. Help Agricultural Lands Be Productive. The Project will have no negative impact on surrounding agricultural uses. It will help to preserve agricultural lands by

locating commercial uses in appropriately designated areas. As part of the Project, a Taro Access will continue to be provided for the mauka agricultural lands.

- l. Protect Our Watersheds. The Project will have no negative impacts on the watershed areas.
- m. Complete Kaua'i's Shift to Clean Energy. The Project will have no negative impact on Kaua'i's shift to clean sources of energy.
- n. Prepare for Climate Change. The Project is not located on or along the shoreline and will not be subject to sea level rise.
- o. Respect Native Hawaiian Rights and Wahi Pana. As discussed in Section 6.2 and Section 14, the Project will have no substantial impacts on any of the Historic Sites, Hawaiian traditional and cultural practices, or access to streams, shorelines, or areas associated with Hawaiian religious, traditional or cultural practices.
- p. Protect Access to Kaua'i's Treasured Places. The Project will have no impact on the public's access to streams, the shoreline, trails, recreational areas, or places associated with Hawaiian religious, cultural, or traditional practices.
- q. Nurture Our Keiki. The Project will help provide commercial opportunities that will allow Kaua'i's young people to grow and flourish.
- r. Honor Our Kūpuna. The Project will provide commercial opportunities for the Kapuna.
- s. Communicate with Aloha. The scheduling of this Application before the Planning Commission will allow the public to participate in the planning and decision-making process for the Project.

8.4 Objectives & Actions by Sectors. The ten (10) Sectors contained in Section 3.0 of the Kaua'i General Plan (which represent the areas that must be considered in policy implementation), and the Project's compliance therewith, are as follows:

a. The Watershed. Other than the Auwai, the Project is not located in or near any watershed, on the shoreline, or near any streams. The Project will have no significant negative impact on the flow of water through the Auwai. As such, it will have no significant negative impacts on the natural, historic, cultural, or environmental qualities of, or resources within, the Watershed areas, or access thereto.

b. Housing. The Project will provide commercial opportunities compatible with residential uses and needs in the Hanalei Town area. It is appropriately located in an "in-fill" area designated for commercial uses. It will be part of the HCC, which at present maintains three (3) Employee Housing units for HCC employees.

c. Transportation. The Project will not result in a substantial increase in traffic and will have no significant negative impact on Kaua'i's transportation infrastructure. It is within walking distance of visitor amenities, commercial activities, recreation resources, and public facilities.

d. Infrastructure & Services. The Project will be served by existing public (water/electric/cable) systems. As described in Section 3.2.a.(v.), normal wastewater will be disposed of on-site and liquid and solid waste from the brewing process will be taken off-site by Na Pali Brewing.

e. Shared Spaces. The Project will not overburden the use and enjoyment of public resources and Shared Spaces in the Hanalei Town area.

f. Economy. The Project will enhance and promote resident and visitor related uses and expenditures in the Hanalei Town area in support of Kaua'i's economy.

g. Heritage Resources. As discussed in Section 6.2 and Section 14, the Project will have no substantial visual impacts on surrounding lands, and no substantial impacts on the Historic Sites, on Hawaiian cultural or traditional practices, or on access to streams, shorelines, areas associated with Hawaiian cultural or traditional practices, recreational areas or other special places. The Project will not negatively impact any special features or resources that are shown on the North Shore Heritage Resource Map (Kaua'i General Plan Figure 5-14). The Lot 17(O) Improvements will be located for the most part at ground level and will not detract from views from Kuhio Highway looking toward the mountains (mauka).

h. Energy Sustainability. The Project will have no negative impacts on Kaua'i's energy sustainability goals. It will incorporate energy efficient features in its development where possible.

i. Public Safety & Hazards Resiliency. The Project is not located near the shoreline and will not be subject to sea level rise.

j. Opportunity & Health For All. The Project will promote knowledge of and access to Historic Sites, Hawaiian cultural or traditional practices, and public resources.

## SECTION 9. CZO DISTRICT CONSIDERATIONS.

9.1 CZO Neighborhood Commercial District. A portion of the Subject Property (Lot 17(CN)) is located in the CZO Neighborhood Commercial District (with a Project Development overlay). The purposes of the CZO Neighborhood Commercial District are set forth in CZO Article 6, which provides in relevant part as follows:

**"Sec. 8-6.1 Purpose.**

(a) To designate areas suitable for commercial and public or private business activities distributed so as to supply goods and services to the public in a convenient and efficient manner.

(b) To relate commercial and business activities to established or projected transport, utility and community patterns so that they may contribute to the general health, safety and welfare of the public.

(c) To assure that commercial and business development and uses will not detract from the environmental qualities of the surrounding areas.

**Sec. 8-6.2 Types Of Commercial Districts.**

. . .

(b) Neighborhood Commercial shall include uses and services which are frequently required and utilized by residents of all ages and which can be compatibly located in close proximity to residential districts."

9.2 Permitted Uses And Structures In CZO Neighborhood Commercial District.

CZO Section 2.4(i) contains the Uses And Structures which are permitted in the CZO Neighborhood Commercial District, which include the following:

- "(1) Accessory uses and structures
- . . .
- (10) Retail shops and stores
- (11) Restaurants and food services
- . . ."

9.3 Uses And Structures Permitted In CZO Neighborhood Commercial District

With A Use Permit. CZO Section 2.4(k) contains the Uses and Structures which are permitted with a Use Permit within the CZO Neighborhood Commercial District, which include the following:

- "
- (7) Food processing and packaging
  - (8) Light manufacturing
  - (11) Project development in accordance with Article 10 of this Chapter
  - (15) Any other use or structure which the Planning Director finds to be similar in nature to those listed in this Section and appropriate to the District"

9.4 Compliance With CZO Neighborhood Commercial District Standards. The use of the Subject Property for the Craft Brewery operation, the Lot 17(O) Improvements, and other commercial purposes is consistent with CZO Sections 2.4(i) and (j), the Master Permit, and the 2006 Permit.

9.5 CZO Open District. The eastern portion of the Subject Property (including Lot 17(O) and Parcel 9) is located within the CZO Open District. The purposes of the CZO Open District are set forth in CZO Article 9, which provides in relevant part as follows:

**"Sec. 8-9.1 Purpose.**

The Open District is established and regulated to create and maintain an adequate and functional amount of predominantly open land to provide for the recreational and aesthetic needs of the community or to provide for the effective functioning of land, air, water, plant and animal systems or communities.

(a) To preserve, maintain or improve the essential characteristics of land and water areas that are:

- (1) of significant value to the public as scenic or recreational sources;
- (2) important to the overall structure and organization of urban areas and which provide accessible and usable open areas for recreational and aesthetic purposes;
- (3) necessary to insulate or buffer the public and places of residence from undesirable environmental factors caused by, or related to, particular uses such as noise, dust, and visually offensive elements.

(b) To preserve, maintain or improve the essential functions of physical and ecological systems, forms or forces which significantly affect the general health, safety and welfare.

(c) To define and regulate use and development within areas which may be potentially hazardous.

(d) To include areas indicated on the County General Plan as open or as parks."

9.6 Permitted Uses And Structures In CZO Open District. CZO Section 2.4(s)

contains the Uses and Structures permitted in the CZO Open District, which include the following:

"(1) Accessory uses and structures"

9.7 Uses And Structures Permitted In CZO Open District With A Use Permit.

CZO Section 8-2.4(t) contains the Uses And Structures Permitted With A Use Permit within the CZO Open District, which includes the following:

"(4) Home business

(14) Any other use or structure which the Planning Director finds to be similar in nature to those listed in this Section and appropriate to the District"

9.8 Standards For Construction And Use Within An Open District. CZO

Section 8-9.2 regulates land coverage in the CZO Open District and provides as follows:

"(a) Land Coverage:

(3) At least three thousand (3,000) square feet of land coverage shall be permissible on any parcel of record existing prior to or on September 1, 1972."

9.9 Compliance With CZO Open District Standards. The Project is a use and structure permitted with a Use Permit within the CZO Open District pursuant to CZO Section 8-2.4(t)(14). As discussed in Section 12, the Project will comply with the CZO Use Permit Standards. The Land Coverage will not exceed: 3,000 square feet on Parcel 9; or the requested

45% coverage on Lot 17(O). The Project itself will have no significant impact on the surrounding environment. The Lot 17(O) Improvements will be located for the most part at ground level and will not detract from views from Kuhio Highway looking toward the mountains (mauka). As such, the Project complies with CZO Section 8-9.1 in that it: will help to preserve, maintain and improve the natural characteristics of the area; will allow the area to remain predominantly free of development; and will be incidental to the use and open character of the surrounding lands.

#### SECTION 10. DEVELOPMENT PLAN CONSIDERATIONS.

10.1 Community Plan Area. The Subject Property is located in the North Shore geographic area and is subject to the provisions of the North Shore Development Plan Ordinance as set forth in Title IV, Chapter 10, Article 2 of the Kauai County Code, 1987 ("KCC").

10.2 Land Use. The desired long-range land use pattern for the Hanalei Town Area is shown on the Recommended Zoning Map attached as Figure 7 of the North Shore Development Plan Update. The current zoning of the Subject Property is the same as the Recommended Zoning.

10.3 Development Plan Goals and Objectives. The goals and objectives of the North Shore Development Plan Update, as adopted by the North Shore Development Plan Ordinance, include the following:

- Goal A: To preserve the unique natural beauty of the North Shore Planning Area.
- Goal B: To preserve the special rural charm of the North Shore Planning Area.
- Goal C: To provide for the safety and welfare of the people of their property of the North Shore Planning Area.
- Goal D: To provide for economic development of the North Shore Planning Area.

- Goal E: To preserve the wildlife and flora and the North Shore, recognizing man's dependence upon this preservation for his own health and welfare.
- Goal F: To insure the preservation of historic-archaeological sites in the North Shore Planning Area.
- Goal G: To create a development for evolutionary growth that depends upon a planning process whereby conflicts can be resolved through the establishment of priorities and community participation.
- Goal H: To provide for recreational opportunities that are compatible with unique qualities and natural features of the North Shore.

10.4 Compliance with Development Plan Standards. The proposed use of the Subject Property will not conflict with any of the Goals contained in the North Shore Development Plan. The design, layout and outside appearance of the Project is and will be compatible with the natural beauty of the area. As such, the proposed use will not conflict with Goals A or B. The proposed use will provide commercial economic opportunity for Kaua'i residents and as such will promote Goal D. The proposed use will have no significant negative impact on the public safety or welfare, on any endangered species of plants or animals, on archaeological or historic sites, or on recreational opportunities on or around the Subject Property. As such, it will not conflict with Goals C, E, F or H. The process of filing this Application is consistent with the purposes of Goal G.

#### SECTION 11. SMA CONSIDERATIONS.

11.1 Recreational Resources. There are no public recreational opportunities taking place on the Subject Property other than those associated with the commercial aspects of the HCC. Therefore, the proposed Project will not have any negative impact on any public recreational opportunities located on the Subject Property. The construction of the Project will not

overburden the use of, nor restrict access to, the shoreline in the vicinity of the Subject Property. The Project will have no direct impact on any County Beach Parks in the Hanalei Town area and will not overburden their facilities.

11.2 Historic Resources. As discussed in Section 6.2, above, the proposed Project will not have any significant impact on historic, cultural or archaeological resources located on or near the Subject Property. The Applicant will protect and preserve any historic resources that may be found as a result of the development of the proposed Project.

11.3 Scenic and Open Space Resources. The proposed Project will not have any significant impacts on the scenic and open space resources on and around the Subject Property. The Project will be compatible with and blend into the surrounding area. The Project will not interfere with any views to or along the shoreline. The public views of the Project will be primarily from locations on Kuhio Highway. The Applicant will use landscaping to provide reasonable mitigation to the visual impacts the Project may have on the scenic quality of the Subject Property, the Hanalei Town area, and on views from surrounding properties. The Lot 17(O) Improvements will be located for the most part at ground level and will not detract from views from Kuhio Highway looking toward the mountains (mauka).

11.4 Coastal Ecosystems. The Subject Property, being located in Hanalei Valley, is part of the coastal ecosystem of the Hanalei Town area. As discussed in Section 6.4, the proposed Project will have no significant impact on this ecosystem. The Project will be constructed and maintained so that any erosion or increased runoff will be maintained on site, or directed into the Auwai. No aspect of the Project will endanger the coastal ecosystem or have any negative impacts on it.

11.5 Economic Impacts. As discussed previously, the Subject Property has been developed for commercial purposes. The proposed Project will create short term economic benefits associated with the construction of the improvements and long-term economic benefits associated with the operation of the Craft Brewery on Parcel 9. The proposed Project will not have any negative impacts on the economy.

11.6 Coastal Hazards. The Subject Property is situated within Flood Zone AE (El. 12/13), as shown on the State Flood Hazard Assessment map (which incorporates the data shown on Federal Insurance Rate Map 150002-055E). The Project will meet all of the requirements of the Flood Plain Management Ordinance of the County of Kauai, as contained in Chapter 15, Article 1, of the Kauai County Code, 1987. The Project will have no negative impact on flooding on or around the Subject Property. All drainage resulting from construction activities, from road use, and from the increase in land coverage will be retained on site or directed into the Auwai and subject to best management practices. No additional drainage will be allowed to significantly or negatively impact surrounding properties, including the mauka taro lands.

11.7 Managing Development/Public Participation. The commercial activities on the Subject Property are complimentary to, and consistent with, present and future coastal zone development in this area of Kaua'i.

11.8 Beach Protection/Marine Resources. At the closest, the Subject Property is located 1,400 feet from the Shoreline. As a result, the Project will have no impact on any shoreline or beach areas, or on any open space areas along the shoreline. The Project will not involve any development within the beach or coastal area which would have any negative impact on marine or coastal resources. The Applicant is not aware of any existing fishponds, or revetments in the vicinity of the Subject Property.

11.9 Value of Development. The Project involves activities with a value greater than \$500,000.00.

11.10 Compatibility With Surrounding Uses. The Subject Property is surrounded by properties located within the SLUC Agricultural District, the SLUC Urban District, the CZO Neighborhood Commercial District, the CZO Residential District, the CZO Agriculture District, and the CZO Open District. Uses on the surrounding lands include commercial uses, residential uses, transient vacation rentals, farm dwelling uses, and agricultural uses. The Subject Property is similar in topography, character and nature with adjacent and surrounding properties, and the Project activities are consistent with such surrounding uses.

11.11 Impacts Within SMA. The Project activities on the Subject Property will have no significant negative impact on the SMA. The Project is and will be compatible with existing uses in areas on or around the Subject Property. The Project will have no significant negative impact on scenic or open space resources within the SMA. The Project will not increase runoff or otherwise endanger the coastal ecosystem. The Project will be located in a coastal hazard area, but will comply with all applicable flood zone requirements. The Project will have no significant detrimental impact on recreational, historic, or economic resources. Because of its distance from the Shoreline (1,400 feet), the Project will not have any detrimental impacts on beach or marine resources. Approval of the Project will not result in the foreclosure of future management options for development in the Hanalei Town area. The design, siting, and landscaping of the Project as proposed will ensure that the proposed Project will recognize, preserve, maintain and contribute to the characteristics of the surrounding lands (which lands are recognized to be of particular significance or value to the general public). In particular, the Project

will be compatible with, and will protect, the unique natural forms of, biologic systems contained within, and aesthetic characteristic of, the SMA.

11.12 Compliance with SMA Standards. The Project activities on the Subject Property will fulfill the provisions of the Special Management Area Rules And Regulations of the County of Kauai ("SMA Rules") in that:

- a. The Project will have no affect on public access to publicly owned or used beaches and recreational areas.
- b. The Project will not detrimentally effect any wildlife or endangered plant or animal species.
- c. Provisions for solid and liquid waste treatment, disposition and management will be developed in order to minimize adverse effects on the Special Management Area.
- d. Alteration to existing land forms or vegetation and the construction of structures will cause minimum adverse effects to water resources and scenic and recreational amenities, and will minimize danger of floods, wind damage, storm surge, landslides, erosion, siltation, or failure in the event of earthquake.
- e. The Project will not require dredging, filling, or altering any bay, estuary, salt marsh, river mouth, slough or lagoon.
- f. The Project will not reduce the size of any beach or other area useable for public recreation.
- g. The Project will not reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions or rivers or streams within the Special Management Area and the mean high tide line where there is no beach.

h. The Project will not substantially interfere with or detract from the line of sight toward the sea from the State highway nearest the coast;

i. The Project will not adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, or potential or existing agriculture uses of land.

j. The Project will not have any substantial environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interests.

k. The Project is consistent with the objectives, policies, and guidelines set forth in HRS Chapter 205A and Sections 3.0 and 4.0 of the SMA Rules.

l. The Project is consistent with permitted uses in the SLUC Urban District, the Kaua'i General Plan, the North Shore Development Plan, and the CZO.

## SECTION 12. USE PERMIT, PROJECT DEVELOPMENT USE PERMIT, AND ZONING PERMIT CONSIDERATIONS.

12.1 Use Permit/Project Development Use Permit. The Applicant is applying for: an amendment to the Use Permit contained in the Master Permit and the Project Development Use Permit contained in the 2006 Permit for the Lot 17 improvements; and a new Use Permit and Project Development Use Permit for the Parcel 9 improvements.

12.2 Compatibility With Surrounding Uses. The Subject Property is surrounded by parcels that are located within the SLUC Agricultural District, the SLUC Urban District, the CZO Neighborhood Commercial District, the CZO Residential District, the CZO Agriculture District, and the CZO Open District. Uses on adjacent parcels include transient vacation rental uses, farm dwellings, agricultural uses, commercial uses, and residential uses. The Applicant's

operation on the Subject Property, if allowed, is not expected to cause problems for its neighbors and, to that extent, is compatible.

12.3 Compliance with Use Permit Standards. The proposed Project activities on the Subject Property are in compliance with the standards for Use Permits as contained in CZO Section 8-3.2, in that the Project will be:

a. A compatible use. The Project is a use allowed with a Use Permit and therefore is a consistent use provided for in the CZO as long as impacts to the area are mitigated. It will be compatible and similar to other commercial uses in the area.

b. Not detrimental to health of persons residing or working in the neighborhood. The Project will not be detrimental to the health of persons residing and working in the neighborhood given the types of surrounding commercial, residential, resort-residential, and agricultural activities ("Surrounding Activities") in the area.

c. Not detrimental to safety of persons residing or working in the neighborhood. The Project will not have any substantial impacts on the environment, including noise generation, pollution, the discharge of odors, the discharge of fluid or gaseous materials, or visual impacts ("Environmental Impacts") that will be detrimental to the safety of persons residing and working in the neighborhood. The Project will be similar to and compatible with the types of Surrounding Activities in the area.

d. Not detrimental to peace of persons residing or working in the neighborhood. The Project will not create any Environmental Impacts that will be detrimental to the safety of persons residing and working in the neighborhood.

e. Not detrimental to morals of persons residing or working in the neighborhood. The Project will not involve activities that will be detrimental to the morals of persons residing and working in the neighborhood.

f. Not detrimental to comfort and general welfare of persons residing or working in the neighborhood. The Project will not create any Environmental Impacts that will be detrimental to the general welfare of persons residing and working in the neighborhood. It will be similar to Surrounding Activities and only operate during reasonable hours.

g. Not detrimental or injurious to property or improvements in the neighborhood. The Project will not create any Environmental Impacts that will be detrimental to the health of persons residing and working in the neighborhood.

h. Not detrimental to the general welfare of the community. The Project will not create any Environmental Impacts that will be detrimental to the general welfare of the community.

i. Not a cause of substantial harmful environmental consequences to the Subject Property, or to other lands or waters. The Project will not generate Environmental Impacts or negative by-products which would affect the surrounding area. All waste materials generated by the brewing process will be removed from Parcel 9.

j. Not inconsistent with the intent of the CZO. As discussed herein, the Project activities are compatible with uses and structures within the CZO Neighborhood Commercial District and CZO Open District.

k. Not inconsistent with the General Plan. As discussed herein, the Project activities will be consistent with the Goals, Policies, and Objectives & Actions (Sectors) of the Kauai General Plan.

SECTION 13. HRS CHAPTER 343 (ENVIRONMENTAL IMPACT STATEMENTS)  
CONSIDERATIONS.

13.1 HRS Chapter 343. The Project is not subject to the provisions of Hawaii Revised Statutes Chapter 343. HRS Chapter 343 requires the preparation of an Environmental Assessment and/or an Environmental Impact Statement for certain activities as specified in HRS Section 343-5. The proposed Project does not fall within such specified activities, in that the Project does not:

- a. Propose the use of state or county lands or the use of state or county funds;
- b. Propose any use within any land classified as conservation district by the State Land Use Commission under HRS Chapter 205;
- c. Propose any use within the shoreline area as defined in HRS Section 205A-41;
- d. Propose any use within any historic site as designated in the National Register or Hawaii Register as provided for in the Historic Preservation Act of 1966, Public Law 89-665, or HRS Chapter 6E;
- e. Propose any use within the Waikiki area of Oahu, the boundaries of which are delineated in the land use ordinance as amended, establishing the "Waikiki Special District";
- f. Propose any amendments to existing county general plans where such amendment would result in designations other than agriculture, conservation, or preservation;

g. Propose any reclassification of any land classified as conservation district by the State land Use Commission under HRS Chapter 205;

h. Propose the construction of new, or the expansion or modification of existing, helicopter facilities within the state; or

i. Propose the construction of a wastewater treatment unit, waste-to-energy facility, oil refinery, or power generating facility (which use petroleum based fuels).

#### SECTION 14. NATIVE HAWAIIAN ISSUES.

14.1 Impacts on Traditional or Cultural Practices. As discussed in the Ka Pa'akai O Ka'āina Analysis (September 2019) prepared by Exploration Associates Ltd. attached hereto as Exhibit "F-10", the Project will have no impact on any known traditional or customary practices of native Hawaiians.

a. There are no known traditional or customary practices of native Hawaiians that are presently occurring within the Subject Property.

b. There are no special gathering practices taking place within any portion of the Subject Property.

c. The Project will not detrimentally affect: access to the Auwai or any streams; access to the shoreline or other adjacent shoreline areas; or gathering along or in the Auwai, any streams, the shoreline or the ocean.

d. There are no known religious practices taking place within the Subject Property.

e. Other than the Hanalei School Building, the Lo'i Field, and the Auwai, there are no known cultural or historic sites or resources located within the Subject Property.

f. There are no known burials within the Subject Property.

#### SECTION 15. COMMUNITY CONTACTS.

15.1 Contact with Community Groups. The Applicant will provide the Hanalei/Haena Community Association with this Application.

#### SECTION 16. CONCLUSION.

The Applicant respectfully requests that the Planning Commission:

1. Find that the Project will not have any substantial environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.
2. Find that the Project is consistent with the objectives, policies, and guidelines set forth in Hawaii Revised Statutes Chapter 205A and Sections 3.0 and 4.0 of the SMA Rules.
3. Find that the Project is consistent with permitted uses in the SLUC Urban District, the Kauai General Plan, the North Shore Development Plan, and the CZO.
4. Find that the Project will be in compliance with the provisions of HRS Chapter 6E and Title 13, Subtitle 13, Chapter 284 of the Hawaii Administrative Rules.
5. Find that the Project will be consistent with the provisions of HRS Sections 1-1 and 7-1 and Article 12, Section 7 of the Hawaii State Constitution.

6. Find that the Applicant has satisfied the minimum requirements of Ka Pa'akai O Ka'aina v. Land Use Commission to protect customary and traditional native Hawaiian rights.

7. Find that the Project satisfies and complies with the CZO Use Permit, Project Development Use Permit, and Class IV Zoning Permit requirements.

8. Approve the Application for the Project on the Subject Property as described herein, subject to such reasonable conditions as the Planning Commission shall impose.

DATED: Lihue, Kauai, Hawaii, March 16, 2020.

**BELLES GRAHAM LLP**

By 

MAX W. J. GRAHAM, JR.

IAN K. JUNG

Attorneys for Applicant,

HANAIEI COMMERCIAL INC., a Hawaii

corporation, and NA PALI BREWING

COMPANY L.L.C., a Hawaii limited

liability company

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In The Matter Of The Application Of HANAIEI COMMERCIAL INC., a Hawaii corporation, and NA PALI BREWING COMPANY L.L.C., a Hawaii limited liability company, for a Special Management Area Use Permit, Use Permit, Project Development Use Permit, and Class IV Zoning Permit, and to amend Special Management Area Use Permit SMA(U)-88-4, Use Permit U-88-25, Variance Permit V-88-6, and Class IV Zoning Permit Z-IV-88-30, and Special Management Area Use Permit SMA(U)-2006-1, Project Development Use Permit PDU-2006-1, and Class IV Zoning Permit Z-IV-2006-1, concerning property located at Hanalei, Halale'a, Kauai, Hawaii, identified by Kauai Tax Map Key Nos. (4) 5-5-009:008 and 009; **APPLICATION AND MOTION TO AMEND MASTER PERMIT AND 2006 PERMIT; EXHIBITS "A" - "F"**

**EXHIBIT LIST**

(HANALEI COMMERCIAL INC. AND NA PALI BREWING COMPANY L.L.C.)

**EXHIBIT**

A. **AUTHORIZATION**

Authorization .....A

B. **TITLE**

Certificate of Title.....B-1

Deed .....B-2

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Ka Pa'akai O Ka'aina Analysis (September 2019).....F-10

**EXHIBIT "A"**

## AUTHORIZATION

### I. OWNER.

Name: HANAIEI COMMERCIAL INC.,  
a Hawaii corporation

Address: c/o Mr. Gaylord Wilcox  
P. O. Box 10150  
Honolulu, Hawaii 96816

Telephone: (808) 721-7848  
Email: [gaylord@gwilcox.com](mailto:gaylord@gwilcox.com)

### II. AUTHORIZED AGENT.

Name: Max W. J. Graham, Jr., Esq.  
Ian K. Jung, Esq.

Address: Belles Graham LLP  
4334 Rice Street, Suite 202  
Lihue, Kauai, Hawaii 96766

Telephone: (808) 246-6962  
Facsimile: (808) 245-3277  
Email: [mwg@kauai-law.com](mailto:mwg@kauai-law.com)  
[ikj@kauai-law.com](mailto:ikj@kauai-law.com)

### III. PROPERTY.

Lot 17, Map 2, Land Court Application No. 1160  
Hanalei, Kauai, Hawaii  
Kauai Tax Map Key No. (4) 5-5-009:008

Royal Patent 6461, Land Commission Award No. 597  
Hanalei, Kauai, Hawaii  
Kauai Tax Map Key No. (4) 5-5-009:009

IV. AUTHORIZATION

The Owner hereby authorizes the Authorized Agent to act on the Owner's behalf and to file and process on the Owner's behalf any and all applications necessary to obtain governmental permits relating to the Subject Property, including, but not limited to, the following:

1. Permits and approvals, including Building permits, grading permits, use permits, variance permits, zoning permits, shoreline setback determinations, and Special Management Area permits, issued by any department, agency, board or commission of the County of Kauai.
2. Permits and approvals issued by the Department of Health of the State of Hawaii.
3. Permits and approvals issued by the Department of Transportation of the State of Hawaii.

DATED: 2/28/19

OWNER:

HANALEI COMMERCIAL INC.,  
a Hawaii corporation

By *Gayford H. Wilcox*  
GAYFORD H. WILCOX  
Its President

**EXHIBIT "B-1"**

Jaylord Wilcox

297,116

328,785

1631899

05/04/1989

/s/

Patricia Kimura

REGISTERED OWNER

-HANAIEI COMMERCIAL INC.-, a Hawaii corporation  
111 Royal Circle, Honolulu, Hawaii 96816

\*\*\* lco cons lots 15 & 16 into lots 148 & 149 12-8-05 \*\*\*\*\*

LAND

Situate at Hanalei, Kauai

LOTS: 16, .116 acre and  
17, 3.985 acres, Map 2,

Land Court Application 1160 of Ethel Kulamanu Wilcox

ENCUMBRANCES

<u>Lot/Int.(%)</u>	<u>Document#</u>	<u>Class</u>	<u>In Favor Of / Terms</u>
			R/W in favor of Kauai County Hanalei Waterworks' pipeline, Lot 16 CANCELLED BY DOC 1894732.....[PK]
	105780	LCO	Perpetual covenants in Doc 1070539 Easement 12, Lot 16, Map 24.....[SF]

ENCUMBRANCES (continued)

<u>Lot/Int. (%)</u>	<u>Document#</u>	<u>Class</u>	<u>In Favor Of / Terms</u>
	493379	GRANT	Eagle County Development Corporation, Lot 16
	494455	GRANT	Lihue Plantation Company, Limited, Lot 16
	1609436	MTG	HonFed Bank, A Federal Savings Bank
	1631900	CONSENT	Deed 1631899.....[PK]
	1697265	LEASE	Kanai Corp, Space 3, Bldg A, of Hanalei Center Phase 1, exp 12/01/94.....[PK]
	1697266	MTG	Bank of Hawaii, Lease 1697266.....[PK]
	1701534	LEASE	Big Tim's Inc., Space 5, Bldg A of Hanalei Center, exp 2/19/95 with option to extend.....[PK]
	1701535	MTG	Bank of Hawaii, Lease 1701534; Consent 1701536.....[PK]
	1894733	GRANT	County of Kauai, Dept of Water, Lot 16, for waterpipeline.....[PK]
	1914719	MTG	GECC Financial Corporation.....[HE] Amended by Doc 2413357.....[RD]
	1921056	REL	Mtg 1609436.....[PK]
	1943843	ESTOPPEL	Lessee certify that Lease 1701534 is effective & Mtg 1914719 is entitled to all benefits thereon.....[WC]
	1943844	ESTOPPEL	Lessee certify that Lease 1697265 is effective & Mtg 1914719 is entitled to all benefits thereon.....[WC]
	2080686	GRANT	County of Kauai, Dept of Water, Easements 14, 15, 16 & 17, Map 25..[WC]
	2106262	REL	Mtg 1701535.....[CS]
	2158697	REL	Mtg 1697266.....[NG]
	2280213	A/M	GE Capital Hawaii, Inc, Mtg 1914719 [NG]
	2550567	MTG	Bank of Hawaii.....[HE]
	2552145	REL	Mtg 1914719.....[SDJ]
16			Right of way in favor of owners in Deed in Liber 9, Pg 271; & Princeville Plantation Company, Lot 16
16	112180	LCO	Easement 14, Map 25, for water facility .....[HE]
17	112180	LCO	Easements 15, 16 & 17, Map 25, for water facility.....[HE]

**EXHIBIT "B-2"**



R-1046 STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED  
MAR 30, 2007 10:00 AM  
Doc No(s) 2007-058294



Is/ CARL T. WATANABE  
REGISTRAR OF CONVEYANCES

CTax (20): \$1670.00

20 1/2 Z9

LAND COURT SYSTEM

REGULAR SYSTEM

Return By Mail ( ) Pickup (X) To:  
Darnon Key Leong Kupchak Hastert (KRK)  
1600 Pauahi Tower, 1001 Bishop Street  
Honolulu, Hawaii 96813  
TELEPHONE: 531-8031

(This document contains 4 pages)

5-5105 A Kuhio Highway  
Hanalei, HI 96714  
TMK: (4) 5-5-9-9

### LIMITED WARRANTY DEED

THIS LIMITED WARRANTY DEED, made this 30<sup>th</sup> day of March, 2007, by and between GAYLORD & CAROL WILCOX FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership, whose address is 111 Royal Circle, Honolulu, Hawaii 96816, hereinafter called "Grantor", and HANAIEI COMMERCIAL INC., a Hawaii corporation, whose address is 111 Royal Circle, Honolulu, Hawaii 96816, hereinafter called "Grantee,"

### WITNESSETH:

That Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00), and other valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, and convey, unto Grantee, as tenant in severalty, its successors and assigns, absolutely and in fee simple, all of the property described in Exhibit "A," attached hereto and made a part hereof;

AND the reversions, remainders, rents, issues and profits thereof and all of the estate, right, title and interest of Grantor, both at law and in equity, therein and thereto;

TO HAVE AND TO HOLD the same forever, together with all buildings, improvements, hereditaments, tenements, rights, easements, privileges and appurtenances thereunto belonging or appertaining or held and enjoyed therewith, unto Grantee, as aforesaid;

EXHIBIT "B-2"

AND Grantor, in consideration of the premises, does hereby covenant and agree to and with Grantee that the real property herein described is free and clear of and from all liens and encumbrances made or suffered by Grantor, except for the lien of real property taxes not yet by law required to be paid, and except as may be specifically set forth herein; that Grantor has good right to sell and convey said property, as aforesaid; and that Grantor will WARRANT AND DEFEND the same unto Grantee against the lawful claims and demands of all persons claiming by, through or under Grantor, except as aforesaid;

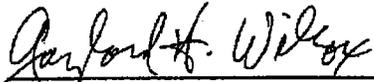
AND Grantee acknowledges that the property is being sold "AS IS", with knowledge of the conditions disclosed by Grantor and/or discovered during inspection(s) of the property. Grantee understands and agrees that all land and improvements (including but not limited to the roof, walls, foundations, soils, plumbing, electrical and mechanical systems, etc.), real property, and personal property (if any) are sold in their existing "AS IS" condition, WITHOUT WARRANTY OR REPRESENTATIONS, EXPRESS OR IMPLIED.

The terms "Grantor" and "Grantee" shall include Grantor, Grantee and their respective successors and assigns.

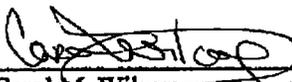
IN WITNESS WHEREOF, the undersigned have executed this instrument the day and year first above written.

GAYLORD & CAROL WILCOX  
FAMILY LIMITED PARTNERSHIP,  
a Hawaii limited partnership

HANAIEI COMMERCIAL INC.,  
a Hawaii corporation

  
\_\_\_\_\_  
Gaylord H. Wilcox  
Its General Partner

  
\_\_\_\_\_  
Gaylord H. Wilcox  
Its President

  
\_\_\_\_\_  
Carol M. Wilcox  
Its General Partner

"Grantee"

"Grantor"

As instructed, Damon Key Leong Kupchak Hastert prepared this document without a current title search and has not otherwise verified title.

STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

On this 19<sup>th</sup> day of March, 2007, before me personally appeared GAYLORD H. WILCOX and CAROL M. WILCOX, to me personally known, who, being by me duly sworn (or affirmed), did say that such persons executed the foregoing instrument, as the free act and deed of such persons, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

LS

Carolyn L. Yamashita  
Name: Carolyn L. Yamashita  
Notary Public, State of Hawaii  
My commission expires: 5/26/07

STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

On this 19<sup>th</sup> day of March, 2007, before me personally appeared GAYLORD H. WILCOX, to me personally known, who, being by me duly sworn (or affirmed), did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

LS

Carolyn L. Yamashita  
Name: Carolyn L. Yamashita  
Notary Public, State of Hawaii  
My commission expires: 5/26/07

**EXHIBIT "A"**  
**(Page 1 of 1)**

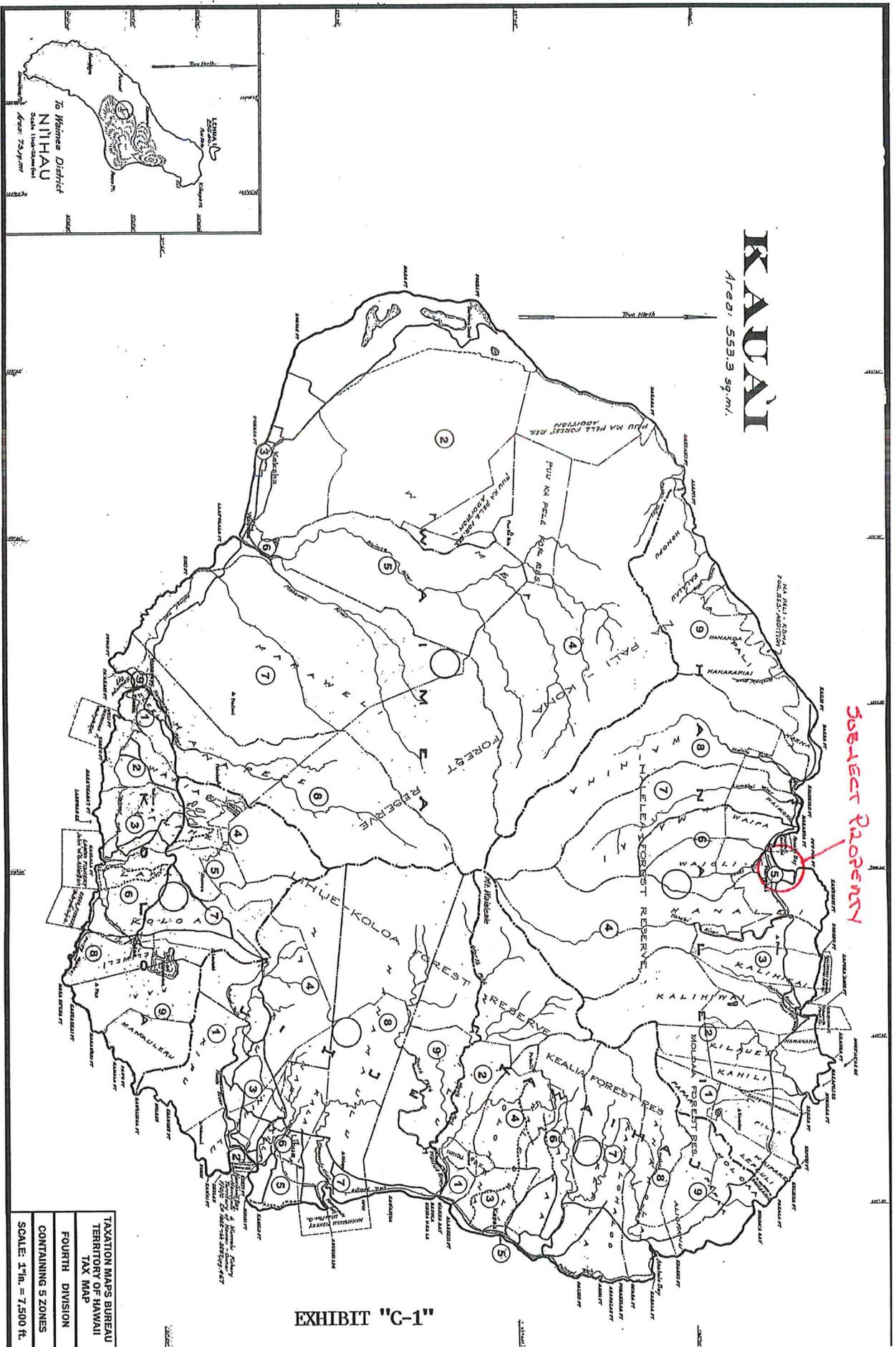
All of that certain parcel of land (portion of the land described in and covered by Royal Patent Grant Number 6461, Land Commission Award Number 597 to T. C. B. Rooke) situate, lying and being at Hanalei, Island and County of Kauai, State of Hawaii, bearing Tax Key designation 5-5-09-09 (4), and containing an area of 7,822 square feet, or thereabouts.

BEING a portion of the property conveyed to Grantor herein by the Trustee's Limited Warranty Deed dated July 31, 2001, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2001-158699.

**SUBJECT, HOWEVER, to the following:**

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Any and all recorded and unrecorded leases.
3. Any and all encumbrances, easements, restrictions, and reservations presently of record.

**EXHIBIT "C-1"**



SUBJECT PROPERTY

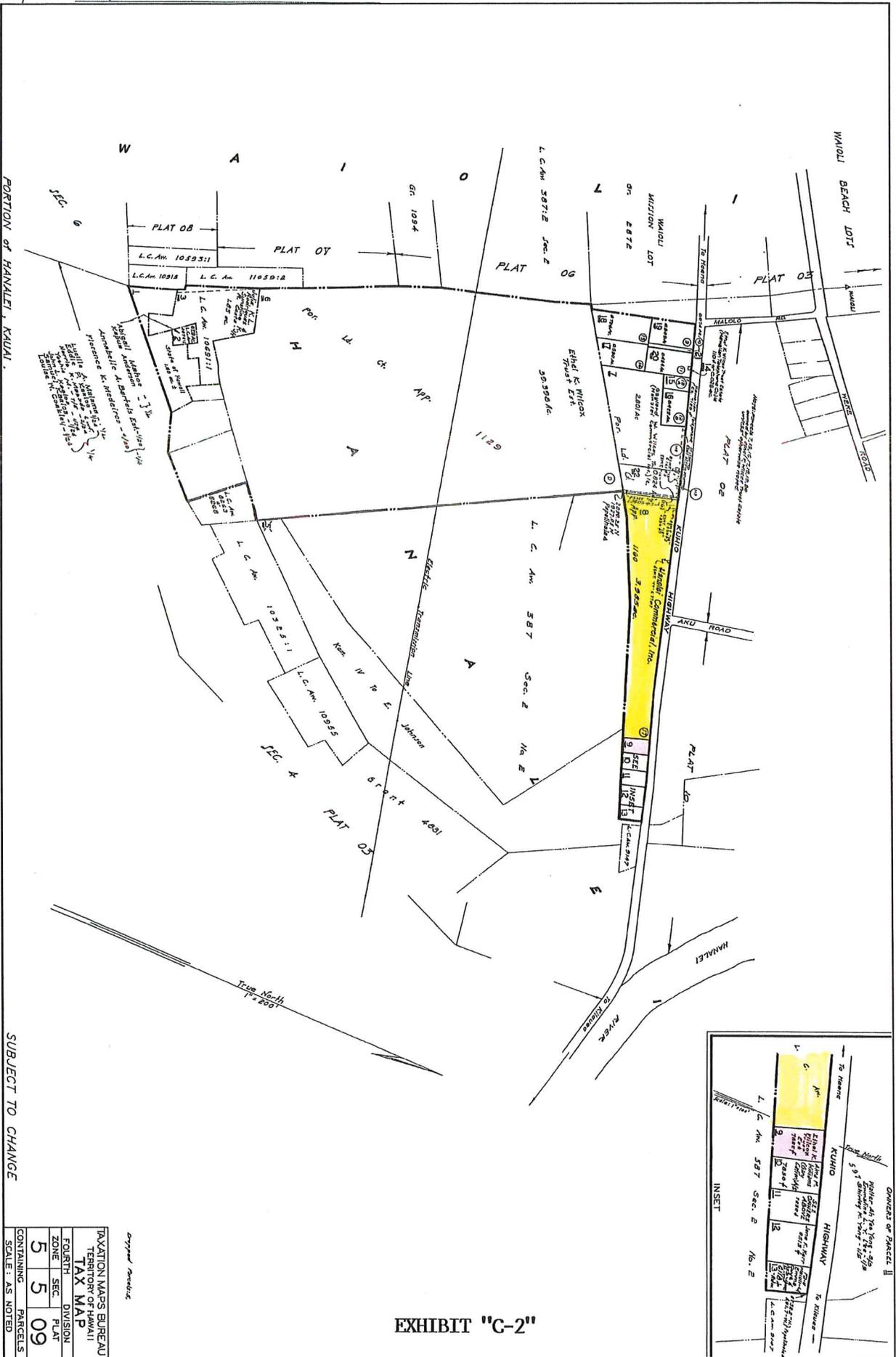
EXHIBIT "C-1"

TAXATION MAPS BUREAU  
 TERRITORY OF HAWAII  
 TAX MAP  
 FOURTH DIVISION  
 CONTAINING 5 ZONES  
 SCALE: 1" = 7,500 FT.

**EXHIBIT "C-2"**

CORRECTED  
 DEC 29 1935  
 NOV 13 1935  
 NOV 3 1935  
 NOV 2 1935  
 NOV 1 1935  
 OCT 31 1935  
 OCT 30 1935  
 OCT 29 1935  
 OCT 28 1935  
 OCT 27 1935  
 OCT 26 1935  
 OCT 25 1935  
 OCT 24 1935  
 OCT 23 1935  
 OCT 22 1935  
 OCT 21 1935  
 OCT 20 1935  
 OCT 19 1935  
 OCT 18 1935

Div. No. : 3094  
 Source : Tax Maps Bureau, Survey Dept., &  
 By : P.K. & S.L.C. Nov., 1936.



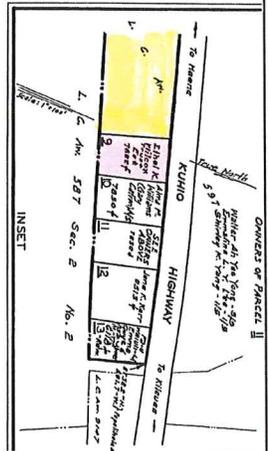
PORTION OF HANALEI, KAUAI.

SUBJECT TO CHANGE

Original Records.

TAXATION MAPS BUREAU			
TERRITORY OF HAWAII			
TAX MAP			
FOURTH	DIVISION	PLAT	SECTION
5	5	09	
CONTAINING PARCELS			
SCALE : AS NOTED			
PRINTED.....			

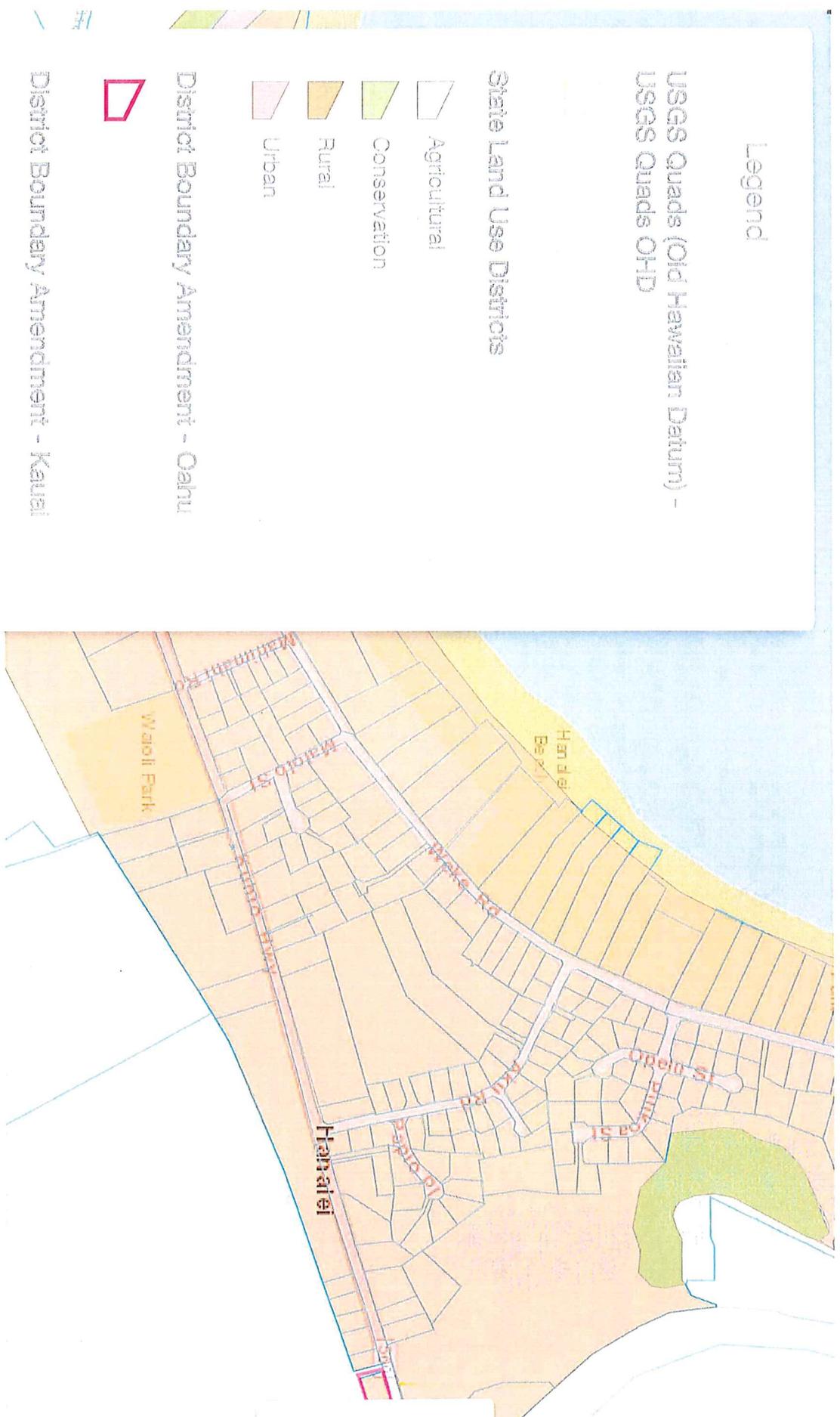
EXHIBIT "C-2"



**EXHIBIT "C-3"**



**EXHIBIT "C-4"**



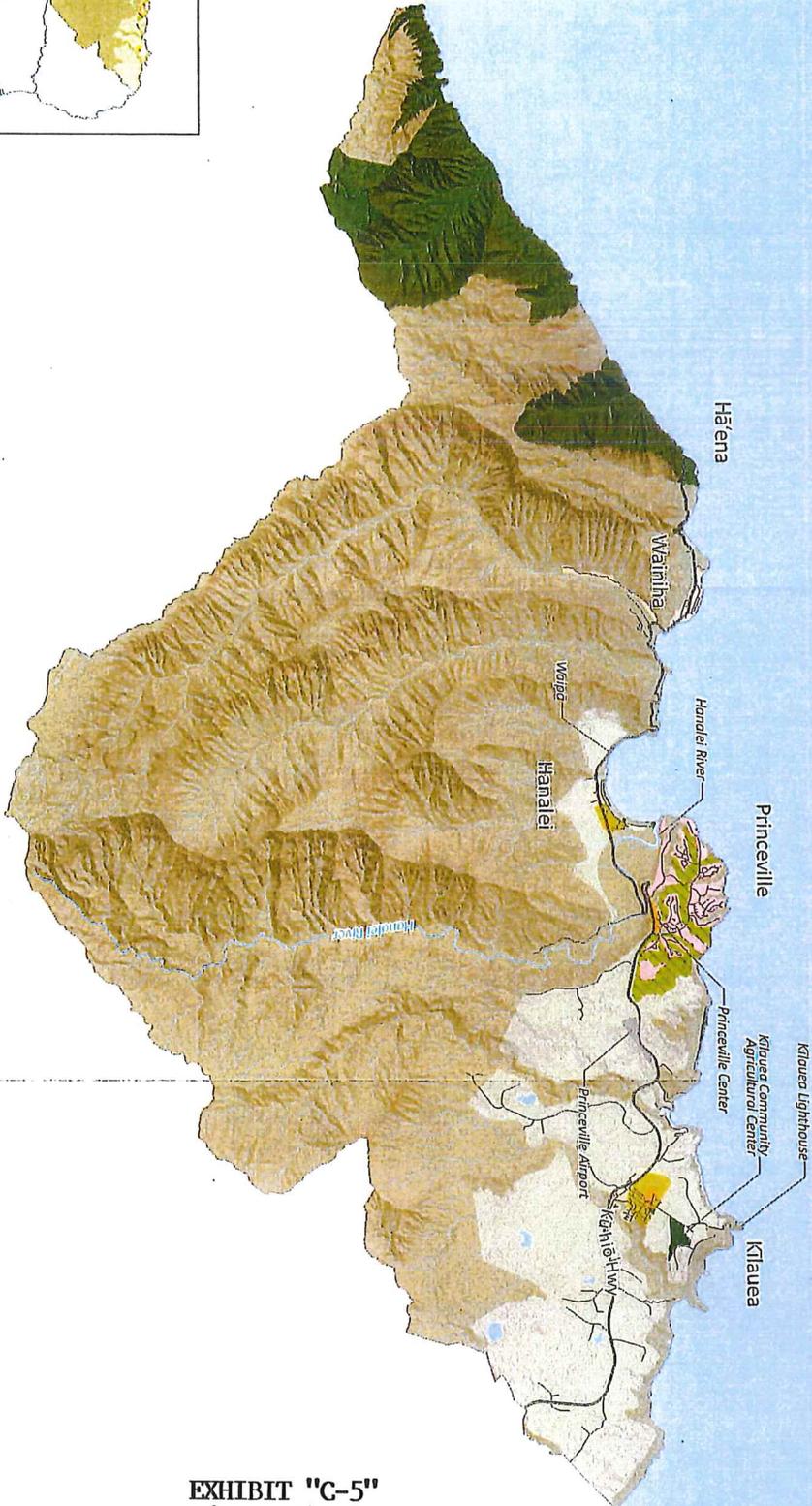
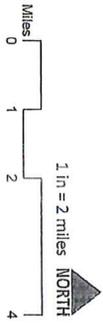
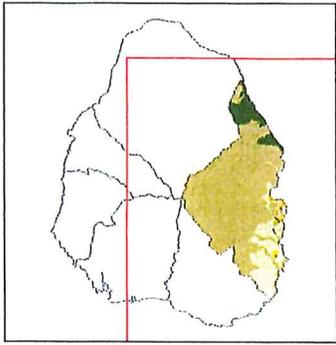
# State of Hawaii Land Use District Boundaries Map - January 20...

EXHIBIT "C-4"

**EXHIBIT "C-5"**

**Figure 5-7 North Shore Land Use Map**

- Planning District Boundary
- Major Roads
- Roads
- Streams
- Reservoirs
- Natural
- Agriculture (HA)
- Parks and Recreation
- Golf Course
- Homesite
- Residential Community
- Neighborhood Center
- Neighborhood General
- Resort
- Transportation



**EXHIBIT "C-5"**  
**(1 of 2)**



Kauai Kakou Gen...e.pdf

...

# KAUAI KAKOU



EXHIBIT "C-5"  
(2 of 2)

**EXHIBIT "C-6"**

# SPECIAL NORTH SHORE PLANNING AREA

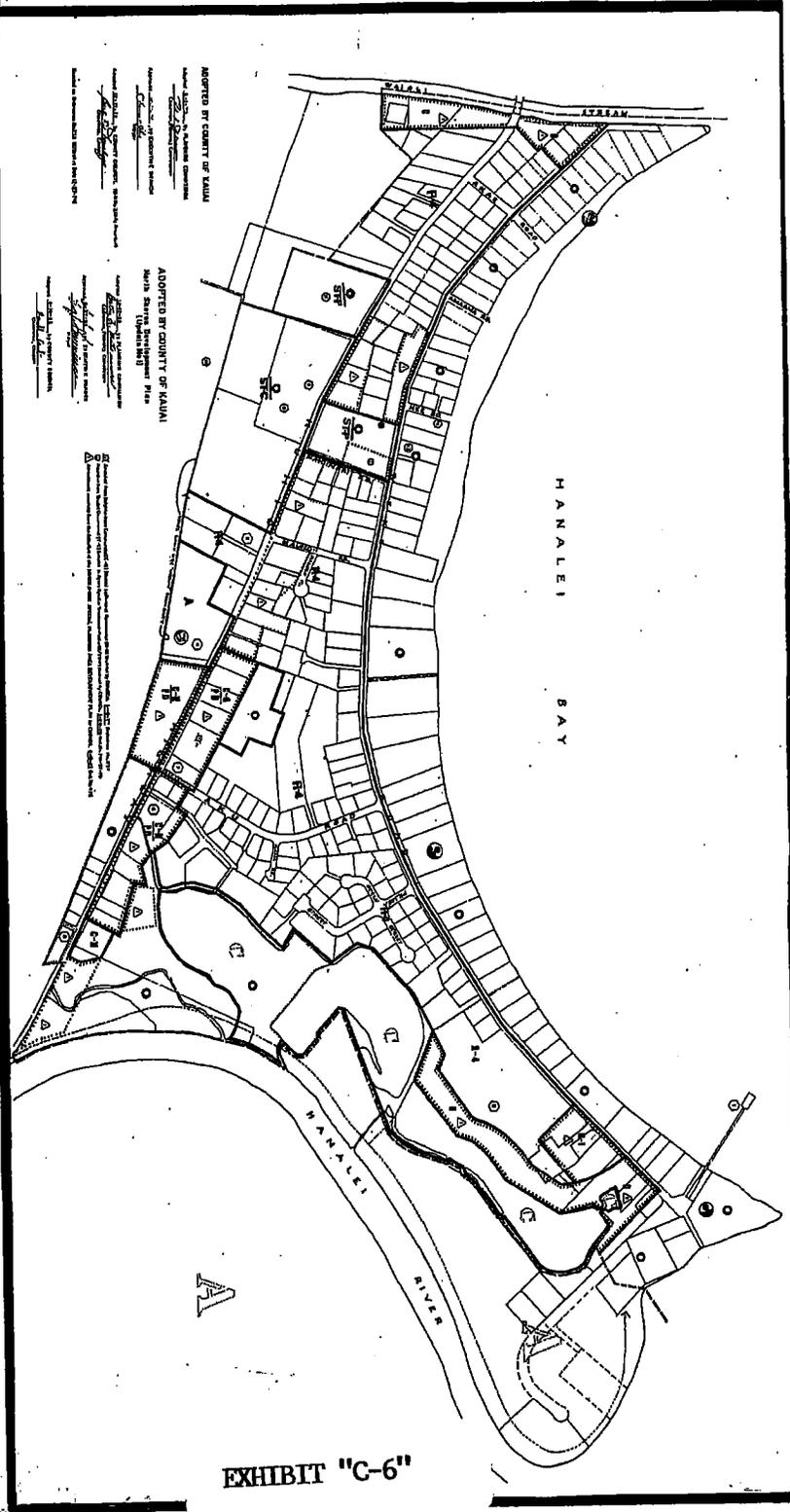
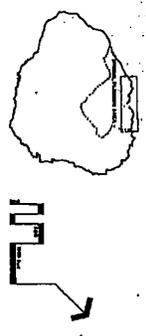
KALIA COUNTY

ZONING MAP ZM-HA700

HANAIEI TOWN

## LEGEND

- ⊙ MAJOR CONSERVATION
- OPEN SPACE
- △ ASSOCIATIVE DISTRICT
- ⊕ PRESERVATION DISTRICT
- ⊖ EXISTING HIGH
- STATE LAND USE BOUNDARY
- R-2 RESIDENTIAL
- R-4 RESIDENTIAL
- CM NEIGHBORHOOD COMMERCIAL
- RR RESORT
- ST-1 SPECIAL TREATMENT
- ST-2 SPECIAL TREATMENT
- ST-3 SPECIAL TREATMENT
- ST-4 SPECIAL TREATMENT



ADOPTED BY COUNTY OF KALIA  
 Mayor: [Signature]  
 County Engineer: [Signature]

ADOPTED BY COUNTY OF KAUAI  
 Mayor: [Signature]  
 County Engineer: [Signature]

ADOPTED BY COUNTY OF MAUI  
 Mayor: [Signature]  
 County Engineer: [Signature]

EXHIBIT "C-6"

**EXHIBIT "C-7"**

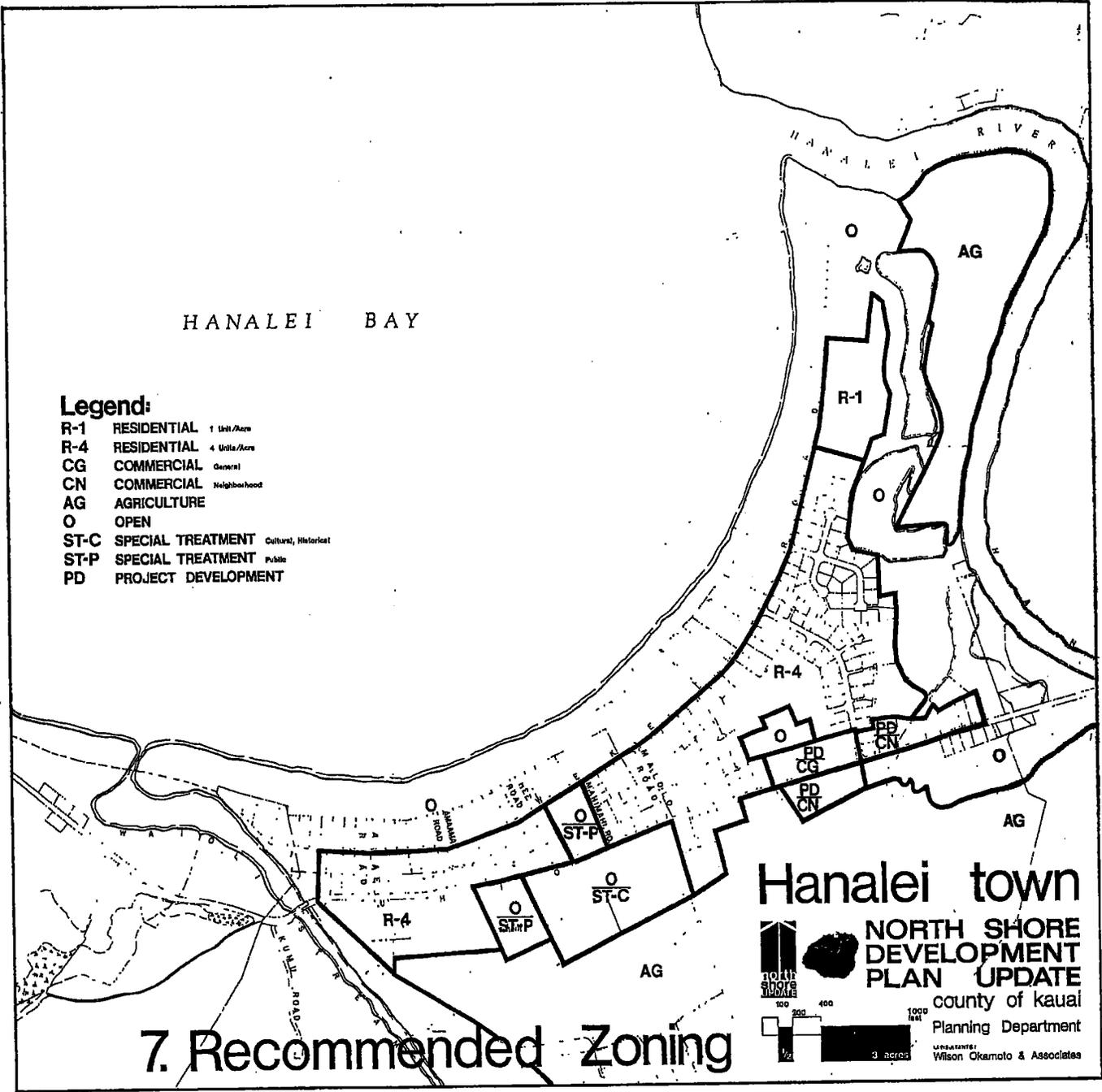
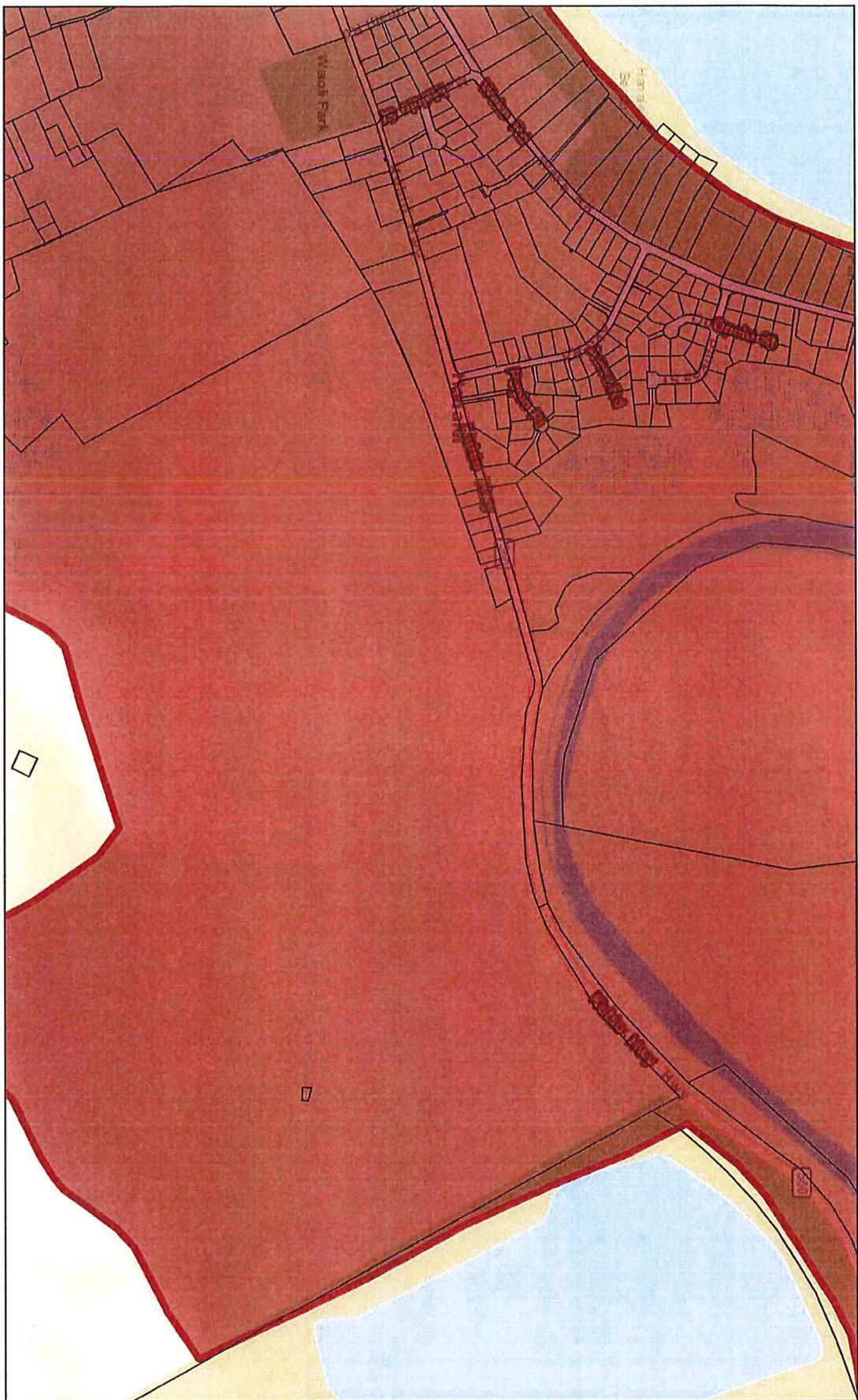


EXHIBIT "C-7"

**EXHIBIT "C-8"**

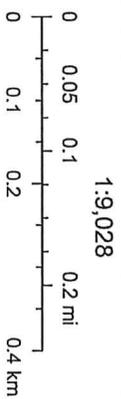
# Hawaii SMA Locator



February 12, 2019

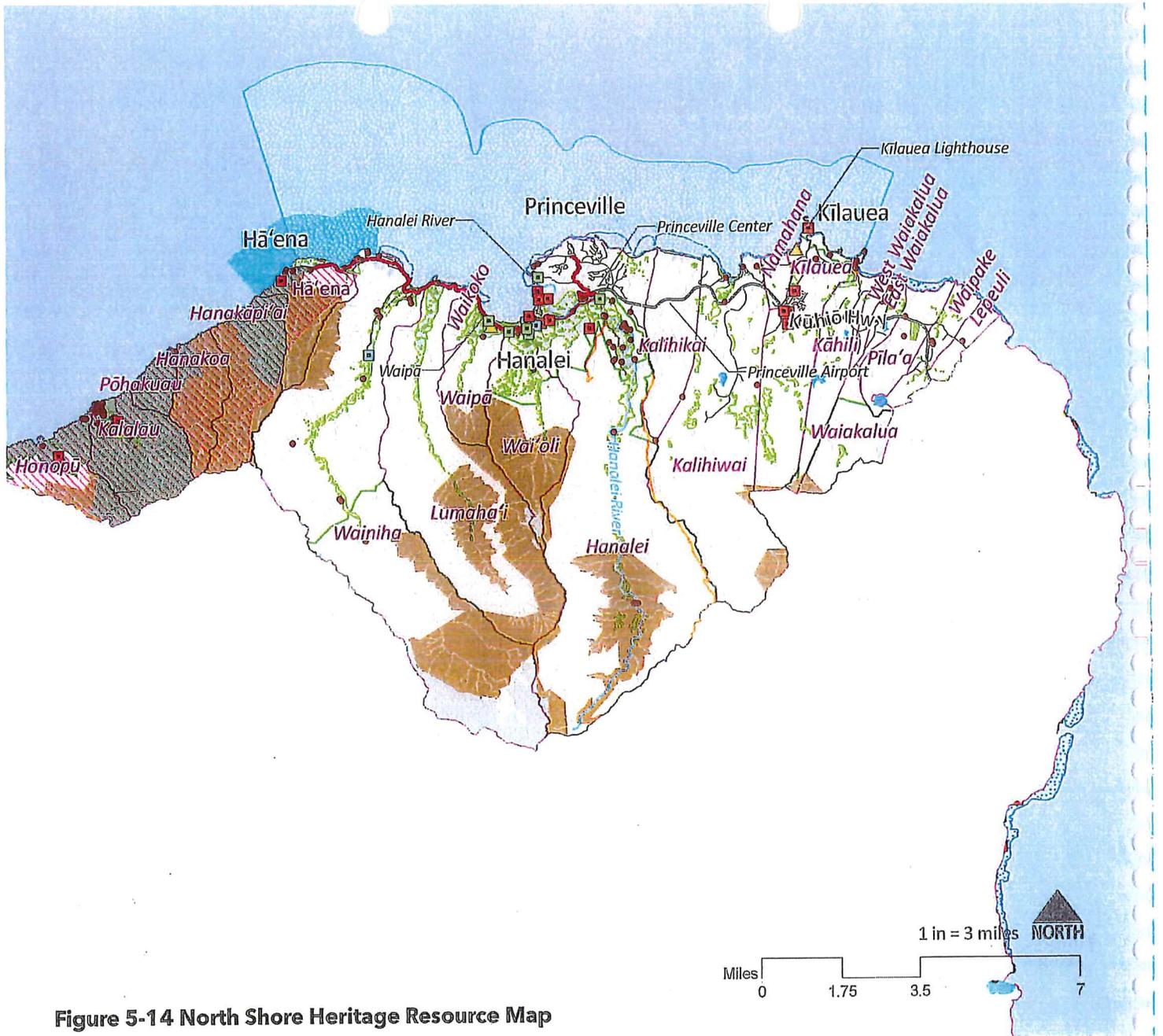
□ TMK - Neighbor Islands

■ Special Management Area (SMA)



Esri, HERE, Garmin, NGA, USGS, Esri, HERE

**EXHIBIT "C-9"**



**Figure 5-14 North Shore Heritage Resource Map**

- |                               |                            |                                   |
|-------------------------------|----------------------------|-----------------------------------|
| Registered Historic Sites     | Historic Belt Road         | Reservoirs                        |
| State                         | Trails                     | Traditional Cultivation Areas     |
| National                      | Planning District Boundary | Sand Dunes                        |
| State & National              | Ahupua'a Boundaries        | Open Space Acquisition Priorities |
| Cultural Features             | Wetlands                   | Critical Habitat                  |
| Priority Public Access Points | Coral Reefs                | Threatened & Endangered Species   |
| Fish Ponds                    | Regulated Fishing Areas    | High Density                      |
| Streams & Waterbodies         | State & County Parks       | Very High Density                 |
| Major Roads                   | Preserves                  |                                   |
| Roads                         |                            |                                   |



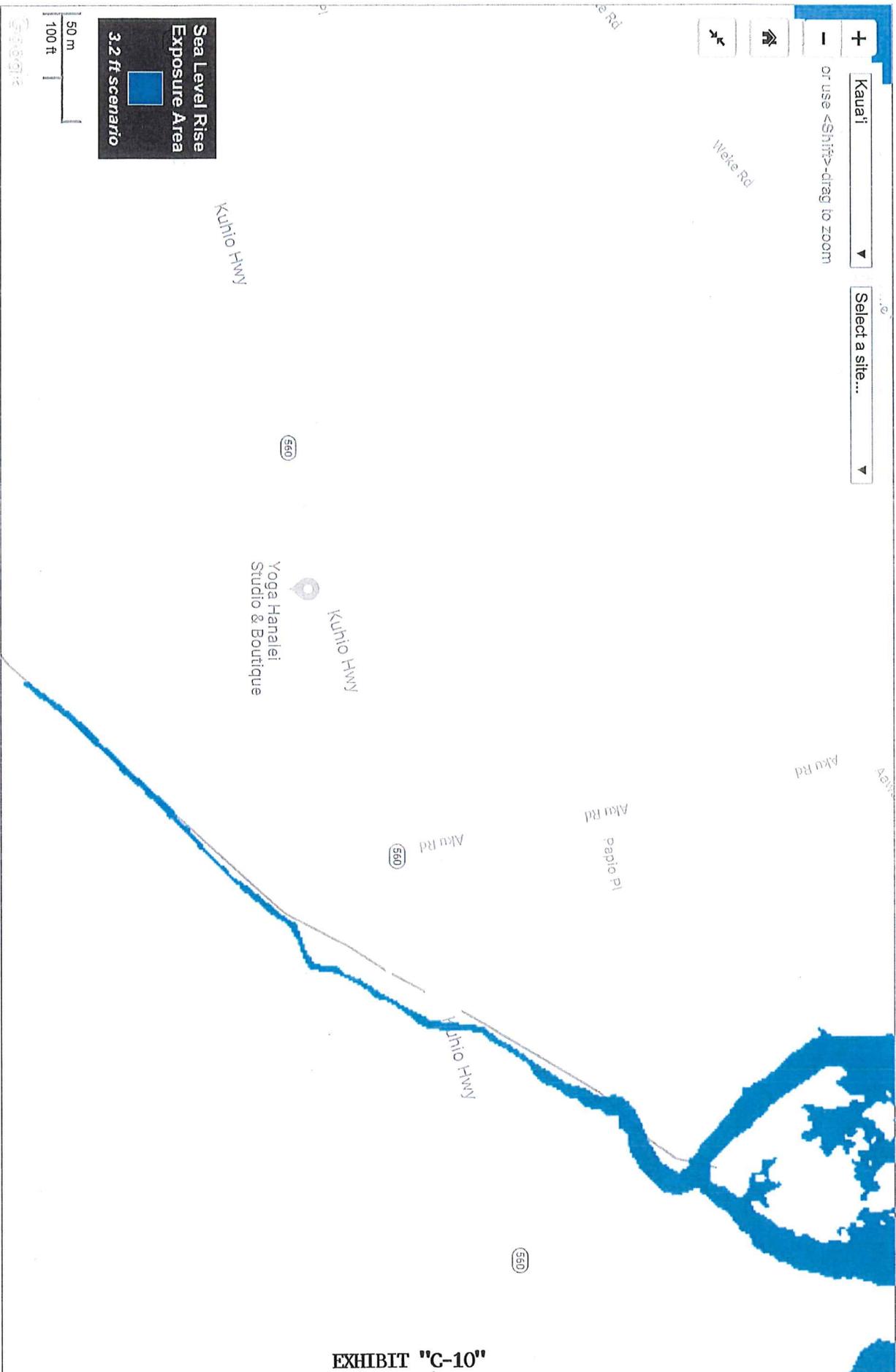
Kauai Kakou Gen...e.pdf

...



EXHIBIT "C-9"  
(2 of 2)

**EXHIBIT "C-10"**



Kauai

Select a site ...

or use <Shift>-drag to zoom

Data Services | Education Resources

Regions

- opacity:
- Waves
- Currents
- Shoreline Impacts
- Water Characteristics
- Weather
- Proj

cursor: 22.2042°, -159.4922°

EXHIBIT "C-10"  
(1 of 2)



EXHIBIT "C-10"  
(2 of 2)

Data Services | Education Resources

Regions

opacity:



Water

Currents

Shoreline Impacts

Water Characteristics

Weather

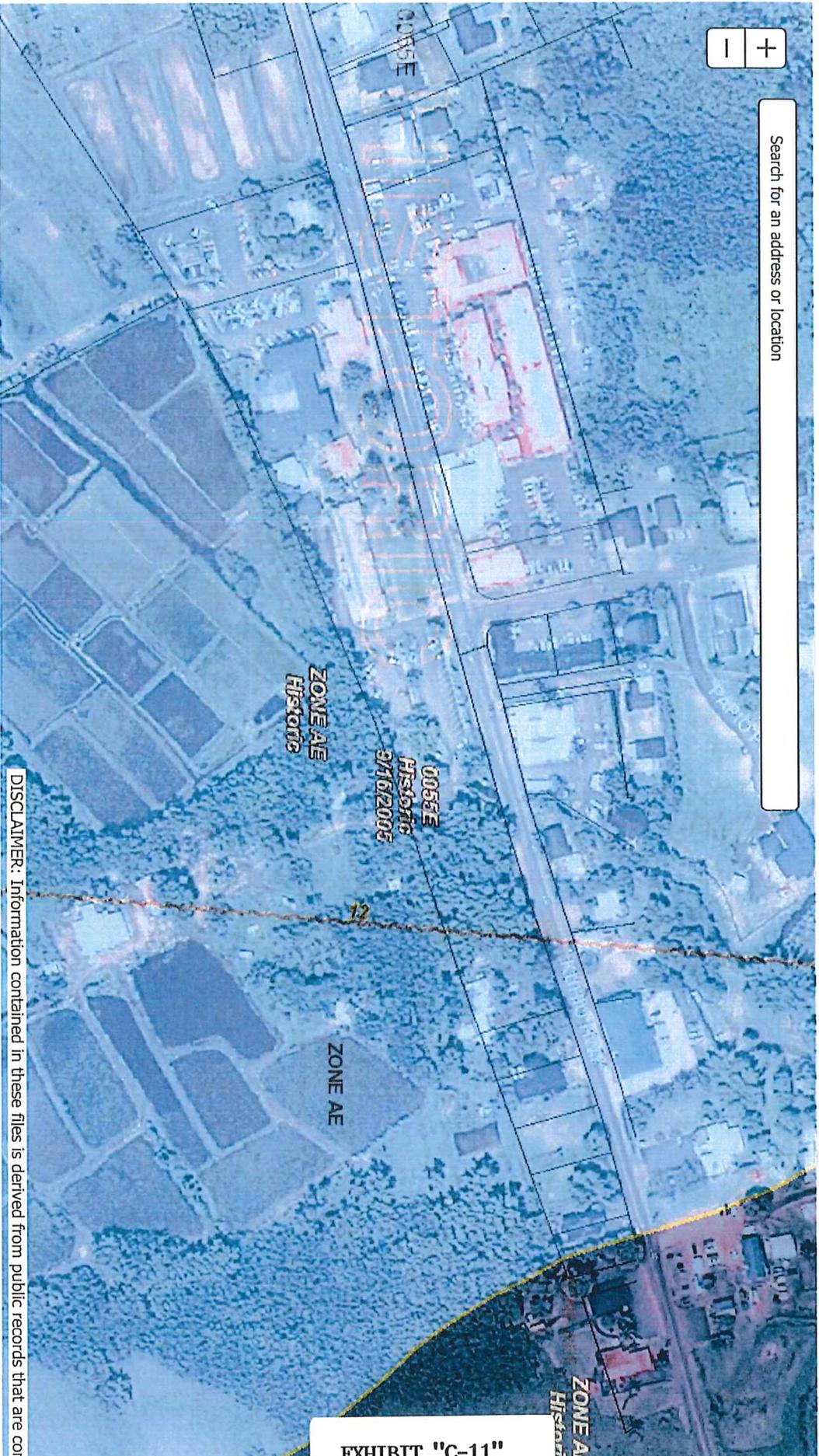
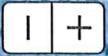
Proj

cursor: 22.2042°, -159.4923°

**EXHIBIT "C-11"**

State of Hawaii, Department of Land and Natural Resources  
**Flood Hazard Assessment Tool**

Search for an address or location



DISCLAIMER: Information contained in these files is derived from public records that are con

EXHIBIT "C-11"



**EXHIBIT "D-1"**

TONY T. KUNIMURA  
MAYOR



TOM H. SHIGEMOTO  
Planning Director

ROLAND D. SAGUM, III  
Deputy Planning Director

Telephone (808)245-3919

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

April 28, 1988

**COPY**

Mr. Gaylord H. Wilcox  
111 Royal Circle  
Honolulu, Hawaii 96816

Subject: Special Management Area Use Permit SMA(U)-88-4  
Use Permit U-88-25  
Variance Permit V-88-6  
Class IV Zoning Permit Z-IV-88-30  
TMK: 5-5-09:8 Hanalei, Kauai

The Planning Commission at its meeting held on April 27, 1988, denied the variance to deviate from paved parking requirements, however, the variance to increase the lot coverage in the Open District was approved. Approval to allow construction of a commercial shopping complex was subject to the following conditions:

1. An Environmental Impact Assessment fee equal to \$100 per minimum number of stalls required shall be due at the time of building permit application of each phase.
2. Renovations to the existing structure which falls on the rear property line will be limited as defined in Article 23, Sections 8-23.1 and 8-23.2 (non-conforming structures and uses) of the CZO.
3. Requirements of the North Shore Development Plan Ordinance No. 476, relating to the 25-foot height limit, exterior colors, landscaping, parking design and other design standards, shall be met.
4. With respect to the sewage treatment plant, the applicant shall explore alternate locations on the property. The Planning Commission reserves the right to require a higher level of sewage

EXHIBIT "D-1"

Mr. Gaylord H. Wilcox  
Page 2  
April 28, 1988

treatment or limit the amount of additional commercial space and/or types of use in Phases II and III to assure efficient sewage treatment if needed, once detailed plans are submitted. Location of the sewage treatment plant shall be approved by the Planning Commission.

5. Improved commercial parking may be permitted within the Open zone only to the extent that 25% lot coverage is met.
6. Prior to building permit application, a subdivision application shall be submitted for dedication of the strip of land necessary to accommodate the construction of left-turn lanes along Kuhio Highway at its intersection with Aku Road.
7. The western parking lot entrance shall be relocated to a position approved by the State Highways Division and County Public Works Department.
8. Access easement provisions to taro farm lands mauka shall be made through both the eastern and western halves of the property. Such shall connect to the two existing roads which intersect the mauka boundary of the subject property. The easements shall be established and/or relocated at the time of subdivision/dedication of the strip of land required to accommodate the Kuhio Highway storage lanes.
9. Curbs and a minimum 4 foot wide sidewalk shall be provided along Kuhio Highway, with a minimum 4 foot wide planter strip between such.
10. Highway signs, fire hydrants and other street furniture should be relocated within the applicant's property, preferably within the aforementioned 4-foot planter strip. Utilities shall be placed underground.
11. Color chips shall be submitted to the Department for review and approval. Roof colors shall be non-reflective. Lighting shall be either camouflaged within the foliage or low, ground-level type in design, and shall be directed downward and away from taro fields and the wetland habitat.
12. A landscape plan shall be submitted reflecting:
  - a. "informal" planting as represented by the applicant and recommended in the North Shore Development Plan Update;

Mr. Gaylord H. Wilcox

Page 3

April 28, 1988

- b. preservation of existing vegetation to the greatest extent possible along the mauka boundary. The Planning Commission reserves the right to require additional landscaping in this area should it be deemed necessary to augment the buffer between the wildlife habitat and taro operations;
  - c. planter strips and shade trees as described in Section 3.058 D of the Development Plan Update Ordinance No. 476; and
  - d. screening of the sewage treatment plant, trash collection and parking areas from Kuhio Highway.
13. The rail fence shall be located mauka of all street furniture and preferably mauka of the sidewalk.
14. As requested by the State Highways Division, only one crosswalk shall be provided across Kuhio Highway to their specifications. Other requirements and concerns of the State Highways Division shall be met or resolved with that agency.
15. Selective archaeological testing shall be done by the applicant in accordance with the State Historic Preservation Officer's recommendation. The Planning Commission reserves the right to require preservation of any archaeological resources if such are deemed significant and worthy of preservation by the State Historic Preservation Officer and the Kauai County Historic Preservation Review Commission. The results of the testing shall be submitted prior to application for building and grading permits.
16. As represented, renovations to the old Hanalei School building shall not alter the exterior architectural design of the Kuhio Highway face and shall follow the Secretary of Interior's Standards for Renovation to the greatest extent possible. As recommended by the State Historic Preservation Officer, no structures shall be permitted fronting the old school.
17. Prior to building permit approval for Phases II and III, revised plans showing the site layout with 25,000 square feet shall be submitted to the Hanalei-Princeville Improvement Advisory Committee, Kauai County Historic Preservation Review Commission, and Planning Commission for design review. The Planning Commission reserves the right to impose further conditions or require further modifications at that time.

Mr. Gaylord H. Wilcox  
Page 4  
April 28, 1988

18. As represented, the drainage ditch or Auwai which traverses the property shall be preserved and maintained by the applicant.
19. Drainage shall be directed away from taro fields towards the existing drainage ditch.
20. The applicant shall enter into an agreement with the County, which shall be recorded at the Bureau of Conveyances, to limit the total gross floor space in the commercially zoned portion of the property to no more than 25,000 square feet.
21. Requirements and concerns of the State Health, County Water and Fire Departments shall be complied with and resolved with the respective agency(ies).
22. The applicant is advised that prior to and/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).



TOM H. SHIGEMOTO  
Planning Director

cc: Mayor  
Public Works Dept.  
Water Dept.  
Health Dept.  
Highways Div.  
Fire Dept.  
Real Property Div.  
H-PIAC  
Duke Wellington

**EXHIBIT "D-2"**

BRYAN J. BAPTISTE  
MAYOR

GARY K. HEU  
ADMINISTRATIVE ASSISTANT



IAN K. COSTA  
DIRECTOR OF PLANNING

MYLES S. HIRONAKA  
DEPUTY DIRECTOR OF PLANNING

COUNTY OF KAUAI  
PLANNING DEPARTMENT  
4444 RICE STREET  
KAPULE BUILDING, SUITE A473  
LIHU'E, KAUAI, HAWAII 96766-1326  
TEL (808) 241-6677 FAX (808) 241-6699

RECEIVED  
NOV 27 2006

BELLES GRAHAM  
PROUDFOOT & WILSON, LLP

November 15, 2006

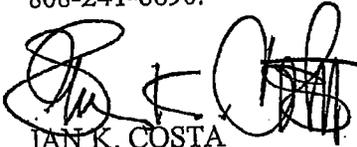
Hanalei Commercial, Inc.  
c/o Max W.J. Graham, Jr  
Belles Graham Proudfoot & Wilson, LLP  
4334 Rice Street, Suite 202  
Lihue, Hawaii 96766

Subject: Special Management Area Use Permit SMA(U)-88-4  
Use Permit U-88-25  
Variance Permit V-88-6  
Class IV Zoning Permit Z-IV-88-30 (Hanalei Commercial Inc. dba Hanalei Center)  
TMK 5-5-9: 8, Hanalei, Kauai

The Planning Commission, at its meeting held on November 14, 2006 approved your request to amend the Agreement to Limit Commercial Floor Space document executed on July 5, 1989 by the applicant, in regards to the above referenced permits.

The specifics of these amendments are reflected in the Planning Department approval letter for Special Management Area Use Permit SMA(U)-2006-1, Project Development Use Permit PDU-2006-1, and Class IV Zoning Permit Z-IV-2006-1, a copy of which is attached.

Should there be any questions regarding the above, please contact planner Michael Laureta at 808-241-6690.

  
IAN K. COSTA  
Planning Director

Encl

cc: DPW Engineering Div., Water Dept., State Health Dept., DLNR-Historic Preservation  
Div., Fire Dept., Finance Dept., Real Property Div.

EXHIBIT "D-2"

**EXHIBIT "D-3"**

**BRYAN J. BAPTISTE**  
MAYOR



**IAN K. COSTA**  
DIRECTOR OF PLANNING

**GARY K. HEU**  
ADMINISTRATIVE ASSISTANT

**MYLES S. HIRONAKA**  
DEPUTY DIRECTOR OF PLANNING

**COUNTY OF KAUAI  
PLANNING DEPARTMENT**

4444 RICE STREET  
KAPULE BUILDING, SUITE A473  
LIHU'E, KAUAI, HAWAII 96766-1326

TEL (808) 241-6677 FAX (808) 241-6699

November 15, 2006

Hanalei Commercial, Inc.  
c/o Max W.J. Graham, Jr  
Belles Graham Proudfoot & Wilson, LLP  
4334 Rice Street, Suite 202  
Lihue, Hawaii 96766

**RECEIVED**  
NOV 27 2006

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**

Subject: Project Development Use Permit PDU-2006-1  
Special Management Area Use Permit SMA(U)-2006-1  
Class IV Zoning Permit Z-IV-2006-1 (Hanalei Commercial Inc.)  
TMK 5-5-9: 8, Hanalei, Kauai

The Planning Commission, at its meeting held on November 14, 2006 amended and approved the subject permits to 1) Construct additional unpaved commercial offstreet parking areas, 2) relocate an existing access over and across the subject property to serve agricultural lands to the south, and 3) Construct 3 detached single family residential dwelling units for employees of the Hanalei Center, subject to the following conditions:

1. Exterior colors and finishes of all structures, including building roof colors, shall be limited to medium or dark earth tones such as brown, green, or grey, or other color compatible with the area's natural surroundings. Use of reflective materials or colors shall be prohibited. The proposed color scheme shall be submitted to the Planning Department for review and approval prior to building permit application.
2. Prior to building permit application, applicant shall submit for review and approval by the Planning Department:
  - a. a landscape plan composed of native species, or species common to the area, to help screen the proposed structures, and integrate the site with its surroundings. To be avoided is the total removal of all mature trees on the sites to be developed, unless replacement mature trees can be strategically placed to accommodate the development. Such plan shall be developed with the input of the Hanalei Community Association.
  - b. a recorded copy of the deed restrictions reflected in condition #4 below.

**EXHIBIT "D-3"**

3. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, all external lighting shall be only of the following types: shielded lights, cut-off luminaries, or indirect lighting. Spotlights aimed upward or spotlighting of structures or physical features shall be prohibited.
4. Applicant shall incorporate into the deed for the subject property the following:
  - a. At such time Mrs. Dawa is relocated or passes away, the residential structure that she currently inhabits will be made to meet CZO setback standards. Demolition or reconstruction shall be completed within 1 year.
  - b. Until that non-conforming structure is reconstructed to meet CZO setback standards, two single family employee residences shall be allowed to be constructed. At such time the non-conforming structure is brought into conformance, the remaining one employee residential structure may then be built.
  - c. These employee residences shall not be used for any other use or purpose other than employee housing for employees of the Hanalei Center. Such a restriction includes bed & breakfast or transient vacation rental usage, nor be CPR'd or subdivided out of the parcel. The employee housing improvements shall remain as an integral part of the Hanalei Center development and property.
  - d. Applicant shall maintain and update on a regular basis a list of Hanalei Center employee's desiring the use of the employee housing units. At a minimum, such a list should identify the individual, family size, and starting date of employment at Hanalei Center. At the time of housing availability, all individuals should be contacted and provided an opportunity to confirm or deny their interest in the housing. Length of employment should be a primary consideration. Only upon this list being exhausted can the applicant consider "other employees on the North Shore." These lists, and all subsequent updates, should be provided to the Planning Department in order to confirm that the applicant's intent is being met.
  - e. 50% of the lot coverage of each of the 3 employee residential improvements shall be applied towards the total gross floor space cap of 25,000 sq.ft.
  - f. Map and metes and bounds description of the relocated agricultural access; and
  - g. Rent for the employee housing shall be based on the rental schedule maintained by the County Housing Agency for families whose income is from 120% to 180% of the Kauai Median Family Income.
5. The Planning Commission reserves the authority to impose additional conditions, or modify, or delete conditions stated herein, or revoke the permits through the proper procedures should the applicant fail to comply with the conditions of approval.
6. The applicant shall develop and utilize Best Management Practices during all phases of development in order to minimize erosion, dust and sedimentation impacts of the project to abutting properties. These practices shall be reflected in the construction plans submitted for building permit processing.

7. Requirements and concerns of the State Department of Health, State Dept. of Transportation-Highways Division, Public Works-Engineering Division, Public Works-Wastewater Management Division, and Dept. of Water shall be complied with and resolved with the respective agency(ies).
8. Applicant shall pay the applicable Environmental Impact Assessment and Park Dedication fees at time of building permit application.
9. The applicant is advised that prior to construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).

Should there be any questions regarding the above, please contact planner Michael Laureta at 808-241-6690.



IAN K. COSTA  
Planning Director

Encl

cc: DPW Engineering Div.  
Water Dept.  
State Health Dept.  
DLNR-Historic Preservation Div.  
Fire Dept.  
Finance Dept.  
Real Property Div.

**EXHIBIT "D-4"**

**INDEX OF PERMIT CONDITIONS**  
**(HANALEI COMMERCIAL CENTER)**

	SMA(U)-88-4	2006 PERMIT SMA(U)-2006-1	2006 AMENDMENT
A. <u>SMA(U)-88-4.</u>			
1. Environmental Impact Assessment Fee to be paid.	1		
2. Renovations to Existing Structure subject to CZO Limitations on non-conforming uses and structures (CZO Article 13).	2		
3. Requirements of North Shore Development Plan Ordinance to be met (KCC Title IV, Chapter 10, Article 2).	3		
4. Sewage Treatment Plant to be relocated (Planning Commission Approval Required).	4		
5. Improved Commercial Parking allowed in CZO Open District subject to 25% lot coverage limitation.	5		
6. Subdivision of Road Widening Strip (Kuhio Highway/Aku Road).	6		
7. Relocation of Western Parking Entrance.	7		
8. Access Easement for Mauka Taro Lands to be provided on Eastern and Western halves of Lot 17.	8	4.f.	
9. Curbs, Planter Strip (4 feet) and Sidewalk (4 feet) to be provided along Kuhio Hwy.	9		
10. Highway Signs, Fire Hydrants, Street Furniture to be relocated to Lot 17 (within Planter Strip/Utilities to be underground).	10		
11. Exterior Colors to be approved by Planning Department. Lighting to be low and downward.	11	1 3	

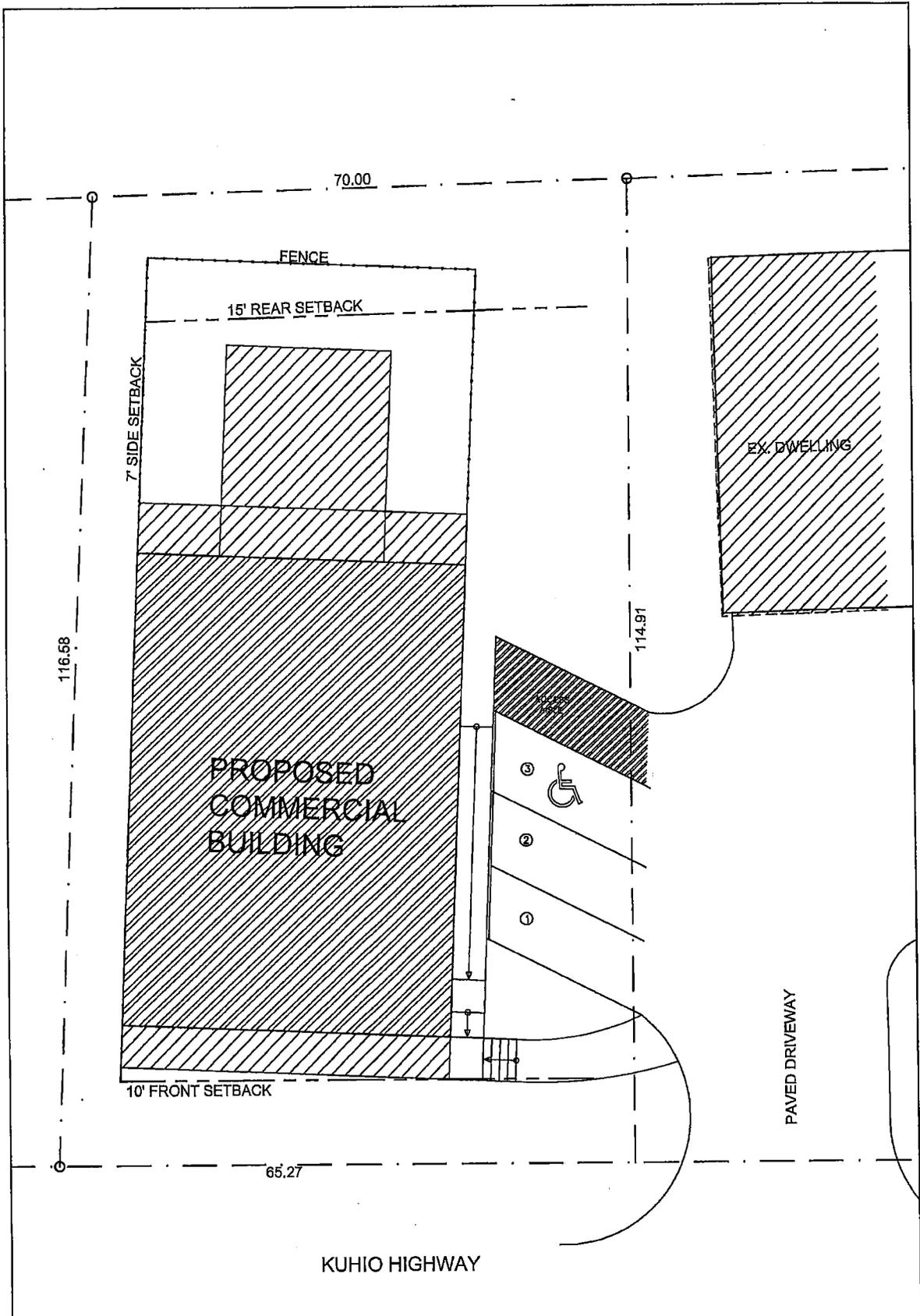
EXHIBIT "D-4"

	SMA(U)-88-4	2006 PERMIT SMA(U)-2006-1	2006 AMENDMENT
12. Landscape Plan to be submitted reflecting: a. Planting as represented b. Preservation of Existing Vegetation c. Planter Strips/Shade Trees d. Screening of STP, Trash, Parking	12 12.a.	2.a.	
13. Rail Fence to be located mauka of Street Furniture and Sidewalk.	13		
14. Only one (1) Crosswalk across Kuhio Hwy/State Hwy Division concerns to be met.	14		
15. Archaeological Testing per SHPD Requirements.	15		
16. Renovations to Hanalei School Building to be consistent with Historic Architectural values. No structures fronting School Building.	16		
17. Design Review for Revised Site Plans (25,000 s.f.) by Hanalei-Princeville Improvement Advisory Committee ("HPIAC"), County Historic Preservation Review ("HPR") Committee, and Planning Commission prior to Building Permit Approval for Phase II and Phase III.	17		
18. Auwai to be preserved/maintained.	18		
19. Drainage to be directed away from Taro Fields and into Auwai.	19		
20. Total Gross Floor Space in CZO Commercial District to be limited to 25,000 s.f. per recorded Agreement with County.	20	4.e.	
21. State DOH, DOW and KFD requirements and concerns to be met.	21	7	
22. Additional governmental agency conditions may be imposed.	22	5	

	SMA(U)-88-4	2006 PERMIT SMA(U)-2006-1	2006 AMENDMENT
<b>B. 2006 PERMIT.</b>			
23. Exterior colors for structures to be medium to dark earth tones as approved by Planning Department. No reflective materials or colors to be used.	11	1	
24. Prior to Building Permit application, Planning Department to approve: a. Landscape plan developed with input from Hanalei Community Association. b. Condition 4 Deed Restrictions to be recorded.	12.a.	2 2.a. 2.b.	
25. External lighting to be shielded/ indirect.	11	3	
26. The following Deed Restrictions to be recorded: a. Within one (1) year from time Mrs. Dawa dies or relocates, the Dawa House shall be demolished or reconstructed to meet CZO setback requirements. b. Prior to demo/reconstruction of the Dawa House, only two (2) new Employee Houses may be constructed. c. The Employee Houses shall be used only for Hanalei Center employees (no Bed & Breakfast or TVR's). d. Applicant to maintain current list of Hanalei Center Employees for purpose of determining Employee Housing eligibility. e. Fifty percent (50%) of the Land Coverage for the three (3) Employee Housing shall be applied to the 25,000 Gross Floor	20	4 4.a. 4.b. 4.c. 4.d 4.e.	

	SMA(U)-88-4	2006 PERMIT SMA(U)-2006-1	2006 AMENDMENT
Space (in CZO Commercial District) Limitation.			
f. A map and survey description of the relocated Taro Land Access Easement.	8	4.f.	
g. Rents for Employee Housing to be based on County Housing Agency schedule (120%-180% KMFI).		4.g.	
27. Planning Commission may impose additional conditions.	22	5	
28. BMP's to be developed and utilized.		6	
29. Agency (State Hwy/DOH/DPW/DOW) requirements to be met.	21	7	
30. EIA and Park Dedication Fees to be paid at time of Building Permit Application.	1	8	
31. Additional governmental agency conditions may be imposed.	22	9	
C. <u>2006 AMENDMENT.</u>			
32. 2006 Permit Conditions 1-9 incorporated.		1-9	2006 Permit Conditions 1-9

**EXHIBIT "E-1"**



**SITE PLAN**

Na Pali Brewery, Hanalei, Kaua'i  
 PRELIMINARY PLANS FOR BLAKE & KATI CONANT  
 TMK: (4) 5-5-009: 009

SC: 3/32"=1'-0"  
 12.10.2018

**EXHIBIT "E-2"**

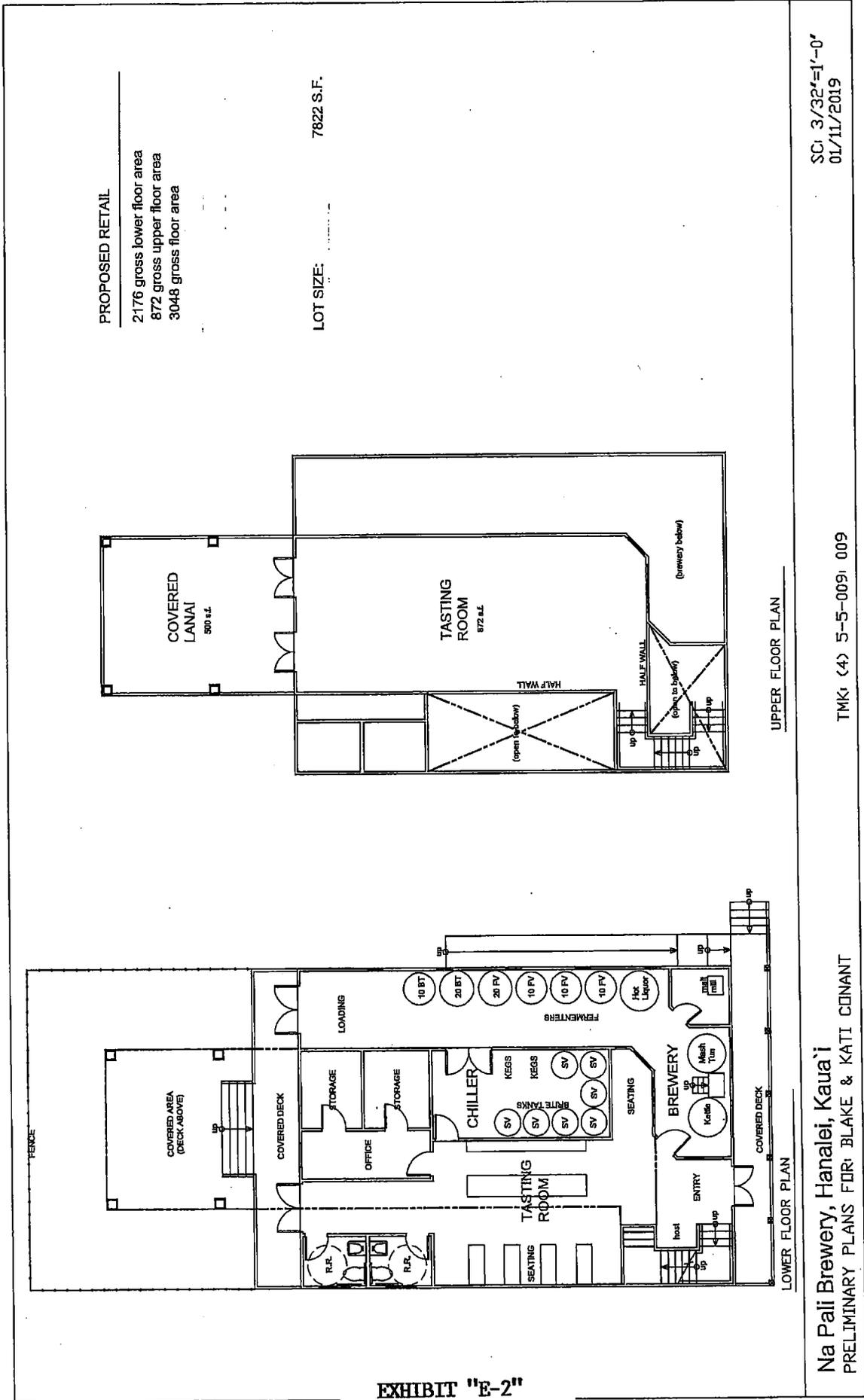


EXHIBIT "E-2"

**EXHIBIT "E-3"**



**EXHIBIT "F-1"**

**ARCHAEOLOGICAL REPORT ON DATA RECOVERY  
AND ADDITIONAL SUBSURFACE TESTING AT  
TMK: 5-5-09-8, HANAIEI, KAUAI  
MAY 1991**

**Prepared For: Mr. Gaylord Wilcox, President  
Hanalei Center  
111 Royal Circle  
Honolulu, Hawaii 96816**

**Prepared By: Joseph Kennedy  
Archaeological Consultants of Hawaii, Inc.  
59-624 Pupukea Rd.  
Haleiwa, Hawaii 96712**

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Archaeological Report on Data Recovery and Additional  
Subsurface Testing at TMK:5-5-09:8, Hanalei, Kauai.

INTRODUCTION

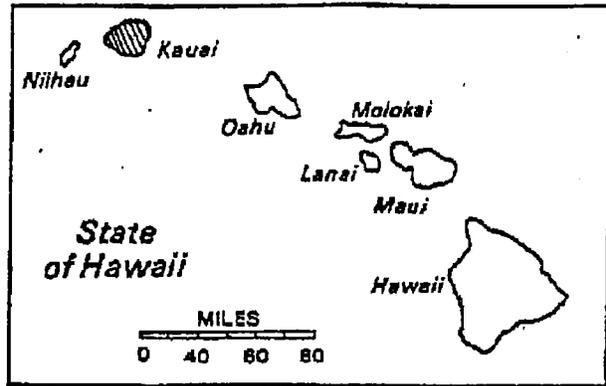
At your request and at the suggestion of the Department of Land and Natural Resources, Historic Sites Section, Archaeological Consultants of Hawaii, Inc. has conducted a data recovery operation along with additional subsurface testing of a buried pondfield deposit, lo'i site 50-30-10-401, at the above location. The purpose of this investigation was to document the stratigraphy of the site and locate field boundaries in order to identify the size of the field and the nature of field re-use over time, to attempt to date the pondfield in one or more phases of use, and to place these findings in the overall settlement pattern context of the Hanalei ahupua'a.

EXECUTIVE SUMMARY

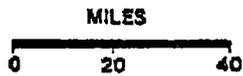
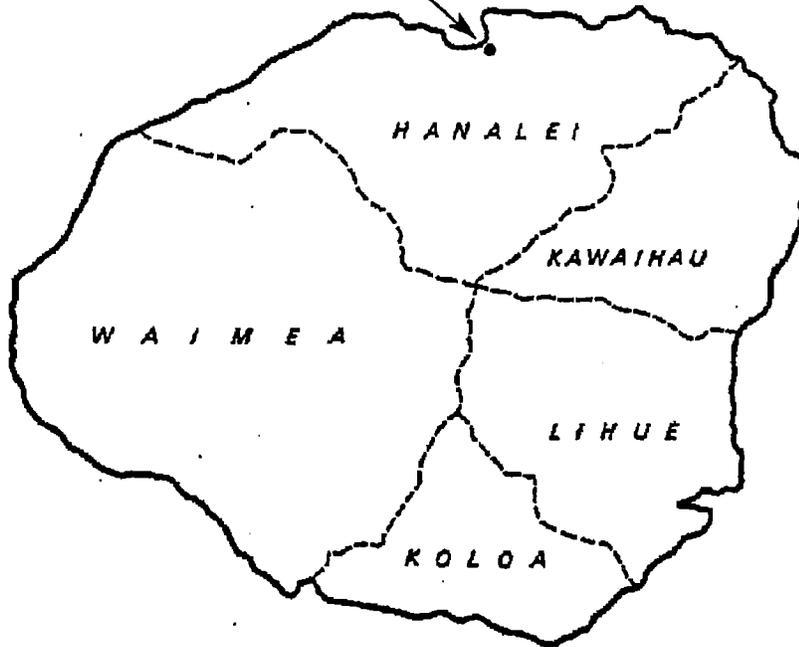
Subsurface testing at the referenced property in June, 1988 revealed buried agricultural deposits consistent with taro cultivation in ancient pondfield (Lo'i) systems (Kennedy, 1988). These deposits were designated site 30-10-401, significance criterion D, "important for information content". An existing irrigation ditch (Auwai ; site 50-30-10-400, significance criterion D, was also identified on the parcel and mapped.

While the project was determined in consultation with DLNR to have "no adverse effect" on the Auwai site, further testing and data recovery was required in the Lo'i deposits to document the subsurface deposits and search for perimeter walls or other significant features in the project area. Seventeen trenches were excavated by backhoe, including four from the previous phase of testing, along with two manual excavation units measuring 3'x3' in the areas with intact agricultural layers (T-9 P-1 and T-16 P-1). Samples of organic material from subsurface agricultural deposits at three locations returned radio-carbon dates of "modern", and may relate to the use of pondfields in this area as rice paddies in the early 20th century (Tam 1988). Following the data recovery detailed in this report an indication of "no adverse effect" was also recommended for the buried Lo'i deposits.

Island of  
**KAUAI**



Project Location



ARCHEOLOGICAL CONSULTANTS OF HAWAII, INC.



## PHYSICAL SETTING

The referenced property is located in the district of Halalea, Island of Kauai, in the town and ahupua'a of Hanalei, Tax Map Key (TMK) 5-5-09:8, on the northern (windward) coast of the roughly circular island (see pg. 2). The 3.985 acre parcel is bounded on the north by Kuhio Highway and by an operational taro field on the south, in the low lying coastal flood plain of Hanalei Valley, approx. 210m from the present coastline. Rainfall averages 50-60 inches per year, with moderately heavy showers likely to occur at any time, but primarily during the winter months. Flooding is common during sustained downpours, and the area has historically been subjected to tsunami inundation (Armstrong 1973).

The soil profile on the property has been identified as a poorly drained variant of Mokuleia clay loam (Mta), occurring only on the island of Kauai (Foote et.al. 1972). In the current project area surface layers were dark greyish brown to black, and mottled, with a substrate of very fine sand, consisting of minute rounded shell particles, olivine crystals, and basalt. A layer of rocky fill and topsoil was placed over the natural deposits in the central portion of the property, possibly in conjunction with the construction of a late historic period residence there. In addition the vacant western half of the parcel has had all sorts of trash dumped there in recent years. This trash/fill layer was not observed in the waterlogged eastern end of the property near the existing Auwai.

## RESEARCH QUESTIONS AND METHODOLOGY

As detailed in the Inventory Survey and Subsurface Testing Report from the first phase of work, this area of Kauai has long been noted for pre-historic and early historic taro pondfield systems, many still in use today. (Kennedy 1988, see also Kirch 1985). An operational taro field borders the current project area on the south. Other fields exist nearby. Oral historical information also suggests that much of the surrounding area was in use for the cultivation of rice through the early part of this century (Kennedy 1988).

Dates for establishment of taro cultivation at other sites studied in the Hanalei area (see Appendix C) have ranged from 7th century to the 16th century A.D., and created some controversy (Shilt 1980, Athens 1983). The current project therefore provided an opportunity to add to the body of data relating to the intensification of taro production in the windward valleys prior to and immediately following western contact.

As mentioned in the introduction, the primary objective of this examination was to determine the size of the pondfield, the age of the field and nature of field reuse over time, and the relation of this field to the historic and pre-historic land use and settlement patterns of the Hanalei ahupua'a. This phase of work was conducted over a five day period in December, 1990. Team members included Jacob Kaio, field supervisor, and James Powell, archaeologist. Joseph Kennedy M.A. was the principal investigator.

A backhoe equipped with a 24" bucket was used to excavate a series of trenches in the interior and along the perimeter of the parcel (see Archaeological Testing Locations Map, pg. 3). The purpose was to locate remains of pondfield walls or terrace facings in a stratigraphic context to help determine the age and sequence of field re-use, as well as the extent of the area under cultivation. A search was also made for any evidence below the level of the pondfield deposits which might suggest some type of pre-agricultural use of the site.

Trenches showing intact agricultural deposits were expanded by manual excavation of an adjacent 3'x 3' test unit, in order to accurately record the layers and to recover cultural materials and carbonized remains for dating. Undisturbed deposits in two of our trenches (T-9 and T-16) were indicated by a single layer of organic material and indurated pan in the ag. soil below the recent topsoil and fill now covering the western two-thirds of the property. The manual test units were positioned to intersect the most substantial parts of these agricultural layers as observed in the test trench profiles. Two other trenches (T-13 and T-14) were observed to have sporadic or intermittent deposits of organic material in the lower layers. Carbonized material for dating was removed directly from the face of these trenches after recording the position and stratigraphic associations of the required samples.

Stratigraphic control in the 3'x 3' test units was maintained by following discrete natural and artificial soil layers. Layers containing intact agricultural deposits or significant material cultural remains were arbitrarily divided into levels to enhance control of recovered samples. This division marked the top 2-3 inches of layer 2 as level I and the remaining lower portion as level II (see profiles T-9 P-1 and T-16 P-1, pp. 13, 14, and 15).

Initially, all soil from the manual test units was screened through 1/8" and 1/4" screens to recover midden. Because of the wet conditions and compact nature of the soil, however, shell material tended to disintegrate easily, and it became necessary to carefully crumble small amounts of soil by hand to recover samples of shell and other material.

## ARCHAEOLOGICAL FINDINGS

### Subsurface Testing - Current Phase of Work, Trenches 5-17

Results of subsurface testing in this phase of work were negative with regard to evidence of pondfield or terrace walls, or any other pre-historic structural features, within the project area. The thirteen new trenches excavated by backhoe generally exhibited the characteristic profiles found in phase I, Trenches 1-4 (Kennedy 1988).

In summary this consisted of three basic layers, beginning with the recent topsoil and reddish brown (10 R 3/1) rocky fill with modern trash to about 1 foot in depth as layer 1. This was followed by a 1 to 2.5 foot thick layer of very dark brown to grey/black soil (10 YR 2/1 or 7.5 R 3/0), a wet rock-free clay loam, which we interpreted to be an agricultural type soil. Finally a saturated and culturally sterile third layer of fine calcareous beach sand mixed with basalt and olivine crystals, grey in color (2.5 Y 6/4), extending at least 2.5 feet down to the water table where the trenches were terminated. Trenches with this basic profile include T-1, T-2, T-4, T-11, T-17 (see representative profile T-17, p. 7).

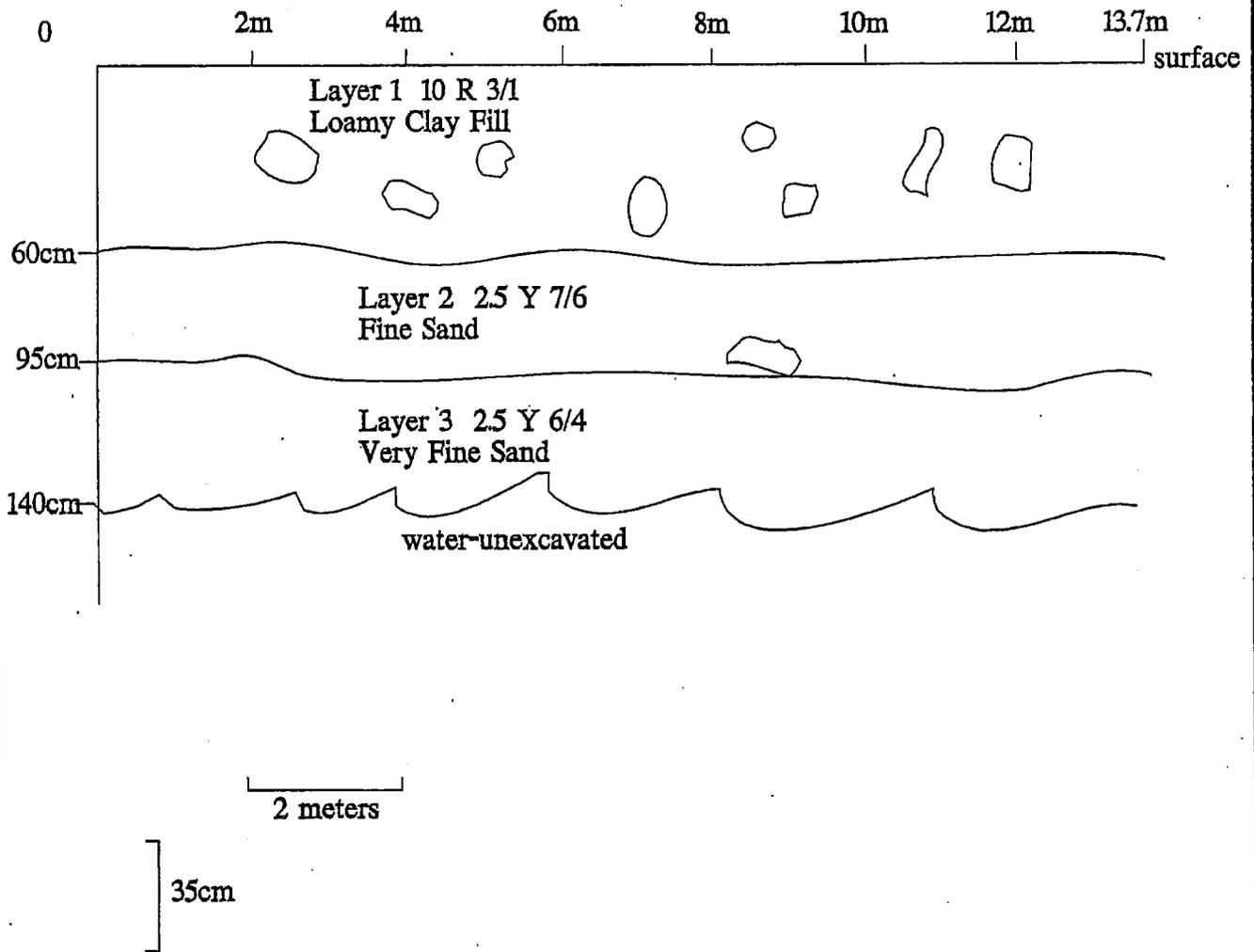
In seven trenches (T-5, T-6, T-7, T-8, T-10, T-12, and T-15), the agricultural layer 2 was diminished or absent and was replaced by an intermediate layer of sand. This layer 2 is similar to the underlying sand but lighter in color, because of its lower moisture content. No artifacts or midden shells were found in this layer, which occurred primarily in the west-central part of the property in the vicinity of the paved driveway (see representative profile T-7, p. 8).

Five of the trenches (T-3, T-9, T-13, T-14, and T-16) exhibited what appeared to be remnants of an indurated pan formed by the creation of a ponded lo'i, within the layer 2 agricultural soil. Trench T-14 revealed an intermittent layer of this dark grey/black (2.5 YR 2.5/0) material at a depth of 32 inches below ground level at the bottom of layer 2 (see profile T-14, p. 9). A sample of this organic deposit was removed from the trench wall for radio-carbon analysis, but returned an essentially modern date (see Appendix B, Beta-43876). Trench T-13 had a similar result on ash taken from the interface of layers 2 and 3, 26 inches below ground level (Beta-43875, see also profile T-13, p. 10). No charcoal was recovered from trench T-3, described in the previously referenced report on the initial phase of testing (Kennedy 1988).

HANAIEI CENTER PHASE II

TMK: 5-5-09:8

Trench T-17 North Face

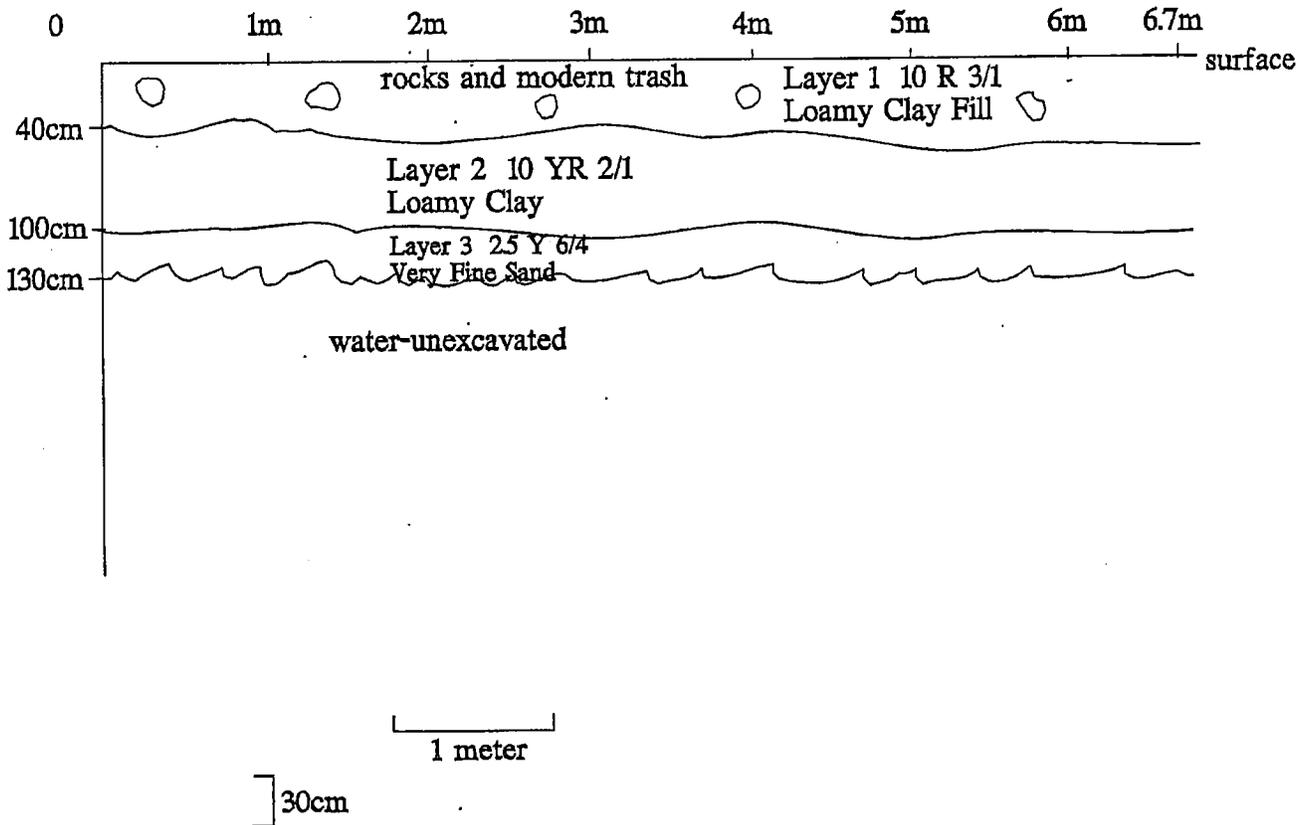


Archaeological Consultants of Hawaii, Inc.

HANAIEI CENTER PHASE II

TMK: 5-5-09:8

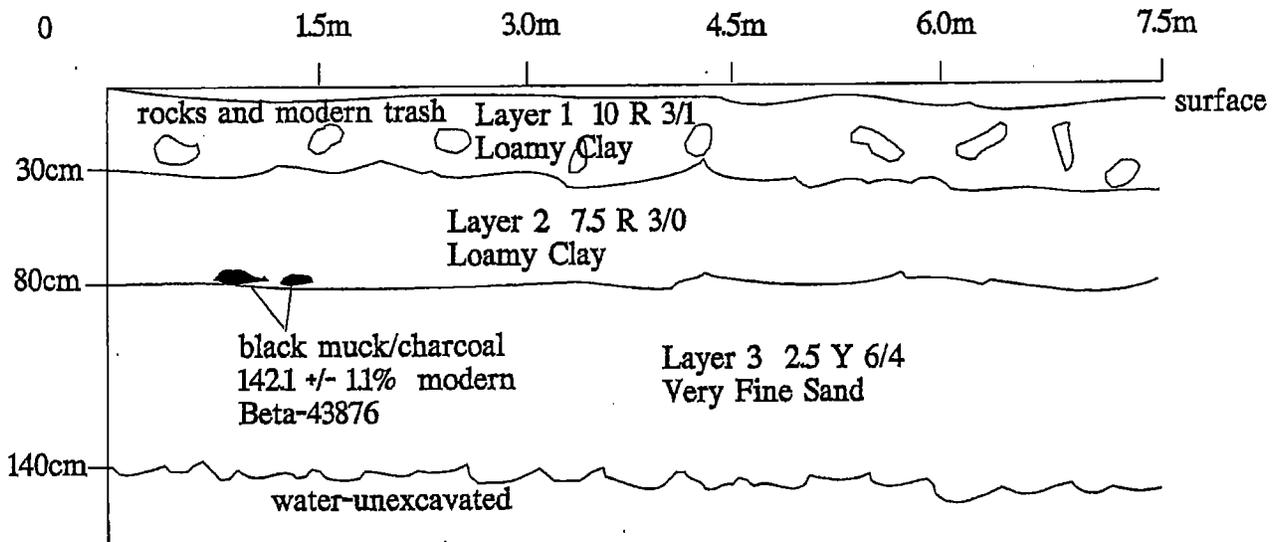
Trench T-7 Northeast Face



HANALEI CENTER PHASE II

TMK: 5-5-09:8

Trench T-14 East Face



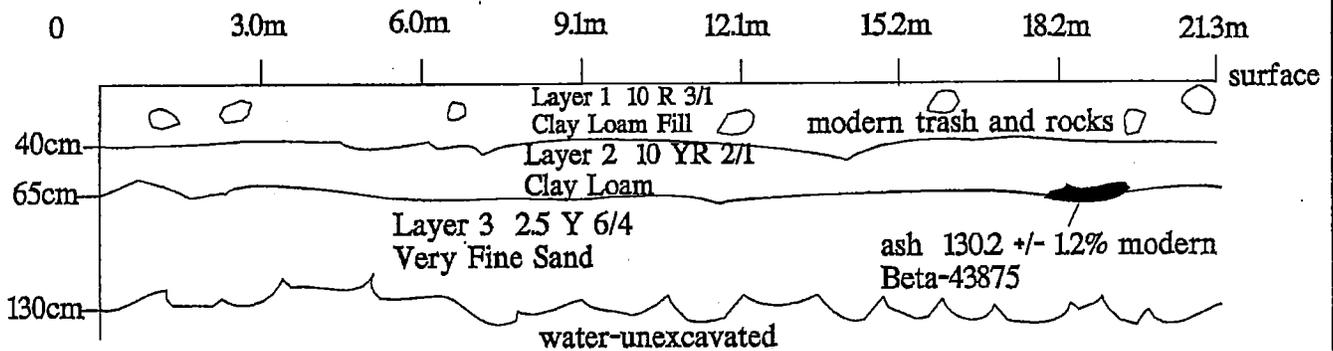
50cm

1.5 meters

HANALEI CENTER PHASE II

TMK: 5-5-09:8

Trench T-13 South Face



3 meters

25cm

Trenches T-9 and T-16 contained more substantial and consistent layers of the grey/black, organic deposit. For this reason it was decided to conduct additional data recovery in the form of a single manually excavated 3'x 3' test pit adjacent to each one. The results are detailed below.

#### Data Recovery - Test Pit T-9 P-1, and T-16 P-1

The results of data recovery at site 30-10-401, a buried lo'i were positive with regard to the recovery of datable materials from subsurface agricultural deposits. However, the radiocarbon dating and carbon 13 analyses on all three submitted samples indicates a modern date for these deposits.

"all of the samples had radiocarbon activities that were greater than that of the modern standard. This is typical of materials less than forty-five years old that have contamination from fallout from the nuclear devices testing programs." (Beta Analytic, M. Tamers, letter to J. Kennedy 4-10-90).

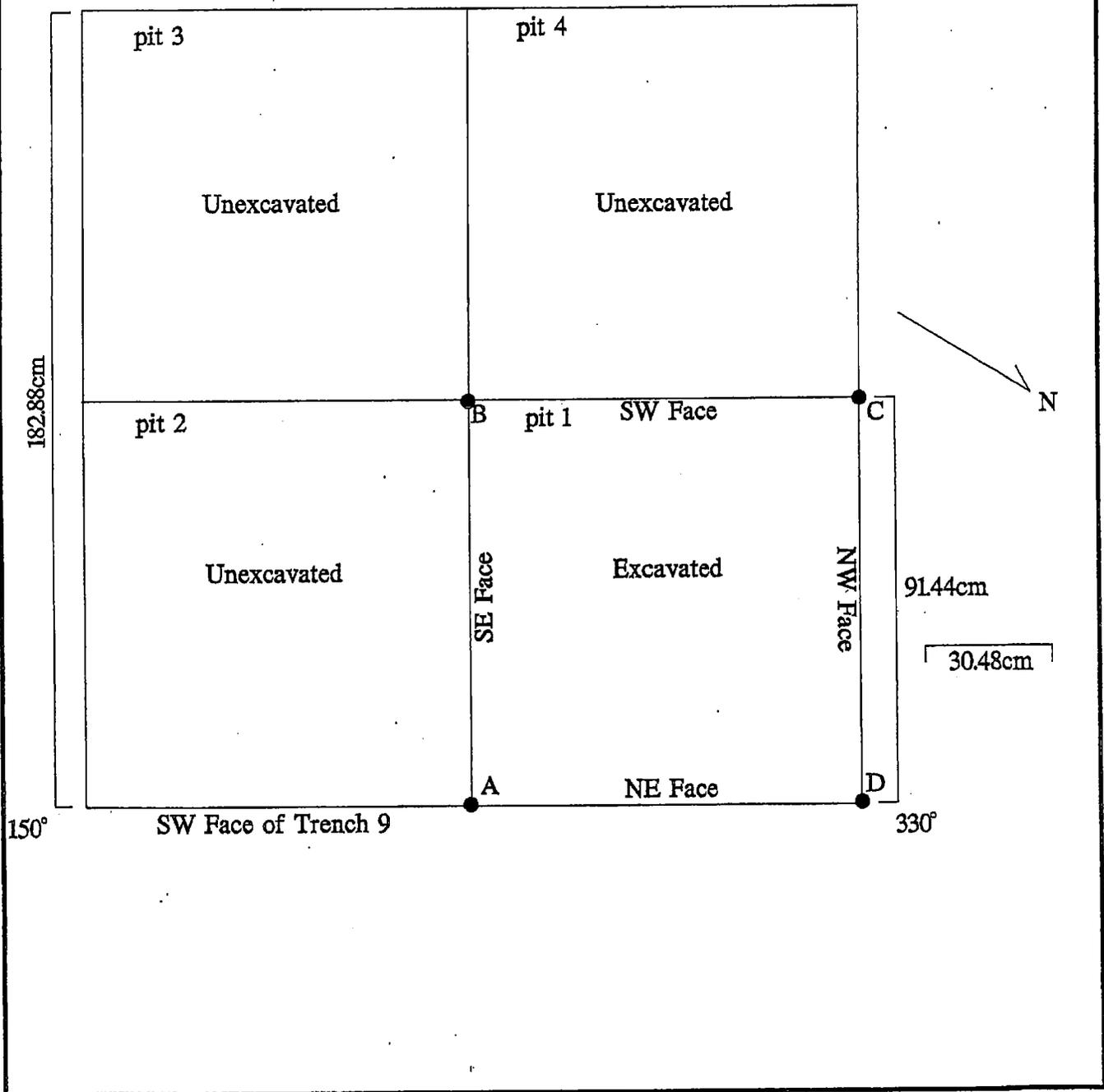
Test pits T-9 P-1 and T-16 P-1 each had four layers, three of which were typical of the basic strata seen in most of the test trenches described above. Layer 1 was a reddish brown (10 R 3/1), trash filled deposit, around 12 inches thick, with nails, glass, surfboard foam, and modern construction debris throughout (see profiles T-9 P-1 and T-16 P-1, pp. 13, 14, and 15).

Layer 2 was a very dark grey (7.5 R 3/0), loamy clay, 10-12 inches thick, free from rocks, glass, and other debris. The upper three inches were removed as Level I to provide a buffer between the modern trashy topsoil/fill layer and the possible cultural material below. Level II produced a small number of mollusk shells of three different species, all being land varieties endemic to the area. None of the shells were found broken open or in any concentrations which might suggest a midden. One of the species, Carelia cumingiana spcf. is a recently extinct variety (the last living example being recovered in the early 1950's) while a second family, Subulinidae, has a member species that has been introduced to the Pacific. These two facts combined also imply the contemporaneous nature of the deposits in this site. It is likely that these sparse remains were naturally occurring examples.

Layer 3, below the agricultural soil and immediately overlying the sterile grey sand, was a layer of dark grey/black muck (10 YR 2.5/0), 1-3 inches thick, and highly compacted. This wet sticky clay appeared to be the outline of an indurated pan formed by the creation of a ponded lo'i. While the black layer in test pit T-9 P-1 was relatively sterile and produced no charcoal, the layer in T-16 P-1

Archaeological Consultants of Hawaii, Inc.  
HANALEI CENTER PHASE II  
TMK: 5-5-09:8

T-9 P-1 Grid Layout

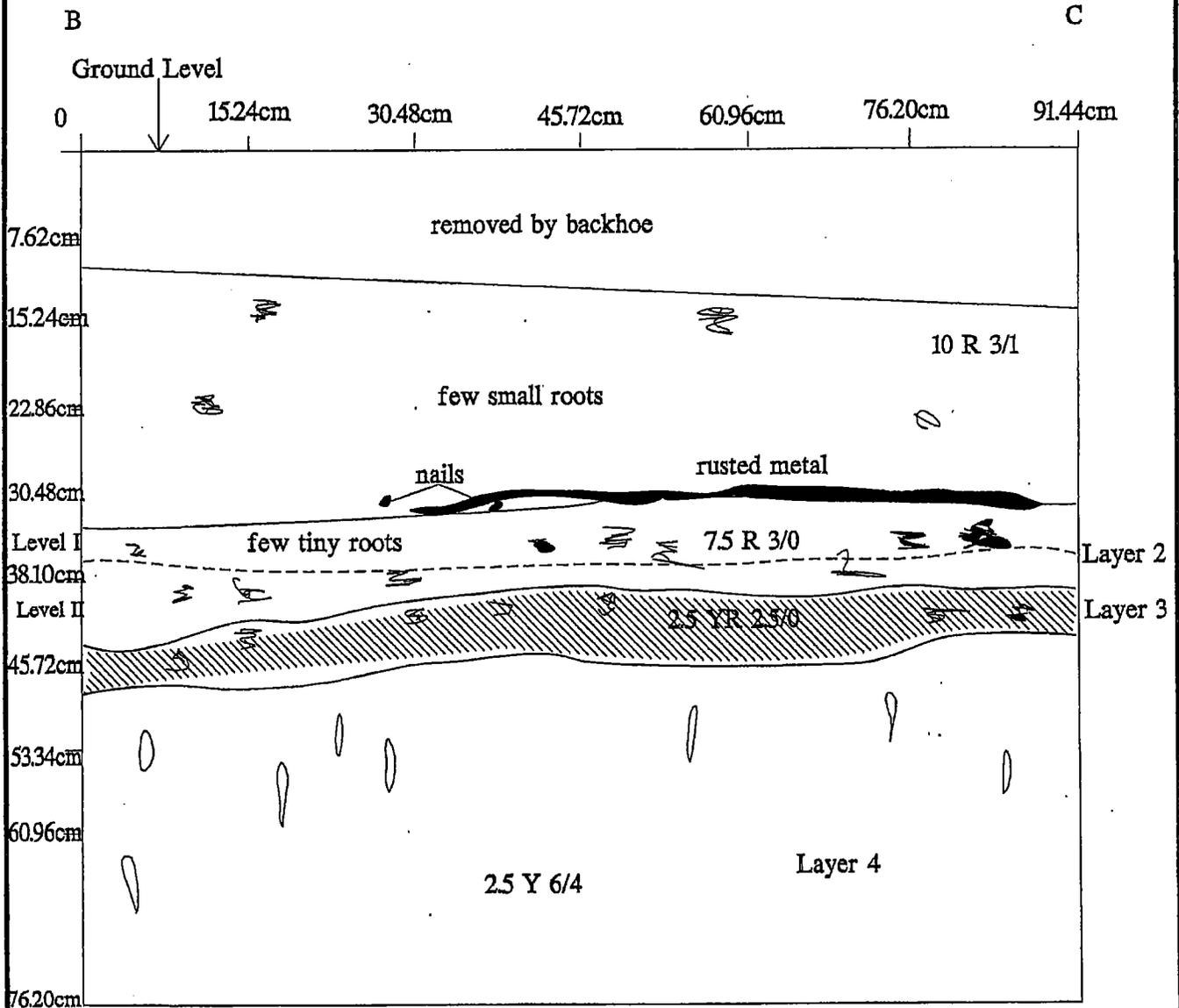


Archaeological Consultants of Hawaii, Inc.

HANALEI CENTER PHASE II

TMK: 5-5-09:8

T-9 P-1 SW Face  
Transect B-C



 =Red/Brown root or iron stains

 =orange/rust root stains

15.24cm

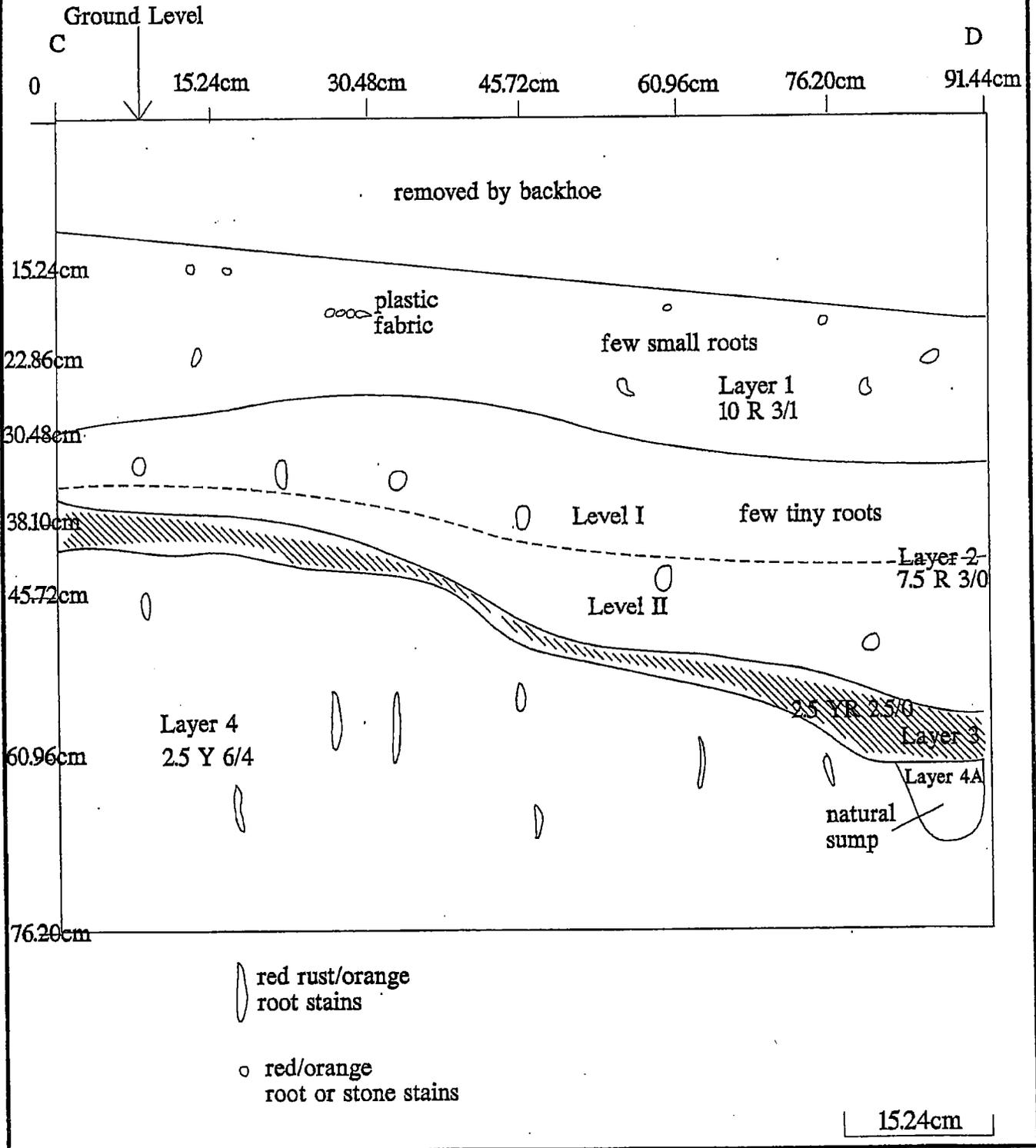
Archaeological Consultants of Hawaii, Inc.

HANALEI CENTER PHASE II

TMK: 5-5-09:8

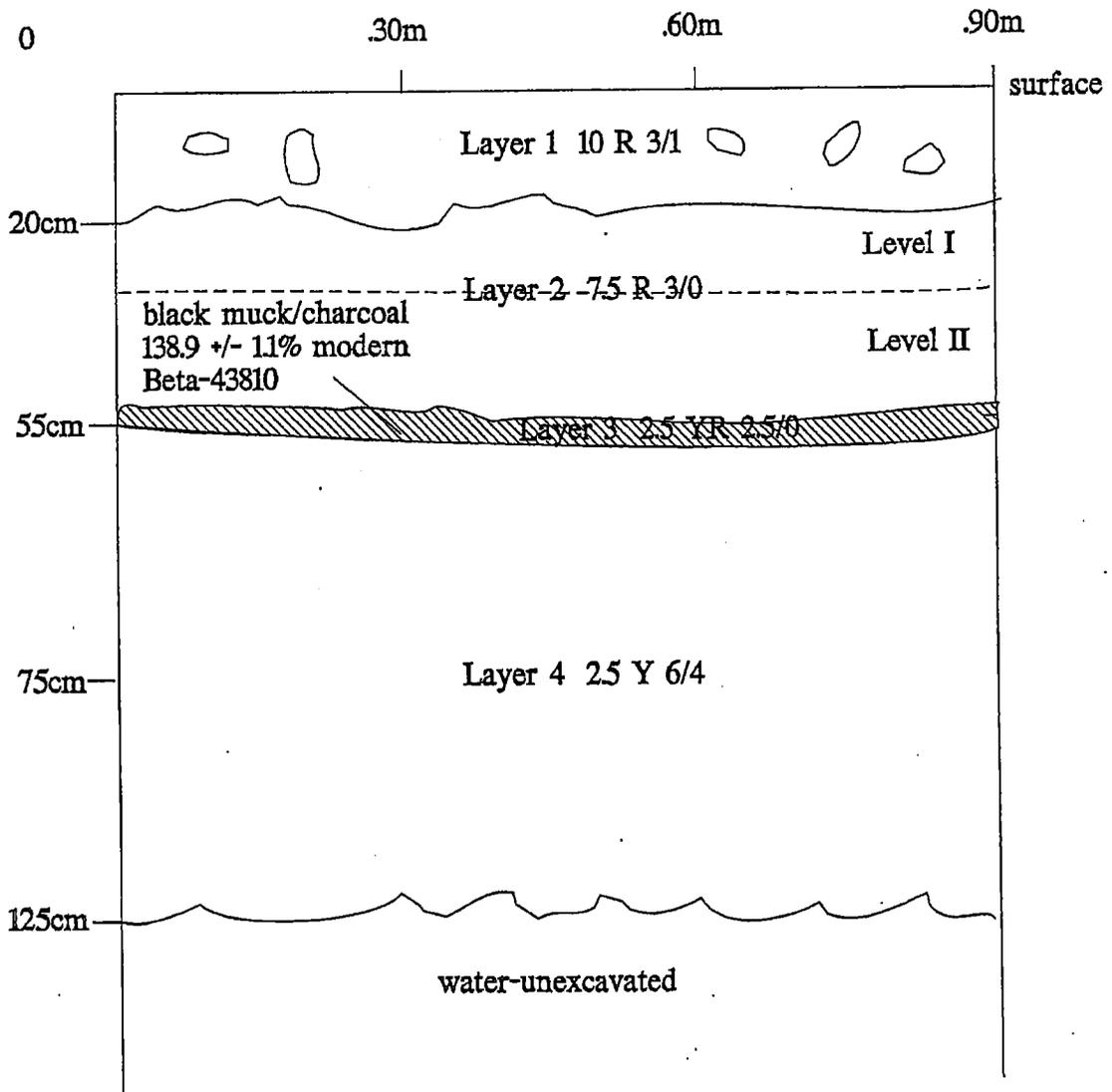
T-9 P-1

NW Face C-D Transect



HANALEI CENTER PHASE II  
TMK: 5-5-09:8

T-16 P-1 Southwest Face



contained an abundance of partially carbonized plant matter and charcoal in the clay/soil matrix. Once again, however, the results of radiocarbon dating and carbon 13 analysis indicated a modern date for this deposit (see Appendix B, Beta-43810).

Layer 4 in both test pits was the same culturally sterile layer of very fine sand found in all the test trenches and described above. This layer extended down to the water table, 30-44 inches below ground level, at which point excavation was terminated. In two of the test trenches an additional 24 inches of sand was removed below the level of the water table without a change in soil type.

#### CONCLUSIONS AND RECOMMENDATIONS

Subsurface testing and data recovery has failed to uncover evidence of significant pre-historic or early historic use of this site. The agricultural layers we observed seem to date from the early part of this century, when the land may have been used for rice cultivation. The most recent use of the vacant western half of the parcel was as a dump for fill material and construction debris.

Given the modern date of the agricultural deposits located on the property it is highly unlikely that this project will have an adverse effect on any significant historic sites. While the auwai site 30-10-400, in the eastern part of the property, remains significant for possible information content, plans do not call for construction in that area and the site will be preserved. Subsurface construction work in other parts of the project as planned will be minimal, therefore the possibility of encountering undocumented cultural remains is considered remote. For this reason, a finding of "no adverse effect" is also recommended for lo'i site 30-10-401, with no further work required.

MIDDEN ANALYSIS KEY

E.U. = excavation unit; trenches excavated with a backhoe including pits carved from the face of the trench at promising locations. Example - T9P1 (Trench 9, Pit 1).

LAYER= depths within an E.U.. Example - L-3 (Layer 3); depths are as shown on drawings.

Brachidontes and Ctena = Genus' of marine mollusks identified. For taxonomy refer to Shell Taxonomy Appendix.

Zonitidae, Subulinidae, and Carelia = Families and genus of land snails identified. For taxonomy refer to Shell Taxonomy Appendix.

Charcoal = burnt wood, kukui, etc. obtained from fire pits.

Soil Sample = samples of soil obtained from individual layers as excavation proceeded.

Comments = notes and explanation of material identified.

All data is displayed in grams of material identified unless otherwise stated.  
Trace = trace of material found is less than 0.5g.

Hanalei Center Phase 2: Site 50-30-10-401

E.U.	LAYER	BRACHIDONTES	CTENA	ZONITIDAE	SUBULINIDAE	CARELIA	CHARCOAL	SOIL SAMPLE	COMMENTS
T9 soil samples	L1							130	
	L2							111	
	L3							91	
	L4							97	
T9	L1							110	
	L2 L2 19"	Trace			Trace			158.5	
T9P1 soil samples	L1							138.5	
	L2							173.5	
	L3							157	
	L4							105.5	
	L4A							55.5	
T9P1 shells	L2 level I	Trace	2.5	3	1.5				1.5g unidentified shell
	L2 level II		3	0.5	8.5				1g unidentified shell
	L3				15				Trace unidentified shell
	L4				11.5				2.5g crab exoskeleton
T13	L2 29"							99	dirt and wood incl.
	L2 29"							18	burnt stem
T14	L1 32"							65	burnt stem
T16P1	L2 level I				1.5				
	L2 level II				Trace	4.5			
	L3							32.5	wood included

APPENDIX A

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1988 Garden Isle News, October 22, 1988.
- Tamers, M Letter Report to Joseph Kennedy from Beta  
1991 Beta Analytic, Inc. (see appendix B)

APPENDIX B

**BETA ANALYTIC INC.**

MURRY A. TAMERS, PH.D.  
JERRY J. STIPP, PH.D.  
CO-DIRECTORS

4985 S.W. 74 COURT  
MIAMI, FLORIDA  
33155 U.S.A.

April 10, 1991

Mr. Joseph Kennedy  
Archaeological Consultants of Hawaii, Inc.  
59-624 Pupukea Road  
Haleiwa, Hawaii 96712

Dear Mr. Kennedy:

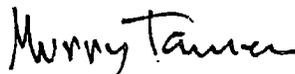
Please find enclosed the results on three charcoal samples recently submitted for radiocarbon dating and carbon 13 analyses. We trust these values will be interesting for your work.

As before, the charcoals were pretreated by first examining for rootlets. They were then given our acid, alkali, acid series of soakings to remove carbonates and humic acids. The following benzene syntheses and counting went normally.

All of the samples had radiocarbon activities that were greater than that of the modern standard. This is typical of materials less than forty-five years old that have contamination from fallout from the nuclear devices testing programs.

We are enclosing our invoice. As always, if there are any questions or if you would like to discuss the results, call us at any time.

Sincerely yours,



Murry Tamers  
Co-director



**BETA ANALYTIC INC.**

(305) 667-5167

UNIVERSITY BRANCH  
P.O. BOX 248113  
CORAL GABLES, FLA. 33124

## REPORT OF RADIOCARBON DATING ANALYSES

FOR: Joseph Kennedy

DATE RECEIVED: March 18 & 19, 1991

Archaeological Consultants of Hawaii, Inc.

DATE REPORTED: April 10, 1991

SUBMITTER'S  
PURCHASE ORDER # \_\_\_\_\_

OUR LAB NUMBER	YOUR SAMPLE NUMBER	C-14 AGE YEARS B.P. $\pm 1\sigma$	C13/C12	C13 adjusted age
Beta-43810	Hanalei T-16 Pit 1 Layer 2 Level II (charcoal)	137.6 +/- 1.1 % modern	-29.8 0/00	138.9 +/- 1.1 % modern
Beta-43875	Hanalei T-13 L 2 (charcoal)	130.7 +/- 1.2 % modern	-23.2 0/00	130.2 +/- 1.2 % modern
Beta-43876	T-14 L 1	141.3 +/- 1.1 % modern	-27.9 0/00	142.1 +/- 1.1 % modern

These dates are reported as RCYBP (radiocarbon years before 1950 A.D.). By international convention, the half-life of radiocarbon is taken as 5568 years and 95% of the activity of the National Bureau of Standards Oxalic Acid (original batch) used as the modern standard. The quoted errors are from the counting of the modern standard, background, and sample being analyzed. They represent one standard deviation statistics (68% probability), based on the random nature of the radioactive disintegration process. Also by international convention, no corrections are made for DeVries effect, reservoir effect, or isotope fractionation in nature, unless specifically noted above. Stable carbon ratios are measured on request and are calculated relative to the PDB-1 international standard; the adjusted ages are normalized to -25 per mil carbon 13.

## Appendix C-Table of Previous Archaeology

REC#	date	author	title	Prepared_for	report_#
1	1973	McCoy, Patrick	Archaeological Research at Fort Alexander, Hanalei, Kauai	Princeville Corporation	K-20
2	1979	Cleghorn, Paul L.	Archaeological Reconnaissance Survey Within the Hanalei Wildlife Refuge Hanalei Kauai	U.S. Fish and Wildlife Service	K-31
3	1979	Cleghorn, Paul L.	Archaeological Reconnaissance Survey of Princeville Lands Hanalei, Kauai	Princeville at Hanalei and Belt, Collins & Associates	K-32
4	1980	Hammatt, Hallett H.	Archaeological Reconnaissance of Portions of the Kauai Belt Road from Kalihiwai to Princeville, Halele'a, Kaua'i Island	Mr. Fred Proby VTN Pacific	K-30
5	1980	Schilt, A. Rose	Archaeological Investigations in Specified Areas of the Hanalei Wildlife Refuge, Hanalei Valley, Kaua'i	U.S. Fish and Wildlife Service	K-59
6	1981	Hammatt, Hallett H., Gerald Kamalu Ida, William H. Folk II	Archaeological and Ethnohistorical Survey of Kamo'omaika'i Fishponds Hanalei, Halele'a, Kaua'i Island	Princeville Development Corporation	K-51
7	1981	Kikuchi, William K.	Earthen Tunnel System, Kuna Ditch, Site 50-30-3-604 TMK5-3=01:7, Hanalei Halelea District, Kauai	Crafts Hawaii	K-44

REC#	date	author	title	Prepared_for	report_#
8	1988	Kennedy, Joseph	Archaeological Report Concerning Survey and Selective Subsurface Testing At TMK:5-5-09:8, Hanalei Kauai	Mr. Gaylord Wilcox	K-136
9	1988	Kennedy, Joseph	Report Concerning Archaeological Survey and Testing at Limahuli, Kauai	Mr Tim Dunn	K-155
10	1989	Kennedy, Joseph	Follow-up Investigations at Tmk:5-5-09:8 Hanalei Kauai	Mr. Gaylord Wilcox	K-168
11	1989	McMahon, Nancy	Human Mandible Fragment, Sheraton Mirage, Princeville Hanalei Halelea Kauai		K-206
12	1989	Pietruscowsky, Michael	Human Remains Recovered Near Sheraton Mirage.	Dr. Joyce Bath, Historic Sites, DLNR	K-184
13	1990	Hammatt, Hallett H. and David W. Shideler	A Preservation and Interpretive Display Plan For Fort Alexander, Princeville Kaua'i	Princeville Corporation	K-219
14	1990	Kennedy, Joseph	Surface Reconnaissance of 19 Acres Located at Kalihiwai Ridge, Kilauea, Island of Kauai	Mr. Thomas Witten PBR Hawaii	K-231

## Shell Taxonomy - Appendix D

### Marine Mollusks

Phylum Mollusca  
Class Bivalvia  
Superfamily Mytilacea  
Family Mytilidae

Brachidontes cerebristriatus (Conrad, 1837)  
Synonym - Mytilus cerebristriatus

NATIVE HABITAT: These mytilids are extremely abundant on limestone shorelines where they pave patches of solution benches at the 0 tide mark. They are found in lesser densities along basalt shores and are ubiquitous around the shorelines of the windward islands. The shells occurring where there is freshwater outflow are generally larger, thinner, and less sculptured than those which are found in normally saline waters.

NATIVE USE AND NOMENCLATURE: B. cerebristriatus was known by the general name nahawele. It was reported that in Pearl Harbor nahawele grew to finger length and more and were popular as food. In Kaneohe Bay they were said to be smaller but good to eat raw or cooked. Other names included 'oa'oaka (literally, open-shut mouth), nahawele-li'ili'i, and kio-nahawele.

Superfamily Lucinacea  
Family Lucinidae

Ctena bella (Conrad, 1837)  
Synonym - Codakia ramulosa

NATIVE HABITAT: These bivalves are ubiquitous, common in shallow water in sandy tide pools, on sand patches, and in sandy pockets on fringing reefs, and have been dredged from depths of more than 60m. This species is recorded as a Pleistocene fossil on Oahu.

NATIVE USE AND NOMENCLATURE: These native clams were known by the general name 'olepe. All of the bivalves known as 'olepe were used as a source of food though a favorite variety was never recorded. This family was known as 'olepe-kupe with C. bella specifically called 'olepe-kupe 'opiopio.

## Land or Fresh Water Mollusks

Phylum Mollusca  
Class Gastropoda  
Family Amastriadae

### Carelia cumingiana spcf.

NATIVE HABITAT: This land snail lived on the surface of the ground and in the loose humus and decaying material under the canopy of the native forests. It was endemic to Kauai and Ni'ihau. The last living specimen was recovered in the early 1950's.

NATIVE USE AND NOMENCLATURE: These snails were not known to have had any native use and no Hawaiian name is recorded. Similar extinct tree snails are known to have had their shells used in leis.

### Family Zonitidae

NATIVE HABITAT: These small mollusks are ubiquitous throughout the Pacific islands living in loose humus and decaying organic material on the grounds' surface.

NATIVE USE AND NOMENCLATURE: Too small to be consumed and with a shell too fragile for ornamentation, there is no recorded name or use.

### Family Subulinidae

#### Opeas spcf.

NATIVE HABITAT: This is a genus of tiny, measuring less than 2.5mm in length, snails that are also involved in the decay stage of plant metabolization, living in the upper levels of the soil. Introduced species (including Subulina octuna) as well as endemic species are found on all the Hawaiian Islands.

NATIVE USE AND NOMENCLATURE: There is no recorded use or names for this genus.

#### BIBLIOGRAPHY

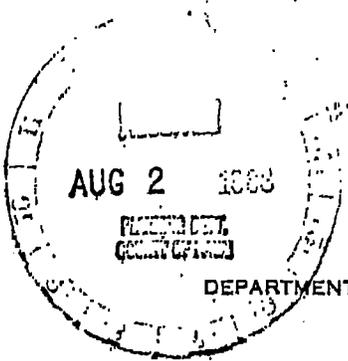
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Kawamoto, Regie; Personal Communication on April 30, 1991 at Bishop Museum, Malacology Department.

**EXHIBIT "F-2"**

JOHN WAIHEE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
P. O. BOX 621  
HONOLULU, HAWAII 96809

WILLIAM W. PATY, CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES

LIBERT K. LANDGRAF  
DEPUTY

AQUACULTURE DEVELOPMENT PROGRAM  
AQUATIC RESOURCES CONSERVATION AND ENVIRONMENTAL AFFAIRS  
CONSERVATION AND RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

July 29, 1988

Ms. Heather M. Harvey  
Planning Department  
County of Kauai  
4280 Rice Street  
Lihue, Kauai, Hawaii 96766

Dear Ms. Harvey:

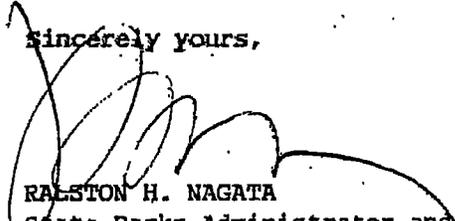
**SUBJECT:** Historic Preservation Review of Archaeological Survey Report (Kennedy 1988. Archaeological Report Concerning Survey & Selective Subsurface Testing at TMK: 5-5-09: 8, Hanalei, Kauai)  
Hanalei, Hanalei, Kauai  
TMK: 5-5-9: 8

This responds to your transmittal of this report to us, dated July 18, 1988. Dr. Ross Cordy, our Head Archaeologist, verbally transmitted our review in a July 29, 1988 phone call.

Based on our review, we believe that the surface and subsurface testing is likely to have found the historic sites in this parcel -- totalling 2, an auwai and subsurface taro pondfield deposits. We have assigned the following State of Hawaii Inventory of Historic Sites numbers to these sites: 30-10-400 and -401. We believe that sufficient information has been gathered to evaluate the significance of these sites. We believe that they are significant solely for their information content (criterion "d" of the National and Hawaii Registers of Historic Places). When considering their information content, it should be recalled that these are sites within the larger region of Hanalei ahupua'a; they are part of larger taro pondfield systems.

We agree with the consulting archaeologist's determination of effect. With the auwai preserved and with the construction being less than 2 feet in depth, there should be "no effect" to the significant historic sites.

Sincerely yours,

  
RALSTON H. NAGATA  
State Parks Administrator and Deputy  
State Historic Preservation Officer

**EXHIBIT "F-3"**



**EXHIBIT "F-4"**

JOHN WAIHEE  
GOVERNOR OF HAWAII

*Copy To  
Gaylord please  
111 Royal Circle  
Hono Hi*



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

P. O. BOX 621  
HONOLULU, HAWAII 96809

WILLIAM W. PATY, CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES

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MANABU TAGOMORI  
RUSSELL N. FUKUMOTO

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CONSERVATION AND  
ENVIRONMENTAL AFFAIRS  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

June 16, 1989

Heather Harvey  
County of Kauai  
Planning Department  
4280 Rice Street  
Lihue, Kauai 96766

Dear Ms. Harvey:

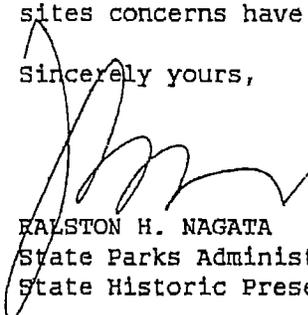
SUBJECT: Historic Sites Concerns -- Follow-up Archaeological  
Investigation -- Use Permit U-88-25  
Variance Permit v-88-25  
Class IV Zoning Permit Z-IV-88-30  
Hanalei Center, Hanalei, Kauai  
TMK: 5-5-09:8 lot 17

This letter is to confirm your phone conversation of May 8, 1989, with Nancy McMahon, our staff archaeologist handling Kauai, regarding this project.

Based on our review of the follow-up report submitted by Joseph Kennedy (the consulting archaeologist for this project), the mitigation plan has been completed as best as possible, with environmental constraints preventing much of the monitoring of the construction and footings for the culverts across the auwai. We concur that the additional cesspool wells are closely related to the position of trench T-4 and that no further subsurface work be necessary.

We agree with the recommendation of the consulting archaeologist that no further archaeological work is necessary. Therefore, we believe the historic sites concerns have been met and construction can begin.

Sincerely yours,

  
RAISTON H. NAGATA  
State Parks Administrator and Deputy  
State Historic Preservation Officer

cc: Joseph Kennedy

**EXHIBIT "F-5"**



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
STATE HISTORIC PRESERVATION DIVISION  
33 South King Street, 6th Floor  
Honolulu, Hawaii 96813

ROUTE TO:  
Shigemasa  
Sapum  
Nitta  
Laureta  
Mamaclay  
Harvey  
Hironaka  
Nakamura  
Mateo  
Fernandez  
Hironaka  
Fukushima  
Tsuchiya  
Yamauchi  
Ferrara  
Kashiwabara  
Yamashiro

DEPUTY  
KEITH W. AHUE  
MANABU TAGOMORI  
RUSSELL N. FUKUMOTO  
AQUACULTURE DEVELOPMENT PROGRAM  
AQUATIC RESOURCES CONSERVATION AND ENVIRONMENTAL AFFAIRS  
CONSERVATION AND RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE HISTORIC PRESERVATION PROGRAM  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

September 28, 1990

Peter Nakamura  
Planning Director  
County of Kauai  
Planning Department  
4396 Rice Street  
Lihue, Kauai 96766

COUNTY OF KAUAI

'90 OCT -3 P1:10

PLANNING DEPT.

Dear Mr. Nakamura:

SUBJECT: County of Kauai, Zoning Permit Application Z-IV-91-8, Use Permit Application U-91-8 and SMA Use Permit Application SMA (U)-91-3 -- Phases II and III (Hanalei Commercial, Inc.)  
TMK: 3-5-9: 7and 8  
Hanalei, Halelea, Kaua'i

Due to our move, we just recently received the agenda for the Kauai County Historic Preservation Review Commission for September 11, 1990. We understand the above permit applications are set for the Planning Commission hearing of September 27, 1990. We have seen the KHPRC's comments to the Planning Commission (letter to Thomas Contrades 9/18/90), and we believe that they need to be more specific in order to prevent adverse effects to significant historic sites.

Two significant historic sites are located in the project area: 1) an auwai (30-10-400), and 2) a taro pondfield (30-10-401). These sites are significant for their information content on the prehistory and history of Hanalei and Kauai in general. Archaeological mitigation work during the initial phase of development was unable to be completed due to collapsing of the water-logged trench walls. This work was to document the stratigraphy in the trenches to try to identify field sizes and the nature of field re-use over time, and to attempt to date the fields. We still believe that it is important to recover this information using more effective field approaches; otherwise the project will have an "adverse effect" on the sites.

Thus, it is our recommendation that in order for this project to have "no adverse effect" on significant historic sites, mitigation in the form of archaeological data recovery prior to construction will be needed. We would recommend the following condition to any

Peter Nakamura  
September 28, 1990  
Page Two

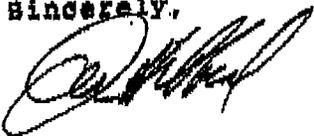
approved permits:

- 1) Archaeological data recovery shall occur for the two significant historic sites in the project area (400, 401). A detailed archaeological data recovery plan shall be approved by the State's Historic Preservation Program (HPP) and the County's Planning Department (PD) prior to any fieldwork and prior to any construction. The State's HPP and the County's PD must also verify successful execution of the plan prior to any construction.

When the data recovery plan is prepared, it should include representative trenches in the sites to recover 1) stratigraphic information on the taro fields (e.g., walls and field soils and their relations) which should be documented by profile drawings, soil descriptions, cultural feature descriptions, and photographs, and 2) soil or charcoal samples from the bottom taro fields and from soils below in order to address dating concerns through radiocarbon dating. Methods will need to be devised to cope with the problem of potential collapsing of the trench. Such methods might be wider and perhaps longer trenches, use of water pumps, or use of a soil coring equipment. The plan must also include the submittal of a report, with a schedule for submittal.

In addition to the archaeological sites in the area, the project is adjacent to the Hanalei school, a building listed in the Hawaii and National Registers of Historic Places. The preliminary designs for the Hanalei Center appear to be sensitive to the historic character of the school. We concur with the KHPRC recommendation that a condition be placed on the SMA permit that the final plans for this project be approved by the KHPRC and our department.

Sincerely,



DON HIBBARD, Director  
Historic Preservation Program

**EXHIBIT "F-6"**



DEPUTIES

KEITH W. AHUE  
MANABU TAGOMORI  
RUSSELL N. FUKUMOTO

AQUACULTURE DEVELOPMENT  
PROGRAM  
AQUATIC RESOURCES  
CONSERVATION AND  
ENVIRONMENTAL AFFAIRS  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
PROGRAM  
LAND MANAGEMENT  
STATE PARKS  
WATER RESOURCE MANAGEMENT

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES  
STATE HISTORIC PRESERVATION DIVISION

33 SOUTH KING STREET, 8TH FLOOR  
HONOLULU, HAWAII 96813

December 13, 1990

Gaylord Wilcox, President  
Hanalei Center  
111 Royal Circle  
Honolulu, Hawaii 96816

Dear Mr. Wilcox:

SUBJECT: County of Kauai, Zoning Permit Application Z-IV-91-8, Use Permit Application U-91-8 and SMA Use Permit Application SMA (U)-91-3 -- Phases II and III Hanalei Commercial -- Archaeological Data Recovery Plan  
TMK: 5-5-9: 7 and 8  
Hanalei, Halelea, Kauai

The significant historic site located in the project area is the taro pondfield (30-10-401). In order for your project to have a "no adverse effect", mitigation work in the form of archaeological data recovery prior to construction will be needed to document the stratigraphy in the trenches to try to identify field sizes and the nature of field re-use over time, to attempt to date the fields, and to place these findings in the overall settlement pattern context of Hanalei ahupua'a.

This detailed archaeological data recovery plan that you submitted is acceptable to our office, with the following additions:

1. Stratigraphy of soils in the test units shall be recorded, using U.S.D.A. soil classifications and Munsell color coding and identifying and describing any layers that are cultural layers. Agricultural soil layers must be specifically identified.
2. Interpretations shall also address the question of field sizes. This will be pertinent if field walls are revealed in the subsurface deposits.
3. Interpretations shall also address the question of field re-use over time. This question can be addressed through evidence of multiple layers of agricultural field soils.
4. The question of dating shall not simply be addressed by the presence of charcoal, but also by the potential dating of soils with organic content which has been done elsewhere in Hawaii.
5. The findings shall be discussed in context with the general settlement patterns of Hanalei ahupua'a over time -- as known from prior archaeological and historical work.
6. After fieldwork is complete, the State's Historic Preservation Division and the County's Planning Department must verify successful execution of the fieldwork portion of the plan before any construction can begin.

EXHIBIT "F-6"

Gaylord H. Wilcox  
December 13, 1990  
Page 2

7. Findings shall be written up in report format. A draft report shall be submitted within two months of the completion of fieldwork to the State Historic Preservation Division and the County's Planning Department for content review. All content revisions recommended shall be done, or if the consulting archaeologist disagrees with comments, then these shall be resolved in consultation. The final report shall then be submitted to the two offices.

Please let us know if these additions to the scope are acceptable. We will send a copy of this letter to the County Planning Department. As soon as we get your letter agreeing with the scope additions, we will pass that information to the County. Then, the archaeological data recovery work can begin.

If you have any questions, please call Ms. McMahon, our staff archaeologist, handling the County of Kauai, at 587-0047.

Sincerely,



DON HIBBARD, Director  
Historic Preservation Program

cc: Joseph Kennedy  
Peter Nakamura, County of Kauai

**EXHIBIT "F-7"**

JOHN WAIHEE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

October 12, 1994

STATE HISTORIC PRESERVATION DIVISION  
33 SOUTH KING STREET, 6TH FLOOR  
HONOLULU, HAWAII 96813

Dee Crowell, Director  
County of Kauai  
Planning Department  
4444 Rice Street, Suite 473  
Building "A"  
Lihue, Kauai, Hawaii 96766

KEITH AHUE, CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCE

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DONA L. HANAKE

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CONVEYANCES

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION

DIVISION  
LAND MANAGEMENT

STATE PARKS  
WATER AND LAND DEVELOPMENT

LOG NO: 12955 ✓  
DOC NO: 9410NM08

Dear Mr. Crowell:

SUBJECT: **Historic Preservation Review -- Parking Lot Improvements  
for the Hanalei Center (Gaylord Wilcox)**  
**TMK: 5-5-09: 8**  
**Hanalei, Hanalei, Kauai**

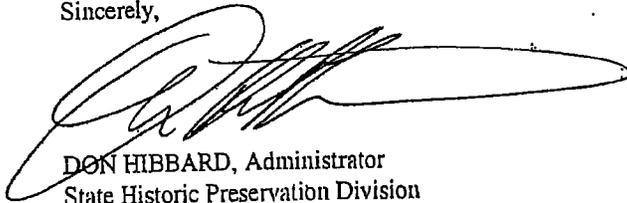
According to our files historic sites 50-30-10-400 (arwai) and 50-30-10-401 (lo'i) exist in or near this project area. Our concerns center around the buried pond field deposit (401). It appears from the project map that no archaeological subsurface testing has been conducted on this specific parking lot. We are uncertain if the infrastructure for the existing sewage treatment plant would likely have disturbed the subsurface pond field. Data recovery work conducted by Joseph Kennedy (ACH) in May 1991, nearby revealed a modern date because he was having difficulty collecting the samples due to a collapsed test unit.

In order for this project to have a "no adverse effect" on significant historic sites, we recommend the following condition be place on this project:

A qualified archaeologist should collect at least one "good" core soil sample from an undisturbed area of this parking lot expansion. The maximum number of core soil samples would be two. Soils, pollen and carbon should undergo laboratory analysis. Findings need be submitted to the State Historic Preservation Division in a report format which shall include: 1) maps showing testing location, 2) profiles of the core sample, 3) documentation of the nature and age of the deposits.

If you have any questions, please call Ms. Nancy McMahon at 587-0006.

Sincerely,



DON HIBBARD, Administrator  
State Historic Preservation Division

NM:jk

✓ cc: Gaylord Wilcox, P.O. Box 10-G, Honolulu, HI 96816

EXHIBIT "F-7"

**EXHIBIT "F-8"**

JOHN WAIHEE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

October 25, 1994

STATE HISTORIC PRESERVATION DIVISION  
33 SOUTH KING STREET, 6TH FLOOR  
HONOLULU, HAWAII 96813

Dee Crowell, Director  
County of Kauai  
Planning Department  
4444 Rice Street, Suite 473  
Building "A"  
Lihue, Kauai, Hawaii 96766

KRITH AHUE, CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCE

DEPUTIES

JOHN P. KEPPELER II  
DONA L. HANA'KE

AQUACULTURE DEVELOPMENT  
PROGRAM

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CONSERVATION AND

RESOURCES ENFORCEMENT  
CONVEYANCES

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
DIVISION

LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

LOG NO: 13012  
DOC NO: 9410NM16

Dear Mr. Crowell:

SUBJECT: **Historic Preservation Review -- Parking Lot Improvements  
for the Hanalei Center (Gaylord Wilcox)**  
TMK: 5-5-09: 8  
Hanalei, Hanalei, Kauai

We received a fax report from Steve Athens, Ph.D. (IARI) documenting a 4.87 meter deep core done for this project, to attempt to determine if taro pond field soils were present and, if so, to date these soils and record paleoenvironmental information. The report clearly shows that the only sediments present were beach sands. It appears taro fields were farther inland. Paleoenvironment studies of taro pond fields, obviously, could not be undertaken. We find the letter report on the archaeological work conducted to be satisfactory, and we concur with the consultants recommendation that this project will now have "no effect" on significant historic sites. We appreciate your cooperation on this matter.

If you have any questions, please call Ms. Nancy McMahon at 587-0006.

Sincerely,

*Don Hibbard*  
for DON HIBBARD, Administrator  
State Historic Preservation Division

NM:jk

cc: / Gaylord Wilcox, P.O. Box 10-G, Honolulu, HI 96816  
Steve Athens, IAI

EXHIBIT "F-8"

**EXHIBIT "F-9"**

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 821  
HONOLULU, HAWAII 96809

HAWAII HISTORIC PRESERVATION  
DIVISION REVIEW

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT M. MARUDA  
DEPUTY DIRECTOR - LAND

DEAN HAKANO  
ACTING DEPUTY DIRECTOR - WATER

ACQUATIC RESOURCES  
INTEGRATION AND DESIGN REGISTRATION  
BUREAU OF CONVEYANCE  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES IMPROVEMENT  
PROGRAMS  
FOUNDRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE HISTORIC PRESERVATION  
LAND  
STATE PARK

05 AUG -9 11:01

Log #: 2005.1506  
Doc #: 0508NM02

PLAN...

Applicant/Agency: Ian Costa (Director)/Bryan  
For: Hanalei Commercial Inc.

Address: County of Kauai Planning Department  
4444 Rice St.  
Lihue, HI 96766

SUBJECT: Chapter 6E-42 Historic Preservation Review - Z-IV-2006-1, P.D.U-2006-1 and  
SMA (U)-2006-1  
Parking, house sites and access road

Ahupua'a: Hanalei  
District, Island: Hanalei, Kauai  
TMK: (4) 5-5-9: 8

1. We believe there are no historic properties present, because:
  - a) intensive cultivation has altered the land
  - b) residential development/urbanization has altered the land
  - c) previous grubbing/grading has altered the land
  - d) an acceptable archaeological assessment or inventory survey found no historic properties
  - e) other:

2. This project has already gone through the historic preservation review process, and mitigation has been completed .

Thus, we believe that "no historic properties will be affected" by this undertaking

Staff: Nancy McMahon

Date: 8/1/05

Title: Archaeologist for Kauai

**EXHIBIT "F-10"**



# **Ka Pa'akai O Ka'āina Analysis**

Native Hawaiian Traditions, Customary Practices and Perspectives of  
Hanalei Ahupua`a Moku o Halele'a,  
Kaua'i Island  
for  
TMK (4) 5-5-009: 008 and 009

*Prepared for*  
Hanalei Commercial Inc. and  
Na Pali Brewing Company LLC

Prepared by  
Exploration Associates Ltd.

September 2019

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## Introduction

At the request of Hanalei Commercial Inc. (HCI) and Na Pali Brewing Co. LLC. (Na Pali Brewing), Exploration Associates (EAL) conducted a Ka Pa'akai O Ka'āina analysis of a 3,985-acre parcel (TMK (4) 5-5-009: 008 (Lot 17) and parcel 009 (7,822 sq. ft) which is in the Hanalei Ahupua'a, Hanalei District on Kaua'i Island (Figures 1 - 3). Hereinafter referred to as "*project area and/or the subject property*". The subject property is located mauka of Kūhiō Highway Route 560 (Kaua'i's Belt Road, which is listed a Historic District on the National Register of Historic Places) in Hanalei, Island of Kaua'i, Hawai'i. The property is bordered to the south (mauka) by Princeville Agriculture LLC which is used for taro cultivation and pasture lands. To the west of the project area is a parking lot, sewage treatment plant and a single-family residence. To the east of the project area is a single-family residence owned by the Tasaka Trust.

HCI and Na Pali Brewing are planning to develop a new two story Brew Pub on Parcel 9, increase commercial parking in the already existing east parking on the Hanalei Commercial Center, also develop additional parking on Lot 17 for Brew Pub Parking, extend and reconfigure the driveway of the east parking area, and develop a sidewalk and pedestrian bridge (over the preserved 'auwai). There is already an existing farm shed on parcel 9.

The County Planning Department now requires all land use permits address the proposed project's effects on traditional Hawaiian practices, customs and beliefs. This Ka Pa'akai O Ka'āina Analysis provides information pertinent to the evaluation of the proposed project's cultural impacts.

Here is a summary of the background on this Analysis. In *Ka Pa'akai O Ka 'āina v. Land Use Comm'n*, 94 Haw. 31 (2000), the Hawai'i Supreme Court considered a Native Hawaiian group's appeal of a state land use commission's decision to reclassify approximately 1,000 acres on the Big Island of Hawai'i's Kona Coast to enable a luxury development of homes, golf courses, and commercial space. In vacating the commission's decision and bringing the development to a halt, the court ruled that state agencies are "obligated to protect the reasonable exercise of customarily and traditionally exercised rights of Hawaiians[.]" and "may not act without independently considering the effect of their actions on Hawaiian traditions and practices." In order to better fulfill this mandate, the court outlined an "analytical framework . . . to effectuate the State's obligation to protect native Hawaiian customary and traditional practices while reasonably accommodating competing private interests."

The court detailed a three-prong test for decisions impacting traditional rights and resources, which requires specific findings regarding (1) the identity and scope of

cultural, historical, and natural resources in the affected area, including the extent to which traditional and customary rights and practices are exercised in that area; (2) the extent to which those resources, rights, and practices will be affected by the proposed action; and (3) feasible action, if any, to reasonably protect Native Hawaiian rights and practices. Importantly, "[s]pecific considerations regarding the extent of customary and traditional practices and the impairment and feasible protection of those uses must first be made before [approval] is granted." Especially relevant to business interests, the court also ruled that agencies cannot delegate their constitutional obligation to an applicant for a permit or other approval; instead, the agency must discharge its duty via the analytical framework articulated by the court.

## Methodology

Methodologies guided by indigenous Hawaiian cultural perspectives and intellect were used to conduct this study. It is always imperative that traditional values of *aloha* and *hō`ihi* (sincerity, love and respect) are ever present in the actions of the research and investigative team that engages with the natural environments, resources, people and communities from which/whom information will be gathered for this work. Special focus and attention is given to the examination of the land, water and atmospheric features that are applicable to the study project area and all lands and environments associated with it.

At the onset of this project, EAL entered this work with much enthusiasm and confidence of already "knowing" this place. Even with a limited window of time to conform to, EAL knew that only a little had been documented to bring forth the values and depth of traditional Hawaiian knowledge and customary practices of Hanalei's ancient past. Information and personal experiences that EAL possessed provided an advantage to accomplish the task of completing this Ka Pa'akai analysis.

Much of the effort in conducting studies such as this is to review and evaluate the land allocated for the project area and any possible adverse influences and consequences relating to indigenous Hawaiian beliefs and practices. Over the years, much has changed as the population has grown and the number of homes developed in Hanalei has quadrupled. The winds with their characteristics that were known to Native Hawaiian ancestors by specific names, still bring us comfort, rain and even challenges during stormy conditions. Hanalei is still a town community descended from a rich and vibrant Native Hawaiian culture and ancestors who knew this land these islands so intimately. The relationships they held with the natural world as divine and godly, influenced levels of consciousness that dictated every aspect of native Hawaiian life ways and cultural practices.

### Scope of Work

- (1) The identity and scope of valued cultural, historical, or natural resources that are found within the proposed project area and relevant areas within the ahupua'a of Hanalei, including the extent to which traditional and customary Native Hawaiian rights are exercised.
- (2) The extent to which those resources – including traditional and customary Native Hawaiian rights – will be affected or impaired by the proposed action.
- (3) The feasible action, if any, to be taken by the agency to reasonably protect Native Hawaiian rights if they are found to exist. (Ka Pa'akai, 94 Haw. at 19, 7 P.3d at 1084.)

### Environmental Setting

The parcel and project area sits within the Hanalei Ahupua'a which is in the traditional district of Halele'a and the judicial district of Hanalei. Hanalei Ahupua'a encompasses 68.5 sq km of land and is present between latitudes 22°13' north and 22°4'30" south and longitudes 159°27'30" east and 159°31' west. It is bounded on the west by Wai'oli Ahupua'a and on the east by Kalihikai Ahupua'a. The ahupua'a is amphitheater-shaped, defined by the ridges surrounding the Hanalei River. Hanalei River is the largest stream system in the state (Federal Register 2002). The ahupua'a extends from sea level, north at Hanalei Bay, to the top of Mt. Wai'ale'ale (5,148 ft) in the south. Three-quarters of the ahupua'a lies in the Halele'a Forest Reserve. This valley is a typical windward valley with one large perennial stream, the Hanalei River, fed by many tributaries. "Perhaps 9 km inland, the valley widens somewhat, and the stream begins to meander.

The land and waters of Hanalei, at 68.5 km<sup>2</sup> the largest ahupua'a in the moku of Halele'a, had long afforded exceptional possibilities for agricultural and cultural development by the Hawaiians of Kaua'i during the centuries before Euro-American contact. E.S. Craighill and Elizabeth Handy present the ahupua'a resources that pre-contact Hawaiians utilized and amplified:

Hanalei is unique on Kaua'i in having a broad river flowing into a magnificent level seaward area...The flats had been the taro lo'i of the Hawaiians, amply irrigated by ditches from the Hanalei River...

Because of an abundance of foods of all sorts, Hanalei was, and still is, one of the most attractive dwelling places in the islands. In addition to its rich lands and water resources, and its beautiful beach, it was close enough to the rich deep-sea fishing grounds off the Nāpali coast to supply its people with plenty of fish. (Handy and Handy 1972:420-21)

Elsie H. Wilcox, a descendant of missionaries to Kaua'i, writing in 1917, further characterizes Hawaiian settlement in Hanalei into the early decades of the nineteenth century:

The settlement then extended along the beach, where the climate was drier and where fishing was available, and the grass-thatched houses were set in the midst of gardens of fruit-trees, vegetables and flowers. Bananas, breadfruit, coffee, sugarcane, cocoanuts, sweet-potatoes, yams, squashes, pia and taro were cultivated, and chickens and pigs raised. On account of the sandy soil and lack of water "makai", most of the taro-patches were further up the valley, the farmer going up daily to "mahiai" and returning at night to his home on the beach. The banks of both rivers were lined with taro-patches which, following the water-courses, extended far up into the valleys. Terraced remains of these patches are still to be seen far above present habitations, their extent indicating a goodly population at that time. The stretch of land between the two rivers, now used as rice-land (i.e. 1917), was then an undrained swamp, not available for cultivation. (Wilcox 1991:5)

In the Halele'a District the precise chronology for the development and expansion of taro irrigation cannot be determined. In Hanalei Valley, Athens (1983) obtained four dates for definite pondfield deposits, adding to Schilt's (1980) two dates from uncertain context. Use of terrace pondfields date after AD 1400. The earliest date range clearly associated with an agricultural terrace is cal. AD 1320 to 1630, with most of the probability distribution after AD 1400. Of the two pre-AD 1400, one (cal. AD 1030 to 1390) is certainly from a pre-pondfield layer, and the other (cal. AD 595 to 970) is from a lower deposit that is suspected to pre-date pondfield construction. Schilt's (1980) date of cal. AD 595 to 970 is clearly anomalous. Human occupation is evident in the range of AD 950 to 1300 in a few locations in Halele'a. More substantial and widespread settlement and land use, however, is indicated by the majority of the radiocarbon dates (N=50 or 75%), post-dating AD 1400.

Prior to AD 1400 in Halele'a, settlement was in a few places near the coast, but one date of cal. AD 1205 to 1315 (sample Beta-87546, Kaschko 1996) refers to a

firepit feature in an inland setting in Hanalei. Preceding agricultural expansion, inland areas were certainly utilized for different purposes. Although the scope and range of these early inland activities are unclear at this time, they occurred at least as early as the AD 1200s.

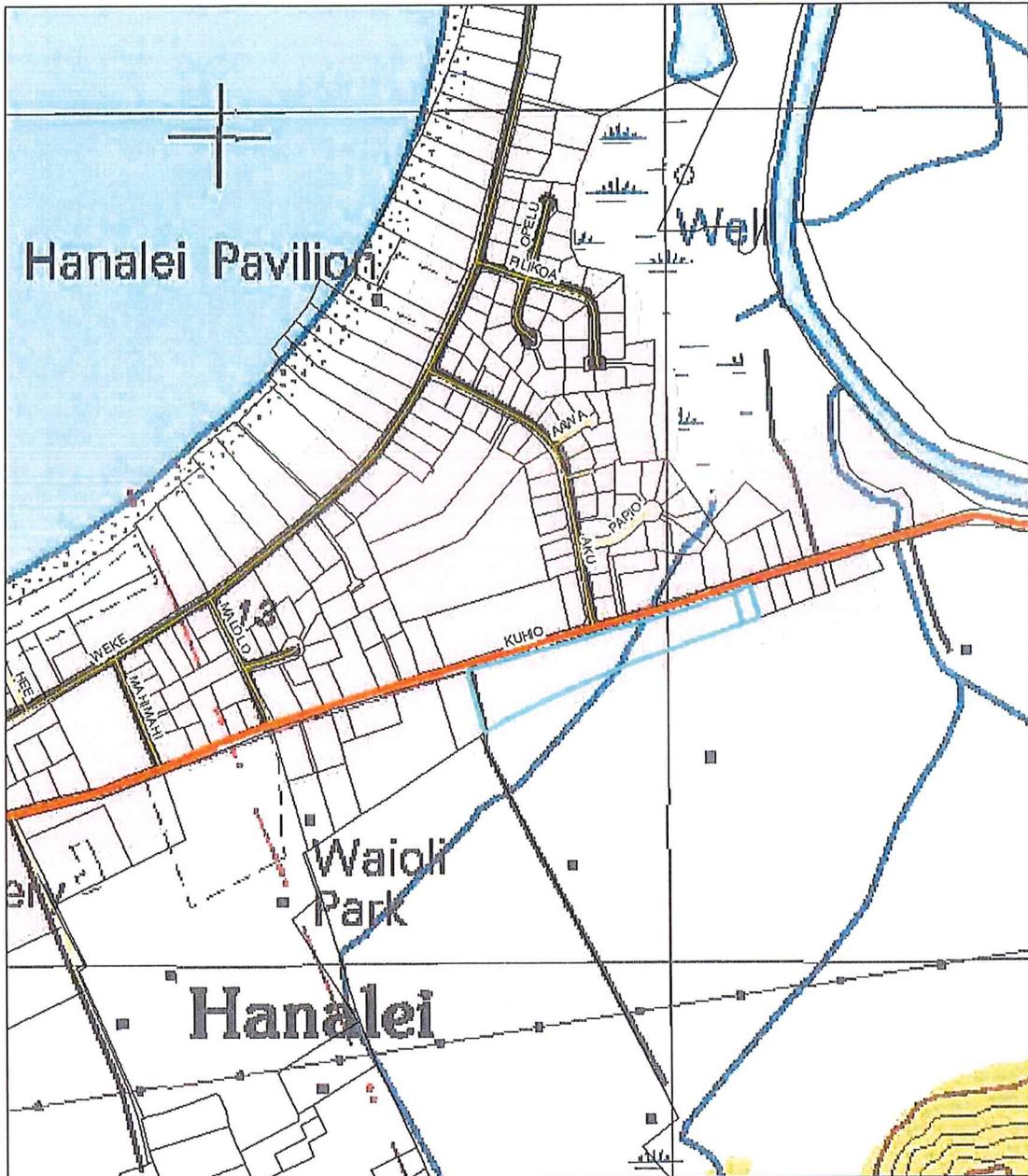
A considerable amount of focus is put toward the research of traditional places, their names and stories when preparing studies such as this. It is *minamina*, a sad and unfortunate loss when valuable information is lost or forgotten. There is an urgent need to preserve and pass on ancestral knowledge that was widely known just a few generations ago. Kava`i's unique culture and heritage associated with traditional places are key to nurturing a sense of place and connectivity. It is a vital component to the health and wellbeing of native Hawaiians, as well as the perpetuation of native Hawaiian life ways and culture.

The Hawaiian tradition of name giving is a centuries-old custom that involves process and purpose. In ancient times, personal possessions were few, but highly valued. A name, however, was considered amongst the most prized possessions of all. As with any precious newborn child, names were given only after much careful thought, and observation.

The same is applicable for traditional places as well. Early Hawaiians gave names to mountains, mountain peaks, streams and valleys. They also gave names to forests, plains, taro patches and salt pans, as well as the various winds and rains that were to different locations and regions. Every promontory, reef, fish house and storied place had a name as well. Again, the land and ocean were considered the extended nature family that the Hawaiian people interacted and developed strong bonds with. It is the basis of the expressions - *mālama `āina* and *aloha `āina*, meaning to "care for and have love for the land".

It was not uncommon for names to be inspired or received through supernatural advice of departed ancestors, spirit guardians or gods. Prayer, meditation and ceremony were important to the process of name seeking and name giving. For names received in this manner did not only provide a unique individuality and identity for the receiver. It became a mainstay for the health, well-being and prosperity for the individual, home or place. There is a great sense of responsibility attached with a name once it is bestowed upon a person, place, object or project. Names are not simply "labels". Whether it is name for a person or a name for a place, they are honored and treated with aloha and pride.

What may appear as trifling and unimportant on the surface, are oftentimes filled with profound wonder. Halele'a and Hanalei are such places that continue to hold an abundance of history and inspiration.



Coordinate System: NAD 1983 StatePlane Hawaii 4 FIPS 5104  
Projection: Transverse Mercator  
Datum: North American 1983  
False Easting: 500,000.0000  
False Northing: 0.0000  
Central Meridian: -159.5000  
Scale Factor: 1.0000  
Latitude Of Origin: 21.8333  
Units: Meter

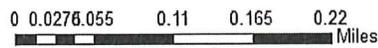


Figure 1. USGS Map of the Project Area Highlighted in Blue.



Figure 2. Aerial image indicating location of project area. Pictometry 3/201

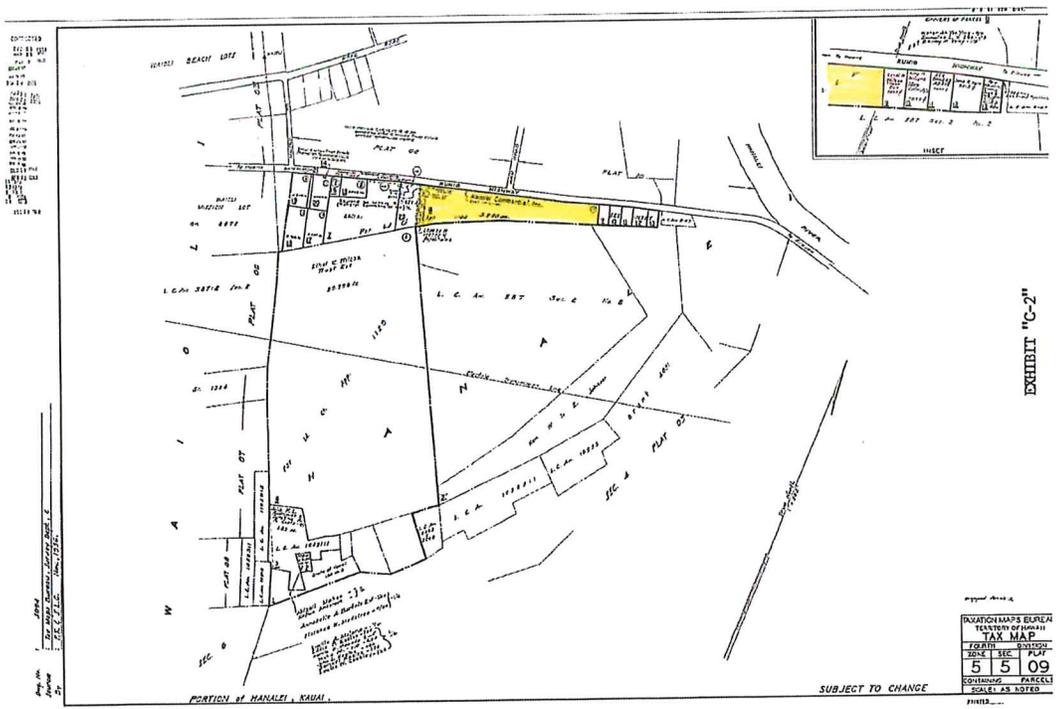


Figure 3. TMK Highlighted parcels showing the project area.

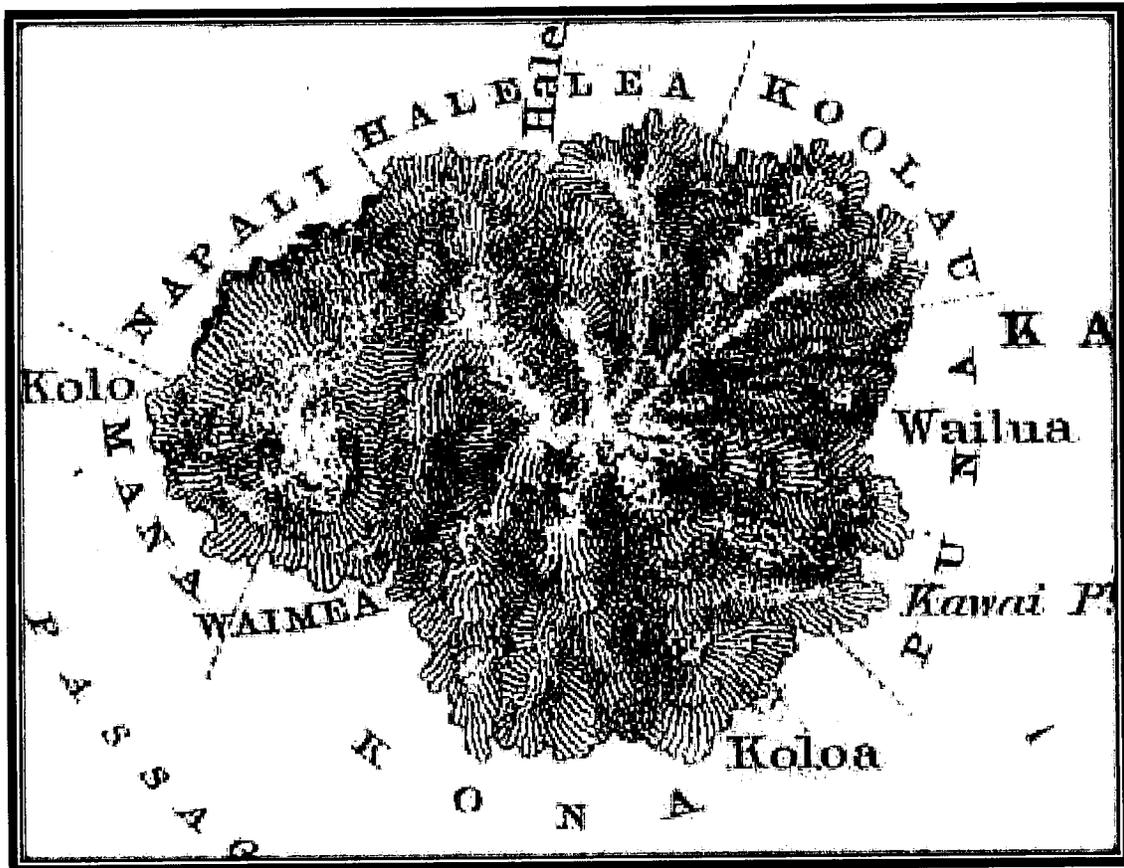


Figure 4. 1845 Map of Kaua`i by Charles Wilkes for U.S. Mapping Expedition. Note that it shows 6 moku or districts including Ko`olau, Halele`a, Nā Pali, Kona and Mānā. Typically, Kaua`i is divided into 5 moku. Mānā is usually considered as part of the Kona moku.

Geologically, Kaua`i is the oldest of the main inhabited islands in the chain. It is also the northwestern-most island, with O`ahu as its closest volcanic sibling separated by the tempestuous Ka`ie`ie Channel which is more than 72 miles long. In centuries past, Kaua`i's isolation from the other islands kept it safe from outside invasion and unwarranted conflict.

## Cultural Overview

Poetically the island is called, "Manōkalanipō", or "Kaua`i a Manō" after the ancient chief who was largely responsible for elevating Kaua`i's ancient society to sophisticated heights of advancement and productivity. For centuries, from the

time of Manōkalanipō's reign, through Kamehameha's unsuccessful attempts to invade Kaua`i in 1796 and 1804, Kaua`i remained free from warfare.

In 1810, Kaumuali`i accepted Kamehameha as the supreme ali`i by peacefully ceding Kaua`i to the newly United Kingdom of Hawai`i. With honor, Kaumuali`i was encouraged to return to rule on Kaua`i as its tributary chief under Kamehameha I.

In accordance with the ancient land division system, an entire island is referred to as a *mokupuni*. While the word, moku by itself can also mean island, it is a term that is more specifically used to identify a district. Puni means, *controlled, surrounded, to gain control of*. It comes from the word, *apuni* which is used to describe a government, kingdom, dominion, nation, or population that is governed or under the leadership of a ruler. In ancient times, a mokupuni could include an entire island as well as multiple islands that was ruled by an Ali`i Nui or paramount chief. Historically, the mokupuni of Kaua`i has included the islands of Ni`ihau as well as Lehua.

Kaua`i Island has traditionally been divided into 5 moku including: Ko`olau, Halele`a, Nā Pali, Kona and Puna. The ali`i nui appointed ali`i `ai moku or district chiefs to manage the various moku.

Common district names that are universally used across of the Hawaiian archipelago include "Ko`olau" marking the windward sides of the islands; "Kona" - the leeward sides of the islands; and "Puna" - indicating regions where springs and fresh water abound.

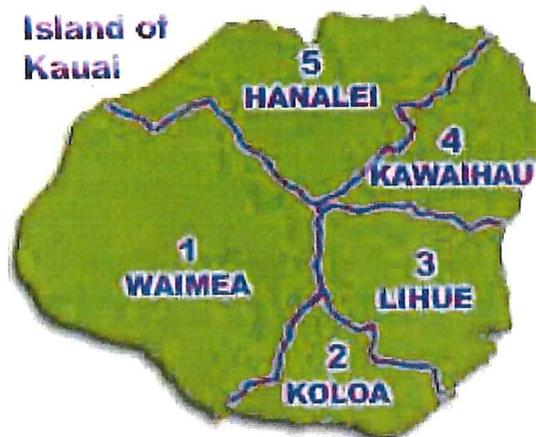
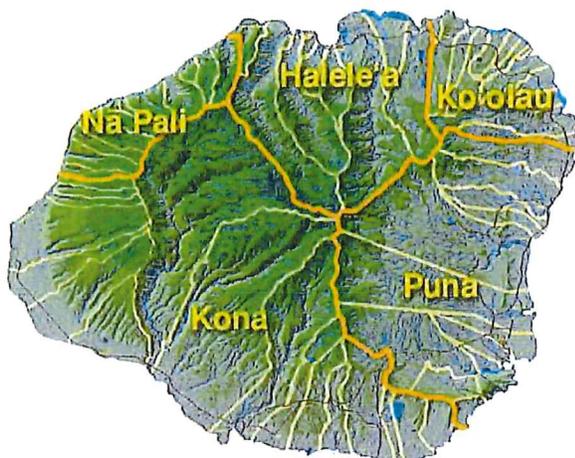


Figure 5 & 6 show Kaua`i Island Districts and Boundaries. Fig 4 on the left show the original moku of Ko`olau, Halele`a, Nā Pali, Kona and Puna. Fig 5 on the right show the revised boundaries and judicial land districts of Kawaihau, Hanalei, Waimea, Kōloa and Lihue.

The boundaries of the five moku on Kaua'i were changed in the late 1800s to reflect the present-day judicial land districts. The Project Area is in the Hanalei district upon land within the Hanalei ahupua`a.

Traditionally, the districts were further divided into smaller land divisions known as, *ahupua`a* which included the abundance of land and resources from the mountain to the sea. Under the direction of the ali`i `ai moku, the ali`i `ai *ahupua`a* or land division chief was put in charge of governing the ahupua`a. The ali`i `ai ahupua`a appointed *konohiki* who served as the headman of the ahupua`a land division, and was solely responsible for the management of land, water and fishing rights. An ingenious concept, the ancient design of the ahupua`a system continues to be an excellent model for sustainability and land and natural resource management today.

A major element of focus for this Ka Pa'akai O Ka'āina analysis is based on the `āina or land that is the project area, as well as surrounding lands and natural resources that are linked to the project area. It is important to readers of this Ka Pa'akai O Ka'āina analysis to have a basic understanding of the ancient land division system and the various words, terms and idioms associated with Hawaiian land designation and Hawaiian land use. This is especially helpful in identifying and relating to specific locations and place names that are pertinent to this study.

### **Translation of traditional Hawaiian place names**

For this study, EAL has made special effort to expand upon the various place names associated with the immediate project area as well as the extended land areas that include the ahupua`a of Hanalei. It was important that EAL not only limit us to the written literature and documents available.

EAL made several field visits to various sites to look at land, ocean and atmospheric traits, and spoke with Native Hawaiian kūpuna and informant kama`āina who are intimately familiar with the study locations.

Loosely translating Hawaiian place names from the pages of a dictionary is not good enough. One must go and see the lay of the land, see, touch and feel the textures of the native plants that grow at the different places, study and understand the directions and `ano or nature or manner of the wind and rain that are *pili* or connected to certain places, etc. All possible meanings are taken into consideration. In many cases, place names are connected not to just or there

other, but to multiple meanings. Understanding the imperative practice of taking different perspectives and views into account when processing an understanding of Hawaiian words, names and places. Literally, makawalu means, many, much, in great quantities. Sometimes used with implication of chiefly mana or energy. Literally translated it means "eight eyes". Makawalu is to take initiative of different perspectives and approaches. It is to see and observe from different angles. It is also to foster the ability to perceive and articulate on the interrelationships and connectedness of mankind and the natural world.

### **Ancient Ahupua`a System: Reciprocal Relationships of Land, Environment and Man**

One of the most remarkable concepts of ancient Hawaiian culture is the basic self-sustaining structure of the ancient Ahupua`a System. Shaped by the island's geography from the mountain to the sea, each ahupua`a was divided following the natural boundaries of the watershed. Abundant rainfall along with mountain aquifers provided fresh, clean water which flowed naturally and freely through realms designated for gods and man respectively. Nourishing and supporting all life forms, water was a sacred resource and manifestation of the god, Kāne to whom life and health was sanctified. The entire community took part in its proper care and conservation of it. The ahupua`a contained all the resources that was needed to sustain the human community. There was the abundance of fish and seafood from the ocean, fertile lands for planting and farming upon the plains of kula lands, and timber and other resources from the upland forests for the building of structures and canoes.

The success of the ahupua`a was based on a belief system that emphasized Hawaiian spirituality that was extended to the entirety of the natural world which included the landscapes of land and ocean as well as the atmosphere. Nature forms that supplied nourishment and supplies for survival and existence were viewed as *kinolau* or manifestations of their deities themselves. i.e., specific plants used for healing and subsistence were body forms of certain major and minor gods because of its distinctive quality to cure or sustain.

**"Ahupua`a is holistic...**In Hawaiian culture, you had *kahuna* who knew the forests, knew the trees, knew the geology. The chiefs could draw upon the collective wisdom of the *kahuna* to help determine what was an appropriate construction project. Today, I see a modern *ahupua`a*. It means using the knowledge and tools we have today. "

"Some argue that using an *ahupua`a* system today poses challenges simply because our society is not organized around subsistence, which was the whole premise of the *ahupua`a* system. Others have said, how can you use an *ahupua`a* system in modern

---

Hawai'i when we import 70% of our food? Moreover, the people within the *ahupua'a* shared common resources, but today so many of these are now either degraded or sequestered in private lands."

"But if we look at the underlying values, principles, and practices, those have not changed. Certain accepted features are retained, even in Western law: water as a public trust resource, public access rights to forest, to hiking, to gathering. Those are acknowledged even in modern Western laws, especially in the State of Hawai'i."

Stephen Kubota  
Ahupua'a Action Alliance

## Wahi Pana

Wahi pana are celebrated and storied places that illuminate generations of reciprocal connection and relationships between indigenous Hawaiians and the land and seascapes and natural resources that supported their existence. For well over two thousand years, native Hawaiians have held intimate bonds with their islands and special places upon them. Wahi pana continue to be integral, living components of a Hawaiian world view today.

Literally, the word "wahi" simple means, "*place or location*". *Pana* is defined as "*celebrated and storied*". Another definition of the word, *pana* is, "*heartbeat or pulse*".

The latter, elevates and distinguishes a place as a wahi pana from any other ordinary location. Nature's forces, combined with the intangible spiritual energy source known to indigenous Hawaiians as *mana* are prevalent at many wahi pana throughout Hawai'i. Additionally, these wahi have specific stories, purpose and function that have influenced the lives of `oiwi kānaka or Hawai'i's native people for myriad generations. Transmitted orally from generation to generation, their experiences have been preserved through *mo`olelo* (legends and stories), *mele oli* (chants), *mele hula* (dances) and `oihana Hawai'i (practices), maintaining memory and knowledge of places that should be honored and respected. Wahi pana are excellent teaching tools that continue to be extremely valuable today in its capacity to inform and demonstrate the cultural traditions, practices, values and beliefs of Hawai'i's ancestors and people.

Wahi pana vary. They include but are not limited to sacred sites such as *heiau*, and ancient burial caves and burial grounds. Alluvial valley floors which were

cleared for the construction of elaborate irrigated systems of lo`i terraces; as well as fishing grounds and surf sites in the ocean are wahi pana as well. Mountain peaks, cliffs, valleys, rivers and streams too, have emerged over time as places of cultural importance.

All discernible features in every land division, district and island were given specific names that inspired life and meaning to these places as wahi pana. Every stream, spring, beach, fishing hole, reef, promontory, winds and rains, etc. all have names. These elements of nature provided the foundation for the creative and productive industries of the ancient Hawaiians.

The perpetuation of cultural practices and experiences held in close attachment to wahi pana and the reoccurring elemental phenomena specific to places illustrate the unique relationships of stewardship and kinship by native Hawaiians and the natural environment.

As successive generations of Hawaiians empowered these islands and their sacred and storied places with their prayers, ceremonies and labor, they left their indelible and enduring mark on the landscape; both seen and unseen. Tangible and indefinable sources of mana or spiritual power and energy unique to different places are also a result of generations of relationships that were nurtured between mankind and these special wahi or storied places. These are the multi-faceted qualities that have elevated wahi pana to the realms of Hawaiian consciousness. The land, the sea, the atmosphere and all the natural resources and phenomena that were held within each of its boundaries were considered as akua, divine and sacred. All of it was godly. The proverb below, explains the concept that Hawaiians value of the reciprocal relationships of land, environment and man.

**E mālama pono i ka ‘āina; nānā mai ke ola.**

*Take good care of the land; it grants you life.*

## **Mo`olelo: Storied Origins & Traditional Places**

Mo`o`Ōlelo is the succession of talk; or the continuation and perpetuation of oral histories and traditions that were passed on in story and chant forms. It is from this that the word mo`olelo is derived - stories, tales, myths, legends and chronicles; records of information that was storied in the memories of Hawai'i's ancient

people. Another term that is used is *kā`ao* - oral traditions and myths that represent the cultural truths, wisdom and experiences of *kūpuna*.

Throughout the Ka Pa'akai O Ka`āina analysis analysis, examples of traditional Hawaiian *mo`olelo* are presented to link the reader with traditional places, beliefs and practices associated with the ancestral worldview of Hawai`i's indigenous Hawaiian people. *Mo`olelo* and *kā`ao* are not viewed as fanciful fairy tales or fictional stories woven to entertain. Laden with skillful use of metaphors and poetic expressions, they are invaluable sources of information that have preserved a sense of consciousness and inner connection of the *kānaka `ōiwi* with his multidimensional world.

It is estimated that the Hawaiian island chain was first settled upon more than 2000 years ago by Polynesians who arrived from Nukuhiwa (also pronounced Nu`uhiwa) or the Marquesas Islands. Early migration chants and oral traditions provide insight to the discovery and settling upon these islands. One story tells of a man named Hawai`iloa who is credited with first discovering Hawai`i when he set out from a land called, "*Ka `āina kai melemele a Kāne, (The land of the yellow sea of Kāne)*" on a long fishing expedition. He sails back to his homeland and returns with his wife and followers, including eight navigators. Because his wife is the only female on this return journey, it is said that all Hawaiians are descended from him. The largest island in the chain - Hawai`i, is named in his honor, while the additional islands of Kaua`i, Maui and O`ahu are named after his children.

From Hawai`iloa, the heritage of long, distant voyaging, non-instrument navigation and way finding is established using phenomenal skills of keen observation and comprehension of stars and constellations in the heavens. He is the primal ancestor of the Hawaiian people who also introduces the astronomical wisdom of the atmosphere and its phenomena, including the weather and climate. He is also an expert of the ancient sciences associated with the physical, geological and biological features of the oceans.

From the union of Papahānaumoku and Wākea - preeminent *mākua* or parents of the Hawaiian universe is born Hāloa...our very connection to *kalo*, the sacred staple that has fed and nourished the Hawaiian people since time immemorial.

The genealogical *ko`ihonua* of Hawai`i's ancestral Earth Mother and Sky Father bring forth the paradigm that bind generations of Native Hawaiian families to this storied progenitor. Through the traditions of Papa and Wākea, the energy of the Hawaiian family system that includes both nuclear and extended `ohana is born. From this legacy comes the skills and intelligence of the *mahi`ai* - the native planter that tends to Hāloa, the taro plant and elder brother that continues to

sustain families today. Indigenous agriculture and cultivation practices are dependent on acquiring intimate knowledge of water cycles, moon phases and weather phenomena. There is a constant nurturing of familial relationships to land, environment and elements of the Hawaiian universe.

The epic saga of Pelehonuamea describe in detail, the journey of the fire clan aboard the mythical wa`a (canoe) named Honuuiākea. Their quest is to search for a new fire source and a home from which to generate sources of life. It too, is a story of genealogy and migration, establishing cyclical movements of life upon these lands. The sun is a fundamental and reoccurring theme of substance that is essential to physical, spiritual and intellectual wellbeing.

The chants of the mo`olelo of Pele and Hi`iaka provide detailed accounts that speak to the importance of relationships that the indigenous Hawaiian hold in high esteem with `ohana or familial relationships; not just with mankind, but with their environment as well as with that of the atmosphere and the elements. This is a profound expression of connection that taps into the inner sources of life and healing. Through this ancient oral tradition, we are provided with formulas and procedures of Hawaiian protocols and ceremonies that are still applicable for the native Hawaiian in the 21st century.

These are just a few examples of the incalculable volumes of "unwritten literature" - primal sources of Hawaiian chants and the impressive accounts within them chronicle centuries of Hawai`i's fascinating history and culture. Embedded in the narratives of these ancient traditions are valuable details that provide us with a deeper understanding and a closer look at the worldview, life ways and experiences of Hawai`i's people prior to the turbulent changes that unfolded in post-contact times.

The significance and merit of mo`o `ōlelo - what an ingenious tradition of transmitting wisdom, knowledge, history and more through the succession of the voice conveyed through the telling of stories and the perpetuation of the art form of chants and the oral traditions that inspire the essence of indigenous Hawaiian cultural practices and beliefs.

### **Ancient Chants that Extol the Land & Environment as Relations**

References and examples of chants from Hawai`i's ancient repository of oral and literary traditions have been included in this Ka Pa'akai O Ka`āina analysis to elaborate upon the traditional beliefs and cultural practices of native Hawaiians. These practices continue to this day. Mele oli, mele pule, mele hula and mo`olelo provide authentic examples of this continuing practices. They also speak to the

relationships held between *nā kānaka* - mankind, their environment and their gods.

The ancients viewed facets of nature such as the heavens and earth as a godly and divine pairing of male and female procreative energies. Wākea - the broad, wide expanse of the atmosphere is male. The moisture that gathers and collects in the clouds and sky produces rain, which is also a male force. The earth is female, and is known to Hawaiians as Papahānaumoku, or literally, *Papa that gives birth to islands*.

Adapted from Hawaiian Antiquities by David Malo (p.243) the mele ko`ihonua or genealogical chant on the following page speaks to the birthing of the Hawaiian Islands. Wākea - the male, is embodied in the expanse of the atmosphere and the heavens. Papahānaumoku - the female is Papa who gives birth (hānau) to islands. This ancient chant was revived into modern day cultural practice as a means of expressing native Hawaiians' familial relationship with the natural world and the `āina or land. Papa and Wākea - Sky Father and Earth Mother, along with their offspring, Ho`ohōkūlani are the divine characters and procreative forces that are also revered for the gift and traditions of the sacred kalo or taro plant. They are viewed and respected as ancestral progenitors of native Hawaiians.

‘O Wākea noho ia Papahānaumoku

Hānau ‘o Hawai‘i, he moku

Hānau ‘o Maui, he moku

Ho‘i hou ‘o Wākea noho ia Ho‘ohōkūlani

Hānau ‘o Moloka‘i, he moku

Hānau ‘o Lāna‘i, Ka ‘ula, he moku

Līlī `ōpū punalua ‘o Papa iā Ho‘ohōkūlani

ho‘i hou ‘o Papa noho iā Wākea

Hānau ‘o O‘ahu, he moku

Hānau ‘o Kaua‘i, he moku

Hānau ‘o Ni‘ihau, he moku

He ‘ula a‘o Kaho‘olawe!

*Translation:*

*Wākea lived with Papa, begetter of  
islands Begotten was Hawai'i, an island  
Begotten was Maui, an island*

*Wakea made a new departure  
And lived with Ho'ohōkūkalanī*

*Begotten was Moloka'i, an island  
Begotten was Lāna'i, an island*

*The womb of Papa became jealous at its partnership with Ho'ohōkūkalanī  
Papa returned and lived with Wākea*

*Begotten was O'ahu, an island  
Begotten was Kaua'i, an island  
Begotten was Ni'ihau, an  
island A red rock was  
Kaho'olawe!*

The significance and understanding of *mana* as physical, mental and spiritual nourishment is preeminent in the customs of old Hawai'i. It is essential to the health and wellbeing of the family system and community.

Every fragment of Hawaiian history and culture was documented to memory and orally transmitted from one generation to the next via chants. The births of gods, mankind, celebrated chiefs and more were often the subjects of lengthy, detailed chants.

Amongst them were *mele mo'okū'auhau* or genealogy chants, which are still considered to be one of the most prized family possessions of the native Hawaiian people. Kūpuna or elders were careful to designate individuals in the following generations of their families to be groomed as stewards of the `ohana's genealogy. All knowledge was committed to memory, which included the names, unions and offspring in the family's ancestors. *Mo'okū'auhau* hold us accountable to our ancestors. It strengthens our cultural identity and inspires the *mana* of our being.

However, *mo'okū'auhau* were not limited to families of humans only. Literary accounts of *mo'okū'auhau* also included family lines of many other nature forms as well. This included, mountains, sharks, water sources and elements of the natural world.

It seems likely the most proverbial sayings associated with Hanalei are references to the rains. One is simply Ka ua loku o Hanalei ("The pouring rain of Hanalei") (Pukui 1983:170). Another is Lu'ulu'u Hanalei i ka ua nui; kaumaha i ka noe o Alaka'i ("Heavily weighted is Hanalei in the pouring rain; laden down by the mist of Alaka'i") (Pukui 1983:170). Pukui explains the poetic meaning: "An expression used in dirges and chants of woe to express the burden of sadness, the heaviness of grief, and tears pouring freely like rain. Rains and fogs of other localities may also be used."

Pukui (1983:50) associates the poetical saying: Haehae ka manu, ke 'ale nei ka wai. ("Tear up the birds, the water is surging") with Hanalei. She explains:

Let us hurry, as there is no time for niceties. Kane'alohe and his son lived near the lake of Halulu at Wai'ale'ale, Kaua'i. They were catchers of 'ua'u birds. Someone falsely accused them of poaching on land belonging to the chief of Hanalei, who sent a large company of warriors to destroy them. The son noticed agitation in the water of Halulu and cried out a warning to his father, who tore the birds to hasten cooking.

Another legend regarding Haehae-ka-manu-a-Kāne'alohe-ke-'ale-mai-nei-ka-wai, a peak near the summit of Wai'ale'ale, Wichman (1998:109) relates the following account:

Kāne'alohe, a bird catcher, lived in this part of the mountains with his nephew Lauhaka. Their camp was on the cliff side of the Alaka'i Swamp beside an open bit of water. The water of this pool rippled whenever anyone stepped into the swamp miles away. Inadvertently, they were breaking the new rules of Kalākānehina, the Waimea chief, who had forbidden the catching of 'ua'u birds, the dark-rumped petrel, which was good eating. Kalākānehina sent some warriors to kill the two birdcatchers, but they were warned by the rippling water as they broiled a petrel over the fire. Lauhaka called out to his uncle to tear the bird apart so they could eat it before the warriors reached them - hence the name.

A last poetic saying Me'e u'i o Hanalei ("The handsome hero of Hanalei") "said of one who is attractive") would seem to be a clear reference to Kauahoa (Pukui 1983:234) (reference the Legends of Kawelo below).

### ***The Story of Lonoikamakahiki***

In the Story of Lonoikamakahiki, (Fornander 1919 Vol. IV Part II: 284-285, 304-305) the ruling chief Lonoikamakahiki and Kaikilani chant similar chants about various

places in Hawai'i nei including a reference to the rains of Hanalei:

O Hanalei kumu a ka ua Hanalei, The source of the rains  
 I amo a haahaa Made low from carrying such a burden

Kapāhiahilina also chants of his wanderings at Hanalei with Lonokamakāhiki also focusing on the rains:

My companion of the tall pandanus...He hoa i ka nahele lauhala loloa,  
 [That extend] from Kīlauea to Kalihi, Mai Kīlauea o Kalihi la,  
 The pandanus that had been pecked by birds, O ka hala i 'aina kepa ia e  
 ka manu,  
 [The Pandanus] of Pō'okū in Hanalei, O Pō'okū i Hanalei-la  
 Thus did we two wander along my companion, Hala ia mao a ka ua, e ke  
 hoa-e  
 Through the heavy and wind-blown rain, He ua ka'e'e, ua makani,  
 The ceaseless and general rain. Ua ho'okinakina e puni e ka ua.  
 We drank of the 'awa of Koukou, Inu aku i ka 'awa o Koukou  
 The fragrant leaved 'awa of Māmalahoa. I ka 'awa lau hinano o  
 Mamalahoa  
 Say, my companion! E ke hoa-e!  
 A companion, a friend of Lono, a man, He hoa, he ka'upu e Lono, he  
 kanaka  
 A companion of the deafening rains, He hoa la ho'i no ka ua, pa'ia,  
 As the rain traveled in the uplands at Hele ka ua mauka o Hanalei iki,  
 Hanalei-iki  
 To Hanalei nui, A Hanalei-nui  
 One rain was from the highlands, Mauka mai kekahi ua  
 One rain was from the lowlands, Makai mai kekahi ua  
 One rain was from the east, Ma na'e mai kekahi ua  
 One rain was from the west, Malalo mai kekahi ua  
 Along the pandanus cape of Pu'upaoa, Ma ka lae hala o Pu'upaoa  
 It was there the rain fell on the sand, Ilaila ka ua ho'owalea i ke one  
 The sand, food of the kīna'u, I ke one 'ai a ke kina'u,  
 The kīna'u that ate of the ripe pandanus, Ke kina'u 'ai hala pala at Hanalei,  
 I Hanalei

There is a reminiscence of when Lonoikamakāhiki "ate of the ripe flowers of the pandanus of Pō 'okū" (a 'ai i ka pua pala o ka hala o Po'oku) (Fornander 1919 Vol. IV, Part II, 360-361).

The following is a list of legends about the area condensed from Hammatt, et.

al. (2011).

### **Legend of Kaipalaoa**

In the Legend of Kaipalaoa, the "word-smith child", (Fornander 1919 Vol. IV Part III: 576- 577) the boy hero arrives at Hanalei by sea from Pōka'i O'ahu in the retinue of the ruling chief of Kaua'i, Pueonuikona. They meet two canoes of the chief returning with fish and the boy requests some fish. He chooses two relatively small insignificant fish, an Ollilepa (file-fish) and a Kikakapu (butterfly-fish) which figure later in his contest of wits at Wailua.

### **Kawelo and Hanalei**

In the Legend of Kawelo, (Fornander 1919 Vol. V Part I: 576-577) the Kaua'i hero was brought up with a certain kinsman, the giant Kauahoa of Hanalei who would become the most noted warrior of the ruling chief 'Aikanaka. In a sidebar, while fishing from a canoe for uhu (parrotfish) at Kaena O'ahu, Kawelo caught the demi-god Uhumakaikai in his net and was towed close to Hanalei where his companion, Maakuakeke, asked for that land. Kawelo returns to Kaua'i to fight against the ruling chief 'Aikanaka and the great warrior Kauahoa. The fighting breaks out at Wailua. Aloha for Kauahoa arose within Kawelo and he tries to avoid a fight with his kinsman (hoahanau) from his childhood by trying to win over Kauahoa with a flowery chant, referring to Kauahoa repeatedly as "the pride of Hanalei" (ka ui o Hanalei).

There are several references to Hanalei: "swollen and enlarged is the moss of Hanalei" (Pehu kaha ka limu o Hanalei). "Hanalei, the cold land, the wet land, the land where the end is" (Hanalei aina anuanu, aina koekoe, aina i ka pea i noho ai), and "Hanalei the land of rain" (O Hanalei aina ua).

Kawelo appears to evoke images of the Hanalei landscape:

For the anger of Honokoa is reviling, Maewa ana ka ukiuki o Honokoa  
 At the cliff of Kalehuawehe, I ka pali o Kalehuawehe  
 Where the lama and wiliwili bloom, Pua ka lama me ka wiliwili  
 Where the rain sweeps on the outside, O ka ua lele ma waho of  
 Mamalahoa O Mamalahoa  
 Kauahoa the stalwart youth of Hanalei, O Kauahoa o ka meeui o Hanalei  
 (Fornander 1919 Vol. V Part I: 56-57).

Kauahoa rebuffs his overtures of peace and Kawelo then turned to one of his wives, Kanewahineikiaoha and chants:

Say, Kanewahineikiaoha, E Kanewahineikiaoha e;  
 your pikoi (tripping club) throw it up, Ko pakoi hoolei ia i luna

At Helelua, at Helelua, I Helelua, i Helelua  
 At the ridge-pole of Hanalei, I kaupoku o Hanalei la.  
 Arise thou, Hanalei, E ala e Hanalei e  
 Until Kauahoa thou hast killed, A make o Kauahoa ia oe,  
 When Hanalei thou shalt possess, Ai ae ia Hanalei,  
 And the mats of Ni'ihau thou shalt wear, Aahu ae i ka pawehe o Ni'ihau,  
 And the birds of Kaula thou shalt eat, Ai la oe i ka manu o Kaula  
 (Fornander 1919 Vol. V Part I: 56-57).

In another story of Kawelo (Fornander 1919 Vol. V Part III: 694-707) Kauahoa is actually the elder brother of Kawelo, born of the same parents, but adopted by Haulili, the "great one" of Hanalei (Haulii, ka mea nui o Hanalei). Kauahoa comes from Hanalei and is referred to as "The champion of Hanalei" (Ke kamaeu o Hanalei).

In Pukui's (1951:117-118, 122) account, following the killing of Kauahoa, Kawelo lived with his wife in Hanalei "quietly fishing and planting."

Wichman (1998:111) relates the following:

"Hanalei was the home of Kauahoa, a warrior who lived about 1690. He was the last of the great giant kupua warriors, noted for his strength, size, and because he was handsome. He was born on the same day and in the same place as the future ruling chief, 'Aikanaka, and his cousin Kaweloleimakua. In the war between these two, 'Aikanaka did not immediately call upon Kauahoa, who angrily sat in the headwaters of the Hanalei River and dammed up the water for so long that the fish gasped in the dry bottom....Kauahoa is often referred to as Kame'eu'io Hanalei, "handsome hero of Hanalei," and this name was given to a headland in his memory."

### **Legend of Palila**

In the Legend of Palila, (Fornander 1919 Vol. V Part I: 138-141) there is a reference to a club fighting hero of Hanalei named Lupeakawaiowainiha. It was said that every time he urinated the land would be flooded.

### **Legend of Kapunohu**

In the Legend of Kapunohu, the Kaua'i hero became ruling chief of Kaua'i by throwing his ihe spear from Koloa through the ridge at Anahola leaving a perforation (puka), with it finally slowing as it passed over Kalihikai and falling to earth at Hanalei (Fornander 1919 Vol. V Part I: 224-225).

### **Legend of Kamapua'a**

In the Legend of Kamapua'a, the pig child delivers a chant in his anger describing the sea of Hanalei as tempestuous (kaiko'o Hanalei e! Kaiko'o) (Fornander 1919 Vol. V Part II: 350-351). Westervelt (1915:266) relates an account of Kamapua'a at Hanalei as follows:

"Courage came back to them [the people of Kaua'i], and at Hanalei the people forced him [Kamapua'a] into a corner, and, carrying stones, tried to fence him in, but he broke the walls down, tore his way through the people and fled. The high chief of Hanalei threw his magic spear at him as he sushed past but missed him. The spear struck the mountainside near the summit and passed through, leaving a great hole through which the sky on the other side of the mountain can still be seen."

Skinner (1900:229) relates the following account of Kamapua'a at Hanalei:

"So ill did he behave in Kaua'i, assailing innocent people and destroying their taro patches, that they determined to dispatch him, and in order to have him under their advantage it was resolved to fence him in near Hanalei. The wall of mountain now existing there is the fence. Just before it was finished the prince in charge of the work sat to rest in a gap which admits the present road. He heard a harsh laugh and looking up saw Kamapua'a sitting on the top of Hoary Head. A running fight ensued, in which the outlaw escaped across the mountain, and the prince, hurling his spear, but missing his mark, sent the weapon through the crest of the peak, making the remarkable window that is one of the sights of the island."

### **Story of Halali'i**

In the Story of Halali'i, the king of the ghosts of O'ahu, there was a time when O'ahu was inhabited only by ghosts. The sole Kaua'i survivor of an act of treachery by the O'ahu ghosts sails to Hanalei and finds the ruling chief of Kaua'i at that place (Fornander 1919 Vol. V Part II: 432-433). With the aid of his kahuna, Namalokama he devises a plan to defeat the O'ahu ghosts.

### **Story of the 'Ōhelo**

In the Story of the 'Ōhelo, (Fornander 1919 Vol. V Part III: 580-581) the origin of the 'Ōhelo plant is traced to the daughter of a certain Maunakepa:

The moss peoples the barren lands Ka limu kaha kanaka of Maunakepao  
 Maunakepa  
 Spattering thereon is the rain Kapekapeku i luna ka ua  
 from Hanalei, etc. O Hanalei, a pela aku.

**Legend of the lovers Pa'alua and Kawelu**

In the Legend of the lovers Pa'alua and Kawelu, (Thrum 1923:139) Pa'alua regales the daughter of the ruling chief of O'ahu with accounts of "the charms of his home in the vale of Hanalei" referring to the home of his father, the ruling chief of Kaua'i. He makes specific reference to the kamani and olond that grow in the valley of Hanalei (Thrum 1923:140). Pukui's account (1951:175) has Kawelu exclaim "O Pa'alua, take me to Hanalei." They become the rulers of Kaua'i and Ni'ihau.

**A Maiden from the Mu**

In "A Maiden from the Mu" a young chief of Hanalei organizes a pig-hunt in Wainiha in search of the daughter of a Hawaiian bird catcher and a Mū wahine (Pukui 1951: 72).

**Legend of Kalelealuaka**

In the Legend of Kalelealuaka (Thrum 1907: 84), the hero of that name goes to Hanalei and defeats a resident chief of great strength in a contest of accuracy in throwing spears at a banana trunk.

**Account of Kawelu**

In Knudsen's (1956:83) account of Kawelu, the Shark God, the man-eating demi-god of Wailua is said to also frequent Hanalei River.

**Village Belle of Poki'i**

In Knudsen's (1956:93) account of the "Village Belle of Poki'i", the beauty is betrothed to a man who lives in Hanalei Valley "and is very rich, with large taro lands and many horses."

**Hawaiian Religious & Cultural Practices, Gathering Rights in the Hanalei Ahupua`a**

Field investigations of the project area resulted in no evidence or findings of significant plants or natural resources that are associated with Hawaiian gathering rights for subsistence, cultural or religious practices. One historic property is in the project area, the 'auwai documented in 1988 by Joseph Kennedy is being preserved. Kennedy's data recovery efforts obtained a date

associated with the 'auwai and old kalo ponds @1400s.

Formerly, Hanalei was part of the moku or district of Halelea. Within the Halelea district were the ahupua`a of: Hā'ena, Hanalei, Kalihikai, Kalihiwai, Lumaha'i, Waikoko, Wainiha, Wai'oli and Waipā. Hanalei being the largest of the 9 ahupua`a that stretched along the northeast end of Kaua`i.

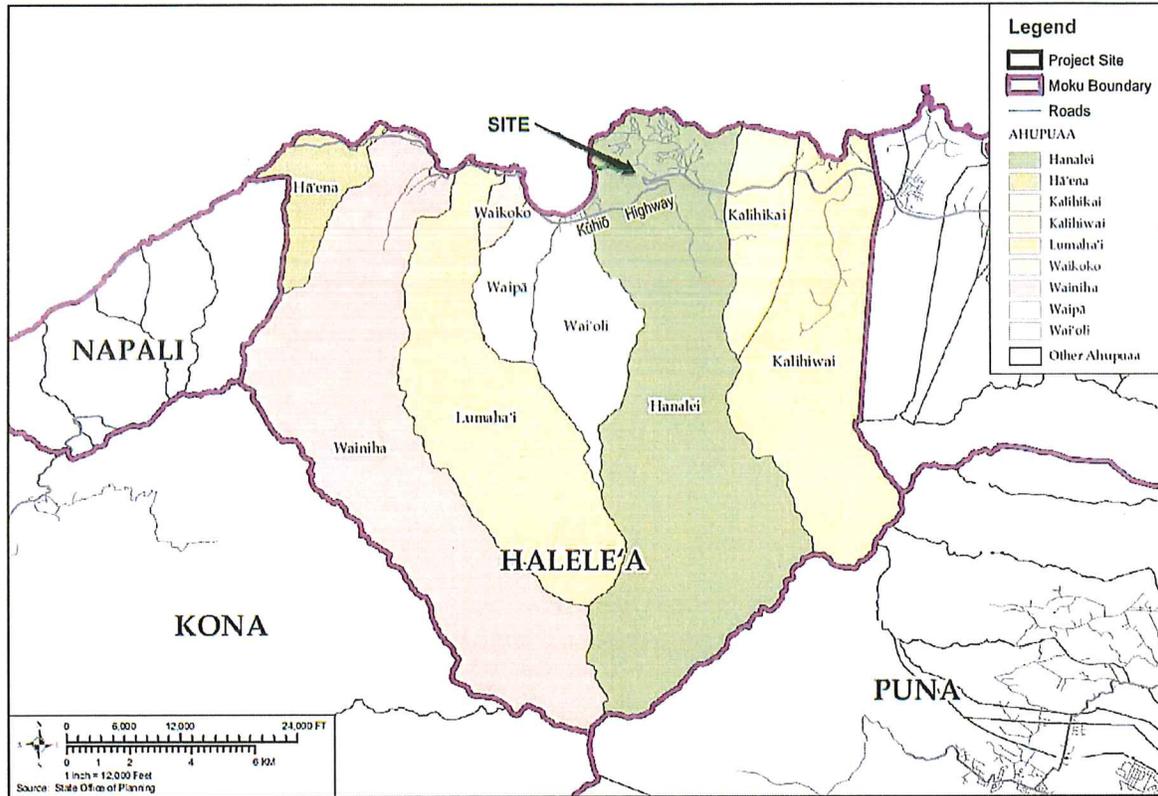


Figure 11. Showing Hanalei District, North Kaua`i and ahupua`a land division including Hanalei ahupua`a - location of the project area. Taxation Map Bureau Territory of Hawai`i.

### Ahupua`a Place Names, Descriptions, etc.

The following descriptions of the project area ahupua`a begin with identification of the *ma kai* or ocean ward boundary points to the north and south. The boundary lines of the ahupua`a are referenced by specific landmarks that lead to the apex of the land division's high point *ma uka* to the west.

The common description that ahupua`a are "pie-shaped" is inaccurate. However, it is a general practice to apply triangulation of the 3-main boundary points of the ahupua`a when identifying its respective division lines. Additionally, ahupua`a do not terminate at the ocean ward boundary points. The boundary lines are purposely extended into the ocean so that it also includes the resources and minerals of the reef and ocean as well.

The Hawaiian Legislature created the Office of Commissioner of Boundaries in 1862 to determine exact boundaries of previously un-surveyed ahupua`a. In July 14, 1873, the boundary commission met to identify the Hanalei boundaries through native Hawaiian references and landmarks. All persons who had received LCA awards for their lands by names only were mandated to appear before the BC to have their boundaries identified and determined.

On 14 July 1873, Kealohanui—a Hawaiian living in Hanalei "since I was very little"—testified before the Commission of Boundaries for the Island of Kaua'i on the boundaries of the ahupua'a. As transcribed in the commission's proceedings, notable among the place names and landmarks along the western boundary of the ahupua'a that Kealohanui recalled are the following:

Kaunaapi residing place of chiefs Kauanohi & Hula house  
 Kaunuaholea a starting place for races to the beach  
 Kapaka stone place of worship (Heau [sic])

The following is the narrative, describing boundaries of the lands of Hanalei:

**No. 18**

***Boundary of the Ahupuaa of Hanalei***

1873 July 14

Received the following petition

Honorable Duncan McBryde

Commissioner of Boundaries for island of Kauai

Sir: I am instructed by the Commissioners of Crown Lands to make application to you to define and settle the boundaries of the following lands on the Island of Kauai viz

The Ahupuaa of Waimea

" Hanapepe

" Anahola

" Hanalei

I am sir

Your Obedient Servant

Jno. O. Dominis

Crown Commissioner & Land agent.

Thereupon appointed the 23rd day of May 1874 for the hearing of said petition and caused notice to be served on the owners of the adjoining lands of the time and place of hearing.

#### Kealohanui Sworn

My name is Kealohanui live in Hanalei was born in Koolau, lived at Hanalei since I was very little. Know boundary. Kaluahi, a *Konohiki*, told me where it was; it commenced at an opening in the reef ½ of which belongs to Hanalei ½ to Kalahi[k]ai it is called Holokoa thence straight to sand beach, thence along sand beach to a rocky point, Kalaihonu and thence *mauka* to Kakahewa, a broad *kula* and thence to Nakoahale " " Kamoolehua a ridge and thence to Kawa, a broad ridge with stones at boundary Kaulaokakea, a rocky ledge above government road and thence to Kapuakekua, a small mound and thence to Kapukaili, *Kula* land and thence to Kaunaapi, residing place of chiefs Kauonohi & *Hula* house [page 84]

Kaunuakolea, a starting place for races to beach thence to Kapualeoanini, sharp narrow ridge between two gulches thence to

Kapualiohaohi, " " "  
Kahekawai, a small stream, "  
Mahani, flat ridge with banana bushes "  
Kapaka, stone place of worship "  
(Heau) [Heiau]  
end of Kalihikai and junction with  
Kalihiwai

Kawaipulea, ridge and small stream runs to Kalihiwai river.

I do not know further names but can point out the boundary till it joins with Waialeale, from Waialeale it comes down Kona or Waimea till it joins Wainiha and Lumahai thence down Lumahai boundary till Junction with Waioli and down Waioli boundary to the sea.

#### Manoha Sworn

I live in Hanalei was born at Poapoa, came here when young. Know boundary of Hanalei. Kalauakea pointed it out to me also Kauiki, Kalauakea belonged to Kalihikai. Kauiki to Anini. I was a *kanaka* of Kaumuallii. The boundary commences at Holokoa a ledge outside of break

in reef, thence straight through harbour to sand beach thence along sand beach to a rocky point called Kalaihonu, thence to Kahahewa, a level grassy plain thence to Nahoahaele " " "thence along the different places as given by the two former witnesses to Kawaipulea.

From the above and the evidence of two other additional witnesses the Commissioner of Boundaries rendered the following decision.

Decision Commences at an opening in the Reef one half of which opening belongs to Hanalei and one half to Kalihikai and called Holokoa, and thence straight to sand beach [page 85]

Thence along sand beach to a rocky point called Kalaihonu thence *mauka* on ridge to Kakahewa on broad *kula* thence continuing on *kula* to Nahoahaele. Thence through *kula* land to Kamoole-hua a ridge, and thence to a broad ridge with stones at boundary called Kawa and thence to a rocky ledge above Government Road called Kaulaahakea thence to a small mound called Kapuakekua. Thence through *kula* land to Kapuhaili thence to residing place and *hula* house of chief Kauonohi, thence to a place where natives used to start from when racing to the beach and called Kaunuakolea thence up a sharp narrow ridge between two gulches called Kapualioanini. Thence continuing upside ridge to Kapualioakaohi. Thence to a small stream, Kahekawai, thence up a flat ridge Mahani with banana trees. Thence to a large and peculiarly shaped stone at an old place of worship (*Heau*) [*Heiau*] called Kapaka here ends Kalihikai and commencement of Kalihikai with Hanalei the boundary, then crosses a small stream which runs into Kalihikai river called Kawaipulea, and thence to Waialeale between the two last named stations none of the witnesses examined could give any names of stations, from Waialeale the boundary runs down that of Waimea till it joins Wainiha i and then down Lumahai boundary till junction with Waioli and thence down Waiole to the sea.

Duncan McBryde  
 Commissioner of Boundaries  
 Kauai

#### Notes of Survey of Ahupuaa of Hanalei

The N West corner of this land commences on the sea beach at a place called Manolau where a tall stone is let into the ground with broken bottle beneath and from whence the following places bear an orange tree on the ridge at the head of Waikoko and called Kaooa, S 70° 47' West true\* [\*coordinates given in space between lines, above preceding coordinates

are given]

S 61° 45' W Mag; Peapea Peak on west boundary of Waioli,

S 39° 55' W true \* S 30° 58' West Mag, a tall stone on point of spur below  
[page 86] Peapea

S 58° 22' W true \* S 49° 25' W Mag, from thence the western boundary of this runs as follows Bearings Links true S 6° 44' E 1010 along through guava bushes and crossing Government Road to a S 20° 7' E 1045 long stone set in Johnsons paddock through paddock to old *Kuaauna*

S 23° 44' E 1560 following old *Kuaauna* & *hau* tree fence to *kalo* patches

S 9° 21' E 1700 crossing through *kalo* patches to foot of spur and then up said spur to the top. Said spur is called Hulumanu

S 24° 29' W 531 up spur S 27° 1' E 1360 up ridge

S 30° 27' E 1604 "

S 60° 1' E 779 "

S 23° 58' E 576 "

S 6° 31' E 274 "

S. 40° 26' E 280 "

S. 66° 17' E 256 "

S 84° 25' E 579 "

S 86° 25' E 316 "to mark thus [diagram - sketch] and stones & bottle

Thence the Boundary follows along the Mooleaka ridge on the following bearings and distances

S 23° 15' E 2400 up water shed of ridge

S 44° 30' E 1240 up ridge through woods to junction with main range leading down from Hoaeleele

S 6° 30' W 2320 up watershed of ridge to Hoaeleele peak

S 36° 30' W 1500 up ridge to sharp peak Hihimanu

South 1100 to sharp peak called Puukii

S 26° 30' 3140 " " Puukokala.

Thence following round water shed of range passing the lands of Waioli, Lumahai, and Wainiha, to the top of Waialeale.

The Eastern boundary of this Land commences on the sea beach at an opening in the reef and called Holokoa and runs thence in through reef S 3° 30' E to a stone or rock projecting through sand and from which the following places [page 87]

bear a large stone on reef below point called Haweanui,

N 77° 50' W true, 87° 50' mag

N 57° 44' E 321 links along sea beach

S 70° 41' E 500 " to Kalaehohonu point

S 16° 4' W 850 " up ridge from Kalaehohonu to Puueokau S 36° 37' or 57 W 836 " to Kakahewa

S 1° 25' W 1540 links along  
 S 14° 15' W 2185 " to Nakoahaili  
 S 16° 30' W 2350 " crossing several gullies and on to Kamoolehua; S 3° 21' E  
 753 " along Kamoolehua ridge to stone  
 S 29° 1' W 647 " " " below road S 14° 22' W 211 " crossing government road  
 to stone S 7° 13' W 585 " up ridge  
 S 7° 5' W 1493 " " S 5° 37' W 1014 " "  
 S 0° 22'; E 1247 " to stone  
 S 12° 50' E 3000 " by mountain roadway S 2° 52' E 1400 " " "  
 S 2° 19' W 1165 " up ridge to edge of terrace & clump trees (*hau*) S 21° 24' E  
 1872 " by road through woods  
 S 38 46' E 494 " " " "  
 S 20° 49' W 380 " " " "  
 S 8° 48' W 805 " " " "  
 S 14° 24' W 812 " " " "  
 S 15° 52' W 504 " " " "  
 S 42° 36' W 662 " " " "  
 S 15° 18' W 648 " " " "  
 S 51° 23' W 338 " " " "  
 S 2° 29' E 458 " " " "  
 S 27° 23' W 512 " " " "  
 S 45° 15' W 594 " " " "  
 S 13° 14' W 893 " " " "  
 S 5° 40' E 817 " " " "  
 S 14° 46' E 939 " crossing gully by road through woods; S 5° 31' W 548 "  
 S 46° 38' E 595 " " "  
 S 7° 54' E 1031 " up ridge " [page 88] S 35° 38' E 205 "  
 S 27° 54' E 463 "  
 S 7° 15' E 167 "  
 S 47° 37' E 167 "  
 S 20° 0' E 500 "  
 S 31° 23' E 239 "  
 S 54° 15' E 213 "  
 S 25° 56' E 83 "  
 S 76° 14' E 239 "  
 S 44° 13' E 139 "  
 S 4° 13' W 147 "  
 S 20° 38' E 367 "  
 S 41° 50' E 200 "to a large peculiarly shaped rock with hollows in it and called  
 Kapaka.

This is as far as the boundary can be defined but if continued further at any future period lines will have to be cut and the water shed of the ridge

surveyed as far as Waialeale. The area 5922 acres.

The quantities computed is that within the lines surveyed.  
The bearings herein noted are true taken from Meridian at N W corner of this land.

At nearly all stations there have been trenches cut [diagram – sketch] or stones put into the ground.

I hereby certify that this is a correct survey of the boundaries of this land as decided by Duncan McBryde commissioner of Boundaries for the Island of Kauai.

James W. Gay Surveyor May 1875  
Approved 30 June 1875 Duncan McBryde Commissioner of Boundaries Island of Kauai. [page 89]

Listed below are a list of names in Hanalei from the boundary records.

### **Anini**

'ili 'aina, LCAw 8224 to Iikuwa. "Maloko Anini, ahupuaa o Hanalei...Apana 1. Eiwa loi..." TMK 5307:3. Formerly called Wanini. (PEM: 228)

Lexicology: 'anini. PEM: dwarfish, stunted.

### **Hanalei**

The ahupuaa was returned by Haalilio, retained by Crown at the Mahele. The district was created in 1859 by merging the ancient Halelea and Na Pali districts, and now extends from Lepeuli to Awaawapuhi.

Lexicology: hana-lei. PEM: crescent bay.

### **Haluaalo**

'ili 'aina Claim no. 2660 & 10313 by Namauu: "No. 1 is some kula embracing a houselot in Haluaalo..."

### **Hanaleiiki**

Features: 'ili 'aina, LCAw 4081 to Kalawakea. "Maloko o ka ili o Hanaleiiki..." Misspelt "Hanaleiki" in Indices.

Lexicology: hanalei-iki. PE: small Hanalei.

### **Haulepe**

Features: mo'oa, Claim no. 9078 & 4073 by Kalakala: "No. 4 is 2 moos called Haulepe and Kanalee."

**Kaapiki**

Features: mo'o, Claim no. 9078 & 4073 by Kalakala: "No. 1 is a houselot in Kaapiki...in the midst of land lately give to Mr. J. Kellitt by an Allodial Title [RPG 100; TMK 5405:6]

Lexicology: ka-'āpiki. PE: the rogue, rascal.

**Kahalike**

Features: mo'o, Claim no. 8125 by Hanaimoa: "No. 3 is a loi in Kahalike, Hanalei."

Lexicology: kaha-like.

**Kahe**

Features: 'ili 'aina, Claim no. 10855 by Wahineiki: "No. 2 is 1 loi in the ili Kahe."

Lexicology: kahe. PEM: flow.

**Kaina**

Features: 'ili 'aina, LCAw 10594 to Papa. "[Apana] 1. Pahale maloko o ka ili o Kaina..." Misspelt "Haina" in Indices. TMK 5502:106. Also LCAw 3663 to Makole.

Lexicology: ka-'ina. PEM: the sea urchin.

**Kaluakanaka**

Features: lo'i, LCAw 9078 & 4073 to Kalakala. "[Apana] 3. Akahi loi, Kaluakanaka ka inoa..."

Lexicology: kālua-kanaka. PEM: oven-baking man.

**Kaluanui**

Features: lo'i, LCAw 8125 to Hanaimoa. "Apana 1. Akahi loi, Kaluanui ka inoa..."

Lexicology: ka-lua-nui. PEM: the big pit.

**Kama**

Features: 'ili 'aina, LCAw 10325 to Nunu. "Apana 2. Pahale maloko o ka ili o Kama..." TMK 5502:por.6.

Lexicology: kama. PEM: child.

**Kanaele**

Features: mo'o, LCAw 9078 & 4073 to Kalakala. "[Apana] 4. Alua moo kalo, Kaulipi me Kanaele ka inoa..." TMK 5404:14x.

Lexicology: ka-naele. PEM: the bog.

### **Kanoa**

Features: loko, 'ili 'aina, LCAw 7642 to Kahanuala. "Pahale maloko o Kanoa, ahupuua o Handei, Halelea, Kauai." The name is also applied to a loko and a brook. (FT 12:51, claim 4076.) Also LCAw 4076, 3664.

Lexicology: kānoa. PEM: bowl (as for kava).

### **Kanoaiki**

Features: 'ili 'aina, LCAw 10954 to Waiahu. "Pahale maloko o ka ili o Kanoaiki..."

Lexicology: kānoa-iki. PE: little kānoa [bowl].

### **Kaohia**

Features: mo'ō, LCAw 4083 & 9137 to Kealaiki. "Apana 1. Aina kalo maloko o ka moo o Kaohia..." TMK 5404:14x or 11x.

Lexicology: ka-'ōhi'a. PE: the 'ōhi'a tree.

### **Kapukawai**

Features: 'ili 'aina, LCAw 10954-B to Puamana. "Maloko o ka ili o Kapukawai...[Apana] 1. Loi..."

Lexicology: ka-puka-wai. PE: the water outlet; eye of a coconut.

### **Kaulipi**

Features: mo'ō, LCAw 9078 & 4073 to Kalakala. "[Apana] 4. Alua moo kalo, Kaulipi me Kanale ka inoa..." TMK 5404:14x.

### **Kauloko**

Features: lo'i, Claim no. 9147 by Kamakaulii: "No. 3 is 2 lois called Kauloko & Kuhaimoana."

### **Kauloulu**

Features: 'aina kalo, LCAw 3819 & 10646 to Puupoa. "Apana 2. Aina kalo 'Kauloulu' ka inoa..." TMK 5404:11x. [Erroneously numbered apana 1 on Tax Map.]

### **Kaunuopua**

Features: 'ili 'aina, LCAw 4083 & 9137 to Kealaiki. "Apana 3. Pahale maloko o ka ili o Kaunuopua..." TMK 5404:2,3,4.

Lexicology: ka-unu-o-pua.

### **Kenomene**

Features: place, The feature named is uncertain, perhaps a reef.

**Keokea**

Features: mo'ō, Claim no. 10720 by Pukaiki: "in Anini, Hanalei. It is all in one piece, containing house lot, 1 large loko & 5 small lois called Keokea & a small piece of kula."

Lexicology: ke-ō-kea. PEM: the white sand (ō is short for one).

**Kiloa**

Features: 'ili 'aina, Claim no. 4076 by Kamakaiwa: "No. 3 is 1 loi nui, ili Kiloa. No. 4 is 1 smaller loi, ili Kiloa."

Lexicology: kī-loa. PEM: long ti plant.

**Kuhaimoana**

Features: lo'i, Claim no. 9147 by Kamakaulii: "No. 3 is 2 lois called Kauloko & Kuhaimoana."

**Kukui**

Features: 'ili 'aina, .RPG 99 & 100 to J. Kellitt. TMK 5404:9,13.

Lexicology: kukui. PEM: candlenut lamp, light of any kind. PE:

**Kulima**

Features: lo'i, Bounds east side of claim no. 8268, 8263 & 9264 by Jeremia.

**Kuloa**

Features: 'ili 'aina, LCAw 4076 to Kamakaiwa. "Apana 3. Aina kalo, aha loi maloko o ka ili o Kuloa..."

Lexicology: kū-loa. PEM: long Kū.

**Kumuohia**

Features: 'ili 'aina, LCAw 10081 & 3663 to Makole. "Apana 1. Aha loi maloko o Kumohia [sic]. E hoomakana i ka pali o Kumuohia ma ka palena o Waioli..."  
TMK 5403:por.1

Lexicology: kumu-'ōhi'a. PE: 'ōhi'a tree.

**Limunui**

Features: 'ili 'aina, Claim no. 11066 & 3753 by Apolo: "a mookalo in Limunui, Hanalei... on west side of Loko Kanoa."

Lexicology: limu-nui.

**Lohilolili**

Features: lo'i, Adjoins west side of claim no. 4080 by Kahilina in Moaala.

Lexicology: lohi-loliloli.

### **Mahaaua**

Features: 'ili 'aina, LCAw 10325 to Nunu. "Aina kalo me ke kula maloko o ka ili o Mahaaua..." Probably mähā-'au'a, net for 'au'a fish. Misspelt "Maahana" on TM 5500 and "Hana" on RM 1833. TMK 5403:por.1.

### **Mahahaualihi**

Features: lo'i, Claim no. 10855 by Wahineiki: "No. 1 is 6 lois in ili Mahaaua called Mahahaualihi."

### **Moala**

Features: mo'o, Claim no. 4080 by Kahilina: "No. 2 is 4 lois & some kula in the ili Limanui, Hanalei, called Moala."

### **Moolulu**

Features: mo'o, Claim no. 8268, 8263 & 9264 by Jeremia: "3 lois & some kula adjoining called Moolulu in Hanalei..."

### **Nahuhuluia\***

Features: 'ili 'aina, Misspelt. LCAw 9147 to Kamakaulii. "Pahale maloko o ka ili o Nahuhuluia..." Written "Nukuhuluia" on RM 1833. TMK 5403:10. Properly "Nukuhuluii" (q.v.).

Lexicology: nā-huhulu-'ia.

### **Nehu**

Features: mo'o, LCAw 10648 & 3816 to Paaiki. "Apana 1. Aina kalo, alua moo, Paele me Nehu ka inoa..." TMK 5404:12x.

Lexicology: nehu. PEM: anchovy.

### **Nounou**

Features: 'ili 'aina, LCAw 10915 to Uloa. "[Apana] 2. Pahale maloko o Nounou..."

Lexicology: nounou. PEM: throwing.

### **Opukahi**

Features: 'ili 'aina, LCAw 52 to John Brosseau. "John Brosseau's lot in Opukahi, Hanalei..." TMK 5501:33,5.

### **Paauki**

Features: mo'o, A moo kalo on the mauka side of claim no. 10648 & 3816 by Paaiki. Perhaps pā-'auki?

**Paele**

Features: mo'o, LCAw 10648 & 3816 to Paaiiki. "Apana 1. Aina kalo alua moo, Paele me Nehu ka inoa..." TMK 5404:12x.

Lexicology: pā'ele. PE: dark, black; also a variety of sweet potato

**Puapuahoi**

Features: 'ili 'aina, LCAw 8521 & 9663 to Kaialaweikeau. "Pahale ma ka ili o Puapuahoi..." TMK 5403:por.7.

**Puu Poa**

Features: mo'o, Claim no. 4085 for a houselot in Puupoa, Hanalei, was given up by Kekauanui.

**Wanini**

Features: 'ili 'aina, Old name for 'Anini.

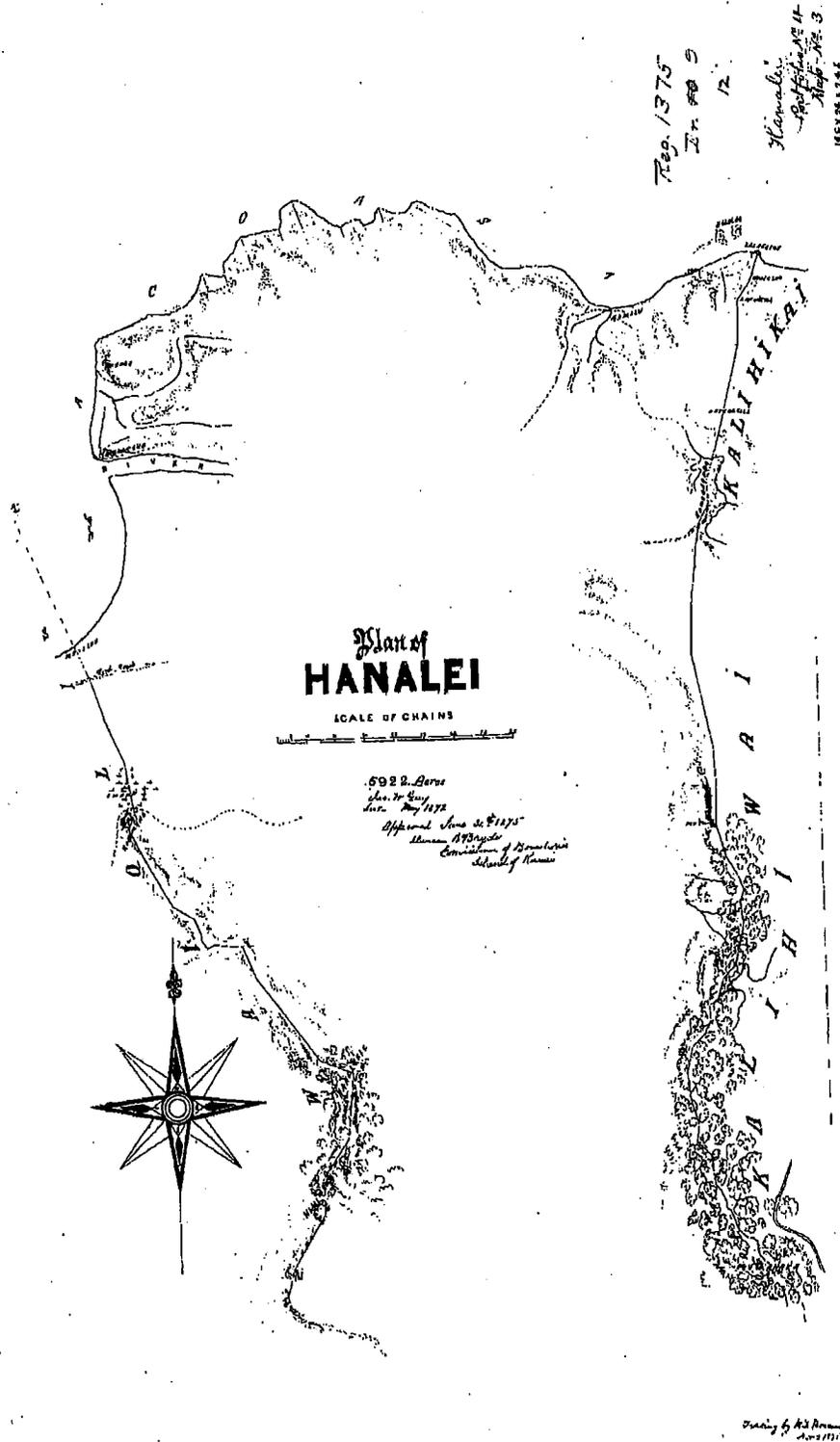


Figure 12. Boundary Map of Hanalei.

## A Connection and Understanding of Place Traditional Wisdom & Knowledge

### Hanalei Place Names

#### **Hawaiiloa**

Features: surf, Unlocated surf in Hanalei district. Quad uncertain.  
Lexicology: hawai'i-loa. PEM: long (or distant) Hawai'i.

#### **Hoopea**

Features: surf, Unlocated surf in Hanalei district. Quad uncertain.  
Lexicology: ho'ope'a. PEM: probably, to cross.

#### **Kaapoku**

Features: heiau, Bennett's site 142. "...inland from Site 141 in Hanalei Valley. This small shrine consists of a paved platform 18 by 20 foot made of rough stones. A village was across the stream." Probably misspelt. Cf. Kaapoko.

#### **Kamoomaikai**

Features: pā hale, "Commencing at lime tree, at southeast corner of Kamoomaikai, J. Kellitt's dwelling house lot..." TMK 5-4-04: por.9; perhaps parcel 8?  
Lexicology: ka-mo'o-maika'i.

#### **Kipapaaola**

Features: trail, "Trail above Hanalei, Kaua'i. See Kīkī-a-Ola."  
Lexicology: kīpapa-a-ola. PEM: roadway [made] by Ola (a Kaua'i chief).

#### **Kuakahiuu**

Features: surf, Unlocated surf in Hanalei district. Quad uncertain.  
Lexicology: kū-a-kahi-unu. PEM: standing like a fishing shrine.

#### **Makawa**

Features: surf, Unlocated surf in Hanalei district. Quad uncertain.  
Lexicology: makawa. PEM: not translated.

#### **Nalowale**

Features: heiau, Bennett's site 141. "Heiau and house sites, at Kalama-iki, an old village on the river flats, four miles up Hanalei Valley. There is a stone structure 18 by 20 foot with walls all around 2.5 feet wide and 2 feet high..." The name is forgotten.  
Lexicology: nalowale. PE: forgotten.

**Po'oku**

Features: heiau, pu'u, vent: "Only a few stones remain to mark the location of this heiau which Thrum describes as 'An unenclosed heiau of about two acres in area. Of luakini class, terraced down on all sides from the central platform.'" In 1887 the Hawaiian Government Survey established the Hanalei Latitude Station near the south end of the site. The hill is a vent in the Koloa Volcanic Series. Elev. 460 ft.  
 Lexicology: po'o-kū. PEM: upright head.

**Pu'u Lena**

Features: surf, Unlocated surf in Hanalei district. Quad uncertain.  
 Lexicology: pu'u lena. PEM: yellow hill.

**Hanalei Mountain Peaks & Landmarks**

One of the most important topics of research for this study was the identification of Hanalei's mountain peaks and landmarks. When asked about the names of the individual peaks, a few recognized its most prominent peak as Hihimanu, Puukii, Puukokaki, Puukau, Kapaka, and Haelele.

**Hanalei**

boundary point

Comments: The southeast corner of Hanalei, so named by surveyors. (BC 31) Between Keahua and Kualapa on the Wailua/Hanalei bdry, on Makaleha Mountain. Elev. 2240+ft.

Lexicology: hana-lei. PEM: crescent bay.

**Haelele**

boundary point, pu'u, "little green hill" between Mookoleaka and Puu Ki on the Hanalei/Waioli bdry.

Lexicology: hā'ele'ele. PEM: blackish.

**Hihimanu**

Features: boundary point, ridge, triangulation station, On USGS 1963, a peak between Puu Ki and Waiopa on the Hanalei/Waioli bdry. Elev. 2360+ ft. "Hihimanu Ridge" extends below Puu Ki on RM 1833. Hihimanu trig. station is located on the hill called "Kaukaopua" (q.v.) along the Hihimanu Ridge.

Lexicology: hihīmanu. PEM: beautiful.

**Kaliko**

Features: pu'u, Between Waiopa and head of Waioli on the Hanalei/Waioli bdry.  
Elev. 4200+ ft.  
Lexicology: ka-liko.

**Kamoo Koleaka**

Features: boundary point, pu'u, A hill between Manolau and Puu Ki on the Hanalei/Waioli bdry. Elev. 245 ft. Also written "Mookoleaka" (BCT) and "Mokoleaka Ridge" (RM 1833, TM 5600). Cf. Moakoleaka.

**Kaoloolo**

Features: pali, Claim no. 8125 by Hanaimoa: "No. 4 is some kula on the pali called Kaoloolo..."

**Kaumanalehua**

Features: pu'u, Elev. 2266 ft.

**Kaukaopua**

Features: pu'u, triangulation station, Site of Hihimanu trig. station.  
Elev. 1272 ft.  
Lexicology: kau-ka-'ōpua. PEM: the horizon clouds alight.

**Kaupulehu**

Features: pali, Bounds makai side of claims no. 9284 by Kuapuka and 10648 & 3816 part 2 by Paaiki; Koolau side of claim no. 9078 & 4073 part 4 by Kalakala, 3819 & 10646 part 2 by Puupoa but spelt "Kupulehu".  
Lexicology: ka-'ū-pūlehu. PEM: the roasted breadfruit.

**Kawaillewa**

Features: pu'u, Elev. 3300 ft.  
Lexicology: ka-wai-lewa. PEM: the suspended water.

**Kaweonui Point**

Features: point, Spelt "Haweanui" in Boundary Certificates 18 (1:88) and 31 (1:156).  
Lexicology: ka-weo-nui. PEM: the large redness.

### **Keanaawi Ridge**

Features: ridge, A ridge dividing the headwaters of Kaapoko Stream and Hanalei River.

Lexicology: keana'āwī. PEM: not translated.

### **Kiloa**

Features: pu'u, Elev. 2390 ft.

Lexicology: kī-loa. PEM: long ti plant.

### **Kuakea**

Features: pali, Bounds east side of claim no. 9279 by Koa in the Ili Hanaleiiki.

Lexicology: kuakea. PEM: faded, light colored.

### **Kaumaka**

Features: place, "Land division near Hanalei, Kaua'i."

Lexicology: ka'u-maka. PEM: give me eye (referring to the cry of two boys who were fond of fish eyes and were killed by a shark sent by a sorcerer.).

### **Kuhimana**

Features: boundary point, place, flat kalo land" at foot of Mookoleaka ridge, between Kamookoleaka and Naoneana on the Hanalei/Waioli bdry.

### **Lae Hanaike**

Features: boundary point, "...following along right on north foot of pali to large rock at Lae Hanaike, the makai north corner of this land, then following along sea to mouth of Hanalei River..."

Coordinates estimated. Perhaps lae-hana-iki?

### **Manolau**

Features: boundary point, place, "The Northwest corner of [Hanalei] commences on the sea beach at a place called Manolau..."

### **Mokoleaka Ridge**

Features: ridge, Same as Kamoo Koleaka.

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**Nakaloaola**

Features: place, "Small mountain area above Hanalei, Kaua'i."  
Lexicology: nā-kalo-a-ola. PEM: the taros of [chief] Ola.

**Naoneana**

Features: boundary point, place, "place on Government road"  
between Manolau and Kuhimana on the Hanalei/Waioli bdry.

**Poomau**

Features: pali, Pali called Poomau bounds claim no. 10691:2 by  
Naiwi in ili Mahaaua.  
Lexicology: po'o-mau. PEM: constant source or constant head.

**Puu Ki**

Features: boundary point, pu'u, Between Kamoo Koleaka and  
Hihimanu on the Hanalei/Waioli bdry. Written "Puu Kii" in BCT.  
Lexicology: pu'u kī. PEM: ti plant hill.

**Puu Kokala**

Features: boundary point, pu'u, The Hanalei/Waioli bdry passes  
"round head of [Waioli] valley to commencement of Eastern  
boundary at a place on high hill called Puu Kokala..." Perhaps the  
same as or near Kaliko.  
Lexicology: pu'u kōkala.

**Puu o Miki**

Features: pu'u, A hill on the Halelea Forest Reserve boundary. Elev.  
480+ ft.  
Lexicology: pu'u-o-miki. PE: Miki's hill.

**Puu Pehu**

Features: place, A broad area west of Anini Stream, makai of Hwy  
56, mostly occupied by Princeville Ranch.  
Lexicology: pu'u pehu.

**Waiopa**

Features: place, The feature named is uncertain.  
Lexicology: wai-'opa. PEM: crippled water.

### **Waipuni**

Features: boundary point, pu'u, A hill on the Forest Reserve and Homestead boundary. Elev. 400+ ft.

Lexicology: wai-puni.

Over the years, residents have lost touch with the place names and their meanings for this mountain range. The habit of identifying traditional landmarks whether they are mountains, beaches, etc. by generalization is common. A greater misfortune is the more popular trend and use of nicknames created by recent generations of transient and kama'āina residents. Disappointedly, this has resulted in the greater loss of knowledge and awareness of traditional Hawaiian places and wahi pana.

Knowledge of wahi pana and their place names for both subject project area and the ahupua'a of this Ka Pa'akai O Ka'āina analysis are on the verge of being forgotten and lost altogether. There is a sense of urgency to bring this to the forefront of our collective attention and create learning opportunities for the native Hawaiian community.

Several map sources referenced for clarification of place names and peaks produced conflicting information and statistical data as well. Further research, including examination of oral histories and other sources for accurate identification is of great importance and priority.

### **Fresh Water Sources of Hanalei**

- Kaapahu Stream Rises at 1960 ft. elev., enters Hanalei River at about 390 ft. elev. Lexicology: ka-'āpahu. PEM: the truncation.
- Kaapoko Stream Rises at about 2450 ft., enters Hanalei River at about 645 ft. elev. Lexicology: ka-'ā-poko. PEM: the short stone.
- Kaiwa Stream The north fork rises at 2000 ft. elev., enters Hanalei River at about 510 ft. elev. Lexicology: ka-'iwa. PEM: the frigate bird.
- Peko Stream Rises at about 1500 ft. elev., enters Hanalei River at about 260 ft. elev. A waterfall at 800 ft. may carry the same name.
- Waileia Stream "Commencing at stake at bend of Waileia Stream on north

edge..." Lexicology: wai-lē'ia. PE: abundant water.

- Waipunaea Stream Rises at about 1900 ft., enters Hanalei River at about 725 ft. elev.
- Hakanawaliwali 'auwai, 'ili 'aina LCAw 2660 & 10313 to O. Namauu. "Apana 2. Aina kalo me kula ma ka ili o Hakanawaliwali..." Misspelt "Kahanawai" on RM 1833, which shows "Kakonawaliwali auwai" along west side of LCAw 10954-B:2. TMK 5-4-03; por.7.
- Nukuhuluii 'ili 'aina, Claim no. 9147 by Kamakaulii: "No. 1 is houselot in Nukuhuluii." A small stream or brook with a large name, variously written "Nukuhuluia" (on RM 1833), "Nahuhuluia" (IN 505). Lexicology: nuku-hulu-'i'i.
- Waiaula mo'o, stream, Claim no. 4080 by Kahilinui: "No. 1 is houselot in Waiaula" bounded on the east by the brook Waiaula. Also, claims 7944 and 2660.
- Waihi 'aina kalo, LCAw 9078 & 4073 to Kalakala. [Apana] 2. Aina kalo, Waihi ka inoa..." Lexicology: wai-hī. PEM: trickling water
- Hanalei River river, rises at 4340 ft. elev., enters Hanalei Bay. Lexicology: hanalei. PEM: crescent bay. The Hanalei River is a large (16.2 miles long) and dynamic river on Kauai's north shore, with headwaters in the 'Alaka'i with over 450 inches of rain, and with river flows ranging from 20-50 million gallons per day (mgd) to over 6 billion mgd. Because of its hydrogeographic features, Hanalei River has a large floodplain. It is also one of the 10 "National Heritage Rivers" in the United States and has a relative abundance of all the native Hawaiian amphidromous species of 'o'opu, 'opae and hihwai or wi. The culturally and economically important 'o'opu nakea spawns on basalt boulders and large cobble stones within the Hanalei River estuary. O'opu (gobies), which utilize this portion Hanalei River, have cultural significance as well as being a food source. O'opu nōpili were traditionally used in certain ceremonies such as the weaning ceremony for first-born children and housewarming feasts. O'opu alamo'o were considered kapu (sacred) and believed to be related to the mo'o gods and bad luck if caught.

## Land Commission Award Claims Hanalei Ahupua`a

With the Hanalei River as its main source, generations of native Hawaiians thrived in the ahupua`a of Hanalei inhabiting mostly the valley and nearby coastal areas. In pre-contact times, prior to transformation of ancient Hawaiian religious and political systems, Hanalei's population was comprised of ali`i, kahuna and maka`āinana that were experts in the professions of planting and farming, fishing, healing and kapa making.

Land Commission Awards and Mahele Awards are Sources of Title adjudicated by the Land Commissioners to claimants. Mahele Awards are Sources of Title specifically issued to those chiefs who received their lands from the king but failed to present their claims before the Land Commission and thus received titles to their lands from the Minister of the Interior. Kamehameha Deeds are Sources of Title to Crown Lands that Kamehameha III, IV and V conveyed. Minister of Interior Deeds were Sources of Titles that conveyed lands from the government to private individuals by the Minister of the Interior during the Kingdom of the Monarchy. Patents - both Royal and Land were issued on the awards as evidence that the Government's right to commutation therein was satisfied. An award together with a patent perfected the awardee's title to the property. Grants by Royal Patent and Land Patent were Sources of Title deriving from the sales of government lands. The term "Royal" indicates that the document was issued during the Hawaiian Monarchy (up to 1893). The Land Patent or Land Patent Grant thus means the document was issued subsequent to the monarchy.

The Kuleana Act of 1850 allowed maka`āinana (Native Hawaiian commoners), in principle, to own land parcels at which they were currently and actively cultivating and/or residing. As a result of the Māhele, Land Commission Awards (LCA) were claimed in five distinct clusters within Hanalei Ahupua'a: the shoreline, the Maha'ana (taro fields adjacent to Waioli Ahupua'a), Puapuhoi-Limanui (the bottom lands of the Hanalei River), 'Anini (on the coast northeast of Hanalei Bay), and Kīloa (inland and adjacent to Limanui).

A total of 74 claims for kuleana lands were brought before the Land Commission by native Hawaiians residing in the ahupua`a of Hanalei in 1846-48. Of the 74 listed, 22 claims were not awarded LCAs. It is also known that many native Hawaiians did not appear to petition for their kuleana before the Land Commission. These claims, both awarded and not awarded, detail land usage referred to here as land use components. These components (204) comprise more than 124 taro patches or mo'o (one or more taro patches in a mo'o)

(61.1%), 44 house lots (21.7%), 18 kula (garden/pasture) (8.9%), more than eight orange and more than one lemon trees (4.9%), five loko (ponds) (2.5%) a noni and banana patch, 400 head of cattle and 160 acres of coffee, and a wharf (misc. 1%). Parcel 9 is an LCA No. 597 in the project area. The claimant was T.C. B. Rooke. Thomas Charles Byde Rooke (1806-1858) was as an English physician who married into the royal family of the Kingdom of Hawaii. In 1830 he married Grace Kama'iku'i Young (1808-1866). Grace had two sisters Fanny and Jane and a brother John. Her father was John Young, known as Olohana, the royal advisor of Kamehameha I. Thomas and Grace could not have children so they *hānai* her sister Fanny and George Nae'a's daughter Emma, who took the surname of her foster parents.

## Land Commission Award Claims Ahupua`a of Hanalei District of Halelea

(Listed in alphabetical order of Claimant's name)

Claim Number	Claimant	'Ili/Ahupua`a	Kuleana	Designation
00387	ABCFM	Hanalei, Waoili	4-5 acres houses and yard	1 ap.; 9.76 Acs
03753	Apolo	Kanoa, Liminui	2 house lots	2 ap.; 3 roods 38 rods
11066	Apolo, F.K.	Hanalei	2 house lots and moo kalo	Not awarded
00596	Bateman, Thomas for Rhodes & Co	Hanalei	5 acres	Not awarded
00052	Brousseau, John	Opukahai	lot	1 ap.; 1 Ac 3 roods 18 rods
00027	Dudoit, Jules	Hanalei	unknown	1 ap.; no amount of land indicated

Claim Number	Claimant	'Ili/Ahupua`a	Kuleana	Designation
08125	Hanaimoa	Kaluanui, Mahaana, Kaahaliike, Kaoloolo, Paoama	House site, lo'is and kula	Kaluanui Hanalei Halelea; 1 ap.; 35 rods; Maheana Hanalei Halelea; 1 ap.; 1 Ac 2 rods 14 rods
08263	Ieremia, Pepee or Jeremia	Koolulu, Mahaana	House lot, loi and kula	Mahaaua Hanalei Halelea; 1 ap. 1 Ac 17 rods
08224	Ikuu	Anini	House lot and loi	3 ap.; 1 Ac 2 rods 12 rods
07642	Kahanuala	Hanoa/Kanoa	Kula and house lot	Kanoa 1 ap. 1 rood 24 rods
04080	Kahilina	Waiaula, Limanui	Kula and house lot	2 ap.; 1 Ac 27 rods
09671	Kahio	Hanalei		Wrong number
07671	Keahi	Anini	House loy, 6 loi, and kula	1 ap.; 1 rood 37 rods
07944	Kahue, former Konohiki	Hanalei	4 loi and kula	2 ap.; 4 Acs 14 rods
09963	Kaialawaikeau	Hanalei		Wrong number
08521	Kaialawaikeau, K.	Puahuahoi	House and kula	1 ap.; 59 rods
04073	Kalakala	Kaapiki	House site, 4 loi, 2 moo loi, Kaluakunaha loi	R.P. 2919; no testimony or description (four 'āpana; 2 acres 37 rods). However, LCA 4073 provides details—"āpana 1 "is a house lot in 'Kaapiki' with two orange trees"
04081	Kalawakea	Hanaleiiki	House lot	1 'āpana; 1 rod
09264	Kalei	Hanalei	2 loi and pond	Not awarded

Claim Number	Claimant	'Ili/Ahupua`a	Kuleana	Designation
04076	Kamakaiwa	Kanoa, Mahaana, Kiloa	House lot and 3 loi	Kanoa Hanalei Halelea; 1 ap.; 2 rods 13 rods; Kiloa Hanalei Halelea; 1 ap.; 1 Ac. 2 rods 32 rods; Mahaana Hanalei Halelea; 1 ap.; 1 rood
09147	Kamakaulii, Simona	Nuhuhului, Uhihiko	House lot	Nahuhuluia Hanalei Halelea; 1 ap.; 1 rood 25 rods
09261	Kaniela or Daniela	Kaina, Kaaihoonuu, Kuaikale	House lot, kula and 10 loi	Kaaihoonuu Waioli Halelea; 1 ap.; 1 rood; Kuaikale Waioli Halelea; 3 ap.; 2 rods 3 rods
04109	Kaunahi	Kanoa, Waioli	House lot, kula, taro moo	Hanalei Halelea; 1 ap.; 2 rods 25 rods; Waioli Halelea; 1 ap.; 2 rods 16 rods
09139	Kaunahi	Kanoa, Waioli		Not awarded
04025	Kawainui, Samuela or Silomona	Hanalei, Waioli	House lot, kula, 4 kula	Not awarded
09280	Kawainui, Samuela	Hanalei, Kumuulu, Kaopai, Koele, Ahau	House lot, kula, 4 kula	Hanalei Halelea; 1 ap.; 1 Ac; Waioli Halelea; 4 ap.; 2 Acs 32 rods; Ahau Waioli; 1 ap.; 1 rood 26 rods
09137	Kealaiki	Limaanui		Not awarded
04083	Kealaiki, E	Kaluaalo, Kaunuopua, Kaohia	2 House lots, 5 loi,	Kaohia Hanalei Halelea; 2 ap.; 1 Ac. 2 rods 38 rods; Kaunuopua Hanalei Halelea; 1 ap.; 37 rods

Claim Number	Claimant	`Ili/Ahupua`a	Kuleana	Designation
04085	Kekauanui	Puupoa at Hanaleikai		Not awarded
1027 (also referenced as Grant 100)	Kellett, John	Hanaleiiki	Awarded "Kanomailai"; five houses, some enclosed—four native houses and Kellet's home; six kalo patches	one 'āpana; 1 acre 6 rods
09276	Kiolea	Hanalei, Kuhimana	House lot, 4 loi, pasture	Hanalei Halelea; 1 ap.; 1 rood; Kuhimana Waioli Halelea; 1 ap.; 2 roods 6 rods
09279	Koa	Hanaleiiki	2 moo, kula	Hanaleiiki Hanalei Halelea; 1 ap. 1.50 Ac 37 rods
09275	Koenapuu	Papiopio, Luha, Kuhimana	House lot, and loi	Hanalei Halelea; 1 ap.; 1 rood 19 rods; Luha Waioli Halelea; 2 ap.; 12 rods; Papiopio Waioli Halelea; 1 ap.; 2 roods
09281	Kuapuka	Hanaleiiki	5 loi	Hanaleiiki Halalei Halelea; 1 ap.; 2 roods 38 rods]
09278	Kuaua	Hanalei, Luha, Kamaunui	House lot and 2 loi	Hanalei Halelea; 1 ap.; 1 rood 3 rods; Waioli Halelea; 1 ap.; 13 rods]
09274	Kuheleloa	Hanalei, Kaohi	House lot, kula and pond	Hanalei 1 ap. 1 rood 17 rods; Kaohi Waioli 1 ap. 1 Ac 33 rods]
01001B	Levi	Hanalei	House lot, 3 loi and kula	Waioli Halelea; 3 ap.; 1 Ac
010011	Levi	Hanalei		Erroneous number
03664	Mahuahua	Manoa/Kanoa	House lot	Kanoa Hanalei Halelea; 1 ap.; 1 rood
03663	Makole	Kaina, Kumuohia	House lot, 4 loi, noni pasture	Kama Hanalei Halelea; 1 ap.; 1 rood 13 rods;

Claim Number	Claimant	ʻIli/Ahupua`a	Kuleana	Designation
				Kumuohioo Hanalei Halelea; 1 ap.; 3 rods 2 rods
10081	Makole	Hanalei, Kumuohia		Wrong Number
10089	Makole	Hanalei		Wrong Number, not awarded
10328	Nainoaakua	Anini	House lot, 5 loi and kula	1 ap.; 1 Ac 1 rood 7 rods
10691	Naiwi and Puunonea	Hanalei	6 loi, kula	Mahaaua Hanalei Halelea; 1 ap.; 1 Ac 3 rods 12 rods; Nounou Hanalei Halelea; 1 ap. 1 rood
10691B	Naiwi and Puunonea	Hanalei	House lot, 9 loi and kula	Not awarded
02260B	Namauu	Hanalei		Not awarded
10813	Namauu	Hanalei		Should be 10335
02660	Namauu, O	Halualao, Hakanwali	House Lot and kula	Hanalei 1 ap. 9 Acs 2 rods 15 rods; Kaluaalo 1 ap. 2 rods 18 rods
10313	Namauu, O	Hanalei, Kaluaalo		Hanalei Halelea; 1 ap.; 9 Acs 2 rods 15 rods; Kaluaalo Hanalei Halelea; 1 ap.; 2 rods 18 rods
10325	Nunu	Kama/Kaina, Mahaana	House lot, 4 loi and kula	Kama Hanalei Halelea; 1 ap.; 1 rood; Mahaana Hanalei Halelea; 1 ap.; 3 Acs 3 rods 12 rods
03816	Paaiiki	Kaunaopua, Hanaleiiki	House lot, moo kalo Two taro moos named Paeli and Nihu in Hanaleiiki.	one `āpana 2 rods 4 rods
10648	Paaiiki	Kaunaopua	House lot	Not awarded

Claim Number	Claimant	Ili/Ahupua'a	Kuleana	Designation
10594	Papa	Kaina/Haina, Waioli	House lot, 3 loi	Hanalei 1 ap. 30 rods; Waioli 2 ap. 2 rods 25 rods
10009B	Pilinahe	Hanalei		Not awarded
10593	Pipiwai	Hanalei, Waioli, Oniki	House lot, kalo moo "Halii" Waioli	3 ap.; 1.75 Ac
10954B	Puamana	Kapukaia	7 loi and kula	Hanalei 1 ap. 3 rods 5 rods; Kapukawai 1 ap. 1 Ac 3 rods 13 rods
10717	Puhipuhi	Limanui		Not awarded
10720	Pukiki	Anini	House lot, Loko, 5 loi and kula	1 ap. 1 Ac 16 rods
10676	Puumanienie, Lila	Mahaana, Oheiki	6 loi	1 ap.; 1 rood 31 rods
10691	Puunonea	Hanalei		Wrong number
10646	Puupoa	Hanalei		Not awarded
03819	Puupoa	Kaunuopua, Hanaleiiki	House lot and moo Kalo called "Kauloulu	2 'āpana; 1 acre 1 rood 28 rods
00044	Rhodes & Co., G	Hanalei		1 ap.; 2.5 Acs
0597	Rooke, T.C.B.	Hanalei		1 ap.; 106 Acs 2 rods
11059	Timoteo	Hanalei, Halu	House lot and 4 loi	Hanalei Halelea; 1 ap.; 2 rods 26 rods; Waioli Halelea; 1 ap.; 3 rods 27 rods
08509	Titcomb, Charles	Hanalei		not awarded; Land shown granted to Titcomb on Jos. Iao 1913 map of Hanalei
10915	Uloa, I.E.	Nounou	House lot and 3 loi	Nounou Hanalei Halelea; 1 ap. 1 rood; Waioli Halelea; 1 ap. 2 rods 16 rods
10955	Wahineiki	Mahaana, Kahe	7 loi	1 ap.; 2 Acs 2 rods 19 rods]

Claim Number	Claimant	`Ili/Ahupua`a	Kuleana	Designation
10954	Waiahu	Kanoaiki	House lot	1 ap. 1 rood 13 rods
10956	Wana	Kaumaikahiki, Kaupana	House lot and loi	2 ap.; 2 roods 10 rods

Censuses taken by the missionaries throughout the Hawaiian Islands beginning in 1831 provide the first record of the native population after the first decades of western contact. According to the 1834-35 census of Kaua'i, a total of 1505 Hawaiians - adults and children were then living in the moku (district) of Halele'a (Schmitt 1973:26). Of that total, 522 Hawaiians, or fully one-third, resided in Hanalei Ahupua'a.

The settlement of Hanalei would seem to be house lots for the ali'i and of former warriors of Kamehameha II in the Kaua'i rebellion of 1824 at the shore, with taro patches inland and in the ahupua'a of Wai'oli. Other small concentrations of house lots with nearby gardens are scattered along the north shore, just north of Hanalei River inland along the river. The ahupua'a of Wai'oli would appear to be closely allied to Hanalei and served as a gardening area for some of the claimants residing in Hanalei.

## The Hawaiian Legacy of Mo`o

From a Hawaiian perspective, hō`ailona are signs, portents and manifestations in nature that symbolize purpose and connection to place, relationships and responsibilities. Hō`ailona associated with chiefly births are thunder, lightning, earthquakes and heavy rains. Extreme weather conditions that bring rain are symbols of health and prosperity. Large volumes of rain fill the streams and rivers. It also saturates the ground and fill aquifers that will provide long term supplies of fresh water. The rains also nourish crops and the earth as well.

In post-contact times, these types of hō`ailona and severe weather conditions are inconvenient and burdensome by the general populace, including many native Hawaiians today. In a short period of only 2 centuries - 234 years since the arrival of Captain Cook and 192 years since the first ali'i converted to Christianity, a very high percentage of the Native Hawaiian population have become disconnected with the rich history, wisdom and traditions of their fore bearers. This has contributed to the loss of traditional cultural knowledge and the values of not only stewardship, but kinship with the land and environments of Hawai'i Nei.

## Ka Mo`olelo O Keaomele The Story of Keaomelemele

This once-famous story of Keaomelemele was told by Moses Manu in 1884. His version was printed in the newspaper *Ka Nupepa Ku'oko'a* and ran 31 consecutive weeks. The mo`olelo of Keaomelemele tells of the origins of the mo`o as a class of spiritual beings in the islands. It also provides insight to the earliest sources of Hawaiian cultural practices and beliefs. Presented here, through this story are the traditions of hānai and mo`o.

In this story, there are five children who are born to the gods. The eldest is Kahānaiakeakua (*The one nurtured by the gods*), who is raised by Keānuenuē (*the rainbow goddess*) at Waolani. And then Paliuli (*The dark verdant cliffs*), who is raised by Waka in the forests of `Ola`a on Hawai'i Island. Although Keaomelemele (*The golden cloud*) is the third child born, she is the heroine of the story. She is raised by Mo`oinanea, the highly revered mo`o or lizard goddess in a house made of clouds in the heavens. The other two siblings are Kaumaili`ulā (*Twilight resting in the sky*) who too is hānai by Mo`oinanea; and the youngest, Kaulanaikapōki`i (*Beautiful daughter of the sunset*) who is raised by the god Kū and goddess Hi`ilei in the mythical island of Kū`aihelani.

All five of them are taken from their birth parents and placed with their `aumākua or spirit/god parents who hānai and raise them as their own. They are reared to understand all that there is to know about the land and sacred resources that bring life and health to the people and all living forms. Each of them groomed to become kāhuna or priestly experts in the cultural and spiritual practices of Hawai`i. In time, they are given respective roles and responsibilities and they are imparted special mana and divine ranks as well.

Kaulanaikapōki`i was given the domain of speech and healing and becomes a master of the hula arts. She is given the ability to call upon the magic trees known as Makalei and Maku`ukao who bring and prepare fish and food to feed the masses of people.

Kahānaiakeakua learns the responsibilities of the priesthood and becomes a master of navigation and the fishing arts. He is the first to show the Hawaiian people this knowledge, along with the arts of omen reading and astronomy, architecture and oratory. Keaomelemele possesses the sacred nature of a deity and the power of extrasensory perception. Along with Kaumaili`ulā, she is given power over all the lands and the people. Paliuli remains with her guardian Waka.

Upon completion of their training and rites of passage, they are given the kuleana or responsibility as akua and `aumākua (Hawaiian deities). They are now

obligated to oversee, guide and inspire nourishment for the land, ocean, creatures and people.

<p><b>mo`o</b></p> <p>n. Lizard, reptile of any kind, dragon, serpent; water spirit.</p> <p>n. Succession, series, especially a genealogical line, lineage.</p> <p>n. Story, tradition, legend (less common than mo`olelo).</p> <p>n. Narrow strip of land, smaller than an `ili. Also mo`o `āina.</p> <p>n. Small fragment, as of tapa, not attached to a large piece.</p> <p>n. Narrow path, track; raised surface extending lengthwise between irrigation streamlets.</p> <p>n. Ridge, as of a mountain.</p>
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## Mo`oinanea: The Nurturing of Mo`o

The goddess, Mo`oinanea appears in many mo`olelo, chants and oral traditions. Mo`oinanea is said to have first arrived on O`ahu from Ku`aihelani and Kealohilani, the lands in the clouds. She settles at Kūkaniloko, a celebrated place well known as one of two of Hawai`i's most sacred birthplaces of ancient chiefs. (The other being Wailuanuiaho`ano here on Kaua`i) With her, she brings the mo`o and the expertise and traditions of the mo`o. A procession of mo`o starts out in

Waialua, and they march into Waolani. By the time the first ones reach Nu'uuanu valley, the end of the procession is still at Waialua.

Kua mo`o, the spine or backbone of supernatural lizards (mo`o) are seen in the natural landscape and succession of peaks and ridges of mountain ranges.

**Within the story, other of origins of traditions are mentioned:**

Keānuenuē is the sister who's going to raise Kahānaiakeakua. But she has borne no children. So, when this baby is brought to her and needs to be breast-fed, she has no milk to offer. So, she goes to the brothers, Kāne and Kanaloa, and says, "*I need milk for the baby.*" And they tell her, take these herbs, and some of them you rub on the breast, some of them you eat, and put this together, and you tweak the nipple of the breast and it will start to produce *waiu*, mother's milk. This is one of the *lā'au lapa'au* (Hawaiian medicine) traditions.

*Ho'okau i ka waiū*, is a ceremony that is performed to make the breasts fill with milk. *Ho'olele i ka waiū* is a ceremony that is performed to make the breast cease flowing.

The following is a prayer chant that was offered in the ceremony called, "*Ho'olele i Ka Waiū*". Directed to the gods Lono, Kāne and Nuakea who is said to be a part of the goddess Haumea who oversees all female functions and responsibilities. Also known as Keakea or Keakealani, Nuakea became the patron of nursing mothers and is prayed to when an increase or decrease in the flow of milk is desired. The prayer chant was offered when a nursing mother is ready to wean the child. It was also offered when a male child was about 4 to 6 years old, as he prepared to transition from the women's house to the hale mua or the men's house. This was for the ritual of separation. At that time, it was asked that the child be given prosperity and to guard against the malice of sorcery

E Lono, e Kāne, e Nuakea, ka wahine iaia ka poli waiu o ke  
 keiki Eia ka ukuhi nei o ( name )  
 E lawe aku `oe i ka waiu o ka makuahine.  
 Ia `oe e ka lā, ke mahina, ka  
 hōkū; E lawe `oe a kukulu o  
 Kahiki!  
 Ha`alele aku i ka omino, ka `uwe wale o ( name )  
 A e hānai `oe i ka `ia kapu a Kāne,  
 `Oia ka hili, ka noho mālie,  
 Ke ola ia `oe e Kāne!  
 Amama. Ua noa.

## Translation:

*O Lono, O Kāne, O Nuakea the woman with breast of milk for the child  
 We are about to wean (name).  
 Staunch the flow of milk in his mother.  
 Yours are the sun, the moon, the  
 stars; Carry away to the pillars of  
 Kahiki  
 And there leave the emaciation, peevishness and wailing of the child.  
 Feed him with the sacred fish of Kāne.  
 That is the repose and quiet,  
 This is your blessing, O  
 Kāne!  
 Amama. The pray is ended and is set free.*

In Moses Manu's articles that appear in the Hawaiian language newspaper, Ka Nupepa Ku'oko'a in 1884, the Hawaiian historian/writer of Keaomelemele goes into an explanation that this is how different traditions, art forms and practices began and was handed down from that time.

In his writings, he says:

*"Compare this, to the foreign nations, who of course take milk from other animals, rather than produce their own. So they take the milk of the cow, or the milk of the goat, to feed the children, whereas the Hawaiians were very innovative."*

The kinolau or one of the plant body forms of the god, Lono is the `uala - the sweet potato. Nutritious young `uala or sweet potato leaves were fed to invalids and pregnant women to invigorate them. A broken sweet potato vine could be worn as a lei to induce the flow of milk in a nursing mother. This practice of herbal healing known as, lā`au lapa`au hints to Lono's role in the forementioned chant to aid and stimulate a source of breast milk through his plant forms.

There are many other native Hawaiian plants that are kinolau forms associated with pregnancy and childbearing traditions. Strips of wauke (paper mulberry) - a Kāne kinolau were also worn around the neck to induce the flow of breast milk. The hau tree sap, along with the base of its blossoms without its petals were mo`o kinolau that were important treatments for the pregnant woman preparing to go into labor. The slimy sap of the hau is said to reduce complications during delivery and childbirth.

There are many stories and places that are directly connected to mo`o presence. Mo`o are both male and female...some are generous and

compassionate and caring; some are malevolent. In most cases, mo`o are revered as guardians and protectors of land and water sources that provide subsistence for the people. Different mo`o took up residence in different places, mostly watery spaces and land areas that are host to major and minor water sources.

### **What are the mo`o, exactly?**

*"There are mo`o that are simply lizards -- the mo`o of the house, that's a little wall lizard. And the term is used for lizards, but it doesn't tell you that these were necessarily lizard formed. It's hard to say that mo`o are crocodilians or some kind of serpentine creatures. They are entities that are associated with the wet places; they have to reside in the wet. Whether they take the form of a lizard -- because there are mo`o that are simply lizards, like the mo`o of the house: that's a little wall lizard. And the term in general is used for lizards. But this doesn't tell you that these mo`o were necessarily lizard formed. There just isn't a reliable sense of what they look like. We have two accounts, two stories of people who saw mo`o, and dealt with them, and it looked like people to them. Both of the accounts use the same description, in which the whole structure of the face is fluid and keeps moving, so that there's no way to grasp features. But not that they were shaped or formed like a lizard. "*

*-- Puakea Nogelmeir, Editor of Keaomelemele*

The story of Keaomelemele implies that all the mo`o were in effect the descendants of Mo`oinanea. She is reputed to be the grand dame of her descendents, her offspring and all aspects of mo`o-responsibilities that are associated with her. The story identifies some of these mo`o individually and where they lived.

In the mo`olelo of Keaomelemele, there are 12 noted mo`o who inhabit Kaua`i as large hills and mountains. The mo`o ali`i or royal chief of all Kaua`i's mo`o was named Keolewa (also appears as Keaolewa). This mo`o resides at the summit of mount Ha`upu where it lives amongst the clouds. It is said that from Ha`upu, Keolewa had a full view of all Kaua`i. The famous freshwater spring and pool named Kemamo belonged to her as well.

The following is an excerpt from the mo`olelo of Keaomelemele:

Eia nā mo`o ma Kaua`i, O Keaolewa ka mo`o ali`i o Kaua`i, aia kona wahi noho ma luna pono o ka pu`u o Ha`upu i ke ao, ma laila `oia i noho ai e nānā i nā wahi a pau; a no kēia mo`o ho`i ka wai kaulana o Kemamo.

O Pu`umo`o ma uka o Lihu`e, o Kawelowai ma uka o Wailua, o Kalalea ma Anahola, o Kikiula ma Hanalei, nona ka muliwai o Wai`oli, o Kilioe a me Ke`e ma Ha`ena. No laila, e ho`omana`o ka mea e heluhelu ana i ka mo`olelo o Hi`iakaikapoliopole, o keia ka mo`o nana i lawe o Lohiau

e huna i luna o ka pu'u o Makana, no laila, ma ka ho'omaopopo ana i keia mo'olelo, ua mua loa aku ka noho ana mai o keia po'e mo'o a me Kamo'oinanea ma keia pae aina, a he hope mai na mo'olelo e ae a pau i ho'olilo ia e na kanaka i mau mo'olelo kaa. O Kili'oe me Ke'e a me Miloli'i na mo'o no lakou na pali o Kalalau a hiki i Polihale, o Kawaili'ula ka mea nona o Mana a me Kekaha, a o Makaweli ka mo'o ma Waimea nona ka Waiulailiahi ma laila.

O Papai ka mo'o ma Hanapepe, he mo'o noho kula pili keia, a ua olelo ia ma keia mo'olelo, o keia mo'o ka mea nana i huna kekahi wai ma ke kula ma kahi i kappa ia ma ka inoa o keia mo'o a hiki i keia wa, oia ho'i o Pu'uopapai; a mai Wahiawa a hiki i Koloa, o Po'ipu ko laila mo'o, puni o Kaua'i aia no kona kowai nui ke waiho la ma laila a hiki i keia la, aia wale no lakou a pau ma lalo aku o ka mo'o ia ia o Ha'upu ka pu'u Ki'eki'e; o Lehuakona ko Ni'ihau mo'o nona ka wai a ka pao'o ma Lehua. O ko Maui mo'o ali'i, oia ho'i o Kihawahine, o keia ka mo'o i like pu aku me Kamo'oinanea ka mana, a o keia ka mo'o i oi aku ka nui o nakahu nana oia i malama a me ka nui o ka po'e nana i ho'omana aki ia ia i akua; ua ho'omana na ali'i a me na maka'ainana ia ia a puni o Maui a me Moloka'i a me Lana'i i ka wa kahiko, a no keia mo'o ka lua ma ka loko o Mokuhinia ma Lahaina. E nana i ka mo'olelo o Kihapi'ilani, a malalo aku o keia mo'o o Kalamainu'u a me Klioekapua, he mau mo'o ino laua. Ua olelo ia ma keia mo'olelo, ua ka'apuni o Kihawahine ia Maui a puni, a pela no ma Hawai'i, O'ahu a me Kaua'i; a ma ia hele ana ona, ua nui wale ka po'e nana i ho'omana aku ia ia mai Hawai'i a Ni'ihau, a oia ka mo'o ho'okahi nana i poai puni keia mau pae moku, a penei ka mo'olelo e pili ana in a kanaka no keia mo'o no Kihawahine.

Keoalii aku nei o Keaomelemele me kona mau hiohiona nani, a o ka nohea ho'i nana e ho'oni na pu'uwai o na tausani hoa kaunu o keia nanea, a kono ae i ka mana'o e hele kino e ike in a wahi a na mo'o a ua kupueu ia i luakaha ai.

The mountain of Kikiula in Hanalei is one of the named mo'o in the story that falls under the leadership of Keolewa. Kalalea oversees all the fresh water sources of Hanalei and the moku or district of Halelea. While there are other mo'o guardians who take up residence in freshwater pools, fishponds and smaller streams, they too are part of the hierarchy that is accountable to the authority of Kalalea as well.

Here is the translation:

These were the lizards of Kauai, Keolewa, a royal lizard whose home was on the summit of Haupu, among the clouds, where it remained and could see in every direction. To this lizard belonged the famous pool of Kemamo.

Pu'umo'o lived above Lihu'e, Kawelowai, above Wailua; Kalalea at Anahola; Kikiula at Hanalei, and to it belonged the Waioli river; Kili'oe and Ke'e lived at Ha'ena. Let the reader recall the story of Hi'ikaikapoliopole. Kili'oe was the lizard that took the body of Lohiau and hid it on Makana. In considering this tale, these lizards lived on these islands

with Mo`oinanea long before the other characters of the legends told by the people. Kili`oe, Ke`e and Miloli`i were the lizards of the cliffs of Kalalau and on to Polihale. Kawaili`ula was the lizard that owned Mana and Kekaha, and Makaweli was the lizard of Waimea and it was the owner of the reddish water that flowed there.

Papai was the lizard at Hanapepe, a lizard that lived on the plain where the pili grass grew. It was said in this legend that this was the lizard that hid a spring on the plain that bears its name to this day, that is, Pu`uopapai. From Wahiawa to Koloa the lizard was Po`ipu. Its large pool still lies there to this day. These take in all Kaua`i. All of them served under the lizard of the tall hill, Ha`upu. Lehuakona was the lizard at Ni`ihau and it owned the "pool of the pao`o fish" on Lehua. Maui's royal lizard was Kihawahine and it had mana like Mo`oinanea. This was the lizard that had the greatest number of caretakers and many worshippers to deify it. Chiefs and commoners worshipped it all over Maui, Moloka`i and Lana`i in ancient times and to it belonged the pit in the pond of Mokuhinia in Lahaina. Look at the story of Kihaapi`ilani. Under this lizard were Kalamainu`u and Kilioeikapua, both were bad lizards. It was said in this legend that Kihawahine made a circuit of Maui and also of Hawai`i, O`ahu and Kaua`i. In this journey there were many worshippers from Hawai`i to Ni`ihau. It was the only lizard that went around the islands of the group and this is the tale concerning the people of this lizard, Kihawahine.

The mo`o that are mentioned in Keaomelemele are forested regions that contribute greatly to maintaining Kaua`i's major watersheds on Kaua`i.

The word and idea of mo`o has to do with continuity and succession. One of the primary reasons behind the ancient Hawaiian tradition of hānai for the hiapo or first-born was to ensure the transference of ancestral knowledge and wisdom from the elder kūpuna to the mo`opuna or grandchild.

The word, puna meaning "*freshwater spring*" appears in both Hawaiian words for grandparent or elder (kūpuna) and grandchild (mo`opuna). Kū means to stop or halt. Mo`o means to continue, succession or series. Especially so in a genealogical line; lineage. The fundamental source of a puna (freshwater spring) is to give, nourish and produce life.

Hence, the kūpuna is one who has had his/her children; and in turn, their offspring have reproduced offspring of their own. The kūpuna is one whose reproductive spring (puna) has stopped flowing (kū). The mo`opuna or grandchild is the succeeding spring, who too will grow and mature to produce offspring of their own. This repetition of life cycle from one generation to the next is essential to the continuation of family genealogies and connection to birth lands of Hawai`i.

### ***The Mo'o Kamo'ookamuliwai***

Wichman (1998:111) relates an account of the mo'o (fabulous lizard) Kamo'ookamuliwai "lizard of the river," who:

"...was a mo'o that guarded the river crossing. He refused to let Hi'iaka cross the river on her way to Hā'ena to get Lohi'au for her sister Pele and sent freshets of water to sweep her off her feet. Hi'iaka struck him dead, and since that time it has not been difficult to cross the river."

### **Variations of Mo`o:**

The following is a list of "Mo`o" words that illustrate the purpose of preservation, perpetuation and continuity of traditions.

Mo`o	Lizard, reptile of any kind, dragon, serpent; water spirit. Succession, series, especially genealogical line, lineage.
Mo`o `Ōlelo	Story, tale, myth, history, tradition, literature, legend, journal, chronicle, record.
Mo`okū`auhau	Genealogy
Mo`omeheu	Culture; cultural
Mo`o Ali`i	Succession of Chiefs
Mo`opuna	Grandchild; great-niece or -nephew; relatives two generations later, whether blood or adopted; descendant; posterity.
Mo`o Lono	Priests of the lineage of Lono, devoted to the worship of Lono.
Mo`omo`o	Ridges (plural of mo'o). Rare. Also, young as of animals
Kuamo`o	Backbone, spine; road, trail, path

Mo`o are symbols of protection, regeneration and succession of lineages for humans as well as that in the environment. They are also spiritual icons associated with forested regions and freshwater resources.

## Early Lesson in Acquiring Land Wisdom

Transference of knowledge and skills in Hawaiian customs, beliefs and skills begin at a very young age. In the traditional Hawaiian family system, this on-going process is passed on from kūpuna (grandparents) to mo'opuna (grandchild/children). In the extended family as well as within the community, this exchange and transmission was shared from loea and kumu (masters and teachers) to haumāna who are disciples, students and apprentices.

Kūpuna, loea, `ōlohe, kāhuna and kumu are traditional titles and stations that were, and are still held by accomplished elders, masters and teachers. They are the repositories of extensive knowledge, experience and skills, having endured many years of formal training in various practices and specialized areas of discipline. A customary belief shared by most masters and teachers is that the primary source for all Hawaiian knowledge are inspired and held by our ancient kūpuna. Maintaining a relationship with ancestors through the practices of mo`okū`auhau, pule and ceremony are essential to receiving continued guidance and inspiration by ancestral sources. Equally important is the commitment to responsibly care for and perpetuate Hawaiian ancestral knowledge by sharing and teaching others.

**E lawe i ke a`o a mālama a e `oi mau ka na`auao.**

*He who takes his teachings and applies them increases his knowledge.*

‘Ōlelo No`eau #328

## Origins of Change & Cultural Impacts

Captain Cook's "discovery" of the Hawaiian Islands in 1778 marked the beginning of changes to the physical, spiritual and cultural landscape of Hawai'i. Native Hawaiians first came in to contact with foreign diseases brought by Cook's crew, and then by other ships of explorers and tradesmen that followed in his wake. Introduced species of animals brought by the expeditions of Cook and Vancouver in the 1700s included sheep, cattle and goats that quickly began to have negative effects on native species of plants, birds, and habitats. Converse to accounts that describe these were "gifts" to the ali`i, they were purposely imported by captains for future food sources for their expedition crews. Along with new efforts to cultivate potatoes, the animals were specifically introduced to replace the fish and poi options that were foreigners were averse to.

When King Kamehameha the Great unified all the Hawaiian Islands into one kingdom under his rule in 1810, he kept the traditional land and kapu systems in place. However, 32 years had already passed since Captain Cook introduced

Hawai'i to the Western World. From this, a market economy rapidly emerged attracting explorers, merchants, fur and sandalwood traders as well as whalers to Hawai'i. With this influx of newcomers to Hawai'i, the fabric of Hawai'i's ancient society quickly began to unravel. Different perspectives, beliefs and values began to mount in conflict with laws that had governed native Hawaiians for centuries. A gigantic shift prompted by a new emerging capital economy and the pressures of purchase power of goods and supplies removed the *maka'ainana* from the balance of a communal, sustainable lifestyle and into laborious conditions.

The nineteenth century would see the Hawaiian-evolved landscaped transformed by the interventions of newly arrived Euro-American missionaries, entrepreneurs, settlers and adventurers.

During the 1840s, a new agricultural pursuit - coffee growing - would transform Hanalei. Coffee growing had been introduced to Hanalei in 1842 when John Bernard and Godfrey Rhodes started the Hanalei Coffee Plantation on two pieces of land leased from the Government - "one on the east side of the Hanalei River containing ninety acres and one on the west side containing sixty acres" (Wilcox 1991:8) - with "plants and seeds...secured from Governor Boki's land in Mānoa Valley [on O'ahu]" (Wilcox 1991:9). While coffee had already been grown on O'ahu and Hawai'i islands, the fields at Hanalei represented the "first extensive coffee plantations" in the Hawaiian islands (Kuykendall 1938:316) and in 1844 the plantations of Titcomb and of Bernard and Rhodes comprised "upward of 100,000 trees" (Wilcox 1991:9). Near mid-century, coffee dominated the Hanalei landscape: "a great part of the whole valley, at least to the extent of 1,000 acres, was under cultivation in coffee at this time" (Wilcox 1991:10).

Coffee-growing continued to dominate Hanalei, apparently established firmly within the landscape. However, the plantation owners were apprehensive: they foresaw an eventual lack of manpower in their fields as production increased. They also feared a growing intransigence among the Hawaiian workers: "Mr. Rhodes stated (in an 1851 report) that laborers were demanding one dollar a day...and that some had refused to work even at four dollars a day" (Ibid.:351). Many of the Hawaiian laborers had already left the island to work in the gold mines of California. The Hanalei planters thus welcomed the plan of the Agricultural Society to import "Chinese coolie laborers under contracts based on the indentures used in employing seamen" (Ibid.:351) for the various plantations throughout the Hawaiian Islands. In 1852 the first Chinese laborers arrived at Hanalei to work on the coffee plantations. By the next year the Chinese were fully integrated in the labor system.

Whatever comfort the coffee planters of Hanalei may have obtained from the newly available labor force, they were finally vulnerable - in the 1850s - to natural forces beyond their control. That vulnerability had been foreshadowed earlier, in 1847, when a torrential rain flooded the valley, severely damaging the coffee trees. In 1851 and 1852 the Hawaiian Islands suffered through a severe drought and a subsequent blight ravaged coffee trees at Hanalei and on all the islands. The plantations were able to continue producing through a few more years but, by the end of the 1850s, the Hanalei plantations were devastated.

Titcomb, who had earlier converted his fields from silk to coffee, turned his energies to sugar growing during the latter 1850s. Robert Crichton Wyllie, the Hawaiian Kingdom's Minister of Foreign Affairs, in 1853 he began acquiring tracts of Hanalei land beginning with the Rhodes Coffee Plantation. Wyllie attempted to save the coffee plantation. In 1863 he brought the Ticomb lands too. By the last decade of the nineteenth century, the difficulties of growing sugar cane at Hanalei were insurmountable:

...the cane had never done well in that cool, wet climate. Much of it rotted in the lower fields; the upper fields were, it is said, not plowed deeply enough and at times there was not water enough to flume the cane down to the mill. (Wilcox1991:18-19)

Wyllie's venture failed; the last sugarcane crop was harvested in 1893. By 1899, Albert S. Wilcox had secured control of all the plantation: "The lower lands were rented out to Chinese rice-planters, and the upper lands between Hanalei and Kalihiwai were planted to imported grasses and turned into a cattle-ranch" (Wilcox 1991:19).

Eric A. Knudsen, recounting a trip around Kauai in 1895, presents the view of Hanalei as his party approached from Kalihiwai Ahupua'a:

We...were glad when we reached the great valley of Hanalei. The road in those early days almost dived straight down to the bridge. It was steep and in wet weather very slippery... About half way down, the valley began to open up. Rice fields and taro patches covered the flat bottom lands as far as the eye could see...the view to our right, the winding river with a barge loaded with rice slowly drifting down on its placid surface, and beyond the great sweep of sandy beach, were a truly inspiring sight. (Knudsen 1991:153)

Knudsen's account reveals significant features of the Hanalei landscape during the last years of the nineteenth century.

The rice fields of the 1890s had been expanding during the previous decades as sugar declined. Upon completion of their contracts with the plantation, a number of the immigrant Chinese laborers remained in Hanalei, many becoming merchants or rice farmers, the existing taro lo'i providing a ready foundation for conversion to rice paddies.

A market for rice in California had developed in the mid-nineteenth century and Chinese immigration to the islands also accelerated, a domestic market. The Princeville Plantation Company began leasing out their land for rice farming in the 1870s. By 1892, 750 acres of Hanalei Valley were under cultivation of rice, comprising the largest single riceproducing locality in the Hawaiian Islands (in *Thousand Friends...*1987:116). Maps of the 1890s show six rice mills in the valley.

The transformation of Hanalei Valley from sugar to rice growing during the second half of the nineteenth century reflected the increasing Chinese population at Hanalei. Government censuses at Hanalei recorded 164 Chinese in 1866, 132 in 1872, 265 in 1878, 459 in 1884, and 689 in 1896 (Ibid.:116). Government censuses also document the declining native Hawaiian population of Hanalei during the second half of the nineteenth century: there were 1926 Hawaiians in 1853, 1600 in 1860, 1949 in 1866, 1403 in 1872, 578 in 1878, 795 in 1884, 860 in 1890, and 679 in 1896 (in Ibid.:121). Presumably some of those Hawaiians in the 1890s continued to farm the remaining taro lo'i that Eric Knudsen noticed amidst the rice fields in 1895.

During the first decade of the twentieth century, rice-farming by the Chinese continued to be the focus of large-scale economic activity in Hanalei.

Rice farming declined sharply throughout the Hawaiian Islands after the first decades of the twentieth century as lower-priced rice grown in California inundated the market. Chinese rice planters at Hanalei and elsewhere began selling their fields to immigrant Japanese rice growers. In 1916, 16% of the rice lands in the then Territory of Hawai'i were controlled by Japanese growers. By 1932, a survey indicated that 62 percent of the Hawaii-grown rice was being cultivated by Japanese. At first the Japanese sold their paddy to Chinese owned rice mills; then, gradually, they took over the mills too. (Glick 1980:59)

As increasing numbers of Japanese moved into Hanalei to reside and work the rice fields, the original Chinese rice-growers moved to other commercial pursuits. For example, the Haraguchi family began leasing rice land at Hanalei from the Man Sing family and subsequently purchased the Man Sing mill in 1924. The family cultivated 75 acres in the valley. When the original Man Sing mill was destroyed

by fire in 1930, the Haraguchi family built the still extant mill that is presently listed on the National Register of Historic Places. The documentation for the mill's placement on the Register notes that the Japanese rice growers replaced the Chinese variety of rice with shorter grain rice that the Japanese preferred.

In the 1930s, the Agricultural Extension Service of the University of Hawaii began a program to increase rice production at Hanalei, resulting in a brief "resurgence in rice cultivation"; acreage in Hanalei increased from "759 in 1933 to 1058 in 1934," and by 1936 Hanalei "produced over two-thirds of all rice in Hawaii, almost all of it for consumption within the Territory" (Thousand Friends...1987:117-118). It is this rice-dominated Hanalei landscape that E.S. Craighill Handy, in his 1940 study of planting areas throughout the Hawaiian Islands, describes as it appeared in the 1930s. Handy's account is especially valuable as he notes both present usages, based on his field observations, and former usages, based on information from native informants:

The swampy land below the hills at the west end of Hanalei next to Waioli is unused. The land between the highway and the bay on the west side of the river, much of which used to be terraces, is now given over to pasture and home sites. The land named Paele in the great bend of the river east of the bay, which used to be in rice or taro, is now used for pasture. The broad area inland from the river, named Kahanawai, is now planted with rice, except for the flats adjoining the base of the hill. According to Sheriff Lota, this area was only partly developed in terraces in ancient times. In the 1880's, the land just above the highway was planted in sugar cane, which gradually extended far up Hanalei Valley. Subsequently much of this land, which had not previously been in terraces, was cut up by the Chinese into paddy fields. It was only in the flats of Hanalei Valley proper that terraces were continuous in the old days. At present, rice paddies are continuous for 1.3 miles from the highway bridge where the Hanalei River turns east; another sizable rice patch lies four tenths of a mile beyond, the land between being neglected. Beyond this farthest rice plantation, the Hawaiian homesteads commence. A few Hawaiians and other homesteaders plant a little taro for home consumption. It is said that there are numerous areas of abandoned small terraces farther in the interior. (Handy 1940:72)

Handy's description suggests that by 1930s, Hanalei Valley comprised a patchwork of shifting idle and active agricultural fields and pastures which reflected the vagaries of decades of shifting economic pressures.

While Handy asserts that taro farming survived in the 1930s only as a subsistence crop for a "few Hawaiians and other homesteaders" other sources suggest that

the taro-growing area at Hanalei was somewhat more expansive: a U.S. Department of Commerce census of agriculture of 1939 recorded 108 acres in taro at Hanalei, comprising fully one-fifth of the total 529 acres in taro throughout Hawai'i (in Thousand Friends...1987:118).

As the Japanese farmers phased out rice production in the 1950s and 60s, they converted their fields to taro *lo'i*. By the late 1980s, taro-growing, which once dominated the traditional Hawaiian landscape, was firmly re-established within Hanalei.

## Native Hawaiian Cultural Consultation

One of the most important parts of conducting a cultural impact assessment and study is to hold consultation with Native Hawaiian kūpuna or elders, Hawaiian cultural organizations, cultural practitioners and individuals from the community who potentially have knowledge of traditional Hawaiian sites, resources and cultural practices that are related to the project area as well as to the adjacent and extended land areas of the Hanalei ahupua`a. Ultimately, the goal as preparers of this Ka Pa'akai O Ka'āina analysis is to produce a document that can be used to protect and preserve the valuable knowledge and traditional practices of nā `ōiwi kānaka, the Native Hawaiian people of these places.

EAL's goal was to meet with and interview a cross-section of indigenous Hawaiian people from the community; first and foremost, with kūpuna or elders that have memories and personal experiences of the project area and the surrounding lands in Hanalei ahupua`a. In addition, EAL was hopeful to receive their `ike or insight and knowledge about customary practices and traditional places associated with or relating to the project area.

EAL also aimed to seek out and speak with those of the mākuā or parent generation who had potential knowledge, ties and experiences linked to the project area and Hanalei. In the window allocated to complete this cultural impact assessment study, EAL has interviewed a total of 14 individuals. Majority are residents of Hanalei lands. Some of the interviewees and informants are Kūpuna or elders, educators, activists and cultural practitioners. All are of Native Hawaiian ancestry with personal ties and connection to Hanalei.

In this endeavor to "interview", EAL chose to do so in a Hawaiian manner of kukākukā or through "talk-story". In speaking with interviewees without being nīele or as a prying meddler by being annoyingly inquisitive was the approach. While there are specific points of interest for questions that lead the discussions, it is important that with each person engage in a manner that is respectful and

without imposing pressure. To the Native Hawaiian, a nīele person will never get anywhere by being bold, blunt and direct. However, he or she can be successful by leading up to a subject through indirection and a more `olu`olu or gracious approach. Every attempt to avoid being maha`oi or presumptuous, brazen and insensitively forward was used. In the traditional Hawaiian household that was led by kūpuna and mākuā who were adamant that the values of aloha (love), ha`aha`a (humility), ahonui (patience) and hō`ihi (respect) apply to the way that one behaves and interact with others. This is especially so when talking and meeting with kūpuna, for with the slightest tone of pejorative stance or speech, they will cease to share their valuable insight and experiences. It helps tremendously to have some sort of association with individuals as well, for more is shared when there is a level of comfort, trust and familiarity.

Thus, excessive notetaking and the use of recording devices such as video cameras and tape recorders are not utilized. Downside consequences were avoided by having a Hawaiian face; choosing to utilize colloquial jargons and speaking in the vernacular; making links through genealogy; by not having a tape recorder; being understanding and empathetic; using kama`āina as interviewers; judicious notetaking when necessary; by keeping our promise not to divulge any interview comments if requested by the subject; and of course, by not being nīele or maha`oi.

If the interviews had been conducted using a Western format these questions would be asked straight forwardly:

1. What type of cultural practices and cultural beliefs do/did your family practice?
2. Where do/did these cultural practices occur?
3. How do/did the area's sites features or land affect you or your family's cultural practices and beliefs?
4. How would the plans to develop affect you or your family's cultural beliefs and cultural practices?

Instead, talk-story sessions with interviewees in individual and semi-group settings that were comfortable for the participants was used. Oftentimes our discussion took place in their yard, or at their home. Already well-aware of the extra-sensitivity of asking such questions would be a rude approach of nīele and maha`oi, EAL allowed the conversations to flow and be directed in ways that were most appropriate and pono for those who were kind to extend us their time,

energy and mana`o.

The interviewees that EAL engaged with for this Ka Pa'akai O Ka'āina analysis are:

- |     |                       |                         |
|-----|-----------------------|-------------------------|
| 1.  | Barbara Say           | Former Hanalei Resident |
| 2.  | Gladys Tasaka         | Hanalei Resident        |
| 3.  | Michael Ching         | Hanalei Resident        |
| 4.  | Makala Kaaumoana      | Hanalei Resident        |
| 5.  | Rodney Haraguichi     | Hanalei Resident        |
| 6.  | Chris Kobayashi       | Hanalei Resident        |
| 7.  | Joel Guy              | Hanalei Resident        |
| 8.  | Glen Kobayashi        | Hanalei Resident        |
| 9.  | Hobey Beck            | Hanalei Resident        |
| 10. | Keola Sheehan         | Hanalei Resident        |
| 11. | Patsy Sheehan         | Hanalei Resident        |
| 12. | George Costa          | Wailua Resident         |
| 13. | Ian Costa             | Kapaa Resident          |
| 14. | Dave & Goldie Stewart | Hanalei Resident        |

All interviews were conducted by EAL between June 2019 and September 2019. Subsequently, EAL found that just about most of the interviewees were interested in learning about the project itself, as they were unaware. A few had concerns about zoning or another bar. As with most informants they were cautious to share their mana`o or thoughts and knowledge.

As such, the priority topics needed to conduct this Ka Pa'akai O Ka'āina analysis of cultural resources and impacts were overshadowed. It was a challenge to steer conversations into that direction without appearing to be presumptuous and insensitive to the needs of the interviewees to be informed of the project. EAL spent a considerable amount of time attempting to provide an overview of the project.

In addition to the 14 individuals listed above that graciously participated as interviewees for this Ka Pa'akai O Ka'āina analysis. Mahalo a nui loa iā `oukou for those that shared their contribution and collaboration to this Ka Pa'akai O Ka'āina analysis.

The remainder of this report summarizes with respect to each of the required topics.

## Consultation Methodology & Results

As with the composition of the Ka Pa'akai O Ka'āina analysis, EAL employed interview methods consistent with indigenous Hawaiian values. Specific values and methods applied to the interview process included:

Kukākukā, also known among locals as "talking story", is a quintessentially Hawaiian approach to sharing information intended to avoid being *nīele* (i.e., nosy or meddling) and instead being perceived as *'olu'olu*—gracious—in conduct. By approaching the specific interview topics in an indirect manner, EAL interviewers communicated a level of sincerity and respect for the interviewee and subject matter and so avoided their curiosity being interpreted as *maha'oi*, i.e., brazen and forward.

Aloha, or love and abiding regard for the Hawaiian landscape and culture formed the basis for the interview process, communicating deep affection for the subject matter and individuals involved.

Ha'aha'a, or a sense of humility, particularly when speaking with *kūpuna*, where a single pejorative act or statement could create a sense of offense in the interview subject which would lead them to withhold their insight and experience.

Ahonui, or patience, and a measured tempo to the contact and interview process which allows for a sense of comfort, familiarity, and trust to emerge.

Hō'ihī, respect, both for the interviewee and for the subject matter were kept at the very heart of the interview process and shaped the methods employed by EAL.

To these ends, the use of recording devices and a standardized questionnaire were not employed unless requested to do so. Interviews were conducted in individual and small-group settings in homes and back yards. Conversations could flow toward, and at times away from, the specific subject of the project as the interview subjects deemed appropriate.

## Selection of Interview Subjects

An assessment of cultural impacts gathers information about cultural practices and cultural features that may be affected by land use decisions. In the preparation of this Ka Pa'akai O Ka'āina analysis, representatives of EAL

identified certain criteria which guided the process of identifying individual's familiar with cultural practices and features in, or near, Hanalei ahupua'a. Was the candidate a *mākuā*, or member of the parent generation, with potential knowledge, ties, or experiences of the project area and the Hanalei or Halelea region?

- Was the candidate familiar with, or possessing insight into, the customary practices and traditional places in or near to the project area?

In the timeframe available for the preparation of the Ka Pa'akai O Ka'āina analysis, EAL spoke with 14 community members all with personal ties to Hanalei; and possessed of unique knowledge relevant to the assessment. Most interviewees were residents of Hanalei.

## Ethnographic-Oral History Methodology

Interviewers avoided use of electronic recording devices such as cassette tape or digital voice recorders, cameras, or video cameras.

If, as the Ka Pa'akai O Ka'āina analysis notes the interviews had been conducted in a standardized Western scholarly format without reference to Hawaiian cultural values, the questions might have been uniformly presented and limited to the topics most relevant to the project, such as:

- What type of cultural practices and cultural beliefs do/did your family practice?
- Where do/did these cultural practices occur?
- How do/did the area's sites, features, or land affect your or your family's cultural practices and beliefs?
- How would the plans to develop a brew pub affect you or your family's cultural beliefs and cultural practices?

However, this approach was considered inappropriate. It was recognized the challenge of gently steering conversations towards topics of project relevance without being presumptuous or insensitive to the needs of the interviewees but believes that the benefits of its approach outweigh any possible drawbacks.

## Historical & Archival Research

Primary research references used in this study include, but are not limited to—land use records, including those obtained from an extensive review of Hawaiian Land Commission Awards (LCA) records from the 1848 Great Māhele, territorial land patent grants, oral history interviews preserved in the Bishop Museum Archive, and an extensive review of historical texts authored or compiled by D. Malo (1951), M.K. Pukui (1972), Handy and Handy with Pukui (1972), and Marti-Kini (2009). The study also relied on accounts from Hawaiian language newspapers such as *Ka Na'i Aupuni* and *Ka Nupepa Ku'oko'a* (translated by P. Nogelmeir and M.K. Pukui). Other sources examined and incorporated include regional planning documents, modern English language newspapers, and travel writers 'familiar with the Hanalei region, and important testimony of elder kama'āina of the lands of the Halelea-Hanalei region.

EAL also took full advantage of historical and archival resources from the collections of the Bishop Museum, Kaua'i Museum, and Kaua'i Historical Society. Research of published and unpublished written literature, as well as Hawaiian language documents, maps and photographs found in public and private collections for references and other relevant information were explored. Additionally, the examination of indigenous Hawaiian chants and interviews conducted with kūpuna or Native Hawaiian elders were extraordinarily revealing and valuable to producing this cultural study.

## Cultural Resources & Practices Identified

Neither the literature sources consulted, nor the interviews conducted identified any ongoing native Hawaiian cultural resources or practices located on the project. As indicated by background research and many of the interviewees, the broad Halelea-Hanalei region has a rich history replete with *mo'olelo* (legends) and *wahi pana* (traditional place names and their stories) however none of these have any significant direct or indirect connection to the project site. In addition, the long history of ranching and some cultivation in this area has likely destroyed any cultural materials and since the land has been overgrown and private prevented in cultural practices which might have been present in the past.

## Analysis of Impacts

The Hanalei-Halelea region, which includes the area proposed for the Brew Pub, is a place of prehistoric and historic significance in the Hawaiian civilization. Oral histories and written records tell of the continuing traditions, beliefs, and cultural

practices of the region. However, none of the background research, nor interviews conducted in the preparation of this Ka Pa'akai O Ka'āina analysis indicates that the cultural practices, resources, or beliefs are tied to the proposed project site. This longstanding taro ponds and `auwai of the area may be one reason for the absence of cultural properties and resources in a region which has seen many centuries of habitation by native Hawaiians, as these were converted into rice production in the early historic period. Now the area is back in taro cultivation. Although kalo and its growth are symbolic to most Native Hawaiians and represent family. This kalo symbolism is not the subject of this analysis.

Traditional Hawaiian uses of the lands in the Hanalei ahupua'a are known from prehistoric times. Such uses, including habitation, agriculture, and gathering continues throughout the region, but none is known to exist within the project area. Access to sensitive *wahi pana*, streams, the shoreline, or the mountains will not be compromised by this project.

Native Hawaiian beliefs and traditions associated with the Hanalei ahupua'a exist, but these are general associations not specific to the project area. No *kūpuna* (elders) or *mākua* (parents) could be located that had knowledge of traditional beliefs or practices specific to the project area. The generalization and clustering of traditional places to common districts (i.e. Anahola, Kapa`a, Līhu`e, etc.) has become acceptable, widespread practice in the western framework of identifying and relating to places on Kaua`i. Therein lays an example of how easily a traditional Hawaiian land area or division can be incorrectly identified, misunderstood and misinterpreted as a significant place of its own.

There are no known cultural resources or practices with the potential to be negatively impacted because of the proposed project.

## Closing

Cultural impacts upon Native Hawaiian people, customary practices and religious beliefs have infiltrated the history of Hawai`i Nei for more than 200 years since the arrival of Captain James Cook in 1778. Within a period of 40 short years, the Kapu system was abolished by Kamehameha II - Alexander Liholiho and the Queen Regent, Ka`ahumanu bringing an end to the strength of the closely-knit Hawaiian religion and political system of Hawai`i. With the arrival of Calvinist missionaries in 1820 came a new god and religion which leveraged the beginnings of severing the native Hawaiians' veneration of the natural world.

By the 1890s, subsistence lifestyles, agriculture and rural communalism had

entirely been replaced by commercialism, urbanization and individualism as key features of life in the Hawaiian Islands. Foreign sugar plantation moguls usurped control of Hawai'i's prime agricultural lands and fresh water sources to sustain their crops. Miles and miles of irrigation ditches were engineered to redirect the natural flow of water out of the ahupua`a; forever changing the balance of environments and lifestyles of generations of native Hawaiian families. Hanalei was once in kalo, then in rice, now again in kalo production.

By and large, the issues of cultural impacts in Hawai'i are rooted in the loss of access and use of Hawai'i's land and natural resources as formerly practiced in pre-contact Hawai'i. It is a deep-seated dilemma caused by the intrusion of forced principles brought on by Westernization and the rise of a monetary economy.

Included are in this Ka Pa'akai O Ka'āina analysis are the kūpuna's names and descriptions of their kuleana land claims presented to the Land Commission following the Great Mahele in 1848. Many of these families still exist and inhabit the lands of Hanalei today.

However, the lasting affects upon native Hawaiian people that have resulted in their disconnect to traditional practices, beliefs and knowledge of place. There is great anxiety amongst contemporary Hawaiians to embrace the values and ideologies of their ancient ancestors out of fear instilled by the doctrines of the dominant western religion which most have adopted. This alone, largely contributed to the depreciation of interest to learn and maintain family genealogies, enroll to formal training in cultural practices that engage in ceremony and spiritual processes, etc.

All forms of traditional Hawaiian cultural practice included religious and spiritual processes of protocols, ceremonies, prayers and prescribed tabus and restrictions. The removal of this crucial part of Hawaiian cultural expression separated and dissolved the sacred and profound of the practice itself. It also eliminates the individual's conscious connection to the environment which is also considered as a sacred and profound aspect of the practice itself.

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**PLANNING COMMISSION  
THE COUNTY OF KAUA'I**

KA'ĀINA S. HULL, CLERK OF THE COMMISSION

Glenda Nogami Streufert  
CHAIR

Donna Apisa  
VICE-CHAIR

Mel Chiba  
Francis DeGracia  
Roy Ho  
Sean Mahoney  
Lori Otsuka  
MEMBERS

**MEMORANDUM**

TO: Glenda Nogami-Streufert, Chairperson  
County of Kaua'i, Planning Commission

Members  
County of Kaua'i, Planning Commission

FROM: Ka'āina S. Hull  
Clerk of the Commission

*Ka'aina Hull*  
Ka'aina Hull Jul 28, 2020 10:39:15

DATE: July 28, 2020

RE: Receipt of Director's Reports

As Clerk to the Commission, under the authority prescribed in Section 8-3.1(f)(3-4) of the Kaua'i County Code, the following reports are being received on behalf of the commission and have been set for public hearing on August 11, 2020 :

Permit No(s).	Name of Applicant(s)	Nature of Development
SMA(U)-2020-7 Z-IV-2020-16 U-2020-13	Hanalei Commercial Inc.	Construction of a new Craft Brewery with associated Site Improvements Including On-site Parking, Driveway, Pedestrian Bridge, Private Wastewater System, And Operation of Food Trucks.
Z-IV-2021-1 U-2021-1	Child & Family Services	Operation of a Pre-School Facility in Kekaha
Z-IV-2021-2 V-2021-1	Gregory L. Stein & Kimberly A. Stein	Request to allow deviations from residential development standards for the construction of a single-family residence

Please note copies that these documents shall be transmitted to the commissioners via e-mail.

**F.2.a.1.**

**AUG 1 1 2020**



**SUBJECT TO CHANGE**

**COUNTY OF KAUA'I  
 PLANNING DEPARTMENT**

**DIRECTOR'S REPORT**

**I. SUMMARY**

**Action Required by Planning Commission:** Consideration of Class IV Zoning Permit, Use Permit, and a Special Management Area Use Permit, to allow the construction of a Craft Brewery with associated Site Improvements Including On-site Parking, Driveway, Pedestrian Bridge, Private Wastewater System, And Operation of Food Trucks.

**Permit Application Nos.** Class IV Zoning Permit Z-IV-2020-16  
 Use Permit U-2020-13  
 Special Management Area Use Permit SMA(U)-2020-7

Amend Special Management SMA(U)-88-4  
 Amend Use Permit U-88-25  
 Amend Variance Permit V-88-6  
 Amend Class IV Zoning Permit Z-IV-88-30

Amend Project Development Permit PDU-2006-1  
 Amend Special Management Area Use Permit SMA(U)-2006-1  
 Amend Class IV Zoning Permit Z-IV-2006-1

**Name of Applicant(s)** HANALEI COMMERCIAL, INC.  
 NA PALI BREWERY, LLC

**II. PERMIT INFORMATION**

<b>PERMITS REQUIRED</b>	
<input checked="" type="checkbox"/> <b>Use Permit</b>	Pursuant to Article 2, Chapter 10 Section 10.-2.4 of the KCC, 1987 as amended, a Use Permit required to allow the construction of a Craft Brewery.
<input type="checkbox"/> <b>Project Development Use Permit</b>	
<input type="checkbox"/> <b>Variance Permit</b>	
<input type="checkbox"/> <b>Special Permit</b>	

**F.2.1.**

<input checked="" type="checkbox"/> <b>Zoning Permit Class</b> <input checked="" type="checkbox"/> IV <input type="checkbox"/> III	Pursuant to Section 8-3.1 of the KCC, 1987, as amended, a Class IV Zoning Permit is a procedural requirement in applying for a Use Permit.
<input checked="" type="checkbox"/> <b>Special Management Area Permit</b> <input checked="" type="checkbox"/> Use <input type="checkbox"/> Minor	Pursuant to Section 205A of the Hawaii Revised Statutes (HRS) and the Special Management Area Rules and Regulations of the County of Kaua'i, the cost of the improvements exceed the \$500,000 threshold which constitutes "Development". Therefore, a SMA Use Permit is required as defined in Section 7.3 of the SMA Rules.
<b>AMENDMENTS</b>	
<input type="checkbox"/> <b>Zoning Amendment</b>	
<input type="checkbox"/> <b>General Plan Amendment</b>	
<input type="checkbox"/> <b>State Land Use District Amendment</b>	

**Date of Receipt of Completed**

**Application:** May 26, 2020

**Date of Director's Report:** July 28, 2020

**Date of Public Hearing:** AUGUST 11, 2020

**Deadline Date for PC to Take Action**

**(60<sup>TH</sup> Day):** October 9, 2020

**III. PROJECT DATA**

<b>PROJECT INFORMATION</b>			
<b>Parcel Location:</b>	The project site is located on Kūhiō Highway approximately 1.23 miles West of Hanalei Bridge and approximately 1 mile from the intersection of Aku Rd. and Kūhiō Highway.		
<b>Tax Map Key(s):</b>	(4) 5-5-009:008 and (4) 5-5-009:009	<b>Area:</b>	4.2806 acres (Parcel 8 aka. Lot 17, 4.101 acres; (Parcel 9, 0.1796 acres)
<b>ZONING &amp; DEVELOPMENT STANDARDS</b>			
<b>Zoning:</b>	Commercial-Neighborhood (C-N)/ Project Development (P-D) and Open District (O)		
<b>State Land Use District:</b>	Urban		
<b>General Plan Designation:</b>	Natural		
<b>Height Limit:</b>	25 feet OR Based Flood Elevation (B.F.E.) plus 15 feet		
<b>Max. Land Coverage:</b>	80% (C-N/P-D) 10% or 3,000 s.f. max (O)		

<b>Front Setback:</b>	10'-0"
<b>Rear Setback:</b>	5' or ½ the wall plate height whichever is greater
<b>Side Setback:</b>	5' or ½ the wall plate height whichever is greater
<b>Community Plan Area:</b>	North Shore Development Plan
<b>Community Plan Land Use Designation:</b>	N/A
<b>Deviations or Variances Requested:</b>	

#### IV. LEGAL REQUIREMENTS

<b>Section 8-3.1(f), KCC:</b>	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Section 8-3.1(f), relating to the provision of the Planning Director's report and recommendation on the subject proposal within sixty (60) days of the filing of a completed application. The application was received on May 26, 2020 and the Applicant, through its authorized agent, was notified accordingly of the Planning Department's intent to commence permit processing.
<b>Public Hearing Date:</b>	AUGUST 11, 2020

#### V. PROJECT DESCRIPTION AND USE

As represented in the application, the Applicant proposes to construct a new two-story Craft Brewery Building for a retail and wholesaling operation along with associated site improvements on TMK: (4) 5-5-009:009. Parcel 9 is County Zoned Open (O). The site improvements consist of a driveway and on-site parking (See Exhibit "E-1", 2 regular stalls, 1 ADA compliant.) Also, overflow parking will be provided on Lot 17. The first floor is approximately 2,176 s.f. will be used for manufacturing, offices facilities, and a small area for retail. The upper floor is approximately 1,372 s.f, which consists of a tasting room (872 s.f.), a covered lāna'i (500s.f.) that will be used for retail sales for beer (See Exhibit "E-2"). Operation of the new establishment will be open seven days a week with the hours of 11:00 A.M. to 9:00 P.M. Sunday through Thursday, and from 11:00 A.M. to 10:00 P.M. on Friday and Saturday.

In addition to the building on Parcel 9, there will be food trucks operating not to exceed three (3) at a time. Food trucks will be parked on the Mauka side of the Craft Brewery building. Patrons of the Craft Brewery will be allowed to bring food within the establishment.

Through this application, the applicant is also seeking to amend the existing permits on Lot 17 (aka. Parcel 8) to facilitate the off-street parking requirements for this project. The permits involve Special Management Area Use SMA(U)-88-4, Use Permit U-88-25, Variance Permit V-88-6, Class IV Zoning Permit Z-IV-88-30 as amended (Master Permit), and SMA(U)-2006-1, Project Development Permit PDU-2006-1, and Z-IV-2006-1 (2006 permit) on TMK: 5-5-009:008 (Lot 17). It is noted that Lot 17 is currently split zoned where approximately ½ of the area of the parcel (western end) is situated within Commercial-Neighborhood/Project Development District (C-N/PD) and the remainder is within the Open (O) District. The majority of the amendments are within County Zone Open (O) District. Please refer to page 6 of the application for a brief summary of the past permits.

Hanalei Commercial Inc. (HCI) is proposing the following improvements/amendments on Lot 17 within the portion of the property that is County Zoned Open:

- Relocate an existing taro access road to the eastern portion within Lot 17 Open District. Taro lands are located on the mauka side of Lot 17.
- Increase the permitted land coverage in portion of Lot 17 located in the County Open Zone District to 45% (32, 175 s.f.) from 33-1/3 % (23, 833.33 s.f.). The existing 33-1/3% percent entitlement was granted in the aforementioned “Master Permit and 2006 permit and its amendments.”
- The existing permits affecting Lot 17 (Master permit and 2006 permit along with its amendments) allowed the construction of three (3) new single-family residences within Lot 17. This is in addition to the employee housing, one of which is located on TMK: 5-5-009:022 Lot 149 and existing “Dawa” house located on Lot 17, which brings the total of employee housing units to five (5) units. With the demolition of the Dawa house, HCI is proposing to reduce the number of permitted Employee Housing in the eastern portion of Lot 17 to two (2) existing residences, bringing the total of employee housing to a total of 3. In conjunction with this revision HCI is proposing to amend condition 4(d) of the 2006 Permit to state the following:

“d. *Applicant shall maintain and update on a regular basis a list of Hanalei Center [~~employee's~~] employees (both current and retired) desiring the use of the employee housing units. At a minimum, such a list should identify the individual, family size, and starting date of employment as Hanalei Center. At the time of housing availability, all individuals should be contacted and provided opportunity to confirm or deny their interest in housing. [~~Length of employment should be a primary consideration.~~] Only upon this list being exhausted can the applicant consider “other employees on the North Shore.” These lists, and all subsequent updates, should be provided to the Planning Department in order to confirm that the applicant’s intent is being met.*”

HCI also requests that the following Condition 4(e) be deleted from the 2006 permit.

~~["d. 50% of the lot coverage of each of the 3 employee's residential improvements shall be applied to the total gross floor space cap of 25,000 sq.ft."]~~

- New parking and driveway-Parking for Hanalei Community Center (HCC) is located within the west parking area and in two (2) areas within the east (See Exhibit "E-3"). Portion of the east parking area located west of the irrigation ditch (auwai) contains approximately 45 existing parking spaces. Portion of the east parking area west of the auwai currently has approximately 16 parking spaces. HCI intends to remove these parking and add 51 new geo-grid parking with a total new increase of 35 parking spaces. A new driveway will be installed within the new parking area to accommodate these changes (See Exhibit "E-3".)
- New sidewalk and Pedestrian bridge-HCI intends to build a new four (4) feet wide extending the existing concrete sidewalk from the eastern end of Kūhiō Highway along the east parking area to the new driveway entrance to the eastern side of Parcel 19 (See exhibit "E-3".) Portions of the new sidewalk on each side of the auwai will be connected via pedestrian bridge. A pedestrian walkway consisting of porous pavers will be constructed along the new central parking island in the east parking area (See Exhibit "E-3").
- Miscellaneous Improvements - Other improvements include storage and equipment sheds, signage, railings, culverts, vehicular bridge, and other accessory structures related to the above-mentioned new development.

## VI. APPLICANT'S REASONS/JUSTIFICATION

Please refer to Application.

## VII. ADDITIONAL FINDINGS

1. The project location is along Kūhiō Highway in Hanalei, identified as the Hanalei Community Center (HCC). Parcel 9 is an adjacent property to the east of HCC.
2. The State Land Use District (SLUD) designation is "Urban" which allows for urban growth in a specified area.
3. The property is situated within the North Shore Planning area and will be subject to the objectives and goals of the North Shore Development Plan (NSDP), which that includes the following:

- Goal A: To preserve the unique natural beauty of the North Shore Planning area.
  - Goal B: To preserve the special rural charm of the North Shore Planning area.
  - Goal C: To provide for the safety and welfare of the people, of their property of the North Shore Planning Area.
  - Goal D: To provide for economic development of the North Shore planning area.
  - Goal E: To preserve the wildlife and flora and the North Shore, recognizing man's dependence upon this preservation for his own health and welfare.
  - Goal F: To insure the preservation of historic-archaeological sites in the North Shore Planning Area.
  - Goal G: To create a development for evolutionary growth that depends upon a planning process whereby conflicts can be resolved through the establishment of priorities and community participation.
  - Goal H: To provide for recreational opportunities that are compatible with the unique qualities and natural features of the North.
4. All proposed improvements or developments are not located within the shoreline setback area. The proposed development is approximately a quarter of a mile away from the shoreline.
  5. The proposed development is located within Zone "AE" of the Federal Emergency Management Agency Area (FEMA) Flood Insurance Rate Map (FIRM)/FEMA has identified these areas as inundated by 1% annual chance of flooding for which Base Flood Elevations are determined. In addition, this area is situated within the Extreme Tsunami Evacuation Zone.
  6. The topography is relatively flat and grading of the project area will be very minimal and not negatively impact drainage in the area.
  7. Special Management Area (SMA)  
In addressing the issues of the Special Management Area and its objectives and policies, the following aspects will be considered and evaluated:
    - a. Recreational Resources
    - b. Cultural/ Historic Resources
    - c. Scenic resources

- d. Coastal Hazard
- e. Coastal Ecosystem

Furthermore, the proposal does not:

- f. Involve dredging, filling or otherwise altering any bay, salt marsh, river mouth, slough or lagoon;
  - g. Reduce the size of any beach or other area usable for public recreation;
  - h. Reduce or impose restrictions upon public access to tidal and submerged lands, beaches, rivers, and streams within the SMA; and
  - i. Adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, estuarine sanctuaries, potential or existing agriculture uses of land.
8. CZO Development Standards  
The proposed development is subjected to standards prescribed in Sections 8-4.3, 8-9.3, and 10-2.4(e)(1)
- a. **Setback Requirements:** Front property line setbacks are 10'-0" with a side and rear property line setback of five feet (5'-0") or half the distance of the plate height whichever is greater.
  - b. **Setback between buildings:** The distance between buildings shall be ten (10) feet minimum.
  - c. **Lot Coverage:** The proposed parcel has a split County zoning designation of Neighborhood Commercial/ Project Development (C-N/P-D) and Open (O) Districts. The proposed new building (Parcel 9) and site improvements (Lot 17) are all in County Open Zone District. The Craft Brewery on parcel 9 will be subject to the Open Zone District lot coverage standards specified in Section 8-9.2(a) of the Kaua'i County Code (KCC). Pursuant to the Master permit and the 2006 permit and it's amendments, Lot 17 is entitled to a maximum of 33-1/3 % (23, 833.33 s.f.) of land coverage. HCI is requesting an increase to 45% (32, 175 s.f.).
9. Building Height  
The North Shore Development Plan (NSDP) pursuant to Sec.10-2.4(e)(1) allows structures to be no higher than twenty-five (25) feet, except as provided under Ordinance No. 416 (Flood Hazard Areas) Section 15-1.5(c)(4)(A) which allows a structure to be no higher than 25 feet from ground level or base flood elevation plus

fifteen (15) feet, whichever is greater at the site.

10. Use Permit

a. Pursuant to Article 3 of the Comprehensive Zoning Ordinance (CZO), Chapter 8 of the Kauai county Code (1987), the purpose of the Use Permit Procedure is to assure the proper integration into the community of uses which may be suitable only in specific locations of a district, or only under certain conditions, or only if the uses are designed, arranged or conducted in a particular manner, and to prohibit the uses if proper integration cannot be assured. Section 8-3.2 of the CZO specifies a Use Permit may be granted only if the Planning Commission finds that the use meets the following criteria:

- 1) The use must be a compatible use;
- 2) The use must not be detrimental to persons or property in the area;
- 3) The use must not cause substantial environmental consequences; and
- 4) The use must not be inconsistent with the intent of the Comprehensive Zoning Ordinance (CZO) and General Plan.

**VIII. AGENCY COMMENTS**

See attached Exhibit “A”

**IX. PRELIMINARY EVALUATION**

In evaluating the Applicant’s request to construct a new Craft Brewery with associated Site Improvements Including On-site Parking, Driveway, Pedestrian Bridge, Private Wastewater System, And Operation of Food Trucks, the following are being considered.

1. General Plan

As mentioned earlier, this portion of the subject property has General Plan designation of “Natural”. While there are a few residential uses found in the Natural Destination, they are generally not encouraged. In considering this proposal, the proposed Craft Brewery and associated site improvements would be compatible to the adjacent residential and commercial uses situated along Kūhiō Highway in Hanalei town. All existing commercial uses are operating within the “Neighborhood Center” designation of the County of Kaua‘i GP.

2. Native Hawaiian Traditional & Cultural Rights

Exploration Associates, LTD. submitted Ka Pa‘akai O Ka‘āina Analysis. (September 2019) on the behalf of the Applicant. As represented by the Applicant, currently there are no known traditional or customary practices and no known gathering practices of Native Hawaiians that are presently occurring on the subject parcel. The Applicant’s consultant has also consulted members of the community with cultural knowledge of the area. The lists of persons identified for this process are listed (See Exhibit “F-10” pg.70) within the application.

3. SMA Rules and Regulations

The COK SMA Rules and Regulations contain objectives, policies and guidelines designed to protect coastal resources. Within the SMA, special consideration is given to recreational opportunities, cultural and historic resources, scenic qualities and open space, coastal ecosystems, and coastal hazards. In evaluating the proposed development relative to the goals and objectives of the SMA Rules and Regulations, the following aspects are taken into consideration:

- a. Public Access and Coastal Recreation – The subject parcels are located approximately a quarter mile away from the shoreline. As such, the project has no direct public shoreline access on the site.
- b. Cultural/ Historical Resources- The property has three (3) identified Historic Properties located on Lot 17. The Hanalei school building, subsurface taro pond, (“Lo‘i Field”) and a portion of the irrigation ditch. (auwai) As a condition of approval of the Master permit, the applicant and Joseph Kennedy of Archaeological Consultants of Hawai‘i, INC. prepared a report that was approved and accepted by the State Historic Preservation Division (SHPD), as reflected in the SHPD approval letters. (See Exhibit “F-2” through “F-9”) The Hanalei school building is located approximately 200’ from the project area and is not within the scope of work for this application. The auwai is located in the project area and the portion of the Lo‘i field probably extends into the project area. Other than the two items there are no Historic or Cultural resources visible to the surface of the project area. Mitigation commitments and mitigation plans have been submitted and approved by SHPD.
- c. Scenic and Open Space Resources- The project area is located along Kūhiō Highway and does not offer any views of the coastline from public viewing locations. The proposed structure will be elevated to comply with the current Flood Ordinance and the Applicant shall design the project to be compatible to the existing surroundings and neighborhood. In addition, landscaping will be provided along Kūhiō highway, Hanalei Town, and surrounding properties. (Parcel 9) All other improvements will be at ground level. (e.g.: parking, bridge, and sidewalks)
- d. Coastal Hazards-The Project area/ site is located within the extreme tsunami evacuation area. The project area/ site is located within Zone “AE” with an elevation of 12/13, as shown on Federal Insurance Rate Maps. (FIRM 150002-055E) The project will meet all the requirements of the Flood Plain Management Ordinance of the County of Kaua‘i.
- e. Coastal Ecosystems- To protect the coastal eco-system of the Hanalei town area the Applicant will ensure that the project be completed and maintained so that no erosion or increase run-off be created. Through Best Management Practices

(BMP's) all increased run-off and erosion will maintained on site or directed within the irrigation ditch (auwai).

#### 4. Use Permit

a. Pursuant to Article 3 of the Comprehensive Zoning Ordinance (CZO), Chapter 8 of the Kauai county Code (1987), the purpose of the Use Permit Procedure is to assure the proper integration into the community of uses which may be suitable only in specific locations of a district, or only under certain conditions, or only if the uses are designed, arranged or conducted in a particular manner, and to prohibit the uses if proper integration cannot be assured. Section 8-3.2 of the CZO specifies a Use Permit may be granted only if the Planning Commission finds that the use meets the following criteria:

- 1) The use must be a compatible use;
- 2) The use must not be detrimental to persons or property in the area;
- 3) The use must not cause substantial environmental consequences; and
- 4) The use must not be inconsistent with the intent of the Comprehensive Zoning Ordinance (CZO) and General Plan.

b. Based on the foregoing, the following aspects are considered:

- 1) **Compatible Use** – The proposed development is designed to be integrated with the surrounding commercial and residential uses within Hanalei Town. As noted in the Director's Report, the project site is directly adjacent to commercial and residential projects on all three sides of the project site. As such, the proposed use is compatible with the surrounding uses and is not expected to impact urban activities in the area.

In evaluating the Applicant's request to amend the existing permits to accommodate the development on Lot 17, the following is considered:

- As previously stated, the applicant is seeking to increase the lot coverage from 33-1/3% to 45%. The proposed minimal increase of 12.33% will be at the ground level and not interfere with views from Kūhiō Highway in the Mauka direction. All drainage resulting from the new construction, road use, and the increased lot coverage will be retained on site or directed into the auwai and subjected to best management practices. Additional run-off from drainage will not negatively impact the surrounding properties, especially the mauka taro fields.
- The applicant seeks to reduce the number of permitted single-family dwellings granted by the 2006 permit from three (3) to two (2). The proposed development does not trigger workforce housing assessment under the Kaua'i County Housing Policy, KCC Chapter 7A; therefore, the Department is amenable to this proposal. The Department still encourages the applicant to construct and/ or facilitate housing

options for their employees.

## **X. PRELIMINARY CONCLUSION**

Based on the foregoing, it is concluded that through proper mitigative measures, the proposed development can be considered and it complies with the policies and guidelines of the Special Management Area Rules and Regulations in that:

1. The development will not have any substantial adverse environmental or ecological effect.
2. The development is consistent with the objectives/goals/policies of the County General Plan, the Comprehensive Zoning Ordinance, and other applicable ordinances.

Furthermore, the proposal DOES NOT:

- a. involve dredging, filling, or otherwise altering any bay, estuary, salt marsh, river mouth, slough or lagoon;
- b. reduce the size of any beach or other area usable for public recreation;
- c. reduce or impose restrictions upon public access to tidal and submerged lands, beaches, rivers or streams within the special management area; and
- d. adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, estuarine sanctuaries or existing agricultural uses of land.

Furthermore through proper mitigation measures the proposed development would not have any detrimental impact to the environment or the surrounding area and is in compliance with the criteria outlined for the granting of a Use Permit and Class IV Zoning Permit.

The Applicant should institute the “Best Management Practices” to insure that the operation of this facility does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project.

## **XI. PRELIMINARY RECOMMENDATION**

Based on the foregoing evaluation and conclusion it is hereby recommended Class IV Zoning Permit Z-IV-2020-16, Use Permit U-2020-13, and Special Management Area Use Permit

SMA(U)-2020-7, the Amendments to Special Management SMA(U)-88-4, Amendments to Use Permit U-88-25 Amendments to Variance Permit V-88-6, and Amendments to Class IV Zoning Permit Z-IV-88-30, and Amendments to Project Development Permit PDU-2006-1, Amendments to Special Management Area Use Permit SMA(U)-2006-1, and Amendments to Class IV Zoning Permit Z-IV-2006-1 to be **APPROVED**. If approved, the following conditions shall be implemented:

1. The proposed improvements shall be constructed as represented. Any changes to said development shall be reviewed by the Planning Director to determine whether Planning Commission review and approval is warranted.
2. The Applicant is advised that should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the Applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division at (808) 692-8015 and the Planning Department at (808) 241-4050 to determine mitigation measures.
3. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, if external lighting is to be used in connection with the proposed project, all external lighting shall be only of the following types: downward-facing, shielded lights. Spotlights aimed upward or spotlighting of structures shall be prohibited.
4. The Applicant shall develop and utilize Best Management Practices (B.M.P's) during all phases of development in order to minimize erosion, dust, and sedimentation impacts of the project to abutting properties.
5. Prior to building permit application, the Applicant shall ensure that the proposed Craft Brewery complies with the setback requirements of the CZO, more specifically, the side setback along its eastern boundary line.
6. An Environmental Impact Assessment fee equal to \$100 per minimum number of stalls required shall be due at time of building permit application.
7. In order to ensure that the project is compatible with its surroundings and to minimize the visual impact of the structure, the external color of the proposed structure shall be of moderate to dark earth-tone color. The proposed color scheme of the building, landscape plan, and plans and elevations of the vehicular and pedestrian bridges should be submitted to the Planning Department for review and acceptance prior to building permit review.

8. The Applicant is advised that prior to construction and/ or use, additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).
9. The Applicant shall resolve and comply with the applicable standards and requirements set forth by the State Health Department, State Historic Preservation Division-DLNR, and the County Departments of Public Works, Fire, Transportation, and Water.
10. The Planning Director reserves the right to increase parking requirements when particular uses cause unusual traffic congestion.
11. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project, such as Leadership in Energy and Environmental Design (L.E.E.D.) standards or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low-energy fixtures, low-energy lighting and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for building permit review.
12. Prior to commencement of the proposed development, written confirmation of compliance with the requirements from all reviewing agencies shall be provided to the Planning Department. Failure to comply may result in forfeiture of the SMA Permit.
13. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kauai contractors as long as they are qualified and reasonably competitive with other contractors, and shall seek to employ residents of Kauai in temporary construction and permanent resort-related jobs. It is recognized that the Applicant may have to employ non-Kauai residents for particular skilled jobs where no qualified Kauai residents possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.
14. The Applicant shall obtain the necessary building permits and commence construction within one (1) year from the date of approval of this application and complete construction within two (2) years from the date of approval of the building permit.
15. The Planning Commission reserves the right to revise, add, or delete conditions of approval in order to address or mitigate unforeseen impacts the project may, create, or to revoke the permits through the proper procedures should conditions of approval not be complied with or be violated.

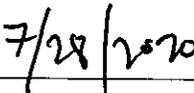
The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for AUGUST 11, 2020 whereby the entire record should be considered prior to decision-making. The entire record should include but not be limited to:

- a. Pending government agency comments;
- b. Testimony from the general public and interested others; and
- c. The Applicant's response to staff's report and recommendation as provided herein.

By  \_\_\_\_\_  
ROMIO IDICA  
Planner

Approved & Recommended to Commission:

By  \_\_\_\_\_  
KA'AINA S. HULL  
Director of Planning

Date:  \_\_\_\_\_

# EXHIBIT “A”

(Agency Comments)

For reference

COUNTY OF KAUA'I  
PLANNING DEPARTMENT  
4444 RICE STREET, SUITE A473, LIHU'E, HI 96766  
(808) 241-4050

FROM: Kaaina S. Hull, Director ( Idica ) Tuesday, May 26, 2020

SUBJECT: Special Management Area Use Permit SMA(U)2020-7, Class IV Zoning Permit Z-IV-2020-16, Use Permit U-2020-13, Construction & Operation of a Craft Brewery Building Facility, Associated Site Improvements, and Food Truck operation, Tax Map Key: (4) 5-5-009:008, 009, Hanalei Commercial Company, Inc./Na Pali Brewing Company LLC.

TO:

- |  |   |
|--|---|
| <input type="checkbox"/> Department of Transportation – STP              | <input checked="" type="checkbox"/> DPW – Engineering                     |
| <input checked="" type="checkbox"/> DOT – Highways, Kaua'i (Info only)   | <input type="checkbox"/> DPW – Wastewater                                 |
| <input type="checkbox"/> DOT – Airports, Kaua'i (Info only)              | <input type="checkbox"/> DPW – Building                                   |
| <input type="checkbox"/> DOT – Harbors, Kaua'i (Info only)               | <input type="checkbox"/> DPW – Solid Waste                                |
| <input checked="" type="checkbox"/> State Department of Health           | <input type="checkbox"/> Department of Parks & Recreation                 |
| <input type="checkbox"/> State Department of Agriculture                 | <input checked="" type="checkbox"/> Fire Department                       |
| <input type="checkbox"/> State Office of Planning                        | <input checked="" type="checkbox"/> County Housing Agency                 |
| <input type="checkbox"/> State Dept. of Bus. & econ. Dev. Tourism        | <input type="checkbox"/> County Economic Development                      |
| <input type="checkbox"/> State Land Use Commission                       | <input type="checkbox"/> KHPRC  |
| <input checked="" type="checkbox"/> State Historic Preservation Division | <input checked="" type="checkbox"/> Water Department                      |
| <input type="checkbox"/> DLNR – Land Management                          | <input type="checkbox"/> Kaua'i Civil Defense                             |
| <input type="checkbox"/> DLNR – Forestry & Wildlife                      | <input type="checkbox"/> US Postal Department                             |
| <input type="checkbox"/> DLNR – Aquatic Resources                        | <input checked="" type="checkbox"/> UH Sea Grant                          |
| <input type="checkbox"/> DLNR - OCCL                                     | <input checked="" type="checkbox"/> Other: <u>Lee S. (Trans. Planner)</u> |
|  | <input checked="" type="checkbox"/> County Transportation Agency          |

FOR YOUR COMMENTS (pertaining to your department)

06/29/2020

Please see attached for comments.

This matter is schedule for a public hearing before the County of Kaua'i, Planning Commission on Tuesday, August 11, 2020 at the Lihu'e Civic Center, Mo'ikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihu'e, Kaua'i, at 9:00 am. or soon thereafter.

If we do not receive your agency comments within one (1) month from the date of this request, we will assume that there are no objections to the permit request. Mahalo!

20 JUN -1 11:52  
COUNTY OF KAUA'I  
PLANNING DEPARTMENT

RECEIVED  
20 JUL -6 11:58  
COUNTY OF KAUA'I  
PLANNING DEPARTMENT



KAUA'I COUNTY HOUSING AGENCY  
THE COUNTY OF KAUAI

DEREK S. K. KAWAKAMI, MAYOR  
MICHAEL A. DAHLIG, MANAGING DIRECTOR

ADAM P. ROVERSI  
HOUSING DIRECTOR

COMMUNITY  
PLANNING

June 29, 2020

20 JUL -6 8 51

To: Kaaina Hull, Planning Director

From: Adam P. Roversi, Housing Director *AR* **RECEIVED**

RE: Housing Agency Comments on SMA(U)2020-7, Class IV Zoning Permit Z-V-2020-16, Use Permit U-2020-13, Construction & Operation of a Craft Brewery Building Facility

---

Applicant Napali Brewing seeks to amend a 2006 Master Permit covering Lot 17 in Hanalei, to permit the development of a Craft Brewery. In connection with the development of the proposed brewery, and specifically relating to the issue of housing, the Applicant seeks to:

1. "reduce the permitted Employee Housing in the eastern portion of Lot 17 to the two existing Single-family residences," where three are permitted; and
2. Amend Condition 4.d of the 2006 Master Permit to expand the permissible use of employee housing to "both current and retired" employee's rather than only current "employees."

The Housing Agency concurs with the Applicant's statement in section 2.3 of the Application and Motion that the proposed project does not trigger a workforce housing assessment under the Kauai County Housing Policy, Kauai County Code Chapter 7A.

To the extent the Applicant seeks to reduce permitted Employee Housing on Lot 17 from three units to two, the Housing Agency notes that the three Employee Housing units permitted under the 2006 Master Permit are not requirements imposed on Lot 17. Rather, the development of these units was simply permitted with certain conditions if the owner chose to do so. Accordingly, while as a matter of policy the Housing Agency would prefer to see a third Employee Housing unit developed, we are unaware of any enforceable requirement that the applicant in fact construct three units.

www.kauai.gov

4444 Rice Street Suite 330 • Lihue, Hawai'i 96766 • (808) 241-4444 (b) • (808) 241-5118 (f)

An Equal Opportunity Employer



With regard to the two existing Employee Housing units on Lot 17, the Housing Agency recommends that the Planning Commission take steps to ensure that the residences are being utilized as Employee Housing as required by the 2006 Master permit. To this end we would recommend that the Commission request copies of recorded deed restrictions and/or current lease agreements for the subject residences.

As to the request to expand the permissible use of existing employee housing to retirees as well as active current employees, the Housing Agency supports this request as a matter of policy. The provision of elderly housing is part of the Housing Agency's mission and we commend the Applicant's interest in doing just that.

Thank you for the opportunity to provide comments.

JUN - 2 2020

COUNTY OF KAUAI  
PLANNING DEPARTMENT  
4444 RICE STREET, SUITE A473, LIHU'E, HI 96766  
(808) 241-4050

20 JUN 25 10:59

FROM: Kaaina S. Hull, Director

( Idica )

Friday, May 26, 2020

SUBJECT: Special Management Area Use Permit SMA(U)2020-7, Class IV Zoning Permit Z-IV-2020-16, Use Permit U-2020-13, Construction & Operation of a Craft Brewery Building Facility, Associated Site Improvements, and Food Truck operation, Tax Map Key: (4) 5-5-009:008, 009, Hanalei Commercial Company, Inc./Na Pali Brewing Company LLC.

TO:

- |  |   |
|--|---|
| <input type="checkbox"/> Department of Transportation – STP              | <input checked="" type="checkbox"/> DPW – Engineering                     |
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| <input type="checkbox"/> State Department of Agriculture                 | <input checked="" type="checkbox"/> Fire Department                       |
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| <input type="checkbox"/> State Dept. of Bus. & econ. Dev. Tourism        | <input type="checkbox"/> County Economic Development                      |
| <input type="checkbox"/> State Land Use Commission                       | <input type="checkbox"/> KHPRC  |
| <input checked="" type="checkbox"/> State Historic Preservation Division | <input checked="" type="checkbox"/> Water Department                      |
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| <input type="checkbox"/> DLNR – Aquatic Resources                        | <input checked="" type="checkbox"/> UH Sea Grant                          |
| <input type="checkbox"/> DLNR - OCCL                                     | <input checked="" type="checkbox"/> Other: <u>Lee S. (Trans. Planner)</u> |
|  | <input checked="" type="checkbox"/> County Transportation Agency          |

FOR YOUR COMMENTS (pertaining to your department)

See comments on attached sheet.

June 9, 2020

  
 \_\_\_\_\_  
 Patrick Peck, REHS, MA, DAAS  
 District Environmental Health Program Kauai Chief

This matter is schedule for a public hearing before the County of Kaua'i, Planning Commission on Tuesday, August 11, 2020 at the Lihu'e Civic Center, Mo'ikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihu'e, Kaua'i, at 9:00 am. or soon thereafter.

If we do not receive your agency comments within one (1) month from the date of this request, we will assume that there are no objections to the permit request. Mahalo!

Class IV Zoning Permit Application: **Z-IV-2020-16**

Use Permit: **U-2020-13**

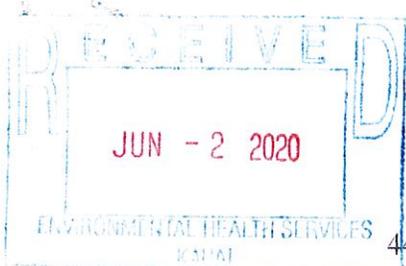
Special Management Area: **SMA(U)-2020-7**

Applicant: **Hanalei Commercial Co. Inc / Na Pali Brewing Co., LLC**

Based on our review of the application, we have the following environmental health concerns for your consideration.

1. The facility will be required to install a Wastewater Treatment Plant due to the high BOD and TSS levels that will be generated. Please submit plans to the State of Hawaii Wastewater Branch, 2827 Waimano Home Road #207, Pearl City, Hawaii 96782. Contact April Matsumura at 808 586-4294 for more information.
2. Noise will be generated during the construction phase of this project. The applicable maximum permissible sound levels as stated in Title 11, Hawaii Administrative Rules (HAR), Chapter 11-46, "Community Noise Control", shall not be exceeded unless a noise permit is obtained from the State Department of Health (DOH).
3. Temporary fugitive dust emissions could be emitted when the project site is prepared for construction and when construction activities occur. In accordance with Title 11, HAR, Chapter 11-60.1 "Air Pollution Control", effective air pollution control measures shall be provided to prevent or minimize any fugitive dust emissions caused by construction work from affecting the surrounding areas. This includes the off-site roadways used to enter/exit the project. The control measures include but are not limited to the use of water wagons, sprinkler systems, dust fences, etc.
4. The property may harbor rodents which will disperse to the surrounding areas when the site is cleared. In accordance with Title 11, HAR, Chapter 11-26, "Vector Control", the applicant shall ascertain the presence or absence of rodents on the property. Should the presence of rodents be determined, the applicant shall eradicate the rodents prior to clearing the site.
5. The construction waste that will be generated by the project shall be disposed of at a solid waste disposal facility that complies with the applicable provisions of Title 11 HAR, Chapter 11-58.1 "Solid Waste Management Control", the open burning of any of these wastes on or off site prohibited.

Due to the general nature of the application submitted, we reserve the right to implement future environmental health restrictions when more detailed information is submitted.



COUNTY OF KAUA'I  
PLANNING DEPARTMENT

4444 RICE STREET, SUITE A473, LIHU'E, HI 96766  
(808) 241-4050

PLANNING DEPARTMENT  
20 JUN 26 8 59

FROM: Kaaina S. Hull, Director

( Idica )

RECEIVED Tuesday, May 26, 2020

SUBJECT: Special Management Area Use Permit SMA(U)2020-7, Class IV Zoning Permit Z-IV-2020-16, Use Permit U-2020-13, Construction & Operation of a Craft Brewery Building Facility, Associated Site Improvements, and Food Truck operation, Tax Map Key: (4) 5-5-009:008, 009, Hanalei Commercial Company, Inc./Na Pali Brewing Company LLC.

TO:

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| <input type="checkbox"/> DLNR – Forestry & Wildlife                      | <input type="checkbox"/> US Postal Department                             |
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| <input type="checkbox"/> DLNR - OCCL                                     | <input checked="" type="checkbox"/> Other: <u>Lee S. (Trans. Planner)</u> |
|  | <input checked="" type="checkbox"/> County Transportation Agency          |

FOR YOUR COMMENTS (pertaining to your department)

See comments on attached sheet.

June 9, 2020

  
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 Patrick Peck, REHS, MA, DAAS  
 District Environmental Health Program Kauai Chief

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If we do not receive your agency comments within one (1) month from the date of this request, we will assume that there are no objections to the permit request. Mahalo!

Class IV Zoning Permit Application: **Z-IV-2020-16**  
Use Permit: **U-2020-13**  
Special Management Area: **SMA(U)-2020-7**  
Applicant: **Hanalei Commercial Co. Inc / Na Pali Brewing Co., LLC**

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Due to the general nature of the application submitted, we reserve the right to implement future environmental health restrictions when more detailed information is submitted.



Water has no substitute.....Conserve it!

4398 PUA LOKE STREET
LIHU'E, KAUA'I, HAWAII 96766
PHONE: (808) 245-5400 / FAX: (808) 245-5813

DATE: July 13, 2020

20 JUL 28 10:42

TO: Planning Department
Kaaina Hull, Director ( Idica )

RECEIVED

SUBJECT: SMA(U)-2020-7, Class IV Zoning Permit Z-IV-2020-16, Use Permit U-2020-13, Construction & Operation of a Craft Brewery Building Facility & Associated Site Improvement & Food Truck Operation, TMK: 5-5-009:008 and 5-5-009:009, Hanalei Commercial Company Inc./Na Pali Brewing Company LLC

DOW COMMENTS:

The Department of Water (DOW) has concerns regarding the possible backflow of water into our system and the increase in water demand associated with this Special Management Area Use Permit SMA(U)-2020-7, Class IV Zoning Permit Z-IV-2020-16 and Use Permit U-2020-13 Applications for the proposed to allow development of a Craft Brewery on Parcel 9.

We recommend to the Planning Department that any approval of the Special Management Area Use Permit SMA(U)-2020-7, Class IV Zoning Permit Z-IV-2020-16 and Use Permit U-2020-13 Applications be conditioned; whereby, the applicant shall be made aware that prior to the DOW recommending water meter service or building permit approval, the applicant will be required to:

- 1. Submit a formal request for water service for our review and approval. Include detailed water demand (both domestic and irrigation) calculations along with the proposed water meter size. Water demand calculations submitted by your engineer or architect should also include fixture count, water meter sizing worksheets and floor plans. The Department's comments may change depending on the approved water demand calculations.
2. Prepare and receive DOW's approval of construction drawings for the necessary water system facilities and construct said facilities. These facilities shall include but not be limited to:
a) The domestic service connection. (Parcel 9).
b) The fire service connection, if applicable.
c) The interior plumbing with the appropriate backflow prevention device for the proposed and the existing water meters (for Parcel 08 and Parcel 09).
3. Pay the applicable charges in effect at the time of payment to the Department. At the present time, these charges shall include but not be limited to the Facilities Reserve Charge (FRC), which is based on the approved water meter size, if applicable.
4. Receive a "Certification of Completion" for the construction of the necessary water system facilities from the DOW.

Requests for water meter service will be dependent on the adequacy of the source, storage, and transmission facilities existing at that time.

Edward Doi
Edward Doi (Jul 14, 2020 11:14 HST)

Edward Doi, P.E.
Chief of Water Resources and Planning

Date

**Ka'āina S. Hull**  
Director of Planning



**Jodi A. Higuchi-Sayegusa**  
Deputy Director of Planning

**SUBJECT TO CHANGE**

**COUNTY OF KAUA'I  
PLANNING DEPARTMENT**

**SUPPLEMENT #1 TO  
PLANNING DIRECTOR'S REPORT**

**RE:** Class IV Zoning Permit Z-IV-2020-16  
USE Permit U-2020-13  
SMA(U)-2020-7

**APPLICANT:** Hanalei Commercial INC./ Na Pali Brewery, LLC

**ADDITIONAL FINDINGS**

Attached for the Planning Commission's reference is supplemental information as follows:

- Gary Chang, Letter of opposition, Received July 28, 2020

By Romio Idica  
Romio Idica  
Staff Planner

July 15, 2020

Dale Cua  
Planner, County of Kauai Planning  
4444 Rice Street, Ste 473  
Lihue, Kauai, HI 96766

20 JUL 28 10 20

RECEIVED

Re: Application Hanalei Commercial  
Na Pali Brewing Company

I am opposed to approval of new Special Management Area Use Permit and variance U-2020-13/Z-IV-2020-16.

Project is totally out of scale and environmentally harmful.

I would hope the county would have better judgement in projects as such.

My family were one the original settlers in the valley as rice and taro farmers. My great parents, grandparents, and uncles would be turning in their graves.

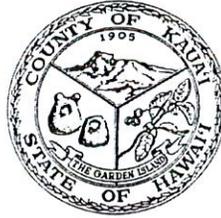
Enough already!

Respectfully,



Gary Chang  
gkychang@comcast.net

**Ka'aina S. Hull**  
Director of Planning



**Jodi A. Higuchi-Sayegusa**  
Deputy Director of Planning

**SUBJECT TO CHANGE**

**COUNTY OF KAUA'I  
PLANNING DEPARTMENT**

**SUPPLEMENT #2 TO  
PLANNING DIRECTOR'S REPORT**

**RE:** Class IV Zoning Permit Z-IV-2020-16  
USE Permit U-2020-13  
SMA(U)-2020-7

**APPLICANT:** Hanalei Commercial INC./ Na Pali Brewery, LLC

**ADDITIONAL FINDINGS**

Attached for the Planning Commission's reference is supplemental information as follows:

- Max Graham of Belles Graham LLP, Exhibits "E-1" to "E-5", Received July 29, 2020

By   
Romio Idica  
Staff Planner

**F.2.a.3.**

**AUG 1 1 2020**

# BELLES GRAHAM LLP

ATTORNEYS AT LAW

MAX W.J. GRAHAM, JR.  
JONATHAN J. CHUN  
IAN K. JUNG

Federal I.D. No. 99-0317663

WATUMULL PLAZA  
4334 RICE STREET, SUITE 202  
LIHUE, KAUAI, HAWAII 96766-1388

TELEPHONE NO: (808) 245-4705  
FACSIMILE NO: (808) 245-3277  
E-MAIL: mail@kauai-law.com

OF COUNSEL

MICHAEL J. BELLES  
DAVID W. PROUDFOOT  
DONALD H. WILSON

July 29, 2020

Mr. Ka'aina S. Hull  
Director of Planning  
Planning Department  
4444 Rice Street, Suite A473  
Lihue, Kauai, Hawaii 96766

**VIA HAND DELIVERY**

Attention: Mr. Romio Idica

Re: **Application For New Permits And Motion To Amend Master Permit  
And 2006 Permit**

**In The Matter Of The Application Of HANALEI COMMERCIAL  
INC., a Hawaii corporation, and NA PALI BREWING COMPANY  
L.L.C., a Hawaii limited liability company, concerning property  
located at Hanalei, Halale'a, Kauai, Hawaii, identified by Kauai Tax  
Map Key Nos. (4) 5-5-009:008 and 009**

**Master Permit: Special Management Area Use Permit  
SMA(U)-88-4, Use Permit U-88-25, Variance  
Permit V-88-6, and Class IV Zoning Permit  
Z-IV-88-30**

**2006 Permit: Special Management Area Use Permit  
SMA(U)-2006-1, Project Development Use  
Permit PDU-2006-1, and Class IV Zoning Permit  
Z-IV-2006-1**

**New Permit: Special Management Area Use Permit  
SMA(U)-2020-7, Class IV Zoning Permit  
Z-IV-2020-16, and Use Permit U-2020-13**

**Hanalei Commercial Center**

**Lot 17, Land Court Application No. 1160**

**Hanalei, Kauai, Hawaii**

**Kauai Tax Map Key No. (4) 5-5-009:008**

**Owner: Hanalei Commercial Inc. (Gaylord H. Wilcox, President)**

**Hanalei Brew Pub**

**R. P. 6461, L. C. Aw. 597**

**Hanalei, Kauai, Hawaii**

**Kauai Tax Map Key No. (4) 5-5-009:009**

**Owner: Hanalei Commercial Inc.**

**Lessee: Na Pali Brewing Company L.L.C.**

**(Kathleen W. Conant and Fred B. Conant, Members)**

Mr. Ka'aina S. Hull  
Attention: Mr. Romio Idica  
July 29, 2020  
Page 2

Dear Mr. Hull:

This office represents Hanalei Commercial Inc. and Na Pali Brewing Company L.L.C., the joint Applicants in this matter. I am transmitting, on their behalf, full-sized copies of the following:

1. Craft Brewery Site Plan (revised Exhibit "E-1" of Application).
2. Craft Brewery Floor Plan (revised Exhibit "E-2" of Application).
3. HCC Project Site Plan (revised Exhibit "E-3" of Application).
4. HCC Overall Site Plan (new Exhibit "E-4" of Application).
5. Craft Brewery Elevations (new Exhibit "E-5" of Application).

Thank you very much for your assistance in this matter.

Sincerely yours,

**BELLES GRAHAM LLP**

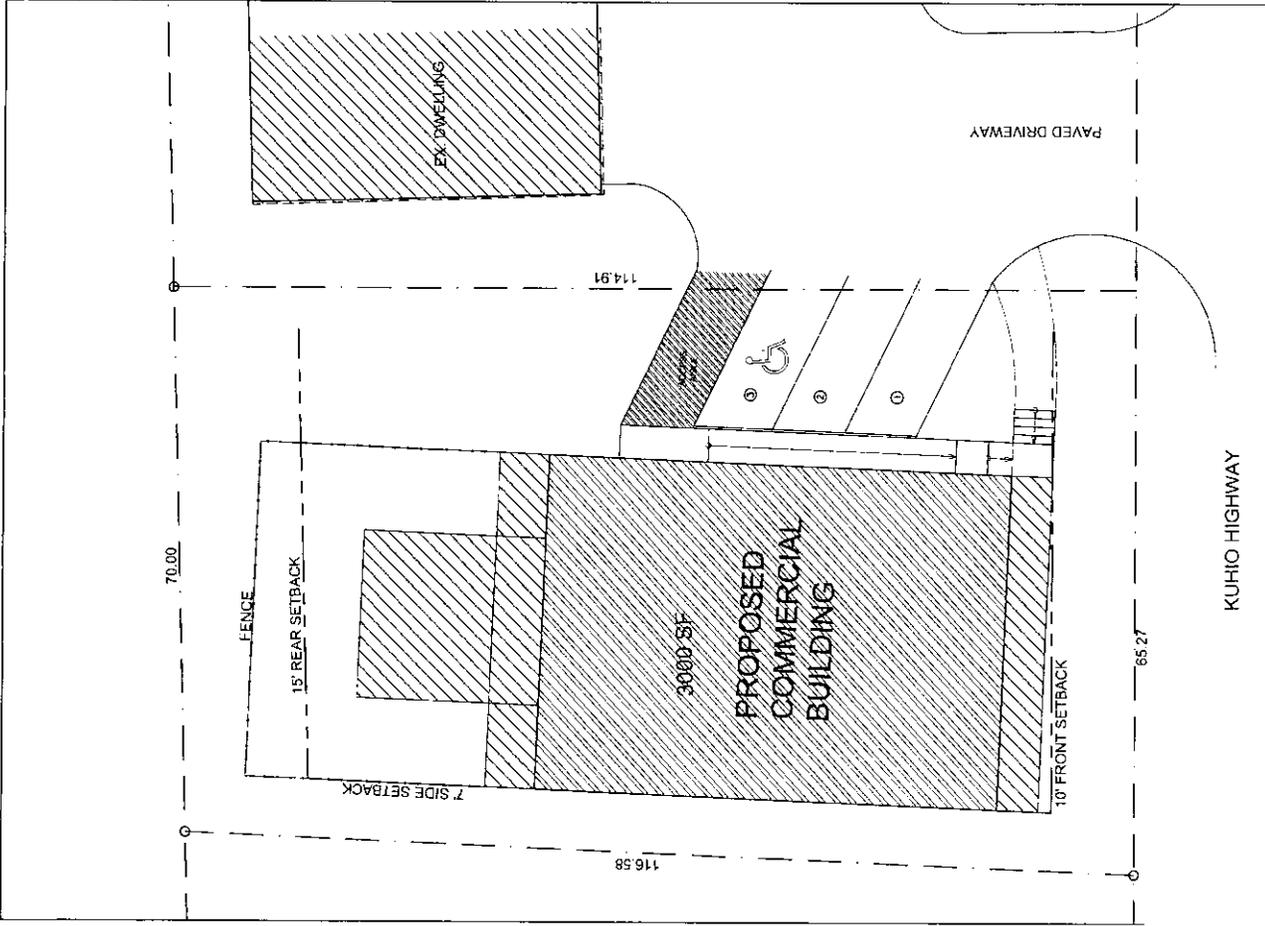


Max W. J. Graham, Jr.

MWJG:jgm

Enclosures

cc: Mr. Gaylord Wilcox, w/o encls. (via email only)  
Mr. and Mrs. Blake Conant, w/o encls. (via email only)

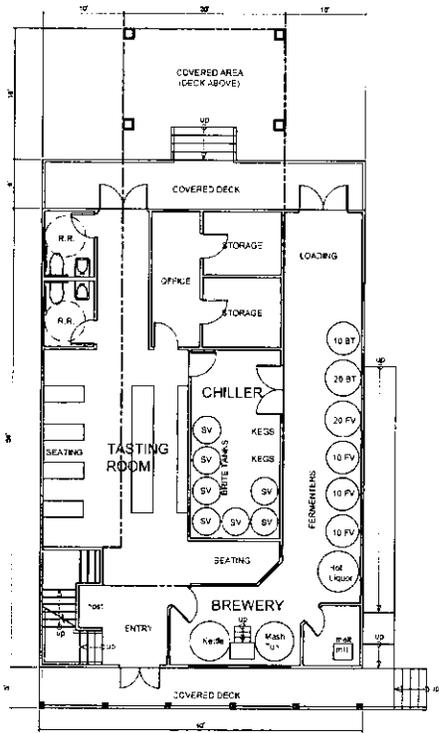


**SITE PLAN**

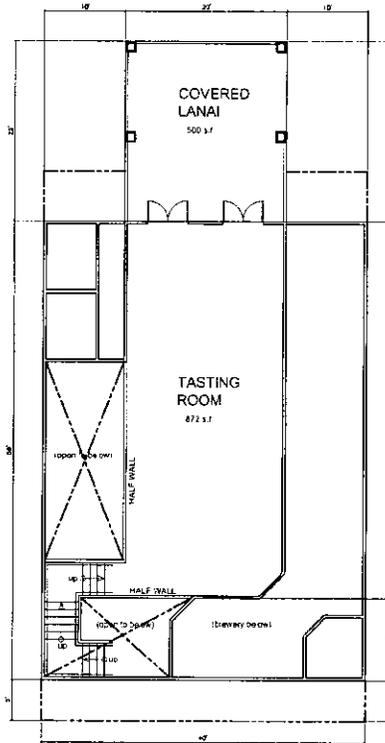
Na Pali Brewery, Hanalei, Kaua'i  
 PRELIMINARY PLANS FOR BLAKE & KATI CONANT  
 TMK: (4) 5-5-009, 009

SC: 3/32"=1'-0"  
 03.05.2019

EXHIBIT "E-1"



LOWER FLOOR PLAN



UPPER FLOOR PLAN

PROPOSED RETAIL

2240 gross lower floor area  
 872 gross upper floor area  
 3112 gross floor area  
 (@ 1 STALL per 300 sf )  
 = 10.37 STALLS REQUIRED

LOT SIZE: 7822 S.F.  
 PROPOSED BUILDING: 3000 S.F.

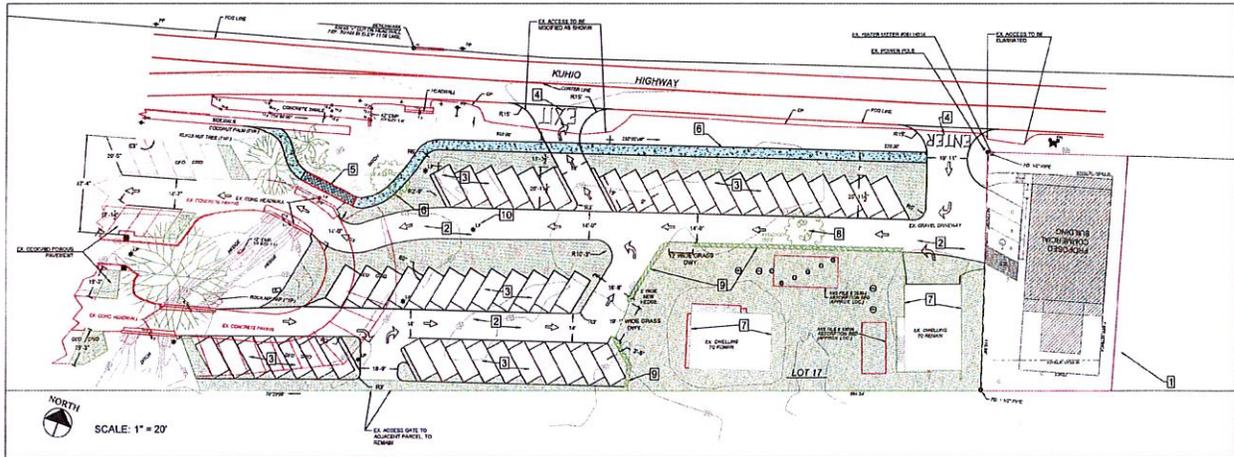
Na Pali Brewery, Hanalei, Kauai  
 PRELIMINARY PLANS FOR: BLAKE & KATI CONANT

TMK: (4) 5-5-009: 009

SC: 3/32"=1'-0"  
 03.05.2019

EXHIBIT "E-2"

# Hanalei Center, Parking Improvements - Conceptual Design



**NOTES:**

1. The proposed improvements as shown on Tax Map Key (TMK) (4) 5-5-009:009 is for reference only and is not a part of this project. Please refer to the site plan options prepared by Mr. Avery Young, AIA for additional details.
2. Proposed drive aisles will be concrete pavement to match existing condition.
3. Proposed parking stalls will be grass-Crete porous pavements to match existing stalls.
4. Existing Driveway to be modified as shown for Exit/Enter Only.
5. Proposed pedestrian walkway Bridge.
6. Proposed pedestrian concrete walkway.
7. Existing workforce housing to remain.
8. Existing Avocado Tree to be removed.
9. Proposed privacy hedge.
10. Existing Light Fixtures to be removed.
11. Proposed Walkway Path shown in Blue with an approximate area of 1,800 sf is excluded from Coverage estimates.



100 YEARS OF PROFESSIONAL ENGINEERING IN HAWAII

Prepared By: *M. King*  
M. IS. SUKOKU

**Kauai Eco Design**  
Produced & Engineered by a Subsidiary  
P.O. Box 14 04722 P.O. Box 22175  
P.O. Box 22176 P.O. Box 22175  
P.O. Box 22177 P.O. Box 22175

DWG. NO: CONCEPT-4  
Sheet 2 of 2

PROJECT: Hanalei Center, Parking Improvements - Conceptual Design  
DATE: 2018-09-10 REVISED ON: 2020-07-27

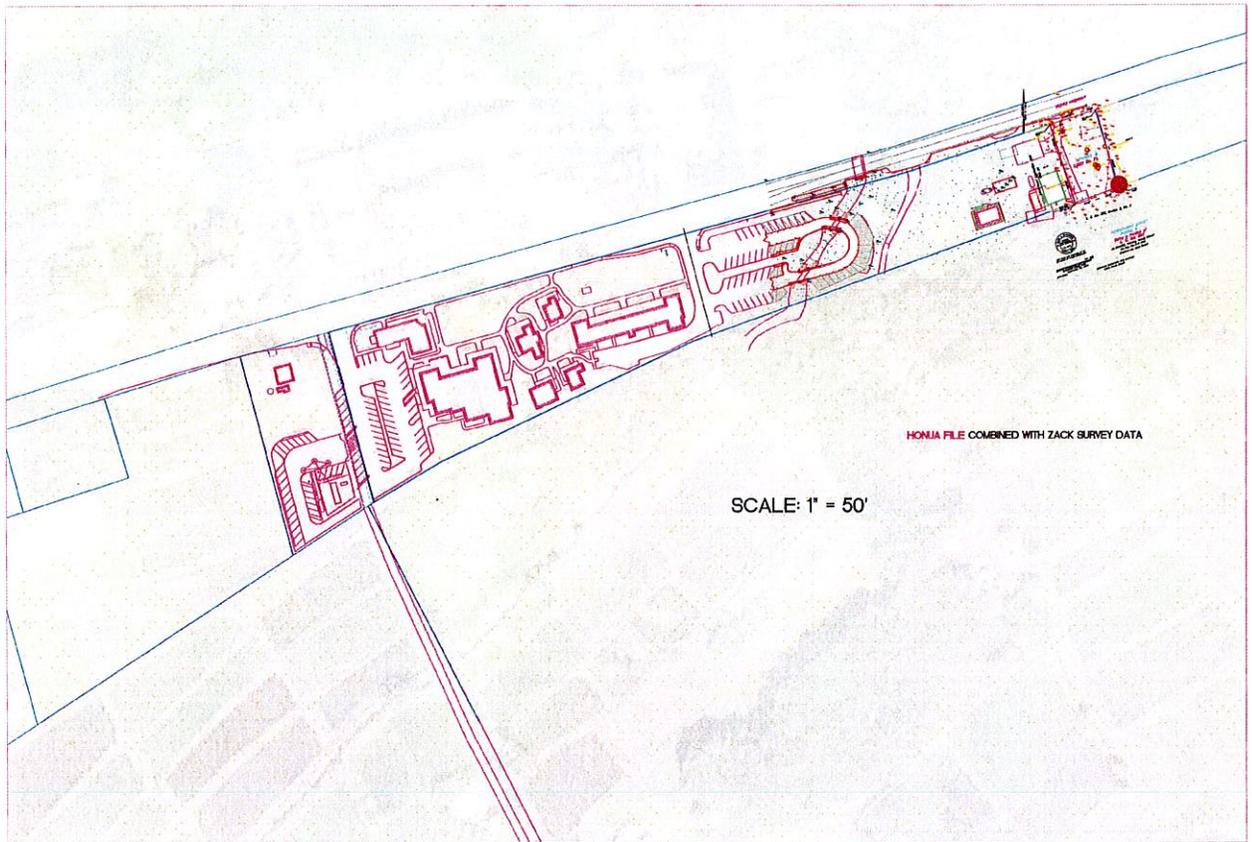
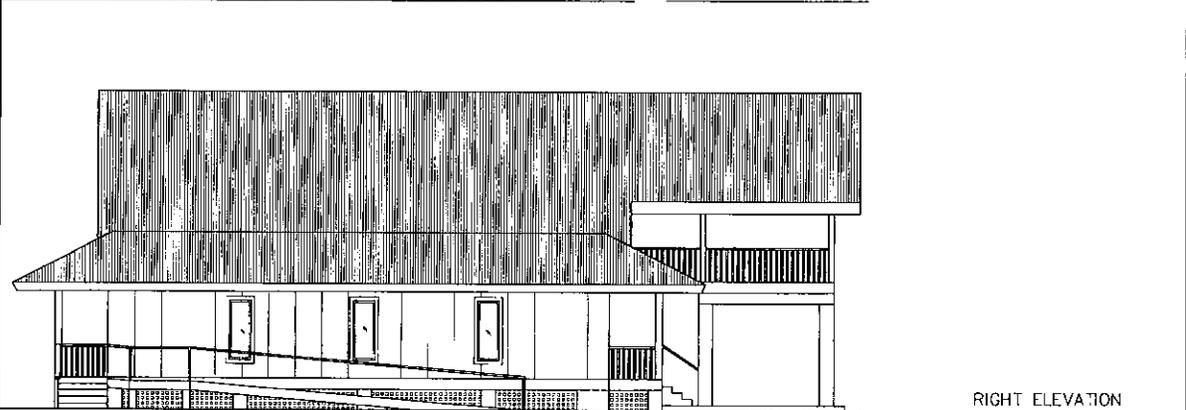
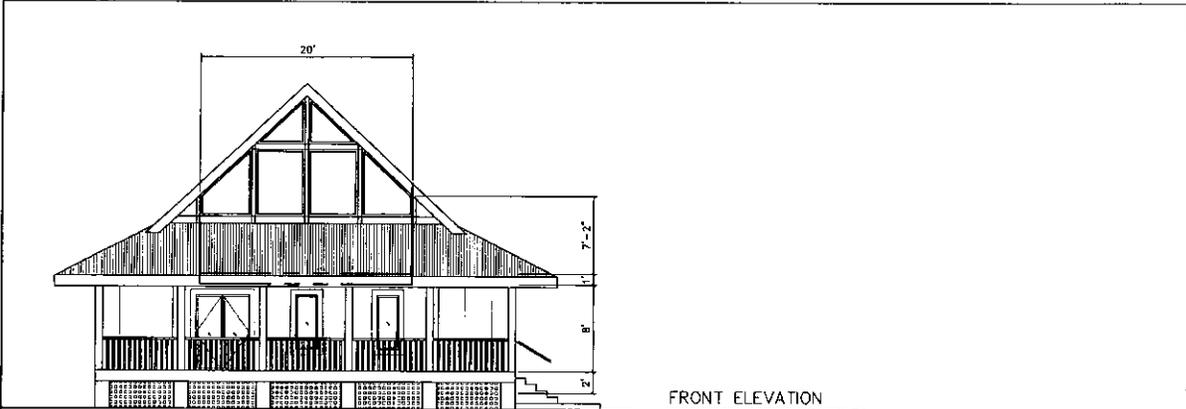


EXHIBIT "E-4"



Na Pali Brewery, Hanalei, Kaua'i  
PRELIMINARY ELEVATIONS FOR: BLAKE & KATI CONANT

SC: 3/32"=1'-0"  
03.05.2019

EXHIBIT "E-5"

**COUNTY OF KAUAI, PLANNING DEPARTMENT  
4444 RICE STREET, LIHUE, KAUAI, HAWAII 96766**

**MEMORANDUM**

**DATE:** *August 10, 2020*  
**TO:** *Planning Commission*  
**FROM:** *Clerk of the Commission*  
**SUBJECT:** *Addition to the Planning Commission 8/11/2020 Agenda*

**F. HEARINGS AND PUBLIC COMMENT**

**2. New Agency Hearing**

**a. *Hanalei Commercial Company, Inc./Na Pali Brewing Company, LLC***

**4. *Testimony from Koral Mccarthy, Moku, & Ohana (8/7/20)***

**c. *Gregory L. & Kimberly A. Stein***

**3. *Supplement No. 1 to Stein Application from Ian K. Jung, Esq., (8/5/20)***

**3. Continued Public Hearing**

**1. *County of Kauai, Planning Department***

**2. *Testimony from Rayne Regush (8/10/20)***

**F.2.a. *Hanalei Commercial Company, Inc./Na Pali Brewing Company, LLC***

4. Testimony from Koral Mccarthy, Moku, & Ohana (8/7/20)

**F.2.a.4. (A)**

**AUG 11 2020**

**Leslie Takasaki**

---

**From:** Kaaina Hull  
**Sent:** Friday, August 07, 2020 11:31 AM  
**To:** Leslie Takasaki  
**Cc:** Romio Idica; Dale Cua  
**Subject:** FW: Subject Hanalei commercial/ Napali Brewing Company

Hey Les,

Here is another set of public comments for the Brewing Company application. Please provide to the Commission. Mahalo!

**From:** Koral Mccarthy <korai.wainiha@gmail.com>  
**Sent:** Wednesday, August 05, 2020 1:36 PM  
**To:** Kaaina Hull <khull@kauai.gov>  
**Subject:** Subject Hanalei commercial/ Napali Brewing Company

**CAUTION:** This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Ka'aina,

Hope your 'Ohana is doing well during this crazy time.

I would love if you could forward my comments to the Planning Commissioner about the possible Napali Brewing Company trying to go into Hanalei town.

We are 100% against the idea and everything about it. We have many families willing to petition and hold signs and do whatever we can to oppose the idea of a new 'brewery'/bar in Hanalei. We currently have 5 bars in business in Hanalei struggling to survive and we all feel it's the last thing our town needs.

We will do anything and everything to oppose this and we will definitely be rallying as much as possible to not let this happen.

Sorry to sound so upset, it's just the last thing we could imagine that we need or want in our town!

Mahalo kai'aina

Big love

Aloha

Koral, Moku and 'OHANA

808-634-0194

[korai.wainiha@gmail.com](mailto:korai.wainiha@gmail.com)

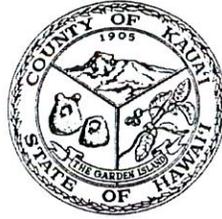
P.O. Box 1142

Hanalei Hawaii 96714

F. 2. a. 4. (A)

AUG 11 2020

**Ka'āina S. Hull**  
Director of Planning



**Jodi A. Higuchi-Sayegusa**  
Deputy Director of Planning

**SUBJECT TO CHANGE**

**COUNTY OF KAUA'I  
PLANNING DEPARTMENT**

**SUPPLEMENT #3 TO  
PLANNING DIRECTOR'S REPORT**

**RE:** Class IV Zoning Permit Z-IV-2020-16  
Use Permit U-2020-13  
Special Management Area Use Permit SMA(U)-2020-7  
  
Amend Special Management SMA(U)-88-4  
Amend Use Permit U-88-25  
Amend Variance Permit V-88-6  
Amend Class IV Zoning Permit Z-IV-88-30  
  
Amend Project Development Permit PDU-2006-1  
Amend Special Management Area Use Permit SMA(U)-2006-1  
Amend Class IV Zoning Permit Z-IV-2006-1

**APPLICANT:** Hanalei Commercial INC./ Na Pali Brewery, LLC

**STATUS OF PROJECTS THROUGH SMA(U)-1988-4 & SMA(U)-2006-1**

Section 10.0 ACTION of the Special Management Area (SMA) rules and regulations states, *“Unless otherwise stated in the permit, once a permit is issued, the applicant must make substantial progress, as determined by the Director, regarding the development or activity within two (2) years, or the permit shall be deemed to have lapsed and be no longer in effect. Permits can be amended or revoked through the procedure outlined in Chapter 12 of the rules and regulations.”* The status of permits are as follows:

Building Permit no.	Description	Completed (Yes of No)
87-1548	Relocation of School Bldg.	Yes
88-1880	Renovations of residence	Yes
92-00100485	New one story building	Yes
92-00100486	New one story building	Yes
92-00100487	New two story building	Yes

**F.2.a.1.**

SEP 0 8 2020

**Ka'āina S. Hull**  
Director of Planning



**Jodi A. Higuchi-Sayegusa**  
Deputy Director of Planning

**COUNTY OF KAUA'I  
PLANNING DEPARTMENT**

04-798	Single family residence	Yes
14-842	Single family residence	Yes

Based on the above referenced permits and completion of their construction, the Department hereby finds that the subject SMA permits are valid and still in effect.

By   
Romio Idica  
Staff Planner



**COUNTY OF KAUA'I  
PLANNING DEPARTMENT**

**SUPPLEMENT #4 TO  
PLANNING DIRECTOR'S REPORT**

**RE:** Class IV Zoning Permit Z-IV-2020-16  
Use Permit U-2020-13  
Special Management Area Use Permit SMA(U)-2020-7

Amend Special Management SMA(U)-88-4  
Amend Use Permit U-88-25  
Amend Variance Permit V-88-6  
Amend Class IV Zoning Permit Z-IV-88-30

Amend Project Development Permit PDU-2006-1  
Amend Special Management Area Use Permit SMA(U)-2006-1  
Amend Class IV Zoning Permit Z-IV-2006-1

**APPLICANT:** Hanalei Commercial INC./ Na Pali Brewery, LLC

**ADDITIONAL FINDINGS**

Attached for the Planning Commission's reference is supplemental information as follows:

- Sarah and Kawika Goodale, Letter of support, Received August 13, 2020
- Jimit Mehat// Jacques Pautrat, Letter of opposition, Received August 20, 2020
- Jim Moffat, Letter of support, Received August 24, 2020
- Keola Sheehan, Letter of opposition, Received August 20, 2020
- Nancy Williams, Letter of support, Received August 24, 2020
- Michael G. Ching, Letter opposition, Received August 26, 2020
- James Sclafani, Letter of opposition, Received August 26, 2020
- William Vaz, Letter of opposition, Received August 28, 2020
- Wicki Van De Veer, Letter of support, Received August 28, 2020
- Koral McCarthy, Letter of opposition, Received August 31, 2020
- Carl Imperato- HHCA, Letter of opposition, Received September 1, 2020
- Makaala Kaaumoana-Hanalei Watershed Hui, Letter of support, Received September 2, 2020

In addition, the applicant has submitted the following:

- Exhibit "F-11", Detailed description of the Solid Wastes Disposal and Sanitizing Wastewater Disposal methods, received August 31, 2020

By   
Romio Idica  
Staff Planner

## Romio Idica

---

**From:** Dale Cua  
**Sent:** Friday, August 14, 2020 10:23 AM  
**To:** Romio Idica  
**Subject:** Fw: Hanalei Commercial/Napali Brewing Co

FYI

**From:** Planning Department <planningdepartment@kauai.gov>  
**Sent:** Friday, August 14, 2020 10:19 AM  
**To:** Dale Cua <dcua@kauai.gov>  
**Subject:** FW: Hanalei Commercial/Napali Brewing Co

**From:** Blake Conant <bconant53@gmail.com>  
**Sent:** Thursday, August 13, 2020 4:18 PM  
**To:** Planning Department <planningdepartment@kauai.gov>  
**Cc:** Max Graham <mwg@kauai-law.com>; Ian K. Jung <ikj@kauai-law.com>; Gaylord Wilcox <gaylord@gwilcox.com>; Kati Conant <katiconant@gmail.com>  
**Subject:** Fwd: Hanalei Commercial/Napali Brewing Co

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.  
Aloha.....a letter of support.

Mahalo

Blake And Kati Conant  
808-755-5833

Begin forwarded message:

**From:** Sarah Goodale <[sgoodale127@gmail.com](mailto:sgoodale127@gmail.com)>  
**Date:** August 13, 2020 at 10:37:58 AM HST  
**To:** [planningdepartment@kauai.gov](mailto:planningdepartment@kauai.gov)  
**Subject:** Hanalei Commercial/Napali Brewing Co

To Whom It May Concern:

I am writing to support the construction of the Nepali Brewing Company in Hanalei. This business would bring much needed jobs to Hanalei for its construction and production, and provide a local product for residents and tourists alike. The plans include environmentally sustainable production. Protection of our fragile Hanalei environment is Blake and Katy Conant's upmost concern. They would certainly contribute a local product that would bring much pride to our Hanalei community. This business concept is most timely, as it comes when Hanalei greatly needs a boost in providing sustainable jobs and emotional confidence that Hanalei will thrive again. Imua Hanalei!

Sarah and Kawika Goodale

808 346 8829

808 639 2299

Date: August 17th, 2020

Mr. K. Hull, Planning Director  
County of Kauai Planning Dept.  
4444 Rice St., Room 473  
Lihue, HI 96766



COUNTY OF KAUAI  
PLANNING DEPT.

20 AUG 20 12:23

RECEIVED

Re: Use Permit for Na Pali Brewery and Hanalei Center  
Hanalei, Kauai

I am the manager of the Kalypso Restaurant located at the corner of Aku and Kuhio Highway. Kalypso has been in Ching Young Village for ten years and have committed to be there for twenty more years (or more if landlord extend our lease).

I write in opposition of the request to place a brewery on the lot that is not zoned commercial. This is unfairly expanding the business area and give undue advantage to the land owner and new tenant. While I cannot speak for other restaurant owners, we are concerned about the future consider we have suffered heavy losses due to the State shutting us down. Like good citizens, we complied with the Governor's mandates.

Tourism has not returned at all. There are enough restaurants and bars to service the north shore are a. If business was so good, all of us will be open for 7 days a week. As it stand, we and many other restaurants are closed a few days of the week. The days that we are opened we only make a fraction of the we would normally earn in a normal market.

All businesses have had many challenges over the last few years, first the flood, then the road work and the worst being the pandemic. We understand commercially zoned property could house retail, restaurants and bars.

We also have difficulty in finding housing for our employees. It would be wrong to allow the Mr. Wilcox to remove the two home that was to be build on the adjacent parcel. If he needs or wants to expand he parking lot, perhaps the two homes could be moved to the lot that he wants to place the brewery. Hanalei need employees housing more than a brewery. It would not be an abuse of the commission's power to hold to the status quo. Please reject the application.

Thank you.

Sincerely,

Jimit Mehat // Jacques Pautrat

## Leslie Takasaki

---

**From:** Planning Department  
**Sent:** Monday, August 24, 2020 9:18 AM  
**To:** Dale Cua; Leslie Takasaki  
**Subject:** FW: IMG\_6668.jpeg

**From:** Blake Conant <bconant53@gmail.com>  
**Sent:** Sunday, August 23, 2020 7:36 AM  
**To:** Planning Department <planningdepartment@kauai.gov>  
**Cc:** Max Graham <mwg@kauai-law.com>; Ian K. Jung <ikj@kauai-law.com>; Gaylord Wilcox <gaylord@gwilcox.com>; Kati Conant <katiconant@gmail.com>  
**Subject:** IMG\_6668.jpeg

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Planning Dept ;

August 10, 2020

Aloha, I am writing This letter in support of the Hanalei Commercial's "Napali Brewing Company's" project slated for Hanalei town.

As a multi business owner in Hanalei and a board member of both the North Shore Business Council and the Hanalei Business Co-op, I would like to say that we welcome good solid new business's in the community. We are all committed to positive growth with a plan and believe this project will deliver a needed product to the community as well as bring new jobs and energy to the North Shore of Kauai.

Blake and Katie's project in conjunction with the land owner Gaylord Wilcox will certainly be constructing a beautiful building, much like his existing buildings in the town. (Hanalei center, The old school building ...) They will also be addressing a much discussed problem in the town - Safe Sidewalks... This project will be adding proper parking and continuing the mountain side sidewalk from Hanalei center east towards the Dolphin Restaurant. This is a major plus since the lack of sidewalks is a very serious problem in our community.

There are many reasons we advocate "slow growth" in our community and we certainly don't want rampant unplanned development, but I believe this small footprint project will be a benefit to the town for visitors and locals alike and I support it.

Mahalo for your time

Jim Moffat - 808-639-2371

Blake Conant  
808-755-5833

## Romio Idica

---

**From:** Dale Cua  
**Sent:** Thursday, August 20, 2020 2:43 PM  
**To:** Romio Idica  
**Subject:** Fw: Brewery Application  
**Attachments:** 20200820141947537.pdf

---

**From:** Keola Sheehan <keola@hanaleiland.com>  
**Sent:** Thursday, August 20, 2020 2:16 PM  
**To:** Dale Cua <dcua@kauai.gov>; Kaaina Hull <khull@kauai.gov>  
**Subject:** Brewery Application

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.  
Good Afternoon Gentlemen,

Please find attached my comments on the Na Pali Brewery/Hanalei Commercial Inc. Application.

Mahalo for the opportunity to provide input.

Keola Sheehan

**Halele'a Investment Company LLC  
P.O. Box 81  
Hanalei, Hawaii 96714**

Mr. Dale Cua, Planner  
County of Kauai Planning Department

Re: SMA (U)-2020-7, Class IV Zoning Permit Z-IV-2020-16, and  
Use Permit U-2020-13 for Hanalei Commercial Inc., and  
Na Pali Brewing Company LLC.

Dear Mr. Cua and Planning Commissioners:

Thank you for the opportunity to provide comments with regards to the Application before you.

I am not in support of the above application for 2 main reasons:

1. Commercial Use permit in the Open Zone. The Applicant proposes to construct a 2 story Brewery on Lot 9, a 7,822 square foot Open zoned lot, currently vacant. As you are aware, Open zoning allows for Residential use as a generally permitted use, albeit with lower density given its Open zoning. The current uses of the immediately adjacent properties on either side of Lot 9, as well as several lots to the East of Lot 9 is Residential. It is inconsistent in my opinion, to place a Brewery ( Manufacturing and Sale of Beer) in the middle of a Residential area. But the larger concern is that it will create a precedent for the other Opened Zoned neighbors to come forward with similar requests to seek Commercial Use of their properties. I am aware of another Application that will be before you in the coming months seeking Commercial Use, 4 properties to the East of the subject property. If it is the desire of the Department and Commission to see the Mauka side of Kuhio Highway at the Eastern end of Hanalei Town be converted from Open to Neighborhood Commercial, then perhaps we should just have that conversation with the community and not have it happen with incremental creep one application at a time? My concern is that approving this application undermines the intent of the Open Zoning in the CZO and will be bad precedent for future applications.
2. Lot coverage. Hanalei Commercial is seeking a 3<sup>rd</sup> Variance to increase the allowable Lot Coverage in order to create additional Parking. Per the CZO, Open zoning is allowed 10% Lot Coverage or 3,000 square feet, whichever is greater. In Hanalei Commercial Inc.'s Master Permit, they requested and were granted a variance allowing 25% Lot coverage to provide adequate parking for their

commercial development, up from the allowable 10%. I am assuming that this was requested so that more Leasable Square Footage ( a second story) could be constructed and leased. In 2006 they requested and were granted an increase of 33.3% Lot Coverage to create additional parking. As part of this application, they are requesting another increase of 45% Lot coverage, in order to provide the required parking for the Brewery, which would otherwise have to be provided on Lot 9, as well as an increase in parking for the Hanalei Center. I don't necessarily disagree that more parking in Hanalei Town isn't needed, my concern is that other property owners have been held to the 10% Lot Coverage standard, and this again sets a dangerous precedent for the Department and Commission to deny future applications for Variance Requests for additional Lot Coverage in the Open zone. I am thinking specifically about beachfront property owners. All of the Beachfront parcels on Hanalei Bay are in the Open Zone. Many have been prevented from constructing driveways, walkways, storage sheds, anything that the Department deems "Lot Coverage" that exceeds 10% or 3,000 square feet. The Department and Commission have already given it's blessing to 33.3% Lot coverage in the Open zone, and now potentially 45%? I can see how this could be a slippery slope for future Variance requests being denied?

Thank you for the opportunity to provide input on the Application.

Mahalo,

A handwritten signature in black ink, appearing to be 'Keola Sheehan', with a long, sweeping horizontal stroke extending to the right.

Keola Sheehan, Property Manager  
Halele'a Investment Company LLC

## Leslie Takasaki

---

**From:** Planning Department  
**Sent:** Monday, August 24, 2020 9:18 AM  
**To:** Dale Cua; Leslie Takasaki  
**Subject:** FW: Hanalei Commercial / Napali Brewing Company

**From:** Nancy Williams <nancyw0517@yahoo.com>  
**Sent:** Saturday, August 22, 2020 1:03 PM  
**To:** Planning Department <planningdepartment@kauai.gov>  
**Subject:** Hanalei Commercial / Napali Brewing Company

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Kauai Planning Department.

I am writing to express my support of the opening of the Napali Brewing Company in the Hanalei Commercial Center.

I believe that offering a brewing company - in Hanalei - would benefit our town on many levels:

- 1) Brew pubs / tap rooms are extremely popular on the mainland as gathering places and to enjoy local craft brews. Not only would a brew pub in Hanalei offer another place for locals to enjoy, but would also offer additional options for tourists on the North Shore. A brew pub would be a draw just because it's a brew pub. Visitors would come to Hanalei for the pub, and at the same time support other local businesses.
- 2) Napali Brewing Company would be a huge branding/marketing opportunity to further promote the North Shore.
- 3) Napali Brewing Company would create additional / much needed jobs on the north shore
- 4) Napali Brewing Company would support other local businesses by purchasing what they need as locally sourced as possible.
- 5) Napali Brewing Company would support other local restaurants/food trucks by offering them as a food source for their brewery patrons
- 6) Napali Brewing Company is being opened/operated by a local and a long time transplant -- not by an outside company / big name brand.
- 7) and many other reasons!

Kati and Blake Conant are upstanding community members who care about the North Shore and Kauai as a whole. I believe they would operate Napali Brewing Company honorably, sustainably and for the good of our community.

I do hope you will say YES to their request to build/operate Napali Brewing Company!

Mahalo!

Nancy Williams  
Princeville Resident



# CHING YOUNG VILLAGE Shopping Center

*"The Heart of Hanalei"*

P.O. Box 1217 Hanalei, Kauai, Hawaii 96714  
Telephone (808) 826-7222 • Fax (808) 826-7635  
WWW.CHINGYOUNGVILLAGE.COM  
E-Mail: chingyvsc@hawaiian.net

August 19, 2020

Kauai Planning Commission  
c/o County of Kauai Planning Director  
4444 Rice St., Suite 473  
Lihue, HI 96766

Re: Application for new permit and motion to amend master permit and 2006 permit  
TMK (4<sup>th</sup>) 5-5-9: Parcels 8 and 9

Dear Planning Commissions:

I respectfully urge you to deny the request on the above matter.

There is a bit of confusion on the zoning of parcel 8 (Lot 17). To clarify, Parcel 8 has mixed zoning. The portion of parcel 8 that is zoned Neighborhood commercial runs roughly from the 'Si Tai Wai Road' to approximately across of Aku Road. I have placed that portion in yellow. All of the remaining lands east of the commercially zoned portion of parcel 8 is zoned Open (outlined in red). Parcel 9 is also zoned OPEN. Some years ago, the applicant was granted a permit to develop part of the open portion of the land as a parking lot. I believe a variance was granted as this exceeded the lot coverage as mandated in property zoned open.

The zoning for the Hanalei town area has been through at least 2 reviews. It was determined the right amount of commercial zoning for Hanalei Town was the portion described above on the Mauka side of Kuhio Highway and on the Makai side of the highway, the lands starting with Hanalei Post Office going east ending at the Hanalei Dolphin Restaurant.

All other properties on the Mauka side of Kuhio Highway starting with Hanalei Center's parking lot, going east, ending at what is now Post Card Restaurant has always been zoned open. Both Post Cards and the Kayak rental building are operating under a use permit and considered to be "grandfathered." The technical term is non-conforming use. It is no coincidence these two properties have commercial use.

Back in the 1960's Nick Beck converted what was once known as the Ho residence into a museum and a sandwich, ice cream, and soft drink shop. The food portion was later converted to a restaurant and continued today as Post Card Restaurant. The Kayak shop was originally Hanalei's first Hardware store

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20 AUG 26 P 6:14  
COUNTY OF  
PLANNING DEPT

Page 2: Letter dated August 19, 2020 to Kauai Planning Commission:

opened by Joe Heck in the early 70's. He later moved the store to the Princeville Center. Various tour boat companies operated out of that building. Today that building is occupied by Kauai Kayak.

The grandfathering of commercial use has always been limited in Hanalei. Across of Hanalei School was the Masada store that operated in the early 60's, which later was converted to a restaurant, and other business operation over time. The Hanalei Poi Factory was once occupied by Hawaiian Telephone. This is a history of why certain commercial business are located outside the commercial zoned area. Grandfathering of property use protects the owners of land. The County has preserved commercial use with the properties that showed commercial use prior to the adoption of the CZO.

I do not recall the Planning Commission expanding or approving commercial uses outside of the commercially zoned properties in Hanalei. The non-conforming uses cited above were protected from historical uses prior to the CZO.

Today's request seeks to amend a previous granted permit, which granted a larger lot coverage in open zoned lands contained on Parcel 8. In addition, the landowner was granted permission to build several homes on the property. The landowner has the permission to build 2 single family home on the remaining property.

The purpose of open zoning on the Mauka portion of Kuhio Hwy. is to preserve the view corridor of the mountains and to preserve the rural characteristic of Hanalei town. Majority of the other properties on Kuhio Highway going west to the Waioli Bridge are either in residentially zoned or open zoned land and some in agriculturally zoned land.

In my opinion, if this request is granted, it will open the flood gates to further expand commercial use on non-commercial zoned property in Hanalei town. Why would not other property owners such as those west of the Hanalei Post office request for commercial use? Where will it end? Should commercial zoning or use be expanded to the Catholic Church intersection? If this application is granted, it would be like putting a restaurant or bar next to the Library in Princeville.

There is no justification to have the brewery on parcel 9. There are other commercially zoned lands that may be more appropriately suited for such an operation.

Granting the request would defeat the whole planning process of containing commercial use to the core of town and preserving view plain and the rural characteristic of Hanalei town.

I would like to clear up something that is stated on Page 11 of the application at the top of the page. [d. Development Plan Area, last sentence]. "Subject property has been placed in the Project Development/Neighborhood Commercial and Open recommended Zoning area of Hanalei Town."

To clarify, the western portion of Lot 17 is C-N. The eastern portion of lot 17 and all of parcel 9 is zoned OPEN by the county. The eastern portion of lot 17 and parcel 9 should retain the mandates of OPEN Zoning, save for the permits granted in 2006.

Page 3: Letter dated August 2020 to Kauai Planning Commission:

What is sorely needed on the North Shore are long term rental homes to house workers. If this request for the amendment is granted, we will lose two long term rentals on the North Shore.

The justification for economic objectives found on page 29 of the application is erroneous. The plans for a brewery only employ just 3 full time and 3 part time employees. The food trucks normally only staffed by one person. There is an abundance of food trucks located at the Hanalei Liquor Store, directly across of the subject property. Although the "food truck industry," seems to be popular and attract patrons, others view it as an eye sore. There is an abundant number of restaurant/bars within a short distance of the subject property. The Hanalei Gourmet Restaurant, Bar-a-Cuda, and other restaurants are located on Parcel 8, which is owned by the applicant. On Page 31, one of the justifications is to have enough attractions for our visitors. There are adequate existing facilities to feed and provide refreshments to our visitors. There is no lack of drinking establishment in Hanalei.

I believe if something essential such as a medical center is needed, consideration should be given for such use. A brewery is not an essential need in Hanalei. Secondly the needs for restaurants, bars, and food trucks have already been met with existing inventory. The CZO even states that general uses for open zoned property would be recreational activities, parks, or single-family detached dwelling are a few examples. The CZO also states that Open Zone lots may have uses for a communication facility, day care center, developed campgrounds, home business, intensive agriculture, organized recreational camps, outdoor recreational concessions, police and fire facilities, religious facilities and utility installations. The planning director has some discretion in recommending similar uses on open zoned lands that is not specifically covered in the CZO.

A Brewery and Food Truck site does not resemble anything close to that section of the CZO (8.2.4). There are some commercial property in Hanalei that could accommodate the brewery or other business ventures.

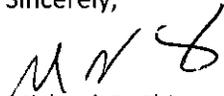
The applicant was previously given permission to exceed the lot coverage as mandated in OPEN Zoning and now seeks to expand it even more. How will the commission square this with future requests?

Long Term Rentals are the most needed in the Hanalei area. Detached rental homes are allowed on open zoning. Please deny the application since it will delete two rental homes.

If more parking is needed, a compromise would be to allow two homes to be built on Parcel 9 and the remainder of lot 17 be expanded for parking.

Thank you.

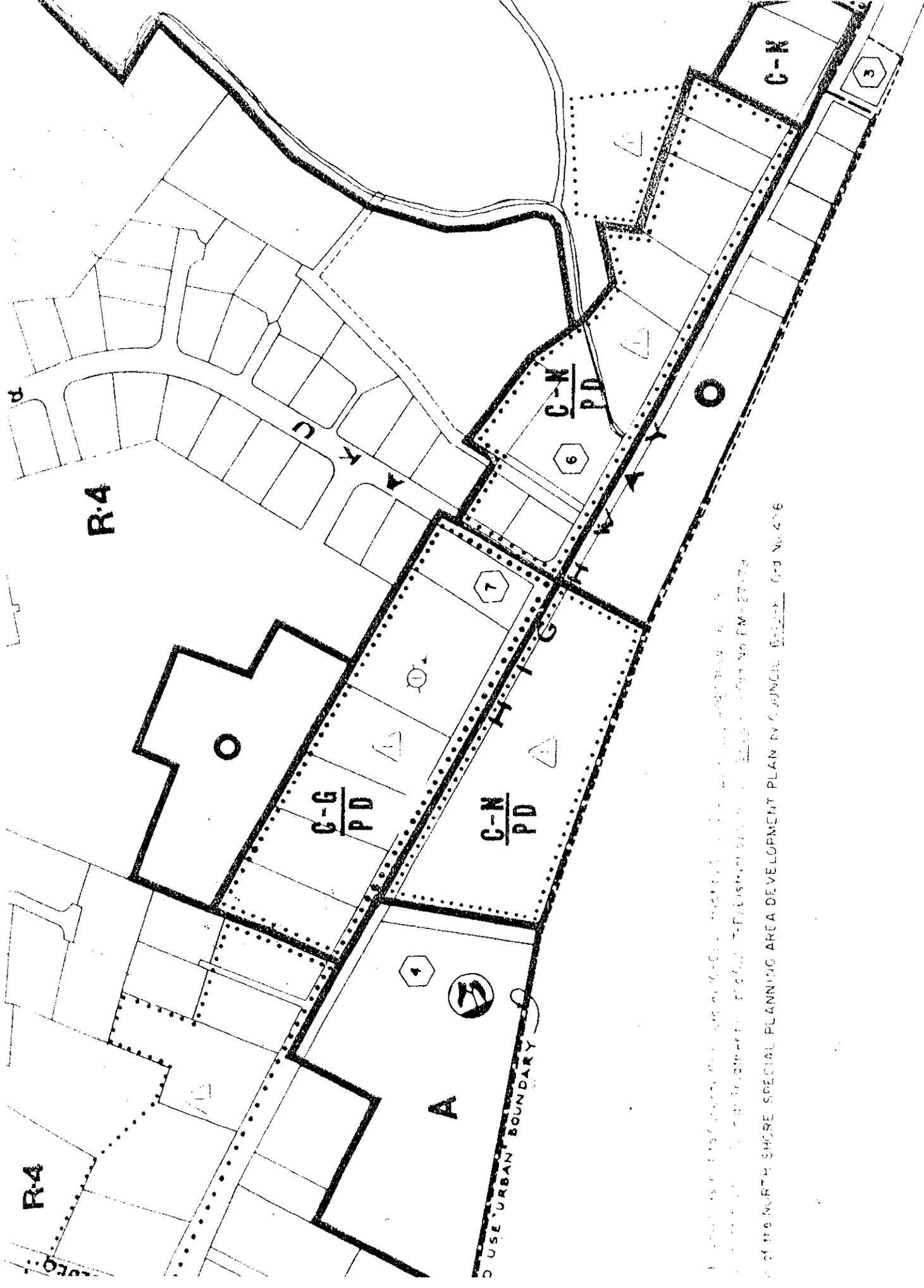
Sincerely,



Michael G. Ching  
Managing General Partner

Maps attached to letter





A. This is a preliminary plan and is subject to change without notice. It is not to be construed as a contract.  
 B. This is a preliminary plan and is subject to change without notice. It is not to be construed as a contract.

CITY OF THE NORTH SHORE SPECIAL PLANNING AREA DEVELOPMENT PLAN BY COUNCIL BILLER Ord No. 276

- HANALEI -



NORTH SIDE GRILL  
& SUSHI

RECEIVED

20 AUG 26 P 6:02

County of Kauai  
PLANNING DEPT

August 20, 2020

Kauai Planning Commission  
c/o County of Kauai Planning Director  
4444 Rice St., Suite 473  
Lihue, HI. 96766

Re: Application for new permit and amendment of 2006 Permit TMK (4) 5-5-9 Parcels 8 and 9

To: Planning Commissions:

This letter is to respectfully urge a denial of new permit in question.

As a Business owner in Hanalei nearly 30 years, I can attest to the changes, both good and bad, that have occurred in Hanalei.

The food service industry in Hanalei is already at capacity. Hanalei town has thru the years added many additional restaurants, take-outs, and unfortunately, many food trucks.

This has exacerbated the already dire parking conditions in Hanalei, which in turn has prevented visitors to even bother stopping by say for lunch. This has for the most part taken a toll on our business. We have had to cut 10 employees on average due to the intense competition brought on by the large increase of food outlets. Our overhead does not change but upwards.

As we are all aware, this Coved disaster is nearly back to back with the floods disaster just a few years ago. We are struggling now as most.

Amending the Master permit to add a Brewery to an open zoning not presently designated commercial use is contradictory to the overall well-being of Hanalei town and existing businesses. This would allow others to do the same, opening a pandora's box of requests to open non-commercial lands.

Changing zoning on non-commercial beyond existing commercial use could open to a 'Free-for all' attitude, and be potentially ruinous to the town of Hanalei- already stressed- and the well-being of existing businesses located in commercial use zoned areas.

The last thing Hanalei town needs is an amended granted permit to add a Bar/ Brewery and more food trucks.

• H A N A L E I •



NORTH SIDE GRILL  
& SUSHI

Thank You.

Sincerely,

A handwritten signature in black ink, appearing to read 'James Sclafani'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James Sclafani  
President  
Zelo's Inc.

August 22, 2020

Kauai County Planning Director  
4444 Rice St., Room # 473  
Lihue, HI 96766

COUNTY OF KAUAI  
PLANNING DEPARTMENT

20 AUG 28 A 1:23

Re: Plans from Brewery Hanalei Center  
Please distribute to Planning Commissioners

RECEIVED

Dear Planning Director and members of the Planning Commission:

I moved to Kauai in 1996 and started a family here. I worked for two larger restaurants in the Hanalei. I am now employed by one of the larger restaurants in Princeville. The view expressed here are my own views as I have not spoken with my current or previous employers about this matter.

All the restaurants that I have worked for treated us fairly as employees and took good care of us, providing me with a living wage and medical. In 2018, the April flood caused my employer to close. As I single parent, I was lucky to find another job just about a week after being laid off. I worked at my new place until March, when the pandemic forced them to close and furlough many of us. What I want to say is that these restaurant owners are now suffering and there is not end in sight as to when this pandemic will end. They deserve our support during this difficult time. There is no need for another liquor establishment or food trucks.

In a recent interview on MSNBC, the honorable Senator Brian Schatz discussed the fact that about 30% of existing businesses will go extinct in the next few months. We must do all we can to support those business with a history in the Hanalei area. They have kept us employed and help feed our families over the many years. Now is NOT the time to abandon them by bringing in new business on lands that is not zoned for commercial use.

From what I read, the property owner has permission to build 2 single family homes on the remaining property. This is more important and something that is badly needed in Hanalei. There is a major shortage of housing, especially long-term rentals. The Planning Department has taken steps to limit the number of vacation rentals in Hanalei/Haena area. This was a positive step. If the permits for the brewery is approved, that will take away two rental units for workers.

It is not a fair trade off losing 2 long term rental units for employees for a brewery (we do not need another business to drive out existing businesses). Adding one more business creates an

additional burden on the need for employee housing or affordable rentals. How fair is it to approve a business on a lot that is not zoned for business?

On another note, governments all over our state and other states are taking steps to shut down bars in order to control the spread of the virus. They have discovered transmission were greatest in bars for obvious reasons. It will be detrimental to our community to have another bar.

Please do not approve the brewery and use permit.

Sincerely,

A handwritten signature in blue ink that reads "William C. Vaz". The signature is written in a cursive style with a large, stylized "V" at the end.

William C. Vaz

PO Box 1252

Hanalei, HI 96714

CC: Certified Mail:

## Romio Idica

---

**From:** Dale Cua  
**Sent:** Friday, August 28, 2020 9:12 AM  
**To:** Romio Idica  
**Subject:** Fw: Hanalei Commercial/NPlai Brewing Co

fyi

**From:** Planning Department <planningdepartment@kauai.gov>  
**Sent:** Friday, August 28, 2020 8:48 AM  
**To:** Dale Cua <dcua@kauai.gov>  
**Cc:** Leslie Takasaki <ltakasaki@kauai.gov>  
**Subject:** FW: Hanalei Commercial/NPlai Brewing Co

-----Original Message-----

**From:** Wicki Van De Veer <wickiart@hotmail.com>  
**Sent:** Thursday, August 27, 2020 1:03 PM  
**To:** Planning Department <planningdepartment@kauai.gov>  
**Subject:** Hanalei Commercial/NPlai Brewing Co

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

I am writing in support of the above referenced project. This project includes the proposed brewery and a (much needed) expansion of the Hanalei. Center parking lot.

The Napali Brewery will produce beer and have a tasting room. It will not be an additional bar in Hanalei, but rather along the lines of the Koloa Rum tasting room in Puhi where samples are available prior to purchase of the products to take home.

This is a new economic activity and will provide new jobs.

I have known Blake and Kati for many years and understand their deep love of Kaua'i and sensitivity to the community. They began working with the immediate neighbors and others in Hanalei early in the planning process. They will be good stewards of the business if they are permitted to proceed.

Mahalo,

Wicki Van De Veer

Sent from my iPad

8/22/2020

Aloha, To whom it May Concern,

I was surprised to find the Hanalei Center and Gaylord Wilcox is trying to amend their permits granted in 2006 to eliminate a long term employee house to be replaced with a brewery (Brew). Hanalei does not need more drinking establishments. What we really really need is long term (employee) housing for current residents.

To make matters ~~worse~~ worse the plans are to build the brewery on OPEN ZONED lands meant to preserve open space in Hanalei. Let your voices be heard and say NO to the Brewery. and loss of Long-term employee housing.

Mahalo Nui for your care + time.

Aloha KORAL MCCARTHY

808-634-0194

Korai.wainiha@gmail.com

COUNTY OF HAWAII  
PLANNING DEPT.

20 AUG 31 PM 10:09

RECEIVED

# BELLES GRAHAM LLP

ATTORNEYS AT LAW

MAX W.J. GRAHAM, JR.  
JONATHAN J. CHUN  
IAN K. JUNG

Federal I.D. No. 99-0317663

WATUMULL PLAZA  
4334 RICE STREET, SUITE 202  
LIHUE, KAUAI, HAWAII 96766-1388

TELEPHONE NO: (808) 245-4705  
FACSIMILE NO: (808) 245-3277  
E-MAIL: mail@kauai-law.com

OF COUNSEL

MICHAEL J. BELLES  
DAVID W. PROUDFOOT  
DONALD H. WILSON

August 28, 2020

Mr. Ka'āina S. Hull  
Director of Planning  
Planning Department  
4444 Rice Street, Suite A473  
Lihue, Kauai, Hawaii 96766

VIA EMAIL ONLY

Attention: Mr. Dale A. Cua and Mr. Romio Idica

Re: MOTION TO AMEND

MASTER PERMIT: Special Management Area Use Permit SMA(U)-88-4  
Use Permit U-88-25  
Variance Permit V-88-6  
Class-IV Zoning Permit Z-IV-88-30

2006 PERMIT: Special Management Area Use Permit SMA(U)-2006-1  
Project Development Use Permit PDU-2006-1  
Class IV Zoning Permit Z-IV-2006-1

Hanalei Commercial Center

Lot 17, Land Court Application No. 1160

Hanalei, Kauai, Hawaii

Kauai Tax Map Key No. (4) 5-5-009:008

Owner: Hanalei Commercial Inc. (Gaylord H. Wilcox, President)

Hanalei Brew Pub

R. P. 6461, L. C. Aw. 597

Hanalei, Kauai, Hawaii

Kauai Tax Map Key No. (4) 5-5-009:009

Owner: Hanalei Commercial Inc.

Lessee: Na Pali Brewing Company L.L.C.

(Kathleen W. Conant and Fred B. Conant, Members)

Dear Mr. Hull:

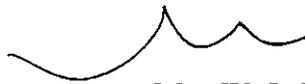
This office represents Hanalei Commercial Inc. and Na Pali Brewing Company L.L.C., the joint Applicants in this matter. I am transmitting, on their behalf, a document entitled "Solid Waste & Wastewater Management at Napali Brewing Company" which is being designated as new Exhibit "F-11" of the Application. This document describes in more detail: the proposed Solid Waste Disposal and Sanitizing Wastewater Disposal methods for the waste from the brewing process; and the proposed aerobic wastewater disposal for the remaining wastewater generated by service and restroom uses.

Mr. Ka'aina S. Hull  
Attention: Mr. Dale A. Cua and Mr. Romio Idica  
August 28, 2020  
Page 2

Thank you very much for your assistance in this matter.

Sincerely yours,

~~BELLES GRAHAM LLP~~

A handwritten signature in black ink, appearing to read "Max W. J. Graham, Jr.", with a stylized, wavy underline.

Max W. J. Graham, Jr.

MWJG:jgm  
Enclosure

cc: Mr. Gaylord Wilcox, w/encl. (via email only)  
Mr. and Mrs. Blake Conant, w/encl. (via email only)  
Ian K. Jung, Esq., w/encl. (via email only)

## **Solid Waste & Wastewater Management at Napali Brewing Company**

### **BREW HOUSE**

#### **Solid Waste Disposal**

The waste byproduct of the brewing process is spent grain, malt, and yeast. Napali Brewing Company (NPBC) will collect these solids in 4'x4' plastic totes following each brewing cycle. There may be up to 3 brewing cycles per week. NPBC has made arrangements with two farmers to dispose of this solid waste as feed for cattle and pigs. The totes will be flat bedded to the farms and fed to the animals. Another application of this solid waste is as organic fertilizer. NPBC will work with local taro farmers in Hanalei to determine if this waste will be useful in their operations.

#### **Sanitizing Wastewater Disposal**

As part of the brewing cycle the various vessels will be sanitized at least twice a week using organic compounds to break down the solid waste residue, in preparation for the next brewing cycle. There will also be a keg washer installed. This liquid will be captured in a stainless-steel vessel and recycled the following week for the same purpose. After that 2<sup>nd</sup> week, this liquid will be transferred via septic pumping truck to a municipal sewage treatment plant. NPBC has developed a relationship with A Bandmann Sewer Service for this aspect of disposal.

### **TASTING ROOM**

There will be two restrooms and two tap areas in the building. Each tap area will have at least two sinks and there will be one dishwasher for glass pint and serving vessel washing. This wastewater will be disposed of through an aerobic system designed by Mike Olsen and reviewed by Curley Carswell. This system is called Wastewater Treatment Works (WTW) and the DOH is very familiar with this type of solution. Mr. Olsen is currently sizing the solution based on the projected seats and employees. There will not be any food service preparation provided by the brewery since there will not be a restaurant. All food will be provided by food trucks and/or catered services.

All other waste will be properly disposed of via the recycling process in the Princeville area.



**Hanalei-to-Ha'ena Community Association  
Post Office Box 1072  
Hanalei, HI 96714**

September 1, 2020

County of Kauai Planning Commission  
c/o County Planning Department  
4444 Rice Street, Suite 473  
Lihue, HI 96766

Re: SMA(U)-2020-7, Z-IV-2020-16, and U-2020-13 (Hanalei "Brewery")

---

Aloha Planning Commissioners,

The Board of Directors of the Hanalei-to-Ha'ena Community Association (HHCA) strongly urges the Planning Commission to deny the SMA, Zoning and Use permits for a brewery, alcohol establishment, eating establishment, parking lot and retail sales on parcels located in Hanalei's Open zoning district.

**Summary of Concerns**

- The proposed project is not an allowable use in the CZO Open district.
- The proposed project is not a compatible use, is inconsistent with the intent of the CZO, the General Plan and the North Shore Development Plan, and would be detrimental to the general welfare of the community.
- The proposed project's land use intensity is excessive.
- The encroachment of commercial uses - and in particular, an alcohol-serving establishment and food establishment - into the Open zoning district would be contrary to the interests of Hanalei's residents and Hanalei's business community.
- Approval of a Use Permit for the proposed project would constitute spot zoning, would seriously harm the ongoing viability of this Hanalei Open zoning district, and would undermine the integrity of the CZO.
- If both the letter and the intent of the CZO's Open zoning designation are ignored in this case, there is no doubt that there will be more applications for commercial uses in Hanalei's Open zoning districts and more requests for greater land coverage in Hanalei's Open zoning districts, citing this project's approval as precedent.

- 
1. **Neither the proposed "brewery" nor the proposed parking lot are in the Neighborhood Commercial District under the CZO, the 2018 General Plan or the North Shore Development Plan.**

All of the substantive development and uses associated with the proposed Project - the brewery, the beer bar, the restaurant, the retail sales uses and the parking - are located entirely on land that is in the CZO "Open" zoning district, is designated as "Natural" in the 2018 Kauai General Plan, and is designated "Open" in the North Shore Development Plan.

- The Application misleadingly claims (pages 10 and 33) that the 2018 General Plan's land use map "*appears to include... parts of the CZO Open District portions of Lot 17 (along Kuhio Highway and along the mauka boundary)*" and "*the portion of Parcel 9 along Kuhio Highway*" in the Neighborhood Center Land Use Designation.
  - As the Planning Director's Report correctly states (page 8): "*This portion of the subject property has General Plan designation of "Natural" (i.e., not Neighborhood Center).*"
- The Application is also disingenuous in stating (page 11, Section 2.2(d)) "*as shown on Figure 7 of the North Shore Development Plan Update ("NSDP Update") attached as Exhibit C-7, the Subject Property has been placed in the Project Development/Neighbor Commercial and Open Recommended Zoning area of Hanalei Town.*"
  - Although it is true that the portion of Lot 17 west of Aku Road is indeed in the PD/CN area of Hanalei, all of the development that is proposed in the Application (the "brewery", the beer bar, the restaurant, the parking lot and the retail sales) would be located on Parcel 9 and on the portion of Lot 17 east of Aku Road, both of which are entirely in the Open Recommended Zoning Area of the North Shore Development Plan Update.

## **2. The proposed Project does not qualify for a Use Permit.**

As noted above, the proposed brewery, bar, restaurant, retail sales and parking lot would all be located in the CZO Open zoning district.

The table in CZO Section 8-2.4 comprehensively "*designates allowable uses in the various zoning districts, and whether the specific uses require a Use Permit within the zoning districts permitted.*" Below is the complete list of the uses allowed in the CZO Open zoning district.

### Section 8-2.4(s): Uses Allowed without a Use Permit

- 8-2.4(s)(1) Accessory uses and structures
- 8-2.4(s)(2) Day-use areas
- 8-2.4(s)(3) Diversified agriculture
- 8-2.4(s)(4) Livestock and grazing, except as provided in Sec. 8-2.4(t)(6)
- 8-2.4(s)(5) Outdoor recreation
- 8-2.4(s)(6) Parks and monuments
- 8-2.4(s)(7) Private recreation areas
- 8-2.4(s)(8) Resource management
- 8-2.4(s)(9) Single family detached dwellings
- 8-2.4(s)(10) Undeveloped campgrounds

Section 8-2.4(t) Uses Allowed under a Use Permit

- 8-2.4(t)(1) Communications facilities
- 8-2.4(t)(2) Day care centers
- 8-2.4(t)(3) Developed campgrounds
- 8-2.4(t)(4) Home businesses
- 8-2.4(t)(5) Intensive agriculture
- 8-2.4(t)(6) Livestock and grazing within the Urban District as established by the State Land Use Commission
- 8-2.4(t)(7) Organized recreation camps
- 8-Z.4(t)(8) Outdoor recreation concessions
- 8-Z.4(t) (9) Police and fire facilities
- 8-Z.4(t)(10) Quarries
- 8-Z.4(t)(11) Recreation vehicle parks
- 8-Z.4(t)(12) Religious facilities
- 8-Z.4(t)(13) Utility installations
- 8-2.4(t)(14) Any other use or structure which the Planning Director finds to be similar in nature to those listed in this Section and appropriate to the District.

The only Open zoning district Use Permit uses that are commercial in nature are day care centers, home businesses, campgrounds/outdoor recreation facilities, and uses that are “similar in nature” to those uses. Neither a brewery, nor a bar/alcohol-serving establishment, nor an eating establishment/food trucks, nor retail sales uses even remotely be considered as falling into those categories.

The Application makes specific reference (page 42, Sections 9.6 and 9.7) to the “accessory uses and structures” category and the “home business” category. But neither a brewery, nor a bar/alcohol-serving establishment, nor a restaurant/food trucks, nor a retail sales use are remotely like “accessory uses” or “home businesses.”

The Application’s assertion (page 43, Section 9.9) that the proposed project “*is a use and structure permitted with a Use Permit within the CZO Open District pursuant to CZO Section 8-2.4(t)(14)*” (i.e., a “*use or structure which the Planning Director finds to be similar in nature to those listed in this Section*”) is clearly untrue. To the contrary:

- A brewery does not qualify for a Use Permit in the Open district. It does not fall into any of the categories delineated in the CZO’s table of allowable Open zoning district uses, and it is not even remotely “*similar in nature to those listed in this Section.*”
- A retail sales use does not qualify for a Use Permit in the Open district. It does not fall into any of the categories delineated in the CZO’s table of allowable Open zoning district uses, and it is not even remotely “*similar in nature to those listed in this Section.*”
- A beer bar/alcohol establishment does not qualify for a Use Permit in the Open district. It does not fall into any of the categories delineated in the CZO’s table of allowable Open zoning district uses, and it is not even remotely “*similar in nature to those listed in this Section.*”

- A restaurant/eating establishment (i.e., eating facilities plus 3 food trucks) does not qualify for a Use Permit in the Open district. It does not fall into any of the categories delineated in the CZO's table of allowable Open zoning district uses, and it is not even remotely "*similar in nature to those listed in this Section.*"

And most certainly, the combination of all four of the above uses does not qualify for a Use Permit.

The Application contains other very misleading statements:

- Sections 9.1 through 9.3 of the Application (pages 40-41) discuss uses and structures allowed in the CZO Neighborhood Commercial district. Section 9.4 then states that "*the use of the Subject Property for the Craft Brewery operation, the Lot 17(O) Improvements, and other commercial purposes is consistent with*" those Neighborhood Commercial district uses.
  - But neither the proposed "brewery" nor the proposed parking nor the other commercial purposes would be located in the CZO Neighborhood Commercial district. They would be located in the CZO Open district
- Section 10.4 (page 44) of the Application asserts that the proposed use of the subject property would not conflict with any of the goals contained in the North Shore Development Plan.
  - This assertion is contradicted by the fact that the North Shore Development Plan has designated the property where all of the proposed commercial uses (brewery, beer bar, restaurant, retail sales, and parking lot) would be located as Open, and that those proposed commercial uses are in fact entirely inconsistent with that Open designation (and therefore, with the goals of the Plan).

### **3. The proposed uses do not meet the standards for granting a Use Permit.**

The proposed brewery/retail sales/alcohol establishment/eating establishment must also be rejected under CZO Section 8-3.2(e)(1) Use Permit Standards:

*A Use Permit may be granted only if the Planning Commission finds that the establishment, maintenance, or operation of the construction, development, activity or use in the particular case is compatible use and is not detrimental to health, safety, peace, morals, comfort and the general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the community, and will not cause any substantial harmful environmental consequences on the land of the applicant or on other lands or waters, and will not be inconsistent with the intent of this Chapter and the General Plan. [Emphases added.]*

There are at least four reasons why such a finding cannot be made:

#### 1. Compatibility

Neither a restaurant (i.e. 3 food trucks and eating facilities) nor a bar/alcohol establishment (“tasting room”), open daily until 9 or 10 pm, would be compatible with the primarily residential uses that are in existence and/or allowed on either side of the proposed use.

2. Detrimental to the peace, comfort and general welfare of persons residing in the neighborhood

The proposed commercial building would be located between an existing single-family residence and land on which future residential use has been approved (and for which excess land coverage was granted to the Applicant in recognition of such future residential use). It would be spot zoning at its worst to locate a commercial building and several food trucks between two residential uses. It is also inconceivable that (as asserted in Section 12.2 of the Application) a brewery/bar/restaurant/food truck operation, open every day until 9-10 pm, “*is not expected to cause problems for its neighbors.*”

3. Detrimental to the general welfare of the community

Another alcohol-serving establishment (“tasting room”) is the very last thing that Hanalei needs, and a significant portion of the Hanalei community feels strongly that enabling the creation - through a discretionary Use Permit, no less - of yet another place focused on serving alcohol, open until 9-10 pm, would be quite detrimental to the general welfare of the community

In addition to the negative societal impacts of an alcohol-focused land use, any land use that would add more drunken speeders on Kuhio Highway at closing time - both west through Hanalei town and east to the Hanalei bridge (where the Kuhio Highway guard rails must be continually replaced due to drunken driving) - would be detrimental to the community.

Finally, the addition of more food trucks (of which Hanalei already has too many) - which are essentially restaurants that do not have to meet the zoning or wastewater regulations for restaurants - would be harmful to the general welfare of the many legitimate restaurants in Hanalei that do comply with those costly regulations.

4. Inconsistency with the intent of the CZO and the General Plan

As demonstrated earlier, the proposed uses do not fall within the CZO’s list of allowable uses - either with or without a Use Permit - in the Open zoning district, and are therefore inconsistent with both the letter of the CZO (Section 8-2.4, Allowable Uses in the Open District) and the intent of the CZO (Section 8-9.1, Purpose of the Open District).

The proposed uses are also clearly inconsistent with the General Plan’s designation of the location as “Natural” rather than commercial, and are therefore inconsistent with the General Plan.

But, as noted earlier, in regard to the Use Permit being requested, the Planning Commission does not even need to consider whether the finding required by CZO Section 8-3.2(e)(1) can be made, as the proposed uses are, in the first place, very clearly not allowed in the Open zoning district under CZO Section 8-2.4.

**4. The integrity of Hanalei's Open zoning district should not be subverted through spot zoning.**

Granting a Use Permit to the proposed Project (which is not only a brewery, but also a beer bar and restaurant under the cover of a "tasting room" and food trucks) would very clearly contradict the intent of the existing and future zoning of the CZO, the General Plan, and the North Shore Development Plan. This should not be allowed to happen.

From the 1980 North Shore Development Plan Update, to the 1984 North Shore Development Plan Ordinance and CZO amendments, to the 2000 and 2018 General Plans, and including Planning Commission decisions made along the way: all have upheld and reinforced the policy that (with the exception of pre-CZO grandfathered uses) the area east of Aku Road on the mauka side of Kuhio Highway should not be commercialized. As just two examples:

- In 1986, the Planning Commission denied an application to allow office use of a parcel just 20 feet to the east of the proposed "brewery" site.
- In 2004, the Planning District Staff Report related to another permit application for that parcel reinforced that "denial of office use was based largely on the 1985 North Shore Development Plan Update which recommended that commercial uses be restricted to the makai side of Kuhio Highway, and that new commercial uses not be allowed on Open District parcels."

In addition to the specific problems associated with this particular brewery/bar/restaurant proposal: the HHCA Board is also very concerned that "spot zoning" of the "brewery" parcel from Open to Commercial will make it next-to-impossible to preserve the remainder of this Open zoning district. We note that the Planning Commission's October calendar tentatively includes a proposal to allow retail uses on a property just a few parcels to the east of the one under consideration today.

Any upzoning of Hanalei's Open zone to Neighborhood-Commercial should not be done through creeping one-by-one "spot zonings" under the cover of Use Permits. If the boundaries of Hanalei's commercial district are allowed to expand, that should happen only through a rezoning process that fully considers whether there is a need for additional commercially-zoned land (a need that certainly does not exist today!) and the interests of Hanalei's residents and business community. In addition, rather than allowing one-by-one conversions of Open-zoned space to non-community-serving commercial uses (such as bars, restaurants and other tourist-oriented uses), the County should consider conducting a thorough analysis of the need for space for purposes beneficial to Hanalei (such as housing, community-oriented commercial uses such as medical facilities, and open space).

**5. The Intensity of the proposed land use on these Open district lands is excessive and unjustifiable.**

The Application proposes to shift most of the parking requirements for Parcel 9's brewery, bar, restaurant, retail sales and food truck uses to Lot 17(O), and to also locate three food trucks on Parcel 9, resulting in excessive land coverage on both Parcel 9 and on Lot 17(O).

This excessive land coverage would be neither compatible nor consistent with the intent of the CZO Open zoning district or the General Plan Natural land use district, providing yet another reason for denial of a Use Permit under the standards of Section 8-3.2(e)(1).

Regarding Parcel 9:

The maximum allowable land coverage for this small (7,822 square foot) parcel is 3,000 square feet. The Application and Exhibits do not provide land coverage information. However, from the Site Plan (Exhibit E-1), it appears that the footprint of the proposed building and lanai is about 3,160 square feet, the square footage of the three parking spaces and access aisle is 640 square feet, and the three food trucks that would be parked on the site most-or-all of the time would cover (based on the 16' x 8.5' size of a typical food truck) an additional 400 square feet, bringing the actual total land coverage to about 4,200 square feet.<sup>1</sup>

It is only because the Application proposes to transfer most of the parking requirements for Parcel 9's brewery/bar/eating area/food trucks/retail sales to Lot 17(O) that such a large building plus food trucks could even fit on Parcel 9.

Regarding Lot 17(O):

The proposed 45% land coverage for the portion of Lot 17 that is zoned Open is not justified, as the sole rationale for this excessive land coverage is to support the proposed commercial drinking/eating/retail/brewery uses on the adjacent Open-zoned parcel (Parcel 9). Furthermore:

- In September of 2005 the HHCA submitted written testimony to the Planning Department in support of the current Applicant's 2005 proposal to increase the intensity of use on Lot 17(O) (the Open-zoned portion of Lot 17) from the 25% land coverage that was allowed under the 1988 Master Permit for Lot 17 to 33.3% land coverage. The HHCA supported that proposal because the Applicant proposed 3 additional residential workforce housing units for the site, which would bring the total number of residential units on the site to four units. Had the 2005 proposal simply requested an increase in Open district land coverage from 25% to 33.3% without the workforce housing component of the project, it is very doubtful that there would have been community support for increasing the density on Lot 17(O).
- Now the same Applicant is proposing to eliminate two of those approved additional residential workforce units (leaving the total number of residential units on the site at two units) while retaining the benefits of the 2006 increase in allowable land coverage, essentially divorcing the Planning Commission's 2006 grant of the land coverage increase (from 25% to 33.3%) from its linkage

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<sup>1</sup> Food trucks that are located on-site for most of the day, and most-often overnight, should certainly be included in the land coverage calculation, as the CZO definition of land coverage is "a man-made structure, improvement or covering that prevents normal precipitation from directly reaching the surface of the land underlying the structure, improvement or covering." Land coverage also includes "lands so used that the soil will be compacted so as to prevent substantial infiltration, such as parking of cars and heavy and repeated pedestrian traffic."

to additional workforce housing and reassigning the increase in support the proposed brewery/bar/restaurant on the adjacent Open-zone parcel.

- Neither this reassignment nor the additional requested land coverage increase (to 45%) should be allowed. We note once again that a parking lot is not one of uses allowed under CZO Sections 8-2.4(s) or 8-2.4(t): it is neither similar to any of the other uses listed therein, nor is a use that could be considered to be “accessory,” as none of the requested uses for Parcel 9 is allowable in the first place.
- The 2006 approval for a land coverage increase (from 25% to 33.3%) should be rescinded if the two additional units of workforce housing will not be built.

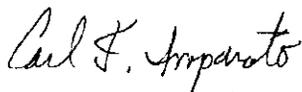
## **6. Lack of Community Consultation**

In regard to “Community Contacts”, the Application states (page 54) that the “*Applicant will provide the Hanalei/Haena Community Association with this Application.*”

Neither the above “contact,” nor the Applicant’s offer to provide a “presentation” to the HHCA only after the application had already been filed with the Planning Department, meets with the intent of Section 10-2.5 of the North Shore Development Plan Ordinance, which calls for “*community participation in decisions affecting the future of the North Shore, to provide for the review of development proposals and to implement the intent of the plans and regulations governing development within the North Shore Planning Area.*”

Although no formal North Shore Improvement Advisory Committee currently exists, the community should nonetheless have been consulted long *before* this Application was filed, when there was still time for the community’s input to have a meaningful impact on the Applicant’s proposal. This is especially important because the Applicant is seeking *discretionary* Use Permits and is also asking to amend earlier Use Permits that had previously received the community’s formal support.

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For all of these reasons, we respectfully ask the Planning Commission to deny the requested permits.



Carl Imperato, President  
Hanalei-to-Ha’ena Community Association

## Romio Idica

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**From:** Planning Department  
**Sent:** Wednesday, September 02, 2020 6:47 AM  
**To:** Romio Idica  
**Subject:** FW: Planning Commission testimony

**From:** Hanalei Watershed Hui <hanaleiwatershedhui@gmail.com>  
**Sent:** Tuesday, September 01, 2020 2:54 PM  
**To:** Planning Department <planningdepartment@kauai.gov>  
**Subject:** Planning Commission testimony

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Sept. 8, 2020 hearing  
Item: SMA (U)2020-7, Class IV Zoning permit Z-2020-6, Use permit U-2020-13  
Hanalei Commercial Inc, Na Pali Brewing Company LLC

Aloha Commissioners,

We testify in support of this application.

The Na Pali Brewing Company LLC proposes to develop and operate a small brewing facility in Hanalei. The design respects the scale of existing buildings and the proposed operation includes appropriate waste disposal so as not to impact the adjacent auwai.

Applicants have solicited comments from the community and engaged organizations such as ours to assure the operation does not impact our environment.

We trust this applicant to perform as promised and thank them for the extensive outreach.

I regret not being able to attend this meeting and welcome any questions regarding our testimony.

Me ka pono,  
Makaala

Maka'ala Ka'aumoana  
Executive Director  
Hanalei Watershed Hui  
POBox 1285  
Hanalei, HI 96714  
808-346-5458 cell  
808-431-4444 fax  
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Attorneys for Appellant  
BLAINE PERRELLA

County of Kauai  
PLANNING DEPT

20 JUL 17 A8:43

RECEIVED

BEFORE THE PLANNING COMMISSION  
OF THE  
COUNTY OF KAUAI

In the Matter of the Application

of

BLAINE PERRELLA  
appealing zoning classification Determination  
and Allowable Building Area Determination  
for Unit B of Kukuna Seaside Estates on land  
located in Aliomanu, Kawaihau, Puna, Kauai,  
Hawai'i Tax Map Key No. (4) 4-9-005:015  
0002

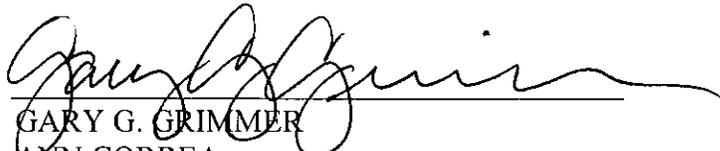
**WITHDRAWAL OF PETITION TO  
APPEAL DECISION OF THE  
PLANNING DIRECTOR; CERTIFICATE  
OF SERVICE**

**WITHDRAWAL OF PETITION TO APPEAL DECISION OF THE PLANNING  
DIRECTOR**

Notice is hereby given that the Appellant, **BLAINE PERRELLA**, by and through his undersigned counsel, pursuant to Chapter 9 of the Rules of Practice and Procedure of the Planning Commission, hereby withdraws his Petition To Appeal Decision of the Planning Director filed herein around June 9, 2020..

**I.1.**  
SEP 08 2020

DATED: Honolulu, Hawai'i, July 13, 2020.



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GARY G. GRIMMER  
ANN CORREA

Attorneys for Appellant  
BLAINE PERRELLA

BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUAI

In the Matter of the Application

of

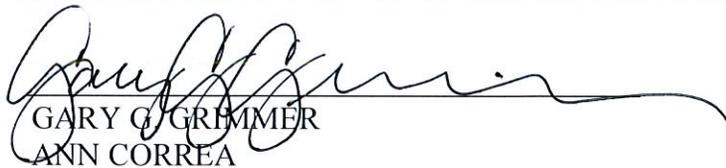
BLAINE PERRELLA  
appealing Zoning Classification  
Determination and Allowable Building Area  
Determination for Unit B of Kukuna Seaside  
Estates on land located in Aliomanu,  
Kawaihau, Puna, Kauai, Hawai'i Tax Map  
Key No. (4) 4-9-005:015 0002

**CERTIFICATE OF SERVICE**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was duly served upon the COUNTY OF KAUAI PLANNING COMMISSION, by depositing same in the United States Post Office at Honolulu, Hawai'i, postage prepaid, addressed to it the COUNTY OF KAUAI PLANNING DEPARTMENT, County of Kauai, 4444 Rice Street, Suite A-473, Lihue, Kauai, Hawai'i 96766, and by email to the Director of the Department and Deputy County Attorney Chris Donahoe.

DATED: Honolulu, Hawai'i, July 13, 2020.



GARY G. GRIMMER  
ANN CORREA

Attorneys for Appellant  
BLAINE PERRELLA



**SUBJECT TO CHANGE**

**COUNTY OF KAUA'I  
PLANNING DEPARTMENT**

**DIRECTOR'S REPORT**

**I. SUMMARY**

**Action Required by Planning Commission:** Consideration of Applicant's request to amend Condition No. 16 of the existing permits to modify the hours of operation.

**Permit Application Nos.** Class IV Zoning Permit Z-IV-2012-18  
Use Permit U-2012-14  
Special Permit SP-2012-38

**Name of Applicant(s)** Benjamin Ellsworth (Kauai Eco Sporting Clays, LLC)

**II. PERMIT INFORMATION**

<b>PERMITS REQUIRED</b>	
<input checked="" type="checkbox"/> <b>Use Permit</b>	A Use Permit was required to operate an outdoor recreation concession and activities in the Open (O) Zoning District.
<input type="checkbox"/> <b>Project Development Use Permit</b>	
<input type="checkbox"/> <b>Variance Permit</b>	
<input checked="" type="checkbox"/> <b>Special Permit</b>	Pursuant to Section 205 of the Hawai'i Revised Statutes (HRS) and Chapter 13 of the Rules of Practice and Procedures of the Planning Commission, a Special Permit was required for a use in the State Land Use Agricultural (A) District that is not a permissible use as set forth in Chapter 205 of the HRS.
<input checked="" type="checkbox"/> <b>Zoning Permit Class</b> <input checked="" type="checkbox"/> IV <input type="checkbox"/> III	Pursuant to Section 8-4.7 of the KCC, 1987, as amended, a Class IV Zoning Permit is a procedural requirement for obtaining a Use Permit in the Agriculture (A) zoning district.
<input type="checkbox"/> <b>Special Management Area Permit</b> <input type="checkbox"/> Use <input type="checkbox"/> Minor	
<b>AMENDMENTS</b>	
<input type="checkbox"/> <b>Zoning Amendment</b>	

**I.2.a.**

<input type="checkbox"/> General Plan Amendment	
<input type="checkbox"/> State Land Use District Amendment	

**Date of Receipt of Completed Application:** August 18, 2020  
**Date of Director's Report:** September 8, 2020  
**Date of Public Hearing:** SEPTEMBER 8, 2020  
**Deadline Date for PC to Take Action (60<sup>TH</sup> Day):** N/A

### III. PROJECT DATA

<b>PROJECT INFORMATION</b>			
<b>Parcel Location:</b>	The project location is situated on a portion of a large agriculture parcel in Kapaia, approximately 900 feet south of the Kapaia Power Plant substation.		
<b>Tax Map Key(s):</b>	3-8-002:002	<b>Area:</b>	Approximately 12 acres of a 5,341 acre parcel
<b>ZONING &amp; DEVELOPMENT STANDARDS</b>			
<b>Zoning:</b>	Open		
<b>State Land Use District:</b>	Agricultural		
<b>General Plan Designation:</b>	Agriculture (A)		
<b>Height Limit:</b>	50 feet		
<b>Max. Land Coverage:</b>	10% of lot area		
<b>Parking Requirement:</b>	4 off-street parking stalls		
<b>Front Setback:</b>	10 feet		
<b>Rear Setback:</b>	10 feet		
<b>Side Setback:</b>	5 feet		
<b>Community Plan Area:</b>	Lihue Community Plan		
<b>Community Plan Land Use Designation:</b>	Agriculture		
<b>Deviations or Variances Requested:</b>	N/A		

### IV. LEGAL REQUIREMENTS

<b>Section 8-3.1(f), KCC:</b> N/A
<b>Planning Commission Date:</b> September 8, 2020

## V. PROJECT BACKGROUND, DESCRIPTION AND USE

The subject property is located in Kapaia, approximately  $\frac{3}{4}$  of a mile Northwest of the Kūhiō Highway/Maʻalo Road intersection and 900 feet south of the Kapaia Power Plant substation. The project site is primarily zoned Open (O) District, however the surrounding parcel is zoned Agriculture and Open Districts, and contains a total area of 5,341 acres. The subject property is within the Agricultural State Land Use District and is designated Agriculture under the Kauai General Plan. The subject property consists of ranch and/or pasture lands, with existing ranch and plantation roadway trails. The project area is approximately twelve (12) acres in size.

The Planning Commission initially approved the subject permits on June 29, 2012 to allow an operation of a commercial shooting clay facility. Attached is a copy of the Planning Commission's letter of approval dated June 29, 2012 (refer to Exhibit 'A'). The Planning Commission on October 22, 2019, subsequently approved the Applicant's request to modify the activities on the project site to include construction of a new pistol/rifle range, transform the exiting south 5-stand course into a combination of trap/skeet field with associated site improvements (refer to Exhibit 'B').

As represented, the Applicant is requesting to amend Condition No. 16 of the permits to modify the hours of operation. Currently, the condition reads:

“16. The use of the pistol/rifle range shall be restricted to daylight hours only and limited to those activities represented by the Applicant.”

## VI. APPLICANT'S REASONS/JUSTIFICATION

The Applicant's operation has been drastically impacted by the pandemic as a result of COVID-19. The operations has been popular by law enforcement officials, local customers, and visitors. Like many businesses, the Applicant is experiencing financial challenges since their customer base relied heavily on visitors from the mainland. In order to allow the business to generate income and continue their operation, the Applicant is seeking to extend their hours of operation to 10:00 pm.

Attached for the Planning Commission's reference is a copy of the Applicant's request to modify the foregoing permit (refer to Exhibit 'C').

## VII. PRELIMINARY EVALUATION

In considering the Applicant's request to modify their hours of operation, the department will re-evaluate the operation relative to the required permits:

### 1. USE PERMIT

- a. Pursuant to Article 20 of the Comprehensive Zoning Ordinance (CZO), Chapter 8 of the Kaua'i County Code (1987), the purpose of the USE PERMIT procedure is to assure the proper integration into the community of

uses which may be suitable only in specific location of a district, or only under certain conditions, or only if the uses are designed, arranged or conducted in a particular manner, and to prohibit the uses if proper integration cannot be assured. Section 8-20.5 of the CZO specifies a Use Permit may be granted only if the Planning Commission finds that the use meets the following criteria:

- 1) The use must be a compatible use;
- 2) The use must not be detrimental to persons or property in the area;
- 3) The use must not cause substantial environmental consequences; and
- 4) The use must not be inconsistent with the intent of the Comprehensive Zoning Ordinance (CZO) and General Plan.

- i. **Compatibility** - The Applicant has been operating for **eight (8) years** now and continues to demonstrate its compatibility with the surrounding area. To date, the department has not received any complaints generated by this operation.
- ii. **Detrimental to Person or Property in the Area** – The proposed project site is located approximately  $\frac{3}{4}$  of a mile to the closest residential development. To date, KESC has a proven safety record for eight (8) years with no injuries or deaths. Therefore, the proposal will not detrimentally affect any person or property within the surrounding area.
- iii. **Environmental Consequences** – Historically, the subject property has been utilized significantly for agriculture use. The Applicant continues their “eco-friendly” business model by constructing a lead containment system to eliminating contamination. As a result, it is very unlikely that the proposal will affect any mammalian or avian species nor will any botanical resources be endangered.
- iv. **CZO & General Plan** – The operation remains consistent with the Līhuʻe Community Plan, General Plan, and CZO development Standards.

## 2. SPECIAL PERMIT

- a. Pursuant to Chapter 205 of the Hawaiʻi Revised Statutes (HRS) and Chapter 13 of the Planning Commission Rules of Practice and Procedures, a SPECIAL PERMIT may be approved under such protective restrictions as may deemed necessary if the Commission finds that the proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District, and that the use would promote the effectiveness and objectives of Chapter 205, HRS. The Planning Commission should consider the following guidelines in determining unusual and reasonable use:

- 1) **Hawaiian Customary and traditional rights**
  - The Applicant has previously identified no known traditional/cultural sites and no known traditional cultural practices within the property or its vicinity.
  - Historically, the subject property was used for farming and ranching, and the project has utilized existing ranch and trail roads. As a result, it is very unlikely that the operation would affect any traditional, cultural or religious Hawaiian rights.
- 2) **Such use shall not be contrary to the objectives sought to be accomplished by Chapters 205 and 205A of the Hawai'i Revised Statutes (HRS), and rules of the State Land Use Commission;**
  - The use has demonstrated that it is not contrary to the objectives of the Hawaii Revised Statutes (HRS) Chapter 205; the operation does not reduce or remove any existing agricultural use or lands on the subject property.
  - Overtime, tourism and recreational activities has replaced agriculture as the primary engine of economic activity for Kaua'i and the State of Hawai'i at large. However, there is clear need to preserve certain agricultural lands for farming activities. Using existing roads, trails, waterways, or small portions of land for tourism and recreational activity allows for land owners to maintain agriculture activities (which often at times proves to be less profitable), thereby preserving the agriculture industry and agriculture lands as a whole. However, it is conceivable that such commercial activities could simultaneously provide impetus for landowners to not pursue agriculture activities because commercial activities prove to be more profitable.
- 3) **The desired use would not adversely affect the surrounding property;**
  - The nearest residence to the project site is approximately ¼-mile away. To date, the department has not received any complaints during the Applicant's eight (8) years of operation.
- 4) **The use would not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, school improvements, and police and fire protection;**
  - The operation utilizes existing roadways and infrastructure that were created by the plantation, and therefore no additional burden will be placed on the County to provide further improvements.

5) **Unusual conditions, trends and needs have arisen since the district boundaries and rules were established; and**

- An increase interest in eco-tourism and resource based activities has been significant in recent years. Where appropriate, the Agricultural District provides a remote and open/scenic environment for these types of outdoor commercial recreational uses.

3. GENERAL PLAN

a. Goals – Section 1.3 of the Kauai General Plan (2018)

- Goal #4: An Equitable Place, with Opportunity for All  
The operation continues to support this goal by providing managed and authorized firearm services that are utilized by law authorities, residents, as well as visitors upon their return.

b. Policies – Section 1.4 of the Kauai General Plan (2018)

- Policy #1: Manage Growth to Preserve Rural Character  
The operation remains consistent with this policy in that it does not reduce or affect any agricultural resources for present or future use.
- Policy #5: Make Strategic Infrastructure Investments  
The operation continues to support this policy by providing a safe and “eco” friendly area for the community, tourist and public service agencies to exercise firearm activities.

In review of the foregoing permits, the Applicant’s request to modify the hours of operation should not have any significant impacts to the surrounding properties. However, the Applicant has represented that they have no objections to modifying the hours of operation if the noise generated by this facility adversely impacts the nearby residential neighborhood. Further, the Applicant is willing to work closely with the department to mitigate any noise concerns filed by the public. As such, Condition No. 16 could be amended to read as follows:

“16. The use of the pistol/rifle range shall terminate by 10:00 pm and be ~~[restricted to daylight hours only and]~~ limited to those activities represented by the Applicant. The Applicant shall work with the Planning Department to mitigate any noise impacts generated by the activities.”

**Note: New language shown underscored, and material to be deleted shown bracketed/stricken.**

It is further noted that applicable requirements of the permit remain in effect.

**VIII. PRELIMINARY CONCLUSION**

Based on the review of the above subject permits, the Planning Department finds that the Applicant has demonstrated compliance with all applicable conditions of the permits. To date, the Planning Department is unaware of any complaints filed by neighbors or residents regarding the firearm operations.

Relative to the existing operations, the project has generally complied with the criteria outlined for the granting of a Special Permit, Use Permit and Class IV Zoning Permit. In addition, the operation remains consistent with the goal and policies outlined in the General Plan, as well as the development standards prescribed by the Comprehensive Zoning Ordinance.

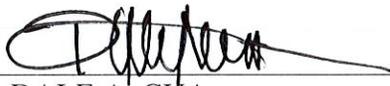
**IX. PRELIMINARY RECOMMENDATION**

Based on the foregoing reasons, it is hereby recommended that the Applicant’s request to modify Condition No. 16 of Class IV Zoning Permit Z-IV-2012-18, Use Permit U-2012-14, and Special Permit SP-2012-38 be **approved** and the amendment shall read as follows:

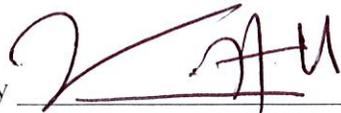
- 16. The use of the pistol/rifle range shall terminate by 10:00 pm and be limited to those activities represented by the Applicant. The Applicant shall work with the Planning Department to mitigate any noise impacts generated by the activities.

The Planning Commission is further advised that this report does not represent the Planning Department’s final recommendation in view of the forthcoming public hearing process scheduled for September 8, 2020 whereby the entire record should be considered prior to decision-making. The entire record should include but not be limited to:

- a. pending government agency comments;
- b. testimony from the general public; and
- c. the Applicant’s response to staff’s Director’s Report and recommendation as provided herein.

By  \_\_\_\_\_  
 DALE A. CUA  
 Planner

Approved & Recommended to Commission:

By  \_\_\_\_\_  
 KA'AINA S. HULL  
 Director of Planning

Date: 8/31/2020

# EXHIBIT “A”

(June 29, 2012  
PC Approval Letter)  
For reference

**Jan Kimura**  
Chair

**Hartwell Blake**  
Vice-Chair

**Caven Raco**  
**Wayne Katayama**  
**Camilla Matsumoto**  
**Herman Texeira**  
Members



**Michael A. Dabilig**  
Clerk of the Commission

**PLANNING COMMISSION**  
**County of Kaua'i, State of Hawai'i**  
4444 Rice Street  
Kapule Building, Suite A-473  
Lihu'e, Hawai'i 96766-1326  
TEL (808) 241-4050 FAX (808) 241-6699

**JUN 29 2012**

Ben and Andrealee Ellsworth  
dba Kauai Eco Sporting Clays  
4067 Hoolako Place  
Lihue, Hawaii 96766

Subject: Use Permit U-2012-14  
Special Permit SP-2012-38  
Class IV Zoning Permit Z-IV-2012-18  
Ben and Andrealee Ellsworth dba Kauai Eco Sporting Clays  
TMK: 3-8-2: 2, Hanamaulu, Kauai

Dear Mr. and Mrs. Ellsworth,

This letter memorializes the action taken by the Kaua'i Planning Commission effective June 26, 2012 concerning approval of the above subject permits. Approval, per your consent, was subject to the following conditions:

1. The proposed structures and facilities shall be constructed and/or operated as represented. Any changes to said structures and/or facilities and/or operations shall be reviewed by the Department to determine whether Planning Commission review and approval is required.

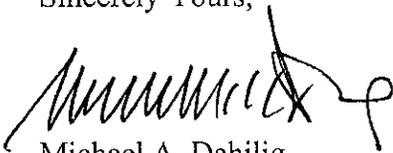
With respect to any changes in weapon type and/or caliber, the Planning Director shall consult with the State of Hawaii Department of Land and Natural Resources, Division of Forestry & Wildlife's Hunter Education Program concerning safety recommendations prior to any change being implemented.

2. All sport shooting activities are to be directed away from residential areas and the nearby KIUC Energy service center.
3. All patrons shall be required to participate in a safety orientation with KESC prior to commencing shooting activities.

4. All patrons in or near the range shall be required to wear personal safety equipment at all times, including but not limited to eye and ear protection.
5. All patrons shall be required to adhere to designated KESC gun range safety rules.
6. The applicant shall comply with the requirements of the State Department of Health, the County's Fire Department, the Department of Water, and the Department of Public Works, as well as any other applicable government agencies.
7. The applicant shall develop and utilize Best Management Practices (BMPs) during all phases of development in order to minimize erosion, dust, and sedimentation impacts of the project to abutting properties.
8. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, all external lighting shall be only of the following types: shielded lights, cut-off luminaries, or indirect lighting. Spotlights aimed upward or spotlighting of structures, landscaping, or the ocean shall be prohibited.
9. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kauai contractors as long as they are qualified and reasonably competitive with other contractors, and shall seek to employ residents of Kauai in temporary construction and permanent jobs. It is recognized that the Applicant may have to employ non-Kauai residents for particular skilled jobs where no qualified Kauai resident possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.
10. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project, such as Leadership In Energy and Environmental Design (LEED) standards or another comparable state approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for building permit review.
11. The Planning Commission reserves the right to revise, add, or delete conditions of approval in order to address or mitigate unforeseen impacts the project may create, or to revoke the permits through the proper procedures should conditions of approval not be complied with or be violated.

12. The applicant is advised that additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agencies.
13. Applicant shall submit a status report one year from the date of the opening of the sporting clay facility to the Planning Director.
14. Applicant shall work with landowner and the Department to create and implement a plan concerning external warnings beyond the property to inform individuals of the active nature of the range and the danger posed to them. These warnings shall be, but not be limited to signs and a flag system..

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Michael A. Dahilig", with a stylized flourish at the end.

Michael A. Dahilig  
Clerk  
Kaua'i Planning Commission

# EXHIBIT “B”

(October 28, 2019  
PC Approval Letter)  
For reference



**PLANNING COMMISSION**  
 THE COUNTY OF KAUA'I  
 KA'ĀINA S. HULL, CLERK OF THE COMMISSION

**COPY**

Sean Mahoney  
 CHAIR

Glenda Nogami Streufert  
 VICE-CHAIR

Donna Apisa  
 Roy Ho  
 Kimo M. Keawe  
 MEMBERS

**OCT 28 2019**

Ben & Jade Ellsworth  
 Kauai Eco Sporting Clays, LLC  
 4067 Hoolako Place,  
 Lihue, HI 96766

October 23, 2019

Subject: Class IV Zoning Permit Z-IV-2012-18  
 Use Permit U-2012-14  
 Special Permit SP-2012-38  
 Tax Map Key: (4) 3-8-002:002  
 Kapaia, Kaua'i  
 Applicant – Ben & Jade Ellsworth

Dear Mr. Ellsworth,

This letter memorializes the action taken by the Kaua'i Planning Commission effective OCTOBER 22, 2019 to amend the above subject permits to include construction of a new pistol/rifle range and transform the existing south 5-stand course into a combination of trap/skeet field with associated site improvements. The approval by the Planning Commission, per your consent, is subject to the following conditions:

1. The proposed structures and facilities shall be constructed and/or operated as represented. Any changes to said structures and/or facilities and/or operations shall be reviewed by the Department to determine whether Planning Commission review and approval is required.
2. All sport shooting activities are to be directed away from residential areas and the nearby KIUC energy services center.
3. All patrons shall be required to participate in a safety orientation with KESC prior to commencing shooting activities.
4. All patrons in or near the range shall be required to wear personal safety equipment at all times, including but not limited to eye and ear protection.
5. All patrons shall be required to adhere to designated KESC gun range safety rules.
6. The applicant shall comply with the requirements of the State Department of Health, the County's Fire Department, the Department of Water, and the Department of Public Works, as well as any other applicable government

www.kauai.gov

444 Rice Street Suite A473 • Lihue, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)

An Equal Opportunity Employer

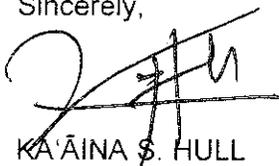
agencies.

7. The applicant shall develop and utilize Best Management Practices (B.M.P.'s) during all phases of development in order to minimize erosion, dust, and sedimentation impacts of the project to abutting properties.
8. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, all external lighting shall be only of the following types: shielded lights, cut-off luminaries, or indirect lighting. Spotlights aimed upward or spotlighting of structures, landscaping, or the ocean shall be prohibited.
9. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua'i contractors as long as they are reasonable competitive with other contractors, and shall seek to employ residents of Kaua'i in temporary construction and permanent resort-related jobs. It is recognized that the Applicant may have to employ non-Kaua'i residents for particular skilled jobs where no qualified Kaua'i resident possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.
10. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project, such as Leadership in Energy and Environmental Design (L.E.E.D.) standards or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low-energy fixtures, low energy lighting and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for building permit review.
11. The Planning Commission reserves the right to add or delete conditions of approval in order to address or mitigate unforeseen impacts this project may create, or revoke the permits through the proper procedures should conditions of approval not be complied with or be violated.
12. The applicant is advised that additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agencies.

13. Applicant shall submit a status report one year from the date of the sporting clay facility to the Planning Department.
14. Applicant shall work with landowner and the Department to create and implement a plan concerning external warnings beyond the property to inform individuals of the active nature of the range and the danger posed to them. These warnings shall be, but not be limited to signs and a flag system.
15. The operation of the pistol/rifle range and combination trap/skeet facility shall be temporary for an initial period of two (2) years only. Additional extensions may be granted for longer periods of time by the Planning Department provided adverse impacts are not generated that affect the public health, safety, and welfare, as well as the surrounding environment, and conditions of approval are complied with.
16. The use of the pistol/rifle range shall be restricted to daylight hours only and limited to those activities represented by the Applicant.
17. Any grading/grubbing work shall be in compliance with the requirements contained in Ordinance No. 808.
18. Prior to preparation of construction plans involving the pistol/rifle range and combination trap/skeet facility, the Applicant shall verify with the County Department of Public Works (DPW) whether a national Pollutant Discharge Elimination (NPDES) permit is required.

If you have further questions regarding this matter, please contact Chance Bukoski at (808) 241-4050.

Sincerely,



KA'AINA S. HULL  
Clerk, Kaua'i Planning Commission

cc: COK – Public Works, Fire, Water, Housing, Transportation  
State Department of Health  
State Historic Preservation Division

# EXHIBIT “C”

(Correspondence fr. Applicant)



*Lihue, Hawaii* Planning Commission  
County of Kauai Planning Department  
4444 Rice Street, Suite A473  
Lihue, HI 96766

**Re:** Request to modify Condition #16 of Use Permit U-2012-14, Class IV Zoning Permit Z-IV 2012-18, and Special Permit SP-2012-38, ***Kaua'i Eco Sporting Clays***  
TMK 3-8-2: por. 2, Hanamā'ulu, Kauai

Condition # 16 states "The use of pistol/rifle range shall be restricted to daylight hours only and limited to those activities represented by the Applicant."

As a result of Covid 19 severely reducing our customer base, KESC would like to expand our handgun shooting sports by providing competition shooting at night, at targets illuminated by luminescent and disposable lighting. Only .22LR ammunition and handguns will be utilized. This ammunition is not as loud as a shotgun. Additionally, use of low powered .22LR ammunition, which uses less gunpowder in the bullet, thereby lowering the sound impulse, will also be used. Spotlighting (or stadium lighting) presently used in our shotgun shooting will not be used.

Applicant requests to modify existing use permit to permit shooting activities at our pistol/rifle facility until 10 p.m. Applicant represents that only .22LR ammunition and firearms will be used at the handgun facility. Our shotgun facility will continue irregular shotgun competition at night. Should there be any noise complaints of our activities, applicant has no objection to further review of our activities by the Planning Department.

Thank you for considering our request.

Ben Ellsworth and Jade Brooks  
Kauai Eco Sporting Clays, Inc.

# BELLES GRAHAM LLP

ATTORNEYS AT LAW

MAX W.J. GRAHAM, JR.  
JONATHAN J. CHUN  
IAN K. JUNG

Federal I.D. No. 99-0317663

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4334 RICE STREET, SUITE 202  
LIHUE, KAUAI, HAWAII 96766-1388

TELEPHONE NO: (808) 245-4705  
FACSIMILE NO: (808) 245-3277  
E-MAIL: mail@kauai-law.com

OF COUNSEL

MICHAEL J. BELLES  
DAVID W. PROUDFOOT  
DONALD H. WILSON

August 31, 2020

Mr. Ka'āina S. Hull  
Director of Planning  
Planning Department  
County of Kauai  
4444 Rice Street, Suite A473  
Lihue, Kauai, Hawaii 96766

**VIA EMAIL ONLY**

Re: **Class IV Zoning Permit Z-IV-2020-9**  
**In The Matter Of The Application Of RBM UMI, LLC, a Hawaii limited liability company, for a Class IV Zoning Permit, for real property situated at Lihue, Kauai, Hawaii, described as Lot 1-A-2, identified by Kauai Tax Map Key No. (4) 3-6-003:010**

Dear Mr. Hull:

This office represents RBM UMI, LLC, a Hawaii limited liability company ("Applicant") with regard to Class IV Zoning Permit Z-IV-2020-9, which was approved by the Planning Commission on February 24, 2020 and subject to conditions noted in your Department's approval letter dated February 26, 2020 ("Permit Approval").

As a follow up to our Permit Approval, we wanted to provide a status update on our current design, which is attached as Exhibit "A". Pursuant to Condition Nos. 1 and 2, we have revised the proposed design as provided previously in Exhibit "E" to the Permit Approval package, which is also attached as Exhibit "B" for comparison.

Using the revised design, we have engaged members of the Lihue community to address concerns raised by the Planning Commission and Kauai Historic Preservation Review Commission regarding the proposed building's appearance and siting. As of last week, we received comments back from Ms. Pat L. Griffin (Historian), Dr. Addison Bulosan (Rice Street Business Association), and the Lihue Hui (unincorporated association).

{W:/DOCS/28479/3/W0165718.DOCX }

**J. Z.**

SEP 08 2020

Mr. Ka'aina S. Hull  
Planning Director  
Page 2  
August 31, 2020

We are currently working to review and potentially incorporate these comments into the revised design package. We will follow up a revised design package and schedule a meeting to discuss the design concepts.

Please let me know if you require anything further.

Very truly yours,

**BELLES GRAHAM LLP**



Han K. Jung

IKJ:jaug

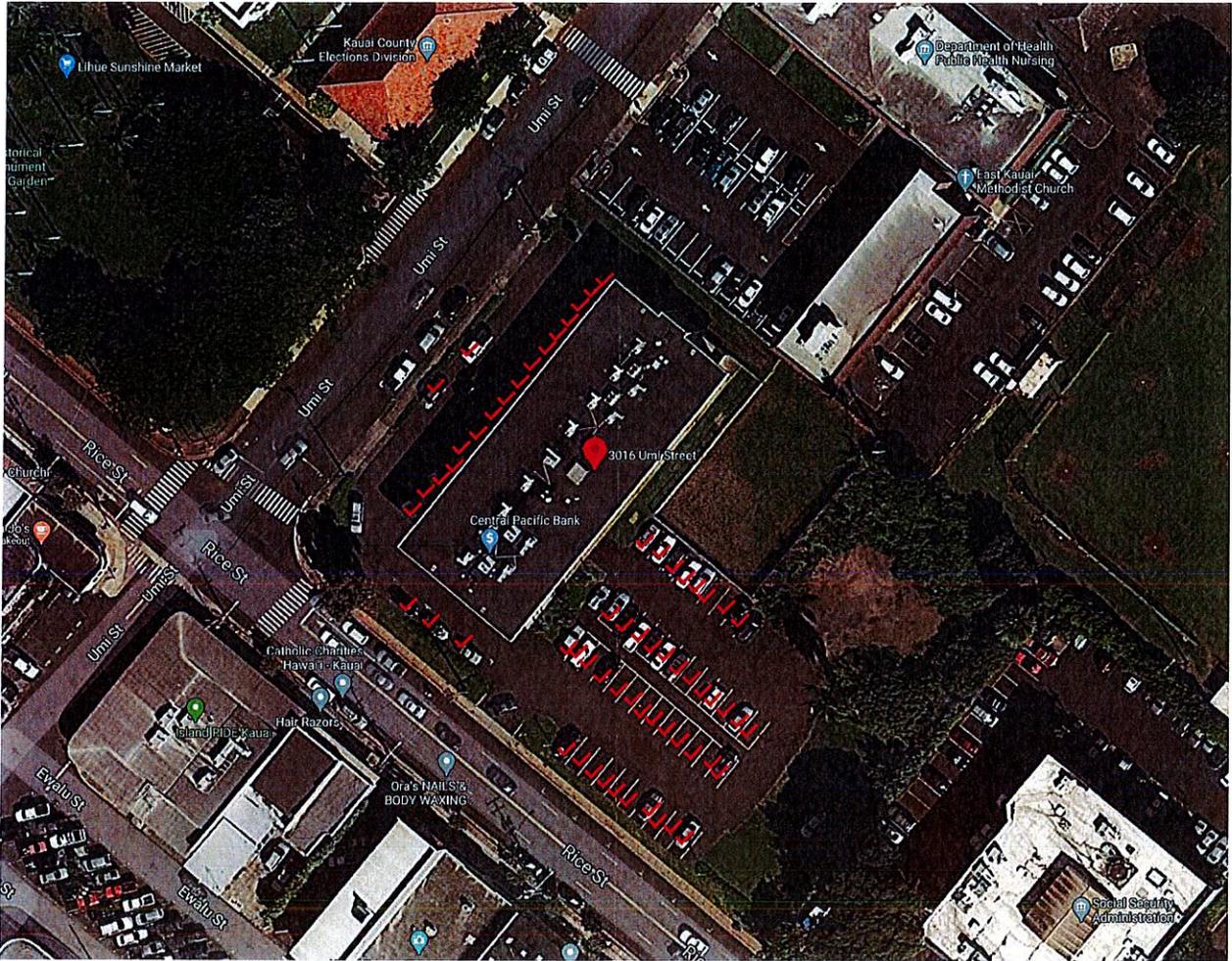
Enclosures

cc: Mr. Dale Cua, w/encls. (via email only)  
Mr. Devin Belnap, w/encls. (via email only)

**EXHIBIT "A"**



EXHIBIT "A"

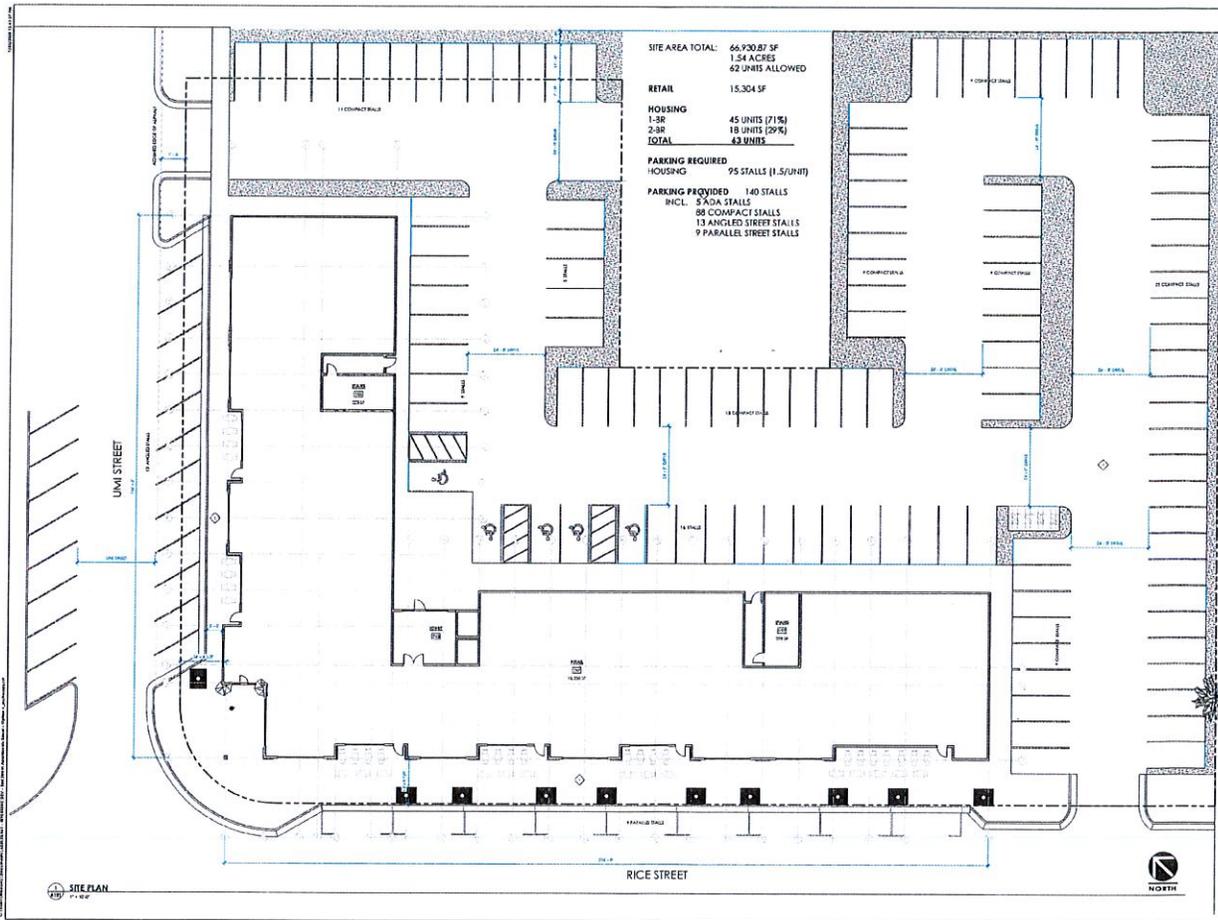




aeurbia  
architects and engineers



aeurbia  
architects and engineers



**UMI STREET APTS.**  
CLIENT NAME  
3014 UMI STREET, LUNGE, HAWAII

AE2020.041  
LEVEL 01  
FLOOR PLAN

DATE: 10/15/2020  
DRAWN BY: [Name]  
CHECKED BY: [Name]  
SCALE: 1/8" = 1'-0"  
PROJECT NO.: A101



**aeurbia**  
architectural and landscape

1000 10th Avenue

**UMI STREET APTS.**  
CLIENT NAME  
3014 UMI STREET, UMBELI, HAWAII

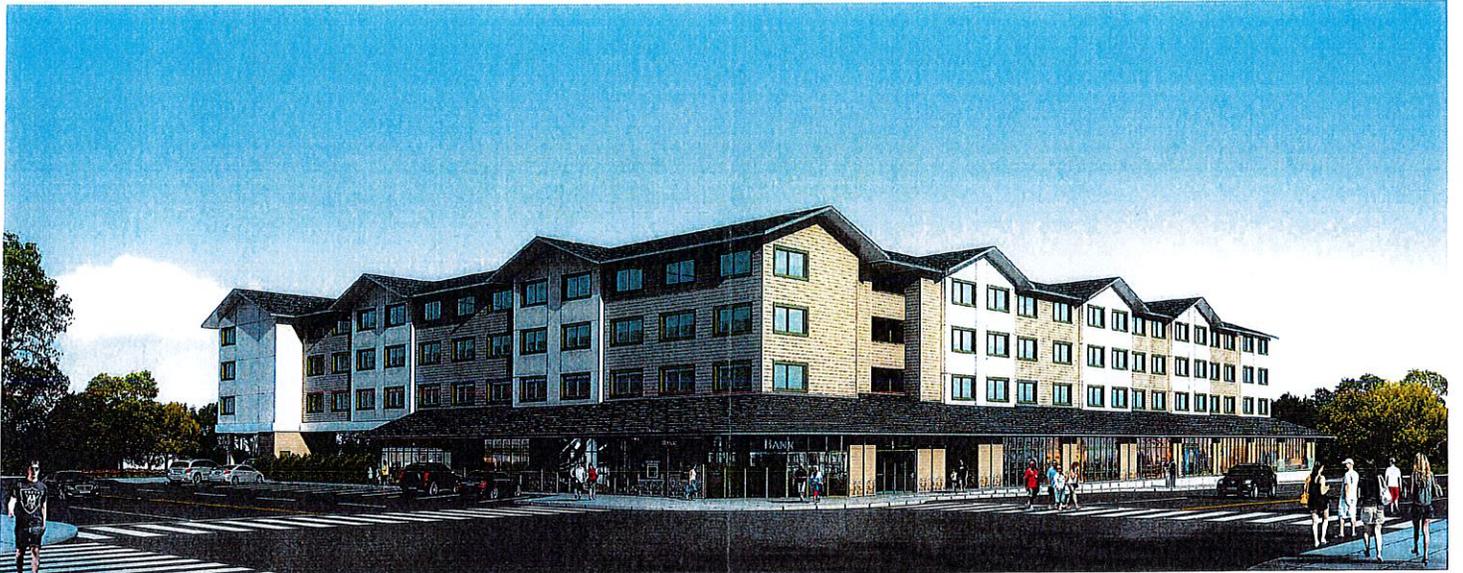
Project Name  
Project No.

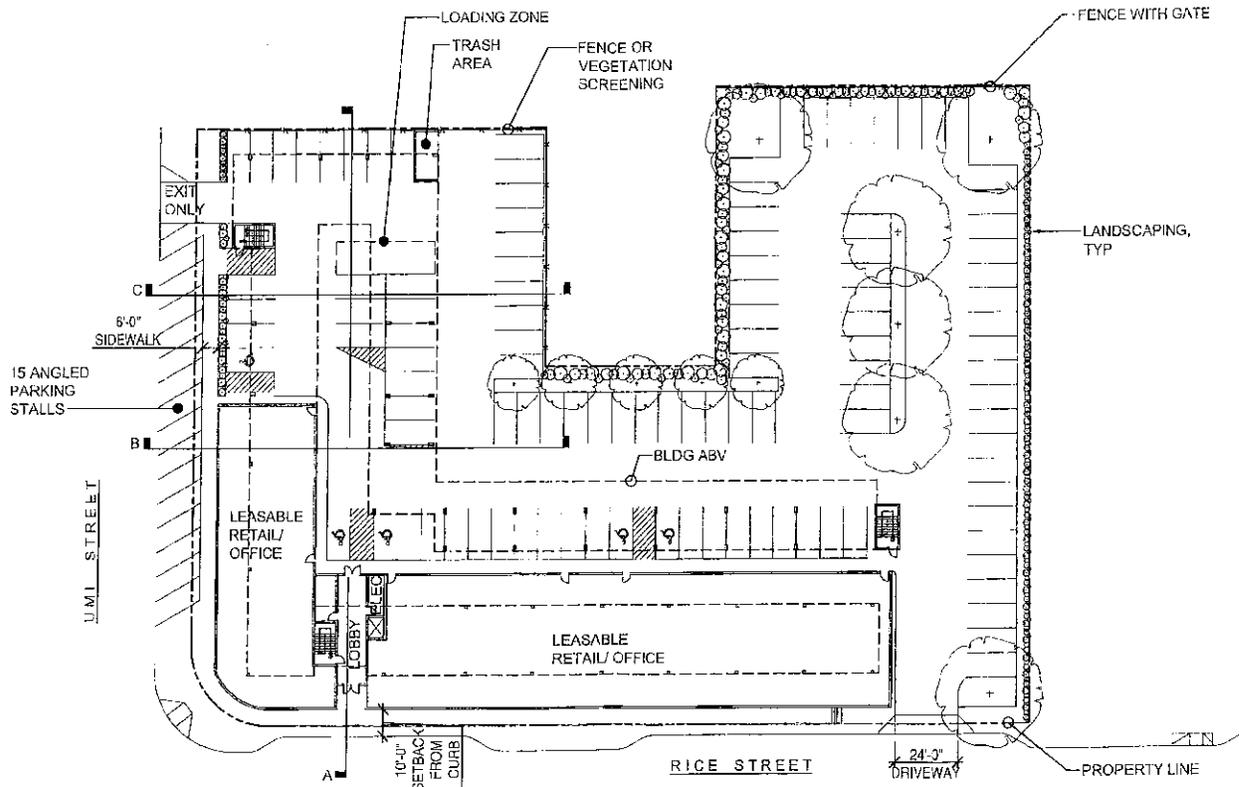
AE2020.01  
TYPICAL UPPER LEVEL FLOOR PLAN

DATE: PROJECT START DATE

PHASE 1  
**A102**  
COPYRIGHT © 2020 AURBIA LLC

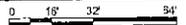
# **EXHIBIT "B"**

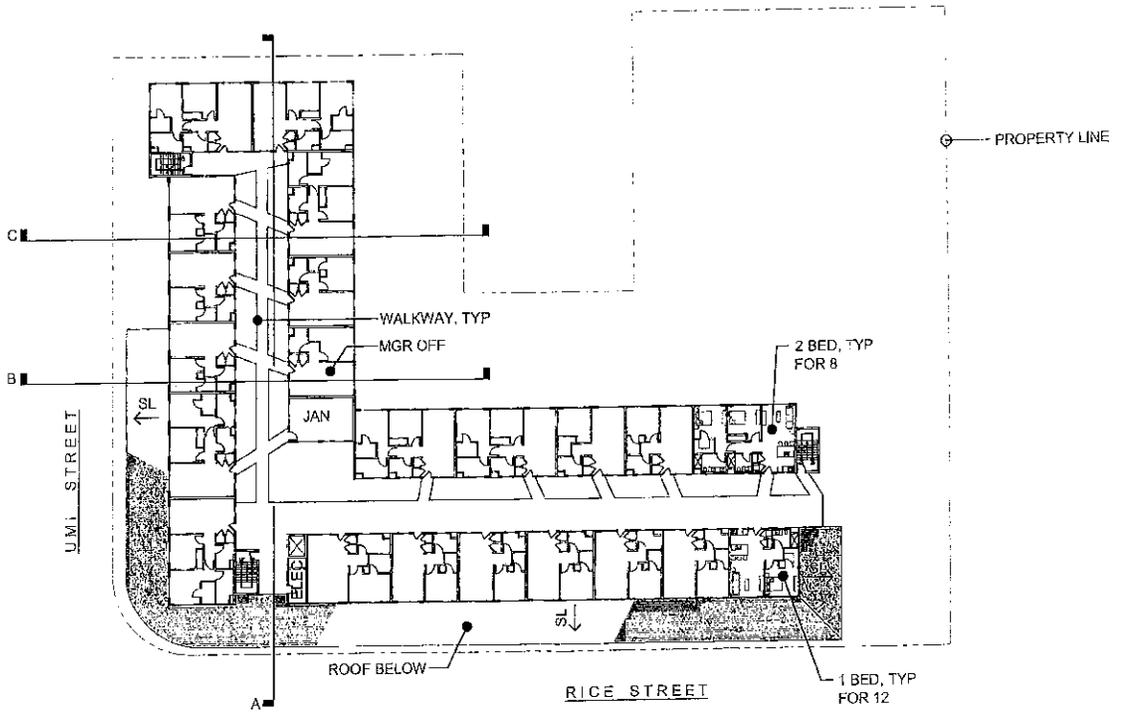




3016 UMI STREET - SITE PLAN AND FIRST FLOOR PLAN

RBM UMI, L.L.C





3016 UMI STREET - SECOND FLOOR PLAN

RBM UMI, LLC  
 0 16' 32' 64'