



PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISSION

GERALD AKO, CHAIR
DONNA APISA, VICE CHAIR
JERRY ORNELLAS, MEMBER

RECEIVED

- The Planning Commission Meeting will be in-person at:

'23 JAN 18 A10 :01

- Līhu'e Civic Center, Moikeha Building
- Meeting Room 2A-2B
- 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

- **Written testimony** indicating your 1) name or pseudonym, 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 on any agenda item in writing to planningdepartment@kauai.gov or mailed to the County of Kaua'i Planning Department, 4444 Rice Street, Suite 473, Līhu'e, Hawai'i 96766. Written testimony received by the Planning Department at least **24 hours prior** to the meeting will be distributed to all Planning Commissioners prior to the meeting. Any testimony received after this time and up to the start of the meeting will be summarized by the Clerk of the Commission during the meeting and added to the record thereafter.
- **Oral testimony** will be taken on specific agenda items, **in-person at the public meeting location** indicated on the meeting agenda.

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SUBDIVISION COMMITTEE MEETING NOTICE AND AGENDA

**Tuesday, January 24, 2023
8:30 a.m. or shortly thereafter
Līhu'e Civic Center, Moikeha Building
Meeting Room 2A-2B
4444 Rice Street, Līhu'e, Kaua'i, Hawai'i**

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF AGENDA

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

1. October 11, 2022
2. October 25, 2022

E. RECEIPT OF ITEMS FOR THE RECORD

F. UNFINISHED BUSINESS

1. None for this meeting.

G. NEW BUSINESS (For Action)

1. Tentative Subdivision Map Approval
 - a. Subdivision Application No. HS-2023-2
State of Hawai'i, Department of Hawaiian Home Lands (DHHL)
DHHL Hanapēpē, Phase 2 Subdivision
Proposed 136-lot Subdivision
TMKs: (4) 1-8-007:003, 018, and 021; (4) 1-8-017:001 to 020; (4) 1-8-018:001 to 027
Hanapēpē, Waimea, Kaua'i
- 1) Subdivision Report pertaining to this matter.

H. EXECUTIVE SESSION

Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with the County's legal counsel on questions, issues, status and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to the following matters:

- a. Subdivision Application No. HS-2023-2
State of Hawai'i, Department of Hawaiian Home Lands (DHHL)
DHHL Hanapēpē, Phase 2 Subdivision
Proposed 136-lot Subdivision
TMKs: (4) 1-8-007:003, 018, and 021; (4) 1-8-017:001 to 020; (4) 1-8-018:001 to 027
Hanapēpē, Waimea, Kaua'i

I. ADJOURNMENT

KAUA'I PLANNING COMMISSION
SUBDIVISION COMMITTEE SESSION
Tuesday, October 11, 2022

Draft

The Subdivision meeting of the Planning Commission of the County of Kaua'i was called to order by Commissioner Gerald Ako at 8:30 a.m. Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

Mr. Gerald Ako
Mr. Francis DeGracia

The following staff members were present: Planning Department: Director Ka'aina Hull, Deputy Director Jodi Higuchi Sayegusa, Dale Cua, Kenneth Estes, Romio Idica, and Planning Commission Secretary Shanlee Jimenez; Office of the County Attorney – Deputy County Attorney Laura Barzilai; Office of Boards and Commissions – Support Clerk Lisa Oyama

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

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

ROLL CALL

Chair Ako: Good Morning everybody. With that, I'd like to call to order the Subdivision Committee Meeting of the Planning Commission and it's 8:30 a.m. And with that, Mr. Clerk, can we have a roll call?

Planning Director Kaaina Hull: Roll call Mr. Chair. Commissioner DeGracia?

Commissioner DeGracia: Here.

Mr. Hull: Chair Ako?

Chair Ako: Here.

Mr. Hull: You have a quorum Mr. Chair.

Chair Ako: We have an agenda before us. Any changes or discussion about the approval of the agenda?

APPROVAL OF AGENDA

Mr. DeGracia: No. Motion to approve the agenda.

D.1.

Jan. 23, 2023

Chair Ako: I'll second that. All those in favor for the approval of the agenda, say aye? Aye (Unanimous voice vote) Motion carried 2:0.

Chair Ako: With that, Mr. Clerk, I think we have two ayes.

MINUTES of the meetings(s) of the Subdivision Committee

Mr. Hull: Next would be the Meeting Minutes for July 12, 2022.

Mr. DeGracia: Motion to approve the minutes for July 12, 2022.

Chair Ako: Second. All those in favor say aye. Aye. (Unanimous voice vote). With that, we have two ayes. Motion carried 2:0.

RECEIPT OF ITEMS FOR THE RECORD

Mr. Hull: We have no additional Receipt of Items for the Record. We have no Unfinished Business. Moving onto New Business for action.

NEW BUSINESS (For Action)

Mr. Hull: Preliminary Subdivision Map Approval.

Subdivision Application No. S-2023-1
(BBCP Kukui'ula Development, LLC.)
Kukui'ula Parcel A2F2F3 Subdivision
Proposed 31-lot Subdivision
TMK: (4) 2-6-022:020
Lāwa'i, Kōloa, Kona, Kaua'i

Mr. Hull: Is there anybody in person, we'll be taking testimony individually on each individual item, so, is there anybody in person that would like to testify on this agenda item? If so, please approach the microphone. Seeing none. We actually have a sign-up list for those that would like to testify. We have Roslyn Cummings. Roslyn Cummings? Not present. We also have signed up, Mauna Kea Trask but Mr. Trask, you're the representative for the applicant? Okay, we'll get to the applicant after testimony. Seeing no other people in person that would like to testify on this agenda item. For those on Zoom, if you'd like to testify on this agenda item, please indicate so by raising your digital hand. Jodi, do we have any testifiers on Zoom, that would like to testify on this agenda item?

Deputy Planning Director Jodi Higuchi Sayegusa: Yes, we have several people in the Zoom room. First, I'm going to call your name and then on your end, I'm going to allow you to be promoted and please on your end, click accept on your end to be able to enable your video and audio. So, first I'm calling Kiara Lorenzo-Rodrigues. Again, on your end please click accept and once you do that, you'll be able to enable your audio and video and please identify yourself for the record. Okay, there maybe some technical difficulties. I'm going to move on, and I'll come back to you, Ms. Rodrigues. Next, we have, Mark Sullivan. I am allowing you to enable your

audio and video at this time. Please click accept on your end. Okay, please identify yourself when you're ready and you have three minutes. Okay, I'm sorry, there might have been two admitted in at the same time. First, I'm going to identify, Mark Sullivan, when you're ready, you have three minutes to testify.

Mr. Mark Sullivan: I'm pushing the wrong button. I'm not...

Ms. Higuchi Sayegusa: We can hear you now. Hi, Mr. Sullivan, when you're ready you may begin.

Mr. Sullivan: Oh, hi. I'm not testifying on this item just to clarify.

Ms. Higuchi-Sayegusa: Okay, thank you very much. I'm going to turn to, Palmers, the name identified as Palmers Galaxy XCover Pro. When you're ready, you can unmute yourself and proceed with your testimony.

Mr. Palmer: I'm sorry, this is Palmer (inaudible). I'm not testifying on this item either. I'm just sitting in for agenda update.

Ms. Higuchi-Sayegusa: Okay, thank you very much. Moving on to Zoom testifier, Van Dahm. Again, allowing you to enable your audio and video on your end. Please accept and when you're ready, you may begin. I think on your end, you have to unmute yourself. Van Dahm, you may have to unmute yourself on your end. Okay, might be some technical difficulties there. I'm going to circle back to Kiara Rodrigues. Whenever you're ready, please unmute yourself, identify yourself for the record and you may begin. Ms. Rodrigues, we are not able to hear you. Okay, if there is probably technical difficulties, if in the future you would like to testify, please make sure you raise your virtual hand. Again, that's all. We went through the list of folks that are in the attendee room but if there's any person wishing to testify, please make sure to raise your virtual hand going forward. I do believe, Ms. Rodrigues is having technical difficulties. If she's able to raise her hand, we can recognize her at that point.

Mr. Hull: Okay. Thank you, Jodi. This will be the last call for any public testimony for in-person. Subdivision item, G.1. Subdivision Application No. S-2023-1. Is there anybody in-person that would like to testify on this agenda item? Ms. Cummings, I have you signed up, do you want to testify on this agenda item?

Ms. Roslyn Cummings: Aloha. Is there a legal representative for the County of Kaua'i Planning Commission?

Mr. Hull: Could you identify yourself for the record and you have three minutes for testimony.

Ms. Cummings: Okay. Inoa, Roslyn (Hawaiian name) Cummings. Is there a legal representative here in the room for the County of Kaua'i Commissions?

Deputy County Attorney Laura Barzilai: Good morning, Ms. Cummings. I'm Laura Barzilai, Deputy County Attorney.

Ms. Cummings: Let the record state that, on the record, for the record. So, this testimony is in regards to, I'm a wahine maoli, a lineal descendant to Chiefess Kamakahahelei, who is buried in

the Lawai ahupua'a. This development will affect her burials and the burial site of those that surround her. The County of Kaua'i Planning Commission should be well aware through the SIHP reports from BLNR/DLNR, so please go ahead, and search your records for all burials that were affected or known and all cultural sites through the archeological report that was made back in 1970, 1990, and between 2009 and 2015. Let the record state that I did do a Ka Pa'akai analyst for this. My complete concern is to, not just the burials of that area but the depletion of wetlands, of low wetlands and if the County Planning Commission is aware of this, so, let the record be known that those my biggest concerns for this particular development. Mahalo for your time.

Mr. Hull: Thank you for your testimony. Is there anyone else in-person, that would like to testify on this agenda item? Seeing none, we'll move directly into the application itself. We did review communication from the applicant requesting deferral of this agenda item, so, just with that, we don't intend to go into the report, but we'll ask for a motion to defer to November 15th. If there is a representative on behalf of the applicant, that would like to make any statement. The department would like to also request, being that we have this oral request for deferral, that the applicant waive Section 9-8.4, concerning (inaudible) concerning the timelines and deadlines for Subdivision actions.

Mr. Mauna Kea Trask: Aloha ka kou, Mauna Kea Trask, on behalf of applicant. So, yes, just as a preliminary matter, we just like to address comments, Ms. Cummings made. We think that she (inaudible) made a mistake, this is talking about a different development, there's no wetlands here. This area, specific area, has no native species on it, we provided that in the Ka Pa'akai analyst and this is (inaudible) lands, it's up mauka, it's not in the Lawai valley and it was under sugar cultivation from approximately 1876 to about 1996, with that, we'll reserve presentation at the next scheduled hearing but at this point I have to confirm with Mr. Holsted, the applicant waives the 45-day period under Subdivision ordinance 9-2.3, G.5. a. (inaudible). Thank you.

Mr. Hull: Thank you, Mr. Trask. With that, (inaudible) have any questions, but (inaudible) the (inaudible) is requesting deferral to November 15th.

Mr. Ako: If there's no other questions, I'll entertain a motion to defer.

Mr. DeGracia: No questions. Ready to make a motion. Motion to defer, Subdivision Application No. S-2023-1 to November 15th Subdivision Committee Meeting.

Mr. Ako: Second. Any other questions? Mr. Clerk, can I have a roll call?

Mr. Hull: Roll call. Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes. 2:0.

Final Subdivision Map Approval

Mr. Hull: Next we have Agenda Item, G. 2. Final Subdivision Map Approval.

Subdivision Application No. S-2002-25
(AOAO of Kūlana, Cy Miyashiro, June & Kris Van Dahm)
Hauiki Road Subdivision
Proposed 3-lot Subdivision
TMK: (4) 4-3-003:027
Kapa'a & Waipouli, Kawaihau, Kaua'i

Mr. Hull: Let's see who's signed up to testify. We have signed up to testify, Mr. Trask but Mr. Trask, are you representing the applicant?

Mr. Trask: (inaudible).

Mr. Hull: Okay. First signed up, Mauna Kea Trask. Can you please identify yourself and you have three minutes for testimony.

Mr. Trask: Aloha, Mauna Kea Trask for the record. First off, I had signed up for each subdivision, can I just put all my testimony together in one, in one?

Ms. Barzilai: If it's okay with Chair, that's fine.

Chair Ako: I have no problems with that.

Mr. Trask: Thank you, Chair Ako.

Mr. Hull: So, it would around six minutes for testimony at this point, okay.

Mr. Trask: That's fine. Thank you. Again, aloha, Mauna Kea Trask for the record. Just want some clarification today if I can get it. As you know, Kulana has a long story pass, it's one of the original examples of a gentlemen's agricultural CPR, in which (inaudible) farming occurs. Kulana is also the byproduct of a three-million-dollar Ponzi scheme, that (inaudible) many Kaua'i residents out of their life savings and that to the death of Jim Lull, who allegedly drove himself off a cliff in Oregon, on or about the day of his criminal sentencing in federal district court. So, for over a decade, the County, the State, private lending institutions, private corporations, the landowners, the developers, the AOAO, have all come together to try to patch things up, finish the subdivision and move forward appropriately so, in regard to that, today on the agenda Kulana is before the Commission for recertification, the final map. Our understanding is that late last month the Department of Public Works certified the subdivision improvements 4 S-9949, had been completed. But, to our knowledge, or to my knowledge, the Planning Commission has not yet approved the subdivision improvements, per 9-3.9 and 3.7, respectively. So, we respectfully request that confirmation from the Commission Department that Kulana has complied with the restate subdivision agreement that flowed from the litigation, and related selling agreements, and also the improvements have been approved, and if not, what, what else is they left to do? We also respectfully request the confirmation that the County's position is that under the (inaudible) settlement agreement, and county Code AOAO, and individual owners, can sell and obtain building permits, for their units, because without the completion of subdivision improvements, it's held up landowners from building farm dwellings, even on the applications to get (inaudible) structures, I believe. Also, per HRS, 205-4.6, 514B-5, 6 and 52 respectively, and the AOAO's representations at last year's Commission Meeting. We respectfully request the

commission confirmed that the developer has received County clearance for the CPR overlay of the subdivision as required by the Planning Commission's 2016 memo regarding new procedures for receiving CPR clearances, and normally we understand that CCNR's are private agreements. They don't really involve the County, however, with the political integration of XCPR, State law has changed to ensure that when a CPR comes in, the County acknowledges and reviews that none of the restricted covenances restrict farming or agricultural operations, as prohibited by law. Because this subdivision is so long and CPR is so long, we just want to confirm that that has happened. And finally confirm that individual owners can obtain building permits and for their structures despite any existing after-the-facts zoning permit or other County land use permitting issues. It's my understanding that the department had a discussion with the AOA or representatives or members, that there had been some after-the-fact permitting issues and that there was a process to resolve that, and so, just to ensure that if this is all completed today, there isn't an after-the-fact issue hanging out there. Thank you.

Mr. Hull: Thank you, Mr. Trask. Next, we have signed up, Kurt Bosshard. Is there anyone else in the room that has not signed up and would like to testify on Agenda Item, G.2, concerning Subdivision Application No. S-2002-25? Seeing none. Is there anybody attending virtually through Zoom that would like to testify on this agenda item? Again, this is Subdivision Application No. S-2002-25. Please indicate so by raising your virtual hand. Jodi, do we have any...

Ms. Higuchi Sayegusa: I just...

Mr. Hull: ...participants that have raised their virtual hand indicating their desire to testify?

Ms. Higuchi-Sayegusa: At this point, there are no hands raised.

Mr. Hull: Thank you. With that, there's no further testimony. I'll turn it over to the Staff Planner to give us a staff report.

Staff Planner Kenny Estes: I'll read the Directors Report for the record.

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

Mr. Hull: Any questions for the Planner on this agenda item?

Mr. DeGracia: I have a few questions. Mr. Trask raised some concern on his testimony, I just wondered if the department has any clarification on any of those concerns? Specific, I'm not sure the agriculture component, combination with the CPR.

Mr. Hull: Well, I would say, the bulk of what Mr. Trask testified on, in requesting this body confirm certain facts or aspects, would be more appropriately done via departmental determination request. The action before this body is a final subdivision approval, right, the action is either, approve a final subdivision proposal, deny a final subdivision proposal, or defer it, those are the three actions made before this body. Concerning the determination that the AOA's by-laws is compiling state law or that the improvements have been met via (inaudible) standards. (inaudible) this body take an official action on that. It's not officially on this agenda.

So, there are requests that Mr. Trask seek, departmental determination. We can't say that, when the final subdivision application that all of the respective reviewing agencies, including (inaudible) have responded and said, this final subdivision is ready to go and be approved.

Mr. DeGracia: Thank you for clarifying.

Mr. Hull: Hearing that, Kenny?

Chair Ako: I'm sorry, I gotta clarify. Did Mr. Trask testify on behalf of the applicant, or he did not?

Mr. Hull: The applicant does have a representative here, when you folks are done with any questions or discussions with myself or Kenny.

Chair Ako: Do you have any other questions?

Mr. DeGracia: No further questions for the department.

Chair Ako: If not, if we have somebody that would like to represent the applicant at this time.

Mr. Brad Rockwell: Morning Chair, Brad Rockwell, President of the Kulana Homeowners Association, and we also have Counsel, Laura Loo for the applicant.

Chair Ako: So, unless you have anything else to add.

Mr. Rockwell: I don't have anything else to add, just appreciate the departments, the Planning Departments assistance over a couple decades and working to get this through for the many owners of the Kulana Association.

Chair Ako: Any questions or concerns?

Mr. DeGracia: No questions.

Chair Ako: Thank you.

Mr. Rockwell: Thank you.

Chair Ako: With that, we have a recommendation, from the Planning Department for approval. At this time, we'll entertain a motion to approve, Commissioner.

Mr. DeGracia: Yeah. Motion to approve, Final Subdivision Map Application No. S-2002-25.

Chair Ako: With that, I second. Mr. Clerk?

Mr. Hull: Roll call, Mr. Chair. Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 2:0.

Mr. Hull: Next we have Agenda Item, G.2. b.

Subdivision Application No. S-2018-12

(AOAO of Kūlana)

Kūlana Water Tank Subdivision

Proposed 2-lot Subdivision

TMK: (4) 4-4-003:089

Waipouli, Kawaihau, Kaua'i

Mr. Hull: We have a subdivision report pertaining to this matter. For this agenda item we have a number of individuals signed up to testify. First, we have, Roslyn Cummings.

Ms. Cummings: Aloha, my name is Roslyn Cummings and I speak up for manawa from the past, and the present for the future. It's clear that many of you will understand the cultural practices of our people, and the laws and the rights of our people, not as native Hawaiians, as kānaka maoli. Now let me just get this clear, what happens up mauka affects makai, so what happens by the mountains will affect all the down to the ocean. As far as water, this water tank, and water concerns are, the company needs to be clear in regards to the amount of water, where it's coming from, where it's being taken from, and how much usage. Because I've been studying a lot of your guys water usage and the records are not matching up. So, there's a question in that, so I really really really, need the County Commission to look into the water usage when you guys permit these projects that affect our water. And you know what, again, going back to our culture, many of our cultural practices don't know yet and understand, but we have rights. Let me bring up Section 7 HRS: Section 7-1., and the rights of our landlord's title subject to tenants use for the manners. Where the landlords have obtained, or may hereafter obtain, allodial titles to their lands, the people on each of their lands shall not be deprived of the right to take firewood, house-timber, aho cord, thatch, or ki leaf, from the land on which they live, for their own private use, but they shall not have a right to take such articles to sell for profit. The people shall also have a right to drinking water, and running water, and the right of way. The springs of water, running water, and roads shall be free to all, on all lands granted in fee simple; provided that this shall not be applicable to wells and watercourses, which individuals have made for their own use. Please look up that law, Mahalo.

Mr. Hull: Thank you for your testimony. I know Mr. Trask spoke (inaudible) just checking, I know we have Mr. Bosshard signed up, Mr. Bosshard, are you gonna testify on any of these agenda items?

Mr. Kurt Bosshard: No.

Mr. Hull: Is there anyone else here in person that would like to testify on this agenda item? Seeing none. For those attending and participating virtually, if you'd like to testify on agenda item G.2. b., Subdivision Application No. S-2018-12, please indicate so by raising your virtual hand.

Ms. Higuchi Sayegusa: At this point there are no virtual attendees with their hand raised.

Mr. Hull: Thank you. With that, I'll turn it over to the Staff Planner.

Mr. Estes: I'll read the Directors Report for the record.

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

Mr. Hull: Any questions, Commissioners have for the staff?

Chair Ako: Any questions?

Mr. DeGracia: No questions.

Mr. Hull: We do have a representative for the applicant. Do you have questions for the applicant?

Mr. Rockwell: Morning, Chair. Brad Rockwell again.

Chair Ako: Any questions? No? Thank you.

Mr. Rockwell: Thank you.

Chair Ako: Okay, I guess with that we have our recommendation from the department to approve. I can entertain a motion for that, Commissioner.

Mr. DeGracia: Motion to approve, Final Subdivision Map Approval for Application No. S-2018-12.

Chair Ako: I'll second. No other question. Mr. Clerk?

Mr. Hull: Roll call, Mr. Chair. Motion to approve. Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 2:0.

Mr. Hull: Lastly, we have Agenda Item, G.3.

Recertification of Final Subdivision Map

Subdivision Application No. S-99-49

(AOAO of Kūlana)

Kūlana Subdivision

23-lot Subdivision

TMK: (4) 4-3-011:001

Kapa'a & Waipouli, Kawaihau, Kaua'i

Mr. Hull: We'll get into Director's report pertaining to this matter but concerning those who have signed up to testify, we have, Roslyn Cummings.

Ms. Cummings: (speaking Hawaiian). Again, I coming in here as not just a cultural practitioner, as a wahine maoli, as a mother, as someone who have (inaudible) that's been here since (inaudible). I'm very concerned about the modern-day concerns like traffic, water usage, evacuation. I know this has been going on for a long time, but Kulana is a cultural area, there are burials around in that area, so I really need you guys to go through your reports, cause I've seen a lot of your reports and it seems like you guys are going past the public's interest. Numbers are not adding up, what you guys have, while I'm reviewing it. And you guys cannot be prolonging cause this is a (inaudible) public service, public interest versus private interest and it seems like private is winning the public interest. So, thank you for your time.

Mr. Hull: Thank you for your testimony. We have, Mr. Trask and Mr. Bosshard signed up but (inaudible). Is there anyone else in person that would like to testify on this agenda item that did not sign up and would testify? If so, please approach the microphone.

Ms. Shawn Villatora: Aloha, on the record, Shawn Nicole Nakai`elua Villatora. Aloha kakou, I'm a wahine maoli, kānaka maoli here on Kaua`i nei. My concerns I that I wanted to bring up as a kānaka maoli is that there is quite a lot of significance historically and also the cultural practices that go on in that ahupua`a, which is up Kapa`a, cause I'm not gonna call it by its subdivision name. And the one thing that I want the Commissioners to understand is that, even though there might not be more people present here to speak in opposition and give their concerns, there is still lots of people and what the people, that I feel like I'm speaking for, is the next generation, my children, children that have not been born yet, our grandchildren because of that, I have witnessed in that certain location during the time of flooding, the drainage part of that property, is dangerous, and it also affects lots of things that grow makai of that property. There is that huge issue of understanding the water usage because, I feel like the amount of water that is being pushed through that property is not the original amount of water that should be. As being raised in that particular ahupua`a of Kapa`a and more specifically in Kapahi, I've seen a lot of things that happen in development (inaudible) private entities that are wanting to be built in that area and I understand that everybody sees this as progress, but it will indefinitely affect the connection that we have as kānaka maoli to be able to practice in that area, so, that is my mana`o. Mahalo nui.

Mr. Hull: Thank you for your testimony. Is there anyone else present in person that would like to testify on this agenda item? Seeing none. If you're attending virtually and would like to testify on this agenda item, again this is Subdivision Application No. S-99-49. If you would like to testify on this agenda item, please indicate so by raising your virtual hand.

Ms. Higuchi Sayegusa: At this point there are no virtual attendees with their hands raised.

Mr. Hull: Thank you. With that, I'll turn it over to the Staff Planner.

Mr. Estes: I'll read the Directors Report for the record.

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

Mr. Hull: Any questions you folks have for myself or Staff?

Mr. DeGracia: No questions.

Chair Ako: No, I have none. So, with that, does the applicant have anything to add? If not, I think we're...unless you have a question for the applicant on this. Do we have any further discussions?

Mr. Hull: I'll just add that there was some testimony up that I think (inaudible) the County (inaudible) concerning water usage, (inaudible) drainage and what have you. So, this is a Final Subdivision that's been going through tentative approval, in fact the S-99 denotes when (inaudible) so, the process was roughly 22 years of review and (inaudible) so, there's certain things like, water usage and drainage, to a certain degree the Water Department does review these (inaudible) public usage of water and access to water. And then the drainage has been brought up a number of times, quite honestly but this is not the extensive flood and engineering review by the Public Works Department. So, all of the reviews are done, and just for the public too, the subdivision process is a bit different than the permit process that is done at the Planning Commission level, in fact, Kaua'i is the only island in which a public hearing is held for subdivisions, I'm not saying it's a bad thing or it's a good thing, it's just, it is what it is. But technically (inaudible) subdivision is what you would call, within a (inaudible), a ministerial review, and that is held legally in the same manner, let's say, a single-family dwelling on a regular residential zoned lot is, when the Planning Department gets that request, is an insofar as an applicant can meet those requirements that say, set back in height for a single family dwelling on a residential lot. The Planning Department is required by law to approve it. That is the property rights that the property owner enjoys, and I think there's definitely a balance between public rights and private rights. But that's what's when you're referring to ministerial review that's the way it's set up. It was very strange in which the subdivision process was set up for Kaua'i, in that public hearings are held for subdivision for public comments to be given indeed but at the same time it's a ministerial review insofar as, where you see a use permit with the Planning Commission, that Commissioners will act in their discretion on whether or not that use permit proposal is compatible with the surrounding area. That is not the situation with subdivision, so in a subdivision much, as much as it has on public hearing component, there is still a ministerial review, in which insofar as the applicant meets all the standards, the County is required to sign off on these, so, I know that there are some members of the public here that have an expectation an albeit of frustration with providing testimony and it appearing that it's falling on deaf ears and I wanna say that, not at all indeed. But the process and the way it's set up, is once these, all these standards and agency requirements have been met, there pretty much isn't a requirement that approval be granted, so that's why there's a reservation about this. Do you guys have any questions about that? Thank you.

Chair Ako: Thank you, Mr. Clerk. With that, we can entertain a motion.

Mr. DeGracia: Motion to approve recertification of Final Subdivision Map Application No. S-99-49.

Chair Ako: I'll second that. With that, Mr. Clerk.

Mr. Hull: With that, roll call. Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes. 2:0.

Mr. Hull: With that, we have no further agenda items. And we are set for adjournment.

Ms. Barzilai: Mr. Clerk, I apologize, Ms. Sayegusa indicated that there are two hands raised, I'm not sure when that was. I know that we're past our items right now but perhaps we should allow testimony.

Mr. Hull: It's at your discretion, Mr. Chair.

Chair Ako: I guess, I'll...yeah...

Mr. Hull: (inaudible).

Chair Ako: (inaudible).

Ms. Barzilai: I recommend that we take it in any case.

Chair Ako: Okay, we'll go ahead and entertain.

Ms. Higuchi Sayegusa: At this point, we are completed with the agenda items under G. New Business. But there are two attendees with their virtual hands raised, so I'm gonna first recognize, Alfred Keaka Hiona Medeiros. I will enable your virtual, you video and audio to be enabled on your end. Please accept. When you're ready please identify yourself and you have three minutes.

Mr. Medeiros: Aloha mai kakou, Alfred Keaka Hiona Medeiros. My concerns about the Coco Palms development. Please don't...

Ms. Higuchi Sayegusa: Sir, we're on the Subdivision, we'll be on the main committee Commission meeting very shortly.

Mr. Medeiros: Okay, so should I wait for that? I'll defer till then.

Ms. Higuchi Sayegusa: Okay, thank you very much.

Mr. Medeiros: Okay. Mahalo. Thank you so much.

Ms. Higuchi Sayegusa: The other person with their virtual hand raised is Tara Rojas. I'm gonna allow you to enable your video and audio on your end, again, we are about to adjourn the Subdivision Committee Meeting and we will begin with the main Committee Meeting immediately after. When you're ready, you can unmute yourself and have your three minutes.

Ms. Rojas: Okay, (inaudible) that...

Ms. Higuchi Sayegusa: I'm sorry, you cut out a little bit

Ms. Rojas: Yeah, I will also defer and I'm waiting to testify regarding Coco Palms.

Ms. Higuchi Sayegusa: Okay, thank you very much. And with that, there are no other persons at this point with their virtual hands raised.

Ms. Barzilai: Thank you, Mr. Chair.

Chair Ako: With that, we'll entertain a motion for adjournment.

Mr. DeGracia: Motion to adjourn.

Chair Ako: I'll second that. All those in favor? Aye (Unanimous voice vote). 2:0.

Subdivision Committee Chair Ako: adjourned the meeting at 9:15 a.m.

Respectfully submitted by:

Lisa Oyama,
Commission Support Clerk

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

() Approved as amended. See minutes of _____ meeting.

KAUA'I PLANNING COMMISSION
SUBDIVISION SESSION
Tuesday, October 25, 2022
Draft

The Subdivision meeting of the Planning Commission of the County of Kaua'i was called to order by Commissioner Gerald Ako at 8:30 a.m. Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

Mr. Gerald Ako
Mr. Francis DeGracia

The following staff members were present: Planning Department: Deputy Director Jodi Higuchi Sayegusa, Dale Cua, Kenneth Estes, Shelea Koga, Myles Hironaka, and Planning Commission Secretary Shanlee Jimenez; Office of the County Attorney – Deputy County Attorney Laura Barzilai; Office of Boards and Commissions – Support Clerk Lisa Oyama

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

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

ROLL CALL

Chair Ako: Good Morning. Today is Tuesday October 25, 2022. It's about 8:30 a.m., and I'd like to call to order the meeting of the Subdivision Committee of the Planning Commission. With that, I call to order. Madam Clerk?

Deputy Planning Director Jodi Higuchi Sayegusa: Commissioner DeGracia?

Commissioner DeGracia: Here.

Ms. Higuchi Sayegusa: Commissioner Ako?

Chair Ako: Here.

Ms. Higuchi Sayegusa: You do have a quorum for Subdivision.

Chair Ako: As we move on to Item C.

APPROVAL OF AGENDA

Chair Ako: Do we have any recommendations for any amendments? If not, we can entertain a motion to approve.

Mr. DeGracia: Motion to approve the agenda.

Chair Ako: Second. If there's no other concerns. All those in favor say, aye? Aye. (Unanimous voice vote). Madam Clerk, I believe we have two ayes. Motion passes, 2:0.

D.2.
Jan. 23, 2023

Ms. Higuchi Sayegusa: Thank you.

Chair Ako: Go to Item D.

MINUTES of the meetings(s) of the Subdivision Committee

Chair Ako: Of the Subdivision Committee meeting of August 23, 2022.

Mr. DeGracia: Motion to approve the minutes of August 23, 2022.

Chair Ako: Second. Seeing no other questions or concerns. All those in favor say aye. Aye. (Unanimous voice vote). Motion carried 2:0. Madam Clerk, we have two ayes.

Ms. Higuchi Sayegusa: Got it.

RECEIPT OF ITEMS FOR THE RECORD - None

Ms. Higuchi Sayegusa: No other items to transmit at this time.

UNFINISHED BUSINESS – None

Ms. Higuchi Sayegusa: Onto Item G.

NEW BUSINESS (For Action)

Final Subdivision Map Approval

Subdivision Application No. S-2021-2

(Tower Kaua'i Lagoons 9C, LLC. / Tower Kaua'i Lagoons 9D, LLC.)

Proposed 2-lot Consolidation

TMK: (4) 3-5-001:218, 219

Kalapaki, Lihu'e, Kaua'i

Ms. Higuchi Sayegusa: Before we get into and recognize the planner, wanted to see if there's any public testifiers in the audience. I don't see anybody other than the representative themselves. I'm going to turn it over, just to see if there's any public testifiers joining the meeting by Zoom, who wish to testify, and their hand raised to testify. Shelea, are you back there?

Staff Planner Shelea Koga: No one with their virtual hand raised at this time.

Ms. Higuchi Sayegusa: Thank you very much. Just to clarify also, we're going to go through the Subdivision items at this point we do not anticipate there being a quorum for the regular Planning Commission, but we do have a quorum for the Subdivision Committee, so any approvals will most likely be continued to the next agenda, for the full Planning Commission to consider any recommendations.

Staff Planner Kenny Estes: I'll summarize the subdivision for the record.

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

Mr. Estes: Chair, we've received final recommendations from the Department of Public Works Engineering Division, the County Department of Water, and the State Department of Health. The Planning Department is recommending final subdivision approval.

Chair Ako: With that, Commissioner DeGracia, do you have any questions for the staff?

Mr. DeGracia: No questions for the department.

Chair Ako: Do we have a representative from the applicant that would like to add anything more?

Ms. Rebecca Candilasa: Good morning, Commissioners.

Chair Ako: Morning.

Ms. Candilasa: My name is, Rebecca Candilasa, from Wilson Okamoto Corporation, I'm here as the authorized agent, we're the preparer of the submittal. With me, of course is Mr. Gary Siracusa, here as a representative of the applicant. This is a final subdivision approval, again for the consolidation of 2-lots. This is just a boundary amendment for a development that was approved under previous permit approvals, and right now we're just looking for, just approval.

Mr. Gary Siracusa: And we're here to answer any questions that you may have.

Ms. Candilasa: Yes. Thank you.

Mr. DeGracia: I have no questions for the applicant.

Chair Ako: Okay. I have no questions too.

Mr. Siracusa: Thank you very much.

Mr. Ako: Does the staff have a recommendation?

Mr. Estes: The department is recommending final approval.

Chair Ako: Okay, with that, I'd be willing to entertain a motion.

Mr. DeGracia: Motion to approve Final Subdivision Map Approval for Subdivision Application No. S-2021-2.

Chair Ako: Second. Any other questions, concerns?

Mr. DeGracia: None.

Chair Ako: If not, Madam Clerk, can we have a roll call vote please?

Ms. Higuchi Sayegusa: Sure. Commissioner DeGracia?

Mr. DeGracia: Aye.

Ms. Higuchi Sayegusa: Commissioner Ako?

Chair Ako: Aye.

Ms. Higuchi Sayegusa: Motion passes. 2:0. We're on G.1.b.

Subdivision Application No. S-2021-4

(Tower Kaua'i Lagoons 8, LLC.)

Proposed 2-lot Subdivision

TMK: (4) 3-5-001:171

Kalapaki, Lihu'e, Kaua'i

Mr. Estes: I'll summarize the subdivision for the record.

Ms. Higuchi Sayegusa: Sorry Kenny, I just want to make sure there's no other public testifiers that may have joined online. There's no public testifiers in the room to physically testify. Shelea, is there anybody who joined with their hands raised at this point, wanting to testify on this agenda item?

Ms. Koga: No one with their virtual hand raised at this time.

Ms. Higuchi Sayegusa: Okay. Thank you. Sorry. Take it away Kenny.

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

Mr. Estes: Chair, we have received final recommendations from the County Department of Public Works Engineering Division, the County Department of Water, and the State Department of Health. The Planning Department is recommending final subdivision approval.

Chair Ako: Commissioner DeGracia, any questions for staff?

Mr. DeGracia: No, no questions.

Chair Ako: Anything you'd like to add?

Mr. Siracusa: Once again, we're here to answer any questions that you may have.

Mr. DeGracia: I have none.

Chair Ako: Okay, and we have a staff recommendation.

Mr. Estes: The department is recommending final approval.

Chair Ako: Sorry. I'd be willing to entertain a motion.

Mr. DeGracia: Motion to approve Final Subdivision Map Approval for Subdivision Application No. S-2021-4.

Chair Ako: Second. Any other questions, concerns?

Mr. DeGracia: None.

Chair Ako: If not, Madam Clerk, can we have a roll call please?

Ms. Higuchi Sayegusa: Sure. Commissioner DeGracia?

Mr. DeGracia: Aye.

Ms. Higuchi Sayegusa: Commissioner Ako?

Chair Ako: Aye.

Ms. Higuchi Sayegusa: Motion passes. 2:0. Thank you.

Ms. Candilasa: Thank you.

Mr. Siracusa: Thank you very much. Aloha.

EXECUTIVE SESSION

Ms. Higuchi Sayegusa: Okay. H. Don't anticipate the need for executive session. Item I.

ADJOURNMENT

Mr. DeGracia: Motion to adjourn.

Chair Ako: Second. All those in favor say aye? Aye. (Unanimous voice vote). Motion passes. 2:0.

Chair Ako adjourned meeting at 8:40 a.m.

Respectfully submitted by:

Lisa Oyama
Lisa Oyama,
Commission Support Clerk

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

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

SUBDIVISION REPORT

I. SUMMARY

Action Required by Planning Commission: Consideration of Subdivision Application No. HS-2023-2 that involves a One Hundred Thirty-Six (136) lot subdivision.

Subdivision Permit No. Application No. HS-2023-2

Name of Applicant(s) STATE OF HAWAII, DEPARTMENT OF HAWAIIAN HOME LANDS (DHHL)

II. PROJECT INFORMATION

Map Title	DHHL Hanapēpē, Phase 2 Subdivision- Consolidation of Lots 1 thru 48 (File Plan 2223), Lots 2-A and 2-B and Resubdivision into Lots 1A to 47A, Inclusive, Lots 1 to 87, Inclusive, Lot 2-B-1 and Lot 2-A-1 at Hanapēpē, Waimea, Kaua'i, Hawai'i.				
Tax Map Key(s):	1-8-007:003, 018 and 021 1-8-017:001 to 020 1-8-18:001 to 027	Area:	364.110 acres		
Zoning:	Agriculture District (Ag) / Open District (O) / Residential (R-6)				
State Land Use District(s):	Urban / Agricultural	General Plan Designation:	Residential Community / Agricultural		
AGENCY COMMENTS					
<input checked="" type="checkbox"/> COK Public Works	12.02.2022	<input type="checkbox"/> State DOT-Highways:			
<input checked="" type="checkbox"/> COK Water:	12.28.2022	<input checked="" type="checkbox"/> State Health:	11.09.2022		
<input checked="" type="checkbox"/> Other(s) COK Fire	11.07.2022	<input checked="" type="checkbox"/> DLNR – SHPD:	pending		
EXISTING ROAD RIGHT-OF-WAY(S)					
Road Name	Existing Width	Required Width	Pavement YES	NO	Reserve
Moi Road	60	60	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Ahi Road	40	44	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Alii Road	40	44	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
APPLICABLE FEES					
Environmental Impact Assessment (EIA)	Exempt				
Park Dedication	Exempt				
Appraisal Report Required	N/A				

G.1.a.1.

Jan. 23, 2023

III. EVALUATION

Project Description

The proposed development establishes one hundred twenty-nine (129) residential lots, five (5) roadway lots and two (2) remnant lots for a total of one hundred thirty-six (136) lots. Proposed Lots 1A to 47A were previously reviewed through Subdivision No. HS-97-25 (Hanapēpē Residential Lots, Unit 1) that received Certificate of Completions for subdivision improvements from the County Department of Water on February 23, 1998, and the County Department of Public Works on October 20, 1998. These lots have been developed with single-family residences and the proposed subdivision layout adjusts the rear boundary of these lots increasing their lot size. Proposed Lots 1 to 87 will be newly created lots through this subdivision application and is considered phase 2 of the DHHL Hanapēpē Homestead Community Project.

As represented, Hanapēpē is envisioned to be DHHL's largest residential and agricultural community on the West side of Kaua'i and at full build-out, the homestead community will include up to 449 residential homestead lots. The Hanapēpē Homestead Community Project seeks to provide DHHL waitlist beneficiaries with residential and subsistence agriculture homesteading opportunities.

It should be noted that the Department of Hawaiian Home Lands (DHHL) is exempt from any State and County Land Use Regulations. However, the Applicant has indicated that the proposed subdivision will utilize the existing water and sewer infrastructure along Moi Road and it is their intentions to dedicate the proposed roadway lots to the County. Therefore, in considering the proposal, the infrastructure improvements associated with this subdivision should be constructed to meet County standards since the County will eventually be maintaining these improvements.

Zoning and Surroundings

The proposed development is almost entirely located within the County Agriculture (Ag) zoning district except for proposed Lots 44A to 47A which are located within the Residential (R-6) zoning district. The proposed subdivision is located within the State Land Use Agricultural and Urban Districts.

Immediately adjacent and to the East of the proposed development is the Cliffside at Hanapēpē Subdivision and the Hanapepe Heights House Lots Subdivision. These projects are County zoned Residential District (R-4), Residential District (R-6) and Special Treatment Public (ST-P) District, and within the State Land Use Urban District. The surrounding lands to the North, South and West are located within the County Agriculture (Ag) zoning district and within the State Land Use Agricultural District.

Exemptions from CZO Regulations

In evaluating the proposal, the subject development will be exempted from the following standards outlined in the County of Kaua'i Comprehensive Zoning Ordinance (CZO), Kaua'i County Code (K.C.C.), 1987, as amended:

1. Section 8-4.4(3) relating to the lot length to width ratio requirement for parcels located within the County Residential (R-6) zoning district.
2. Section 8-8.3(b)(2) relating to the minimum lot acreage requirement for parcels larger than three hundred (300) acres that are located within the County Agriculture (Ag) zoning district.
3. Section 8-8.3(c) relating to the one-time subdivision limitation requirement for parcels located within the County Agriculture (Ag) zoning district.
4. Section 8-8.3(e)(1) relating to the minimum lot width requirement for parcels located within the County Agriculture (Ag) zoning district.

As previously mentioned, the Department of Hawaiian Home Lands is exempt from County standards; therefore, it is exempt from any lot size requirements or limitations on resubdivision of County Agriculture zoned lands. However, the infrastructure relating to the subdivision shall be in compliance with all applicable County infrastructure standards.

Native Hawaiian Traditional and Cultural Rights

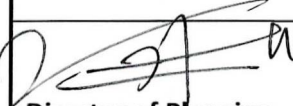
A Cultural Impact Assessment (CIA) was conducted by Nohopapa Hawai'i, dated December 2019, to identify cultural resources within the Project area. Nohopapa Hawai'i contacted six (6) individuals with knowledge of the Project area in which three individuals participated in ethnographic interviews, one provided discussions off the record and the fifth declined to participate. All community members interviewed commented on the lack of archival history about Hanapēpē, in both Hawaiian and English, citing that little remains of the mo'olelo, 'oli, mele, hula, and place names of Hanapēpē from historic times.

Based on the information contained in the CIA and evaluating the historical information that was available to the department, the department finds that the proposed development at its designated location should have no impact on any known Hawaiian traditional or customary practices for the following reasons:

- There are no known traditional or customary practices of Native Hawaiians that are presently occurring at the project site.
- There are no known special gathering practices taking place at the project site or within the vicinity of the project site.
- The Project should not detrimentally inhibit access to any streams; access to the shoreline or other adjacent shoreline areas; gathering along any streams, the shoreline or in the ocean.
- There are no known religious practices taking place within the project site.
- There are no known burials within the Project Area.
- There are no known pre-contact cultural or historic sites or resources located within the Project area.

Any unforeseen impacts to traditional and customary native Hawaiian rights, practices, and resources in the project area should be mitigated if found.

IV. RECOMMENDATION

TENTATIVE APPROVAL	FINAL APPROVAL
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denied	<input 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	1/13/2023 Date
	Director of Planning
	Date

V. AGENCY REQUIREMENTS

1. Requirements of the Planning Department:

- a. 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.
- b. 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.
- c. The infrastructure improvements should be constructed to meet County standards since the County will eventually be maintaining these improvements. As such, that Applicant should 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.
- d. The subdivider shall establish bus stops and shelters pursuant to Ordinance No. 406. The construction details and its location shall be resolved with the Planning Department and Department of Public Works prior to construction plan approval.
- e. 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.

In addition, pursuant to Section 9-2.3 (g)(3)(D) of the Subdivision Ordinance, Kaua'i County Code (1987), streets that are a continuation of an existing street shall be given the same name as the existing street.

- 1) Proposed Roadway Lot 83 will be a continuation of Ahi Road and shall bear the same name as Ahi Road.
 - 2) Proposed Roadway Lots 86 and 87 will be a continuation of Ali'i Road and shall bear the same name as Ali'i Road.
- f. The Applicant has indicated that the roadway lots within the subdivision will be dedicated to the County. As such, the Dedication Deeds shall be prepared by the Applicant and shall be ready for execution prior to final approval.
- g. The Applicant is made aware that if there are any unforeseen impacts to traditional and customary native Hawaiian rights, practices, and resources in the project area, these concerns shall be mitigated prior to final subdivision map approval.

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

- a. The parcel represented by TMK 1-8-013:047 is the extension of the Ahi Road right-of-way connecting Moi Road to the parcels being subdivided by this proposed subdivision. Assuming this road is intended to be used for accessing the new streets to be built within the subdivision and the State of Hawai'i wants to ensure County maintenance if this extension of Ahi Road, the applicant must work with the Hawai'i Housing Finance & Development Corporation to ensure that this parcel is dedicated to the County of Kaua'i as a County Street or turned over to DHHL (DHHL streets are required to be maintained by the County).

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

- a. Prepare and receive DOW's approval of a Water Master Plan for the full development of the area.
- b. Pay the Department of Water the following charges in effect at the time of receipt. At the present time, these charges include:
 - 1) A Facilities Reserve Charge (FRC) of eighty-seven (87) lots at \$14,115 per lot.
- c. Prepare and receive DOW's approval of construction drawings for the necessary water system facilities and either construct the said facilities or post a performance bond for construction. These facilities shall also include:

- 1) All facilities required in the approved water master plan for the proposed project.
 - 2) Receive a "Certificate of Completion" notice for the construction of the necessary water system facilities from DOW.
- d. 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 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.

- f. State of Hawaii - DHHL will be required to:
- 1) Submit a Water Demand and System Capacity Tracking Matrix.
 - 2) 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 Water Demand and System Capacity Tracking Matrix.
 - 3) Identify the proposed subdivision lots that will not be assigned water service. DOW comments may change depending on the approved subdivision map.

4. Requirements of the County Fire Department (KFD):

- a. The project shall adhere to Fire Department access and water supply standards.

5. Requirements of the Department of Health (DOH):

General summary comments have been included for your convenience. However, these comments are not all-inclusive and do not substitute for review of and compliance with all applicable standard comments for the various DOH individual programs.

Clean Air Branch

1. All project activities shall comply with the Hawaii Administrative Rules (HAR),

Chapters 11-59 and 11-60.1.

2. Control of Fugitive Dust: You must reasonably control the generation of all airborne, visible fugitive dust and comply with the fugitive dust provisions of HAR §11-60.1-33. Note that activities that occur near existing residences, businesses, public areas, and major thoroughfares exacerbate potential dust concerns. It is recommended that a dust control management plan be developed which identifies and mitigates all activities that may generate airborne and visible fugitive dust and that buffer zones be established wherever possible.
3. Standard comments for the Clean Air Branch are at:
<https://health.hawaii.gov/epo/landuse/>

Clean Water Branch

1. All project activities shall comply with the HAR, Chapters 11-53, 11-54, and 11-55. The following Clean Water Branch website contains information for agencies and/or project owners who are seeking comments regarding environmental compliance for their projects with HAR, Chapters 11-53, 11-54, and 11-55:
<https://health.hawaii.gov/cwb/clean-water-branch-home-page/cwb-standard-comments/>.

Hazard Evaluation & Emergency Response Office

1. A Phase I Environmental Site Assessment (ESA) and Phase II Site Investigation should be conducted for projects wherever current or former activities on site may have resulted in releases of hazardous substances, including oil or chemicals. Areas of concern include current and former industrial areas, harbors, airports, and formerly and currently zoned agricultural lands used for growing sugar, pineapple or other agricultural products.
2. Standard comments for the Hazard Evaluation & Emergency Response Office are at: <https://health.hawaii.gov/epo/landuse/>.

Indoor and Radiological Health Branch

1. Project activities shall comply with HAR Chapters 11-39, 11-45, 11-46, 11-501, 11-502, 11-503, 11-504.
2. Construction/Demolition Involving Asbestos: If the proposed project includes renovation/demolition activities that may involve asbestos, the applicant should contact the Asbestos and Lead Section of the Branch at
<https://health.hawaii.gov/irhb/asbestos/>.

Safe Drinking Water Branch

1. Agencies and/or project owners are responsible for ensuring environmental compliance for their projects in the areas of: 1) Public Water Systems; 2) Underground Injection Control; and 3) Groundwater and Source Water Protection in accordance with HAR Chapters 11-19, 11-20, 11-21, 11-23, 11-23A, and 11-25. They may be responsible for fulfilling additional requirements related the Safe Drinking Water program: <https://health.hawaii.gov/sdwb/>.
2. Standard comments for the Safe Drinking Water Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

Solid & Hazardous Waste Branch

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters 339D, 342G, 342H and 342I, and HAR Chapters 11-58.1, and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse and recycling are preferred options over disposal. The Office of Solid Waste Management also oversees the electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.
3. Underground Storage Tank Program - The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction.
4. Standard comments for the Solid & Hazardous Waste Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

Wastewater Branch

Standard comments for the Wastewater Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

Sanitation/ Local DOH Comments:

1. Noise may be generated during demolition and/or construction. The applicable maximum permissible sound levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," shall not be exceeded unless a noise permit is obtained from the Department of Health.

2. According to HAR §11-26-35, No person, firm, or corporation shall demolish or clear any structure, place, or vacant lot without first ascertaining the presence or absence of rodents that may endanger public health by dispersal from such premises. Should any such inspection reveal the presence of rodents, the rodents shall be eradicated before demolishing or clearing the structure, site, or vacant lot. A demolition or land clearing permit is required prior to demolition or clearing.

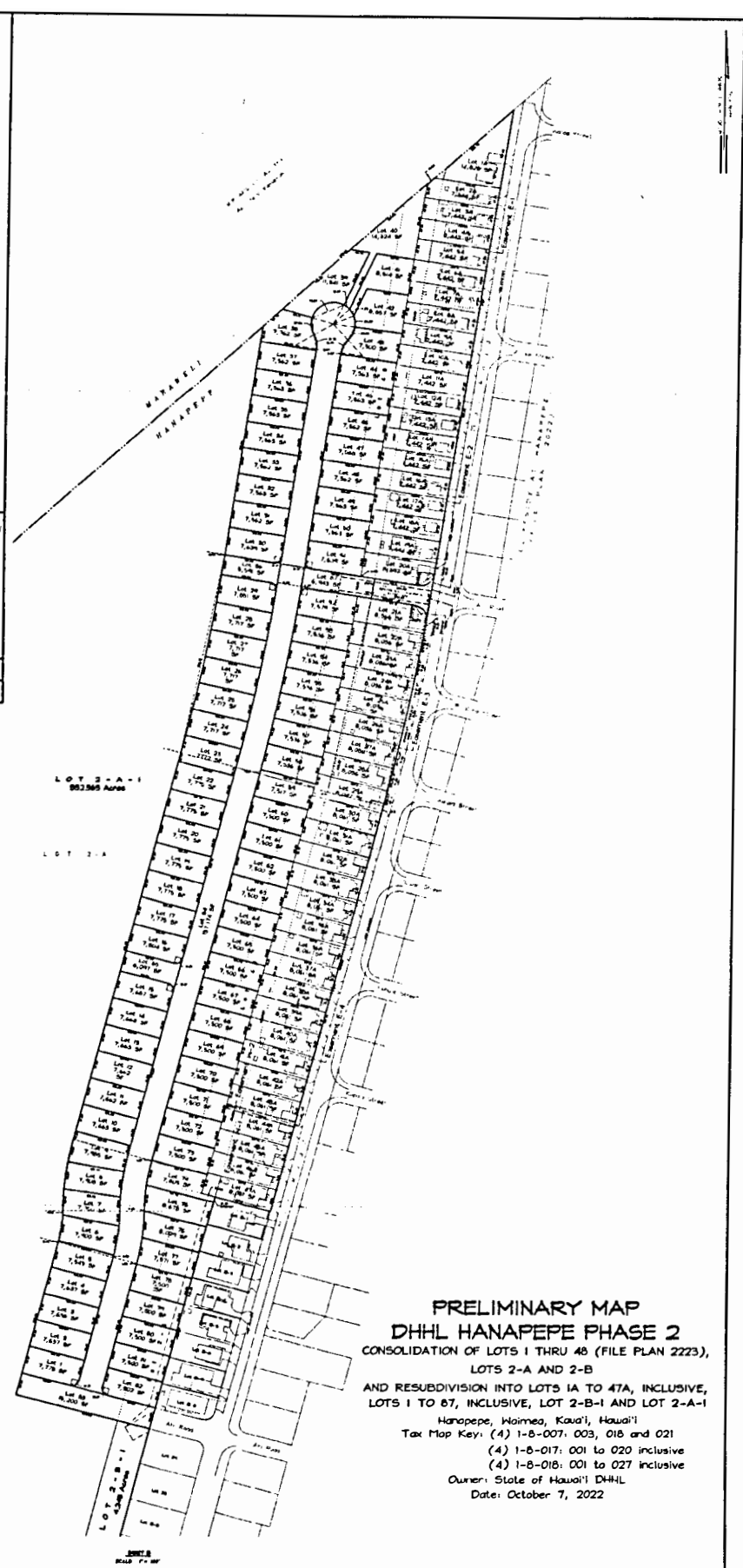
Other

1. CDC-HealthyPlaces-HealthyCommunityDesignChecklistToolkit recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Kauai District Health Office at 808-241-3495.
6. Requirements of the State Historic Preservation Department (SHPD):
 - a. The subdivider shall comply with the requirements of the State Historic Preservation Department, if any, prior to final subdivision approval. The subdivider shall be notified upon receipt of their report.
7. 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 and the Planning Department to determine mitigation measures.
8. 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 JANUARY 24, 2023 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 
KENNETH A. ESTES
Planner



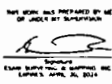
Date: October 7, 2022

Owner: State of Hawai'i DHHHL

Date: October 7, 2022

1810 Hays
12 May 1861

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Signature
ESAB SURVEILLANCE & SUPPORT INC
LIVERMONT, APRIL 26, 2014

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DAVID S. L. 1940 & L. 1941, INC.

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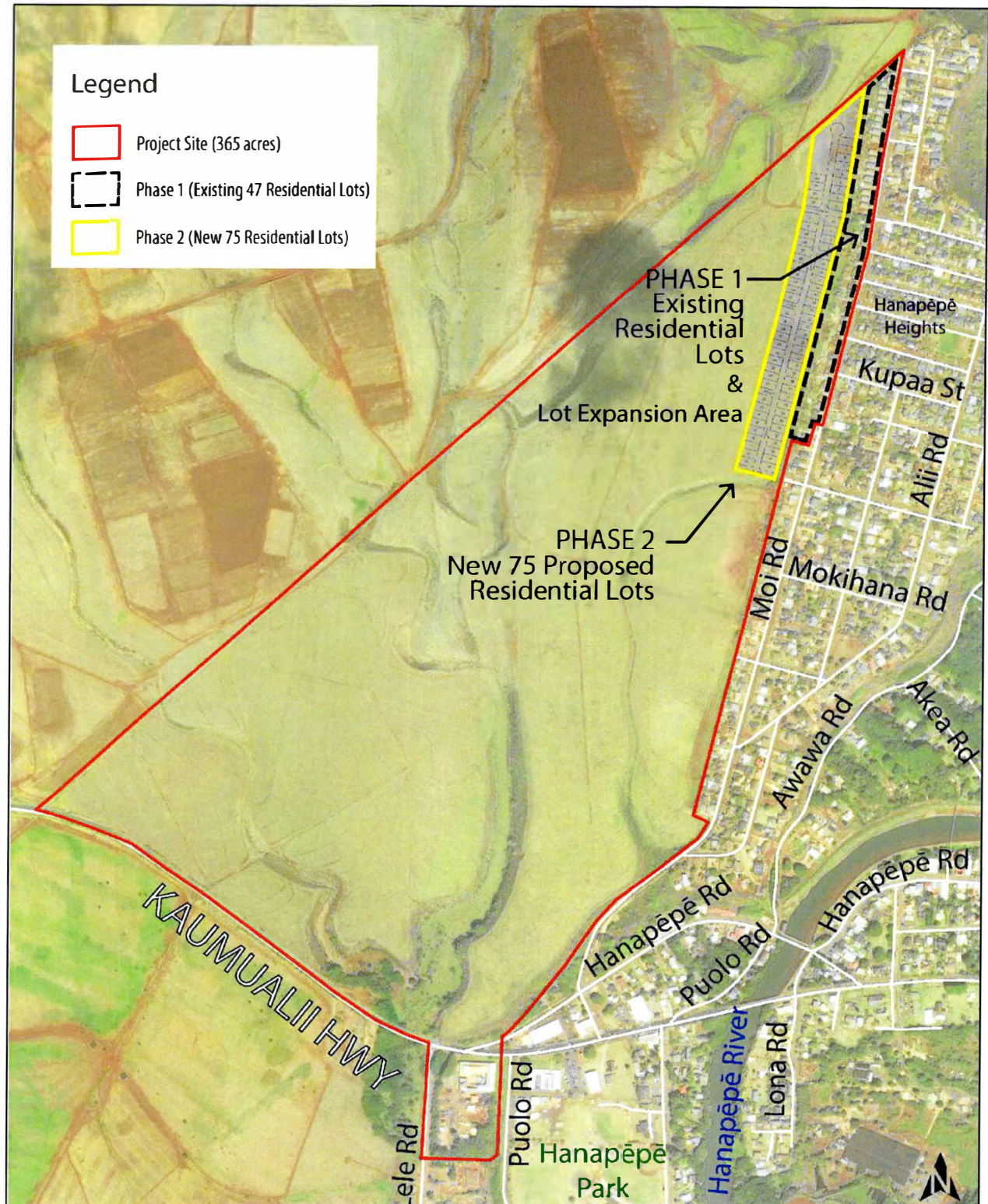
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Figure 4: PHASE 2 RESIDENTIAL SUBDIVISION





County of Kauai
Planning Department
4444 Rice St., Suite A473 Lihue, HI 96766
(808) 241-4050

FROM: Kaaina S. Hull, Director

Planner: Kenneth Estes

11/2/2022

SUBJECT: Subdivision HS-2023-2

Tax Map Key: 1-8-007:003; 1-8-007:007 to 050

Applicant: State of Hawaii - DHHL

State of Hawaii - DHHL

TO:

- | | |
|--|---|
| <input type="checkbox"/> State Department of Transportation - STP | <input checked="" type="checkbox"/> County DPW - Engineering |
| <input type="checkbox"/> State DOT - Highways, Kauai (info only) | <input checked="" type="checkbox"/> County DPW - Wastewater |
| <input type="checkbox"/> State DOT - Airports, Kauai (info only) | <input type="checkbox"/> County DPW - Building |
| <input type="checkbox"/> State DOT - Harbors, Kauai (info only) | <input type="checkbox"/> County DPW - Solid Waste |
| <input checked="" type="checkbox"/> State Department of Health | <input type="checkbox"/> County Department of Parks & Recreation |
| <input type="checkbox"/> State Department of Agriculture | <input checked="" type="checkbox"/> County 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 checked="" type="checkbox"/> County Water Department |
| <input checked="" type="checkbox"/> State Historic Preservation Division | <input type="checkbox"/> County Civil Defense |
| <input type="checkbox"/> State DLNR - Land Management | <input checked="" type="checkbox"/> County Transportation Agency |
| <input type="checkbox"/> State DLNR - Forestry & Wildlife | <input type="checkbox"/> KHPRC |
| <input type="checkbox"/> State DLNR - Aquatic Resources | <input checked="" type="checkbox"/> U.S. Postal Department |
| <input type="checkbox"/> State DLNR - Conservation & Coastal Lands | <input type="checkbox"/> UH Sea Grant |
| <input type="checkbox"/> Office of Hawaiian Affairs | <input checked="" type="checkbox"/> Other: Office of Hawaiian Affairs |

FOR YOUR COMMENTS (pertaining to your department)

We have the following comments for the proposed subdivision map:

1. The parcel represented by TMK 1-8-013-047 is the extension of the Ahi Road right-of-way connecting Moi Road to the parcels being subdivided by this proposed subdivision. Assuming this road is intended to be used for accessing the new streets to be built within the subdivision and the State of Hawai'i wants to ensure County maintenance of this extension of Ahi Road, the applicant must work with the Hawaii Housing Finance & Development Corporation to ensure that this parcel is dedicated to the County of Kaua'i as a County street or turned over to DHHL (DHHL streets are required to be maintained by the County).

Sincerely,

Digitally signed by Michael
Moule
Date: 2022.12.02 15:01:41 -10'00'

Michael Moule, P.E.
Chief, Engineering Division



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

1-8-
007:003, 1-
8-007:007

TMK: to 050 NAME: State of Hawaii - DHHL SURVEYOR: 4383 REPORT NO: HS-2023-2

1. Domestic water is adequate. Tentative approval is recommended. ☒
2. Prepare and Receive DOW's approval of a Water Master Plan for the full development of the area. ☒
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):
87 Lots @ \$14,115 per lot = \$ *See Items 5b ☒
 - 2) Payment to install _____, or relocate _____, service connections(s) at the fixed cost of \$ _____. If the subdivider causes a delay in the service connection installation after one year since final map approval, the subdivider shall be charged the increase in the fixed cost, if any. ☐
 - 3) 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 water master plan for the proposed project.
 - 2) Receive a "Certification of Completion" notice for the construction of the necessary water system facilities from DOW ☒
 - D. 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): ☒

State of Hawaii - DHHL will be required to:

 - A. Submit a 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 Water Demand and System Capacity Tracking Matrix.
 - C. Identify the proposed subdivision lots that will not be assigned water service. DOW comments may change depending on the approved subdivision map.

Jason Kagimoto
Jason Kagimoto, P.E.
Water Resources & Planning

12/28/22
Date

SUBDIVISION REPORT NO. HS-2023-2



County of Kauai
Planning Department
4444 Rice St., Suite A473 Lihue, HI 96766
(808) 241-4050

RECEIVED

FROM: Kaaina S. Hull, Director

Planner: Kenneth Estes

11/2/2022

SUBJECT: Subdivision HS-2023-2

Tax Map Key: 1-8-007:003; 1-8-007:007 to 050

Applicant: State of Hawaii - DHHL

State of Hawaii - DHHL

NOV - 4 2022

ENVIRONMENTAL HEALTH SERVICES

KAUAI

TO:

- ☐ State Department of Transportation - STP
☐ State DOT - Highways, Kauai (info only)
☐ State DOT - Airports, Kauai (info only)
☐ State DOT - Harbors, Kauai (info only)
☒ State Department of Health
☐ State Department of Agriculture
☐ State Office of Planning
☐ State Dept. of Bus. & Econ. Dev. Tourism
☐ State Land Use Commission
☒ State Historic Preservation Division
☐ State DLNR - Land Management
☐ State DLNR - Forestry & Wildlife
☐ State DLNR - Aquatic Resources
☐ State DLNR - Conservation & Coastal Lands
☐ Office of Hawaiian Affairs

- ☒ County DPW - Engineering
☒ County DPW - Wastewater
☐ County DPW - Building
☐ County DPW - Solid Waste
☐ County Department of Parks & Recreation
☒ County Fire Department
☒ County Housing Agency
☐ County Economic Development
☒ County Water Department
☐ County Civil Defense
☒ County Transportation Agency
☐ KHPRC
☒ U.S. Postal Department
☐ UH Sea Grant
☒ Other: Office of Hawaiian Affairs

FOR YOUR COMMENTS (pertaining to your department) (Due Date 11/2/2022)



STATE OF HAWAII
DEPARTMENT OF HEALTH
3040 Umi St. Lihue
Hawaii 96766

DATE: November 9, 2022

TO: Kaaina S. Hull, Director

FROM: Janet M. Berreman, M.D., M.P.H.,
District Health Officer (Acting for District Environmental Health Program
Chief)

SUBJECT: State of Hawaii – DHHL_HS-2023-2

In most cases, the District Health Office will no longer provide individual comments to agencies or project owners to expedite the land use review and process.

Agencies, project owners, and their agents should apply Department of Health "Standard Comments" regarding land use to their standard project comments in their submittal. Standard comments can be found on the Land Use Planning Review section of the Department of Health website: <https://health.hawaii.gov/epo/landuse/>. Contact information for each Branch/Office is available on that website.

Note: Agencies and project owners are responsible for adhering to all applicable standard comments and obtaining proper and necessary permits before the commencement of any work.

General summary comments have been included for your convenience. However, these comments are not all-inclusive and do not substitute for review of and compliance with all applicable standard comments for the various DOH individual programs.

Clean Air Branch

1. All project activities shall comply with the Hawaii Administrative Rules (HAR), Chapters 11-59 and 11-60.1.
2. Control of Fugitive Dust: You must reasonably control the generation of all airborne, visible fugitive dust and comply with the fugitive dust provisions of HAR §11-60.1-33. Note that activities that occur near existing residences, businesses, public areas, and major thoroughfares exacerbate potential dust concerns. It is recommended that a dust control management plan be developed which identifies and mitigates all activities that may generate airborne and visible fugitive dust and that buffer zones be established wherever possible.

3. Standard comments for the Clean Air Branch are at:
<https://health.hawaii.gov/epo/landuse/>

Clean Water Branch

1. All project activities shall comply with the HAR, Chapters 11-53, 11-54, and 11-55. The following Clean Water Branch website contains information for agencies and/or project owners who are seeking comments regarding environmental compliance for their projects with HAR, Chapters 11-53, 11-54, and 11-55:
<https://health.hawaii.gov/cwb/clean-water-branch-home-page/cwb-standard-comments/>.

Hazard Evaluation & Emergency Response Office

1. A Phase I Environmental Site Assessment (ESA) and Phase II Site Investigation should be conducted for projects wherever current or former activities on site may have resulted in releases of hazardous substances, including oil or chemicals. Areas of concern include current and former industrial areas, harbors, airports, and formerly and currently zoned agricultural lands used for growing sugar, pineapple or other agricultural products.
2. Standard comments for the Hazard Evaluation & Emergency Response Office are at:
<https://health.hawaii.gov/epo/landuse/>.

Indoor and Radiological Health Branch

1. Project activities shall comply with HAR Chapters 11-39, 11-45, 11-46, 11-501, 11-502, 11-503, 11-504.
2. Construction/Demolition Involving Asbestos: If the proposed project includes renovation/demolition activities that may involve asbestos, the applicant should contact the Asbestos and Lead Section of the Branch at
<https://health.hawaii.gov/irhb/asbestos/>.

Safe Drinking Water Branch

1. Agencies and/or project owners are responsible for ensuring environmental compliance for their projects in the areas of: 1) Public Water Systems; 2) Underground Injection Control; and 3) Groundwater and Source Water Protection in accordance with HAR Chapters 11-19, 11-20, 11-21, 11-23, 11-23A, and 11-25. They may be responsible for fulfilling additional requirements related the Safe Drinking Water program:
<https://health.hawaii.gov/sdwb/>.
2. Standard comments for the Safe Drinking Water Branch can be found at:
<https://health.hawaii.gov/epo/landuse/>.

Solid & Hazardous Waste Branch

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters 339D, 342G, 342H and 342I, and HAR Chapters 11-58.1, and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse and recycling are preferred options over disposal. The Office of Solid Waste Management also oversees the electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.
3. Underground Storage Tank Program – The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction.
4. Standard comments for the Solid & Hazardous Waste Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

Wastewater Branch

Standard comments for the Wastewater Branch can be found at:
<https://health.hawaii.gov/epo/landuse/>.

Sanitation / Local DOH Comments:

1. Noise may be generated during demolition and/or construction. The applicable maximum permissible sound levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," shall not be exceeded unless a noise permit is obtained from the Department of Health.
2. According to HAR §11-26-35, No person, firm, or corporation shall demolish or clear any structure, place, or vacant lot without first ascertaining the presence or absence of rodents that may endanger public health by dispersal from such premises. Should any such inspection reveal the presence of rodents, the rodents shall be eradicated before demolishing or clearing the structure, site, or vacant lot. A demolition or land clearing permit is required prior to demolition or clearing.

Other

1. CDC - Healthy Places - Healthy Community Design Checklist Toolkit recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should

there be any questions on this matter, please contact the Department of Health, Kauai District Health Office at 808-241-3495.

Janet Berreman

Janet M. Berreman, MD, MPH, FAAP

Kauai District Health Officer

Office Phone: (808) 241-3614



County of Kauai
Planning Department
4444 Rice St., Suite A473 Lihue, HI 96766
(808) 241-4050

FROM: Kaaina S. Hull, Director

Planner: Kenneth Estes

11/2/2022

SUBJECT: Subdivision HS-2023-2

Tax Map Key: 1-8-007:003; 1-8-007:007 to 050

Applicant: State of Hawaii - DHHL

State of Hawaii - DHHL

TO:

- | | |
|--|---|
| <input type="checkbox"/> State Department of Transportation - STP | <input checked="" type="checkbox"/> County DPW - Engineering |
| <input type="checkbox"/> State DOT - Highways, Kauai (info only) | <input checked="" type="checkbox"/> County DPW - Wastewater |
| <input type="checkbox"/> State DOT - Airports, Kauai (info only) | <input type="checkbox"/> County DPW - Building |
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| <input checked="" type="checkbox"/> State Department of Health | <input type="checkbox"/> County Department of Parks & Recreation |
| <input type="checkbox"/> State Department of Agriculture | <input checked="" type="checkbox"/> County 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 checked="" type="checkbox"/> County Water Department |
| <input checked="" type="checkbox"/> State Historic Preservation Division | <input type="checkbox"/> County Civil Defense |
| <input type="checkbox"/> State DLNR - Land Management | <input checked="" type="checkbox"/> County Transportation Agency |
| <input type="checkbox"/> State DLNR - Forestry & Wildlife | <input type="checkbox"/> KHPRC |
| <input type="checkbox"/> State DLNR - Aquatic Resources | <input checked="" type="checkbox"/> U.S. Postal Department |
| <input type="checkbox"/> State DLNR - Conservation & Coastal Lands | <input type="checkbox"/> UH Sea Grant |
| <input type="checkbox"/> Office of Hawaiian Affairs | <input checked="" type="checkbox"/> Other: Office of Hawaiian Affairs |

FOR YOUR COMMENTS (pertaining to your department) (Due Date 11/2/2022)

Project shall adhere to Fire department access and water supply standards.



County of Kauai
Planning Department
4444 Rice St., Suite A473 Lihue, HI 96766
(808) 241-4050

FROM: Kaaina S. Hull, Director

Planner: Kenneth Estes

COUNTY OF KAUAI 11/2/2022

SUBJECT: Subdivision HS-2023-2

Tax Map Key: 1-8-007:003; 1-8-007:007 to 050

Applicant: State of Hawaii - DHHL

State of Hawaii - DHHL

22 NOV 18 P3:46

PLANNING DEPT.

TO:

- RECEIVED**
NOV - 4 2022
County of Kauai
Transportation Agency
- | | |
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| <input type="checkbox"/> State DLNR - Conservation & Coastal Lands | <input type="checkbox"/> UH Sea Grant |
| <input type="checkbox"/> Office of Hawaiian Affairs | <input checked="" type="checkbox"/> Other: Office of Hawaiian Affairs |

FOR YOUR COMMENTS (pertaining to your department) (Due Date 11/2/2022)

GTA HAS NO FURTHER COMMENT ON THIS PROJECT.

11-16-2022

THANKS!



File Transfer

SSFM International, Inc. | 501 Sumner Street, Suite 620 Honolulu HI 96817 United States

PROJECT DHHL Hanapepe Kauai Homestead Master
Plan
201800021.000

EXPIRES

6/30/2022

SUBJECT DHHL Hanapepe Sub Phase 2: Ka Pa'akai
Assessment & EA

PROJECT
MANAGER Melissa White

VIA Info Exchange

County of Kaua'i
PLANNING DEPT.

22 JUN -3 P1 07

RECEIVED

FROM

NAME	COMPANY	EMAIL	PHONE
Richard Santo	SSFM International, Inc.	rsanto@ssfm.com	808-531-1308

TO

NAME	COMPANY	EMAIL	PHONE
kestes@kauai.gov		kestes@kauai.gov	

REMARKS: Aloha Kenneth

Transmitted for your files via SSFM's Newforma transfer site are the Ka Pa'akai Assessment and the Hanapepe EA.

Should you have any questions, please get back to me. Thanks.

Richard

CHANGE LOG

EVENT TYPE	PROJECT TEAM MEMBER	DATE	TIME
Created	Richard Santo	5/31/2022	12:08 PM
Background upload started	Richard Santo	5/31/2022	12:08 PM

TRANSFERRED FILES

NAME	TYPE	DATE	TIME	SIZE
2020-11-08-KA-FEA-DHHL-Hanapepe-Homestead-Community.pdf	PDF Document	5/31/2022	11:55 AM	132,417 KB
220531 COK Ka Paakai Assessement ssfm.pdf	PDF Document	5/31/2022	11:42 AM	4,080 KB

COPIES:

File Transfer

Stewart Matsunaga
bryan.toda@hawaii.gov
Richard Santo
Corey MATSUOKA
Dennis Esaki

(SOH, DHHL, Dept of Hawaiian Home Lands)
(SSFM International, Inc.)
(SSFM International, Inc.)
(Esaki Surveying & Mapping Inc.)

May 31, 2022

SSFM 2018_021.001

TO: County of Kauai,
Department of Planning
4444 Rice Street, Suite A473
Lihue, Hawaii 96766

Attention: Mr. Kenneth Estes, Planner

SUBJECT: Hanapepe Residential Subdivision, Phase 2
Ka Pa'akai Assessment

This memorandum addresses the Kauai Planning Department Worksheet for the Ka Pa'akai Assessment regarding the subject Hanapepe Residential, Phase 2 subdivision application. The subject subdivision application and the Ka Pa'akai Assessment will be submitted to the Kauai Planning Department.

The link to the Final Environmental Assessment is as follows:

https://files.hawaii.gov/dbedt/erp/Doc_Library/2020-11-08-KA-FEA-DHHL-Hanapepe-Homestead-Community.pdf

1. Identify whether any valued cultural, historical, or natural resources are present within the project area, and identify the extent to which Native Hawaiian TCP rights are exercised.

- a. **A detailed map of the project area:** See the list of Figures 1 to 10 in the Final Environmental Assessment/Finding of No Significant Impact.
- b. **Cultural consultation:** Section 6 – Agencies and Organizations Consulted, Page 91 in the Final Environmental Assessment/Finding of No Significant Impact.
- c. **Summary of community outreach:** Section 5 – Finding and Determination, Page 85 in the Final Environmental Assessment/Finding of No Significant Impact.
- d. **Archaeological Inventory Survey:** Appendix C in the Final Environmental Assessment. Submitted a request for a determination to HICRIS on 4 March 2022 with a follow-up request submittal on 22 April 2022. No response from SHPD.
- e. **Cultural Impact Assessment:** Appendix D – Cultural Impact Assessment in the Final Environmental Assessment/Finding of No Significant Impact.
- f. **Environmental Studies:** Appendix B of the Final EA/FONSI includes the Flora and Fauna Survey by HT Harvey, and Section 2.5 of the Final EA/FONSI summarizes those findings and recommended mitigations.

2. Determine the extent to which the identified resources and rights will be affected or impaired by the proposed project. This will be case-by-case depending on the facts, but consider the following:

May 31, 2022

An archaeological assessment was conducted by DUDEK dated April 2019 to assess the potential impacts of the proposed land use plan per the requirements outlined in HRS Chapter 343. No known archaeological features or deposits within the Project areas were noted during background research of the project area. No archaeological features or deposits were observed during the preliminary site visit; however, the dense and tall vegetation obscures most of the larger land parcels. Ranching and extensive mechanized agricultural activities have taken place on the Mauka Site for over 150 years, and the Makai Site has undergone at least one century of development.

Per the archaeological assessment, full development of the project site may impact archaeological sites and require an Archaeological Inventory Survey in consultation with the State Historic Preservation Division. Particular attention should be given to any sinkholes and caves present on the larger subject property that may contain cultural materials/heritage destroyed or cleared from the rest of the landscape by extensive, sustained ranching and sugar cane cultivation activities. The project designates the gulches as Conservation areas not to be developed, which constitutes a preliminary effort to preserve possible features that may exist in the gulch areas. DHHL will continue to consult with the SHPD to determine what additional historic preservation work might be required, including additional documentation of specific known features.

A Cultural Impact Assessment (CIA) was conducted by Nohopapa Hawai'i, dated December 2019, to identify cultural resources within the project area, potential impacts on those resources as a result of the proposed project, and recommended measures to mitigate impacts. Nohopapa consulted with individuals knowledgeable in the Project area. These individuals participated in community ethnographic interviews, which involved gathering oral histories and interviews with living communities to record historical connections to a place. All community members interviewed commented on the lack of archival history about Hanapēpē, in both Hawaiian and English, citing that little remains of the mo'olelo, 'oli, mele, hula, and place names of Hanapēpē from historical times.

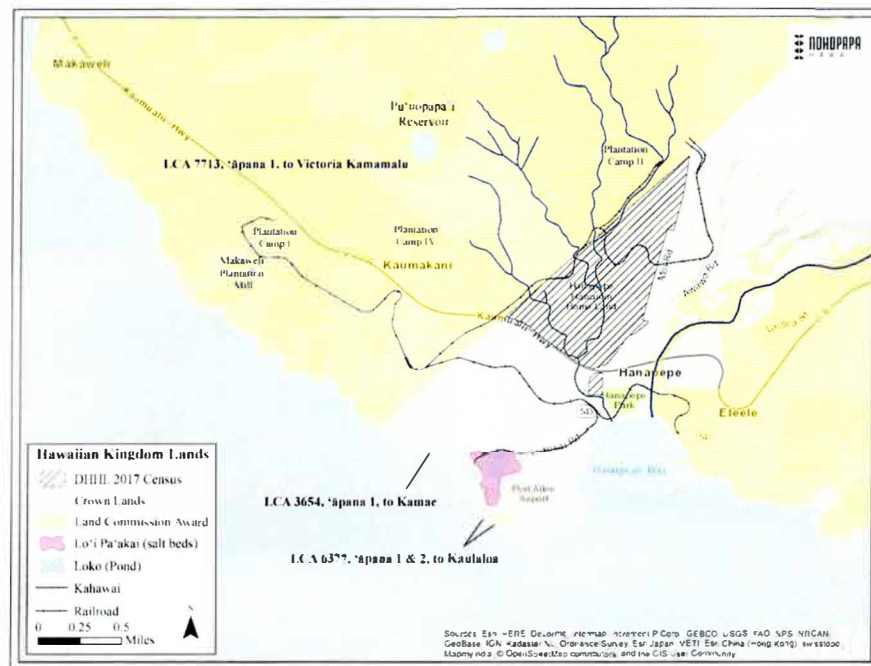
In 2019, there were twenty-two Hanapēpē 'ohana who make salt. Their families have roots in the area and have been passing down mo'olelo of the area and the traditional cultural practice of cultivating lo'i pa'akai. One well-known kūpuna and salt maker, the late Aunty Wilma Holi, shared several mo'olelo of the area, passed down to her through her family, with 'ohana and friends of her time. The interviewees' main concerns about the project were that the process, design, and build-out be thoughtful and that Hawaiian cultural resources be protected and even restored due to the development of a new Hawaiian homestead area.

Access throughout Hanapēpē lands remains an important cultural issue. Interviewees also expressed safety concerns, and worries were expressed over the speed at which vehicles travel on Kaumuali'i Highway along the stretch bordering Hanapēpē Hawaiian Home Lands and the intersection of Kaumuali'i Highway with Lele Road and Hanapēpē Road. A general concern involves limiting access to dunes and the education needed to reduce the adverse effects of compacting the clay substrate beneath the sand due to vehicle access. This compaction can impact the wells used for salt making and prevent native plant species that grow on the dunes

May 31, 2022

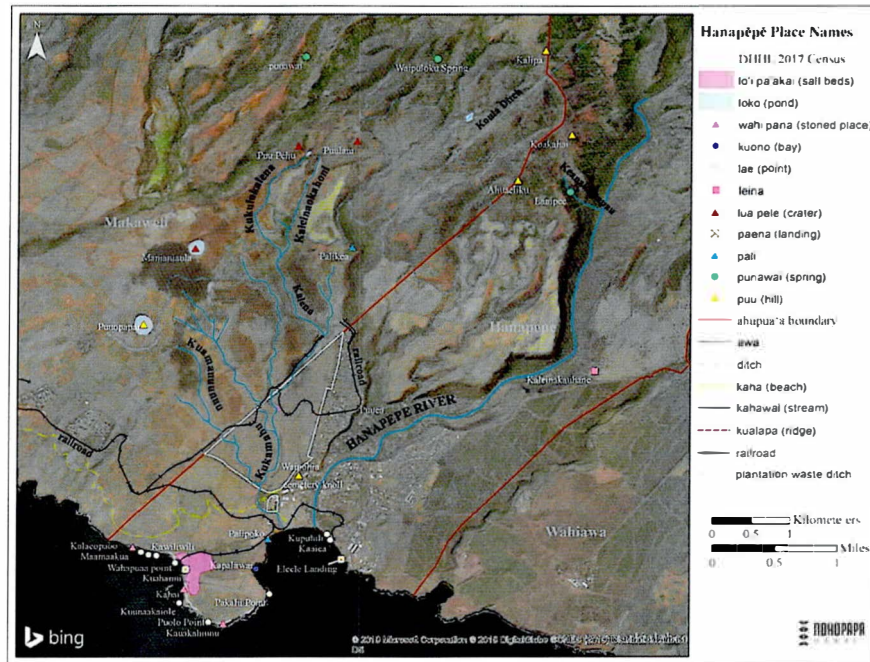
from flourishing. The increasing dune erosion, dust, and debris along the windy shoreline are detrimental to the local ecosystem and salt production.

The salt makers wished to see new homesteaders informed about ways to take care of the makai area and encourage community and visitor support in adhering to protective measures. Creating cultural connections with new homesteaders coming to Hanapēpē is an essential step toward growing a healthier Hawaiian community. Through active engagement and restoration, new Hawaiian Homesteads in Hanapēpē could positively impact cultural resources and grow traditional cultural practices.



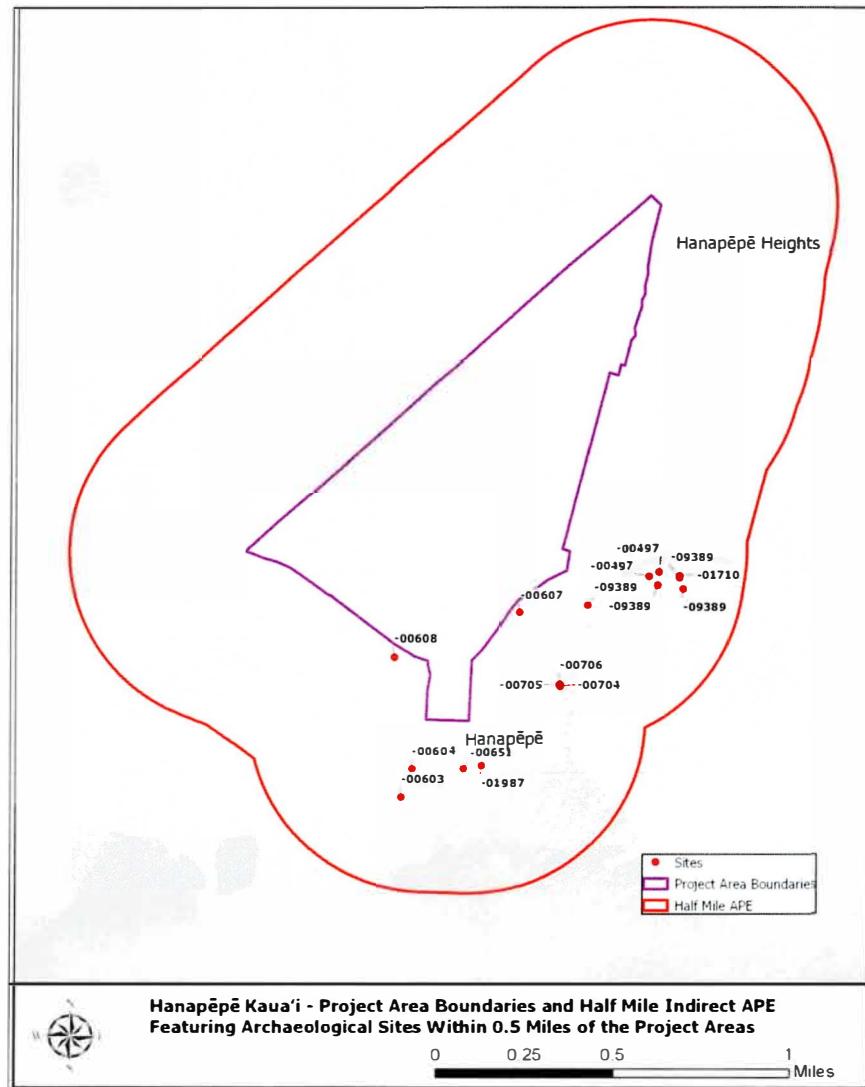
Map showing Mahele Land Commission Awards and Crown lands in and around the study area.
(Source: Nohopapa, 2019)

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Map of traditional Hawaiian wahi, in and around the project area, compiled from historical maps and archival sources (Source: Nohopapa, 2019).

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Project Area Boundaries and Half Mile Indirect APE Featuring State Inventory of Historic Places-Listed Archaeological Sites (Source: DUDEK, 2019).

3. Specify any feasible action, if any, to be taken to reasonably protect Native Hawaiian rights if they are found to exist, either currently or possibly in the past. This will be case-by-case depending on the facts, but consider the following:

The project is not expected to impact Native Hawaiian rights in Hanapēpē adversely; the project will positively impact Native Hawaiians by providing new homestead lands for lease by beneficiaries. The project's environmental assessment and Finding of No Significant Impact assessed the cultural and archaeological resources on DHHL's Hanapēpē lands and downstream lands.

The subject project site was previously under long-term, intensive sugar cultivation and has since been used for farming and pasture, limiting the expectation of finding pre-contact archaeological

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or cultural features or significant native habitats. As a mitigation measure within the planning process, the updated DHHL Land Use Plan for Hanapepe designates most of the gulch areas and portions of the site with greater than 20% slope as Conservation Land or Special District, meaning these lands will not be developed.

Minimizing any potential impacts on the Hanapēpē salt ponds is critically vital for the protection of cultural practices in Hanapēpē. While the project site is not believed to drain into the salt ponds area presently, reports of periodic flooding through the gulches and across the highway require careful attention to drainage system design and runoff retention. The project will meet or exceed County drainage requirements by providing stormwater detention basins and applying Low Impact Development strategies to reduce the environmental impact of runoff and improve water quality.

Any unforeseen negative impacts may be mitigated through management protocols developed with the lessees, continued coordination with SHPD, and designation of streams, gulches, and biologically promising areas as Conservation or Special District.

References:

DUDEK. 2019. *Hanapēpē Archaeological Assessment*. Report Prepared for SSFM International. April 2019.

Nohopapa Hawai'i. 2019. *A Cultural Impact Assessment for the Department of Hawaiian Homelands*. Report Prepared for SSFM International. December 2019.

SSFM INTERNATIONAL, INC.

Richard Santo, P.E.
Senior Civil Engineer
Email: rsanto@ssfm.com