



## PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISSION

FRANCIS DEGRACIA, CHAIR  
DONNA APISA, VICE CHAIR  
GERALD AKO, MEMBER  
HELEN COX, MEMBER  
GLENDA NOGAMI STREUFERT, MEMBER  
JERRY ORNELLAS, MEMBER  
LORI OTSUKA, MEMBER

RECEIVED

'23 FEB 21 P 2:45

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

- 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

- Oral testimony will be taken on specific agenda items, **in-person at the public meeting location** indicated on the meeting agenda.
- 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](mailto: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 posted as testimony to the Planning Commission's website prior to the meeting (<https://www.kauai.gov/Government/Boards-and-Commissions/Planning-Commission>). Any testimony received after this time will be retained as part of the record, but we cannot assure the Commission will receive it with sufficient time for review prior to the meeting.

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

**PLANNING COMMISSION MEETING NOTICE AND AGENDA**

**Tuesday, February 28, 2023  
9:00 a.m. or shortly thereafter  
Līhu'e Civic Center, Moikeha Building  
Meeting Room 2A-2B  
4444 Rice Street, Līhu'e, Kaua'i, Hawai'i**

RECEIVED

'23 FEB 21 P2:44

OFFICE OF  
THE COUNTY CLERK  
COUNTY OF KAUAI

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. APPROVAL OF AGENDA**

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

1. None for this Meeting.

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

1. None for this Meeting.

**F. HEARINGS AND PUBLIC COMMENT**

1. **Continued Agency Hearing**

- a. None for this Meeting.

2. **New Agency Hearing**

- a. SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-4) to allow construction of a new single-family dwelling unit on a parcel situated along the mauka side of Moanakai Road in Kapa'a, situated approximately 300 feet north of its intersection with Panini Road and further identified as 1127 Moanakai Road, Tax Map Key: (4)4-5-002:003, Unit 1, affecting an area of approximately 10,124 square feet = **Vel Rajagopal and Sonja Ronning**.

1. Director's Report pertaining to this matter.

- b. SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-5) to allow a development involving the construction of two (2) single-family dwelling units, driveway and associated site improvements on a parcel situated along the makai side of Kuhio Highway and along Kamoia Road in Kapa'a, situated approximately 400 feet east of its intersection with Kuhio Highway and further identified as 4460 Kamoia Road, Tax Map Key: (4) 4-3-007:008, Units 1 & 2, affecting an area of approximately 11,308 square feet = **Peter Whalley, Trustee of the Peter Whalley Trust**.

1. Director's Report pertaining to this matter.

3. **Continued Public Hearing**

- a. None for this Meeting.



4. **New Public Hearing**

- a. None for this Meeting.

G. **CONSENT CALENDAR**

1. **Status Reports**

- a. None for this Meeting.

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

- a. None for this Meeting.

H. **GENERAL BUSINESS MATTERS**

1. Stipulated Settlement Agreement with Attached Stipulation for Dismissal as to all Claims and all Parties as it relates to MOLOAA FARMS LLC, EL PASO INVESTMENTS LIMITED LIABILITY COMPANY, BOCA HOLDINGS, LLC and ROBERT B. LINDNER, JR., TRUSTEE OF THE ABL FAMILY LEGACY TRUST U/A/D DECEMBER 20, 2012, Plaintiffs v. KAUA'I PLANNING COMMISSION; COUNTY OF KAUA'I, et. al., United States District Court for the District of Hawai'i Civil Case No. CV-20-00020 HG-KJM.

I. **COMMUNICATION**

1. None for this Meeting.

J. **COMMITTEE REPORTS**

1. **Subdivision Committee**

- a. None for this Meeting.

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

1. None for this Meeting.

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

1. SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-4) to allow construction of a new single-family dwelling unit on a parcel situated along the mauka side of Moanakai Road in Kapa'a, situated approximately 300 feet north of its intersection with Panini Road and further identified as 1127 Moanakai Road, Tax Map Key: (4)4-5-002:003, Unit 1, affecting an area of approximately 10,124 square feet = **Vel Rajagopal and Sonja Ronning**.
2. SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-5) to allow a development involving the construction of two (2) single-family dwelling units, driveway and associated site improvements on a parcel situated along the makai side of Kuhio Highway and along Kamoia Road in Kapa'a, situated approximately 400 feet east of its intersection with Kuhio Highway and further identified as 4460 Kamoia Road, Tax Map Key: (4) 4-3-007:008, Units 1 & 2, affecting an area of approximately 11,308 square feet = **Peter Whalley, Trustee of the Peter Whalley Trust**.

#### **M. 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:

1. SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-4) to allow construction of a new single-family dwelling unit on a parcel situated along the mauka side of Moanakai Road in Kapa'a, situated approximately 300 feet north of its intersection with Panini Road and further identified as 1127 Moanakai Road, Tax Map Key: (4)4-5-002:003, Unit 1, affecting an area of approximately 10,124 square feet = **Vel Rajagopal and Sonja Ronning**.
2. SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2023-5) to allow a development involving the construction of two (2) single-family dwelling units, driveway and associated site improvements on a parcel situated along the makai side of Kuhio Highway and along Kamoia Road in Kapa'a, situated approximately 400 feet east of its intersection with Kuhio Highway and further identified as 4460 Kamoia Road, Tax Map Key: (4) 4-3-007:008, Units 1 & 2, affecting an area of approximately 11,308 square feet = **Peter Whalley, Trustee of the Peter Whalley Trust**.
3. Stipulated Settlement Agreement with Attached Stipulation for Dismissal as to all Claims and all Parties as it relates to MOLOAA FARMS LLC, EL PASO INVESTMENTS LIMITED LIABILITY COMPANY, BOCA HOLDINGS, LLC and ROBERT B. LINDNER, JR., TRUSTEE OF THE ABL FAMILY LEGACY TRUST U/A/D DECEMBER 20, 2012, Plaintiffs v. KAUA'I PLANNING COMMISSION; COUNTY OF KAUA'I, et. al., United States District Court for the District of Hawai'i Civil Case No. CV-20-00020 HG-KJM.

#### **N. ANNOUNCEMENTS**

1. Topics for Future Meetings.
2. The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter, on April 11, 2023. The Planning Commission anticipates this meeting to be held in-person at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Hawaii 96766. The Commission will announce its intended meeting method via an agenda electronically posted at least six days prior to the meeting date.

#### **O. ADJOURNMENT**

## DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

### SPECIAL MANAGEMENT AREA (SMA) MINOR DETERMINATIONS

Date (Action)	SMA Minor Permit number	Location (TMK)	Activity/ structure
Approved (02.14.2023)	SMA(M)-2023-15	Hanalei (5-5-010:077)	Construction/ New swimming pool and associated decking.



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

February 28, 2023  
SHORELINE SETBACK DETERMINATIONS

Application No.	Name of Applicant(s)	Property I.D. (Tax Map Key)	Location	Development/Reasons
SSD-2023-29	Ka'upu Kea, LLC	5-1-004:015	Kīlauea	Enclosing lanai and bathroom renovation. / Rocky shore, development on 100-foot-high bluff, required setback 60 feet, development approximately 225 feet away from evidenced shoreline.
SSD-2023-30	5846 Weke Road LLC	5-5-004:004	Hanalei	Renovations of structure, fence improvements, rock wall improvements, hot tub, cold plunge, and sauna, outdoor shower, related site utilities. / Accreting shoreline with county park between subject site and shoreline, Required setback 60 feet, development approximately 350 feet or greater from evidenced shoreline.
SSD-2023-31	5454 Ka Haku Road Unit 208	5-4-012:011 0022	Princeville	Construction of a roof over an existing atrium. /Required setback 100 feet, development on high cliff bluff approximately 100 to 150 feet in height and approximately 280 feet away from the evidenced shoreline.

COPY

MCCORRISTON MILLER MUKAI MACKINNON LLP

LAUREL LOO 4806  
4463 Pahe'e Street, Suite 208  
Lihu'e, Kaua'i, Hawai'i 96766  
Telephone No.: (808) 632-2267  
Facsimile No.: (808) 524-8293

Attorney for Applicant  
VEL RAJAGOPAL and SONJA RONNING

BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUAI

In the Matter of the Application	)	SMA PERMIT NO. _____
	)	CLASS III ZONING PERMIT NO. _____
	)	
Of	)	APPLICATION FOR SPECIAL
	)	MANAGEMENT AREA USE PERMIT;
VEL RAJAGOPAL and SONJA	)	SMA (U)-2022____; EXHIBITS "A" – "G"
RONNING, affecting real property at	)	CLASS III ZONING PERMIT _____
Waipouli, Kapaa, Island and County of	)	
Kaua'i, State of Hawai'i, more	)	
particularly Identified as Tax Map Key	)	
No. (4) 4-5-002:003:001, containing an	)	
area of 10123.3 square feet, more or less	)	
_____.	)	

APPLICATION FOR SPECIAL MANAGEMENT AREA USE PERMIT

I. APPLICANTS AND OVERVIEW

A.. Applicants: The Applicants are VEL RAJAGOPAL and SONJA RONNING, husband and wife, who have authorized Laurel Loo of McCorriston Miller Mukai MacKinnon, LLC, to file this Application.

B. Property: The Property is located at 1127 Moanakai Road, Kapaa Kauai, Hawaii, and is more particularly identified as Tax Map Key (4) 4-5-002:003, CPR Unit 1. A legal description of the Property is described in the Deed to the Property, attached hereto as Exhibit "A". The Property is located close to Kapa'a Beach Park and Baby Beach. An aerial photo shows the Property outlined in red and is attached hereto and incorporated herein as Exhibit "B".

C. Overview of Application: The Applicants are seeking to build a single-family dwelling on this vacant lot in the Special Management Area. A shoreline setback survey was performed on September 29, 2020 by Lucas Breckenridge and is attached as Exhibit "C." The dwelling will be placed further than 118.81 feet from the shoreline, as evidenced by the site location map attached as Exhibit "D."

## II. LAND USE DESIGNATIONS AND DESCRIPTIONS

A. SLUC: The State Land Use is designated Urban.

B. County zoning: County zoning is Open.

C. The General Plan Designation: The General Plan designation is Neighborhood General ("NG").

D. Special Management Area: The Property is in the Special Management Area.

E. Shoreline Setback Area. The Property is located near the shoreline and a Shoreline Setback Determination was approved for the neighboring CPR Unit, Unit 2, by the Planning Department as SSD-2022-40 on May 5, 2022. The required setback was determined to be 100 feet; the proposed setback by Applicant is 118.81 feet.



F. Constraint District(s). The Property is classified as in the Flood and Tsunami districts. It is also located in the Sea Level Rise Exposure Area ("SLRXA"). Due to SLRXA, the finished floor of the dwelling will be elevated a minimum of five feet, as shown in the elevations attached hereto.

G. Flood: The Property is designated AE; Zone AE is the flood insurance rate zone which corresponds to the 100-year floodplain as determined by the Flood Insurance Study.

### III. COMPREHENSIVE ZONING ORDINANCE

A. Open. The Property is designated as Open zoning. Pursuant to Section 8-9.1 of the CZO:

The Open District is established and regulated to create and maintain an adequate and functional amount of predominantly open land to provide for the recreational and aesthetic needs of the community or to provide for the effective functioning of land, air, water, plant and animal systems or communities.

(a) To preserve, maintain or improve the essential characteristics of land and water areas that are:

- (1) of significant value to the public as scenic or recreational resources;
- (2) important to the overall structure and organization of urban areas and which provide accessible and usable open areas for recreational and aesthetic purposes;
- (3) necessary to insulate or buffer the public and places of residence from undesirable environmental factors caused by, or related to, particular uses such as noise, dust, and visually offensive elements.

(b) To preserve, maintain or improve the essential functions of physical and ecological systems, forms or forces which significantly affect the general health, safety and welfare.

(c) To define and regulate use and development within areas which may be potentially hazardous.

(d) To include areas indicated on the County General Plan as open or as parks.

As evidenced by the location map attached as Exhibit "B," nearly every other parcel in the vicinity includes at least one single-family dwelling. The character of the neighborhood is generally single-family dwellings, with the nearby Kapaa Beach Park, Waiakea Canal, and beach, locally known as "Baby Beach."

#### IV. COASTAL ZONE MANAGEMENT ACT AND SPECIAL MANAGEMENT AREA RULES AND REGULATIONS

The Special Management Area Rules and Regulations of the County of Kaua'i state:

No development shall be approved unless the Director or the Planning Commission has found that:

1) The development will not have any substantial, adverse environmental or ecological effect except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, and welfare, or compelling public interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect, and the elimination of planning options;

2) The development is consistent with the objectives and policies, as enumerated in HRS Chapter 205A and as referred to in Section 3.0 above, and the Special Management Area guidelines set forth in these Rules and Regulations; and

3) The development is consistent with the county general plan and zoning ordinances. Such a finding of consistency does not preclude concurrent processing where a general plan or zoning amendment may also be required.

Chapter 205A of the Hawai'i Revised Statutes lists as its objectives: recreational resources, historic resources, scenic and open space resources, coastal ecosystems, economic uses, coastal hazards, managing development, public participation, beach

protection, marine resources, recreational resources, historic resources, scenic and open space resources, coastal ecosystems, economic uses, coastal hazards, managing development, public participation, beach protection and marine resources.

This application is for a modest single-family dwelling. Unit 1 is 10,123 square feet. Total hardscaping for Unit 1 is 1732 for the proposed dwelling, for a total unit coverage of 17%. The entire parcel is 20,247 square feet, and with the existing dwelling on Unit 2 of 1104 square feet, along with the proposed dwelling, total lot coverage is 2,836 square feet, or 14% lot coverage.

The dwelling includes 981 square feet of interior living area on the first floor, and 1,011 square feet of interior living area on the second floor. The total is 1992 square feet of interior living area. The proposed dwelling is consistent with the nature and size of other dwellings in the neighborhood.

Lot coverage of at least 3,000 square feet is permitted on any parcel of record existing prior to September 1, 1972 pursuant to Sec. 8-9.2 of the Kauai Comprehensive Zoning Ordinance.

Attached as Exhibit "E" are the floor plans for the proposed dwelling. Attached as Exhibit "F" are the elevations. The finished floor will be at or above five feet to comply with sea level rise projections.

Because of the foregoing, the development will not have any substantial or adverse environmental or ecological impact. As such, the development is consistent with the objectives and policies of HRS Chapter 205A and the SMA guidelines adopted by the County.



## VI. NATIVE HAWAIIAN AND CULTURAL USES/KA PA'AKAI ANALYSIS

The Applicant is unaware of any current traditional and customary rights practiced in the immediate vicinity. Applicant has never received any requests for access to the property from individuals claiming a traditional use. There are no visible trails or evidence of other uses on the Property. Applicant's attorney has been retained by owners of the neighboring unit as well as both CPR units to the north of the Property and after a diligent search has not found evidence of existing native Hawaiian and cultural uses in the immediate area.

Applicant has contacted persons familiar with the area and who lived in the area for many years, or who belong to families who were raised in the area.

One such person is Kaina Ludington, who was born and raised in the neighborhood in the 1940s, and still lives in the house he grew up in. Mr. Ludington said he has been aware that human bones commonly were found in the entire sandy area when houses were built, all the way up to Lydgate Park two miles south. Mr. Ludington is unaware of any trails in the area or cultural practices.

## VI. OTHER LAND FEATURES

A. Threatened and Endangered Species. According to the University of Hawaii Rare Species database, there are no known or reported threatened and endangered species within or adjacent to the Property.

B. Soils. The entire parcel consists of Mokuleia fine sandy loam. The Mokuleia series consists of well-drained soils which formed in recent alluvium deposited over coral sand. Mokuleia soils are on coastal plains and have slopes of 0 to 2 percent.

C. SLRXA. See Exhibit "G"

D. Constraints District: The Property is designated SH (Shore) and ST (Tsunami).

E. Public Beach Access: The Property fronts Moanakai Road, which is a public road. One lot over is Kapa'a Beach Park.

VII. KAUAI KAKOU, KAUAI COUNTY GENERAL PLAN

This application is consistent with the vision and goals of Kauai Kakou, in particular, Sections 1.3 and 1.4.

Section 1.3 of Kauai Kakou envisions 1) A Sustainable Island; 2) A Healthy and Resilient People; 3) A Unique and Beautiful Place, and 4) An Equitable Place, with Opportunity for All. Tellingly, one of the goals under this section states:

Kauai is a place where housing for all ages and income levels  
Is integrated into the fabric of each community . . .

The Applicants are eager to move to Kauai, which will become their home.

Section 1.4 of Kauai Kakou list 19 policies. Some of them include 1) Manage Growth to Preserve Rural Character, 2) Provide Local Housing, 3) Recognize the Identity of Kauai's Individual Towns and Districts and 4) Design Healthy and Complete Neighborhoods. The dwelling will be modest, will provide housing for one family, the Applicants, is designed by a local designer to blend into the neighborhood, and will be built by a local contractor.

All of these characteristics of the application meet the goals and visions of Kauai's General Plan.

VIII. IMPACT OF THIS DEVELOPMENT

As stated in Sections IV, V and VI, above, there are no known historic or ecologic impacts this proposed dwelling would bring.

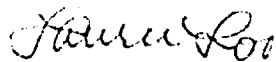
The Applicants will live in the dwelling full time in the near future. Traffic will be limited to their personal vehicle(s) after construction is completed.

IX. CONCLUSION

Applicant respectfully requests the granting of a SMA Use permit to allow the development of a single-family dwelling, as depicted in the attached exhibits.

DATED: Lihu'e, Kaua'i, Hawai'i, December 02, 2022.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Laurel Loo".

Laurel Loo

Attorney for Applicants  
VEL AND SONJA RAJAGOPAL





STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

October 29, 2021 8:01 AM  
Doc No(s) A - 79720572

Doc 2 of 3  
Pkg 11894896 TAW

/s/ LESLIE T KOBATA  
REGISTRAR

Conveyance Tax: \$1,825.00

LAND COURT SYSTEM

REGULAR SYSTEM

After Recordation, Return by: Mail ( ) Pickup ( )

VEL RAJAGOPAL  
SONJA ANGELINE K RONNING  
7428 BOSTON HARBOR RD NE  
OLYMPIA WA 98506

TG: 202142564A RS2  
TGE: 2427322118258  
Glenda Matsushima

**Total Pages: 7**

TYPE OF DOCUMENT:

APARTMENT DEED

PARTIES TO DOCUMENT:

GRANTOR: MOANAKAI LANI, LLC, a Hawaii limited liability company

GRANTEE: VEL RAJAGOPAL and SONJA ANGELINE K. RONNING,  
husband and wife  
7428 Boston Harbor Road NE  
Olympia, Washington 98506

TAX MAP KEY FOR PROPERTY:

(4) 4-3-002-003

CPR No. 0001

Unit No. A

Exhibit "A"

## APARTMENT DEED

KNOW ALL PEOPLE BY THESE PRESENTS:

MOANAKAI LANI, LLC, a Hawaii limited liability company, whose mailing address is P. O. Box 1288, Kapaa, Hawaii 96746, hereinafter called the "Grantor", in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to the Grantor paid by VEL RAJAGOPAL and SONJA ANGELINE K. RONNING, husband and wife, whose mailing address is 7428 Boston Harbor Road NE, Olympia, Washington 98506, hereinafter called the "Grantee", the receipt of which is hereby acknowledged, does hereby grant and convey unto the Grantee, as joint tenants with full rights of survivorship, their heirs and assigns, the property described in Exhibit "A" attached hereto and incorporated herein by reference.

AND the reversions, remainders, rents, issues, and profits thereof, and all of the estate, right, title and interest of the Grantor, both at law and in equity, therein and thereto.

TO HAVE AND TO HOLD the same, together with the improvements thereon and all rights, easements, privileges and appurtenances thereunto belonging or appertaining or held and enjoyed therewith, unto the Grantee, according to the tenancy herein set forth, forever.

The Grantor hereby covenants with the Grantee that the Grantor is lawfully seised in fee simple of the premises described herein and has good right to sell and convey the same; that the same are free and clear of all encumbrances except as set forth herein and except for the lien of real property taxes not yet required by law to be paid; and that the Grantor will WARRANT AND DEFEND the same unto the Grantee against the lawful claims and demands of all persons, except as aforesaid.

The Grantee has inspected the property being conveyed and the Grantee is purchasing the property on an "AS IS" basis, without any representations or warranties, express or implied, with a full understanding that only Grantee and not the Grantor will be responsible for any and all imperfections, defects, obsolescence, wear and tear, and all other conditions of said property and hereby waives any claim hereafter against the Grantor for breach of express or implied warranty as to the condition of the property, except claims which are based on the Grantor's concealment of material facts and defects which Grantor is required by law to disclose.

This conveyance and the respective covenants of the Grantor and the Grantee shall be binding on and inure to the benefit of the Grantor and the Grantee, respectively. The terms "Grantor" and "Grantee" as and when used herein, or any pronouns used in place thereof, shall mean and include the singular or plural number, individuals, partnerships, trustees and corporations, and each of their respective heirs, personal representatives, successors and assigns. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed herein.

The Grantee shall observe, perform, comply with and abide by the Declaration of Condominium Property Regime and the Bylaws described in Exhibit "A" hereto.

This Apartment Deed may be executed in counterparts. Each counterpart shall be executed by one or more of the parties hereinbefore named and the several counterparts shall constitute one instrument to the same effect as though the signatures of all the parties are upon the same document.

IN WITNESS WHEREOF, the Grantor has caused these presents to be duly executed on this 24 day of October, 2021.

*(SIGNATURES CONTINUED ON NEXT PAGE)*

GRANTOR:

MOANAKAI LANI, LLC,  
a Hawaii limited liability company

By Cynthia P. Bloom  
CYNTHIA P. BLOOM, Trustee of the Cynthia P.  
Bloom Trust dated November 1, 1999  
Its Member

wyoming SCF 10/24/2021  
STATE OF ~~HAWAII~~ )  
Teton ) SS:  
COUNTY OF ~~KAUAI~~ )

On this 24th day of October, 2021, before me appeared  
CYNTHIA P. BLOOM, Trustee of the Cynthia P. Bloom Trust dated November 1, 1999, to me  
personally known, who, being by me duly sworn, did say that she, as Trustee, is the Member of  
MOANAKAI LANI, LLC, a Hawaii limited liability company, that the foregoing APARTMENT  
DEED dated October 24th, 2021, which document consists of 1 page(s), was  
signed in behalf of said entity, and the said Member acknowledged said instrument to be the free  
act and deed of said entity.



Joshua Fox  
Name of Notary: Joshua Fox  
Notary Public, Fifth Judicial Circuit, Teton County  
State of Hawaii. wyoming

SCF  
10/24/2021

My commission expires: 03/19/2025

GRANTOR:

MOANAKAI LANI, LLC,  
a Hawaii limited liability company

By its Member:  
TETON SNOW 1, LLC,  
a Wyoming limited liability company

By Cynthia P. Bloom  
CYNTHIA P. BLOOM  
Its Managing Member

Wyoming SCF 10/24/2021  
STATE OF ~~HAWAII~~ )  
Teton ) SS:  
COUNTY OF ~~KAUAI~~ )

On this 24th day of October, 2021, before me appeared CYNTHIA P. BLOOM, to me personally known, who, being by me duly sworn, did say that she is the Managing Member of TETON SNOW 1, LLC, a Wyoming limited liability company ("Teton"), that Teton is the Member of MOANAKAI LANI, LLC, a Hawaii limited liability company ("Company"), that the foregoing APARTMENT DEED dated October 24th, 2021, which document consists of 7 page(s), was signed in behalf of said Teton, and the said Managing Member acknowledged said instrument to be the free act and deed of said Teton and said Company.



Joshua Fox  
Name of Notary: Joshua Fox  
Notary Public, Fifth Judicial Circuit, Teton County  
State of Hawaii, Wyoming

My commission expires: 03/19/2025

**EXHIBIT "A"**

**-FIRST:-**

Unit No. A of the Condominium Project known as "BABY BEACH CONDOMINIUM", as established by Declaration of Condominium Property Regime dated April 24, 2002, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2002-140087, and as shown on Condominium Map No. 3472 and any amendments thereto.

Together with appurtenant easements as follow:

Exclusive easements to use other limited common elements appurtenant there to designated for its exclusive use by the Declaration, and the Condominium Map.

**-SECOND:-**

An undivided fifty percent (50%) interest appurtenant to the apartment and in all common elements of said Project as described in the Declaration.

The land upon which said Condominium Project "BABY BEACH CONDOMINIUM" is located being more particularly described as follows:

All of that certain parcel of land (being portions of the land(s) described in and covered by Land Patent Grant 9704 to Emilie W. Hundley and Land Patent Grant S-15,438 to Daisy L. Aguiar) situate, lying and being on the west side of Moanakai Road at Kapaa, Kawaihau, (Puna), Island and County of Kauai, State of Hawaii, being LOT NUMBER 80-A, being all of Lot Number 80 of the "KAPAA TOWN LOTS, SECOND SERIES" and all of Parcel 4 (abandoned railroad right-of-way), containing an area of 20,247 square feet, more or less.

Said parcel of land being more particularly described in Declaration of Condominium Property Regime dated April 24, 2002, and recorded in said Bureau of Conveyances as Document No. 2002-140087.

Being the same premises conveyed to MOANAKAI LANI, LLC, a Hawaii limited liability company, by SPECIAL WARRANTY DEED dated December 20, 2012, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. A-47620134.

1. Mineral and water rights of any nature.
2. The terms and provisions contained in LAND PATENT GRANT S-15,438 dated May 12, 1978.

The foregoing includes, but is not limited to, matters relating to reservation of minerals, water and prehistoric and historic remains.

3. GRANT to CITIZENS UTILITIES COMPANY, now known as CITIZENS COMMUNICATIONS COMPANY, whose interest is now held by KAUAI ISLAND UTILITY COOPERATIVE and GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED, now known as HAWAIIAN TELCOM, INC., dated October 25, 1991, recorded as Document No. 92-035353, granting a right and easement for utility purposes over easement "E-1" as shown on the map attached thereto.

4. The terms and provisions contained in the following:

DECLARATION OF CONDOMINIUM PROPERTY REGIME FOR "BABY BEACH" dated April 24, 2002, recorded as Document No. 2002-140087.

Condominium Map No. 3472 and any amendments thereto.

Said Declaration was amended by instrument dated February 28, 2003, recorded as Document No. 2003-078710.

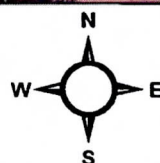
-Note:- Any recorded amendments to said Declaration affecting apartments other than the specific apartment described herein, are not shown.

5. The terms and provisions contained in the BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS dated April 24, 2002, recorded as Document No. 2002-140088.





Location of 4-4-5-002-003 Unit 001  
1139 Moanakai Road, Kapa'a  
Baby Beach Estates Condo  
Owners: Vel & Sonja Rajagopal



0 100 200 Feet





# Plot Plan

Scale: 1.00" = 20.00'  
LOT 81-A

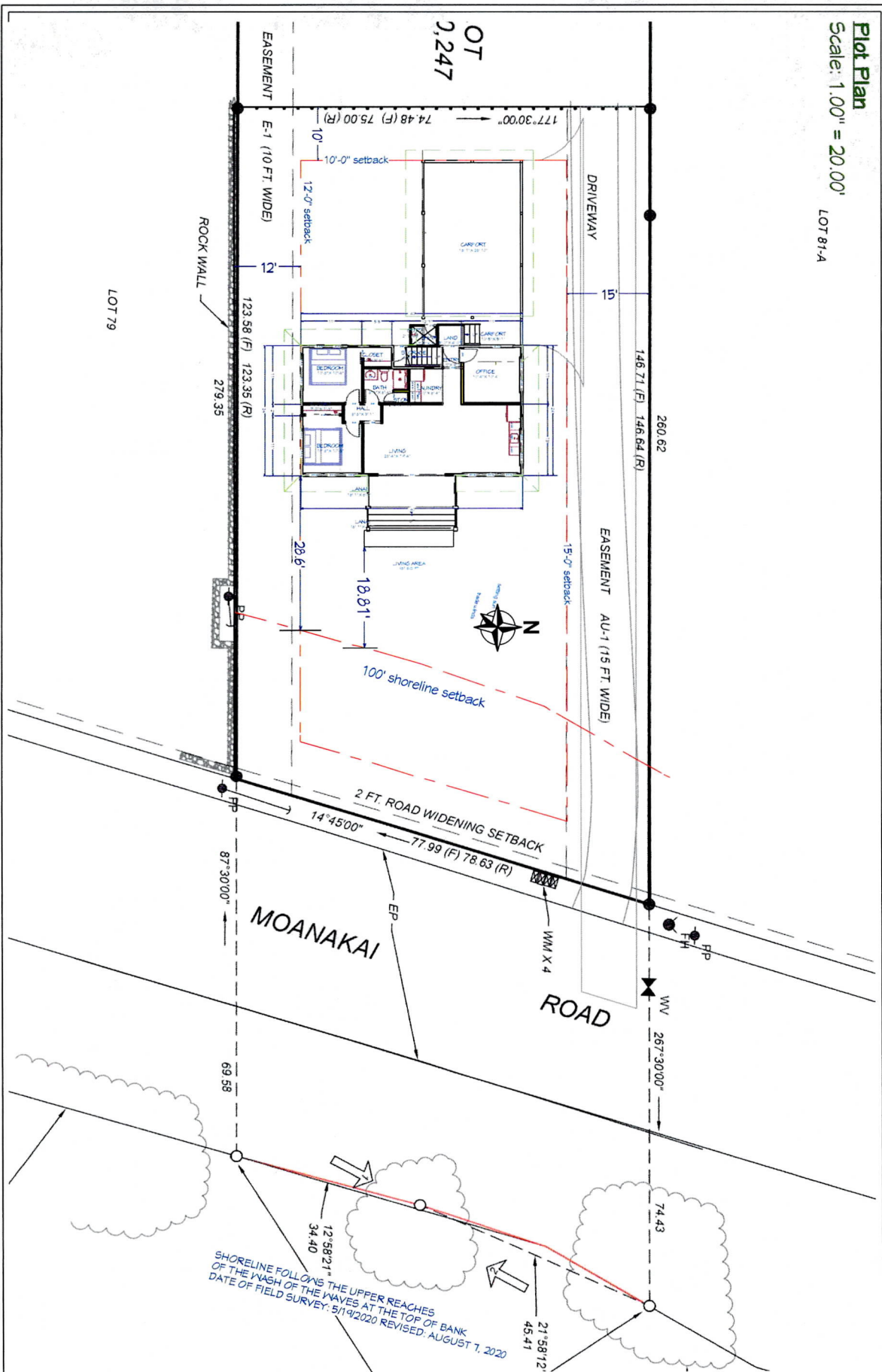


EXHIBIT "D"



New Residence  
for the  
Rajagopal Ronning Ohana

Date: July 2022  
Drawn By: D Korte

Site Location: Moanakai Road  
Kapaa Hawaii 96746  
TMK:(4) 4 - 5 - 002 - 003 - 0001

EXHIBIT "D"

**Lower Floor Plan**  
 Scale: 1/8" = 1' - 0"

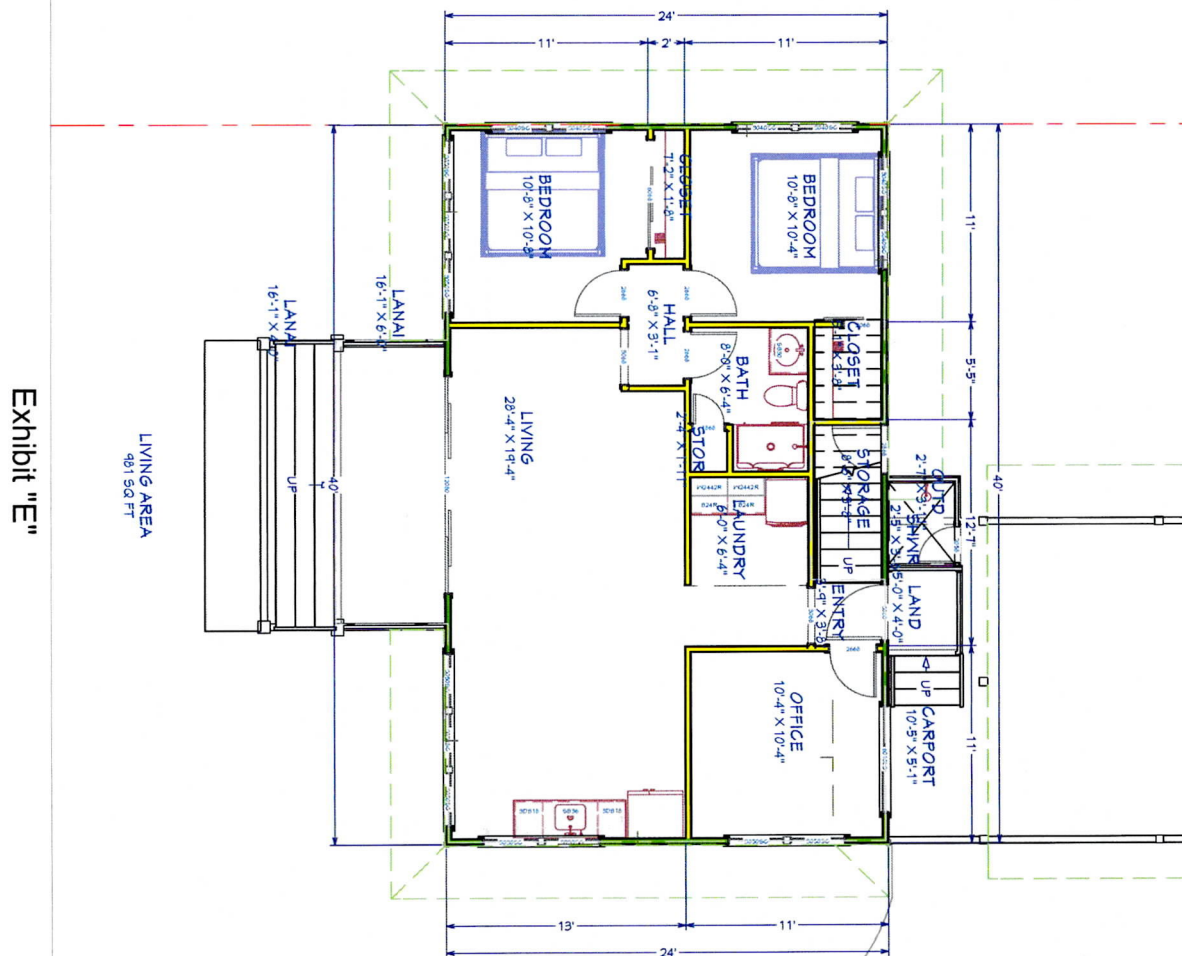


Exhibit "E"



**New Residence  
 for the  
 Rajagopal Ronning Ohana**

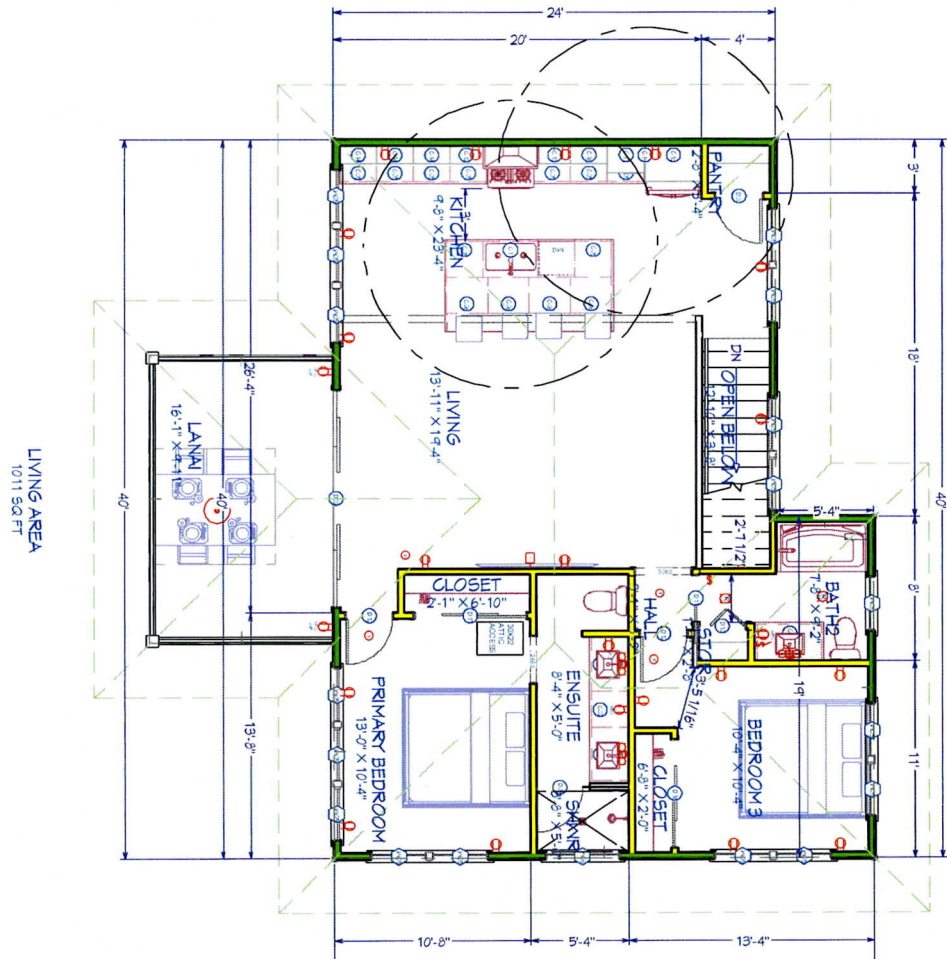
Date: Dec 2021  
 Drawn By: D. Komie

**Site Location: Moanakai Road  
 Kapaa Hawaii 96746  
 TMK:(4) 4 - 5 - 002 - 003 - 0001**

Exhibit "E"



**Upper Floor Plan**  
Scale: 1/8" = 1' - 0"



**Elevations**  
Scale: 1/8" = 1' - 0"

Front



Left

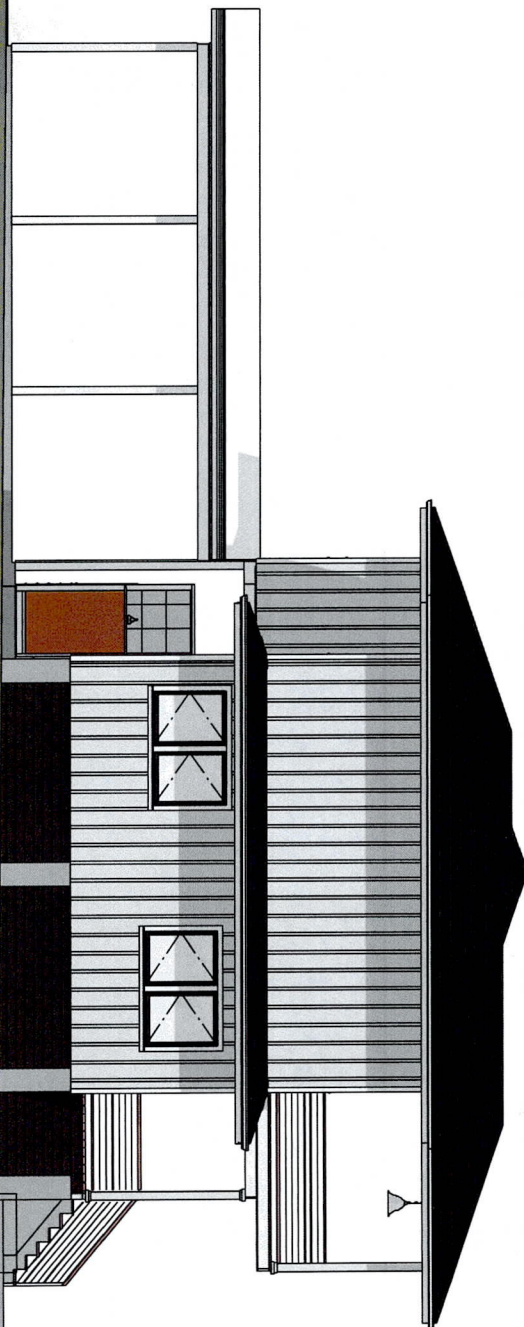


EXHIBIT "F"



New Residence  
for the  
Rajagopal Ronning Ohana

Date: July 2022  
Drawn By: Dikorec

Site Location: Moanakai Road  
Kapaa Hawaii 96746  
TMK:(4) 4 - 5 - 002 - 003 - 0001

EXHIBIT "F"



**Elevations**  
 Scale: 1/8" = 1' - 0"

Rear



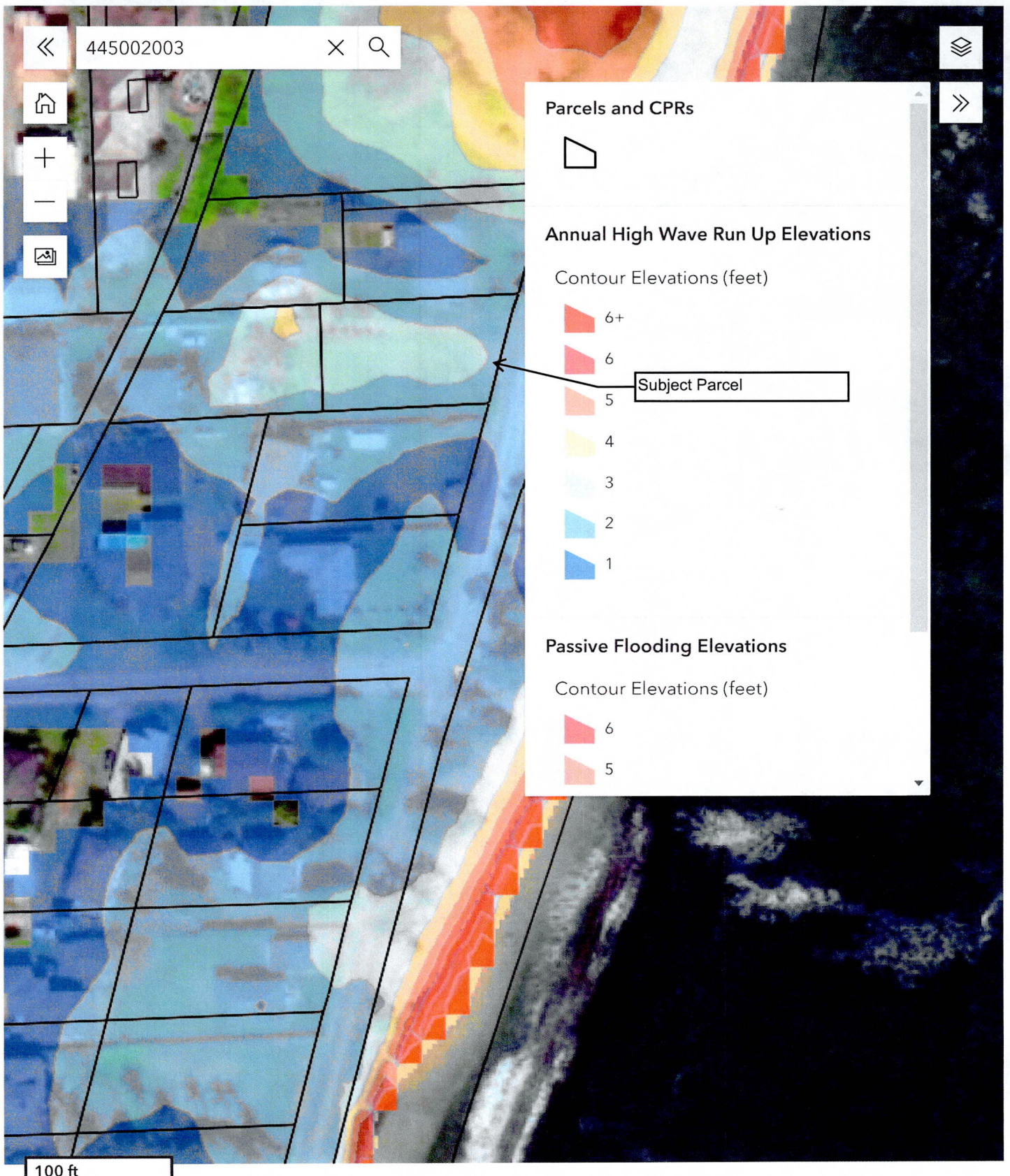
Right







# Kaua'i Sea Level Rise Constraint District Viewer



# DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

## DIRECTOR'S REPORT

### I. SUMMARY

**Action Required by Planning Commission:** Consideration of a Special Management Area Use Permit to allow the construction of a single-family residence.

**Permit Application Nos.** Special Management Area Use Permit SMA(U)-2023-4

**Name of Applicant(s)** VEL RAJAGOPAL AND SONJA RONNING

### II. PERMIT INFORMATION

PERMITS REQUIRED	
<input type="checkbox"/> Use Permit	
<input type="checkbox"/> Project Development Use Permit	
<input type="checkbox"/> Variance Permit	
<input type="checkbox"/> Special Permit	
<input type="checkbox"/> Zoning Permit Class <input type="checkbox"/> IV <input type="checkbox"/> III	
<input checked="" type="checkbox"/> Special Management Area Permit <input checked="" type="checkbox"/> Use <input type="checkbox"/> Minor	Pursuant to Section 205A of the Hawaii Revised Statutes (HRS) and the Special Management Area Rules and Regulations of the County of Kaua'i, a SMA Use Permit is required as defined in Section 7.3(C) of the SMA Rules and Regulations where the Director finds that the proposal (1) is a "Development" as defined in Section 1.4F; and (2) is in excess of \$500,000.
AMENDMENTS	
<input type="checkbox"/> Zoning Amendment	
<input type="checkbox"/> General Plan Amendment	
<input type="checkbox"/> State Land Use District Amendment	

**Date of Receipt of Completed Application:** December 27, 2022

**Date of Director's Report:** February 21, 2023

**Date of Public Hearing:** February 28, 2023

**Deadline Date for PC to Take Action (60<sup>TH</sup> Day):** April 28, 2023

F.2.a.1.  
Feb. 28, 2023



### III. PROJECT DATA

PROJECT INFORMATION			
<b>Parcel Location:</b>	The project site is located close to Lihi Park and Baby Beach on Moanakai Road, approximately 200 feet north of the Moanakai Road/Panihi Road intersection.		
<b>Tax Map Key(s):</b>	(4) 4-5-002:003, Unit 1	<b>Area:</b>	0.4648 acres
ZONING & DEVELOPMENT STANDARDS			
<b>Zoning:</b>	Residential (R-20)/Open (O)		
<b>State Land Use District:</b>	Urban		
<b>General Plan Designation:</b>	Neighborhood General		
<b>Height Limit:</b>	Thirty (30) feet maximum		
<b>Max. Land Coverage:</b>	Residential (R-20) = 90% Open = 3,000 s.f. maximum OR not to exceed 10% of the parcel, or lot area		
<b>Front Setback:</b>	10'-0"		
<b>Rear Setback:</b>	Five (5) feet or ½ the wall plate height whichever is greater		
<b>Side Setback:</b>	Five (5) feet or ½ the wall plate height whichever is greater		
<b>Community Plan Area:</b>			
<b>Community Plan Land Use Designation:</b>	N/A		
<b>Deviations or Variances Requested:</b>	N/A		

### IV. LEGAL REQUIREMENTS

<b>Section 8.0, 9.0, and 10.0 of the Special Management Area Rules and Regulations:</b>	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Sections 8.0, 9.0, and 10.0 of the Special Management Area Rules and Regulations. The application was received on December 27, 2022, and the Applicant, through its authorized agent, was notified accordingly of the Planning Department's intent to commence permit processing.
<b>Public Hearing Date:</b>	February 28, 2023

### V. PROJECT DESCRIPTION AND USE

The property is located at 1127 Moanakai Road, Kapa'a, Kaua'i, Hawai'i, and further identified as TMK: (4) 4-5-002:003 consisting of 20,247 square feet. The subject site has a county zoning designation of Residential (R-20) and Open (O) Districts. Through the Condominium Property Regime (CPR) process, the lot of record has been partitioned into two (2) units. Located mauka

of Parcel 3 is Unit 2 which is split-zoned containing R-20 and Open zoning districts. An existing single-family dwelling resides on Unit 2, whereas Unit 1 is currently vacant and located makai of Parcel 3. Unit 1 is entirely within the Open (O) county zoning designation. The subject development occurs on Unit 1 (refer Exhibit "B" of the Application).

As represented, the proposed dwelling is a 2-story single family dwelling featuring two (2) bedrooms, living room, office, laundry room, and a bathroom located on the first floor. The second floor has two (2) bedrooms, kitchen, living area, two (2) bathrooms, and an outdoor lanai. The proposed dwelling displays hip roof lines with composition roof shingle finish with board and batten plywood. The open carport shows a shed roof and metal roof finish (See Exhibit "F" of the Application, entitled Exterior Elevations).

## **VI. APPLICANT'S REASONS/JUSTIFICATION**

Refer to Application.

## **VII. ADDITIONAL FINDINGS**

1. The project site is located in close proximity to Lihi Park and Baby Beach along Moanakai Road in Kapa'a, approximately 200 feet north of its intersection with Panihi Road. Entry to unit 1 of the property is through an access easement off Moanakai Road.
2. The State Land Use District (SLUD) designation for this parcel is "Urban", which allows for urban growth in a specified area.
3. Moanaakai Road and another parcel is situated between the shoreline and the subject parcel. The subject site is also within the 500 foot shoreline setback threshold, as recognized in the County's shoreline setback requirements contained in Chapter 8, Article 27 of the Kaua'i County Code (1987), as amended. The required setback for the proposed dwelling is 87 feet. The setback of the proposed dwelling is approximately 118 to 128 feet, which is approximately 31 to 41 feet outside of the shoreline setback area (See Exhibit "C" and "D").
4. The General Plan designation (GP) is "Neighborhood General". Neighborhood General Designation applies to the watershed surrounding Neighborhood Centers. This designation is intended for medium intensity mixed-use environments that support the town core with housing, services, parks, civic/institutional, home occupation, and commercial uses.
5. The subject parcel is located within the Zone "AE" of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM). Zone "AE" is susceptible to 1% annual chance of flooding hazards. This parcel is also within the extreme tsunami evacuation zone. In addition, the subject site is within the County of Kaua'i's Sea Level Rise Constraint District.

6. The topography is relatively flat, and no grading of the project area will occur. Existing drainage patterns on the property will not be affected.

7. Special Management Area (SMA)

In addressing the issues of the Special Management Area and its objectives and policies, the following aspects will be considered and evaluated:

- a. Recreational Resources
- b. Cultural/ Historic Resources
- c. Scenic resources
- d. Coastal Hazard
- e. Coastal Ecosystem

Furthermore, the proposal does not:

- Involve dredging, filling or otherwise altering any bay, salt marsh, river mouth, slough or lagoon;
- Reduce the size of any beach or other area usable for public recreation;
- Reduce or impose restrictions upon public access to tidal and submerged lands, beaches, rivers, and streams within the SMA; and
- Adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, estuarine sanctuaries, potential or existing agriculture uses of land.

8. CZO Development Standards

The proposed development is subjected to the standards prescribed in Sections 8-4.3, 8-4.5, 8-9.2, and Chapter 8 Article 12:

- A. **Setback Requirements:** Front property line setbacks are ten feet (10'-0") with a side and rear property line setback of five feet (5'-0") or half the distance of the plate height whichever is greater.
- B. **Setback between buildings:** The distance between buildings shall be ten (10) feet minimum.
- C. **Parking Requirements:** The applicant shall provide a minimum of two (2) off-street parking spaces for the proposed dwelling unit.

- D. **Lot Coverage:** The subject property consists of two (2) county zoning designations Residential (R-20) and Open (O) Districts. The proposed dwelling is being proposed entirely within the Open (O) zone designation. Allowable land coverage is 3,000 square feet maximum or not more than 10% of the county zone area.
- E. **Sea Level Rise Constraint:** The subject parcel is located within the County of Kauai's Sea Level Constraint District which requires new construction for new residential structures to be elevated at least two (2) feet above from the top of the Sea Level Rise Flood Elevation (SLRFE) of three (3) feet. The additional 2 feet shall be calculated from the top of the SLRFE to the bottom of the lowest horizontal structural member.
- F. **Building Height:** No single family detached or single family attached dwelling, or accessory structure shall be more than two (2) stories above and one (1) story below from the finished grade at the main entry, over twenty (20) feet measured from the finished grade at the main entry to the highest exterior wall plate line, and over thirty (30) feet to the highest point of the roof measured at each point along the building from the finished grade at the main entry.
- G. **Density:** The subject parcel is currently identified as Tax Map Key (4) 4-5-002:003, Lot 80-A. Based on the area and zoning of the parcel, it is limited to a total of four (4) single-family dwellings.

#### VIII. AGENCY COMMENTS

See attached Exhibit "A"

#### IX. PRELIMINARY EVALUATION

In evaluating the Applicant's request to allow the proposed development, the following items are being considered.

##### 1. General Plan

The proposed development satisfies the following policies of the General Plan, as taken from Section 1.3 and 1.4:

##### A. 1.3, entitled "VISIONS AND GOALS"

- 1) **Goal #1 "Sustainable Island"** – The proposed dwelling is located within the County's Open (O) zoning designation and would be subjected to Open zoning land coverage requirements. The subject site is limited to 3,000 square feet of land coverage and is located within an existing residential area.
- 2) **Goal #2 "Unique and Beautiful Place"** – The proposed dwelling is mauka of Moanakai Road across of "Baby Beach" in Kapa'a. The proposed dwelling and hardscaping is 1,752 square feet of land coverage.

- 3) **Goal #3 “A Healthy and Resilient People”** – The subject site is adjacent to the Kapa’a Shared Use path at Lihi Park and across of Baby Beach. The subject site is also walking distance to public transportation bus lines and shopping centers.
- 4) **Goal #4 “An Equitable Place, with Opportunity for All”** – As noted above, the subject site of the proposed dwelling is walking distance to parks, shopping centers, and public transportation bus lines. Potential employment opportunities at can be easily accessed by bike or walking.

B. Section 1.4, entitled “POLICIES TO GUIDE GROWTH”

- 1) **Policy #1 “Manage Growth to Preserve Rural Character”**– The proposed dwelling is in an existing residential area that is within a walkable or biking distance to the Kapa’a Town Core area. Access to public transportation going to south bound and north bound travel lines are located on Kūhiō highway approximately 800 to 900 feet away.
- 2) **Policy #3 “Recognize the Identity of Kauai’s Individual Towns and Districts”**- The proposed dwelling is similar in design style as the surrounding area. The dwelling would have minimal negative impacts to the existing rural character of the area.
- 3) **Policy #8 “Protect Kauai’s Scenic Beauty”** – The subject site is located mauka of Moanakai Road within an existing residential area. Views from Beach Beach and Lihi Park would have minimal negative impacts.
- 4) **Policy#14 “Prepare for Climate Change”** – The subject site of the proposed dwelling is located within the County of Kauai’s Sea Level Rise Constraint District (SLRCD). As designed, the proposed dwelling would meet all the requirements of the SLRCD and comply with existing overall height standards for residential dwellings.

2. Native Hawaiian Traditional and Cultural Rights

The subject site has been previously developed and in residential use since the 1970’s. The applicant has reached out and contacted persons familiar with the area. The inquiry to these individuals requested if they had any knowledge of on-going Native Hawaiian and Traditional Cultural Rights practices or activities on the project site or in the vicinity of the area. One (1) individual responded via phone call(s) and comments were received by the applicant’s representative.

Based on the available information, traditional agriculture and aquaculture practices will not be affected or impaired by the proposed development. After the Applicant consulted with four (4) individuals, one did respond with historical knowledge of the area.

The project involving a previously developed parcel should have no impact on any known Hawaiian traditional or customary practices for the following reasons:



- a. There are no known traditional or customary practices of native Hawaiians that are presently occurring within the Project Site.
- b. There are no special gathering practices taking place within any portion of the Project Site.
- c. The Project will not detrimentally affect access to any streams; access to the shoreline or other adjacent shoreline areas; or gathering along any streams, the shoreline or in the ocean.
- d. There are no known religious practices taking place within the project site.
- e. There are no known pre-contact cultural or historic sites or resources located within the project site.
- f. There are no known burials within the petition area.

3. SMA Rules and Regulations

The COK SMA Rules and Regulations contain objectives, policies and guidelines designed to protect coastal resources. Within the SMA, special consideration is given to recreational opportunities, cultural and historic resources, scenic qualities and open space, coastal ecosystems, and coastal hazards. In evaluating the proposed development relative to the goals and objectives of the SMA Rules and Regulations, the following aspects are taken into consideration:

- A. Public Access and Coastal Recreation – The existing residence is located near Lihi Park, Baby Beach, and the Kapa’a Shared Use Bike and Pedestrian Path. The property is located on the mauka side of Moanakai Road and no public access is located on the subject property.
- B. Cultural/Historical Resources – As represented, there are no visible trials or evidence of other uses on the property. Ground disturbance will occur during construction for the dwelling post on pier footings. Although still a possibility, the Applicant does not anticipate cultural deposits to be found.
- C. Scenic and Open Space Resources – Lihi Park, Baby Beach, and the Kapa’a Shared Use Bike and Pedestrian Path are located near the proposed dwelling site. The proposed dwelling is located mauka of Moanakai Road and would have minimal negative impacts to the scenic and open space resources of the surrounding area.
- D. Coastal Hazards – The subject parcel is located within the Zone “AE” of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) and within the County of Kauai’s Sea Level Rise Constraint District (SLRCD). Based on the County of Kauai’s Sea level rise Constraint District Viewer, the subject site is impacted by an annual high wave run up of three (3) feet. To comply with the

County of Kaua'i SLRCD the lowest horizontal structural member will be a minimum of two (2) feet above the Sea Level Rise Flood Elevation (SLRFE).

- E. Coastal Ecosystems – According to the University of Hawai'i Rare Species database, there are no known or reported threatened and endangered species within or adjacent to the property.

4. CZO Development Standards

As proposed, the project complies with the building height, setback, and off-street parking requirements for development within the Open (O) zoning district, as well as the permissible density within the Residential (R-20) zoning district, as specified in Sections 8-4.3 & 8-4.5 the Comprehensive Zoning Ordinance (CZO).

In reviewing the exterior elevations provided in the application, it is noted that the lowest horizontal structural member would be a minimum of two (2) feet above the Sea Level Rise Flood Elevation (SLRFE) of 3 feet. In order to ensure that the development complies with the height requirements under the County of Kauai's Sea Level Rise Constraint District, the applicant should work closely with the Planning Department prior to building permit application.

**X. PRELIMINARY CONCLUSION**

Based on the foregoing, it is concluded that through proper mitigative measures, the proposed development can be considered, and it complies with the policies and guidelines of the Special Management Area Rules and Regulations in that:

1. The development will not have any substantial adverse environmental or ecological effect.
2. The development is consistent with the objectives/goals/policies of the County General Plan, the Comprehensive Zoning Ordinance, and other applicable ordinances.

Furthermore, the proposal DOES NOT:

- involve dredging, filling, or otherwise altering any bay, estuary, salt marsh, river mouth, slough or lagoon;
- reduce the size of any beach or other area usable for public recreation;
- reduce or impose restrictions upon public access to tidal and submerged lands, beaches, rivers or streams within the special management area; and
- adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, estuarine sanctuaries or existing agricultural uses of land.

The proposed development should not have any detrimental impact to the environment or the surrounding area and be in compliance with the criteria outlined for the granting of a Special Management Area Use Permit. The Applicant should institute the "Best Management Practices" to ensure that the operation of this facility does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

## **XI. PRELIMINARY RECOMMENDATION**

Based on the foregoing evaluation and conclusion it is hereby recommended Special Management Area Use Permit SMA(U)-2023-4 to be **APPROVED**. If approved, the following conditions shall be implemented:


1. The proposed improvements shall be constructed as represented. Any changes to said development shall be reviewed by the Planning Director to determine whether Planning Commission review and approval is warranted.
2. The subject property identified as Tax Map Key (4) 4-5-002:003, Lot 80-A, shall be restricted to a total of four (4) single-family dwellings. This restriction shall be incorporated into the deed restrictions of the subject parcel in the event the property is sold to another party, draft copies of which shall be submitted to the Planning Department prior to building permit application.
3. The lowest horizontal structural member of the dwelling unit shall be a minimum of two (2) feet above the Sea level rise flood elevation (SLRFE), which is 3 feet. Also, the Applicant shall work closely with the Planning Department prior to submittal of building permit application in order to ensure that the development complies with the height requirements under the County of Kauai's Sea Level Rise Constraint District.
4. In order to ensure that the project is compatible with its surroundings and to minimize the visual impact of the structures, the external color of the proposed dwelling shall be of moderate to dark earth-tone color. The proposed color scheme and a landscape plan should be submitted to the Planning Department for review and acceptance prior to building permit application.
5. 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 County of Kaua'i, Department of Planning to determine mitigation measures.
6. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, if external lighting is to be used in connection with the proposed project, all external lighting shall be only of the following types: downward-

facing, shielded lights. Spotlights aimed upward or spotlighting of structures shall be prohibited.

7. The Applicant shall develop and utilize Best Management Practices (B.M.P's) during all phases of development in order to minimize erosion, dust, and sedimentation impacts of the project to abutting properties.
8. The Applicant shall resolve and comply with the applicable standards and requirements set forth by the State Health Department, State Historic Preservation Division-DLNR, and the County Departments of Public Works, Fire, Transportation, and Water.
9. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kauai contractors as long as they are qualified and reasonably competitive with other contractors and shall seek to employ residents of Kauai in temporary construction and permanent resort-related jobs. It is recognized that the Applicant may have to employ non-Kauai residents for particular skilled jobs where no qualified Kauai residents possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.
10. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project, such as Leadership in Energy and Environmental Design (L.E.E.D.) standards or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low-energy fixtures, low-energy lighting and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for building permit review.
11. The Planning Commission reserves the right to revise, add, or delete conditions of approval in order to address or mitigate unforeseen impacts the project may, create, or to revoke the permits through the proper procedures should conditions of approval not be complied with or be violated.
12. Unless otherwise stated in the permit, once permit is issued, the Applicant must make substantial progress, as determined by the Director, regarding the development or activity within two (2) years, or the permit shall be deemed to have lapsed and be no longer in effect.

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 FEBRUARY 28, 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   
ROMIO IDICA  
Planner

Approved & Recommended to Commission:

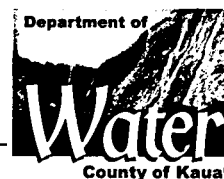
By   
KA'AINA S. HULL  
Director of Planning

Date: 2/21/2023

# EXHIBIT “A”

(Agency Comments)

**ENGINEERING DIVISION**  
DEPARTMENT OF WATER, COUNTY OF KAUAI  
MICHAEL K. HINAZUMI, P.E.



JOSEPH E. TAIT  
MANAGER AND CHIEF ENGINEER

DATE: January 3, 2023

TO: Planning Department  
Kaaina Hull, Director ( Romio)

SUBJECT: Special Mgt Area Permit SMA(U)-2023-4 Tax Map Key: (4) 4-6-002:003  
Single-family Dwelling, Vel Rajagopal & Sonja Ronning, Applicant

**DOW COMMENTS:**

We have no objections to the proposed Special Management Area Permit SMA(U)-2023-4 for the proposed single-family dwelling unit on TMK: 4-6-002:003 Unit 1. Water service will be limited to the existing water meters serving this parcel. Requests for additional water meters or an increase in water meter size will be dependent on the adequacy of the source, storage and transmission facilities existing at that time.

*Jason Kagimoto*  
\_\_\_\_\_  
Jason Kagimoto, P.E.  
Engineering Division  
Water Resources and Planning Section

SMA(U)-2023-4, 20230103, Vel Rajagopal & Sonja Ronning

1/3/23

\_\_\_\_\_  
Date



DAVID Y. IGE  
GOVERNOR OF HAWAII



ELIZABETH A. CHAR, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378  
HONOLULU, HI 96801-3378

In reply, please refer to:  
File:

January 5, 2023

Mr. Ka'aina S. Hull, Director  
County of Kauai Planning Department  
Email: [planningdepartment@kauai.gov](mailto:planningdepartment@kauai.gov)  
Attn: Romio Idica

Dear Mr. Hull:

Subject: **Special Mgt Area Permit SMA (U)-2023-4**  
**Tax Map Key: 450020030001**  
**Applicant: Vel Rajagopal & Sonja Ronning**  
**Single Family Residence**

The Department of Health, Wastewater Branch has the following comments for the subject SMA permit.

The individual wastewater system (IWS) for the proposed dwelling will be required to be located at least fifty-feet (50') from the shoreline certification. The specific type of IWS that will be required will be based on the submitted site evaluation information that is submitted by the applicant's licensed engineer.

Should you have any questions, please contact Lori Vetter at (808) 241-3321.

Sincerely,

SINA PRUDER, P.E., CHIEF  
Wastewater Branch

BELLES GRAHAM LLP

IAN K. JUNG 8626-0  
4334 Rice Street, Suite 202  
Lihue, Kauai, Hawaii 96766  
Telephone: (808) 245-2163  
Facsimile: (808) 245-3277  
Email: [ikj@kauai-law.com](mailto:ikj@kauai-law.com)

Attorney for Applicants,  
PETER WHALLEY,  
Trustee of the Peter Whalley Trust  
dated December 14, 2021, as amended or restated  
PHILIP MIN CHUL HONG and JEAN ROH,  
Trustees of the Hong/Roh Living Trust,  
dated December 13, 2017

BEFORE THE PLANNING DEPARTMENT

OF THE

COUNTY OF KAUAI

In The Matter Of The Application

Of

PETER WHALLEY, Trustee of the Peter)  
Whalley Trust dated December 14, 2021, as)  
amended or restated, and PHILIP MIN CHUL)  
HONG and JEAN ROH, Trustees of the)  
Hong/Roh Living Trust, dated December 13,) 2017, for a Special Management Area Use)  
Permit, for real property situated at Waipouli,) Kawaihau, Kauai, Hawaii and identified as)  
Unit Nos. 1 and 2 of the Kamoia Kai)  
Condominium, further described as )  
Parcel 8, identified by Kauai Tax Map Key )  
No. (4) 4-3-007:008 (CPR Nos. 0001 and )  
0002). )  
\_\_\_\_\_ )

) SPECIAL MANAGEMENT AREA  
) USE PERMIT SMA(U)-2023-\_\_\_\_\_  
)

) APPLICATION; EXHIBITS "A" - "G"

## SPECIAL MANAGEMENT AREA USE PERMIT

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## APPLICATION

Comes now, PETER WHALLEY, Trustee of the Peter Whalley Trust dated December 14, 2021, as amended or restated, and PHILIP MIN CHUL HONG and JEAN ROH, Trustees of the Hong/Roh Living Trust, dated December 13, 2017, Applicant in the above-captioned proceedings, by and through its undersigned attorney, and hereby submits the following Application:

### SECTION 1. APPLICANT/SUBJECT PROPERTY/OWNERS.

1.1 Applicant. The Applicants are PETER WHALLEY, Trustee of the Peter Whalley Trust dated December 14, 2021, as amended or restated, and PHILIP MIN CHUL HONG and JEAN ROH, Trustees of the Hong/Roh Living Trust, dated December 13, 2017 (collectively "Applicant"). The Applicant has authorized Ian K. Jung of Belles Graham LLP to file this Application pursuant to the Applicant's Authorization attached hereto as Exhibit "A".

1.2 Subject Property. The property which is the subject matter of this Application is a Parcel 8, further identified as Unit Nos. 1 and 2 of the Kamo Kai Condominium, which contains 0.2596 acre, and is identified by Kauai Tax Map Key No. (4) 4-3-001:008 (CPR Nos. 0001 and 0002 ("Subject Property")). The Subject Property was previously a four (4) Unit Condominium Property Regime; however, the Applicant reduced the Condominium to two (2) Units. (See, Exhibits "C-3" and "C-4"). A legal description of the Subject Property is contained in the Warranty Deed attached hereto as Exhibit "B".

1.3 Ownership. The Applicant is the owner of the Subject Property, as shown in the Warranty Deed attached as Exhibit "B".

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

2.1 Location. The Subject Property is located in Waipouli, Kawaihau, Kauai, Hawaii, and is shown on the Location Map attached hereto as Exhibit "C-1" and on the Tax Map attached as Exhibit "C-2".

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

a. SLUC. As shown on the Land Use District Boundary Map attached as Exhibit "C-5", the Subject Property is located in the SLUC Urban District. The Subject Property has been located in the SLUC Urban District since the inception of the SLUC Districts.

b. Kauai General Plan. As shown on the General Plan Map attached as Exhibit "C-6", the Subject Property is located in the Kauai General Plan Resort Designation. The Subject Property maintained its Resort Designation in the Update to the Kauai General Plan (2018).

c. CZO. As shown on the CZO Map attached as Exhibit "C-7", the Subject Property is located in the CZO Resort Residential (RR-20) District. The Subject Property has been located in the CZO Open District since the adoption of the CZO.

d. Development Plan Area. The Subject Property is located within the Kapaa-Wailua Shore Development Plan Area. The Subject Property has been located within the Kapaa-Wailua Development Plan Area since 1975 as adopted in Ordinance No. 254.

e. Special Management Area. As shown on the Special Management Area Map attached as Exhibit "C-8", all of the Subject Property is located within the Special Management Area ("SMA") of the County of Kauai. The Subject Property has been located within the SMA since the adoption of the SMA Rules (December 17, 1979).

f. Shoreline/Shoreline Setback Area. The Subject Property is not located along the Shoreline and all proposed improvements are within the delineated shoreline setback threshold area. The Applicant will apply for a Shoreline Setback Determination for the improvements identified below, pursuant to the Shoreline Setback Ordinance of the County of Kauai (Ordinance No. 979), and codified in CZO Article 27. (See, Exhibit "C-1").

g. Heritage Resources. As shown on the Heritage Resources Map attached as Exhibit "C-9", the Subject Property is located within the Preserve Heritage Resources Designations (Updated to the Kauai General Plan, 2018).

h. Violations. There are no known violations on the Subject Property and it is currently vacant.

2.3 Prior Land Use Permits. The Subject Property is subject to the following land use permits and conditions:

a. SMA(U)-2006-14 – The prior owner applied for a SMA Use Permit for four (4) dwelling units; however, SMA(U)-2006-14 was abandoned. (See, Exhibit "D").

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

3.1 Past Uses. The Subject Property is currently vacant and past uses referenced in the Ka Pa'akai Analysis.

3.2 Existing Structures. The Subject Property is currently vacant.

3.3 Proposed Structures. SMA(U)-2006-14 proposed four (4) dwelling units; however, the Applicant proposes reduce the density to two (2) single-family dwellings as shown in Exhibits "E-1" for Unit No. 1 and "E-2" for Unit No. 2. The proposed two (2) single-family dwellings are both two-story structures designed in a modern Hawaiian plantation style of architecture. (See, Exhibits "E-1" and "E-2"). The single-family dwellings are comprised of identical square footage counts of 1,468 square feet on first floor and 1,509 square feet on the



second floor. Both single-family dwellings consist of two (2) bedrooms, two (2) baths, and a half (1/2) bath.

In addition to the development of the Project pursuant to the Site Plan, the Applicant proposes to undertake the following new and/or related work that constitutes "Development" for the purposes of the SMA Rules and Regulations, as shown on the Site Plan (Exhibits "E-1" and "E-2"): (1) Two (2) Single-family Dwelling Units; (2) Driveway Improvements; (3) Drainage Improvements; 4) Landscaping; and, (5) related site utilities as shown on the enclosed Site Plan (collectively referred to as "Project") (See, Exhibits "E-1" and "E-2").

3.4 Land Coverage. The Subject Property is 11,308 square feet. The CZO RR-20 District allocates a total land coverage of 60%. The total allowable land coverage on the Subject Property is 6,785 square feet in the CZO RR-20 District. After completion of the Project, the total land coverage on the Subject Property will be approximately 4,698 square feet of the allowable 6,785 square feet in the CZO RR-20 District, which is 41.5% of the allowable 60% land coverage.

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

4.1 Location. The Subject Property is located along the Kamoia Road in Waipouli makai of Kuhio Highway. The northern and southern portions of the Subject Property is bounded by private property. The eastern portion of the Subject Property is adjacent to Kamoia Road. The western portion of the Subject Property is adjacent to private property.

4.2 Surrounding Uses. The adjacent properties are in resort and residential use. Other than the nearshore area of Waipouli Beach area, there are no Natural Area Reserves or Wildlife Refuges or Sanctuaries within or abutting the Subject Property.

## SECTION 5. PERMITS REQUESTED AND REQUIRED.

5.1 SMA Use Permit. The development and construction of the following proposed improvements on the Subject Property (the "Development") will take place within the SMA:

- (1) Two (2) Single-family Dwelling Units;
- (2) Driveway Improvements;
- (3) Drainage Improvements;
- (4) Landscaping; and
- (5) Related site utilities as shown on the enclosed Site Plan (collectively referred to as "Project") (See, Exhibits "E-1" and "E-2").

Such activity will constitute a "Development" as defined by the Special Management Rules and Regulations of the County of Kauai ("SMA Rules"). The total value of the Development in the SMA exceeds \$500,000.00. Therefore, the Applicant is requesting the Planning Commission to issue a SMA Use Permit (as defined in Section 7.3. of the SMA Rules) for the Development.

## SECTION 6. IMPACTS OF DEVELOPMENT.

6.1 Botanical Resources and Wildlife. The Subject Property is located in a residential neighborhood off Kamoia Road in Waipouli. The Subject Property primarily consists of grass lawn. No impacts to botanical resources and wildlife are anticipated due to the residential use of the surrounding area.

6.2 Historical Resources. An Archeological Inventory Survey ("AIS") was prepared Subject Property (Parcel 008) and an adjacent property (Parcel 009) on February 22-25, 2006, by Scientific Consultant Services, Inc. According to the AIS, the Subject Property had been previously modified. However, during the excavation of test trenching, two

historical sites were identified, Sites 50-30-08-3938 and 3939. Eight trenches were excavated, and two human burials were identified and designated as Site 50-30-08-3939 on the Subject Property. An Archeological Monitoring Plan was prepared and approved by the State of Hawaii, Department of Land and Natural Resources, State Historic Preservation Division ("SHPD"). (See, Exhibit "F-1"). Thereafter, a Burial Treatment Plan was prepared and approved by SHPD. (See, Exhibit "F-2"). As a consequence of the SHPD approved Burial Treatment Plan, the prior owner recorded a Declaration of Covenant, Conditions and Restrictions for Burials Site ("Declaration"), which allows for identified descendants to visit the Subject Property at reasonable times and reasonable advance notice as well as restrictions preventing disturbance of Site 50-30-08-3939. (See, Exhibit "F-3"). The Applicant understands the limitations set forth in the Declaration and will observe those requirements. In addition, the Applicant engaged Exploration Associates Ltd. to prepare and Amended Archaeological Monitoring Plan to ensure future ground disturbances follow SHPD procedures. (See, Exhibit "F-4"). The reduction of the former development plan from four (4) single-family dwelling units to two (2) single-family dwelling units accounts for the limitations set forth in the Declaration. Therefore, the Applicant will comply with the Burial Treatment Plan and the Declaration.

6.3 Air Quality/Noise. The Development will have little or no impact on the air quality and ambient noise levels in the area. Air quality and ambient noise levels may be affected at a very minimal level during the Development activities. All vehicles or equipment used by the Applicants for the prior construction will be properly muffled, housed and maintained to reduce any noise impacts or emission impacts. The Environmental Protection Agency (EPA) and State of Hawaii air quality standards will not be exceeded.

6.4 Flooding and Drainage. The Subject Property adjacent to the shoreline and is primarily within Flood Zone X, with small portion in the Flood Zone AE, as shown on the County of Kauai's flood insurance rate map (Flood Insurance Rate Map 150002-0212F) attached as Exhibit "C-10". The Development is proposed to located in the Flood Zone X will meet all of

the requirements of the Flood Plain Management Ordinance of the County of Kauai, as contained in Chapter 15, Article 1, of the Kauai County Code, 1987. The Development will have no impact on flooding on or around the Subject Property. All drainage resulting from construction activities and from the increase in land coverage will be retained on site and subject to best management practices. No additional drainage will be allowed to significantly or negatively impact the ocean.

6.5 Utilities.

a. Potable Water. The Subject Property currently obtains water service from the Department of Water, County of Kauai.

b. Electric/Communications. The Subject Property obtains electric service from Kauai Island Utility Cooperative, and communication services from Hawaiian Telcom, Inc. Existing electric and communications facilities are presently adequate to provide the demand for such services that will be generated by the proposed Development.

6.6 Wastewater Treatment and Disposal. The Subject Property's improvements will connect to existing County of Kauai sewer facilities that available in the area.

6.7 Solid Waste Disposal. Solid waste collection will be provided by the County of Kauai and by private means. Solid waste will be taken to the County's Transfer Stations for disposal in the County Landfill.

6.8 Governmental Services. The Development will have the following impacts on governmental services:

a. Fire and Police Services. Fire and police services in the vicinity are located in Kapaa, approximately one-half (½) mile from the Subject Property. The Development of the Subject Property will not significantly increase the need for existing fire and police services.

b. Schools. The closest schools are Kapaa Elementary School located in Hanalei, and Kapaa Middle School and Kapaa High School, both of which are located in Kapaa. The Development will not generate any significant additional enrollment.

6.9 Economics. The Development will have the following economic impacts:

a. Jobs. The Development will result in the creation of approximately ten (10) temporary job positions (during construction).

b. Housing. The Development will not result in the need for additional housing, as all persons working on the Development will be Kauai residents.

c. Property Values. Since the fair market value of real property is based on the value of the land and physical improvements, the completion of the Project will increase the value of the Subject Property. This will increase real property taxes on the Subject Property, and increase revenues to the County of Kauai.

6.10 Population. The Applicant estimates that the Development will not result in an increase in population.

6.11 Traffic Circulation. The major road which services the Subject Property is Kamoia Road. The Development will distribute access to the Subject Property to a single driveway, but will not in and of itself increase traffic on these roads.

6.12 Heritage Resources. The Subject Property is located within the Natural Heritage Resources Designation (Update to the Kauai General Plan, 2018). The Heritage Resources of Kauai include natural, cultural and scenic resources. The proposed Development will not significantly affect any of these resources.

## SECTION 7. SLUC CONSIDERATIONS.

7.1 SLUC Urban District. The Subject Property is located within the SLUC Urban District. Permitted uses in the SLUC Urban District include residential uses.

## SECTION 8. GENERAL PLAN CONSIDERATIONS.

8.1 Kauai General Plan Resort Designation. The Subject Property is located in the Kauai General Plan Resort Designation and contemplates resort and residential use. The Subject Property zoning (RR-20 District) allows for five (5) single-family dwelling units; however, the Applicant is only proposing two (2) dwelling units. As such, the Project complies with the Resort Designation given the proposed residential use.

8.2 Project's Compliance with Kauai General Plan Standards. The proposed use includes residential use, thereby the development itself will have no significant impact on the surrounding environment. The Project will include residential uses that are compatible with other uses in the area, as well as with the surrounding environment. As such, the Project complies with the Kauai General Plan policy for the Resort Designation.

8.3 Goals. The overall Goals contained in Section 1.3 of the Kaua'i General Plan, and the Project's compliance therewith, are as follows:

a. Goal 1 – A Sustainable Island. The Project is within the Waipouli resort and residential area and will fulfill the vision to create a live, work and play lifestyle along the Rice Street corridor.

b. Goal 2 – A Unique and Beautiful Place. The Project will complement the built environmental assets of the Waipouli community. It will provide a built environment consistent with similar uses in the area as well policies as envisioned for the area.

c. Goal 3 – A Healthy and Resilient People. The Project will embrace the walkable community in the Waipouli resort and residential area.

d. Goal 4 – An Equitable Place, with Opportunity for All. The Project will support and enhance economic and business opportunities by providing construction jobs.

8.4 Policies. The Project will comply with the Policies contained in Section 1.4 of the Kaua'i General Plan as follows:

a. Manage Growth to Preserve Rural Character. The Project will not detract from the rural characteristics of Kaua'i. It will provide a residential use within the designated growth boundaries of the Waipouli area.

b. Provide Local Housing. The Project does not trigger affordable housing requirements given it is a single-family residence.

c. Recognize the Identity of Kaua'i's Individual Towns and Districts. The Project will be consistent with existing designs and uses in the Waipouli area.

d. Design Healthy and Complete Neighborhoods. The Project will be a complement to the neighborhood by providing for a consistent design.

e. Make Strategic Infrastructure Investments. The Project will not have any significant impacts on the public.

f. Reduce the Cost of Living. The Project consists of two (2) single-family dwelling units and will not affect the cost of living.

g. Build a Balanced Transportation System. The Project will not substantially increase traffic or congestion problems.

h. Protect Kaua'i's Scenic Beauty. The Project is within the resort and residential area of Waipouli and will have a minimal impact on Kauai's scenic beauty. As such, no significant visual impacts are anticipated due to the Project's location in relation to existing structures. Furthermore, the Applicant plans to include vegetative mitigation to mask the Project as illustrated in Exhibits "E-1" and "E-2". Lastly, the use of earth tone colors will further mitigate the structures appearance.

- i. Uphold Kaua'i as a Unique Visitor Destination. The Project will comply with the Visitor Destination Area ("VDA") requirements.
- j. Help Business Thrive. The Project will not impact existing businesses with the exception of providing additional construction jobs for the single-family dwelling units.
- k. Help Agricultural Lands Be Productive. The Project will have no negative impact on surrounding agricultural uses. It will help to preserve agricultural lands by locating the residence in an appropriately designated area.
- l. Protect Our Watersheds. The Project will have no negative impacts on the watershed areas.
- m. Complete Kaua'i's Shift to Clean Energy. The Project will have no negative impacts on Kaua'i's shift to clean sources of energy.
- n. Prepare for Climate Change. The Project is located approximately 400 feet from the shoreline area and is not an abutting shoreline property and no coastal hazards are expected.
- o. Respect Native Hawaiian Rights and Wahi Pana. The Project is not anticipated to have substantial impacts on Site 50-30-08-3939 given the existing Burial Treatment Plan and Declaration will be complied with and any ground disturbance will be subject to Amended Archeological Monitoring Plan. The Project was reduced from four (4) dwellings to two (2) dwellings to address the existing Burial Treatment Plan.
- p. Protect Access to Kaua'i's Treasured Places. The Project will have no impact on the public's access to streams, the shoreline, trails, recreational areas, or places associated with Hawaiian religious, cultural, or traditional practices.
- q. Nurture Our Keiki. The Project will not impact the Keiki of Kauai.
- r. Honor Our Kūpuna. The Project will not impact the Kapuna of Kauai.



s. Communicate with Aloha. The scheduling of this Application before the Planning Commission will allow the public to participate in the planning and decision-making process for the Project.

8.5 Objectives & Actions by Sectors. The ten (10) Sectors contained in Section 3.0 of the Kaua'i General Plan (which represent the areas that must be considered in policy implementation), and the Project compliance therewith, are as follows:

a. The Watershed. The Project will have no negative impacts on the natural, historic, cultural, or environmental qualities of, or resources within, the Watershed areas, or access thereto.

b. Housing. The Project does not trigger affordable housing requirements.

c. Transportation. The Project will not result in a substantial increase in traffic and will have no negative impact on Kaua'i's transportation infrastructure. It is within walking distance of visitor amenities, commercial activities, recreation resources, and public facilities.

d. Infrastructure & Services. The Project will be served by existing private (electric, cable and wastewater) and public (water) systems.

e. Shared Spaces. The Project will not overburden the use and enjoyment of public resources and Shared Spaces in the Waipouli area.

f. Economy. The Project will minimally enhance and promote resident related uses and business opportunities in the Lihue area in support of Kaua'i's construction economy.

g. Heritage Resources. The Project will have no substantial visual impacts on surrounding lands, and no substantial impacts on the Historic Sites, on Hawaiian cultural or traditional practices, or on access to streams, shorelines, areas associated with Hawaiian cultural

or traditional practices, recreational areas or other special places. The Project will not negatively impact any special features or resources that are shown on the Heritage Resource Map.

h. Energy Sustainability. The Project will have no negative impacts on Kaua'i's energy sustainability goals. It will incorporate energy efficient features in its development.

i. Public Safety & Hazards Resiliency. The Project will not be subject to sea level rise given the topography of the Subject Property.

j. Opportunity & Health For All. The Project will promote knowledge of and access to the Bike Path along the Waipouli area and promote a walkable community.

## SECTION 9. CZO RR-20 DISTRICT CONSIDERATIONS.

9.1 CZO Resort (RR-20) District. A portion of the Subject Property is located in the CZO Resort District (RR-20). The purposes of the CZO RR-20 District are set forth in CZO Article 5, which provides in relevant part as follows:

### **"Sec. 8-5.1 Purpose.**

(a) To create and protect attractive areas in pleasing and harmonious surroundings to accommodate the needs and desires primarily of visitors, tourists and transient guests.

(b) To control density and to assure that undue congestion of streets and facilities will not occur.

(c) To control the organization and design of use and structures to assure that the development will not detract from the natural features and attributes of the surrounding area.

(d) To insure that physical and visual public access to recreational, historic and scenic areas is maintained and improved.

### **Sec. 8-5.2 Types Of Resort Districts.**

(a) There are two (2) resort density districts as follows:

- (1) RR-10
- (2) RR-20

(b) The number portion of each resort density district establishes the maximum number of dwelling units including hotel and motel rooms that may be permitted per acre of land in each district as calculated in accordance with Sec. 8-4.6, except that each hotel and motel room shall be considered as one-half (1/2) of one (1) dwelling unit in computing the allowable number of dwelling units."

9.2 Permitted Uses And Structures In CZO Resort District. CZO Section 2.4(a) contains the Uses And Structures which are permitted in the CZO Resort District, which include the following:

"(1) Single family detached dwellings"

. . .

9.3 Project's Compliance with CZO Resort (RR-20) District Standards. The Project, which involves the construction of two (2) single-family dwelling units on the Subject Property, is consistent with CZO Sections 2.4(a)(1).

### **SECTION 10. WAILUA-KAPAA DEVELOPMENT PLAN CONSIDERATIONS.**

10.1 Project Plan Goals and Objectives. The goals and objectives of the Wailua-Kapaa Development Plan includes creating a residential community.

10.2 Project's Compliance with Development Plan Standards. The proposed use of the Subject Property will not conflict with any of the objectives contained in the Wailua-Kapaa Development Plan. The design, layout and outside appearance of the Development is and will be compatible with the natural beauty of the area and its minimal size will not impact view planes in the area.

## SECTION 11. SMA CONSIDERATIONS.

11.1 Recreational Resources. There are no public recreational opportunities taking place on the Subject Property. Therefore, the proposed Project will not have any negative impact on any public recreational opportunities located on the Subject Property. The construction of the Project will not overburden the use of, nor restrict access to, the shoreline in the vicinity of the Subject Property. The Subject Property is immediately adjacent to Kamoā which leads to public beach access in the Waipouli area. Therefore, the Project will have no direct impact on the existing public beach access.

11.2 Historic Resources. As provided for above, the Applicant will observe and comply with the existing Burial Treatment Plan, Declaration, and implementation of the Amended Archeological Monitoring Plan.

11.3 Scenic and Open Space Resources. The proposed Project will have only minor impacts on the scenic and open space resources on and around the Subject Property. Any visual impacts from Kamoā Road will be mitigated with existing landscaping, such as palm trees. The Project will be compatible with and blend into the surrounding area. The Applicant has incorporated landscaping to provide reasonable mitigation to the visual impacts the Project may have on the scenic quality of the Subject Property and on views from surrounding area.

11.4 Coastal Ecosystems. The Subject Property, being located near the shoreline, is part of the coastal ecosystem of that area. However, the proposed Project will have no significant impact on this ecosystem. The Project will be constructed and maintained so that any erosion or increased runoff will be maintained on site, and will not be allowed to enter into the nearshore area. No aspect of the Project will endanger the coastal ecosystem or have any negative impacts on it.

11.5 Economic Uses. The Subject Property will be developed for residential purposes. The proposed Project will create short term economic benefits associated with the construction of the improvements. The proposed Project will not have any negative impacts on the economy.

11.6 Coastal Hazards. Portions of the Subject Property is not adjacent to shoreline and is situated within or near a flood zone (Zone X and AE) as shown on the County of Kauai's flood insurance rate maps. The proposed Project site will be located outside of the Flood Zone AE and within the Flood Zone X. Additional surface water flows caused by the Project will be maintained on site.

11.7 Managing Development/Public Participation. The Project activities on the Subject Property are complimentary to, and consistent with, present and future coastal zone development in this area of Kauai.

11.8 Beach Protection/Marine Resources. The Subject Property is located near, but not along, the shoreline. The Project will have no impact on any shoreline or beach areas, or on any open space areas along the shoreline. The Project will not involve any development within the beach or coastal area which would have any negative impact on marine or coastal resources. The Applicant is not aware of any existing fishponds, seawalls or revetments in the vicinity of the Subject Property.

11.9 Value of Development. The Development involves activities with a value of more than \$500,000.00.

11.10 Compatibility With Surrounding Uses. The Subject Property is surrounded by properties located within the SLUC Urban District and the CZO RR-20 District. Uses on the surrounding lands include resort and residential uses. The Subject Property is similar in

topography, character and nature with adjacent and surrounding properties, and the Project activities are consistent with such surrounding uses.

11.11 Project's Impacts Within SMA. The Project on the Subject Property will have no negative impact on the SMA. The Project is and will be compatible with existing uses in areas on or around the Subject Property. The Project will not negatively impact scenic or open space resources within the SMA. The Project will not increase runoff or otherwise endanger the coastal ecosystem. The Project will have no detrimental impact on recreational, historic, or economic resources. The Project will not have detrimental impacts on beach or marine resources. Approval of the Project will not result in the foreclosure of future management options for development in the area. The design, siting, and landscaping of the Project as proposed will ensure that the proposed Project recognizes, preserves, maintains and contributes to the characteristics of the surrounding lands (which lands are recognized to be of particular significance or value to the general public). In particular, the Project will be compatible with, and will protect, the unique natural forms of, biologic systems contained within, and aesthetic characteristic of, the SMA.

11.12 Project's Compliance with SMA Standards. The Project activities on the portions of the Subject Property within the SMA fulfill the provisions of the SMA Rules in that:

- a. The Project will have no effect on public access to publicly owned or used beaches and recreational areas.
- b. The Project will not detrimentally effect any wildlife or endangered plant or animal species which may be located at this site.
- c. Provisions for solid and liquid waste treatment, disposition and management will be developed in order to minimize adverse effects on the Special Management Area.

d. Alteration to existing land forms or vegetation and the construction of structures will cause minimum adverse effects to water resources and scenic and recreational amenities, and will minimize danger of floods, wind damage, storm surge, landslides, erosion, siltation, or failure in the event of earthquake.

e. The Project will not require dredging, filling, or altering any bay, estuary, salt marsh, river mouth, slough or lagoon.

f. The Project will not reduce the size of any beach or other area useable for public recreation.

g. The Project will not reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions or rivers or streams within the Special Management Area and the mean high tide line where there is no beach.

h. The Project will not substantially interfere with or detract from the line of sight toward the sea from the State highway nearest the coast.

i. The Project will not adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, or potential or existing agriculture uses of land.

j. The Project will not have any substantial environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interests.

k. The Project is consistent with the objectives, policies, and guidelines set forth in HRS Chapter 205A and Sections 3.0 and 4.0 of the SMA Rules.

1. The Project is consistent with permitted uses in the SLUC Urban District, the Kauai General Plan, the Wailua-Kapaa Development Plan, and the CZO RR-20 District.

SECTION 12. HRS CHAPTER 343 (ENVIRONMENTAL IMPACT STATEMENTS) CONSIDERATIONS.

12.1 HRS Chapter 343. The Project is not subject to the provisions of Hawaii Revised Statutes Chapter 343. HRS Chapter 343 requires the preparation of an Environmental Assessment and/or an Environmental Impact Statement for certain activities as specified in HRS Section 343-5.

SECTION 13. NATIVE HAWAIIAN ISSUES.

13.1 Project's Impacts on Traditional or Cultural Practices. The Applicant commissioned Exploration Associated Ltd. to conduct a Ka Pa'akai Analysis to evaluate native Hawaiian traditions and customary practices and perspectives of the Subject Property. See, Exhibit "G". EAL's goal was to meet and inter a cross-section of indigenous Hawaiian people from the community. Three (3) individuals responded to requests as noted in the Ka Pa'aki Analysis. All participants suggested that archeological monitoring be required for the Project. As a result the Applicant finds that the Project will have no significant impact on any known traditional or customary practices of native Hawaiians.

a. There are no known traditional or customary practices of native Hawaiians that are presently occurring within the Subject Property with the exception of historic sites recognized in the approved Burial Treatment Plan. Further, and the public beach access is provided for via Kamo Road for access to the nearshore waters for ocean-related cultural and traditional native Hawaiian practices.



b. There are no indications of special gathering practices taking place within any portion of the Subject Property given the primary feature of the Subject Property is manicured grass.

c. The Project will not detrimentally affect: access to any streams; access to the shoreline or other adjacent shoreline areas; or gathering along any streams, the shoreline or in the ocean given public beach access is available immediately adjacent to the Subject Property.

d. There are no known religious practices taking place within the Subject Property based on conversations with the participants of the Ka Pa'akai Analysis.

e. Other than the historic sites noted in the approved Burial Treatment Plan, there are no known cultural or historic sites or resources located within the Subject Property.

#### SECTION 14. CONCLUSION.

The Applicant respectfully requests that the Planning Commission:

1. Find that the Project will not have any substantial environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.

2. Find that the Project is consistent with the objectives, policies, and guidelines set forth in Hawaii Revised Statutes Chapter 205A and Sections 3.0 and 4.0 of the SMA Rules.

3. Find that the Project is consistent with permitted uses in the SLUC Agricultural District, the Kauai General Plan, the Wailua-Kapaa Development Plan, and the CZO RR-20 District.

4. Approve the issuance of a SMA Use Permit for the Project on the Subject Property as described herein, subject to such reasonable conditions as the Planning Commission shall impose.

DATED: Lihue, Kauai, Hawaii, 10/26/2022.

BELLES GRAHAM LLP

By

  
IAN K. JUNG

Attorney for Applicants, PETER WHALLEY,  
Trustee of the Peter Whalley Trust dated  
December 14, 2021, as amended or restated  
PHILIP MIN CHUL HONG and JEAN ROH,  
Trustees of the Hong/Roh Living Trust, dated  
December 13, 2017

## EXHIBIT LIST

(SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION)

### EXHIBIT

A. AUTHORIZATION

Applicant's Authorization .....A

B. TITLE

Warranty Deed .....B

C. MAPS

Location Map .....C-1  
Tax Map .....C-2  
Condominium Map .....C-3  
First Amended Condominium Map .....C-4  
Land Use District Boundary Map .....C-5  
General Plan Map .....C-6  
CZO Map .....C-7  
SMA Map.....C-8  
Heritage Resources Map .....C-9  
Flood Insurance Rate Map .....C-10

D. LETTERS

SMA(U)-2006-1 .....D

E. PLANS

Unit 1 Plan Set .....E-1  
Unit 2 Plan Set .....E-2

F. STUDYS

Archeological Monitoring Plan.....F-1  
Burial Treatment Plan.....F-2  
Declaration of Covenant, Conditions, and Restrictions for Burial Site.....F-3  
Amendment to Approved Archeological Monitoring Plan.....F-4

G. KA PA'AKAI ANALYSIS

Ka Pa'akai Analysis.....G

## APPLICANTS' AUTHORIZATION

### I. APPLICANT.

Name: Peter Whalley, Trustee of the Peter Whalley Trust dated December 14, 2021, as amended or restated

Philip Min Chul Hong and Jean Roh, Trustees of the Hong/Roh Living Trust, dated December 13, 2017

Address: Attention: Peter Whalley  
4808 Pelehu Street  
Kapaa, Hawaii 96746

### II. AUTHORIZED AGENT.

Name: Ian K. Jung, Esq.

Address: Belles Graham LLP  
3135 Akahi Street, Suite A  
Lihue, Kauai, Hawaii 96766

Telephone: (808) 245-2163  
Facsimile: (808) 245-3277  
Email: [ikj@kauai-law.com](mailto:ikj@kauai-law.com)

### III. PROPERTY.

Kamoa Kai Condominium  
Unit Nos. 0001 and 0002  
Kapaa, Kauai, Hawaii  
Kauai Tax Map Key No. (4) 4-3-007:008 (CPR Nos. 0001 and 0002)


### IV. AUTHORIZATION.

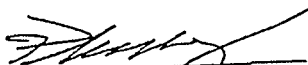
The Applicant hereby authorizes the Authorized Agent to act on the Applicant's behalf and to file and process on the Applicant's behalf any and all applications necessary to obtain governmental permits relating to the Subject Property, including, but not limited to, the following:

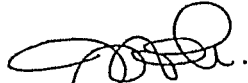
1. Building permits, grading permits, use permits, variance permits, zoning permits, shoreline setback determinations, and Special Management Area permits issued by any department, agency, board or commission of the County of Kauai.
2. Permits issued by the Department of Health of the State of Hawaii.
3. Permits issued by the Board of Land and Natural Resources of the State of Hawaii and/or the Department of Land and Natural Resources of the State of Hawaii, including shoreline certifications.
4. Permits issued by the Land Use Commission of the State of Hawaii.
5. Approval before the United States Department of Agriculture, Natural Resources Conservation Service.

DATED: 10-20-22.

APPLICANTS:

  
PETER WHALLEY, Trustee of the  
Peter Whalley Trust dated December  
14, 2021, as amended or restated

  
PHILIP MIN CHUL HONG, Trustee  
of the Hong/Roh Living Trust, dated  
December 13, 2017

  
JEAN ROH, Trustee of the Hong/Roh  
Living Trust, dated December 13, 2017



STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

February 25, 2022 8:01 AM  
Doc No(s) A - 80910023

Doc 1 of 1  
Pkg 11971389 ICL

/s/ LESLIE T KOBATA  
REGISTRAR

Conveyance Tax: \$575.00

---

Return by mail(X) pick-up( )

Peter Whalley  
4808 Pelehu Road  
Kapaa, HI 96746

TG: 73112230664A RS  
TGE: 242732228411  
Michelle Dela Sierra

---

Tax Map Key No.: 4/ 4-3-007-008, CPR 0001, 0002, 0003 & 0004

**WARRANTY DEED**

THIS WARRANTY DEED is dated 2.18.2022. LLOYD DAN NISHIKAWA and MONICA NISHIKAWA, husband and wife, of University Place, Washington, hereinafter called the "Grantor", in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to the Grantor paid by PETER WHALLEY, Trustee of the PETER WHALLEY TRUST dated December 14, 2021, as amended or restated, with full powers to sell, convey, mortgage, lease, etc., as to an undivided fifty percent (50%) interest, whose address is 4808 Pelehu Road, Kapaa, Hawaii 96746, and PHILLIP MIN CHUL HONG and JEAN ROH, Trustees of the HONG/ROH LIVING TRUST dated December 13, 2017, with full powers to sell, convey, mortgage, lease, etc., as to an undivided fifty percent (50%) interest, whose address is 943 4th Avenue, Los Angeles, California 90019, hereinafter called the "Grantee", the receipt of which is acknowledged, grants and conveys unto the Grantee, as tenants in common, the property described in the attached Exhibit "A", hereinafter called the "property".



AND the reversions, remainders, rents, issues and profits and all of the estate, right, title and interest of the Grantor, both at law and in equity, in and to the property.


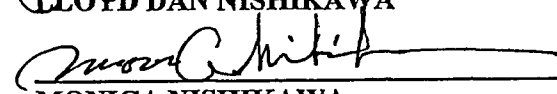
TO HAVE AND TO HOLD the property, including the improvements thereon, and all rights, easements, privileges and appurtenances belonging or appertaining to or held and enjoyed with the property, unto the Grantee according to the tenancy set forth herein, forever.

The Grantor covenants with the Grantee that the Grantor is lawfully seised in fee simple of the property and has good right to sell and convey the property; that the property is free and clear of all encumbrances except as set forth herein and except for the lien of real property taxes not yet required by law to be paid; and that the Grantor will warrant and defend the property unto the Grantee against the lawful claims and demands of all persons, except as aforesaid.

This instrument and the covenants of the Grantor shall be binding upon the Grantor and inure to the benefit of the Grantee. The terms "Grantor" and "Grantee" as and when used herein, or any pronouns used in place thereof, shall mean and include the singular or plural number, individuals, partnerships, trustees and corporations, and each of their respective heirs, personal representatives, successors in interest and assigns. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several.

This instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all parties. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

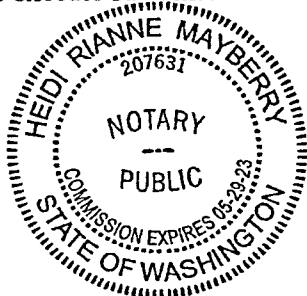
IN WITNESS WHEREOF, the Grantor has executed this instrument.

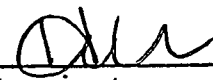
  
LLOYD DAN NISHIKAWA  
  
MONICA NISHIKAWA

Grantor

State of Washington )  
County of Pierce ) SS.

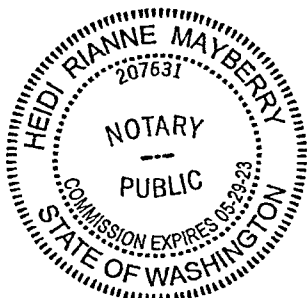
On 2.18.2022, before me personally appeared LLOYD DAN NISHIKAWA, to me personally known, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.




  
Notary signature  
Type or print name: Heidi Rianne Mayberry  
Notary Public, State of Washington  
My commission expires: 5.29.23!

State of Washington )  
County of Pierce ) SS.

On 2.18.2022, before me personally appeared MONICA NISHIKAWA, to me personally known, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



  
Notary signature  
Type or print name: Heidi Rianne Mayberry  
Notary Public, State of Washington  
My commission expires: 5.29.23.

### Exhibit "A"

All of that certain parcel of land (being portion of the land(s) described in and covered by Royal Patent Number 7373, Land Commission Award Number 8559-B, Apana 42 to W. C. Lunalilo ) situate, lying and being on the east side of Kamoia Road, at Waipouli, Kapaa, Island and County of Kauai, State of Hawaii, and thus bounded and described:

Beginning at a pipe, at the south corner of this parcel of land, on the east side of Kamoia Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 634.06 feet south and 11,542.88 feet east and running by true azimuths measured clockwise from true South:

- |    |              |   |
|----|--------------|---|
| 1. | 142° 47'     | 91.32 feet along east side of Kamoia Road to a pipe;  |
| 2. | 226° 50' 30" | 127.08 feet along south boundary of land owned by Isaiah K. Kaauwai to a pipe;  |
| 3. | 324° 36' 30" | 90.08 feet along west boundary of land owned by Joseph B. Rapozo to a pipe;   |
| 4. | 46° 07'      | 124.37 feet along north boundary of land owned jointly by Mrs. D. Kane and John Gerad and wife to the point of beginning and containing an area of 0.2596 acre, more or less. |

Note: The aforementioned premises has been divided into 4 apartment units more particularly described in the Declaration of Condominium Property Regime dated November 20, 2007, recorded as Document No. 2008-052896, as shown on Condominium Map No. 4611, and recorded in the Bureau of Conveyances of the State of Hawaii.

BEING THE PREMISES ACQUIRED BY LIMITED WARRANTY APARTMENT DEED to LLOYD DAN NISHIKAWA and MONICA NISHIKAWA, husband and wife, as Tenants by the Entirety, dated June 28, 2012, recorded as Document No. A-45660317.

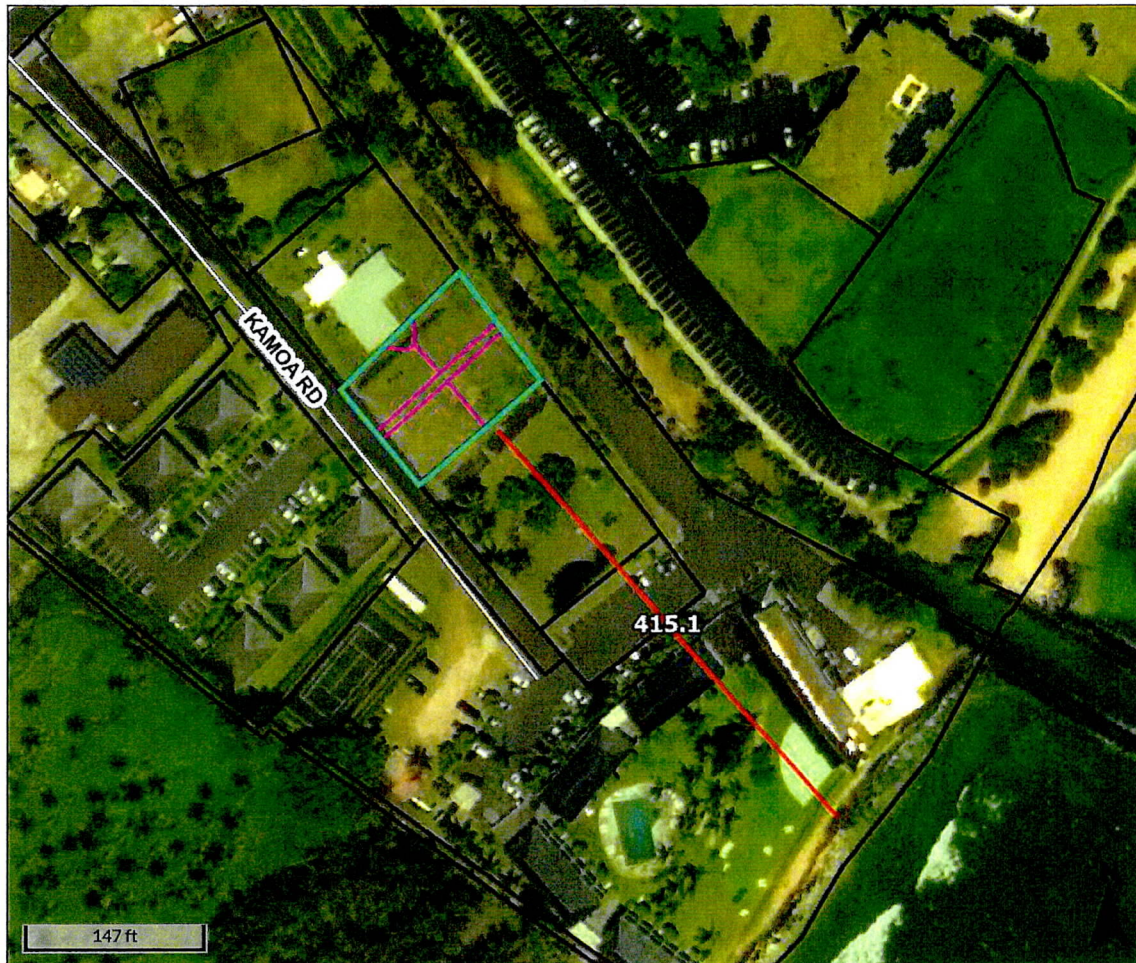
Subject to the following:

1. Mineral and water rights of any nature.
2. The terms and provisions contained in the DECLARATION OF COVENANT, CONDITIONS AND RESTRICTIONS FOR BURIAL SITE dated November 15, 2006, recorded as Document No. 2006-213071.
3. The terms and provisions contained in the DECLARATION OF CONDOMINIUM PROPERTY REGIME FOR "KAMOIA KAI" dated November 20, 2007, recorded as Document No. 2008-052896, as shown on Map 4611 and any amendments thereto.

Note: Any recorded amendments to said Declaration affecting apartments other than the specific apartment described herein, are not shown.

4. The terms and provisions contained in the BY-LAWS OF THE ASSOCIATION OF UNIT OWNERS recorded as Document No. 2008-052897.
5. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.

**End of Exhibit "A"**



#### Overview



#### Legend

-  Parcels
-  CPR Units
-  Roads

Parcel ID	430070080000	Situs/Physical Address	4460 KAMO'A RD	Total Market Value	Last 2 Sales		
Acreage	0.26	Mailing Address	KOMOA KAI CONDOMINIUM	Total Assessed Value	Date	Price	Reason
Class	n/a			Total Exemptions	11/14/2005	\$450000	VALID SALE
				Total Net Taxable Value	n/a	0	n/a

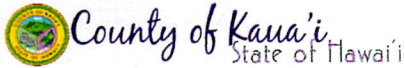
Brief  
Tax Description: POR RP 7373 LC AW 8559-B:42 0.2596 AC DES  
(Note: Not to be used on legal documents)

The Geographic Information Systems (GIS) maps and data are made available solely for informational purposes. The GIS data is not the official representation of any of the information included, and do not replace a site survey or legal document descriptions. The County of Kauai (County) makes or extends no claims, representations or warranties of any kind, either express or implied, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose, as to the quality, content, accuracy, currency, or completeness of the information, text, maps, graphics, links and other items contained in any of the GIS data. In no event shall the County become liable for any errors or omissions in the GIS, and will not under any circumstances be liable for any direct, indirect, special, incidental, consequential, or other loss, injury or damage caused by its use or otherwise arising in connection with its use, even if specifically advised of the possibility of such loss, injury or damage. The data and or functionality on this site may change periodically and without notice. In using the GIS data, users agree to indemnify, defend, and hold harmless the County for any and all liability of any nature arising out of or resulting from the lack of accuracy or correctness of the data, or the use of the data.

Date created: 10/21/2022  
Last Data Uploaded: 10/21/2022 5:54:34 AM

Developed by  Schneider  
GEOSPATIAL





## Parcel Information

Parcel Number 430070080000  
 (TAX MAP KEY)  
 Location 4460 KAMOA RD  
 Address KAPAA HI 96746  
 Project Name KAMOA KAI CONDOMINIUM  
 Tax RESIDENTIAL  
 Classification **Condo Information: This is a Condo Master and may be subject to a tax liability through the Current Fiscal Year, which will be listed under "Current Tax Bill Information". Individual Condo Unit assessments and taxes can be found in the Condo Unit Information linked below.**  
 (Note: This is for tax purposes only. Not to be used for zoning.)  
 Neighborhood Code 4311-2V  
 Legal Information POR RP 7373 LC AW 8559-B;42 0.2596 AC DES  
 Zoning 72  
 Non Taxable Status Condo Master  
 Land Area 0.2596  
 (acres)  
 Land Area 11,308  
 (approximate sq ft)  
 Living Units 0

[View Map](#)

## Owner Information

Owner Names  
 KOMOA KAI CONDOMINIUM Fee Owner

Mailing Address  
 KOMOA KAI CONDOMINIUM

## CPR/Condo/Apt Unit Information

Parcel Number	Unit Number	Owner Name
<a href="#">430070080001</a>	- This Unit is created from a Condo Master – Taxable for future Fiscal Years.	PETER WHALLEY TRUST
<a href="#">430070080002</a>	- This Unit is created from a Condo Master – Taxable for future Fiscal Years.	PETER WHALLEY TRUST
<a href="#">430070080003</a>	- This Unit is created from a Condo Master – Taxable for future Fiscal Years.	NISHIKAWA,LLOYD D
<a href="#">430070080004</a>	- This Unit is created from a Condo Master – Taxable for future Fiscal Years.	NISHIKAWA,LLOYD D

## Historical Payment Information

Year	Tax	Payments and Credits	Penalty	Interest	Other
⊕ 2008	\$2,207.31	(\$2,207.31)	\$0.00	\$0.00	\$0.00
⊕ 2007	\$2,207.31	(\$2,207.31)	\$0.00	\$0.00	\$0.00
⊕ 2006	\$1,810.48	(\$1,810.48)	\$0.00	\$0.00	\$0.00
⊕ 2005	\$1,810.48	(\$1,810.48)	\$0.00	\$0.00	\$0.00
⊕ 2004	\$1,485.84	(\$1,485.84)	\$0.00	\$0.00	\$0.00
⊕ 2003	\$1,549.26	(\$1,549.26)	\$0.00	\$0.00	\$0.00
⊕ 2002	\$1,452.65	(\$1,452.65)	\$0.00	\$0.00	\$0.00
⊕ 2001	\$1,280.64	(\$1,280.64)	\$0.00	\$0.00	\$0.00

## Map



No data available for the following modules: Assessment Information, Assessment Notices, Appeal Information, Improvement Information, Commercial Improvement Information, Sketches, Other Building and Yard Improvements, Permit Information, Conveyance Information, Current Tax Bill Information.

The Kauai County Tax Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation.

[User Privacy Policy](#)  
[GDPR Privacy Notice](#)

[Last Data Upload: 10/23/2022, 11:06:42 PM](#)

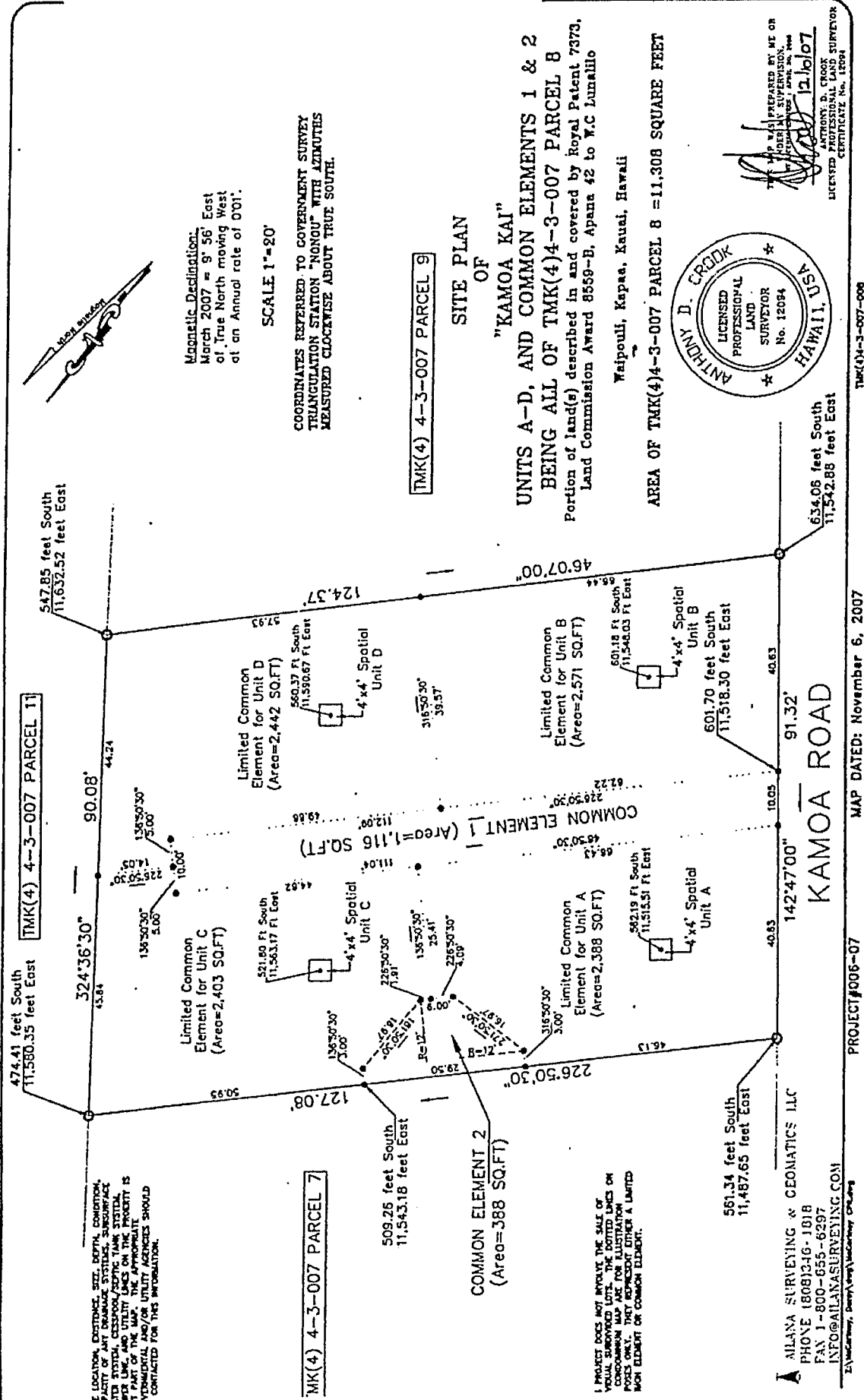
Developed by



Version 2.3.227







## **Exhibit "A"**

### Description of Units

The fee simple Project consists of a total of four Units, designated as Unit A, Unit B, Unit C, and Unit D. There are a total of four one-story spatial units in the Project. There is a one-story spatial unit without basement located on Unit A, Unit B, Unit C, and Unit D.

Units A, B, C, and D are located as shown on the Condominium Map.

1. Unit A. Unit A consists of one freehold estate consisting of a one-story spatial unit without basement. The spatial unit is an open area that is approximately four (4) feet in length, four (4) feet in width, and with a height of four (4) feet. The unit contains approximately sixteen (16) square feet. The center location of the spatial unit is identified through a tie in with the Government Survey Triangulation Station "NONOU" (shown as "Spatial Unit A" on the Condominium Map). The center coordinates also are shown on the Condominium Map. Parking for at least two (2) vehicles is available anywhere within the Limited Common Element land area.
2. Unit B. Unit B consists of one freehold estate consisting of a one-story spatial unit without basement. The spatial unit is an open area that is approximately four (4) feet in length, four (4) feet in width, and with a height of four (4) feet. The unit contains approximately sixteen (16) square feet. The center location of the spatial unit is identified through a tie in with the Government Survey Triangulation Station "NONOU" (shown as "Spatial Unit B" on the Condominium Map). The center coordinates also are shown on the Condominium Map. Parking for at least two (2) vehicles is available anywhere within the Limited Common Element land area.
3. Unit C. Unit C consists of one freehold estate consisting of a one-story spatial unit without basement. The spatial unit is an open area that is approximately four (4) feet in length, four (4) feet in width, and with a height of four (4) feet. The unit contains approximately sixteen (16) square feet. The center location of the spatial unit is identified through a tie in with the Government Survey Triangulation Station "NONOU" (shown as "Spatial Unit C" on the Condominium Map). The center coordinates also are shown on the Condominium Map. Parking for at least two (2) vehicles is available anywhere within the Limited Common Element land area.

4. Unit D. Unit D consists of one freehold estate consisting of a one-story spatial unit without basement. The spatial unit is an open area that is approximately four (4) feet in length, four (4) feet in width, and with a height of four (4) feet. The unit contains approximately sixteen (16) square feet. The center location of the spatial unit is identified through a tie in with the Government Survey Triangulation Station "NONOU" (shown as "Spatial Unit D" on the Condominium Map). The center coordinates also are shown on the Condominium Map. Parking for at least two (2) vehicles is available anywhere within the Limited Common Element land area.

The approximate net floor areas of each unit as set forth above is measured from the interior surface of the unit perimeter walls and includes all of the walls and partitions within its perimeter walls.

End of Exhibit "A"  
(Page 2 of 3)

## **Exhibit "B"**

### Common Elements

1. the Land in fee simple;
2. the land area of approximately 1,116 square feet that is designated for access purposes (designated as Common Element 1 on the Condominium Map);
3. the land area of approximately 388 square feet that is designated for the burial site as more particularly described in the Declaration of Covenant, Conditions and Restrictions dated November 16, 2006, recorded in the Bureau of Conveyances as Document No. 2006-213071 (designated as Common Element 2 on the Condominium Map);
4. all commonly used present or future ducts, electrical equipment, wiring, pipes, and other central and appurtenant installations over, under, and across the Project for services such as cable, gas, irrigation, light, power, wastewater, telecommunications equipment, telephone, and similar utilities that services more than one Unit and any easements for such utility services;
5. the common easements for drainage and all common and shared installations for underground utilities including electricity, wastewater, water, telephone, and cable television that run upon and under the Limited Common Elements or Common Elements; and
6. all other parts of the Project existing for the common use or necessary to the existence, maintenance, and safety of the Project including any easements for utilities.

Common Element 2

"KAMOA KAI"

Portion of TMK(4) 4-3-007 Parcel 8

Portion of land(s) described in and covered by Royal Patent 7373,

Land Commission Award 8559-B, Apana 42 to W.C Lunailo

Waipouli, Kapaa, Kauai, Hawaii

Beginning at the North corner of this Common Element 2, being also the Westerly corner of Limited Common Element for Unit C, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 509.26 feet South and 11,543.18 feet East and running by azimuths measured clockwise from true South:

1. 316° 50' 30" 3.00 feet along the Limited Common Element for Unit C;

Thence along the Limited Common Element for Unit C on a curve to Right having a radius of 12.00 feet, the Chord Azimuth and Distance:

2. 1° 50' 30" 16.97 feet;

3. 46° 50' 30" 6.00 feet along the Limited Common Elements for Units C & A;

Thence along the Limited Common Element for Unit A on a curve to Right having a radius of 12.00 feet, the Chord Azimuth and Distance:

4. 91° 50' 30" 16.97 feet;

5. 136° 50' 30" 3.00 feet along the Limited Common Element for Unit A;

6. 226° 50' 30" 29.50 feet along the South side of TMK(4) 4-3-007 Parcel 7 to the point of beginning and containing an area of 388 square feet.



My License Expires:  
April 30, 2008

*[Signature]* 12/10/07

Anthony D. Crook  
Licensed Professional Land Surveyor  
Certificate No. 12094

Common Element 1

"KAMOA KAI"

Portion of TMK(4) 4-3-007 Parcel 8

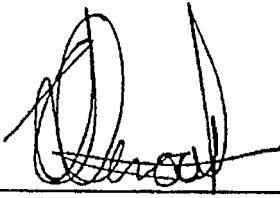
Portion of land(s) described in and covered by Royal Patent 7373,  
Land Commission Award 8559-B, Apana 42 to W.C Lunalilo  
Waipouli, Kapaa, Kauai, Hawaii

Beginning at the South corner of this Common Element 1, being also the West corner of Limited Common Element for Unit B, on the East side of Kamoa Road Right-of-Way, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 601.70 feet South and 11,518.30 feet East and running by azimuths measured clockwise from true South:

1. 142° 47' 00" 10.05 feet along the East side of Kamoa Road Right-of-Way;
2. 226° 50' 30" 111.04 feet along the Limited Common Elements for Units A & C;
3. 316° 50' 30" 10.00 feet along the Limited Common Elements for Units C & D;
4. 46° 50' 30" 112.09 feet along the Limited Common Elements for Units D & B to the point of beginning and containing an area of 1,116 square feet.



My License Expires:  
April 30, 2008

  
12/10/07  
Anthony D. Crook  
Licensed Professional Land Surveyor  
Certificate No. 12094



## Exhibit "C"

### Limited Common Elements

The limited common elements appurtenant to each unit consist of the portion hereby designated, set aside, and reserved for the exclusive use of that unit are shown on the Condominium Map and include:

1. Unit A. The land area surrounding and under Unit A is a Limited Common Element of Unit A and is for the exclusive use of Unit A and consists of approximately 2,388 square feet.
  2. Unit B. The land area surrounding and under Unit B is a Limited Common Element of Unit B and is for the exclusive use of Unit B and consists of approximately 2,571 square feet.
  3. Unit C. The land area surrounding and under Unit C is a Limited Common Element of Unit C and is for the exclusive use of Unit C and consists of approximately 2,403 square feet.
  4. Unit D. The land area surrounding and under Unit D is a Limited Common Element of Unit 4 and is for the exclusive use of Unit 4 and consists of approximately 2,442 square feet.
4. Any fences, walls, or utility systems or lines that are located within the limited common land area and which services or benefits only one Unit shall be deemed a Limited Common Element of such Unit.

Limited Common Element for Unit A  
"KAMOA KAI"

Portion of TMK(4) 4-3-007 Parcel 8  
Portion of land(s) described in and covered by Royal Patent 7373,  
Land Commission Award 8559-B, Apana 42 to W.C Lunalilo  
Waipouli, Kapaa, Kauai, Hawaii

Beginning at the West corner of this Limited Common Element for Unit A, on the East side of Kamoa Road Right-of-Way, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 561.34 feet South and 11,487.65 feet East and running by azimuths measured clockwise from true South:

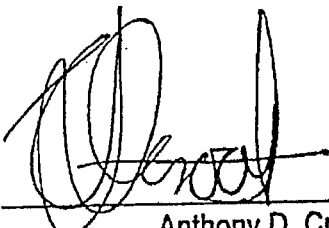
1. 226° 50' 30" 46.13 feet along the south side of TMK(4) 4-3-007 Parcel 7;
2. 316° 50' 30" 3.00 feet along the Common Element 2;

Thence along the Common Element 2 on a Curve to the left having a radius of 12.00 feet, the Chord Azimuth and Distance being;

3. 271° 50' 30" 16.97 feet;
4. 226° 50' 30" 4.09 feet along the Common Element 2;
5. 316° 50' 30" 25.41 feet along the Limited Common Element for Unit C;
6. 46° 50' 30" 66.43 feet along the Common Element 1;
7. 142° 47' 00" 40.63 feet along the East side of Kamoa Road Right-of-Way to the point of beginning and containing an area of 2,388 square feet.



My License Expires:  
April 30, 2008

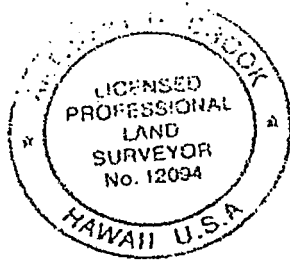
  
12/10/07  
Anthony D. Crook  
Licensed Professional Land Surveyor  
Certificate No. 12094

Limited Common Element for Unit B  
"KAMOA KAI"

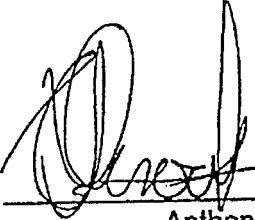
Portion of TMK(4) 4-3-007 Parcel 8  
Portion of land(s) described in and covered by Royal Patent 7373,  
Land Commission Award 8559-B, Apana 42 to W.C Lunalilo  
Waipouli, Kapaa, Kauai, Hawaii

Beginning at the South corner of this Limited Common Element for Unit B, being also the West corner of TMK(4) 4-3-007 Parcel 9 on the East side of Kamoa Road Right-of-Way, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 634.06 feet South and 11,542.88 feet East and running by azimuths measured clockwise from true South:

1. 142° 47' 00"    40.63    feet along the East side of Kamoa Road Right-of-Way;
2. 226° 50' 30"    62.22    feet along the Common Element 1;
3. 316° 50' 30"    39.57    feet along the Limited Common Element for Unit D;
4. 46° 07' 00"    66.44    feet along the North side TMK(4) 4-3-007 Parcel 9 to the point of beginning and containing an area of 2,571 square feet.



My License Expires:  
April 30, 2008

  
12/10/07  
Anthony D. Crook  
Licensed Professional Land Surveyor  
Certificate No. 12094

Limited Common Element for Unit C

"KAMOA KAI"

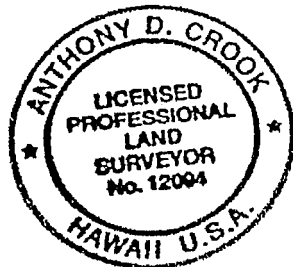
Portion of TMK(4) 4-3-007 Parcel 8  
Portion of land(s) described in and covered by Royal Patent 7373,  
Land Commission Award 8559-B, Apana 42 to W.C Lunalilo  
Waipouli, Kapaa, Kauai, Hawaii

Beginning at the North corner of this Limited Common Element for Unit C, being also the East corner of TMK(4) 4-3-007 Parcel 7, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 474.41 feet South and 11,580.35 feet East and running by azimuths measured clockwise from true South:

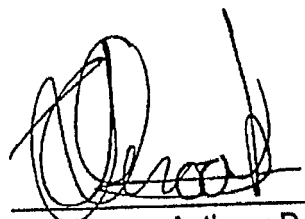
1. 324° 36' 30" 45.84 feet along the west side of TMK(4) 4-3-007 Parcel 11;
2. 46° 50' 30" 14.05 feet along the Limited Common Element for Unit D;
3. 136° 50' 30" 5.00 feet along the Common Element 1;
4. 46° 50' 30" 44.62 feet along the Common Element 1;
5. 136° 50' 30" 25.41 feet along the Limited Common Element for Unit A;
6. 226° 50' 30" 1.91 feet along the Common Element 1;

Thence along the Common Element 2 on a Curve to the left having a radius of 12.00 feet, the Chord Azimuth and Distance being:

7. 181° 50' 30" 16.97 feet;
8. 136° 50' 30" 3.00 feet along the Common Element 2;
9. 226° 50' 30" 50.95 feet along the South side of TMK(4) 4-3-007 Parcel 7 to the point of beginning and containing an area of 2,403 square feet.



My License Expires:  
April 30, 2008

 12/6/07

Anthony D. Crook  
Licensed Professional Land Surveyor  
Certificate No. 12094

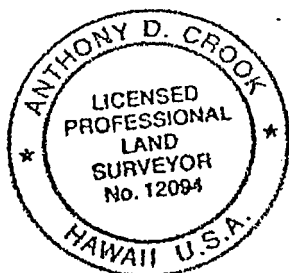
Limited Common Element for Unit D

"KAMOA KAI"

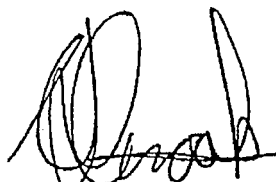
Portion of TMK(4) 4-3-007 Parcel 8  
Portion of land(s) described in and covered by Royal Patent 7373,  
Land Commission Award 8559-B, Apana 42 to W.C Lunalilo  
Waipouli, Kapaa, Kauai, Hawaii

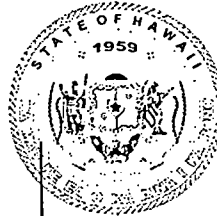
Beginning at the East corner of this Limited Common Element for Unit D, being also the North corner of TMK(4) 4-3-007 Parcel 9, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 547.85 feet South and 11,632.52 feet East and running by azimuths measured clockwise from true South:

1. 46° 07' 00" 57.93 feet along the North side of TMK(4) 4-3-007 Parcel 9;
2. 136° 50' 30" 39.57 feet along the Limited Common Element for Unit B;
3. 226° 50' 30" 49.86 feet along the Common Element 1;
4. 136° 50' 30" 5.00 feet along the Common Element 1;
5. 226° 50' 30" 14.05 feet along the Limited Common Element for Unit C;
6. 324° 36' 30" 44.24 feet along the West side TMK(4) 4-3-007 Parcel 11 to the point of beginning and containing an area of 2,442 square feet.



My License Expires:  
April 30, 2008

 12/10/07  
Anthony D. Crook  
Licensed Professional Land Surveyor  
Certificate No. 12094



STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

October 3, 2022 8:37 AM  
Doc No(s) A - 83110628

Doc 1 of 1  
Pkg 12096333 ICL

/s/ LESLIE T KOBATA  
REGISTRAR

AFTER RECORDING RETURN VIA MAIL TO:

Kuleana Development, LLC  
3144 Elua Street  
Lihue, Hawaii 96766

Pages to record 27

TITLE OF DOCUMENT:

FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM PROPERTY REGIME  
OF KAMOA KAI AND CONDOMINIUM MAP NO. 4611

PARTIES TO THE DOCUMENT:

Fee Owners: PETER WHALLEY, Trustee of the Peter Whalley Trust dated December 14, 2021, as amended or restated, (as to an undivided 50% interest) and PHILLIP MIN CHUL HONG and JEAN ROH, Trustees of the Hong/Roh Living Trust, dated December 13, 2017, as to an undivided 50% interest

PROPERTY DESCRIPTION: KAMOA KAI, Units 1-4 Island and County of Kauai, State of Hawaii TMK# (4) 4-3-007-008: 0001-0004	Document No. 2008-052896
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FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM PROPERTY  
REGIME OF KAMOA KAI AND CONDOMINIUM MAP NO. 4611

This First Amendment to Declaration of Condominium Property Regime of Kamoa Kai and Condominium Map No. 4611 is made this 24<sup>th</sup> day of August, 2022, by PETER WHALLEY, Trustee of the Peter Whalley Trust dated December 14, 2021, as amended or restated, (as to an undivided 50% interest) whose mailing address is 4808 Pelehu Road, Kapaa, Hawaii 96746 and PHILLIP MIN CHUL HONG and JEAN ROH, Trustees of the Hong/Roh Living Trust, dated December 13, 2017, as to an undivided 50% interest, whose mailing address is 943 4<sup>th</sup> Avenue, Los Angeles, California 90019, (hereinafter referred to as "Fee Owners").

EXHIBIT "C-4"

**WHEREAS**, a condominium project named KAMOA KAI (hereinafter "Project") was created by a Declaration of Condominium Property Regime, dated November 20, 2007, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2008-05286 (hereinafter "Declaration") in which the Declarant thereto submitted certain land and improvements as described in the Declaration, to a condominium property regime under Hawaii Revised Statutes Section 514B, together with plans therefore, filed in the Bureau of Conveyances of the State of Hawaii as Condominium Map No. 4611, as amended (hereinafter referred to as "Condominium Map").

**WHEREAS**, The Project originally consisted of four (4) spatial units (Units A, B, C and D) and a Developer's Public Report was filed with the Real Estate Commission as Registration No. 6613 and issued an effective date on May 27, 2008.

**WHEREAS**, the Project was subsequently sold to a third party on June 28, 2012, and the current Fee Owners purchased Units A, B, C and D on February 18, 2022 and wish to amend the Project to reflect only two (2) units, (to be known as Unit 1 and Unit 2), and the proposed construction of a dwelling on each unit.

**WHEREAS**, the Fee Owners, representing one hundred percent (100%) ownership of the common interest in the Project, hereby amends said Declaration and Condominium Map as follows:

1. Section III, entitled Description of the Units and Division of the Project, Paragraphs A, B, C, and D are hereby DELETED in their entirety and REPLACED in its stead with the following:

A. **Description of Units.** The Project is hereby divided into the following two freehold estates (herein after referred to as "unit" or "units"). Specifically, the estates so created and designated are referred to hereinafter as Unit 1 and Unit 2. Said units consist of the undivided interest in the common elements of the Project, the limited common element(s) appurtenant to the Unit as shown on the Condominium Map for the Project and the unit, if any, constructed or to be constructed on the limited common element. The units are designated on plans incorporated herein by reference and filed with the Bureau of Conveyances of the State of Hawaii as part of Amended Condominium Map No. 4611, a copy of Which is attached hereto as Exhibit "A". The units are described as follows:

1. Unit 1 consists of a proposed dwelling with an anticipated date of completion of August 31, 2023. The proposed dwelling will be two stories and will consist of two bedrooms, two and a half bathrooms, a kitchen, and living/dining area with a net interior living area of 1,169 square feet, together with a 340 square second story foot lanai, a 784 square foot 1<sup>st</sup> floor patio, a 60 square foot outdoor shower, a 64 square foot stairway, and a 560 square foot garage. The Unit 1 dwelling will be centrally located within a 5,746 square foot limited common element area.

2. Unit 2 consists of a proposed dwelling with an anticipated date of completion of September 31, 2023. The proposed dwelling will have two bedrooms, two and a half bathrooms, a kitchen, and living/dining area with a net interior living area of 1,169 square feet, together with a 340 square second story foot lanai, a 784 square foot 1<sup>st</sup> floor patio, a 60 square foot outdoor shower, a 64 square foot stairway, and a 560 square foot garage. The Unit 2 dwelling will be centrally located within a 5,566 square foot limited common element area.
- B. **Unit Designations and Locations.** There are a total of two Units in the Project. The Unit designations, numbers, and locations are as shown on Amended Condominium Map No. 4611, with the Unit 1 dwelling located centrally within a 5,566 square foot limited common element and the Unit 2 dwelling located centrally within a 5,746 square foot limited common element area.
- C. **Access to Public Street.** Each unit has access to Kamoia Road, a public right-of-way, via a common element driveway entrance as shown on the Condominium Map.
- D. **Boundary of Units.** The boundaries of each unit shall be the outer surface of each proposed structure and the limited common element area appurtenant to such Unit and shall. The respective units shall not be deemed to include any present or future pipes, wires or conduits or other utility lines running over, under or through any limited common element or unit which are utilized for or serve more than one unit, the same being deemed common elements as hereinafter provided. There are no basements in this Project.
2. Section III, entitled Description of the Units and Division of the Project, Paragraphs G and H are hereby DELETED in their entirety and REPLACED in its stead with the following:
  - G. **Common Elements.** The Common Elements of the Project and which the Units have immediate access to include:
    1. the land in fee simple;
    2. The land area of approximately 388 square feet that is designated for the burial site as more particularly described in the Declaration of Covenant, Conditions and Restrictions dated November 16, 2006, recorded in the Bureau of Conveyances, State of Hawaii as Document No. 2006-213071 (shown as "Internment Area" on the Amended Condominium Map);
    3. all commonly used present or future ducts, electrical equipment, wiring and other central and appurtenant installations for common services, if any, including power, light, sewage, irrigation and telephone;



4. The common easements for drainage and all common and shared installations for underground utilities including electricity, wastewater, water, telephone, and cable that run upon and under the Limited Common Elements or Common Elements.
5. any and all other future elements and facilities in common use or necessary to the Project.

The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof, except as provided in the Condominium Property Act. Any such partition or division shall be subject to the prior consent thereto by the holder(s) of all mortgage(s) of any condominium unit(s) which are filed of record.

**H. Limited Common Elements.** Certain parts of the common elements, herein referred to as the "limited common elements" are hereby designated and set aside for the exclusive use of one or more units, and such unit(s) shall have appurtenant thereto exclusive easements for the use of such limited common elements. The limited common elements so set aside, reserved and deemed a limited common element appurtenant to and for the exclusive use of each respective unit is that certain land area upon and around which the Project is located, shown and designated on the Condominium Map and the table below.

<u>Unit Number</u>	<u>Area of Limited Common Element</u>
Unit 1	5,566 square feet
Unit 2	5,746 square feet

All costs of every kind pertaining to the aforesaid limited common elements, including, but not limited to, costs of landscaping, maintenance, repair, replacement and improvement, shall be borne solely by the owner of the unit to which said limited common elements are appurtenant.

3. Section IV, entitled Common Interest is hereby DELETED in its entirety and REPLACED in its stead with the following:

Each unit and its owner(s) shall have appurtenant thereto a percentage of interest (which is referred to as the "common interest") in the common elements of the Project, for all purposes including voting, as follows: Unit 1: 50% and Unit 2: 50%.

4. Section V, entitled Easements is hereby DELETED in its entirety and REPLACED in its stead with the following:

In addition to any exclusive easements established in the common elements and the limited common element easement(s) shown on the Condominium Map for this Project, each unit shall have appurtenant thereto non-exclusive easements in the common elements designed for such purposes of unpaved ingress to, egress from, utility services for, and support, maintenance and repair of such unit, and in the other common elements of the Project for use according to their respective purposes. When applicable, each unit shall also have appurtenant thereto easements in the other unit(s) for the purposes of utility services for, and the maintenance and repair of said utility services, including but not limited to electricity, gas, water, sewage, telephone and television cable, if any. Except as otherwise specifically stated herein, there shall also be an encroachment easement in favor of any improvement on the Project at the date of recording hereof, for any setback or unit boundary encroachment existing on the Project at recordation.

This project includes the following easements:

1. Easement S-1, a nonexclusive easement affecting Unit 1 for the benefit of Unit 2 for septic purposes, as indicated on the Condominium Map. Units 1 and 2 shall be entitled to use this septic easement for a common septic tank and leach field. Each unit shall share equally in all costs to maintain and upkeep said leach field and septic tank and shall not take any action to impair or restrict usage by the other Unit owner.
2. Easement S-2, a nonexclusive easement affecting Unit 2 for the benefit of Unit 1 for septic purposes, as indicated on the Condominium Map. Units 1 and 2 shall be entitled to use this septic easement for a common septic tank and leach field. Each unit shall share equally in all costs to maintain and upkeep said leach field and septic tank and shall not take any action to impair or restrict usage by the other Unit owner.
3. Easement AU-1 a nonexclusive easement affecting Unit 2 for the benefit of Unit 1 for access and utility line purposes, as indicated on the Condominium Map. Each unit shall share equally in all costs to maintain and upkeep said driveway easement and shall not take any action to impair or restrict usage by the other Unit owner.
4. The Project is subject to the Declaration of Covenant, Conditions and restrictions for Burial Site, more particularly described in the Declaration of Covenant, Conditions and Restrictions dated November 16, 2006, recorded in the Bureau of Conveyances, State of Hawaii as Document No. 2006-213071 (shown as "Internment Area" on the Amended Condominium Map) which provides identified descendants wishing to visit the burial site with a right of access at reasonable times and upon reasonable advanced notice, as more particularly described in Exhibit "C" attached hereto. The phrase "right of access" shall mean the reasonable ingress and egress to and from the burial site on foot or in a wheelchair(s). The right of access extends only to visitation during reasonable hours between 8:00 a.m. and 6:00 p.m. for purposes usually associated with

cemetery visits, upon providing a 48 hour advance notice to the Fee Owners, and thereafter to the Board.

5. Section II, Paragraph B, subsection 2 entitled No Transient or Hotel Use ,is hereby DELETED in its entirety.
6. Section II, Paragraph B, subsection 22 entitled Burial Site Buffer Zone Restrictions, is hereby DELETED in its entirety and REPLACED in its stead with the following:

As, noted the Project is subject to the Declaration of Covenant, Conditions and Restrictions for Burial Site, which provides identified descendants wishing to visit the burial site (designated as "Internment Area" on the Condominium Map, with a right of access at reasonable times and upon reasonable advance notice. Unit 1 and Unit 2 are subject to a 12 foot permanent buffer zone around the reburial structure within the Internment Area that will be landscaped with lava rock and native plants. No structures shall be permitted anywhere within the buffer zone. Except for burial maintenance activities and visitation by recognized lineal descendants, no other physical activities shall take place within the delineated buffer zone. The Units shall not willfully or intentionally disturb in any manner, or authorize the disturbance of in any manner, the repose of the human skeletal remains in the Internment Area. Unit 1 and Unit 2 shall share equally in all costs to maintain the landscaping of the Internment Area.

7. Section XI, entitled Service of Process is hereby DELETED in its entirety and REPLACED in its stead with the following:

Peter Whalley, whose business mailing address is 4808 Pelehu Road, Kapaa, Hawaii 96746, is hereby designated as the person to receive service of process until such time as a President of the Association of Unit Owners is appointed. It is intended that the Project will be self-managed.

8. Condominium Map No. 4611 is hereby been amended to replace the prior condominium map in its entirety and include a new site plan for the Project (dated March 2022), metes and bounds description of the Unit 1 and Unit 2 Limited Common Element areas and easements, proposed floor/elevation plans for the Unit 1 and Unit 2 dwellings, and a Surveyor's Certification of the same, a copy of which is attached hereto as Exhibit A.

IN WITNESS WHEREOF, the undersigned Fee Owners hereby execute this First Amendment to the Declaration of Condominium Property Regime of Kamoia Kai and Condominium Map No 4611, as of the date first written above.

Fee Owner:

The Peter Whalley Trust, dated December 14, 2021

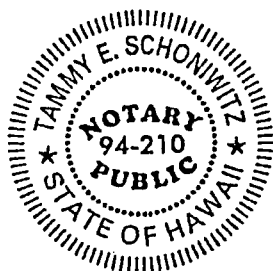
*Peter Whalley*  
PETER WHALLEY, Trustee

STATE OF HAWAII           )  
  ) SS.  
COUNTY OF KAUAI        )

On this 24 day of August, 2022, before me personally appeared PETER WHALLEY, as Trustee of the Peter Whalley Trust, dated December 14, 2021, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as the free act and deed of said trust.

Doc. Date 8/24/2022 # Pages 26

Description: First Amendment to Declaration of  
Kamoia Kai and Condominium Map No. 4611



*Tammy E. Schonwitz*  
Notary Signature  
Print Name: Tammy E. Schonwitz  
Date: 8/24/22  
Commission # 94-210 Circuit #: 5th  
Commission Expires: 4/11/26

Fee Owner:

The Hong/Roh Living Trust, dated December 13, 2017

  
\_\_\_\_\_  
PHILLIP MIN CHUL HONG, Trustee

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2022, before me personally appeared PHILLIP MIN CHUL HONG, as Trustee of The Hong/Roh Living Trust, dated December 13, 2017, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as the free act and deed of said trust.

Doc. Date 8/24/2022 # Pages \_\_\_\_\_

Description: First Amendment to Declaration of

Kamoa Kai and Condominium Map No. 4611

SEE ATTACHED

Notary Signature

Print Name: \_\_\_\_\_

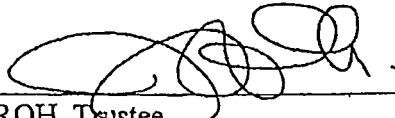
Date: \_\_\_\_\_

Commission # \_\_\_\_\_ Circuit #: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

Fee Owner:

The Hong/Roh Living Trust, dated December 13, 2017

  
\_\_\_\_\_  
JEAN ROH, Trustee

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2022, before me personally appeared JEAN ROH, as Trustee of The Hong/Roh Living Trust, dated December 13, 2017, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as the free act and deed of said trust.

Doc. Date 8/24/2022 # Pages \_\_\_\_\_

Description: First Amendment to Declaration of

Kamoa Kai and Condominium Map No. 4611

SEE ATTACHED  
\_\_\_\_\_  
Notary Signature  
Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

Commission # \_\_\_\_\_ Circuit #: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Los Angeles )

On September 28, 2012 before me, J. L. GONZALEZ, Notary Public  
Date Here Insert Name and Title of the Officer

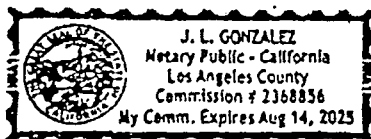
personally appeared PHILLIP MIN CHUL KONG  
Name(s) of Signer(s)

JEAN ROH

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: FIRST AMENDMENT TO DECLARATION OF KAMDA KAI AND CONDOMINIUM MAP n2 4611

Document Date: 08/24/2012 Number of Pages: 9

Signer(s) Other Than Named Above: \_\_\_\_\_

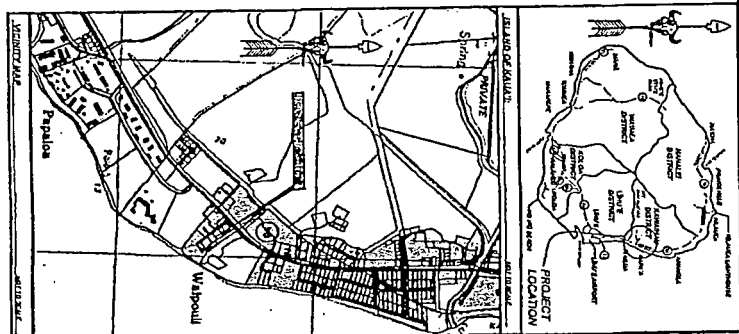
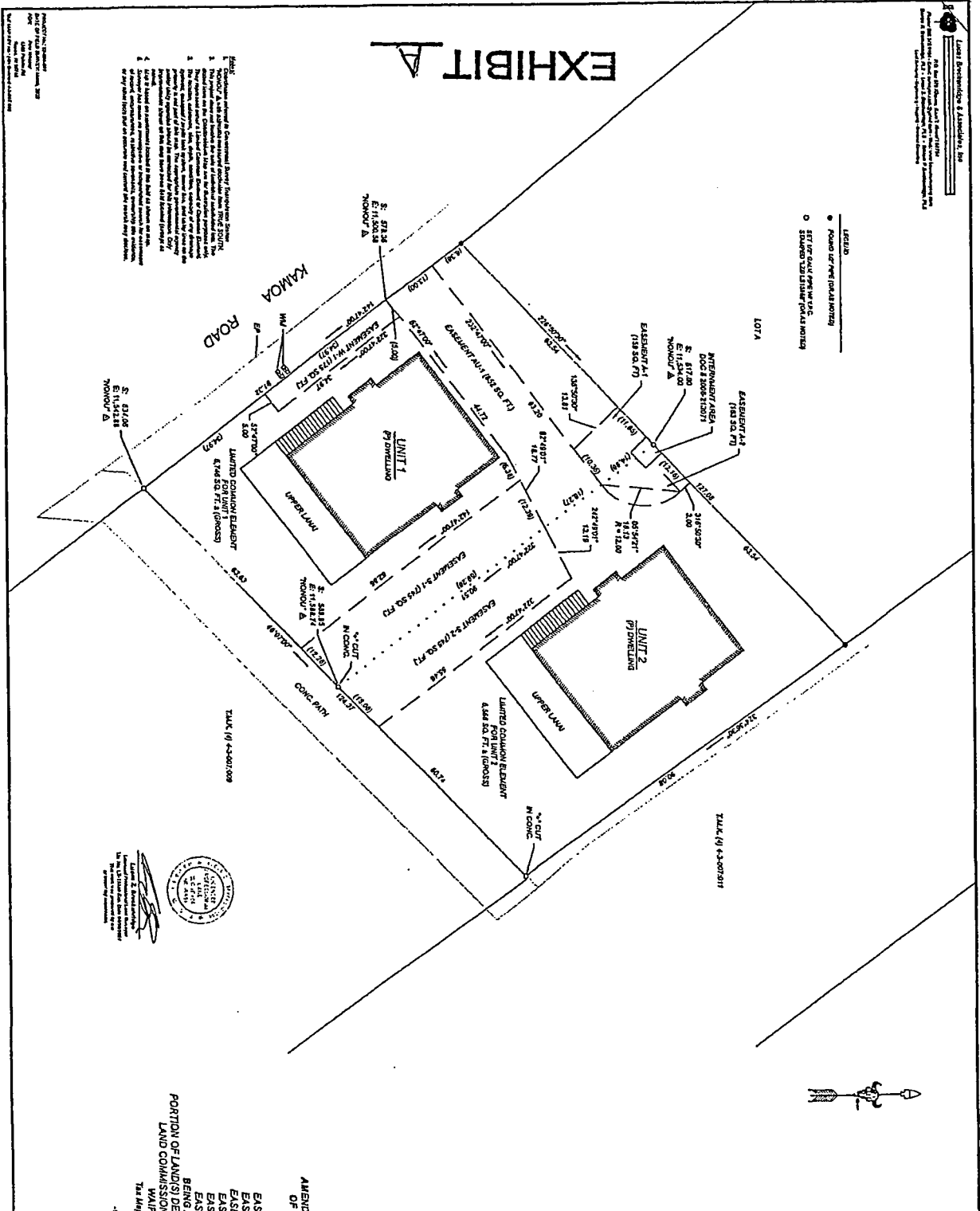
**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney In Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney In Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Leland Brownlee & Associates, Inc.  
 1000 K Street, N.W., Suite 1000  
 Washington, D.C. 20004  
 Phone: (202) 462-1100  
 Fax: (202) 462-1101  
 E-mail: lbr@lbr.com

- LOT 10  
 • Paved at 7% (0.4% slope)  
 • 10' wide easement for 10' wide  
 • 10' wide easement for 10' wide



AMENDED CONDOMINIUM MAP NO. 4611  
 OF 'KAMOA KAP' CONDOMINIUM  
 SHOWING UNITS 1 AND 2  
 AND DESIGNATION OF  
 EASEMENT A-1 AFFECTING UNIT 1  
 EASEMENT A-2 AFFECTING UNIT 2  
 EASEMENT A-3 AFFECTING UNIT 1  
 EASEMENT A-4 AFFECTING UNIT 2  
 EASEMENT A-5 AFFECTING UNIT 1  
 EASEMENT A-6 AFFECTING UNIT 2  
 BEING ALL OF THE (4) 4-4-07 PARCELS  
 LAND COMMISSION AWARD 859-B, AWA 42 TO W.C. LUNILLO  
 WAIPOULI, KAPAA, KAUAI, HAWAII  
 Tax Map Key: (4) Division 4-4-07; Parcel 008





# KimaniKoa Drafting and Design Service

Lihue, Kauai, Hawaii

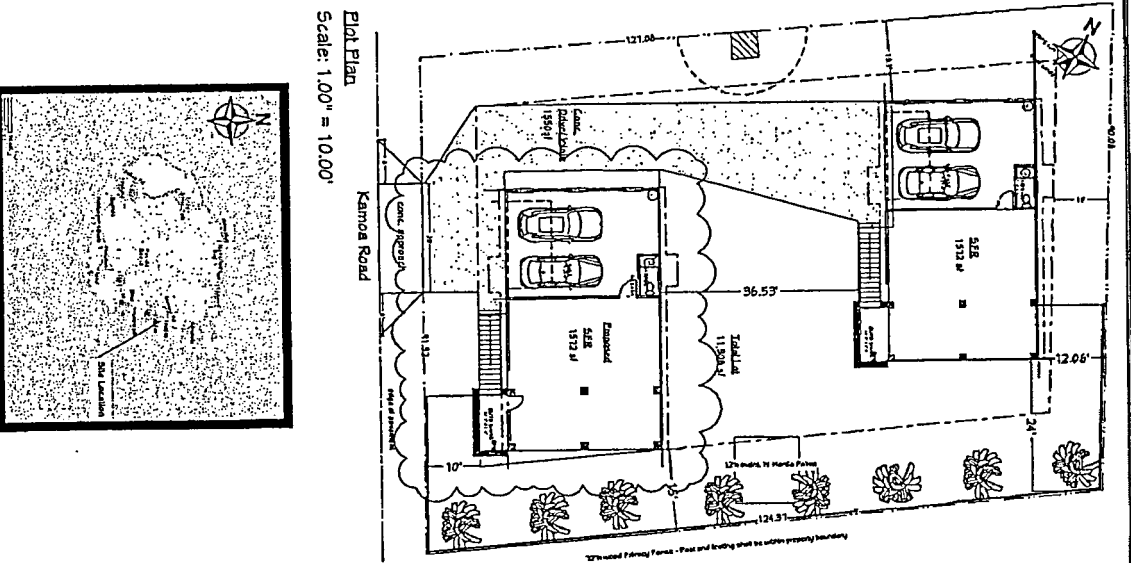
kimanikoahawaii.com

kimanikoahawaii.com

KAMOA KAI CONDOMINIUM UNIT 1

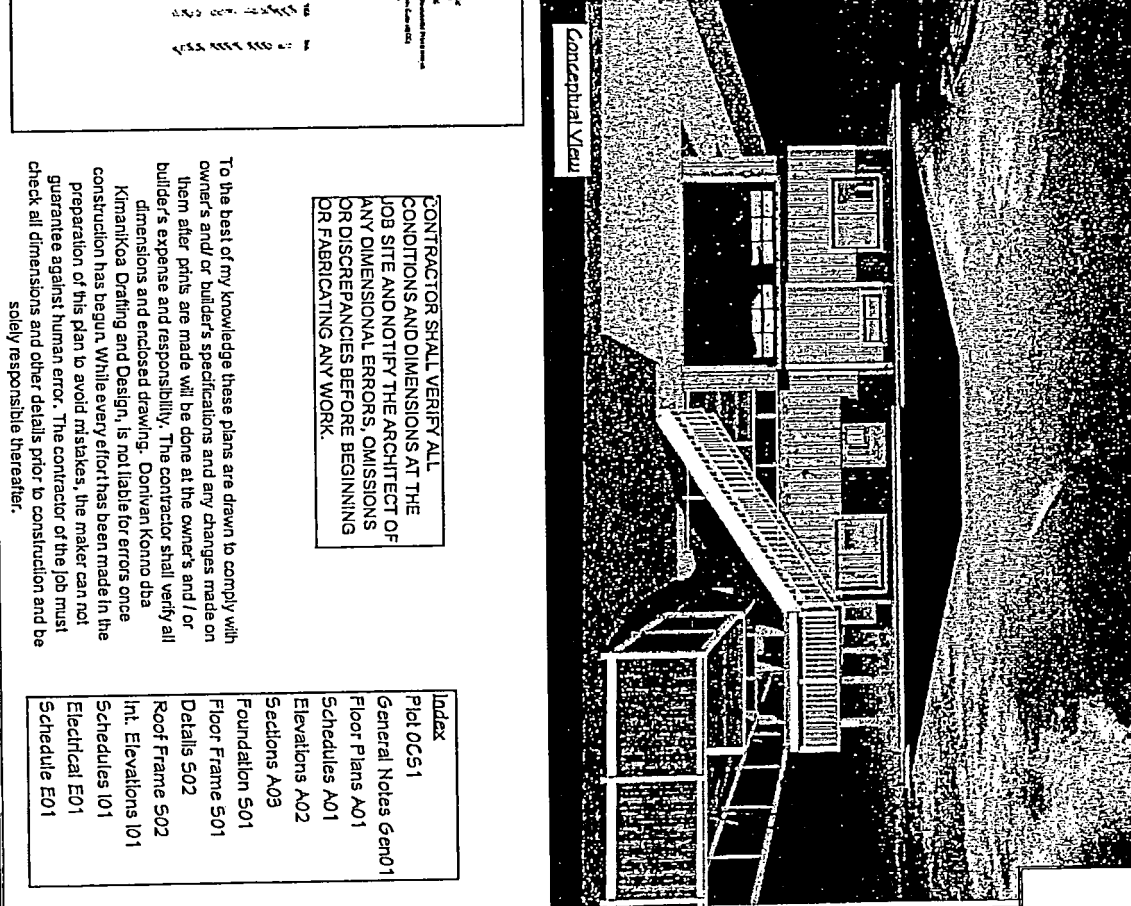
Page Description  
Cover

Sheet  
0051



Lot Data	
Zone R-12	
Total Lot 11,308	
Unit 1 SFR 1572	
Unit 2 SFR 1572	
Driveway 1554	
Total Cover 4648	
41.5% coverage	

Bldg Data	
2 st 2) bal 2) bal 1) 112 ba	
Floor 1 1468sf	
Patio 704	
Garage 560	
Stairs 60	
Floor 2 1504	
Lateral 340	
Living 1164	



To the best of my knowledge these plans are drawn to comply with owner's and/or builder's specifications and any changes made on them after plans are made will be done at the owner's and/or builder's expense and responsibility. The contractor shall verify all dimensions and enclosed drawing. Donivan Konno dha KimaniKoa Drafting and Design, is not liable for errors once construction has begun. While every effort has been made in the preparation of this plan to avoid mistakes, the maker can not guarantee against human error. The contractor of the job must check all dimensions and other details prior to construction and be solely responsible thereafter.

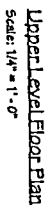
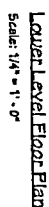
CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AT THE JOB SITE AND NOTIFY THE ARCHITECT OF ANY DIMENSIONAL ERRORS, OMISSIONS OR DISCREPANCIES BEFORE BEGINNING OR FABRICATING ANY WORK.





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Elevations A02	Sections A03
Foundation S01	Floor Frame S01
Details S02	Roof Frame S02
Int. Elevations I01	Schedules I01
Electrical E01	Schedule E01

Date: May 2022  
Drawn By: Donivan Konno

Proposed New Residence  
for  
Peter Whalley

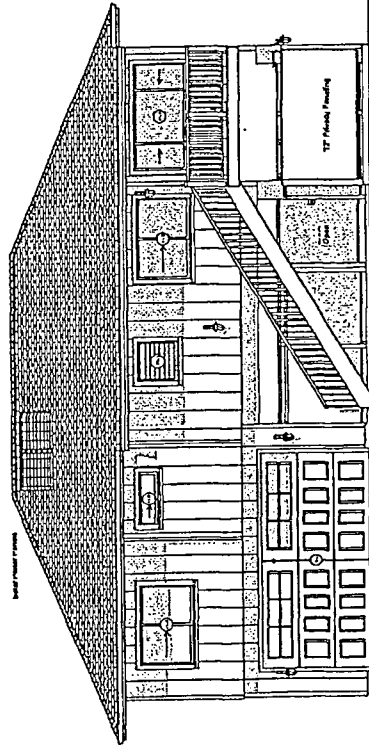
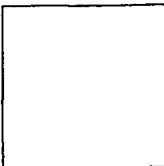
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T.M.K.: (4) 4 - 3 - 007 - 008 - 0001



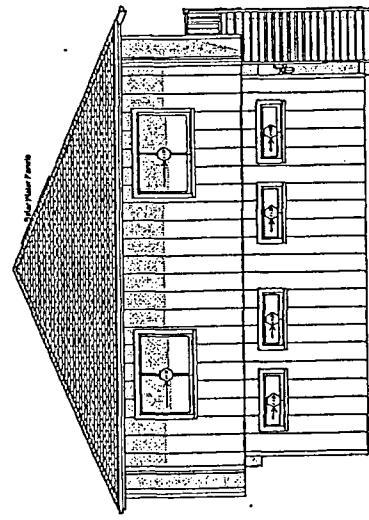
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002		01	Sq.ft	01	01
003		01	Sq.ft	01	01
004		01	Sq.ft	01	01

Proposed New Residence  
for  
Peter Whalley

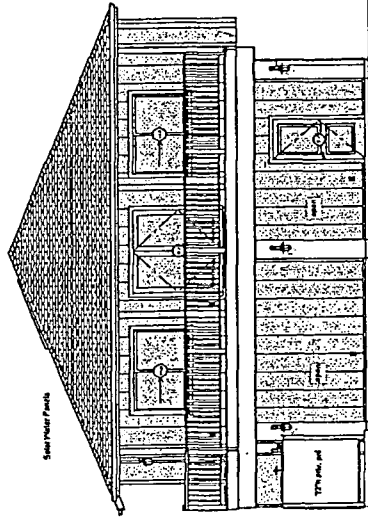
Site Location: Kamao Road  
Kapa'a HI 96746  
T.M.K.: (4) 4 - 3 - 007 - 008 - 0001



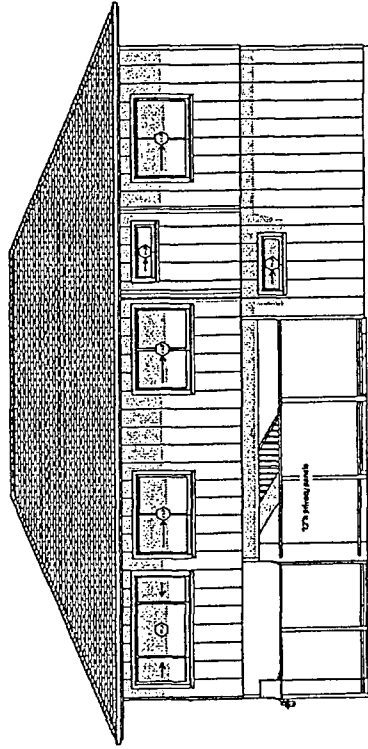
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Left Elevation  
Scale: 1/4" = 1' - 0"



Right Elevation  
Scale: 1/4" = 1' - 0"



Rear Elevation  
Scale: 1/4" = 1' - 0"

Site Location: Kamao Road  
Kapala HI 96746  
T.M.K.: (4) 4 - 3 - 007 - 008 - 0002

Proposed New Residence  
for  
Peter Whalley

Drawn By: Donivan Kono  
Date: May 2022

Sheet  
A02

Page Description  
Elevations

KimaniKoa Drafting and Design Service  
Lihue, Kauai, Hawaii  
kimanikoa.com  
kimanikoa@hawaii.rr.com





# KimaniKoa Drafting and Design Service

Lihue, Kauai, Hawaii

KimaniKoa.com

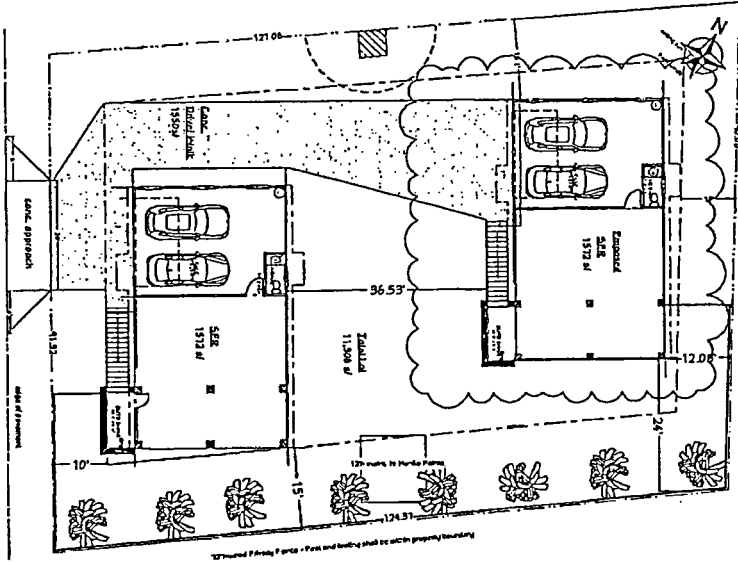
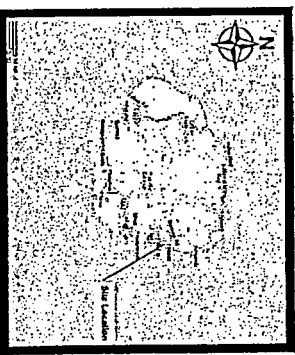
kimanikoa@hawaii.rr.com

Page Description  
Cover

Sheet  
0C51

KAMOA KAI CONDOMINIUM UNIT 2

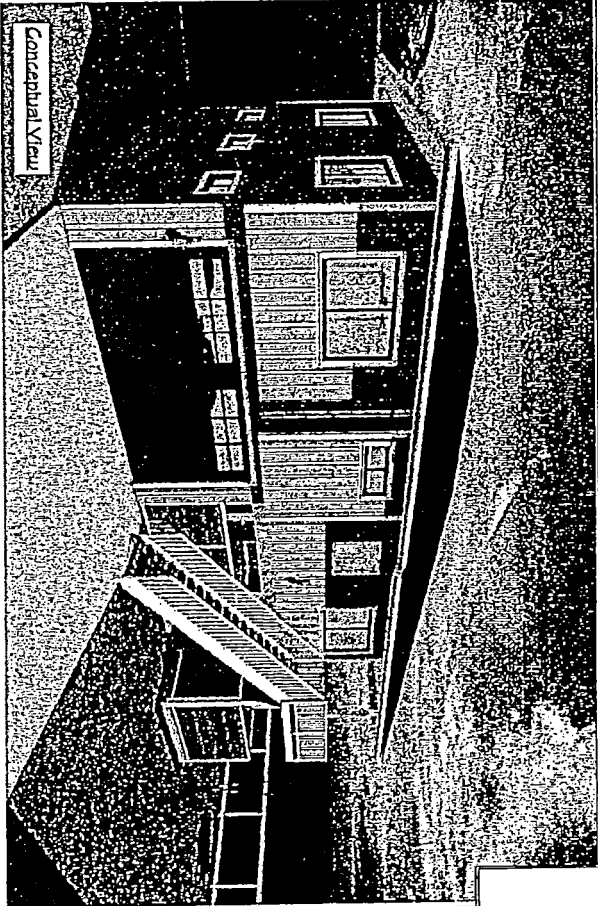
PLOT PLAN  
Scale: 1.00" = 10.00'



Lot Data	
Zone R-12	
Total Lot 11,308	
Unit 1 SFR 1512	
Unit 2 SFR 1512	
Dwyl/lyalk 1554	
Total Cover 4698	
41.5% coverage	

Bldg Data	
2 st 2) bd/ 2) ba/ 1) 1/2 ba	
Floor 1 1468sf	
Patio 784	
Garage 560	
Shur 60	
Stairs 64	
Floor 2 1504	
Lanal 340	
Living 1164	



1. General Notes	2. Foundation Notes
3. Floor Plans	4. Sections
5. Details	6. Schedules
7. Electrical	8. Mechanical
9. Plumbing	10. Fire Protection
11. Other	12. Other

CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AT THE JOB SITE AND NOTIFY THE ARCHITECT OF ANY DIMENSIONAL ERRORS, OMISSIONS OR DISCREPANCIES BEFORE BEGINNING OR FABRICATING ANY WORK.

To the best of my knowledge these plans are drawn to comply with owner's and/or builder's specifications and any changes made on them after prints are made will be done at the owner's and/or builder's expense and responsibility. The contractor shall verify all dimensions and enclosed drawing. Donivan Kono dba KimaniKoa Drafting and Design, is not liable for errors once construction has begun. While every effort has been made in the preparation of this plan to avoid mistakes, the maker can not guarantee against human error. The contractor of the job must check all dimensions and other details prior to construction and be solely responsible thereafter.

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Foundation S01	Floor Frame S01
Details S02	Roof Frame S02
Int. Elevations I01	Schedules I01
Electrical E01	Schedule E01

Date : May 2022  
Drawn By: Donivan Kono

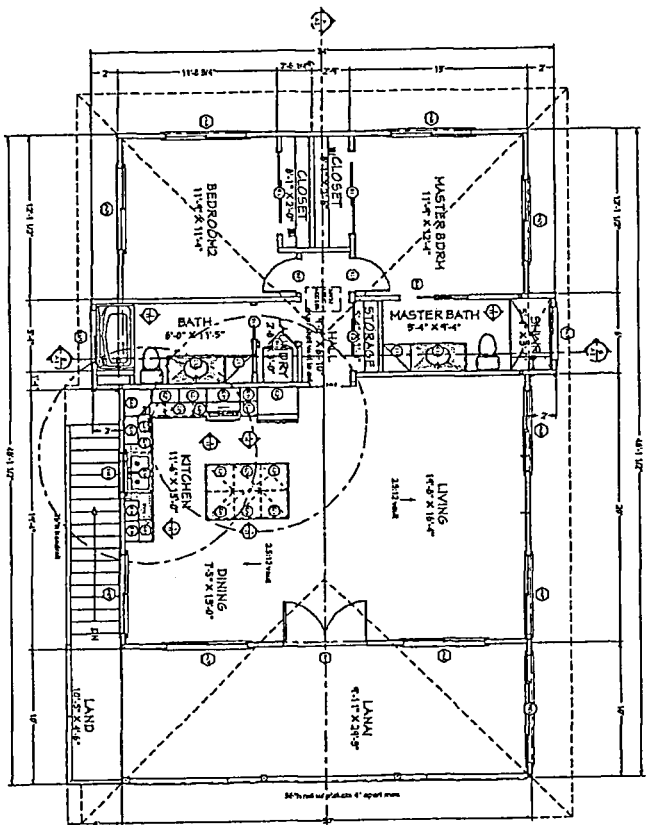
Proposed New Residence  
for  
Peter Whalley





Site Location: Kamoa Road  
Kapa'a HI 96746  
T.M.K.: (4) 4 - 3 - 007 - 008 - 0002



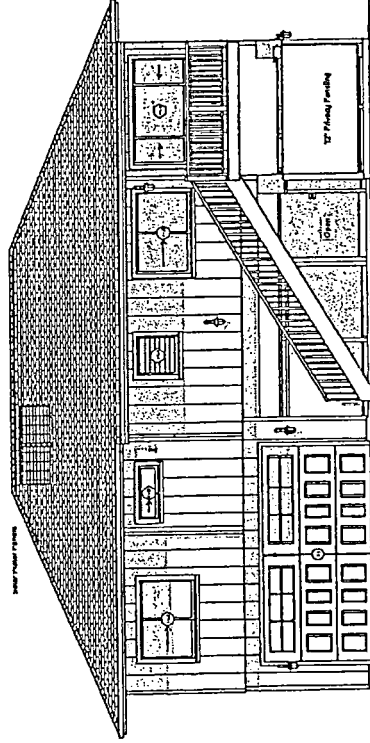
१८११

Site Location: Kamo'a Road  
Kapa'a HI 96746  
T.M.K.: (4) 4 - 3 - 007 - 008 - 0002

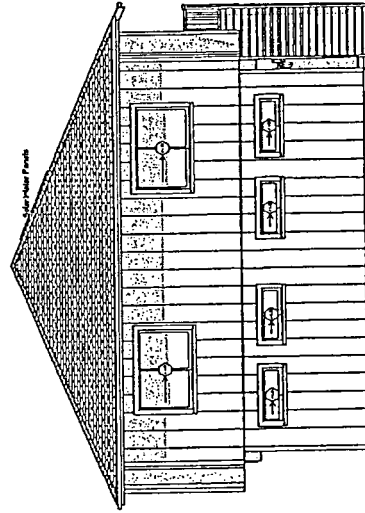


NO.	DESCRIPTION	QTY	UNIT	AMOUNT	TOTAL AMOUNT
001		NOBLE 1	NOBLE 1		ADJUSTED
002		WALLS 1	WALLS		LFT SLIDING
003		WALLS 4	WALLS 175		LFT SLIDING
004		WALLS 1	WALLS		WALL SLIDING

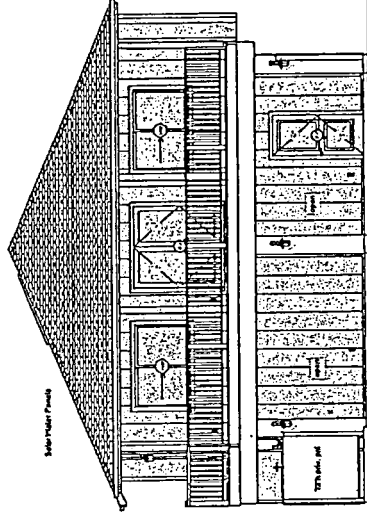
**13. MAXIMUM WIND PROVISIONS FOR NEW CONSTRUCTION**  
**FOR EXISTING BUILDING CODES:** The  $K$  required for areas on **Exhibit 1** where the basic design wind speed is 130 mph or greater.



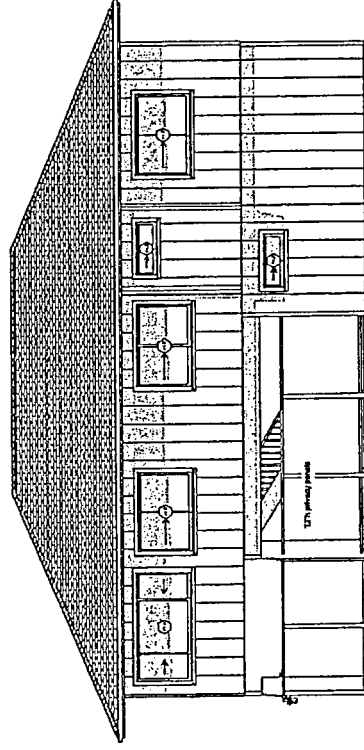
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Left Elevation  
Scale: 1/4" = 1'-0"



Right Elevation  
Scale: 1/4" = 1'-0"



Rear Elevation  
Scale: 1/4" = 1'-0"

Sheet  
A02

Page Description  
Elevations

KimaniKoa Drafting and Design Service

kimanikoa@hawaii.rr.com

KimaniKoa.com

Lihue, Kauai, Hawaii



Date: May 2022  
Drawn By: Donivan Kono

Proposed New Residence  
for  
Peter Whalley

Site Location: Kamao Road  
Kapaa HI 96746  
T.M. (L) 4-3-007-008-0001

**SURVEYOR'S CERTIFICATE  
FOR  
THE AMENDED MAP FOR  
"KAMOA KAI" CONDOMINIUM  
TMK (4) 4-3-007:008  
WAIPOULI, KAWAIHAU, KAUAI, HAWAII**

The undersigned, being a licensed professional land surveyor within the State of Hawaii and bearing Certificate Number 15958, hereby certifies to the best of his knowledge that the amended map dated September 20, 2022 for the condominium project "KAMOA KAI CONDOMINIUM" situate at WAIPOULI, KAWAIHAU, KAUAI, HAWAII and identified by Tax Map Key Number: 4<sup>th</sup> Division, 4-3-007:008, accurately depict the layout, location, boundaries, unit numbers, and dimensions for the limited common elements and existing easements.

The undersigned also hereby certifies that the proposed floor plans and elevations of "KAMOA KAI CONDOMINIUM" on land situate at WAIPOULI, KAWAIHAU, KAUAI, HAWAII, and identified as Tax Map Key Number: 4<sup>th</sup> Division, 4-3-007:008, consisting of Seven ( 7 ) sheets, of which Sheet 1 is the map certified by the undersigned, to the best of my knowledge, fully and accurately depict the layout location, boundaries, unit numbers, and dimensions of the units substantially designed as follows:

Unit 1:  
Proposed Dwelling

Unit 2:  
Proposed Dwelling

No representations are made regarding the expected useful life of the improvements. This is not a warranty of compliance with all rules and regulations, only a warranty that inspection was made and no violations appear to exist. No right shall accrue to any third party for subsequent discovery of any problems with code compliance or for future changes in such code(s).



DATED: 9/21/22, Kaua'i, Hawai'i

Lucas Z. Breckenridge, PLS  
Hawaii Lic. No.: LS-15958  
Exp.: 4/2024

STATE OF HAWAII )

) SS:

COUNTY OF KAUAI )

On this 21 day of September, 2022, before me appeared Lucas Z. Breckenridge, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing Surveyor's Certificate dated September 21, 2022, which document consists of 2 pages, as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

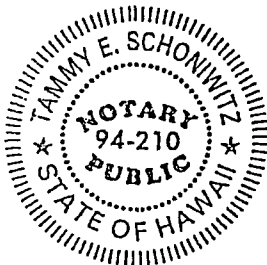
Name of Notary: Tammy E. Schonwitz

Signature of Notary: Tammy E. Schonwitz

Notary Public, Fifth Judicial Circuit, State of Hawai'i

My commission expires: 4/11/26

Commission No.: 94-210



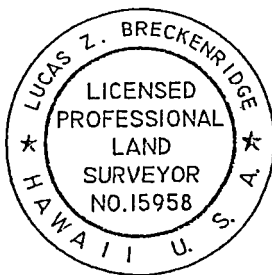



**PARCEL 8**  
**WAIPOULI, KAPAA, KAUAI, HAWAII**

*All of that certain parcel of land (being portion of the land(s) described in and covered by Royal Patent Number 7373, Land Commission Award Number 8559-B, Apana 42 to W. C. Lunalilo ) situate, lying and being on the east side of Kamoia Road, at Waipouli, Kapaa, Island and County of Kauai, State of Hawaii, and thus bounded and described:*

*Beginning at a pipe, at the south corner of this parcel of land, on the east side of Kamoia Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 634.06 feet south and 11,542.88 feet east and running by true azimuths measured clockwise from true South:*

1. 142° 47' 00" 91.32 feet along the east side of Kamoia Road to a ½" pipe;
2. 226° 50' 30" 127.08 feet along the south boundary of land owned by Isaiah K Kaauwai (Lot A) to a ½" pipe;
3. 324° 36' 30" 90.08 feet along the west boundary of land owned by Joesph B. Rapozo (Parcel 11) to a "+" cut on concrete sidewalk;
4. 46° 07' 00" 124.37 feet along the north boundary of land owned jointly by Mrs. D. Kane and John Gerad and wife (Parcel 9) to the point of beginning and containing an area of 0.2596 acres, more or less.



 My License Expires:  
04/2024  
\_\_\_\_\_  
Lucas Z. Breckenridge (Month/Year)

Licensed Professional Land Surveyor  
Certificate No. 15958

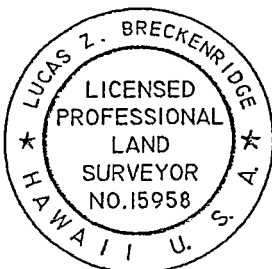
**UNIT 1**  
**LIMITED COMMON ELEMENT**  
**"KAMOA KAI" CONDOMINIUM**  
**BEING ALL OF TMK (4) 4-3-007 PARCEL 8**  
**WAIPOULI, KAPAA, KAUA'I, HAWAII**

Beginning at a "+" cut of concrete sidewalk at the east corner of this limited common element for Unit 1, at the south corner of the limited common element for Unit 2 of Kamoia Kai Condominium, and on the northwest side of Parcel 9, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU", being 589.95 feet South and 11,588.74 feet East, thence running by azimuths measured clockwise from true South;

1. 46° 07' 00" 63.63 feet along the Parcel 9 to a ½" pipe;
2. 142° 47' 00" 91.32 feet the northeasterly side of Kamoia Road to a ½" pipe;
3. 226° 50' 30" 63.54 feet along Lot A to a ½" pipe;
4. 322° 47' 00" 90.51 feet along the limited common element for Unit 2 to the point of beginning and containing an area of 5,746 square feet, more or less.

Subject to:

1. Portion of Internment Area as described in Document No 2006-213071
2. Easement A-1
3. Easement AU-1
4. Easement S-1
5. Easement W-1



A handwritten signature in black ink, appearing to read "Lucas Z. Breckenridge".

My License Expires:  
04/2024

Lucas Z. Breckenridge (Month/Year)

Licensed Professional Land Surveyor  
Certificate No. 15958

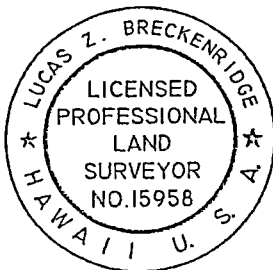
**UNIT 2**  
**LIMITED COMMON ELEMENT**  
**"KAMOA KAI" CONDOMINIUM**  
**BEING ALL OF TMK (4) 4-3-007 PARCEL 8**  
**WAIPOULI, KAPAA, KAUAI, HAWAII**


*Beginning at a "+" cut of concrete sidewalk at the east corner of this limited common element for Unit 1, at the south corner of the limited common element for Unit 2 of Kamo Kai Condominium, and on the northwest side of Parcel 9, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU", being 589.95 feet South and 11,588.74 feet East, thence running by azimuths measured clockwise from true South;*

- |    |              |  |
|----|--------------|--|
| 1. | 142° 47' 00" | 90.51 feet along the limited common element for Unit 1 of Kamo Kai Condominium to a ½" pipe;                   |
| 2. | 226° 50' 30" | 63.54 feet along Lot A to a ½" pipe;   |
| 3. | 324° 36' 30" | 90.08 feet along Parcel 11 to a ½" pipe;   |
| 4. | 46° 07' 00"  | 60.74 feet along Parcel 9 to the point of beginning and containing an area of 5,566 square feet, more or less. |

*Subject to:*

1. Portion of Internment Area as described in Document No 2006-213071
2. Easement A-2
3. Easement S-2



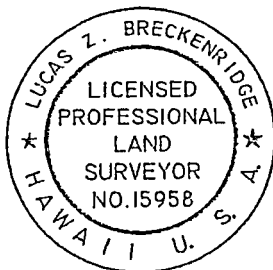
 My License Expires: 04/2024  
\_\_\_\_\_  
Lucas Z. Breckenridge (Month/Year)


Licensed Professional Land Surveyor  
Certificate No. 15958

**EASEMENT A-1**  
**A NON-EXCLUSIVE EASEMENT FOR ACCESS**  
**AFFECTING UNIT 1**  
**"KAMOA KAI" CONDOMINIUM**  
**BEING ALL OF TMK (4) 4-3-007 PARCEL 8**  
**PORTION OF LAND(S) DESCRIBED IN AND COVERED**  
**BY ROYAL PATENT 7373, LAND COMMISSION AWARD 8559-B,**  
**APANA 42 TO W.C. LUNALILIO**  
**WAIPOULI, KAPAA, KAUA'I, HAWAII**

*Beginning at the north corner of this easement, on the northwesterly side of Parcel 8, the westerly corner of the limited common element for Unit 2, the north corner for the limited common element for Unit 1 and on the southeasterly side of Lot A, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU", being 517.80 feet South and 11,534.00 feet East, thence running by azimuths measured clockwise from true South;*

- |    |              |  |
|----|--------------|--|
| 1. | 322° 47' 00" | 14.96 feet along the limited common element for Unit 2 of Komoa Kai Condominium to a point;                                      |
| 2. | 52° 47' 00"  | 10.36 feet affecting the limited common element for Unit 1 of Komoa Kai Condominium and along Easement AU-1 to a point;          |
| 3. | 136° 50' 30" | 13.81 feet affecting the limited common element for Unit 1 of Komoa Kai Condominium to a point;                                  |
| 4. | 226° 50' 30" | 11.85 feet along the southeasterly side Lot A to the point of beginning and containing an area of 159 square feet, more or less. |



 My License Expires: 04/2024  
\_\_\_\_\_  
Lucas Z. Breckenridge (Month/Year)

Licensed Professional Land Surveyor  
Certificate No. 15958

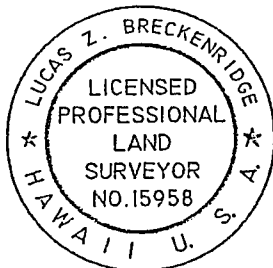
**EASEMENT A-2**  
**A NON-EXCLUSIVE EASEMENT FOR ACCESS**  
**AFFECTING UNIT 2**  
**"KAMOA KAI" CONDOMINIUM**  
**BEING ALL OF TMK (4) 4-3-007 PARCEL 8**  
**PORTION OF LAND(S) DESCRIBED IN AND COVERED**  
**BY ROYAL PATENT 7373, LAND COMMISSION AWARD 8559-B,**  
**APANA 42 TO W.C. LUNALILIO**  
**WAIPOULI, KAPAA, KAUA'I, HAWAII**


*Beginning at the west corner of this easement, on the northwesterly side of Parcel 8, the westerly corner of the limited common element for Unit 2, the north corner for the limited common element for Unit 1 and on the southeasterly side of Lot A, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU", being 517.80 feet South and 11,534.00 feet East, thence running by azimuths measured clockwise from true South;*

1. 226° 50' 30" 12.15 feet along the southeasterly side of Lot A to a point;
2. 316° 50' 30" 3.00 feet affecting the limited common element for Unit 2 of Kamoia Kai Condominium to a point;

*Thence affecting the limited common element for Unit 2 of Kamoia Kai Condominium on a curve to the right having a radius of 12.00', the chord azimuth and distance being:*

3. 05° 54' 21" 18.13 feet to a point;
4. 142° 47' 00" 14.96 feet along the limited common element for Unit 1 of Kamoia Kai Condominium to the point of beginning and containing an area of 163 square feet, more or less.



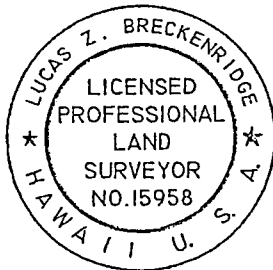
 My License Expires: 04/2024  
\_\_\_\_\_  
Lucas Z. Breckenridge (Month/Year)

Licensed Professional Land Surveyor  
Certificate No. 15958

**EASEMENT AU-1**  
**A NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITY**  
**PURPOSES**  
**AFFECTING UNIT 1, IN FAVOR OF UNIT 2**  
**"KAMOA KAI" CONDOMINIUM**  
**BEING ALL OF TMK (4) 4-3-007 PARCEL 8**  
**PORTION OF LAND(S) DESCRIBED IN AND COVERED**  
**BY ROYAL PATENT 7373, LAND COMMISSION AWARD 8559-B,**  
**APANA 42 TO W.C. LUNALILIO**  
**WAIPOULI, KAPAA, KAUA'I, HAWAII**

*Beginning at the south corner of the easement, being on the southwesterly side of Unit 1 and on the northeasterly side of Kamoa Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU", being 578.36 feet South and 11,500.58 feet East, thence running by azimuths measured clockwise from true South;*

- |    |              |  |
|----|--------------|--|
| 1. | 142° 47' 00" | 13.00 feet along the northwesterly side of Kamoa Road to a point;  |
| 2. | 232° 47' 00" | 63.20 feet affecting the limited common element for Unit 1 of Kamoa Kai Condominium to a point;  |
| 3. | 322° 47' 00" | 16.27 feet along the limited common element for Unit 2 of Kamoa Kai Condominium to a point;  |
| 4. | 62° 49' 01"  | 18.77 feet affecting the limited common element for Unit 1 of Kamoa Kai Condominium to a point;  |
| 5. | 52° 47' 00"  | 44.72 feet affecting the limited common element for Unit 1 of Kamoa Kai Condominium to the point of beginning and containing an area of 852 square feet, more or less. |



 My License Expires: 04/2024

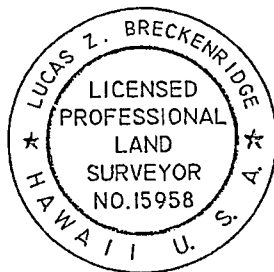
Lucas Z. Breckenridge (Month/Year)

Licensed Professional Land Surveyor  
Certificate No. 15958

**EASEMENT S-1**  
**A NON-EXCLUSIVE EASEMENT FOR SHARED SEPTIC PURPOSES**  
**AFFECTING UNIT 1**  
**IN FAVOR OF UNIT 2**  
**"KAMOA KAI" CONDOMINIUM**  
**BEING ALL OF TMK (4) 4-3-007 PARCEL 8**  
**PORTION OF LAND(S) DESCRIBED IN AND COVERED**  
**BY ROYAL PATENT 7373, LAND COMMISSION AWARD 8559-B,**  
**APANA 42 TO W.C. LUNALILIO**  
**WAIPOULI, KAPAA, KAUAI, HAWAII**

*Beginning at the easterly corner of this easement, on the southeasterly side of Parcel 8, the southerly corner of the limited common element for Unit 2, the easterly corner for the limited common element for Unit 1 and on the northwesterly side of Parcel 9, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU", being 589.95 feet South and 11,588.74 feet East, thence running by azimuths measured clockwise from true South;*

1. 46° 07' 00" 12.28 feet along the northerly side of Parcel 9 to a point;
2. 142° 47' 00" 62.86 feet affecting the limited common element for Unit 1 of Kamoa Kai Condominium to a point;
3. 242° 49' 01" 12.39 feet affecting the limited common element for Unit 1 of Kamoa Kai Condominium and Easement AU-1 to a point;
4. 322° 47' 00" 59.28 feet along the limited common element for Unit 2 of Kamoa Kai Condominium to the point of beginning and containing an area of 745 square feet, more or less.



A handwritten signature in black ink, appearing to read "Lucas Z. Breckenridge".

My License Expires:  
04/2024

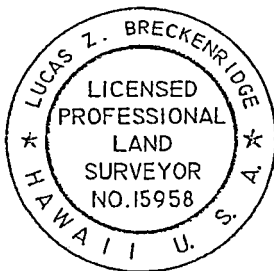
Lucas Z. Breckenridge (Month/Year)


Licensed Professional Land Surveyor  
Certificate No. 15958

**EASEMENT S-2**  
**A NON-EXCLUSIVE EASEMENT FOR SHARED SEPTIC PURPOSES**  
**AFFECTING UNIT 2**  
**IN FAVOR OF UNIT 1**  
**"KAMOA KAI" CONDOMINIUM**  
**BEING ALL OF TMK (4) 4-3-007 PARCEL 8**  
**PORTION OF LAND(S) DESCRIBED IN AND COVERED**  
**BY ROYAL PATENT 7373, LAND COMMISSION AWARD 8559-B,**  
**APANA 42 TO W.C. LUNALILIO**  
**WAIPOULI, KAPAA, KAUAI, HAWAII**

*Beginning at the southerly corner of this easement, on the southeasterly side of Parcel 8, the southerly corner of the limited common element for Unit 2, the easterly corner for the limited common element for Unit 1 and on the northwesterly side of Parcel 9, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU", being 589.95 feet South and 11,588.74 feet East, thence running by azimuths measured clockwise from true South;*

1. 142° 47' 00" 59.28 feet along the limited common element for Unit 1 of Kamoa Kai Condominium to a point;
2. 242° 49' 01" 13.19 feet affecting the limited common element for Unit 2 of Kamoa Kai Condominium to a point;
3. 322° 47' 00" 55.46 feet affecting the limited common element for Unit 1 of Kamoa Kai Condominium to a point;
4. 46° 07' 00" 13.08 feet along Parcel 9 to the point of beginning and containing an area of 745 square feet, more or less.



 My License Expires: 04/2024  
\_\_\_\_\_  
Lucas Z. Breckenridge (Month/Year)

Licensed Professional Land Surveyor  
Certificate No. 15958



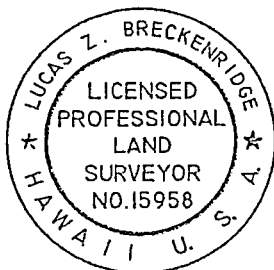
**EASEMENT W-1**

**5 FEET WIDE**

**A NON-EXCLUSIVE EASEMENT FOR WATER LINE PURPOSES  
AFFECTING UNIT 1, IN FAVOR OF UNIT 2  
"KAMOA KAI" CONDOMINIUM  
BEING ALL OF TMK (4) 4-3-007 PARCEL 8  
PORTION OF LAND(S) DESCRIBED IN AND COVERED  
BY ROYAL PATENT 7373, LAND COMMISSION AWARD 8559-B,  
APANA 42 TO W.C. LUNALILIO  
WAIPOULI, KAWAIIHAU, KAUAI, HAWAII**

*Beginning at the west corner of the easement, being on the southwesterly side of Unit 1 and on the northeasterly side of Kamoa Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU", being 578.36 feet South and 11,500.58 feet East, thence running by azimuths measured clockwise from true South;*

1. 232° 47' 00" 5.00 feet along Easement AU-1, affecting the limited common element for Unit 1 of Kamoa Kai Condominium to a point;
2. 322° 47' 00" 34.97 feet affecting the limited common element for Unit 1 of Kamoa Kai Condominium to a point;
3. 52° 47' 00" 5.00 feet affecting the limited common element for Unit 1 of Kamoa Kai Condominium to a point;
4. 142° 47' 00" 34.97 feet along Hekili Road to the point of beginning and containing an area of 175 square feet, more or less.



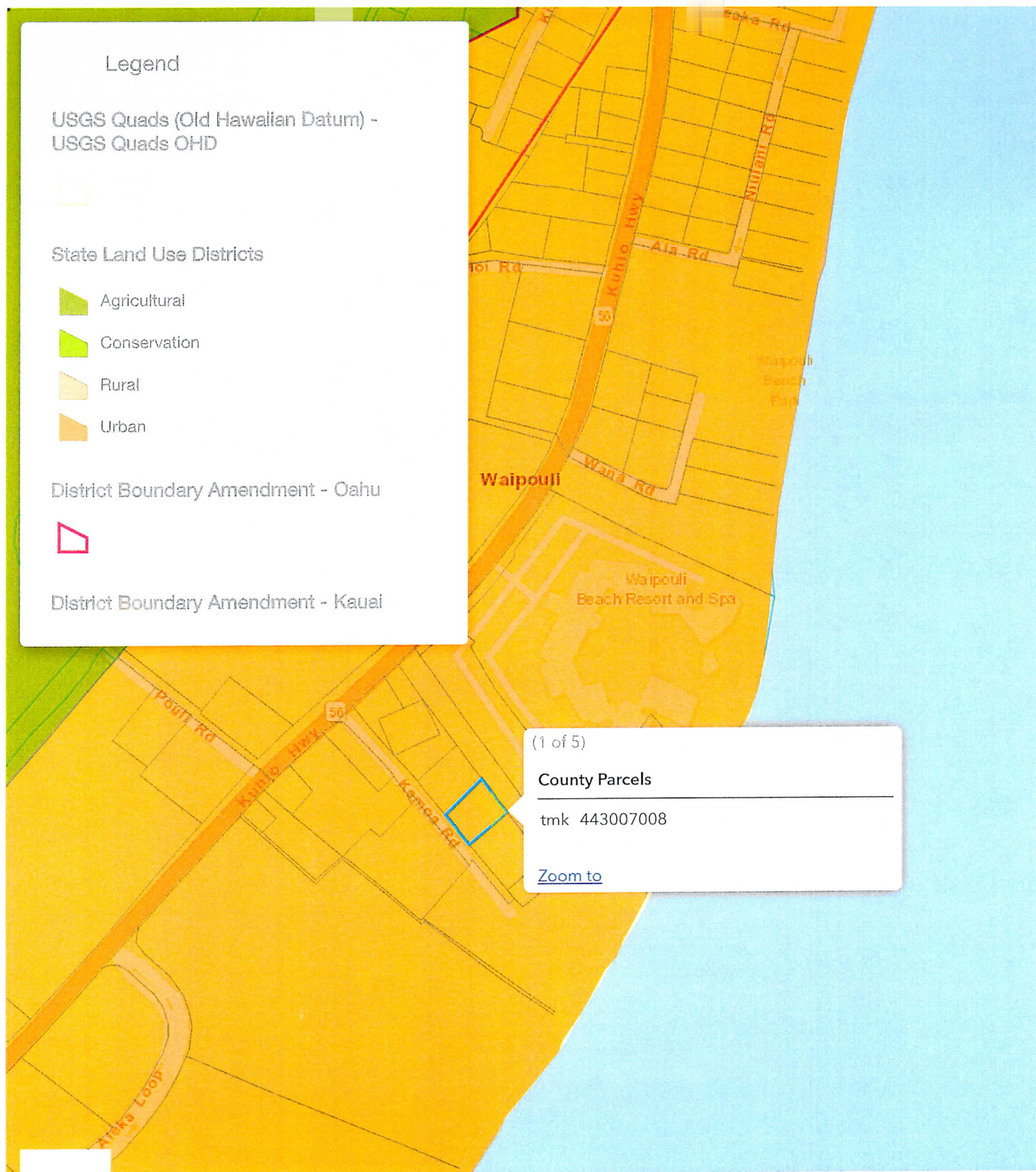
A handwritten signature in black ink, appearing to read "LZB", written over a horizontal line.

My License Expires:  
04/2024

Lucas Z. Breckenridge

(Month/Year)

Licensed Professional Land Surveyor  
Certificate No. 15958



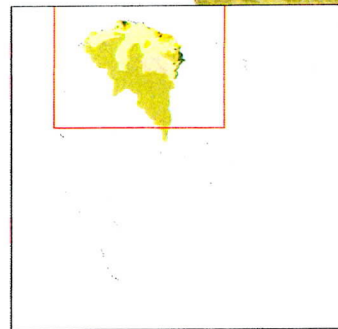
State of Hawaii Land Use District Boundaries Map - January 2019

**EXHIBIT "C-5"**



**Figure 5-6 East Kaua'i Land Use Map**

- Planning District Boundary
- Major Roads
- Roads
- Streams
- USGS 40 ft. Contours
- Reservoirs
- Natural
- Agricultural
- Parks and Recreation
- Homestead
- Residential Community
- Neighborhood Center
- Neighborhood General
- Resort
- Industrial







Kamoa Road SMA MAP

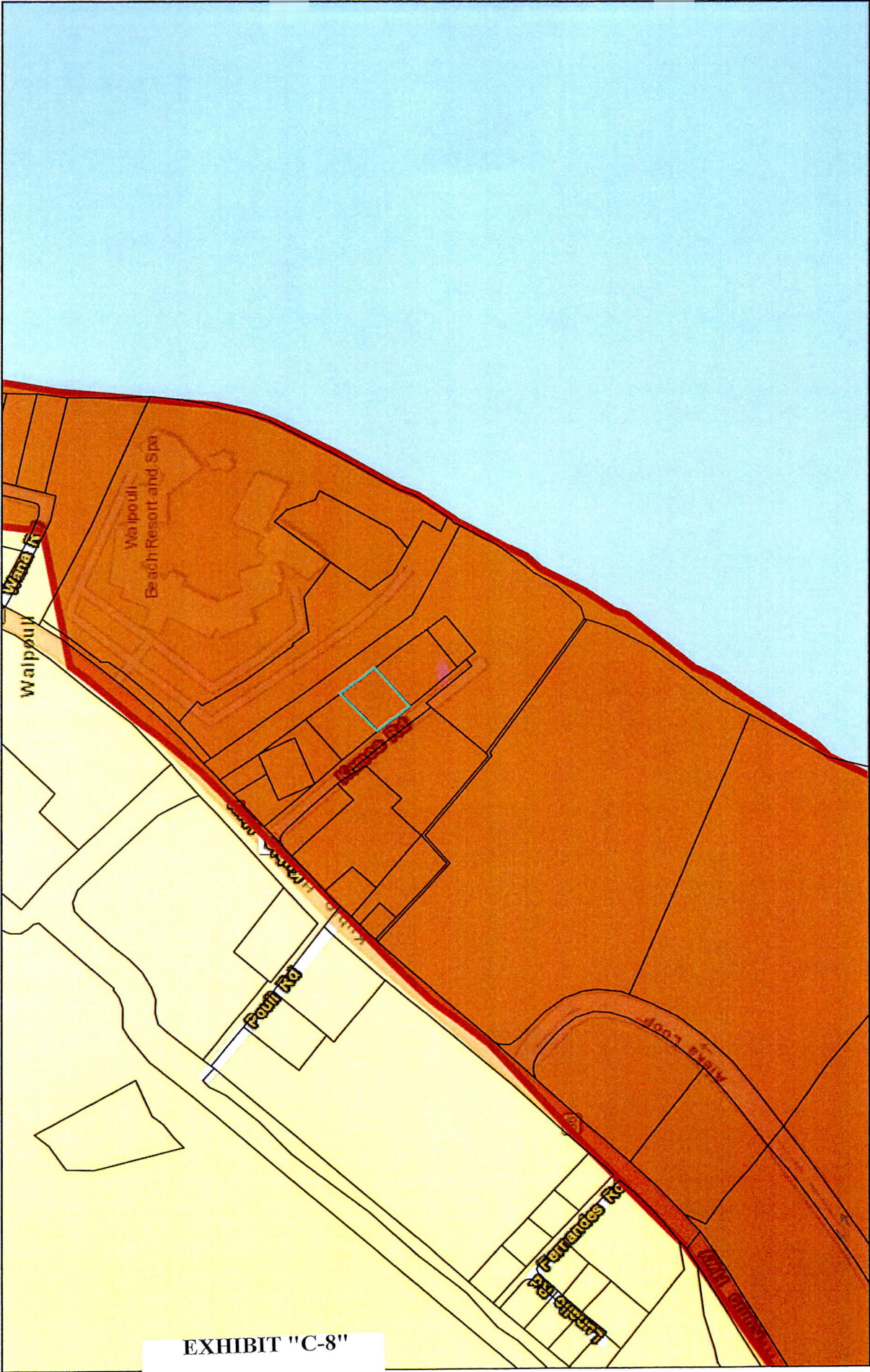
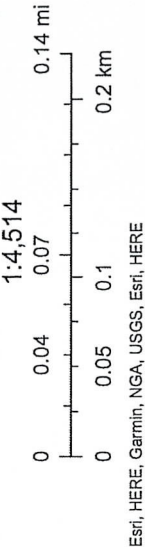
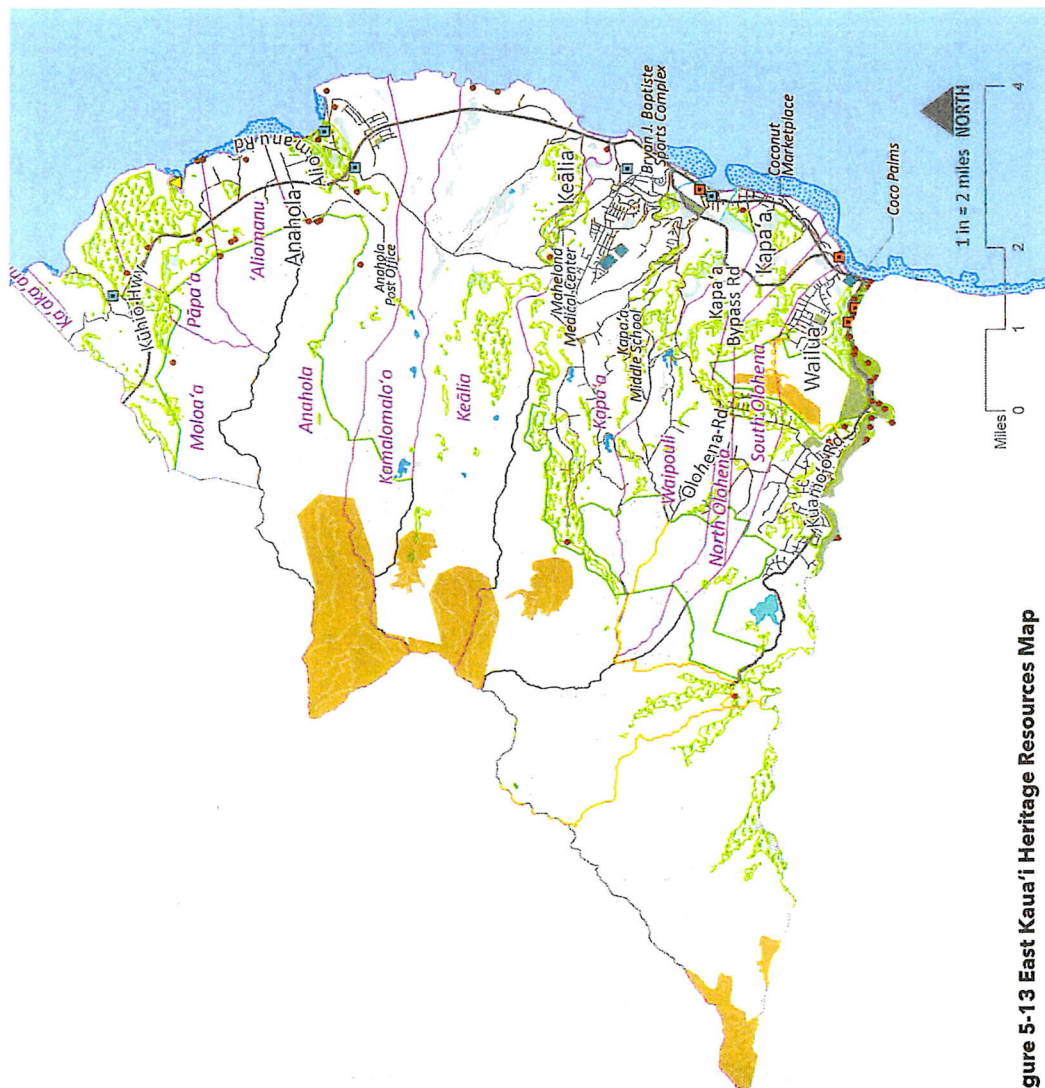


EXHIBIT "C-8"



October 24, 2022





**Figure 5-13 East Kaua'i Heritage Resources Map**

- |   |  |  |
|---|--|--|
| <ul style="list-style-type: none"> <li>Registered Historic Sites <ul style="list-style-type: none"> <li>State</li> <li>National</li> <li>State &amp; National</li> </ul> </li> <li>Cultural Features</li> <li>Priority Public Access Points</li> <li>Fish Ponds</li> <li>Streams &amp; Waterbodies</li> <li>Major Roads</li> <li>Roads</li> </ul> | <ul style="list-style-type: none"> <li>Trails</li> <li>Planning District Boundaries</li> <li>Ahupua'a Boundaries</li> <li>Wetlands</li> <li>Coral Reefs</li> <li>Regulated Fishing Areas</li> <li>State &amp; County Parks</li> <li>Preserves</li> <li>Reservoirs</li> </ul> | <ul style="list-style-type: none"> <li>Traditional Cultivation Areas</li> <li>Sand Dunes</li> <li>Open Space Acquisition Priorities</li> <li>Critical Habitat</li> <li>Threatened &amp; Endangered Species</li> <li>High Density</li> <li>Very High Density</li> </ul> |
|---|--|--|





# Flood Hazard Assessment Report

www.hawaiiinfip.org

## Property Information

COUNTY: KAUAI  
 TMK NO: (4) 4-3-007:008  
 WATERSHED: WAILUA  
 PARCEL ADDRESS: ADDRESS NOT DETERMINED  
 KAPAA, HI 96746

## Notes:

## Flood Hazard Information

FIRM INDEX DATE: FEBRUARY 26, 2021  
 LETTER OF MAP CHANGE(S): NONE  
 FEMA FIRM PANEL: 1500020212F  
 PANEL EFFECTIVE DATE: NOVEMBER 26, 2010

THIS PROPERTY IS WITHIN A TSUNAMI EVACUATION ZONE: YES  
 FOR MORE INFO, VISIT: <http://www.scd.hawaii.gov/>

THIS PROPERTY IS WITHIN A DAM EVACUATION ZONE: NO  
 FOR MORE INFO, VISIT: <http://dlnreng.hawaii.gov/dam/>



*Disclaimer: The Hawaii Department of Land and Natural Resources (DLNR) assumes no responsibility arising from the use, accuracy, completeness, and timeliness of any information contained in this report. Viewers/Users are responsible for verifying the accuracy of the information and agree to indemnify the DLNR, its officers, and employees from any liability which may arise from its use of its data or information.*

*If this map has been identified as 'PRELIMINARY', please note that it is being provided for informational purposes and is not to be used for flood insurance rating. Contact your county floodplain manager for flood zone determinations to be used for compliance with local floodplain management regulations.*

## FLOOD HAZARD ASSESSMENT TOOL LAYER LEGEND

(Note: legend does not correspond with NFHL)

**SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD** - The 1% annual chance flood (100-year), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. SFHAs include Zone A, AE, AH, AO, V, and VE. The Base Flood Elevation (BFE) is the water surface elevation of the 1% annual chance flood. Mandatory flood insurance purchase applies in these zones:

	Zone A: No BFE determined.
	Zone AE: BFE determined.
	Zone AH: Flood depths of 1 to 3 feet (usually areas of ponding); BFE determined.
	Zone AO: Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined.
	Zone V: Coastal flood zone with velocity hazard (wave action); no BFE determined.
	Zone VE: Coastal flood zone with velocity hazard (wave action); BFE determined.
	Zone AEF: Floodway areas in Zone AE. The floodway is the channel of stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without increasing the BFE.

**NON-SPECIAL FLOOD HAZARD AREA** - An area in a low-to-moderate risk flood zone. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

	Zone XS (X shaded): Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
	Zone X: Areas determined to be outside the 0.2% annual chance floodplain.

## OTHER FLOOD AREAS

	Zone D: Unstudied areas where flood hazards are undetermined, but flooding is possible. No mandatory flood insurance purchase applies, but coverage is available in participating communities.
--	--



COUNTY OF KAUAI  
PLANNING DEPARTMENT

- ( ) ZONING PERMIT APPLICATION  
( ) USE PERMIT APPLICATION  
( ) PROJECT DEVELOPMENT USE PERMIT APPLICATION  
( ) VARIANCE PERMIT APPLICATION  
( ) SPECIAL PERMIT APPLICATION  
(X) SMA PERMIT APPLICATION

APPLICANT DARCY McCARTNEY

ADDRESS PO BOX 557

KAPAA, HI 96746

PHONE NO. (work) 635-6095 (home) 822-4900

Tax Map Key 4-3-7-B Lot No. \_\_\_\_\_ Lot Size 11,308 sq ft Zoning RR20 Existing Land Use \_\_\_\_\_

APPLICANT IS: (check one)

- A. Owner of Property ☒ (Holder of at least 75% of the equitable and legal title.)  
B. Lessee of Property \_\_\_\_\_ \*Number of Years Leased \_\_\_\_\_ From \_\_\_\_\_ to \_\_\_\_\_  
C. Authorized Agent \_\_\_\_\_ Attach Letter of Authorization.

NOTE: \*Lessee must have an unexpired and recorded lease of five (5) years or more from date of filing this application. Owner(s) must sign below if lease is less than five (5) years remaining and/or unrecorded.

DESCRIPTION OF PROPOSED USE, IMPROVEMENT, ALTERATION, AND/OR CONSTRUCTION: (specify exact use, number of units, etc.) (see attached)

**FOR VARIANCE OR USE PERMITS ONLY**

Conditions justifying Variance or Use Permit application: (use additional sheets as required) \_\_\_\_\_

The owner and/or his authorized representative for the purposes of said permit shall, prior to commencing erection, construction, installation or placement of the foundations and/or footings of the improvements allowed hereunder, and after compliance with the foregoing condition, notify the Planning Department no later than 5 working days to commencement of such work, in order that the Planning Department might inspect and certify the applicable and imposed setbacks and other zoning requirements.

The construction, work, use, or activity approved in this permit shall be subject to inspection by the Planning Inspector or authorized personnel of the Planning Department, County of Kauai. The applicant is advised that inspection will occur prior to or during construction and use to ascertain compliance with the provisions of Ordinance No. 164, as amended, (Comprehensive Zoning Ordinance, County of Kauai, and/or other laws which are enforced by the Planning Department.

Signature \_\_\_\_\_

Owner/Applicant

EXHIBIT "D"

**For Planning Department Use Only**

Zoning Permit No. \_\_\_\_\_

Use Permit No. \_\_\_\_\_

Variance Permit No. \_\_\_\_\_

Special Permit No. \_\_\_\_\_

SMA Permit No. SMA(U)-2006-14

Zoning Permit Class \_\_\_\_\_

Date Received \_\_\_\_\_ By \_\_\_\_\_

Date Approved \_\_\_\_\_ By \_\_\_\_\_

Plans By L. Kay Zovanyi

Permit Fee \$150.00 Date 6/22/2006



**PERMIT APPLICATION**  
**For**  
**4460 Kamoia Rd., Kapaa, HI 96746**  
**TMK #4-3-7-8**

**DESCRIPTION OF PROPOSED USE AND CONSTRUCTION:**

The applicant, Darcy McCartney, is proposing to build four single family dwellings on the subject property, which will be consistent with the rules and regulations of the County's Comprehensive Zoning Ordinance (CZO), and the overall intent of the County's Special Management Area (SMA). Based on zoning regulations, RR-20, and a parcel area of 11,308 square feet, five units are permitted.

It is the intent of the applicant to provide reasonably priced, new single family homes in the Kapaa downtown district. After construction, the applicant may chose to hold the units as long-term rentals, or decide to CPR and sell the homes as separate parcels, depending on her financial situation. In either case, the applicant feels strongly about giving priority to local residents, as potential renters or buyers.

The architectural design is Plantation western. The dwellings will be two stories, with enclosed garages and fenced patio areas. Two of them will be approximately 1,500 square feet, two bedroom, two bath; and the other two will be approximately 1,800 square feet, three bedroom, three bath. Their design will include attention to energy efficient materials and appliances.

County agencies have been contacted regarding the infrastructure improvements. Wastewater Division has advised the applicant that she may connect to the county sewer line at Kuhio Hwy. The Water Department has advised that five separate meters may be allowed. KIUC and Hawaiian Tel have indicated that service is available to the project. Vehicular access is off of Kamoia Road.

The environmental impact of this project will be minimal. It is not located in a flood zone or tsunami area. There are no endangered plants or animals on the site. It is not located on the coastline, and therefore will not affect coastal resources or shoreline erosion. It is not located in a designated historical district, or near a Hawaiian fishpond, nor is it near any State or County parks.

An archeological survey has been completed, with a copy attached. The applicant will abide by all requirements made by the State Historical Preservation Division, and the Hawaiian Burial Council.

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION  
601 KAMOKILA BOULEVARD, ROOM 555  
KAPOLEI, HAWAII 96707

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
DEPUTY DIRECTOR - LAND

DEAN NAKANO  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

September 6, 2006

Dr. Mike Dega  
Scientific Consultant Services, Inc.  
711 Kapiolani Blvd., Suite 975  
Honolulu, HI 96813

LOG NO: 2006.3048  
DOC NO: 0608PC15  
History & Culture

Dear Dr. Dega:

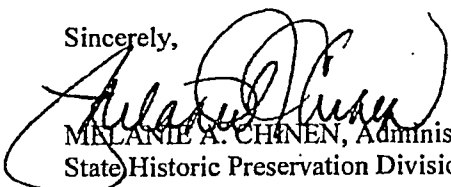
**SUBJECT: (Revised) Burial Treatment Plan for Site 50-30-08-3939 in Waipouli  
North Olohena Ahupua'a, Kawaihau District, Island of Kaua'i  
TMK: (4) 4-3-007:008**

We have reviewed your revised plan and it meets the requirements under §13-300-34, Hawaii Administrative Rules (HAR). Therefore, the department approves the burial treatment plan. The plan provides for the relocation of the remains found on the subject property to the proposed reinterment site on the western flank of Parcel 008. The burials will be reinterred into sterile sediment, with a permanent burial structure built over the burials. The reinterment site will be maintained by the landowner and has a permanent buffer zone of 12 feet from its exterior points.

Pursuant to §13-300-38(g), HAR, all council determinations to relocate previously identified Native Hawaiian burial sites shall be recorded in the Bureau of Conveyances. Please provide the department with a written notification and a copy of the document upon recordation.

If you have any questions, please do not hesitate to contact Ms. Piilani Chang, Oahu Cultural Historian, at 692-8015.

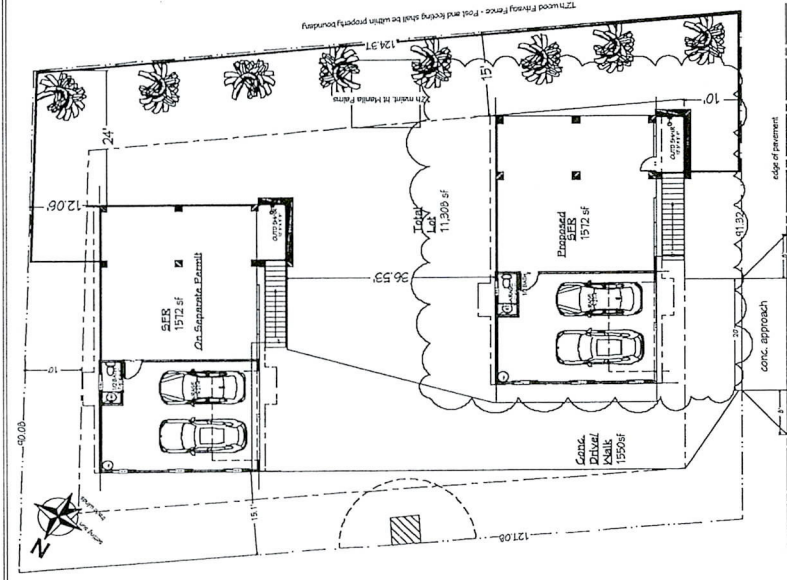
Sincerely,

  
MELANIE A. CHINEN, Administrator  
State Historic Preservation Division

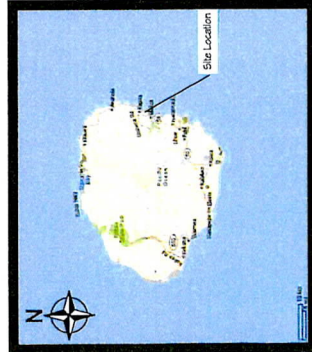
c: Members, Kaua'i / Ni'ihau Islands Burial Council  
Piilani Chang, Oahu Cultural Historian  
Nancy-McMahon, Kaua'i Archaeologist

PC: rtp

SEP - 6 2006



**Plot Plan**  
Scale: 1.00" = 10.00'



# KimaniKoa Drafting and Design Service

Lihue, Kauai, Hawaii  
KimaniKoa.com  
kimanikoa@hawaii.rr.com

Page Description  
**Cover**

Sheet  
**0CS1**  
1 of 1

**Lot Data**  
Zone R-72  
Total Lot 11,308  
Unit 1 SFR 1512  
Unit 2 SFR 1512  
Driveway 1554  
Total Cover 4698  
41.5% coverage

**Bldg Data**  
2 St 2) bld 2) bal 1) 1/2 ba  
Floor 1 1468sf  
Patio 784  
Garage 560  
Shur 60  
Stairs 64

**Floor 2 1509**  
Lanai 340  
Living 1169



**Conceptual View**

**CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AT THE JOB SITE AND NOTIFY THE ARCHITECT OF ANY DIMENSIONAL ERRORS, OMISSIONS OR DISCREPANCIES BEFORE BEGINNING OR FABRICATING ANY WORK.**

To the best of my knowledge these plans are drawn to comply with owner's and/or builder's specifications and any changes made on them after prints are made will be done at the owner's and/or builder's expense and responsibility. The contractor shall verify all dimensions and enclosed drawing. Donivan Komo dba KimaniKoa Drafting and Design, is not liable for errors once construction has begun. While every effort has been made in the preparation of this plan to avoid mistakes, the maker can not guarantee against human error. The contractor of the job must check all dimensions and other details prior to construction and be solely responsible thereafter.

**Index**

Plot 0CS1
General Notes Gen01
Floor Plans A01
Schedules A01
Elevations A02
Sections A03
Foundation S01
Floor Frame S01
Details S02
Roof Frame S02
Int. Elevations I01
Schedules I01
Electrical E01
Schedule E01

**Proposed New Residence**  
for  
**er Whalley**

Date: July 2022  
Drawn By: Donivan Komo

Site Location: Kamoa Road  
Kapa'a HI 96746  
T.I. 4-3-007-008-0001



## GENERAL NOTES

- 1 The Contractor shall visit the project site and thoroughly familiarize himself with the existing conditions prior to submitting his bid.
- 2 All grading operations shall be performed in conformance with the applicable provisions of Chapter 54, water quality standards, and Chapter 55, water pollution control, of Title I, administration rules of the State of Hawaii Department of Health.
- 3 The Contractor shall conform to the latest prevailing codes and ordinances and manufacturer's specifications and standards for all trades of work.
- 4 All work is to be done by the General Contractor unless otherwise noted. An "Owner-Builder" is in fact the General Contractor and shall bear all of the responsibilities of the General Contractor for this project. An "Owner-Builder" shall read and understand **KNOW THE RISKS AND RESPONSIBILITIES OF BEING AN OWNER BUILDER** provided by the State of Hawaii Department of Commerce and Consumer Affairs (DCCA), and its Regulated Industries Complaints Office (RICO), 235 S. Beretania Street, Ninth Floor, Honolulu, Hawaii 96813, [www.hawaii.gov/dcca/rico](http://www.hawaii.gov/dcca/rico), telephone (808) 587-4272.
- 5 Burying organic "green" material from the site grading process is common. The Contractor shall locate all green material on the site and make sure that all structures are constructed a minimum of 6' away from all green material. If a structure is to be constructed over a green material location, the green material shall be removed and be replaced with engineered fill with 95% compaction.
- 6 Termites treat all dimensional structural wood in accordance with the prevailing codes. Termites treat the ground under the building with chemicals acceptable to the local building authority and in accordance with the manufacturer's recommendations.
- 7 All structural lumber species shall be Douglas Fir-Larch unless otherwise noted. Structural lumber grades shall be #1 or better for 4x with a minimum structural value of Fb 1200, and #2 or better for 6x and 2x with a minimum structural value of Fb 900 unless otherwise noted.
- 8 The General Contractor is responsible for coordinating all work of the sub-contractors.
9. Though not a requirement of an Authority Having Jurisdiction (AHJ) it is recommended to have a soil study done ahead of structural design.
10. If there is any question regarding the soil conditions and foundation design, the Owner or Contractor shall retain a Hawaii licensed Geotechnical Engineer and comply with all of the Hawaii Licensed Geotechnical Engineer's recommendations. Otherwise assumed soil bearing pressure 1500 psf
11. All engineered fill, base course and ground under concrete slabs and concrete footings shall be compacted to a minimum of 95%.
12. The Contractor shall slope all finished grades away from the building.
13. The Contractor shall verify all dimensions, conditions and details prior to beginning construction and contact the Architect if there are any questions.
14. The Contractor shall field verify all work and coordinate among trades prior to fabrication and installation. All products, unless otherwise noted, shall be pre-approved by the Owner prior to ordering, fabrication, installation and execution of the product.
15. Where figures or dimensions have been omitted from the drawings, the drawings shall not be scaled. The Contractor shall immediately contact the Architect regarding any omissions.
16. The Contractor shall use adequate numbers of skilled workman who are trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and methods needed for proper performance of all aspects of this work.
17. The Contractor shall examine all areas and conditions under which this work will be performed and correct all conditions detrimental to the timely and proper completion of the work prior to beginning the work.
18. The Contractor shall provide other material not specifically described but needed for a complete and proper installation as selected by the Contractor and subject to the approval of the Owner.

19. The Contractor shall protect products scheduled for use on this project. Maintain packaged materials with seals unbroken and labels intact until time of use. Promptly remove damaged material and unsuitable items from the job site, and promptly replace with material meeting the specified requirements, at no additional cost to the Owner.
20. The Contractor shall keep the construction area in a neat, safe and orderly condition at all times during the execution of this work, free from the accumulation of dust and debris.
21. The Contractor is to file and secure all approvals, permits, tests, inspections and certificates of compliance as required.
22. The Contractor shall keep a full set of up-to-date plans available on the job site at all times.
23. The Contractor is responsible for initiating, maintaining and supervising all safety precautions and programs necessary for completion of the work.
24. All materials and labor shall be guaranteed for one year from the date of final payment.
25. The Contractor shall repair, replace, patch and match any materials, areas or systems as required or called for to obtain the proper installation and neat appearance of the work, connect new work to existing work in a neat and approved manner, and restore existing work, in making such connections, to perfect condition.
26. The Contractor shall keep all operations and maintenance manuals and related paperwork in a marked envelope to be turned over to the Owner upon the completion of the project.
27. The Contractor shall make a careful inspection of the construction and make sure that the project is ready for final acceptance prior to calling the Owner for a final inspection.
28. All work shall conform to ADA and ADAAG requirements where applicable.
29. The Contractor shall verify that the project site topography can accommodate the building design.
30. All structural wood shall have a moisture content of 19 percent or less (measured at the center of the specific structural wood member).
31. The Contractor shall not use Fiber Mesh as a substitute for wire mesh or steel in concrete slabs and concrete footings.
32. The Contractor shall remove all red cinder from formed areas prior to pouring concrete slabs and concrete footings.
33. Nailing Schedule Unless Otherwise Noted:  
A) 5/8", 19/32" and 9/16" thick structural panels:  
10d at 4" o.c. at edges and 12" o.c. in field.  
B) 1/2", 7/16" and 3/8" thick structural panels:  
8d at 4" o.c. at edges and 12" o.c. in field.  
C) 5/16" thick structural panels:  
6d at 4" o.c. at edges and 8" o.c. in field.  
34. All anchor bolts, hold down straps and ties, column bases and all other metal connectors embedded in concrete shall be galvanized.
35. A valid building permit is, in no way, a guarantee that the County Building Department will not, without just cause or notice, demand partial or total building redesign at the Owner's expense.

## Design Loads

Living and Decks 40psf LL 15 psf DL  
Bedrooms: 30 psf LL 15 psf DL  
Roofs: 20 psf LL 15 psf DL  
Wind speeds: 105 mph Exposure "C"  
Assumed soil bearing capacity unless tested 1500 psf



**KimaniKoa** Drafting and Design Service

Lihue, Kauai, Hawaii      KimaniKoa.com      kimanikoahawaii.com

Page Description

**General Requirements**

Sheet  
**Gen01**  
2 of 4

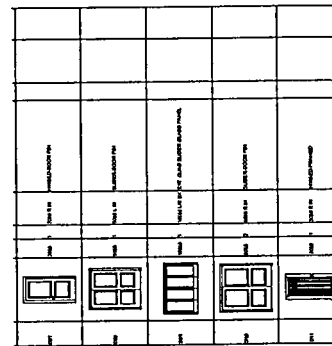
Date : July 2022  
Drawn By: Donivan Komno

Proposed New Residence  
for  
Mr Whalley







Site Location: Kamoa Road  
Kapala HI 96746  
T. 808-433-007 • 008-0001



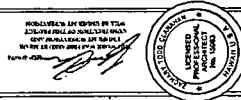


### Upper Level Floor Plan

1001		DOUBLE 1	DOUBLE	DOUBLE			
1002		DOUBLE 1	DOUBLE	DOUBLE	LEFT SLIDING		
1003		DOUBLE 4	DOUBLE	DOUBLE	LEFT SLIDING		
1004		DOUBLE 1	DOUBLE	DOUBLE	TRIPLE SLIDING		

- [illegible]

Site Location: Kamao Road  
Kapapa HI 96746  
T.I. ( ) 4-3-007-008-0001



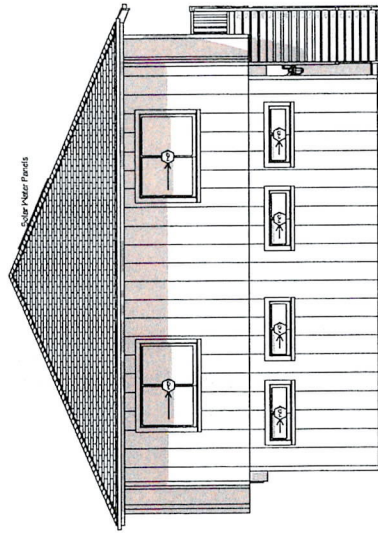
Proposed New Residence  
for  
Mr Whalley

Drawn By: Donivan Konno

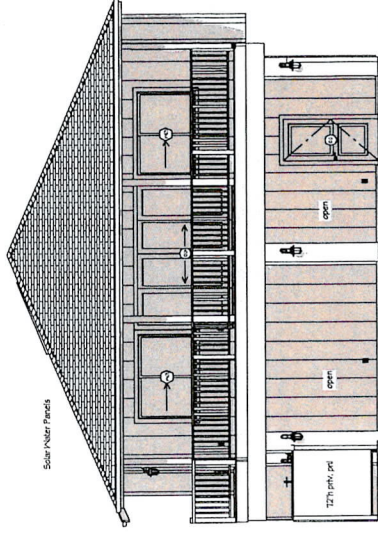
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**A01**  
3 of 9



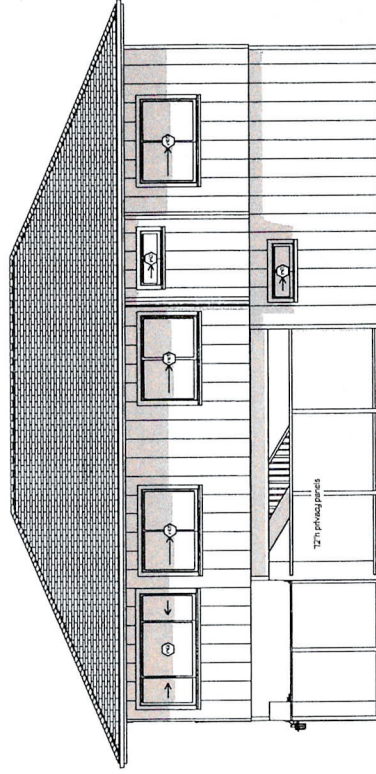
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Scale: 1/4" = 1' - 0"



**Left Elevation**  
Scale: 1/4" = 1' - 0"



**Right Elevation**  
Scale: 1/4" = 1' - 0"



**Rear Elevation**  
Scale: 1/4" = 1' - 0"



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Page Description  
**Elevations**

Sheet  
**A02**  
4 of 9

Date : July 2022  
Drawn By : Donivan Konno

Proposed New Residence  
for  
Mr. Whalley



ALL WORK SHALL BE IN ACCORDANCE WITH THE HAWAIIAN ARCHITECTURAL ACT AND THE HAWAIIAN ENGINEERING ACT.  
DONIVAN KONNO  
PROFESSIONAL ENGINEER  
LICENSE NO. 10000

Site Location: Kamoa Road  
Kapala HI 96746  
T.M. ( ) 4 - 3 - 007 - 008 - 0001



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Lihue, Kauai, Hawaii KimaniKoa.com kimanikoa@hawaii.rr.com

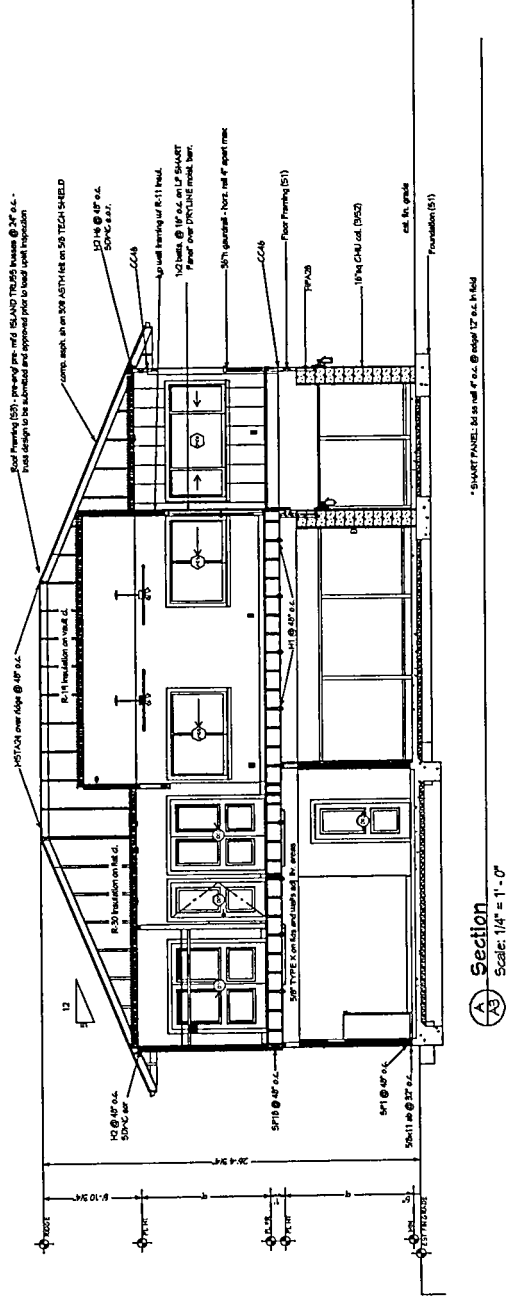
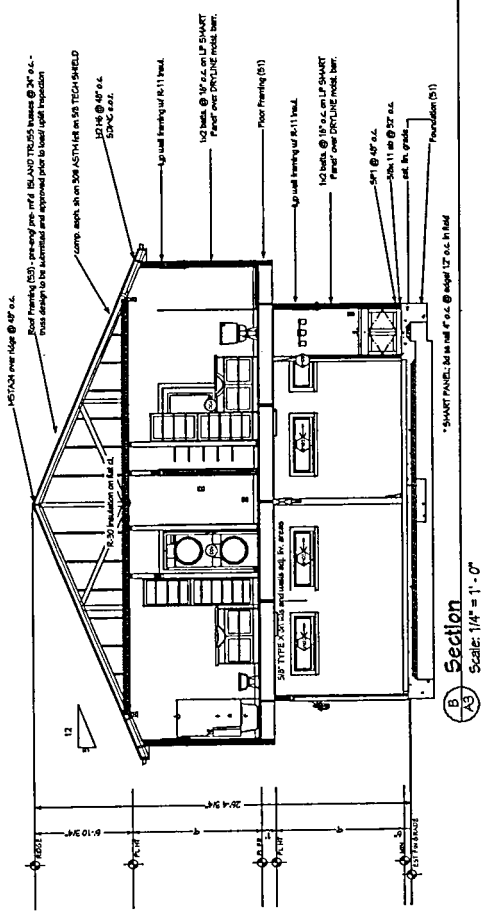
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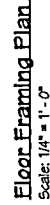
Date: July 2022  
Drawn By: Donivan Komo

Proposed New Residence  
for  
Mr. Whalley

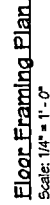
Site Location: Kamoa Road  
Kapā'a HI 96746  
T. 4-3-007-008-0001







Scale: 1/4" = 1' - 0"



Scale: 1/4" = 1' - 0"

MINIMUM WOOD MEMBER SIZE FOR  
HDU4-SDS2.5 IS 3X3 1/2



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Page Description

**Roof Framing/ Details**


Sheet **S02**

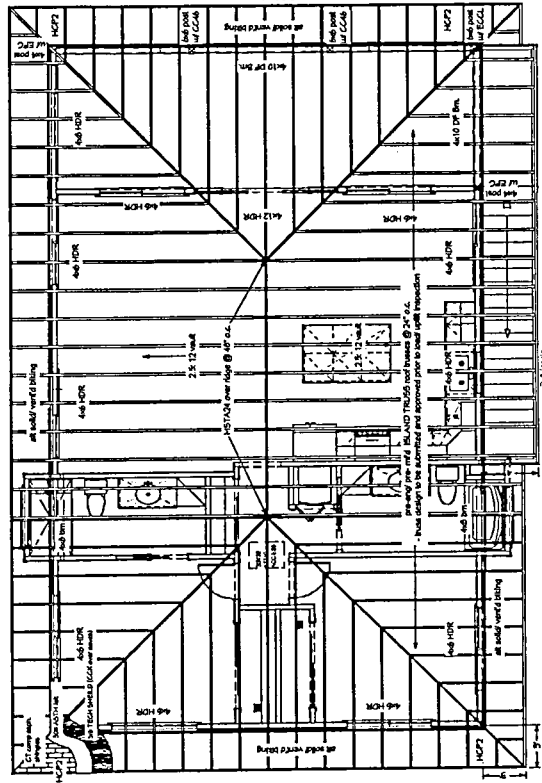
Date: July 2022

Drawn By: Donivan Kono

Proposed New Residence for **Mr. Whalley**

Site Location: Kamaa Road  
Kapapa HI 96746  
T. 4-3-007-008-0001

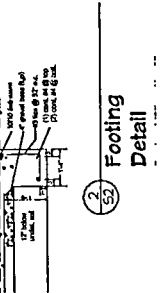




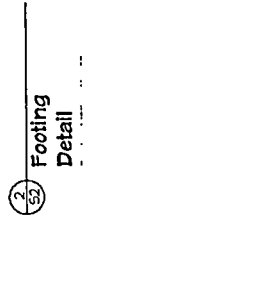
**Roof Framing Plan**  
Scale: 1/4" = 1'-0"

Gable Truss Support Note:  
 WHERE TRUSS SUPPORT FALLS ON STUDDED WALL, USE DOUBLE STUDS OR 4M TO SUPPORT GROSS TRUSS. ATTACH DITZ TO STUDS WITH 1/2" DRILL BIT AND ATTACH A SECOND DITZ TO FACE OF DOUBLE STUD.  
 WHERE GROSS TRUSS FALLS ON FENESTRATION, ATTACH DITZ TO FACE OF GROSS AND ATTACH DITZ TO TOP PLATES AND HANGER WITH 1/2" X 6 LUG BOLT.

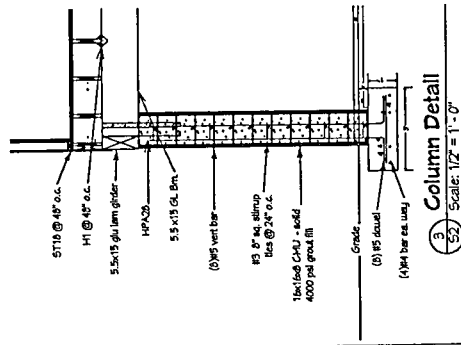
CONTINUE DOUBLE STUD OR 4M TO FIRST FLOOR AND ATTACH TO STUDS OR 4M BETWEEN FLOORS. ATTACH FIRST FLOOR DOUBLE STUD OR 4M TO STUDS OR 4M IN FIRST FLOOR FENESTRATION AND ATTACH TO STUDS OR 4M IN FIRST FLOOR FENESTRATION WITH 1/2" X 6 LUG BOLT.



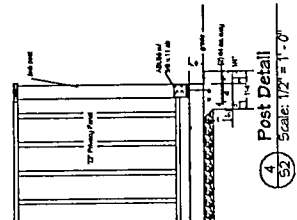
**1 Footing Detail**  
Scale: 1/2" = 1'-0"



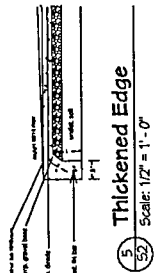
**2 Footing Detail**  
Scale: 1/2" = 1'-0"



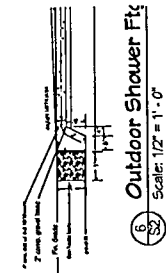
**3 Column Detail**  
Scale: 1/2" = 1'-0"



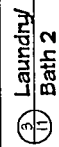
**4 Post Detail**  
Scale: 1/2" = 1'-0"



**5 Thickened Edge**  
Scale: 1/2" = 1'-0"























**6 Outdoor Shower Fix**  
Scale: 1/2" = 1'-0"

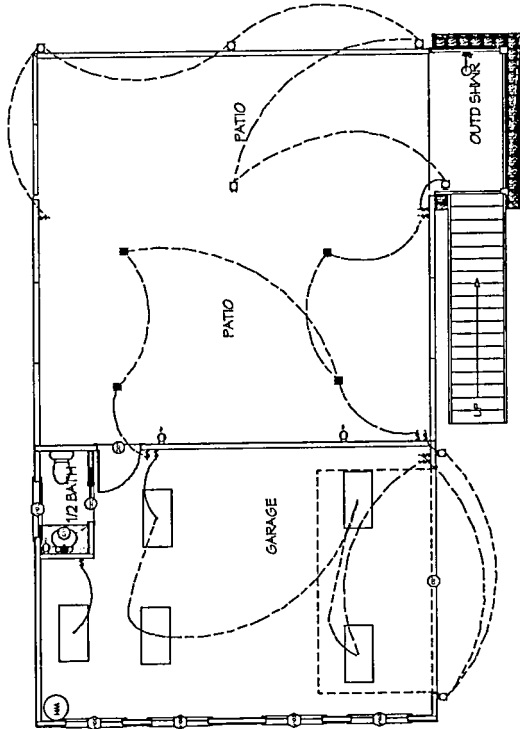


**Kitchen**  
Scale: 1/2" = 1' - 0"

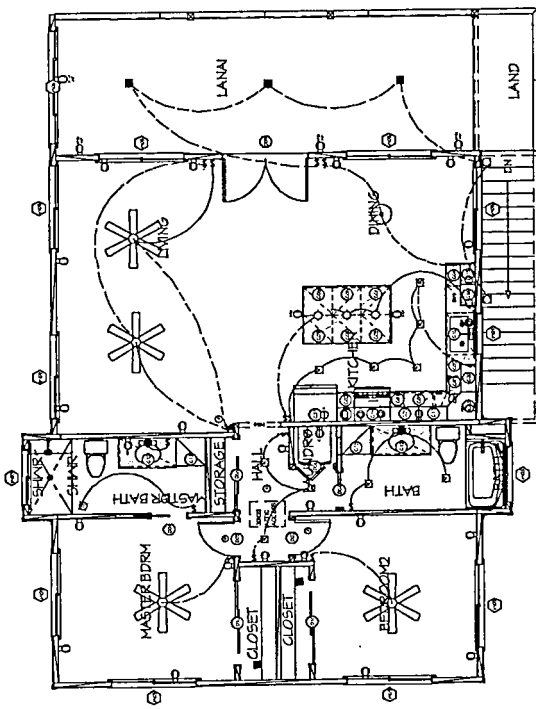
**Kitchen**  
Scale: 1/2" = 1' - 0"

Island

ITEM	DESCRIPTION	QTY	UNIT	PRICE	TOTAL	REMARKS
C01	 BASE CABINET	1	13"	34"		
C02	 SINK CABINET	1	14"	34"		
C03	 BASE CABINET	1	13"	34"		
C04	 BASE CABINET	1	13 1/2"	34"		
C05	 BASE CABINET	4	24"	34"		
C06	 PANTRY CABINET	9	24"	34"		
C07	 BASE CABINET	1	24"	34"		
C08	 CHEST PULL CABINET	1	24"	42"		
C09	 CORNER BASE CABINET	1	30"	34"		
C10	 BASE CABINET	1	30"	34"		
C11	 BASE CABINET	1	34"	34"		
C12	 BASE CABINET	2	48"	34"		
C13	 UTILITY CABINET	1	24"	34"		
C14	 PULL CABINET	1	13"	42"		
C15	 PULL CABINET	1	24"	42"		
C16	 PULL CABINET	3	18"	42"		
C17	 UTILITY CABINET	1	24"	48"		
C18	 PULL CABINET	1	30"	42"		
C19	 PULL CABINET	2	24"	42"		
C20	 PULL CABINET	1	30"	34"		



Lower Level Electrical Plan  
Scale: 1/4" = 1'-0"



Upper Level Electrical Plan  
Scale: 1/4" = 1'-0"

NO.	SYMBOL	DESCRIPTION	QUANTITY	UNIT
1	[Symbol]	BLAZE CEILING FAN	2	CEILING
2	[Symbol]	RECESSED DOWN LIGHT	1	HALL
3	[Symbol]	CEILING LANTERN	1	HALL
4	[Symbol]	DOOR PENDANT	1	CEILING
5	[Symbol]	TOILET	1	HALL
6	[Symbol]	4" GFI	1	HALL
7	[Symbol]	DOOR PENDANT	1	HALL
8	[Symbol]	RECESSED DOWN LIGHT	1	CEILING
9	[Symbol]	RECESSED DOWN LIGHT	1	CEILING
10	[Symbol]	BLAZE CEILING FAN	1	CEILING
11	[Symbol]	SHADE POLE SWITCH	1	HALL
12	[Symbol]	SHADE ATTRIBUTION 1	1	CEILING
13	[Symbol]	CEILING LANTERN	1	HALL
14	[Symbol]	RECESSED DOWN LIGHT	1	CEILING
15	[Symbol]	GFI	1	HALL
16	[Symbol]	UPPER SWITCH	1	HALL
17	[Symbol]	UPPER SWITCH	1	HALL
18	[Symbol]	CEILING LANTERN	1	HALL
19	[Symbol]	REFRIGERATION	1	HALL
20	[Symbol]	LAND COOLING	1	HALL
21	[Symbol]	GARAGE DISPOSAL	1	HALL
22	[Symbol]	DISPOSABLE	1	HALL
23	[Symbol]	GFI	1	CEILING
24	[Symbol]	CEILING PENDANT	1	HALL

Proposed New Residence  
for  
Mr. Whalley  
Site Location: Kamoa Road  
Kapala HI 96746  
T. 4-3-007-008-0001

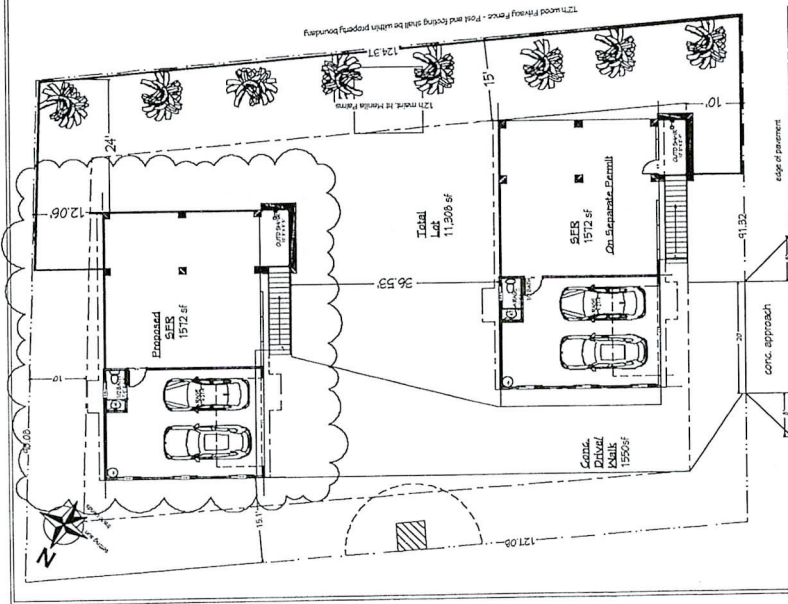


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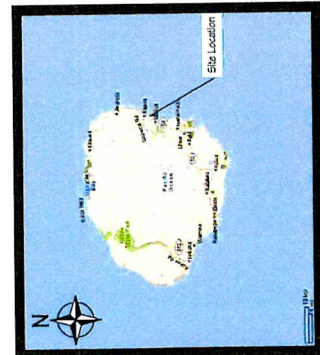
Page Description  
Electrical Plan/ Schedule

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**Plot Plan**  
Scale: 1.00" = 10.00'



**Lot Data**  
Zone R-72  
Total Lot 11,308  
Unit 1 SFR 1572  
Unit 2 SFR 1572  
Driveway 1554  
Total Cover 4698  
41.5% coverage

**Bldg Data**  
2 St 2 bld (2) bld 1 1/2 ba  
Floor 1 1468sf  
Patio 784  
Garage 560  
Shur 60  
Stairs 64

**Floor 2 1504**  
Lanal 340  
Living 1169



**Conceptual View**

**CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AT THE JOB SITE AND NOTIFY THE ARCHITECT OF ANY DISCREPANCIES BEFORE BEGINNING OR FABRICATING ANY WORK.**

To the best of my knowledge these plans are drawn to comply with owner's and/or builder's specifications and any changes made on them after prints are made will be done at the owner's and/or builder's expense and responsibility. The contractor shall verify all dimensions and enclosed drawing. Donivan Komo dba KimaniKoa Drafting and Design, is not liable for errors once construction has begun. While every effort has been made in the preparation of this plan to avoid mistakes, the maker can not guarantee against human error. The contractor of the job must check all dimensions and other details prior to construction and be solely responsible thereafter.

**NOTES**

1. All construction shall comply with the latest edition of the International Building Code (IBC) and the International Residential Code (IRC).
2. All construction shall comply with the latest edition of the Hawaii Building Code (HBC).
3. All construction shall comply with the latest edition of the Hawaii Electrical Code (HEC).
4. All construction shall comply with the latest edition of the Hawaii Mechanical Code (HMC).
5. All construction shall comply with the latest edition of the Hawaii Fire and Safety Code (HFSC).
6. All construction shall comply with the latest edition of the Hawaii Land Use Code (HLUC).
7. All construction shall comply with the latest edition of the Hawaii Zoning Ordinance (HZO).
8. All construction shall comply with the latest edition of the Hawaii Subdivision Map Act (HSMa).
9. All construction shall comply with the latest edition of the Hawaii Public Works Act (HPWA).
10. All construction shall comply with the latest edition of the Hawaii Environmental Protection Act (HEPA).
11. All construction shall comply with the latest edition of the Hawaii Cultural Resources Act (HCRa).
12. All construction shall comply with the latest edition of the Hawaii Historic Preservation Act (HHPa).
13. All construction shall comply with the latest edition of the Hawaii Archaeological Resources Act (HARA).
14. All construction shall comply with the latest edition of the Hawaii Native Hawaiian Affairs Act (HNHAA).
15. All construction shall comply with the latest edition of the Hawaii Native Hawaiian Land Use Act (HNHLUA).
16. All construction shall comply with the latest edition of the Hawaii Native Hawaiian Cultural Resources Act (HNHCRa).
17. All construction shall comply with the latest edition of the Hawaii Native Hawaiian Environmental Protection Act (HNHEPA).
18. All construction shall comply with the latest edition of the Hawaii Native Hawaiian Cultural Resources Act (HNHCRa).
19. All construction shall comply with the latest edition of the Hawaii Native Hawaiian Environmental Protection Act (HNHEPA).
20. All construction shall comply with the latest edition of the Hawaii Native Hawaiian Cultural Resources Act (HNHCRa).

**INDEX**

- Plot 0051
- General Notes Gen01
- Floor Plans A01
- Schedules A02
- Elevations A03
- Sections A03
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- Floor Frame S01
- Details S02
- Roof Frame S02
- Int. Elevations I01
- Schedules I01
- Electrical E01
- Schedule E01



## GENERAL NOTES

- 1 The Contractor shall visit the project site and thoroughly familiarize himself with the existing conditions prior to submitting his bid.
- 2 All grading operations shall be performed in conformance with the applicable provisions of Chapter 54, water quality standards, and Chapter 55, water pollution control, of Title I, administration rules of the State of Hawaii Department of Health.
- 3 The Contractor shall conform to the latest prevailing codes and ordinances and manufacturer's specifications and standards for all trades of work.
- 4 All work is to be done by the General Contractor unless otherwise noted. An "Owner-Builder" is in fact the General Contractor and shall bear all of the responsibilities of the General Contractor for this project. An "Owner-Builder" shall read and understand **KNOW THE RISKS AND RESPONSIBILITIES OF BEING AN OWNER BUILDER** provided by the State of Hawaii Department of Commerce and Consumer Affairs (DCCA), and its Regulated Industries Complaints Office (RIICO), 235 S. Beretania Street, Ninth Floor, Honolulu, Hawaii 96813, [www.hawaii.gov/dcca/riico](http://www.hawaii.gov/dcca/riico), telephone (808) 587-4272.
- 5 Burying organic "green" material from the site grading process is common. The Contractor shall locate all green material on the site and make sure that all structures are constructed a minimum of 6' away from all green material. If a structure is to be constructed over a green material location, the green material shall be removed and be replaced with engineered fill with 95% compaction.
- 6 Termitite treat all dimensional structural wood in accordance with the prevailing codes. Termitite treat the ground under the building with chemicals acceptable to the local building authority and in accordance with the manufacturer's recommendations.
- 7 All structural lumber species shall be Douglas Fir-Larch unless otherwise noted. Structural lumber grades shall be #1 or better for 4x with a minimum structural value of Fb 1200, and #2 or better for 6x and 2x with a minimum structural value of Fb 900 unless otherwise noted.
- 8 The General Contractor is responsible for coordinating all work of the sub-contractors.
9. Though not a requirement of an Authority Having Jurisdiction (AHJ) it is recommended to have a soil study done ahead of structural design.
10. If there is any question regarding the soil conditions and foundation design, the Owner or Contractor shall retain a Hawaii licensed Geotechnical Engineer and comply with all of the Hawaii Licensed Geotechnical Engineer's recommendations. Otherwise assumed soil bearing pressure 1500 psf
11. All engineered fill, base course and ground under concrete slabs and concrete footings shall be compacted to a minimum of 95%.
11. The Contractor shall slope all finished grades away from the building.
12. The Contractor shall verify all dimensions, conditions and details prior to beginning construction and contact the Architect if there are any questions.
13. The Contractor shall field verify all work and coordinate among trades prior to fabrication and installation. All products, unless otherwise noted, shall be pre-approved by the Owner prior to ordering, fabrication, installation and execution of the product.
14. Where figures or dimensions have been omitted from the drawings, the drawings shall not be scaled. The Contractor shall immediately contact the Architect regarding any omissions.
15. The Contractor shall use adequate numbers of skilled workman who are trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and methods needed for proper performance of all aspects of this work.
16. The Contractor shall examine all areas and conditions under which this work will be performed and correct all conditions detrimental to the timely and proper completion of the work prior to beginning the work.
17. The Contractor shall provide other material not specifically described but needed for a complete and proper installation as selected by the Contractor and subject to the approval of the Owner.

18. The Contractor shall protect products scheduled for use on this project. Maintain packaged materials with seals unbroken and labels intact until time of use. Promptly remove damaged material and unsuitable items from the job site, and promptly replace with material meeting the specified requirements, at no additional cost to the Owner.
19. In the event of any damage to the job site, promptly make replacements and repairs to the approval of the Owner at no additional cost to the Owner.
20. The Contractor shall keep the construction area in a neat, safe and orderly condition at all times during the execution of this work, free from the accumulation of dust and debris.
21. The Contractor is to file and secure all approvals, permits, tests, inspections and certificates of compliance as required.
22. The Contractor shall keep a full set of up-to-date plans available on the job site at all times.
23. The Contractor is responsible for initiating, maintaining and supervising all safety precautions and programs necessary for completion of the work.
24. All materials and labor shall be guaranteed for one year from the date of final payment.
25. The Contractor shall repair, replace, patch and match any materials, areas or systems as required or called for to obtain the proper installation and neat appearance of the work, connect new work to existing work in a neat and approved manner, and restore existing work, in making such connections, to perfect condition.
26. The Contractor shall keep all operations and maintenance manuals and related paperwork in a marked envelope to be turned over to the Owner upon the completion of the project.
27. The Contractor shall make a careful inspection of the construction and make sure that the project is ready for final acceptance prior to calling the Owner for a final inspection.
28. All work shall conform to ADA and ADAAG requirements where applicable.
29. The Contractor shall verify that the project site topography can accommodate the building design.
30. All structural wood shall have a moisture content of 19 percent or less (measured at the center of the specific structural wood member).
31. The Contractor shall not use Fiber Mesh as a substitute for wire mesh or steel in concrete slabs and concrete footings.
32. The Contractor shall remove all red cinder from formed areas prior to pouring concrete slabs and concrete footings.
33. Nailing Schedule Unless Otherwise Noted:  
A) 5/8", 19/32" and 9/16" thick structural panels:  
10d at 4" o.c. at edges and 12" o.c. in field.  
B) 1/2", 7/16" and 3/8" thick structural panels:  
8d at 4" o.c. at edges and 12" o.c. in field.  
C) 5/16" thick structural panels:  
6d at 4" o.c. at edges and 8" o.c. in field.  
34. All anchor bolts, hold down straps and ties, column bases and all other metal connectors embedded in concrete shall be galvanized.
35. A valid building permit is, in no way, a guarantee that the County Building Department will not, without just cause or notice, demand partial or total building redesign at the Owner's expense.

### Design Loads

Living and Decks 40psf LL 15 psf DL  
Bedrooms: 30 psf LL 15 psf DL  
Roofs: 20 psf LL 15 psf DL  
Wind speeds: 105 mph Exposure "C"  
Assumed soil bearing capacity unless tested 1500 psf



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kimanikoa@hawaii.rr.com

Page Description

**General Requirements**

Sheet  
**Gen01**  
2 of 4

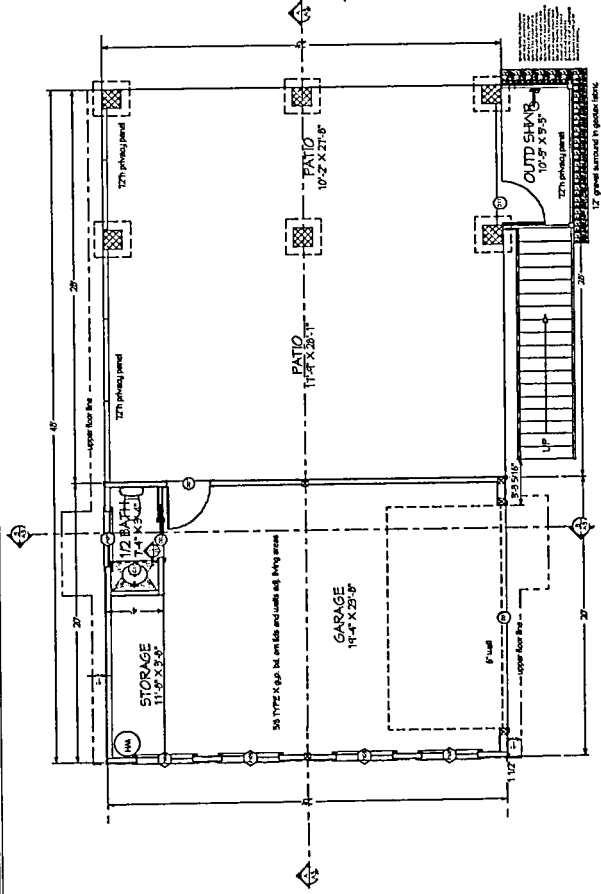
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Kamoa 96746  
4 - 3 - 007 - 008 - 0002

PROPOSED NEW RESIDENCE  
FOR  
Mr. Whalley

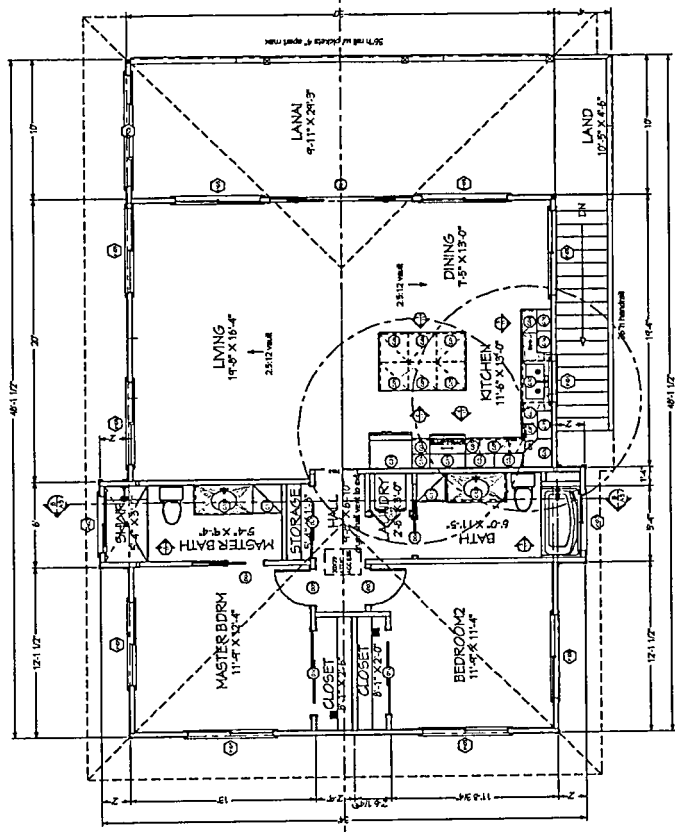


Proposed New Residence  
for  
Mr. Whalley

Drawn By: Donivan Korman  
Date: July 2022








**Lower Level Floor Plan**  
Scale: 1/4" = 1' - 0"



Upper Level Floor Plan  
Scale: 1/4" = 1'-0"

[illegible]

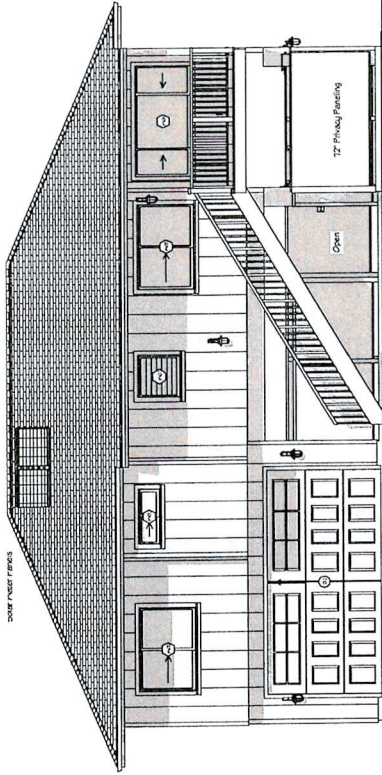
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	Unit	Unit size	Number of units per room	Room type	Room number	Floor plan
	Unit	Unit size	Number of units per room	Room type	Room number	Floor plan
	Unit	Unit size	Number of units per room	Room type	Room number	Floor plan
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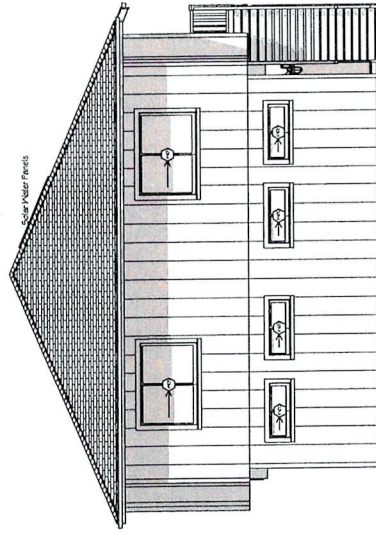
13. **UNIFORM BUILDING PROVISIONS FOR NEW CONSTRUCTION**  
(APPROVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF KALAWA)  
**CHAPTER 12, BUILDING CODE.** This is required for areas on Kaula where the basic:

- A. in wilderness debris regions, glazing in buildings shall be impact resistant or protected with an impact-resistant covering meeting the requirements of an approved impact-resistant standard or the requirements of ASCE 1588;
- B. in the coastal zone, the minimum wind speed is 130 mph or greater, the minimum panel size of 8 feet shall be permitted for openings in Group R-4 and R-5 occupancies. Panels shall be placed to resist windward and leeward pressures and shall be secured with the product with the glazing option. Panels shall be secured with the attachment hardware provided. Attachments shall be designed to resist the wind pressures of ASCE 7, with corrosion-resistant hardware provided and anchors permanently installed on the building. Attachment in accordance with Table 1509.2 with corrosion-resistant attachment hardware is permitted for wind speeds up to and in excess of 140 mph;

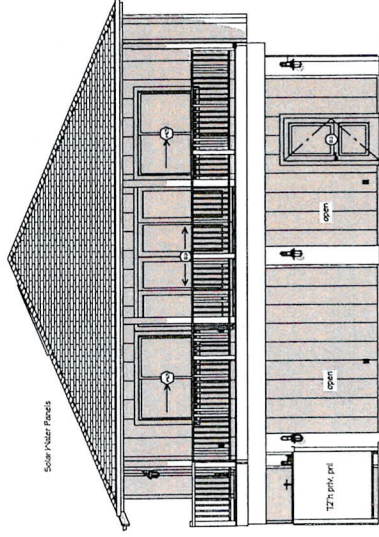




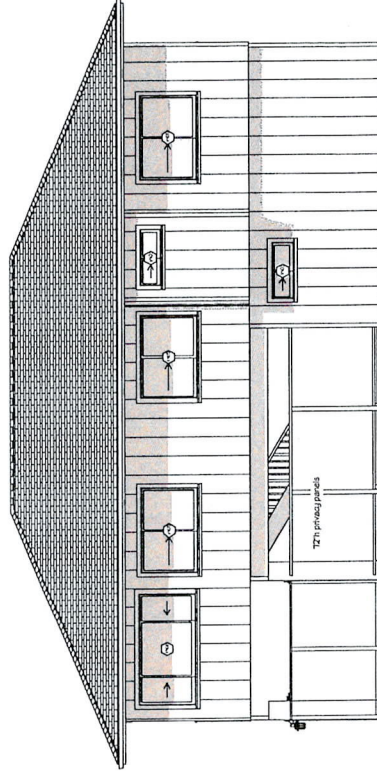
**Front Elevation**  
Scale: 1/4" = 1' - 0"



**Left Elevation**  
Scale: 1/4" = 1' - 0"



**Right Elevation**  
Scale: 1/4" = 1' - 0"



**Rear Elevation**  
Scale: 1/4" = 1' - 0"



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Page Description  
**Elevations**

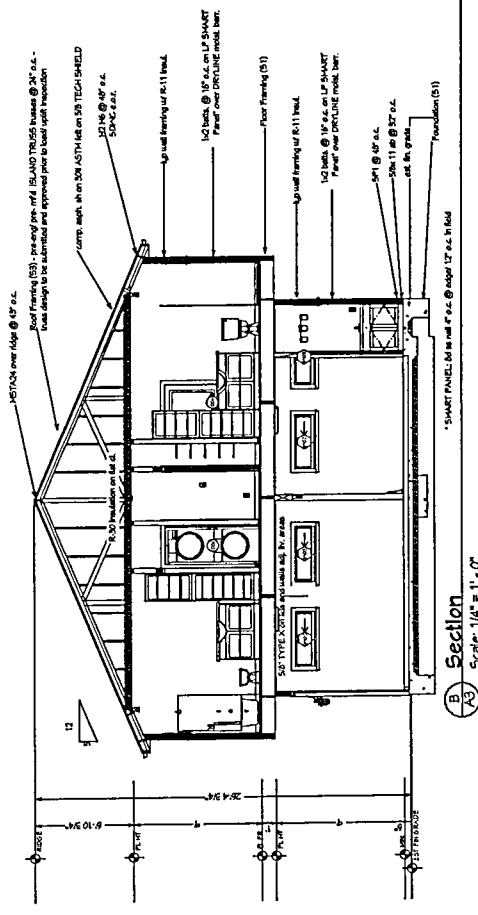
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4 of 9

Date: July 2022  
Drawn By: Donivan Komo

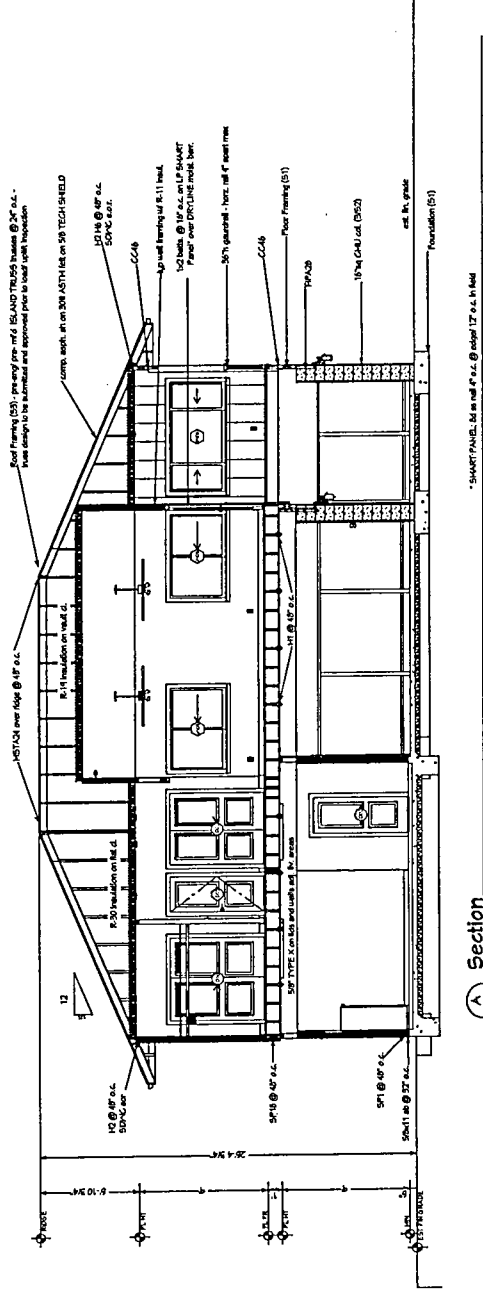
Proposed New Residence  
for  
er Whalley

Site Location: Kama Road  
Kapala HI 96746  
T. 4-3-007-008-0002





**Section A-A**  
Scale: 1/4" = 1'-0"



**Section B-B**  
Scale: 1/4" = 1'-0"



# Kimani Koa Drafting and Design Service

Lihue, Kauai, Hawaii

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Page Description

## Foundation/ Floor Framing

Sheet  
S01

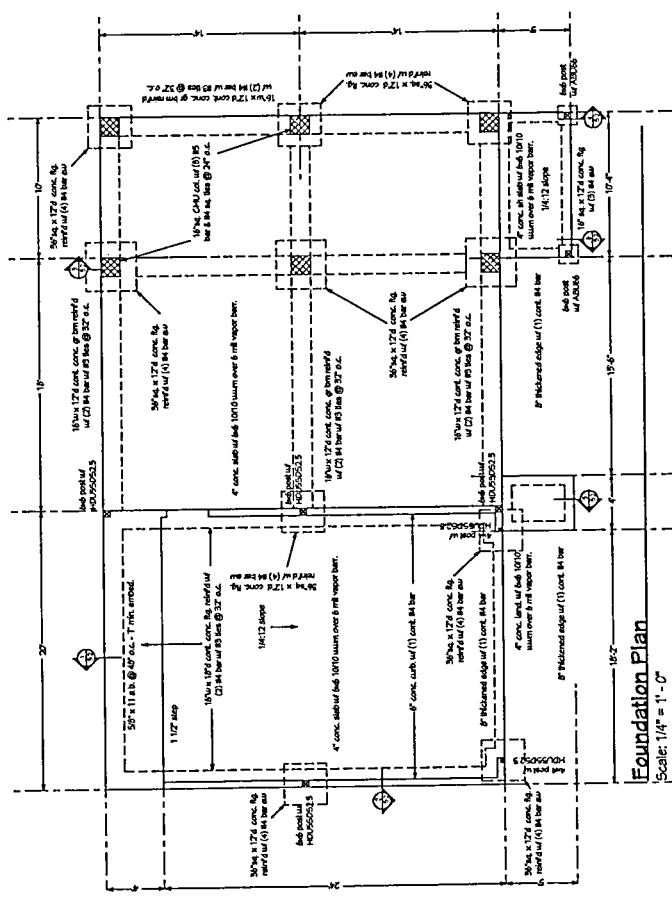
Drawn By: Donivan Komo  
Date: July 2022

Proposed New Residence  
for  
er Whalley



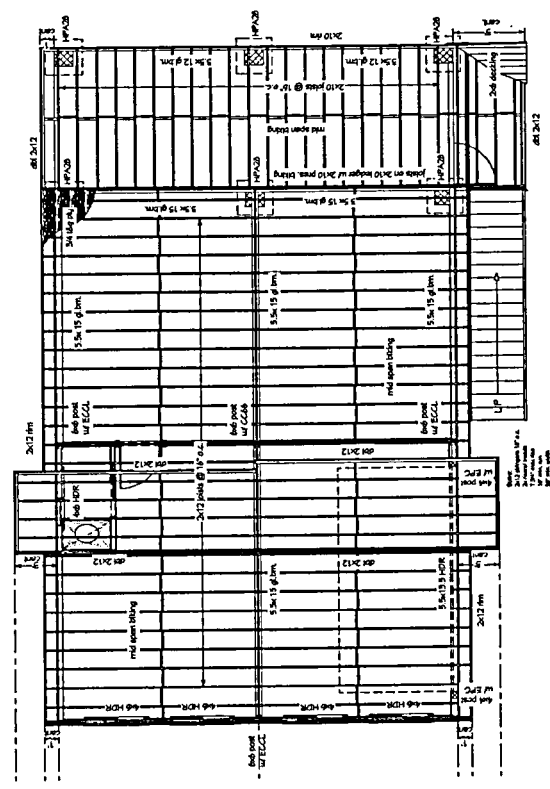
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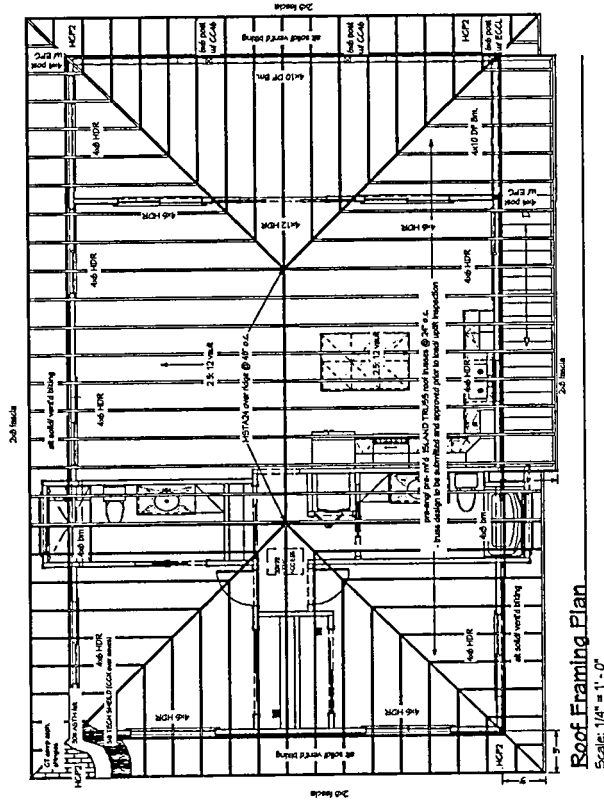
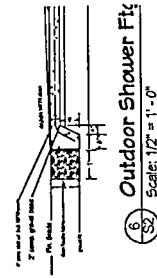
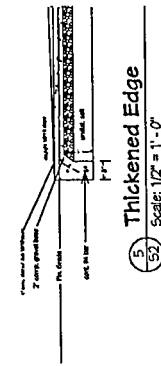
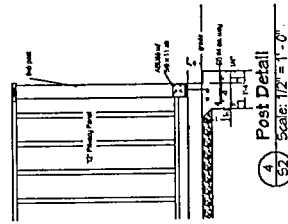
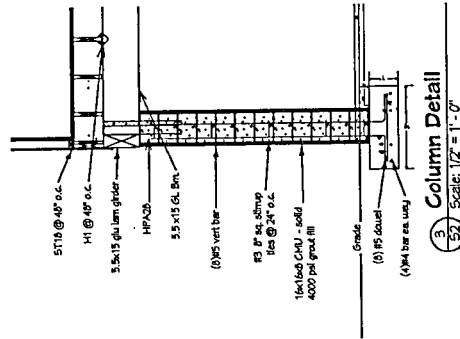
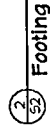
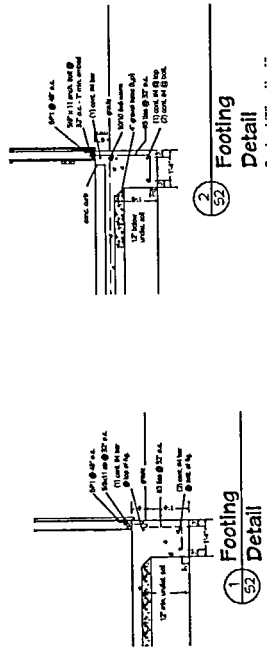
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USE HDL4S352.5 ALL CORNERS, KINGSTONS  
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PASTED WITH 5/8" & 8" THICKS IN CR. COV.

Floor Framing Plan  
Scale: 1/4" = 1'-0"





**Roof Framing Plan**  
Scale: 1/4" = 1' - 0"

Scale:  $1/4" = 1' - 0"$ 

**Girder Truss Support Note:**  
WHERE GIRDER TRUSS FALLS ON STUDDED WALL, USE DOUBLE STUDS OR 4X4 TO SUPPORT GIRDER TRUSS. ATTACH DITZ TO FACE OF GIRDER TRUSS. DRILL THRU TOP PLATES WITH 1/2" DRILL BIT AND ATTACH A SECOND DITZ TO FACE OF DOUBLE STUD

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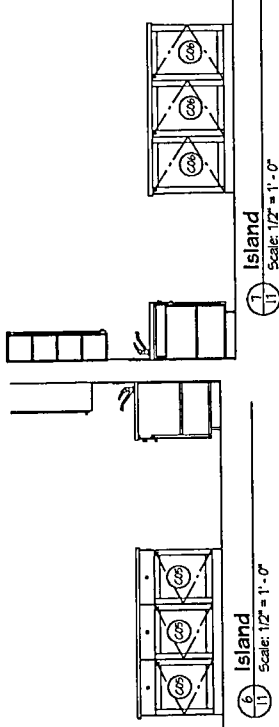
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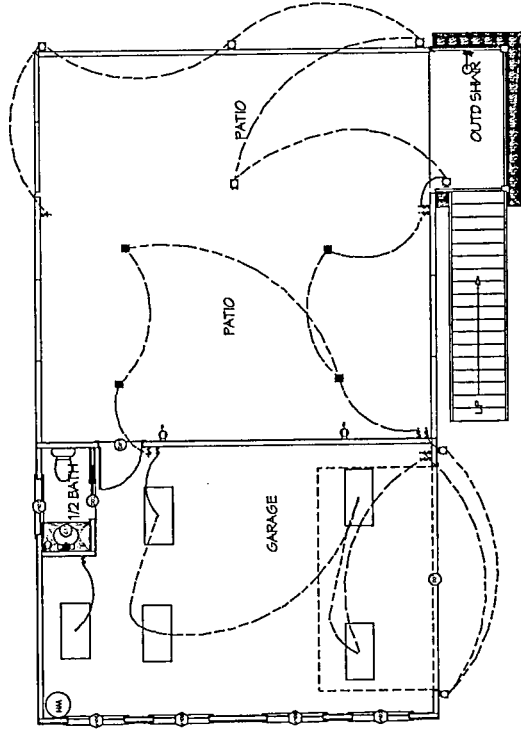
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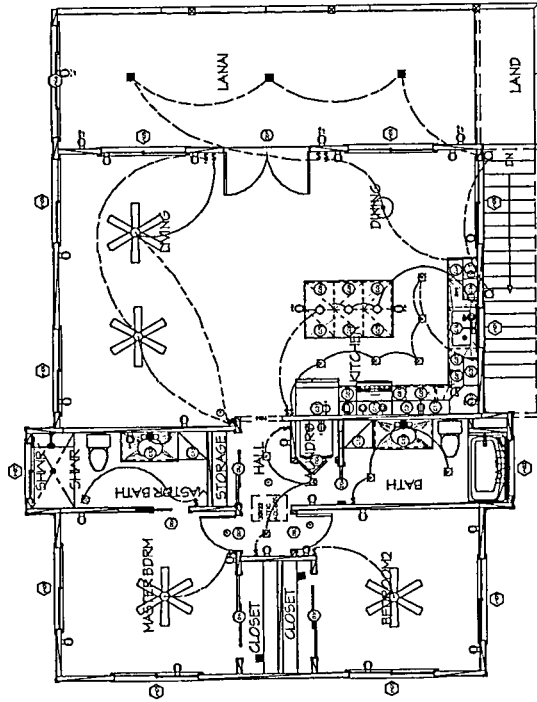
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Date : July 2022 Drawn By: Donivan Komo Proposed New Residence for er Whalley	 I hereby certify that the above is a true and correct copy of the original as submitted to the NEPA office on 07/07/2022. Signature of the Officer in Charge	Site Location: Kamoa Road Kapata H/ 96746 T= (4) 4-3-007-008-0002
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Lower Level Electrical Plan  
Scale: 1/4" = 1' - 0"



Upper Level Electrical Plan  
Scale: 1/4" = 1' - 0"

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Site Location: Kamoa Road  
Kapala HI 96746  
(4) 4-3-007-008-0002



Proposed New Residence  
for  
Ter Whalley

Drawn By: Dorivan Komo  
Date: July 2022

Sheet  
E01

# Electrical Plan/ Schedule

Kimani Koa Drafting and Design Service  
Lihue, Kauai, Hawaii  
kimanikoa@hawaii.rr.com



**AN ARCHAEOLOGICAL MONITORING PLAN  
FOR A 0.4440 ACRE AREA IN WAIPOULI,  
NORTH OLOHENA AHUPUA'A, KAWAIHAU DISTRICT,  
ISLAND OF KAUA'I, HAWAII  
[TMK (4) 4-3-007:008 and 009]**

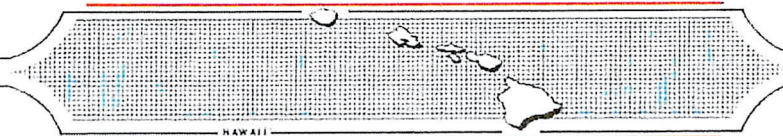
Prepared by:  
**Lauren Morawski B.A.**  
And  
**Michael Dega Ph.D.**

Prepared for:  
**Darcy McCartney**  
1353 Kuhio Highway  
Kapa'a Hawai'i 96746

**Amended for TMK: 4-3-007: 008  
For Peter Whalley**

**Exploration Associates Ltd.,  
Nancy McMahon, M.A., M.S.**

**SCIENTIFIC CONSULTANT SERVICES Inc**



711 Kapiolani Blvd. Suite 975 Honolulu, Hawai'i 96813

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**EXHIBIT "F-1"**



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## INTRODUCTION

Scientific Consultant Services, Inc. (SCS) was contracted by Darcy McCartney, of Wai`Oli Properties Inc., to produce an Archaeological Monitoring Plan (AMP) for two neighboring parcels of land totaling 0.4440 acres in coastal Waipouli, North Olohena Ahupua`a, Kawaihau District, Kaua`i Island, Hawai`i [TMK (4) 4-3-007:008 and 009] (Figures 1 and 2). The project undertaking consists of the construction of four single family residences on Parcel 008 (0.2569 acres) and a unknown number of single family residences on Parcel 009 (18,250 sq. ft.). These parcels are being developed separately and this AMP is designed to cover all construction excavation activities on both parcels. In addition these two parcels and their associated dwelling units will be connected to County utility and sewer lines located along Kuhio Highway. The excavation that occurs for this connection will be monitored full time as well.

At this time specific construction methods remain unspecific and are subject to change based on environmental conditions and the outcome of planning requirements. Ultimately ground disturbing excavation in the form of mechanical trenching for utilities and the excavation of footings for the proposed structures will be conducted with a backhoe. All excavation activities, related to construction and development of the two parcels, conducted will be monitored on a full time basis by a qualified archaeological monitor. In addition the subsequent excavation along Kamoia Road to connect the residences to the County sewer system will also be monitored on a full time basis by a qualified archaeological monitor.

## REASON FOR MONITORING

An Archaeological Inventory Survey with subterranean testing was conducted on the two parcels, which revealed extensive Jaucus sand deposits. Two archaeological sites were identified in subsurface context during the Inventory Survey (Figure 3). Site 50-30-08-3938 consisted of an undulating cultural layer that was identified on both parcels TMK (4) 4-3-007:008 and 009. A single pit feature was identified within the cultural layer and a bulk sample was submitted for radiocarbon analysis. The returned sample measured A.D. 1690 to 1775 or late pre-Contact times. Site 50-30-08-3939 consisted of two individual human burials that were determined to be of Hawaiian ancestry and were likely interred during pre-Contact times. Based on the findings of the Archaeological Inventory Survey and the presence of additional significant archaeological and cultural sites in the general area full time Archaeological Monitoring is required for all excavation conducted in relation to the development of the two parcels. The likelihood of encountering significant historic sites in underlying sediments, particularly Jaucus sand deposits,

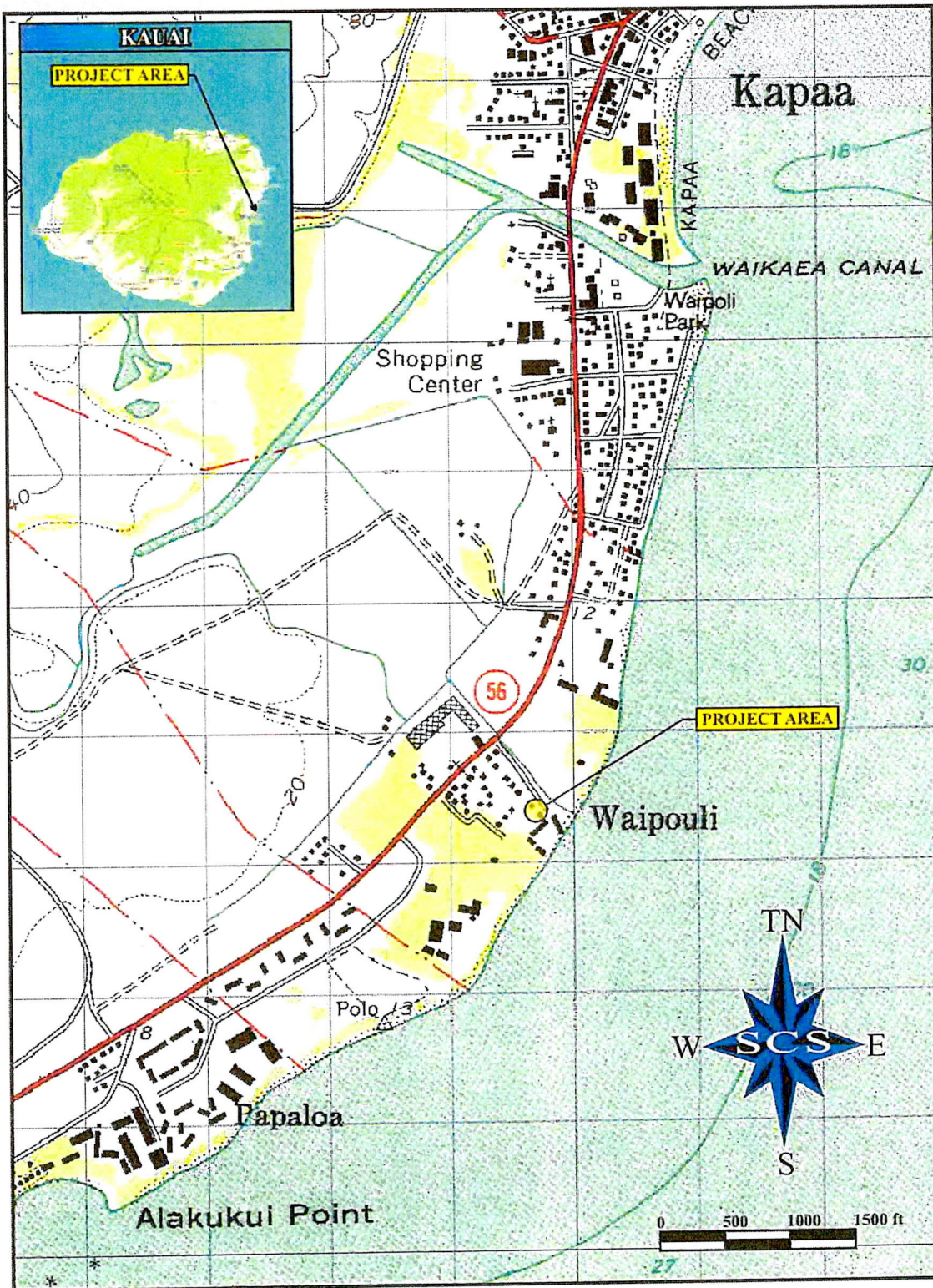


Figure 1: USGS Kapa'a Quadrangle Showing Project Area.



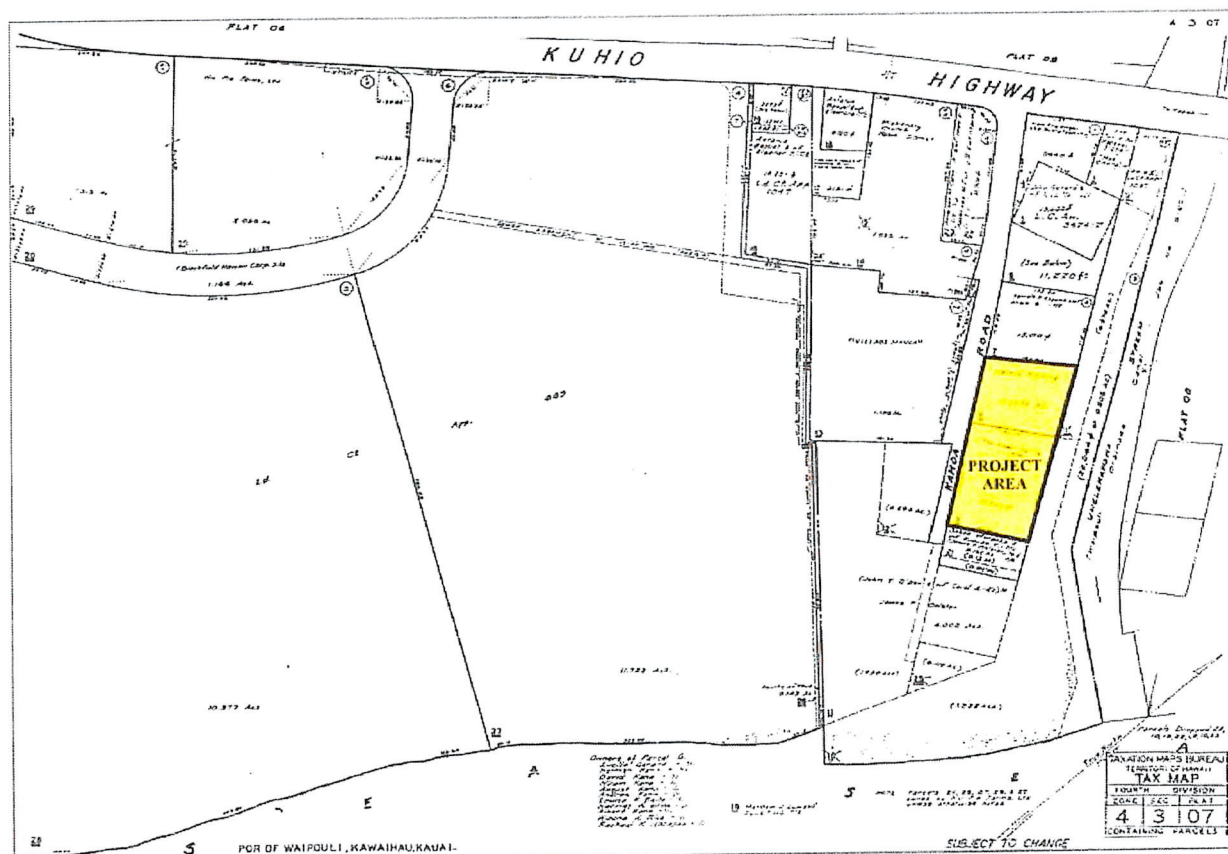


Figure 2: Tax Map Key [TMK] Showing Project Area.



is high. Jaucus sand, natural beach sands, are known to contain numerous human burials and other cultural deposits associated with traditional Hawaiian occupation of the area.

This AMP explicitly outlines the procedures to be performed if any significant cultural sites are identified during the course of construction. The AMP also delineates the course of action to be followed in the event that human burials or archaeological deposits are identified. A report detailing the findings will be submitted to SHPD upon completion of the project

### **BACKGROUND ARCHAEOLOGY OF THE PARCELS**

Archaeological Inventory Survey research of the project area was conducted between February 22-25, 2006 by SCS. Both of the project area parcels previously contained single family residences. The structures were removed some time ago and both parcels are currently vacant. As the surface of both parcels had been previously modified and no structures or cultural deposits were identified on the surface during pedestrian survey, research was focused on subterranean contexts. Subsurface deposits were analyzed through the mechanical excavation of ten stratigraphic trenches. The trenches were focused within the proposed building footprints of parcel 008 (see Figure 3). Excavation of stratigraphic trenches on Parcel 008 and 009 led to the identification of Sites 50-30-08-3938 and 3939.

### **PROJECT AREA LOCATION**

The project area is located approximately 200 meters inland from the shoreline on the eastern coast of Kaua'i and is situated 40 meters south of the Uhelekawawa (also spelled Uhalekawawa) Canal. This canal helps drain the *mauka* swamps of the Kapa'a area. The 0.4440-acres project area consists of two adjacent properties separated by an un-named asphalt easement road. The project area is comprised of the McCartney property at TMK: (4) 4-3-007:008 (0.2596 acres) and the Hansen property at TMK: (4) 4-3-007:009 (18, 250 sq. ft.). The project area is bounded on the east by TMK: (4) 4-3-007:021, and to the west by TMK: (4) 4-3-007:006. Each parcel is bordered by Kamoia Road to the south and the Uhelekawawa (Uhalekawawa) Canal is to the north. The Scott Hansen parcel may be sitting on the truncated crest of the coastal dune and appears to be approximately 0.30-0.40 meters higher in than the Darcy McCartney parcel to the west. A moderate sized 3-story condominium is located immediately to the east on the beach. In general, the Ka'awai residence occurs to the northwest of Parcel 008 while the Bullshed Restaurant occurs to the southeast of Parcel 009.

## PROJECT AREA SOILS

According to Foote *et al.* (1972: Sheet 29), soils in the project area are comprised of Mokuleia fine sandy loam (Mr), which belongs to the Mokuleia series. These soils typically consist of well-drained soils occurring along the coastal plains of Kauai and are known to form in recent alluvium which has been deposited over coral sand and are found to be geographically associated with Hanalei, Jaucus, and Keaau soils. These soils are shallow and relatively level with elevations ranging from around sea level to 100 feet above mean sea level (amsl). Mokuleia fine sandy loam, found on the northern and eastern coastal plains of Kaua'i occurs throughout the project area. This sediment series is composed of a loamy surface layer with moderately rapid permeability and clay loam subsoil with rapid permeability. Runoff occurs slowly and the erosion hazard is slight. This soil is associated with pasture.

Typical soils identified during the Archaeological Inventory Survey consisted of a variety of in situ natural beach sands with an overlying surface layer of sandy topsoil with high grass root content. The cultural deposit identified as Site 3938 exists across portions of both parcels. Imported fill materials were identified in ST-5 and 6 as well.

## PROJECT AREA VEGETATION

Parcel 008 was overgrown with *koa haole* (*Leucaena glauca*) and vines. A row of ironwood trees (*Casuarina equisetifolia*) lines the northern property line. This property was grubbed clean of vegetation by the backhoe operator prior to trenching activities associated with the Archaeological Inventory Survey of the two parcels. The surface of Parcel 009 consists of a maintained landscape, with a mowed lawn and several ornamental plants and trees, including coconut palms (*Cocos nucifera*), cypress (*Cupressus*), sisal (*Agave sisalana*), Norfolk Pine (*Araucaria heterophylla*), and sea grape (*Coccoloba uvifera*). The remnants of a concrete patio, barbeque pit, driveway, and house foundation blocks are present on the ground surface. This parcel also has a single lane of asphalt within its boundaries.

## TRADITIONAL AND HISTORIC SETTING

### TRADITIONAL TIMES

The eastern flank of Kaua'i is prominent for its many significant traditional-period complexes and fertile areas for cultivation. Captain George Vancouver in 1793 noted this area as the "most fertile and pleasant district of the island." Handy and Handy (1972:424) discussed the significance of eastern Kaua'i by stating that Kapa'a "is famous as the home of the great *ali'i*



Moikeha who lived there in his later years." The many *heiau* complexes of Wailua attest to the significance of the area to Native Hawaiians.

Settlement in Waipouli included house sites and *kula* agriculture extending from the coastal region inland (Waihona 'Aina Data Base 2005). A swamp was located across the southeast *makai* portion of Waipouli Ahupua'a, and awards including *lo'i* were associated with this area. The Māhele records refer to eight separate clusters of houses as "villages": Mokanehala, Kāne-limua, Maka-lokoloko, Makamaka-'ole, Mokuna-hele, and Nā-hale-ka-wawā, Pu'uiki, Paikahawai. Other resources include Hapakio fish pond, the river (Waipouli, brooks Waipouli, Ohia, Uhalakahāwa, Olohena, and several 'auwai (Waipouli, Koape, Pua, Papaike, Naohe, Pohakauawai, and Kololuku). The names of 'ili were listed as Kekee, Kukaui, Makuapi, Kaheloko, Pōhaku, Pua, Pau, Koape, and Naohe (Ibid.). A canoe landing place was located at Kauwanawa'a on the southern boundary of the ahupua'a. It appears the *makai* section of Waipouli was heavily populated in the mid-1800s.

#### TRADITIONAL LAND TENURE

According to Kamakau (1964), traditional Hawaiian land tenure was a system formed in order to care for the land. Around the fourteenth century, various individual island *mo'i* (Principle Chief/ King/ultimate ruler) believed the land should be surveyed as to be permanently marked. The land system was needed to avoid disputes between neighboring *ali'i* (chiefs). A *kahuna* (priest/expert) named Kālaika'ōhia is said to have carved the land into districts (*moku*) and numerous smaller divisions (i.e.: ahupua'a, 'okana, 'ili etc.) were also created.

The idea of holding land was not synonymous with owning it, but more like a trusteeship between the caretakers and the nature gods Lono and Kane (Handy and Handy 1972:41). The ahupua'a is the most well known of all traditional land divisions and is still relevant today. The ahupua'a land divisions vary in size and generally encompass land from the mountain to the sea. Traditionally, the areas were governed by a appointed caretaker (*konohiki*) and those residing within the region had designated access to all mountain and marine resources. Chinen (1958:5) explains that all chiefs and commoners were entitled to a portion of the mountain and marine resources.

#### HISTORIC TIMES

The Māhele of 1848 set the stage for vast changes to land holdings within the islands as it introduced the foreign concept of land ownership to the Islands. For natives that had been

cultivating and living on the lands, lengthy and costly procedures enabled them to possibly claim some of the plots. Awarded claims were called Land Commission Awards (LCAs) and each was issued a Royal Patent number (RP). The first Land Commission was formed in 1845, during which time all individuals holding land were required to submit their claims or forfeit their lands.

In 1848, the Māhele (division) led to the introduction and implementation of privatization that required both chiefs and commoners to retain private land title. If informed of the tedious and lengthy procedures, Hawaiians were permitted to claim lands in which they had worked or lived. The land that *maka`āinana* received was less than 1% of total lands, all of which needed to be surveyed. A total of 88,000 people submitted 14,000 requests for land and of these only 8,500 were awarded. (Kame`eleihiwa 1992) A large amount of Hawaiian lands were lost due to mortgage default.

Under the Māhele and the first Land Commission of the Trust Territory of Hawai`i, lands were allocated in three ways. A third of all lands became Crown Lands belonging to the *ali`i*, a third was distributed to the chiefs, and a third was awarded to the general populace. In 1850, it became legal for foreigners to purchase land and they received large portions for diminutive prices. According to Kame`eleihiwa (1992:228-230), the amount of land given to the *ali`i* was determined by genealogical rank. Each needed to list the claimed lands by name of the *ahupua`a*, surrender half of their land (50-71%), and pay the commutation fee, which was one third of the value of land.

In 1903, following the overthrow of Queen Lili`uokalani and the subsequent annexation of Hawaii to the United States, unclaimed lands which were about to be purchased were subject to the land court application process, which included title searches to establish whether prior title was held to that land. If the lands were found to be clear of title, ownership reverted to the government that could then sell the land. Such was the case with the properties included in the current project area as archival research pertaining to the current project area indicates there were no known Land Court Awards issued on either the Scott Hansen or Darcy McCartney parcels.

Waipouli Ahupua`a was awarded and patented to William Charles Lunailo during the Māhele by Land Court Application 8559-B, Apana 42, and Royal Patent 7373. By the late 1800s, the Makee Sugar Company had planted inland Waipouli in sugar cane and rice was cultivated in the marshy former taro lands in the *makai* section of the *ahupua`a*. For an undetermined period, the current project area lands were left unclaimed until 1929 when Edward Henry Walton Broadbent purchased these lands. Broadbent had purchased the shoreward lands

of Waipouli in order to plant a coconut grove to produce copra and animal feed on what is now known as TMK: (4) 4-3-007:027 (Dega and Wilson 2006). The shoreline property was used only for horse pasturage and rodeo practice. In 1960 portions of the marsh were filled in during the construction of the Waipouli Drainage Canal (Esh *et al.* 2004).

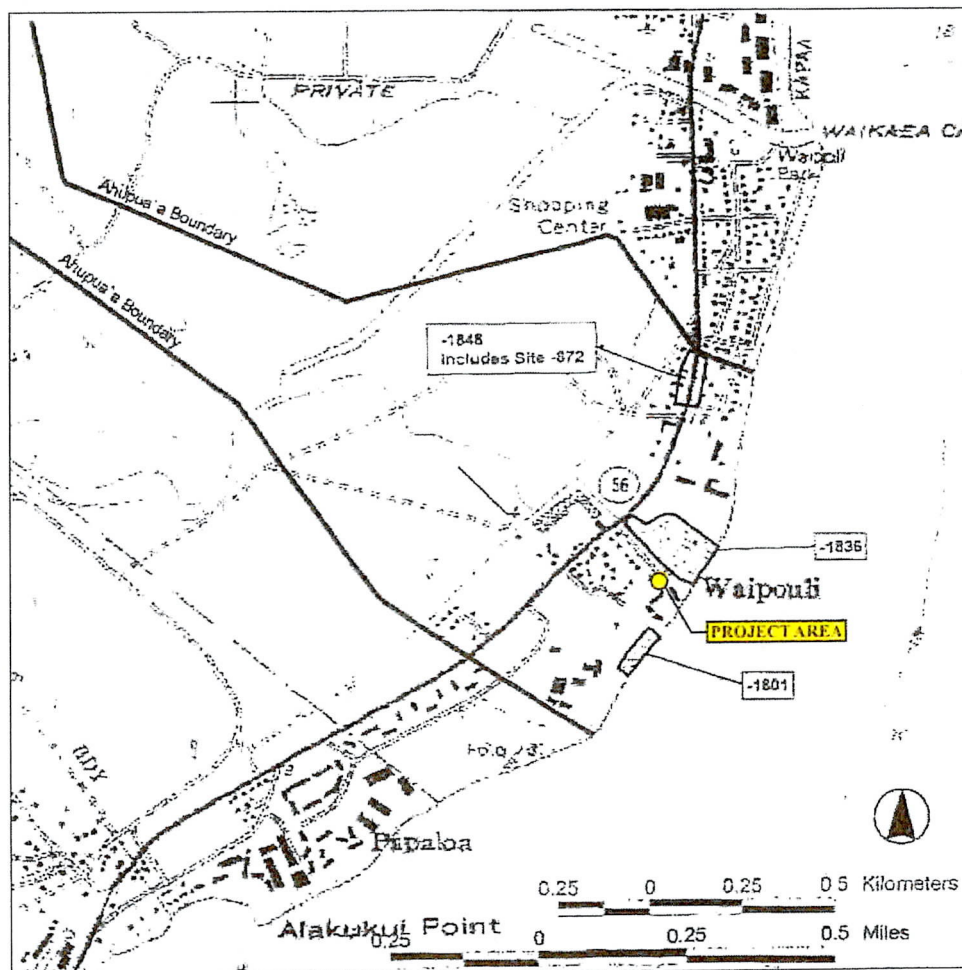
### **PRECEDING ARCHAEOLOGICAL INVESTIGATIONS**

No archaeological work was conducted in the current project area prior to the recent Inventory Survey by SCS. However, a number of archaeological projects have occurred nearby in the general Waipouli area in recent years. These studies were initiated by the large number of construction projects conducted in the area and their due compliance with state historic preservation requirements. The following provides a summary analysis of recent results from work conducted in the Waipouli area (mainly, North and South Olohena Ahupua'a). This general summary is followed by the results of Inventory Survey conducted directly within the project area.

### **GENERAL WAIPOULI-KAPA'A STUDIES**

In the ever expansive Waipouli-Kapa'a area, an increasing number of archaeological projects have been conducted near Kuhio Highway (see Hammatt 2001: Appendix B). The study conducted by Rosendahl and Kai (1990) is discussed below. The second study, conducted by Toenjes *et al.* (1991), led to additional research at SIHP -1801 (Figure 4). In the study, a workshop area and a permanent habitation deposit were identified near the coastline. Radiocarbon dates indicated that SIHP -1801 was occupied on a continuous basis from the c. A.D. 1500s.

Recent work more specifically in coastal Kapa'a has yielded more significant archaeological results in the form of burials and cultural deposits. This has been the case for most projects conducted in the Kapa'a area. Nine archaeological sites were documented by Folk *et al.* (1991), Hammatt (1991a), Creed *et al.* (1995), and Dega and Powell (2003). These include SIHP 50-30-08-1836, -1840, -1848, and -1849. SIHP -1836 was identified just to the north of Waipouli Stream near the coastline and consisted of a prehistoric paleo A-horizon in Zone I (see Folk *et al.* 1991). Based on radiocarbon dating, permanent occupation of the site was estimated to be from the A.D. 1500s. Pits and postholes, burials and artifacts associated with fishing, woodworking, and conflict were recovered from the site. This site was identified in Layer II, the predominant traditional cultural stratum of the Waipouli-Kapa'a area (See Figure 4).



**Figure 4: Location of Previously Identified Archaeological Sites 1801, 1836, 1848 in Area.**

Two sites were identified during two projects. SIHP –1848 was identified in subsurface strata to the northwest of SIHP–1848 (adjacent to Kuhio Highway) and SIHP –1849 was located near the Waikaea Canal. Both sites, first documented by Creed *et al.* (1995) consisted of a buried paleo A-horizon cultural layer yielding midden and domestic artifacts (See Figure 4). This site also contained enough cultural material to suggest permanent coastal habitation (Zone II) and a total 26 burials (MNI=30). The burials were found in four adjacent locations (SIHP – 871, –894, –867, –868) and one at the southern end of Kapa`a Town (SIHP –872). All identified burials were associated with the paleo A-horizon and all were determined to be of Hawaiian or Polynesian ancestry (see Creed *et al.* 1995). Radiocarbon samples from the Layer II cultural stratum at the two cultural sites (SIHP–1848 and –1849) dated the sites from A.D. 1420–1670, 1510–1680, 1440–1650, and 1490–1660. Two ambiguous pits were dated to a slightly earlier time (A.D. 1160–1290 and A.D. 1420–1670).

SCS recently conducted archaeological data recovery of 11.783 acres in Waipouli Ahupua'a on land immediately adjacent and to the west of the current project area in TMK: (4) 4-3-007:027 (Dega and Wilson 2006). One large site exists within the project area – the previously identified SIHP 50-30-08-1801. As discussed above, this site consists of a subsurface, historic and prehistoric cultural deposit that also includes a total of five known burials (probable traditional Hawaiian burials). The site is divided into a shoreline area, separated from two *mauka* concentrations of the site. Whereas the shoreline portion of SIHP -1801 has been preserved, the *mauka* portions of the site require at least monitoring work prior to development.

The data recovery project focused on the *mauka* areas of the site and three research objectives guided the work: (1) relocate, disinter, and re-inter the two previously identified *mauka* burials within a designated preserve area of Lot 6; (2) more precisely define the boundaries of SIHP -1801, through excavation; and (3) gather further SIHP -1801 data through excavation.

Despite an extensive earth-moving effort, the two *mauka* burials were not relocated. Excavation did not produce any data that runs contrary to Hammatt *et al.*'s (1997) Data Recovery Report—aside from the fact that the perimeters of SIHP-1801 were drawn too large. The site is slightly less expansive than previously estimated, however, its content and chronology as presented by Hammatt *et al.* (1997), has been provided further supporting evidence. SIHP 50-30-08-1801 has been assessed as significant under Criteria D and E. Following this Data Recovery Report, the site still retains its significance under Criteria D and E.

As is evident from this brief overview of the Waipouli-Kapa'a area, burials and traditional living surfaces are most common in the sandy Zone II location.

## **OLOHENA AHUPUA'A STUDIES**

To date, a total of eight archaeological sites have been recorded in North and South Olohena Ahupua'a. While appearing to be a rather small figure, many of these sites contained multiple features. The earliest site recorded in the area was SIHP 50-30-08-108, Kukui Heiau. This site was recorded by Thrum (1906) and Bennett (1930), the latter as SIHP-108 during his island-wide survey of Kaua'i. Located at Alakukui Point within South Olohena, this *heiau* was described as a large structure of compound enclosures and was suggested by Davis and Bordner (1977:29) during their survey of the area to have been constructed c. A.D. 1230-1510 or contemporaneous with occupation at Nu'alolo'kai on the western shore of Kaua'i.

The next significant finds in the Olohena area were identified during Monitoring at the Kaua'i Coast Resort (Perzinski *et al.* 1991). This project yielded a subterranean cultural layer replete with a posthole and associated artifacts (fishhooks) and midden. The cultural stratum was radiocarbon dated to A.D. 1275-1645, firmly within the traditional period. The depth of the cultural deposit varied from 0.30-0.90 meters below the ground surface (mbs). The site was interpreted as a fishing area and possible food consumption locale (Perzinski *et al.* 1991:36). In addition, two burials were identified during the Monitoring program. The first "burial" solely consisted of the proximal half of a human humerus; this was considered an isolated find. A true burial was identified several months later during Monitoring and consisted of a complete, individual interred in a flexed position. The skull of the individual was identified at 0.45 mbs. Although not stated, it appears that the individual was a Native Hawaiian interred during traditional times, as is supported by the presence of the traditional cultural deposit above the burial and lack of associated historical artifacts. These features were designated SIHP 50-30-08-791.

Following a study along Kuhio Highway in North and South Olohena by Hammatt (1991b) in which negative results were produced, Kikuchi conducted an Inventory Survey in South Olohena at TM:(4)4-3-001:010. Kikuchi (1992) identified a traditional cultural stratum and three firepits in subterranean contexts. No SIHP was assigned to the cultural deposits. Spear (1992) conducted testing along Kuhio Highway in both North and South Olohena which yielded negative results. Nearby, Dega and Powell (2003) identified subsurface cultural deposits including a fire pit, human remains, and an *'auwai* during Monitoring along Kuhio Highway in South Olohena. The site was designated SIHP 50-30-08-886 and was dated by relative means to traditional times. Three archaeological sites were identified in Olohena by Hammatt and Shideler (2004), including a railroad culvert (SIHP 50-30-08-823), grinding stones (SIHP 50-30-08-890), and a WWII bunker located near the coastline of the current project area (SIHP 50-30-08-891).

Rosendahl and Kai (1990) performed Archaeological Inventory Survey for the Coconut Plantation Development. This report was not submitted to the SHPD for review but was kindly provided to SCS by Paul Rosendahl, Ph.D. Hammatt and Shideler (2004) did identify the WWII concrete bunker (SIHP Site 50-30-08-891) within the southeastern corner of TMK: (4) 4-3-02:016 during a walk through reconnaissance survey for the Kaua'i Bike Path. This bunker measures 12.92 m<sup>2</sup> and is composed of brick and concrete. Hammatt and Shideler (2004)

interpreted this structure to be a former U.S. Military pillbox or machine-gun emplacement constructed during WWII times.

The Rosendahl and Kai (1990) study area, representing a portion of TMK: (4) 4-3-002:016 produced positive results. Survey and representative testing led to the documentation of SIHP Site 50-30-08-1801, a discontinuous traditional-period cultural stratum and three traditional burials. The cultural stratum was concentrated near the coastline, with no deposits having been identified in back beach areas. A total of thirty-three (33) short backhoe trenches and six longer trenches were excavated across much of parcel 16.

Rosendahl and Kai (1990:8) documented the Site 50-30-08-1801 cultural stratum as both an upper and lower cultural deposit. The upper cultural deposit extends inland to a maximum 18 meters (m; 60 feet) while the lower deposit occurs to a maximum c. 30 m (100 feet) inland. The two strata were not continuous, with disturbance in the form of erosion or historic-period modifications having disturbed the traditional layers. These disturbances were also identified during the current project. The upper deposit, designated as Layer II, and the lower deposit (Layer IV) yielded pit features, shell midden, charcoal, and fire-cracked rock indicative of food preparation. Traditional artifacts in the form of lithic tools, modified faunal remains, and cut shell were also recovered from these deposits.

Three traditional-period burials were also identified during the Rosendahl and Kai (1990) Inventory Survey research. The burials were identified in adjacent areas of Backhoe Trench (BT) 117 and 136 in the northeastern portion of parcel 16 near the coastline. The two burials in BT-117 consisted of a single adult and single child occurring in a pit feature measuring 0.80 m in diameter. The two burials were identified between 0.70-1.30 mbs within sandy matrices. A single burial roofed by several large coral boulders was also identified within BT-136. These boulders likely functioned as a crypt for the burial. Many branch coral fragments were identified within the burial matrix. Multiple burials were identified during the current research yet not only near the shoreline but also in backbeach contexts.

In 2005 Scientific Consultant Services conducted an Archaeological Inventory Survey of a 20.81-acre coastal property in Waipouli, North Oloheua Ahupua'a, Kawaihau District, Kaua'i Island, Hawai'i at TMK(4) 4-3-002:015, 016, & 020. During this survey forty-two (42) traditional-period features were documented in subterranean contexts. The features included seven (7) burials, numerous charcoal-stained pits and anomalous pits, and post molds. A non-contiguous traditional cultural layer (paleo-A horizon) was present in most portions of the

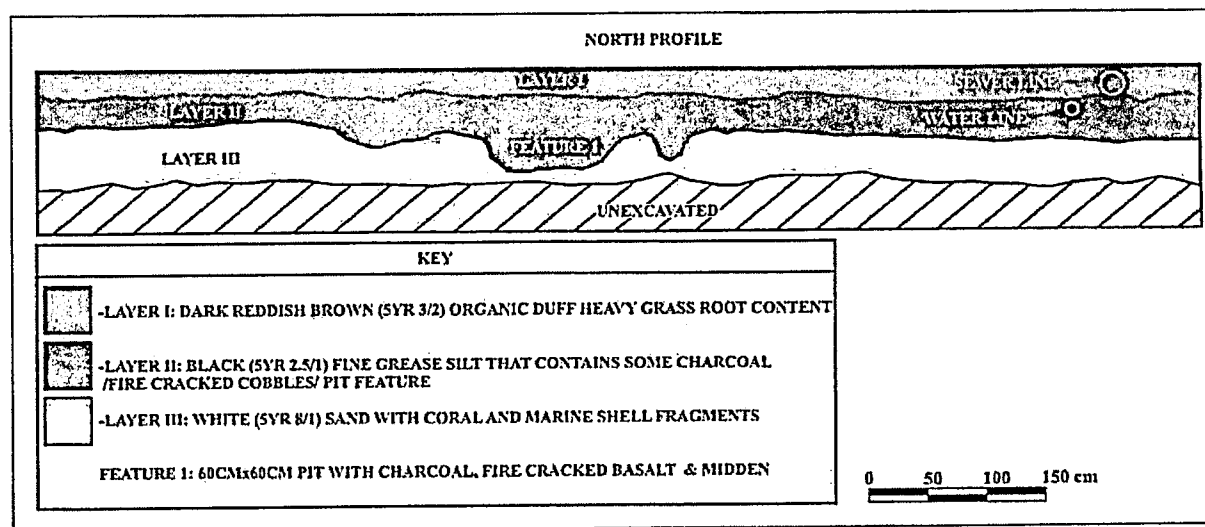


property, an exception being a former marshy area. A majority of the features and burials were identified in a Zone II setting which represents a stable land surface in the backbeach area of coastal Kaua'i. Two radiocarbon dates were obtained for the project area. The returned dates indicate that the project area and environs were the location of at least intermittent activities from as early as the A.D. 14<sup>th</sup> century; with parcel activity occurring fairly continuously from the A.D. 14<sup>th</sup> century through historic times (1940s). All 42 features are associated with previously identified SIHP 50-30-08-1801, the site number having been originally acquired by Rosendahl and Kai (1990) during an earlier investigation of TMK: (4) 4-3-002:016.

### **INVENTORY SURVEY OF PARCELS 008 AND 009**

SCS conducted Archaeological Inventory Survey of this 0.4440-acre project area. The project area consists of two adjacent properties (the Darcy McCartney property [TMK: (4) 4-3-007:008] (0.2596 acres) and the Scott Hansen property [TMK: (4) 4-3-007:009] (18, 250 sq. ft.). Surface survey of both modified parcels did not lead to the identification of any significant structures or deposits. Thus, the main component to the Inventory Survey was through mechanical excavation of stratigraphic trenches.

A total of 10 stratigraphic trenches, (T-1 thru T-10), were mechanically excavated during this research (See Figure 3). The trenches were placed directly within proposed building footprints. Eight stratigraphic trenches were excavated on Parcel 008 and two stratigraphic trenches were excavated on Parcel 009. It was within these subterranean contexts that two historic sites were identified. State Site No. 50-30-08-3938 consists of an intact, undulating traditional-period cultural layer identified on Parcel 009 in Trench-1. The cultural layer was located and identified in Layer II. The layer ranged in thickness from 25 to 40 cm, and extended the entire length of the trench (10 m). A remnant of this cultural layer was also present in Trench -2, as Layer II and extending from 30-70 cmbs. Site 3938 Feature 1, a single pit feature measuring 0.60 cm in diameter and extending 50-90 cmbs, contained charcoal and fire-cracked rock. This hearth feature was identified in Layer II of Trench #1 (Figure 5). A bulk sample containing midden and abundant charcoal was obtained from 50-80 cmbs and submitted for radiocarbon dating. The returned sample measured A.D. 1690 to 1775 or late pre-Contact times. A remnant of Site -3938 was also present on adjacent Parcel 008 in Trench #1, Layer II, at 50-80 cm. Thus, Site -3938 occurs on both parcels. However, site boundaries were not fully determined during the Inventory Survey study.



**Figure 5: Site 50-30-08-3938 Profile Hearth Feature-1.**

State Site No. 50-30-08-3939 consists of two human burials which were encountered on Parcel 008. Both burials were located in sandy deposits and were interpreted as traditional period (pre-Contact) interments. Burial #1 was recovered from Trench #5 while Burial #2 was recovered from Trench #6. Pit features were associated with both burials, but no cultural deposits, additional features, or artifacts were found in association with either burial. Three basalt flakes were recovered from Trench #5 but were determined not to be associated with Site - 3939, Burial #1.

The methods utilized to conduct disinterment of the burials included manual excavation and screening. Once approval was granted to remove the burials, each was carefully pedestaled through use of trowel and brushes to further avoid disturbance of the remains. Once maintained in a pedestaled position, each burial was illustrated to scale. No photographic documentation was done. After recordation, the remains were manually removed individually and placed in a secured basket with ti leaves for interim storage. Once all remains were removed from each location, the field crew further assessed each burial context to recover any additional fragments or associated artifacts. Finally, sand from the immediate vicinity of each burial was screened through 1/8" wire mesh to recover any additional fragments or artifacts. Once the work was completed, the remains were sealed in individual baskets and maintained in a secure on-site location.

#### **BURIAL #1**

Burial #1 was identified on TMK:4-3-07:08 in Trench #5 at a depth of 0.50-0.65 meters below the ground surface (mbs). The remains were identified in white (5YR 8/1) beach sand.

The burial was identified during backhoe testing in which a portion of the lower femur and feet were disturbed by backhoe. All the disturbed remains were recovered and placed with the *in situ* remains. Non-recorded elements of Burial #1 include several distal phalanges of the left hand and tarsals from both feet.

The burial itself was oriented with the cranium facing up and the remains occurring in an extended position, the cranium oriented at 113° with the hands having been placed on the pelvis and carpals extended. The burial was interpreted as a Native Hawaiian individual (supraorbital ridges, mandibular characteristics, stratigraphic context, absence of historic materials) and aged as a young adult (erupted third molar). The individual was suggested to be female, based on the gracile nature of the remains and formation/morphology of the pelvic girdle.

#### **BURIAL #2**

Burial #2 was also identified on TMK:4-3-07:08 but in Trench #6 at a depth of 0.65-0.75 meters below the ground surface (mbs). The remains were also identified in white (5YR 8/1) beach sand. The burial was identified during backhoe testing in which the machine exposed the cranium and tibia. No further attempts at exposure (manual) were undertaken in order to preserve the small remains. Fragments recovered after the initial find were placed with the *in situ* remains. Missing elements include tarsals from both feet.

The cranium of the burial was oriented to the east at 132°. The burial was interpreted as a Native Hawaiian individual (context, depth, absence of historic materials) and aged as an infant 1-3 years old. The crew could not determine gender. No artifacts or associated cultural deposits were associated with Burial #2.

### **MONITORING CONVENTIONS AND METHODOLOGY**

This AMP has been prepared in accordance with DLNR-SHPD rules governing standards for Archaeological Monitoring (§13-279). Archaeological monitors will adhere to the following guidelines during monitoring:

- A qualified archaeologist from SCS familiar with the project area and the results of previous archaeological work conducted in the area will monitor subsurface construction activities in the project area. If significant deposits or features are identified and additional field personnel are required, the archaeologist will notify the contractor or representatives before additional personnel are brought to the site.

If features or cultural deposits are identified during Archaeological Monitoring, the on-site archaeologist will have the authority to temporarily suspend construction activities at the significant location so that the cultural feature(s) or deposit(s) may be fully evaluated and appropriate mitigation and treatment of the cultural feature(s) or deposit(s) are conducted. These actions are needed to fulfill the reporting requirements specified in §13-279-5(5) through (6). The SHPD Oahu Island archaeologist (Nancy McMahon) will be consulted to establish feature significance and potential mitigation procedures.

- Mitigation and treatment activities primarily include documenting the feature/deposit through plotting its location on an overall site map, illustrating a plan view map of the feature/deposit, profiling the deposit in three dimensions, photographing the finds (with the exception of human burials), artifact and soil sample collection, and triangulation of the finds. Construction work will only continue in the significant location when all documentation has been completed.
- In the event that human remains are encountered, all work in the immediate area of the find will cease; the area will be secured from further activity until compliance with §6E-43.6, HRS, and §13-300-40, HAR, has occurred. The SHPD-Kaua'i archaeologist and SHPD-Burial Sites Program (located in Kapolei, O'ahu) will both be immediately notified about the inadvertent discovery of human remains on the property. Notification of the inadvertent discovery will also be made to the Kaua'i and Ni'ihau Island Burial Council by either SHPD or by SCS (Dr. Michael Dega). Procedures to determine the minimum number of individuals, age of the site, and ethnicity of the individual(s) will conform to the relevant procedures established in §13-300, HAR, as directed by the SHPD. Profiles, plan view maps, and illustrative documentation of skeletal parts will be recorded to document the burial(s). The burial location will be identified and marked. If a burial is disturbed, materials excavated from the vicinity of the burial(s) will be manually screened through 1/8-inch wire mesh screens in order to recover any displaced skeletal material. Only SHPD has the authority to approve the removal of human remains, which is typically conducted in consultation with the appropriate burial council members.
- In the event that human remains are discovered, the Burial Sites Program may request additional documentation, including letter memos and/or other reports, as necessary. Photographs of excavations showing soil profiles will be included in the archaeological monitoring report, even if no historically-significant sites are documented; no screening of back dirt piles or other invasive procedures (e.g. cleaning of soil profiles, digging into trench walls) will be conducted unless instructed by the SHPD.
- To ensure that contractors and the construction crew are aware of this AMP and possible site types to be encountered in the project area, a brief coordination meeting will be held between the construction personnel and monitoring archaeologist prior to initiation of the project. The construction crew will also be informed as to the possibility that human burials could be encountered and how they should proceed if they observe such remains.

- SCS will provide all coordination with the contractor, SHPD, and any other group involved in the project. SCS will coordinate all monitoring and sampling activities with the safety officers for the contractors to ensure that proper safety regulations and protective measures meet compliance. Close coordination will also be maintained with construction representatives in order to adequately inform personnel of the possibility that open archaeological units or trenches may occur in the project area.

As necessary, verbal reports will be made to SHPD, and any other agencies as requested.

## **LABORATORY ANALYSIS**

All samples collected during the project, except human remains, will undergo analysis at the SCS laboratory in Honolulu, in accordance with SHPD rules (§13-279, HAR). In the event that human remains are identified and the SHPD and O'ahu Island Burial Council authorize their removal, they will be curated at an acceptable location on O'ahu. All photographs, illustrations, and field notes accumulated during the project will be curated at the Honolulu laboratory (SCS). All retrieved artifacts and midden samples will be cleaned, sorted, and analyzed at SCS. Significant artifacts will be photographed, sketched, and classified (qualitative analysis). All metric measurements and weights will be recorded (quantitative analysis). These data will be presented in tabular form within the final monitoring report. Midden samples will be minimally identified to major 'class' (e.g., bivalve, gastropod mollusk, echinoderm, fish, bird, and mammal). All data will be clearly recorded on standard laboratory forms, which also include number and weight (as appropriate) of each constituent category. These counts will also be included in the final report.

Should any samples amenable to dating be collected from a significant cultural deposit, they will be prepared in the SCS laboratory and submitted for taxa identification (Gail Murakami, International Archaeological Research Institute, Inc., Honolulu). If short-lived native and/or Polynesian-introduced taxa are identified, they shall be selected for radiocarbon dating, if necessary. While primary emphasis for dating is placed on charcoal samples, we do not preclude the use of other materials such as marine shell or nonhuman bone materials. SCS will consult with SHPD and with the client if radiocarbon dates are deemed necessary.

All stratigraphic profiles will be drafted for presentation in the final report. Representative plan view sketches showing the location and morphology of identified sites/features/deposits will be compiled and illustrated.

### CURATION

SCS will curate all recovered cultural materials, artifacts and charcoal samples, in the Honolulu until the work is completed, reviewed, and accepted by the State. Human remains if discovered during excavation will be curated at a location approved by the SHPD Burial Sites Program until reinterment on site is conducted at the designated location. All materials gathered during this project (including documentation) are ultimately the property of the client, who may request their transfer subsequent to the acceptance of the final Archaeological Monitoring Report (see below).

### REPORTING

An Archaeological Monitoring Report that documents all aspects of the work will be submitted to SHPD within 120 days of the completion of fieldwork. This time line is requested to account for any radiocarbon age determinations (typically 45 days), if necessary.

If cultural features or deposits are identified during fieldwork, the sites will be evaluated for historic significance according to criteria established in §13-275-6(b), HAR. The Archaeological Monitoring Report will be of draft version until accepted by SHPD and final revised reports will be submitted to SHPD and to the client.

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*6) Including State Site 50-30-08-1801 In Waipouli, Waipouli Ahupua'a Kawaihau*  
*District, Kaua'i Island Hawai'i [TMK: (4) 4-3-07: 27].*

HP2000

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION  
601 KAMOKILA BOULEVARD, ROOM 555  
KAPOLEI, HAWAII 96707

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
DEPUTY DIRECTOR - LAND

DEAN NAKANO  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

COMPLETED

June 13, 2006

Mr. Mike Dega  
Scientific Consultant Services, Inc.  
711 Kapiolani Blvd., Suite 975  
Honolulu, HI 96813

LOG NO: 2006.1970  
DOC NO: 0606PC08  
History & Culture

Dear Mr. Dega:

**SUBJECT: Notice of Council Determination - Burial Treatment Plan for Site 50-30-08-3939 in Waipouli, North Oloheha Ahupua'a, Kawaihau District, Island of Kauai**  
**TMK: (4) 4-3-007:008**

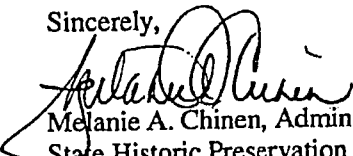
On June 6, 2006, at a duly noticed meeting of the Kauai / Niihau Islands Burial Council (KNIBC) with a quorum of members present, the KNIBC concurred with your client's proposal and voted to relocate the burial to an on-site preserve area located on the subject property.

Should your client disagree with the KNIBC's determination, §13-300-38(c) of the Hawaii Administrative Rules (HAR) provides an option to request reconsideration of the KNIBC's determination upon submittal to the Department of Land and Natural Resources (DLNR) of a written request for reconsideration within ten (10) business days following receipt of this notice. Furthermore, §6E-43(c) of the Hawaii Revised Statutes (HRS) provides that KNIBC determinations may be administratively appealed as a contested case. Any appeal pursuant to §6E-43(c) must be submitted in writing to the DLNR within forty-five (45) days following receipt of this notice.

Should your client accept the KNIBC's decision as final, the DLNR would like to proceed with final approval of a burial treatment plan for the subject burial sites. Pursuant to §6E-43(d), HRS, the DLNR has ninety (90) days from the date of the KNIBC's determination to approve a final burial treatment plan. The plan is currently under review and the department will contact you once the review is completed.

Should you have any questions, please contact Ms. Piilani Chang of our History and Culture Branch at (808) 692-8015.

Sincerely,

  
Melanie A. Chinen, Administrator  
State Historic Preservation Division

c: Members, Kauai / Niihau Islands Burial Council  
Piilani Chang, Cultural Historian

JUN 13 2006

EXHIBIT "F-2"

COUNTY OF KAUAI  
PLANNING DEPARTMENT  
4444 RICE STREET, SUITE 473, LIHUE, HI 96766

2006-2337  
0607NH3J

FROM: Ian K. Costa, Director (MIKEY)

June 22, 2006

SUBJECT: Special Management Area Use Permit Application SMA(U)-2006-14,  
DARCY MCCARTNEY

4-3-007:008

- (X) PW - Engineering Div.
- (X) PW - Waste Water
- ( ) PW - Parks & Recreation
- ( ) PW - Solid Waste
- (X) Water Department
- (X) State Health Dept.
- (X) State Historic Preservation Div. - DLNR
- (X) Fire Department
- ( ) Kauai Housing Agency
- ( ) State Highways Div. - DOT (Kauai Office - FYI only)
- ( ) State Airports Div. - DOT (Kauai Office - FYI only)
- ( ) State Land Use Commission - DBEDT
- ( ) State Office of Planning - DBEDT
- ( ) State Dept. of Agriculture
- ( ) U.S. Fish & Wildlife Service - Ecological Services (Oahu)
- ( ) Kilauea Neighborhood Association
- ( ) Kauai Historic Preservation Review Commission

FOR YOUR COMMENTS (pertaining to your department:)

Please return comments by July 7, 2006. MAHALO!



R-286

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED  
NOV 21, 2006 08:01 AM

Doc No(s) 2006-213071

/s/ CARL T. WATANABE  
REGISTRAR OF CONVEYANCES

20 1/1 Z14

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: Mail ☒Pickup ☐

RS

Landowner Name: Darcy McCartney

P.O. Box 557

Kapaa, HI 96746

TG ACCOM

3135814

TMK No.: 4-4-3-007-008

This document contains (7) pages.

**DECLARATION OF COVENANT, CONDITIONS  
AND RESTRICTIONS FOR BURIAL SITE**

/ THIS DECLARATION is made this 15<sup>th</sup> day of November, 2006, by Darcy /  
McCartney, whose address is PO Box 557, Kapaa, HI 96746 ("Landowner").

**WITNESSETH:**

WHEREAS, Landowner owns real property located at Tax Map Key No. (4) 4-3-  
007:008 in North Oloheua Ahupuaa, Kawaihau District, Island of Kauai, in which property  
unmarked burial sites containing the skeletal remains of ancestral Native Hawaiians were  
identified;

WHEREAS, the State, through its Department of Land and Natural Resources,  
pursuant to Section 6E, Hawaii Revised Statutes, is responsible for regulating the proper  
treatment of human skeletal remains over fifty years old, at any site other than a known,  
maintained, actively used cemetery; and

EXHIBIT "F-3"

WHEREAS, the Landowner desires to make this Declaration and agrees to rebury, the unmarked burial sites containing the skeletal remains of ancestral Native Hawaiians.

WHEREAS, the Landowner in compliance with Hawaii Administrative Rules ("HAR") § 13-300-34 submitted a Burial Treatment Plan to the State Historic Preservation Division of the Department of Land and Natural Resources which was approved.

NOW THEREFORE, in consideration of the above and the terms and conditions contained herein, the Landowner agrees as follows:

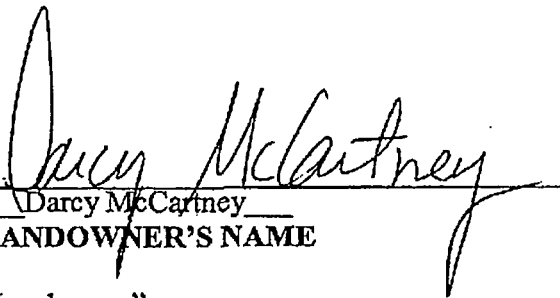
Landowner agrees to allow the skeletal remains of ancestral Native Hawaiians to be reburied in the Landowner's property located at Tax Map Key No. (4) 4-3-007-008 in North Olohena Ahupuaa, Kawaihau District, Island of Kauai and designated State Site No. 50-30-08-3939. A copy of a map with UTM/GPS coordinates of UTM Burial #1, 0466915/2439490 (north end of the property) and UTM Burial #2, 0466909/2439484 (towards the middle of the property) is attached hereto as **Exhibit A** and incorporated herein by reference. /

1. Landowner, upon recommendation from the Department of Land and Natural Resources and the Oahu Island Burial Council, agrees to establish a minimum of a 12' permanent buffer zone around the reburial structure, near Site 50-30-08-3939 at Tax Map Key No. (4) 4-3-007-008. The buffer zone will be landscaped with lava rock and native plants. Except for burial site maintenance activities and visitation by recognized lineal descendants, no other physical activities shall take place within the delineated permanent buffer zone.

2. Landowner agrees to provide identified descendants wishing to visit the site with a right of access at reasonable times and upon reasonable advanced notice, subject to the rules and policies of Landowner. The phrase "right of access" shall mean the reasonable ingress and egress to and from Site 50-30-08-3939 on foot or in wheelchairs. The right of access extends only to visitation during reasonable hours between 8:00 a.m. and 6:00 p.m. for purposes usually associated with cemetery visits, upon providing a 48-hour advance notice to Landowner.

3. Landowner covenants and agrees not to willfully or intentionally disturb in any manner, or authorize the disturbance of in any manner, the repose of the human skeletal remains interred at Site 50-30-08-3939 on the property. The obligations imposed by these restrictive covenants shall be effective in perpetuity and shall be deemed to run as a binding servitude with the property, and shall extend to and be binding upon Landowner, its successors and assigns.

4. In the event Landowner learns that the human skeletal remains contained in Site 50-30-08-3939, or any part thereof, are unearthed by natural causes or otherwise, Landowner agrees to immediately notify the Department of Land and Natural Resources. Landowner agrees not to handle the remains in any manner. The Department of Land and Natural Resources, upon recommendation of the Oahu Island Burial Council, shall take proper action to secure the remains in place. Both Landowner and the Department of Land and Natural Resources shall comply with all local, state and federal laws concerning reinterment.

  
\_\_\_\_\_  
Darcy McCartney  
**LANDOWNER'S NAME**  
"Landowner"



STATE OF Hawaii )  
 )  
COUNTY OF Kauai ) SS.

On this 16th day of November 2006, before me appeared **DARCY MCCARTNEY**, to me personally known, who, being by me duly sworn or affirmed, did say that he executed the foregoing instrument as his free act and deed, and if applicable in the capacity shown, having been duly authorized to executed such instrument in such capacity.

15

Amy A. Silva

Name.

Notary Public, \_\_\_\_\_

AMY A. SILVA

Expiration Date: February 24, 2007

My commission expires: \_\_\_\_\_

**EXHIBIT A** /

[Map with UTM/GPS coordinates of the burial] /

# EXHIBIT A

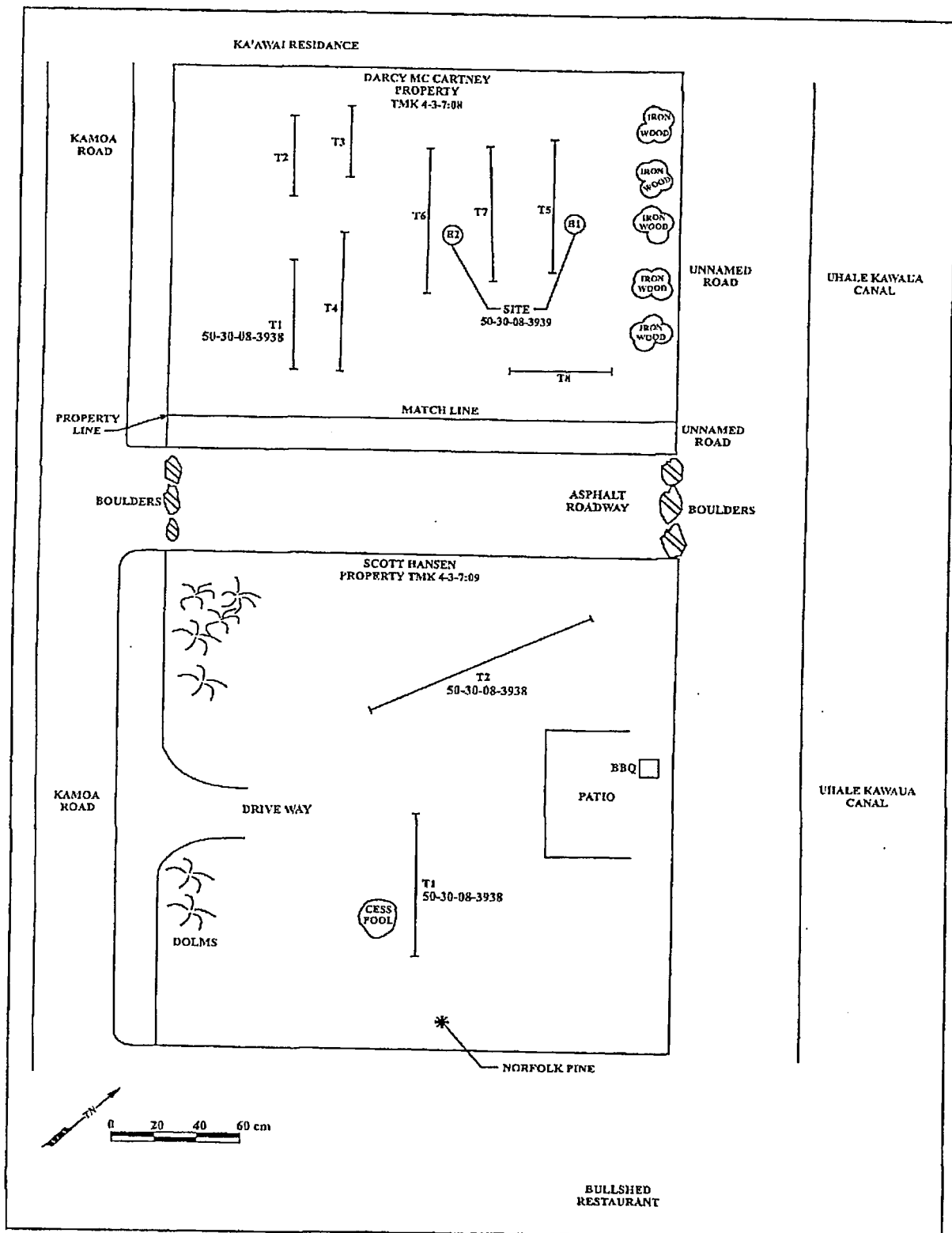


Figure 5: TMK: (4) 4-3-007:008 & 009 Trench and Site Locations.

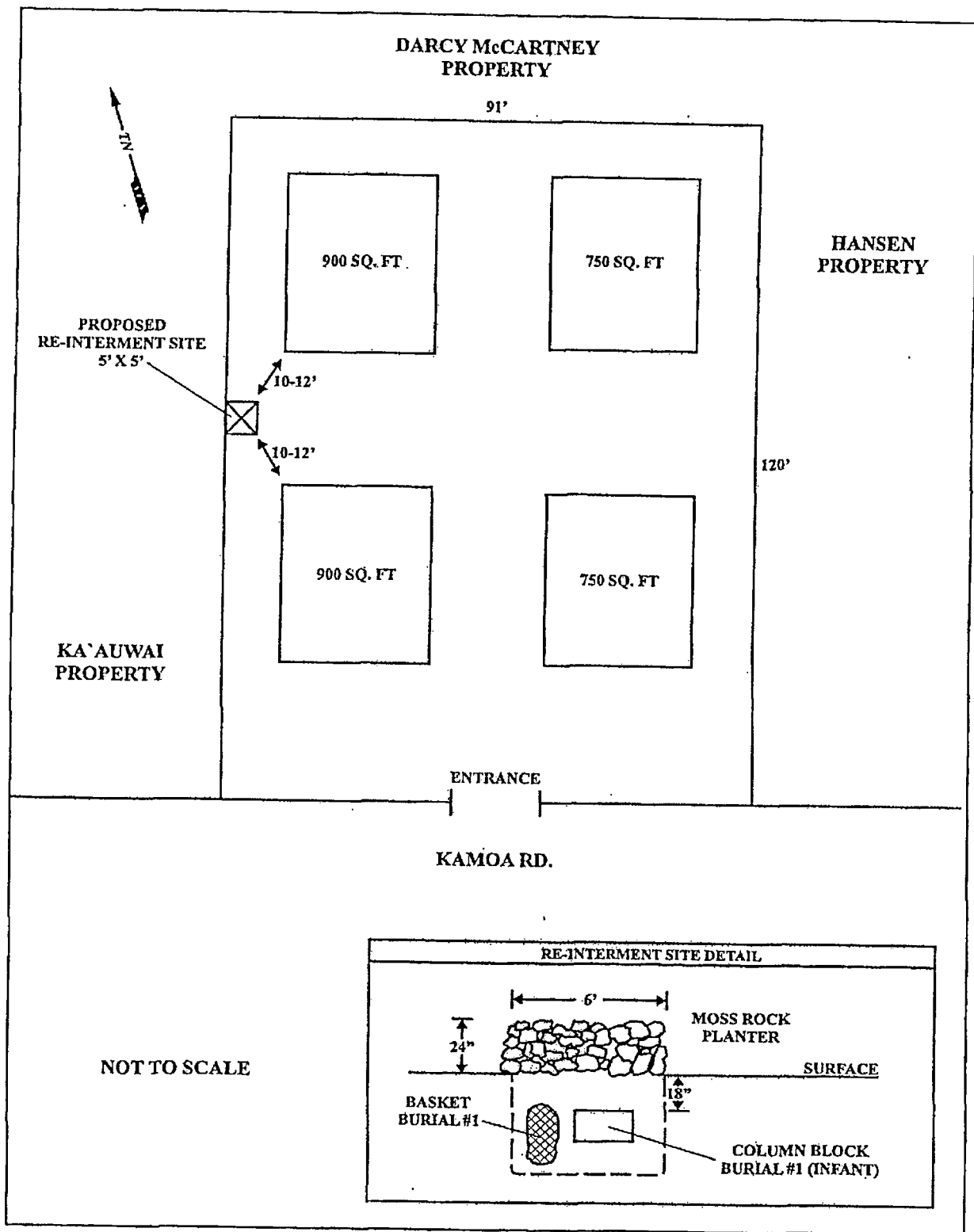


Figure 6: Plan View Map of Burial Preserve Area and Inset showing Burial Interment Structure in Cross-Section.

**AMENDMENT TO AN APPROVED  
ARCHAEOLOGICAL MONITORING  
PLAN FOR A 0.2569 ACRES IN  
Waipouli Ahupua`a, North Oloheua District,  
Island of Kaua`i,  
TMK: (4) ) 4-3-007:008**

Prepared for  
Peter Whalley

By Nancy McMahon, MA, MEd, MS  
Exploration Associates Ltd.

July 2022

## **Forward**

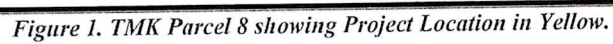
Exploration Associates Ltd. (EAL) was hired to amend the approved archaeological monitoring plan for this project area. In the past the reports for this project area have been listed as being in the North Oloheua Ahupua`a. Correction the project area is in Waipouli Ahupua`a. In 2006, there was an archaeological inventory survey where both a cultural deposit and two burials were found. Site 50-30-08-3939 consisted of two individual human burials of Hawaiian ancestry. Site 50-30-08-3938 consisted of an undulating cultural layer that was identified on both parcels. Two lots were part of this original project (parcels 8 and 9). Eight stratigraphic trenches were excavated on Parcel 8 (Dega and Dagher 2006). The approved revised burial treatment plan was revised to relocate the burials and approved by the KNIBC (Powell and Dega 2006). There was also an approved archaeological monitoring plan (Morawski and Dega 2006) which this AMP is designed to cover all construction excavation activities on both parcels. Now one of the lots, parcel 8 which did have the burials discovered during the AIS and now relocated on this parcel 8, has new owner Peter Whalley Trust and Hong/Roh Living Trust. This amendment is to change the construction plans for parcel 8 (Figure 1). Parcel 9 has not been developed but this AMP will still cover this parcel and its development.

Mr. Whalley is reducing the density to two single family residences from the 4 previously proposed residences. The new plans can be seen in Figures 2 - 5). Parcel 8 is 0.2569 acres. The plans are to keep the house footings to no more than 2 – 2.5 feet in depth (Figure 4). These 2 houses will not be connected to the County sewer line due to some technical issues, so there will be a septic system. The new septic system (will support both houses) will be mostly above ground. It will have a raised leach field (Figure 6). These changes to the original plans are to avoid finding additional burials and preserve the cultural deposit.

This amendment will follow the procedures of the approved monitoring plan (Powell and Dega 2006) except for the following section:

## **CURATION**

EAL will curate all recovered cultural materials, artifacts, and charcoal samples, in the Lihue Office until the work is completed, reviewed, and accepted by the State. Human remains if discovered during excavation will be curated at a location approved by the SHPD Burial Sites Program until a determination is made. There is already a reinterment on this parcel per the Revised Burial Treatment Plan (Powell and Dega 2006) as approved by the KNIBC and SHPD. All materials gathered during this project (including documentation) are ultimately the property of the client, who may request their transfer subsequent to the acceptance of the final Archaeological Monitoring Report.





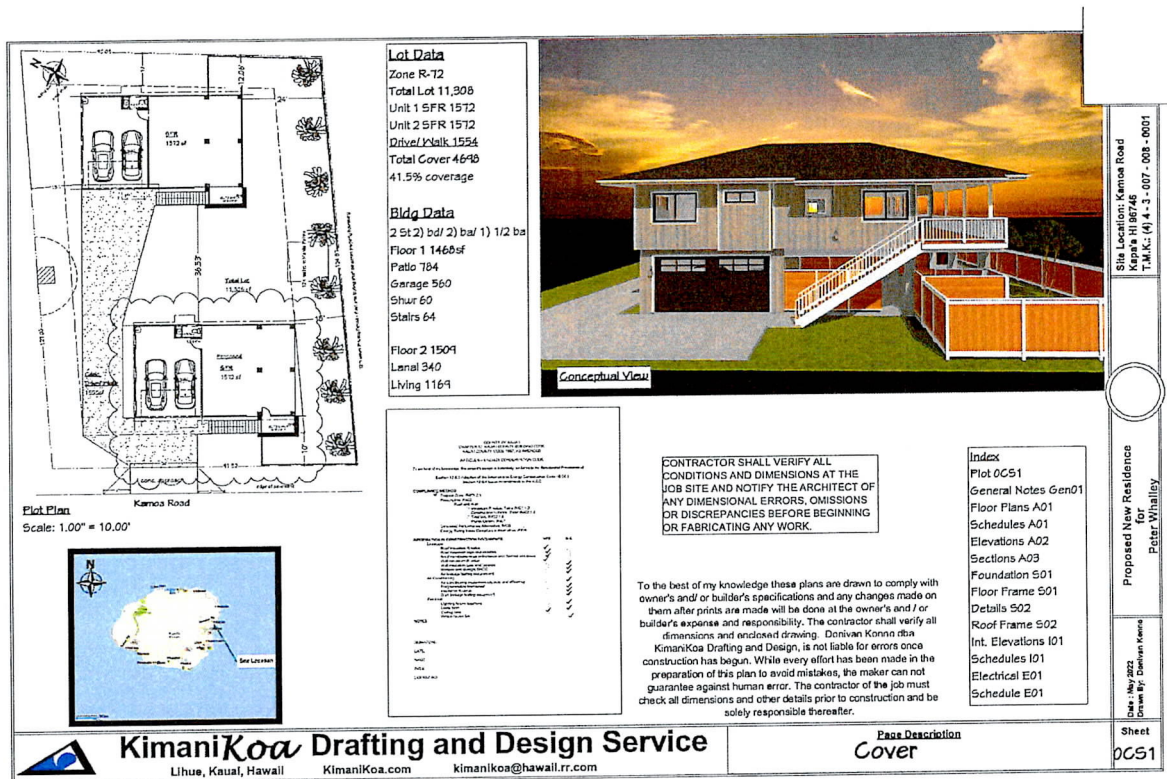


Figure 2. Unit A Conceptual Plans.



EXPLORATION ASSOCIATES LTD  
3-2600 Kaunualii Hwy 1300-#306, Lihue, Kauai 96766

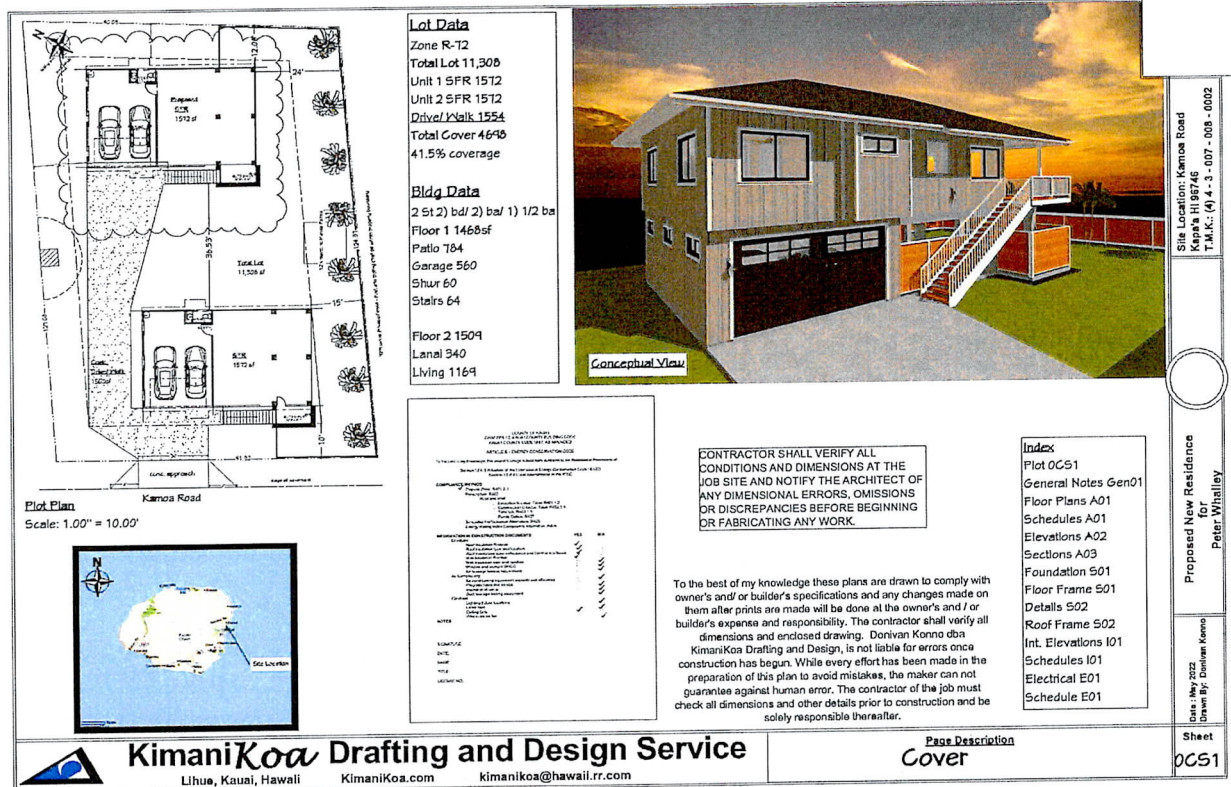


Figure 3. Conceptual Plans Unit B.

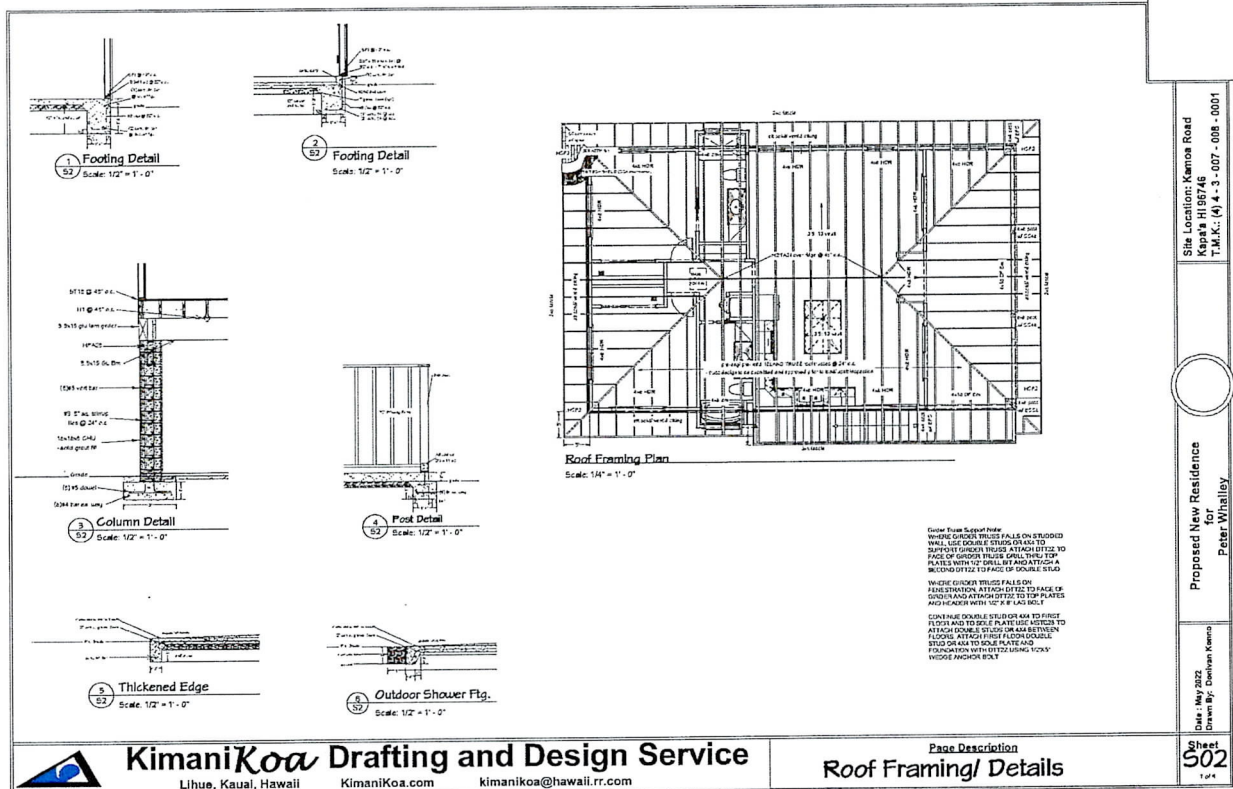


Figure 4. Footing Details.



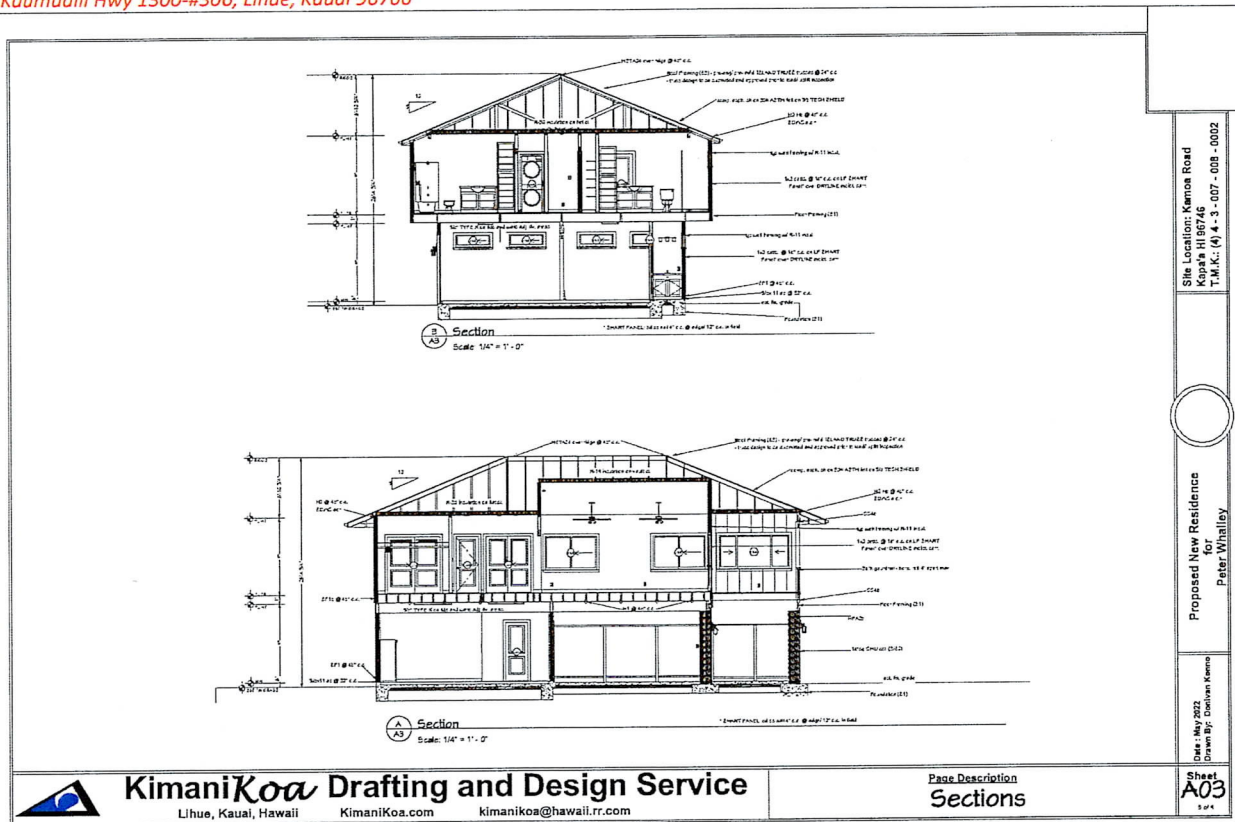


Figure 5. Cross-section Plans.

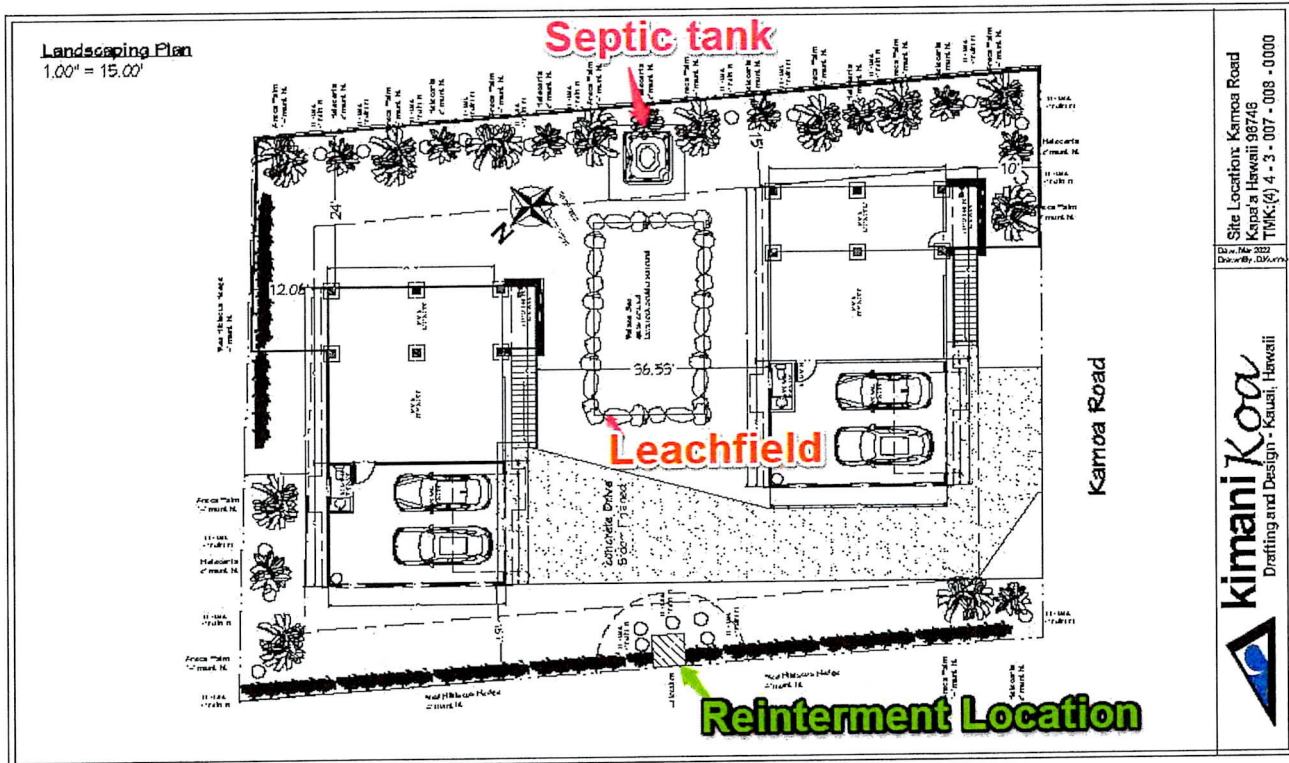


Figure 6. Septic Location.



# Ka Pa'akai Analysis

Native Hawaiian Traditions, Customary Practices and Perspectives of  
Waipouli Ahupua`a Moku o Puna, Kaua`i  
Island  
for  
TMK (4) 4-3-007:008

*Prepared for*  
Peter Whalley

Prepared by  
Exploration Associates Ltd.

August 2022

**EXHIBIT "G"**

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## Introduction

At the request of Peter Whalley, Exploration Associates (EAL) conducted a Ka Pa'akai analysis of a 0.2569 acres parcel (TMK (4) 4-3-007:008 which is in the Waipouli Ahupua`a, Puna District on Kaua`i Island (Figures 1 - 4). Hereinafter referred to as "*project area*". The project area is located within Waipouli Ahupua`a. The project undertaking consists of the construction of two single family residences. The project area is near the Waipouli Drainage Canal on the northside, formerly called "ke kahawai o Uhelekawawa" (the Uhelekawawa watercourse, often later spelled "Uhelekawaa", "Uhelekawa'a", Uhalekawa, and Uahalekawawa) in Hawaiian Land Commission Award (LCA) documents from ca. 1850 and was a source of irrigation water for ponded taro fields. The Bull Shed Restraunt and ISO Hotel are to the east of the project area. The project area is in the SMA (shoreline Management area). The County Planning Department requires all land permits address the proposed project's effects on traditional Hawaiian practices, customs, and beliefs. This Ka Pa`akai analysis provides information pertinent to the evaluation of the proposed project's cultural impacts.

## Methodology

Methodologies guided by indigenous Hawaiian cultural perspectives and intellect were used to conduct this study. It is always imperative that traditional values of *aloha* and *hō`ihi* (sincerity, love, and respect) are ever present in the actions of the research and investigative team that engages with the natural environments, resources, people, and communities from which/whom information will be gathered for this work. Special focus and attention is given to the examination of the land, water and atmospheric features that are applicable to the study project area and all lands and environments associated with it.

At the onset of this project, EAL entered this work with much enthusiasm and confidence of already "knowing" this place. Even with a limited window of time to conform to, EAL knew that only a little had been documented to bring forth the values and depth of traditional Hawaiian knowledge and customary practices of Lāwa'i 's ancient past. Information and personal experiences that EAL possessed provided an advantage to accomplish the task of completing this Ka Pa`akai analysis.

Much of the effort in conducting studies such as this is to review and evaluate the land allocated for the project area and any possible adverse influences and consequences relating to indigenous Hawaiian beliefs and practices.

---

## Scope of Work

- (1) The identity and scope of valued cultural, historical, or natural resources that are found within the proposed project area and relevant areas within the ahupua'a of Kōloa, including the extent to which traditional and customary Native Hawaiian rights are exercised.
- (2) The extent to which those resources – including traditional and customary Native Hawaiian rights – will be affected or impaired by the proposed action.
- (3) The feasible action, if any, to be taken by the agency to reasonably protect Native Hawaiian rights if they are found to exist. (Ka Pa'akai, 94 Haw. at 19, 7 P.3d at 1084.)

## Environmental Setting

Alluvium, colluvium and terrigenous sediments resulting from the erosion of the primary island building events in Kaua'i history, the Waimea Canyon Volcanic Series and the Koloa Volcanic Series, are the major sources of sediment for the formation of Kaua'i's non-mountainous region, including Kapa'a, Waipouli and Olohena (MacDonald and Abbott 1970:382-384). Waipouli is located within the physiographic division known as the Līhu'e Plain (Armstrong 1973:30). During higher sea levels, terrigenous sediment accumulated further inland as streams released their sediment loads further inland from where the shoreline had encroached. Also, reefs grew with the rising sea level, and, as the sea receded, marine sediments were created and deposited on shore by the erosion of these reefs. Both processes were part of the formation of the Līhu'e Plain.

According to Foote *et al.* (1972: Sheet 29), soils in the project area are comprised of Mokuleia fine sandy loam (Mr), which belongs to the Mokuleia series. These soils typically consist of well-drained soils occurring along the coastal plains of Kauai and are known to form in recent alluvium which has been deposited over coral sand and are found to be geographically associated with Hanalei, Jaucus, and Keaau soils. These soils are shallow and relatively level with elevations ranging from around sea level to 100 feet above mean sea level (amsl).

Mokuleia fine sandy loam, found on the northern and eastern coastal plains of Kaua'i occurs throughout the project area. This sediment series is composed of a loamy surface layer with moderately rapid permeability and clay loam subsoil with rapid permeability. Runoff occurs slowly and the erosion hazard is slight. This soil is associated with pasture.

The project area has been maintained as a lawn for several years and contains the various common grasses of the area, primarily guinea grass, crabgrass and hilo grass. Mature vegetation includes, mango, rubber and octopus trees.

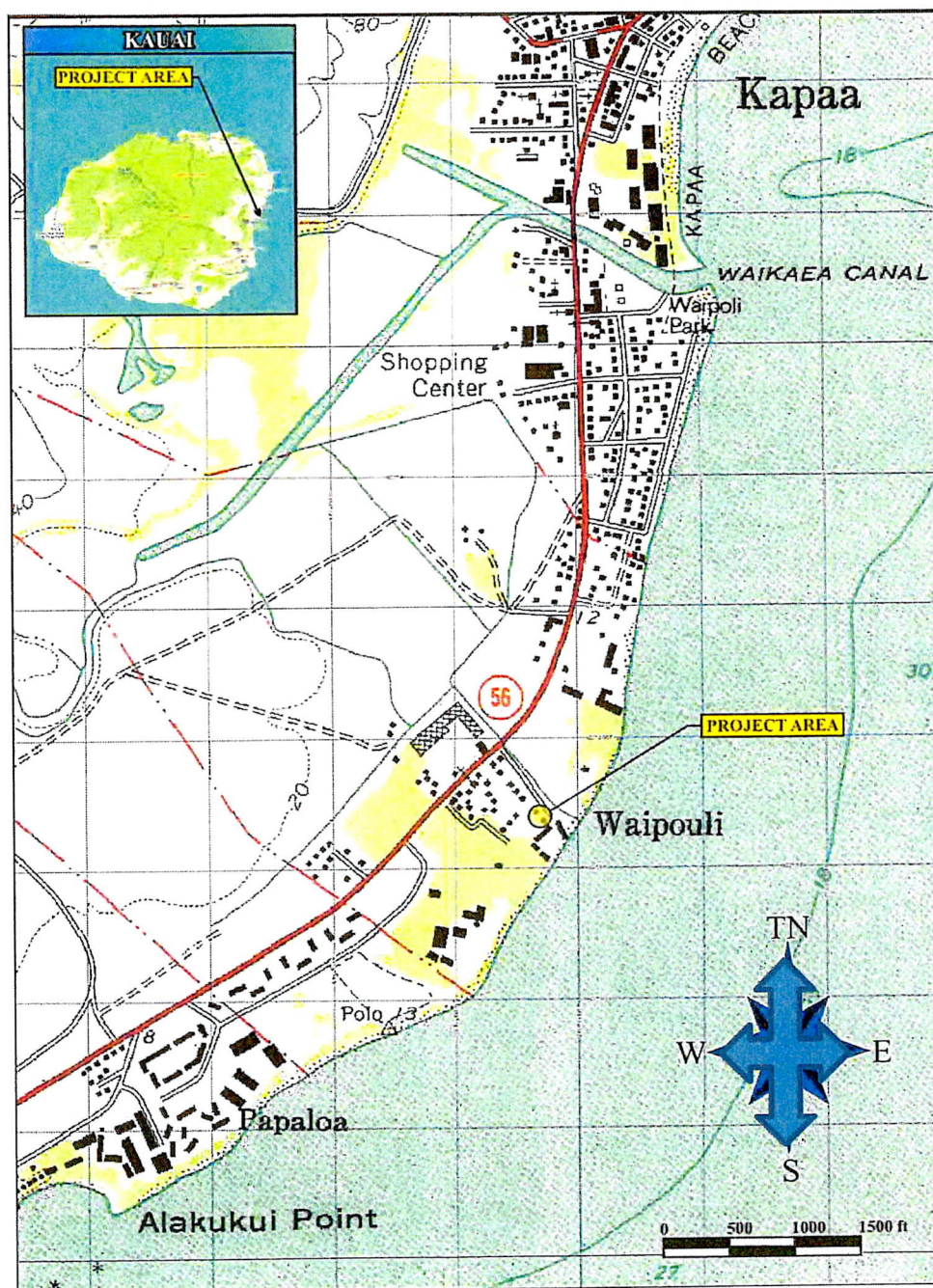


Figure 1. Map of the Project Area.



# Ka Pa'akai Analysis

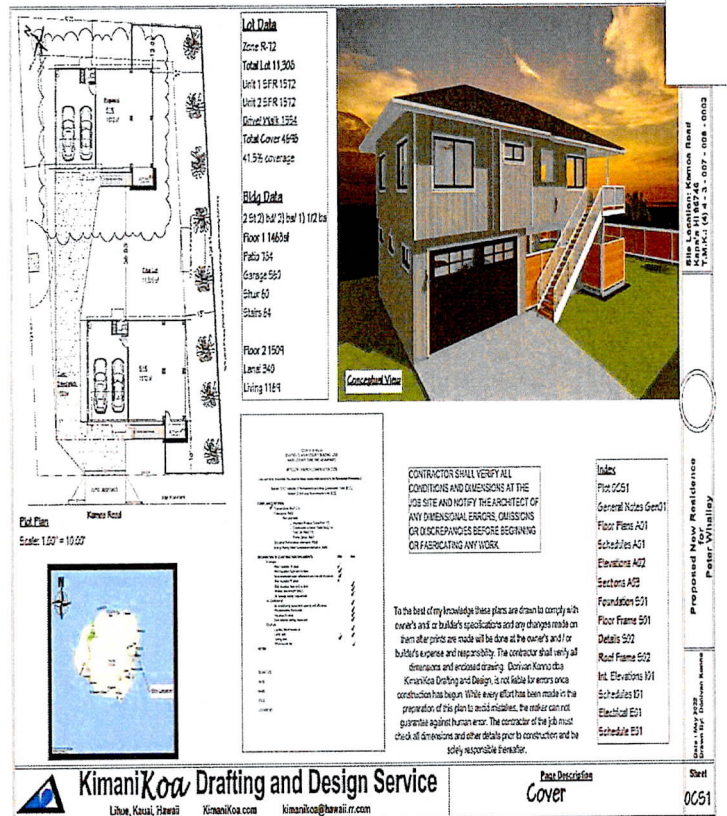
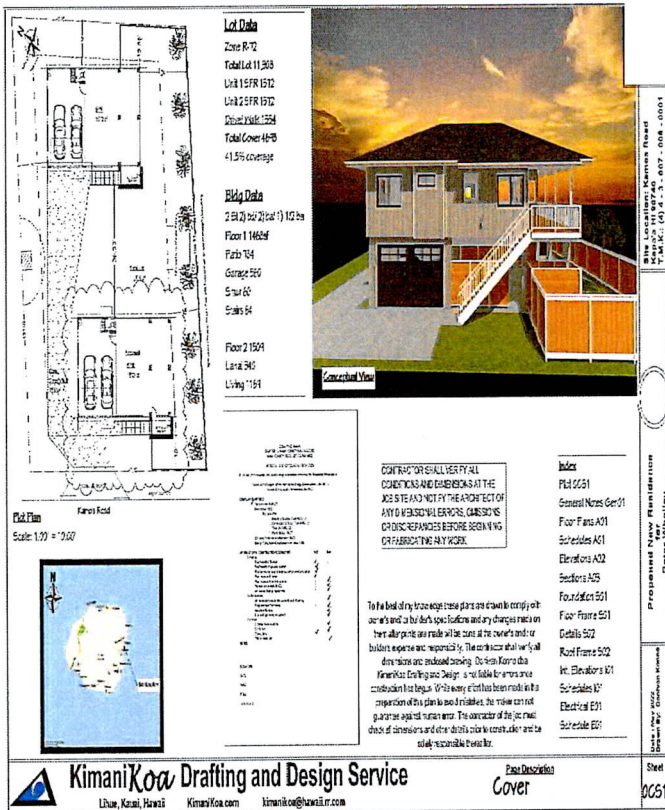


Figure 2. Conceptual Plans

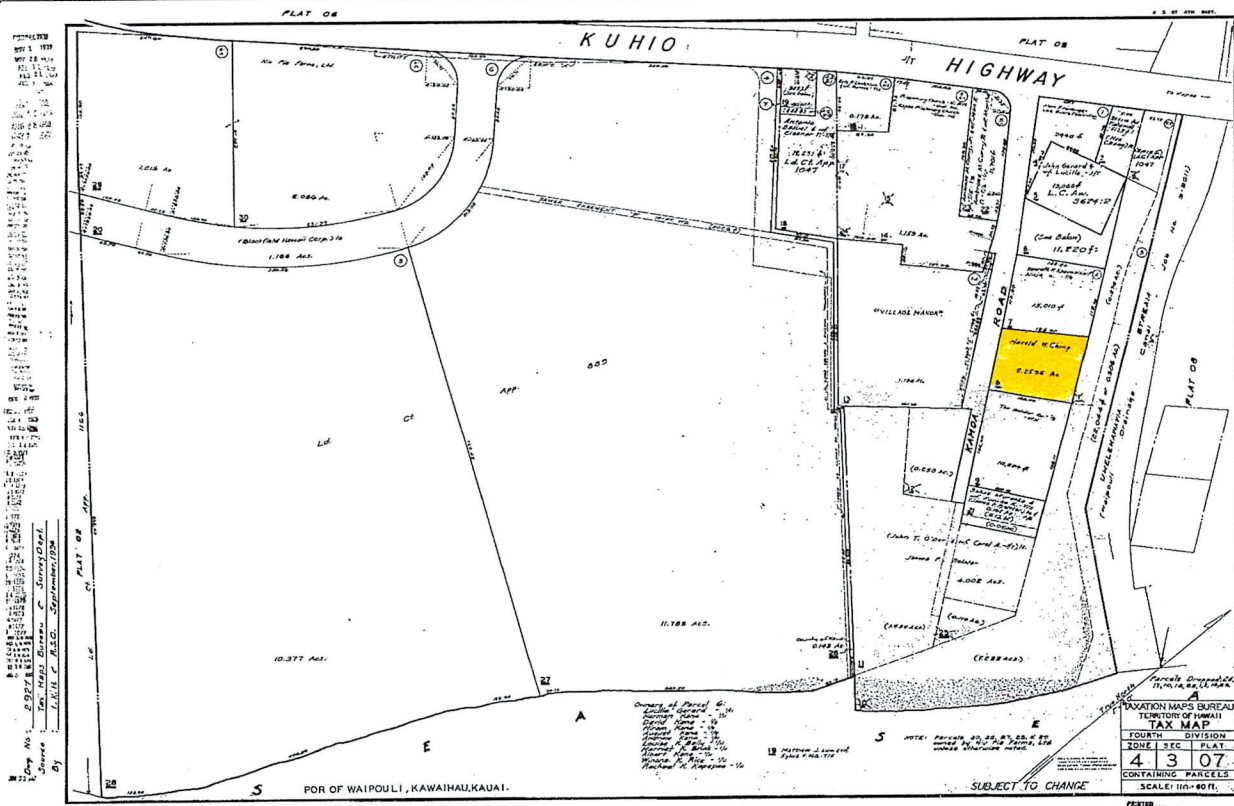


Figure 3. TMK Highlighted parcel.

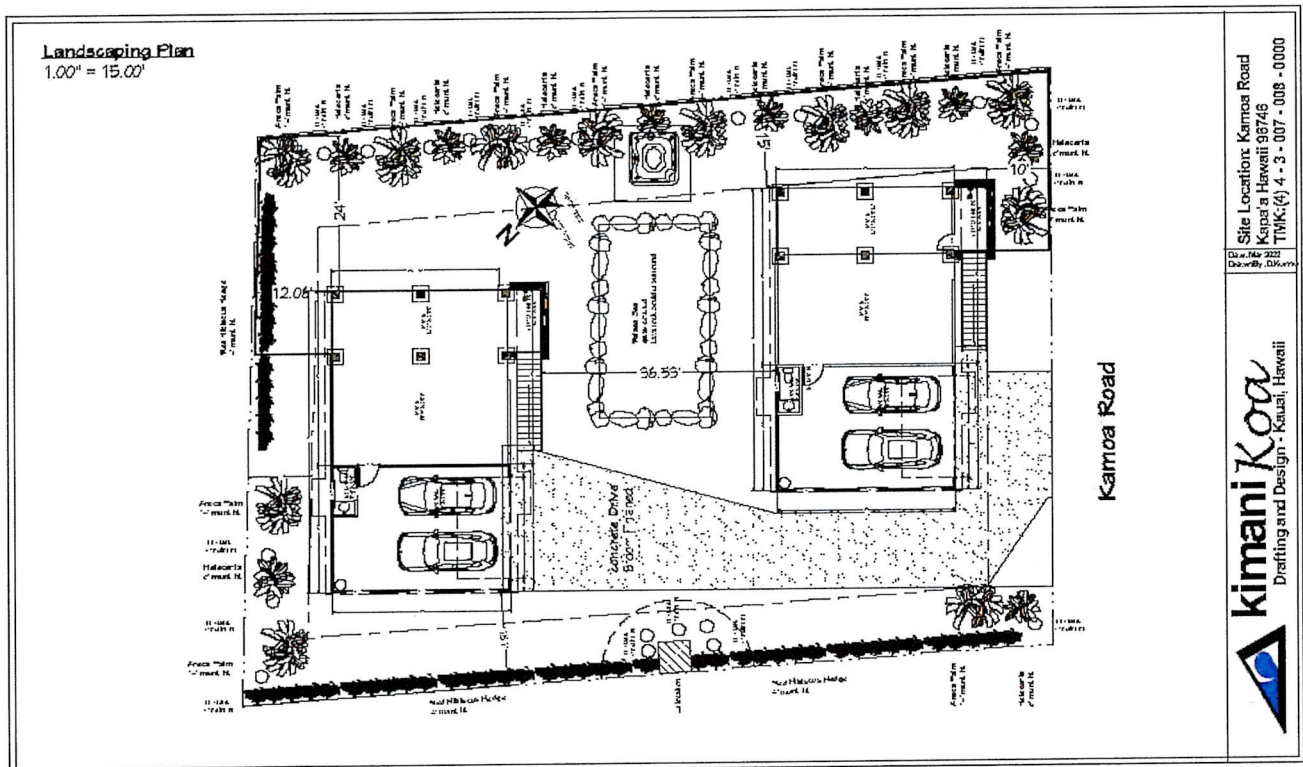


Figure 4. Plot Plan and Landscaping of the Project Area



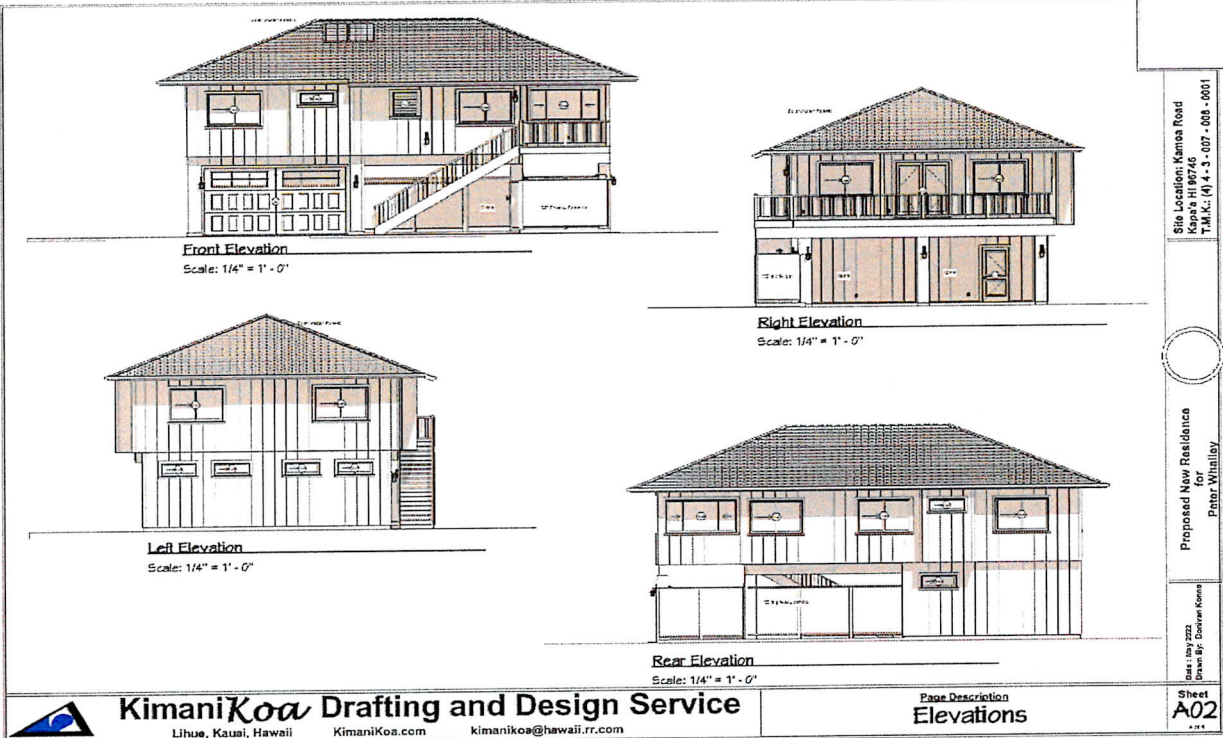


Figure 5. Elevations of House



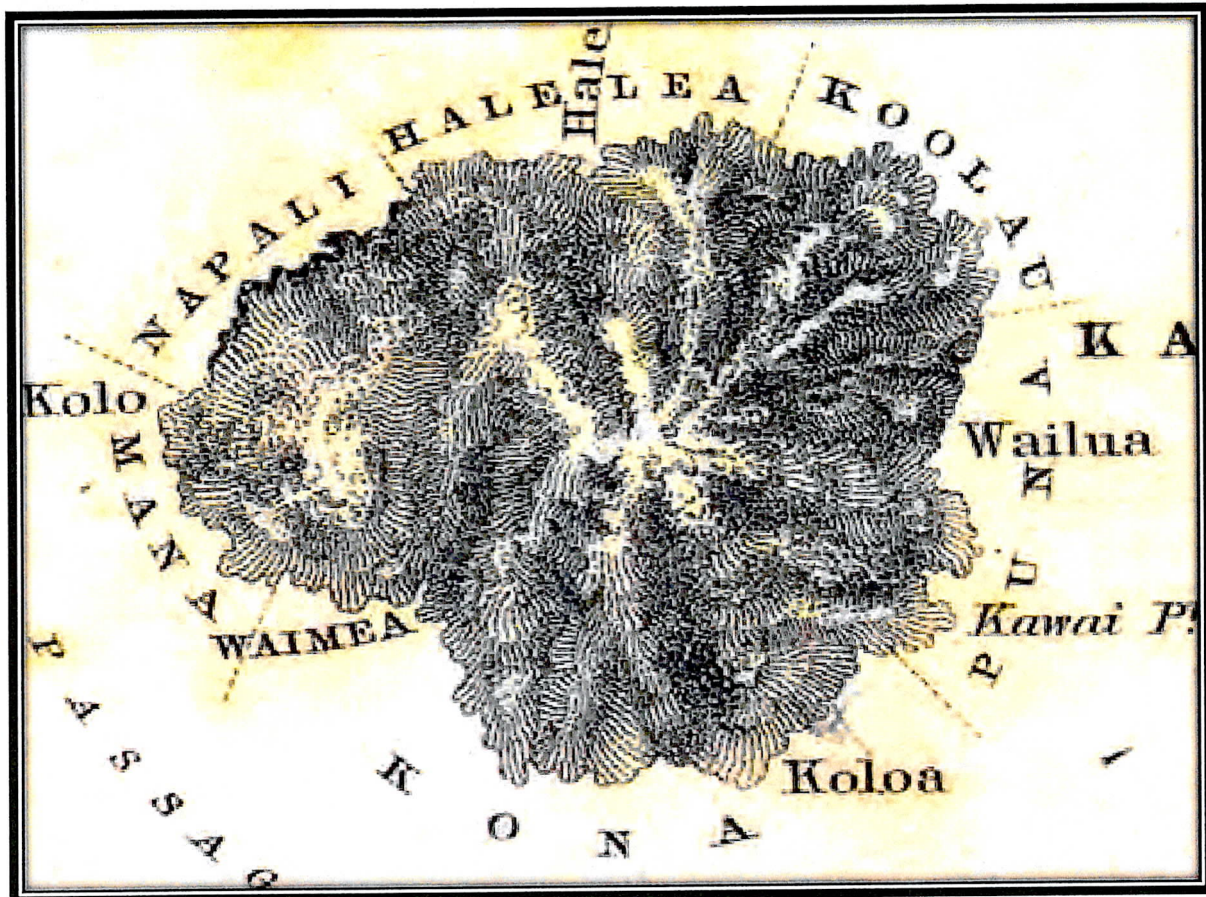


Figure 6. 1845 Map of Kaua'i by Charles Wilkes for U.S. Mapping Expedition. Note that it shows 6 moku or districts including Kō'olau, Halele'a, Nā Pali, Kona and Mānā. Typically, Kaua'i is divided into 5 moku. Mānā is usually considered as part of the Kona moku.

Geologically, Kaua'i is the oldest of the main inhabited islands in the chain. It is also the northwestern-most island, with O'ahu as its closest volcanic sibling separated by the tempestuous Ka'ie'ie Channel which is more than 72 miles long. In centuries past, Kaua'i's isolation from the other islands kept it safe from outside invasion and unwarranted conflict.

## Cultural Overview

Poetically the island is called, "Manōkalanipō", or "Kaua'i a Manō" after the ancient chief who was largely responsible for elevating Kaua'i's ancient society to sophisticated heights of advancement and productivity. For centuries, from the time of Manōkalanipō's reign, through Kamehameha's unsuccessful attempts to invade Kaua'i in 1796 and 1804, Kaua'i remained free from warfare.



In 1810, Kaumuali'i accepted Kamehameha as the supreme ali'i by peacefully ceding Kaua'i to the newly United Kingdom of Hawai'i. With honor, Kaumuali'i was encouraged to return to rule on Kaua'i as its tributary chief under Kamehameha I.

In accordance with the ancient land division system, an entire island is referred to as a *mokupuni*. While the word, *moku* by itself can also mean island, it is a term that is more specifically used to identify a district. *Puni* means, *controlled, surrounded, to gain control of*. It comes from the word, *aupuni* which is used to describe a government, kingdom, dominion, nation, or population that is governed or under the leadership of a ruler. In ancient times, a *mokupuni* could include an entire island as well as multiple islands that was ruled by an Ali'i Nui or paramount chief. Historically, the *mokupuni* of Kaua'i has included the islands of Ni'ihau as well as Lehua.

Kaua'i Island has traditionally been divided into 5 *moku* including: Ko'olau, Halele'a, Nā Pali, Kona and Puna. The ali'i nui appointed *ali'i 'ai moku* or district chiefs to manage the various *moku*.

Common district names that are universally used across of the Hawaiian archipelago include "Ko'olau" marking the windward sides of the islands; "Kona" - the leeward sides of the islands; and "Puna" - indicating regions where springs and fresh water abound.

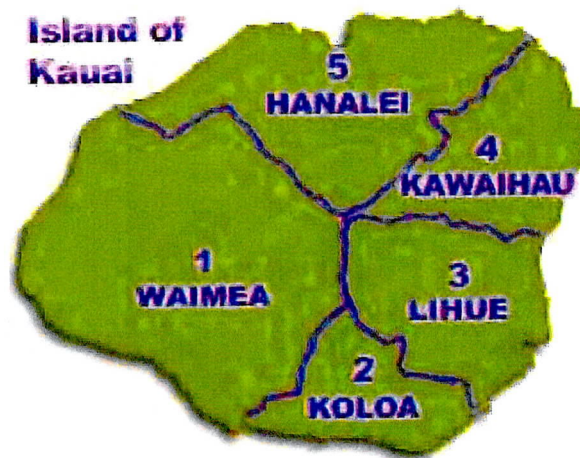
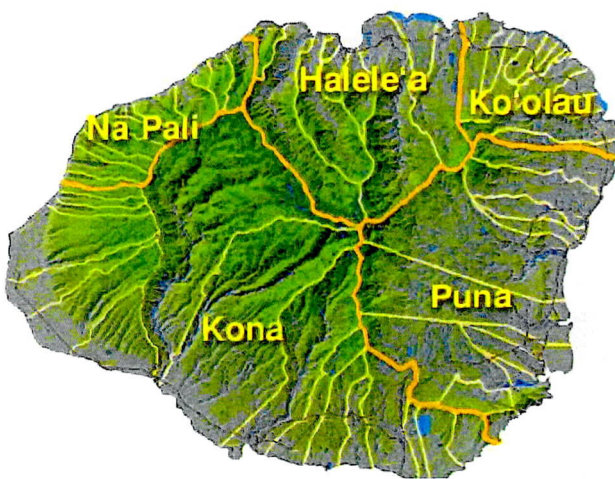


Figure 7 & 8 show Kaua'i Island Districts and Boundaries. Fig 7 on the left show the original *moku* of Ko'olau, Halele'a, Nā Pali, Kona and Puna. Fig 6 on the right show the revised boundaries and judicial land districts of Kawaihau, Hanalei, Waimea, Kōloa and Lihue.



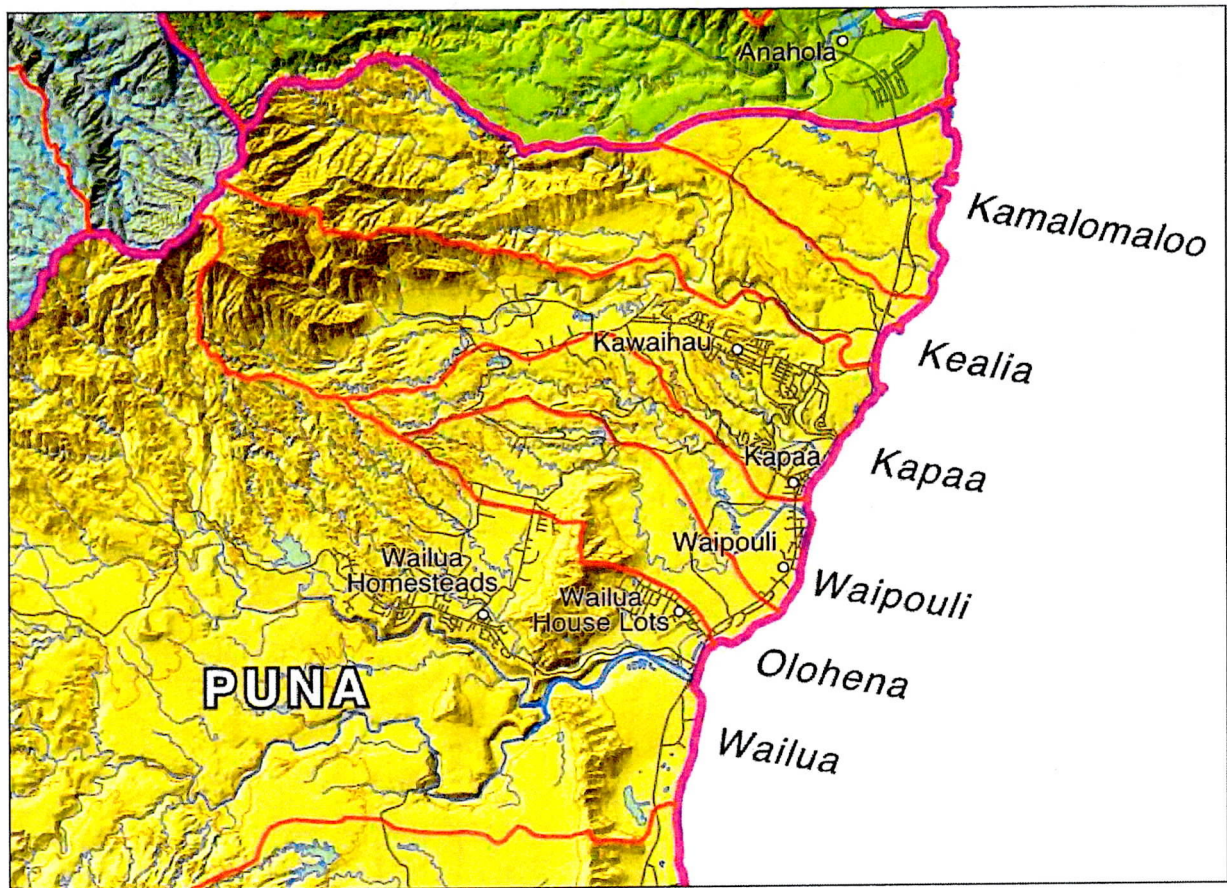


Figure 9. Puna District and its Ahupua'a.

The boundaries of the five moku on Kaua'i were changed in the late 1800s to reflect the present-day judicial land districts. The Project Area is in the *ahupua'a* of Waipouli which is located on the eastern side of the island of Kaua'i, in the old district or *moku* of Puna. Adjacent and to the north is the *ahupua'a* of Kapa'a, and to the south, North Olohena.

Traditionally, the districts were further divided into smaller land divisions known as, *ahupua'a* which included the abundance of land and resources from the mountain to the sea. Under the direction of the *ali'i 'ai moku*, the *ali'i 'ai ahupua'a* or land division chief was put in charge of governing the *ahupua'a*. The *ali'i 'ai ahupua'a* appointed *konohiki* who served as the headman of the *ahupua'a* land division, and was solely responsible for the management of land, water and fishing rights. An ingenious concept, the ancient design of the *ahupua'a* system continues to be an excellent model for sustainability and land and natural resource management today. The common description that *ahupua'a* are "pie-shaped" is inaccurate. However, it is a general practice to apply triangulation of the 3-main boundary points of the *ahupua'a* when

identifying its respective division lines. Additionally, ahupua`a do not terminate at the ocean ward boundary points. The boundary lines are purposely extended into the ocean so that it also includes the resources and minerals of the reef and ocean as well.

A major element of focus for this Ka Pa`akai analysis is based on the `āina or land that is the project area, as well as surrounding lands and natural resources that are linked to the project area. It is important to readers of this Ka Pa`akai analysis to have a basic understanding of the ancient land division system and the various words, terms and idioms associated with Hawaiian land designation and Hawaiian land use. This is especially helpful in identifying and relating to specific locations and place names that are pertinent to this study.

## **Mo`olelo: Storied Origins & Traditional Places**

Mo`o Ōlelo is the succession of talk; or the continuation and perpetuation of oral histories and traditions that were passed on in story and chant forms. It is from this that the word mo`olelo is derived - stories, tales, myths, legends and chronicles; records of information that was storied in the memories of Hawai`i's ancient people. Another term that is used is kā`ao - oral traditions and myths that represent the cultural truths, wisdom and experiences of kūpuna.

Throughout the Ka Pa`akai analysis, examples of traditional Hawaiian mo`olelo are presented to link the reader with traditional places, beliefs and practices associated with the ancestral worldview of Hawai`i's indigenous Hawaiian people. Mo`olelo and kā`ao are not viewed as fanciful fairy tales or fictional stories woven to entertain. Laden with skillful use of metaphors and poetic expressions, they are invaluable sources of information that have preserved a sense of consciousness and inner connection of the kānaka `ōiwi with his multidimensional world.

### **Ka'ililauokekoa**

Waipouli and Kapa'a are mentioned in the legend of Ka'ililauokekoa, a chiefess of Kapa'a and granddaughter or daughter of Mō`ikeha. Thomas Thrum (1907: 83-84) relates that:

[Ka'ililauokekoa's] greatest desire was to play konane, a game somewhat resembling checkers, and to ride the curving surf of Makaiwa (ke'eke'e nalu o Makaiwa), a surf which breaks directly outside of Waipouli, Kapa'a. She passed the larger part of her time in this matter every day, and because of the continual kissing of her

cheeks by the fine spray of the sea of Makaiwa, the bloom of her youth became attractive 'as a torch on high,' so unsurpassed was her personal charm.

In the Thrum (1923:123-135) version, Ka'ililauokekoa is seduced by the nose flute of Kauakahiali'i who is at the time residing in Wailua uka at a place called Pihanakalani. She travels up to Pihanakalani with her companion where she joins Kauakahiali'i as his wife. They are found by Mō'ikeha's people and taken down to Kapa'a where Kauakahiali'i is imprisoned. A boy named Kalukaluokewa takes pity on Kauakahiali'i and sneaks through the kalukalu grass and the ahuawa rushes to bring the prisoner food and water. Meanwhile, Ka'ililauokekoa tells her parents of her calling by Kanikawi to the home of Kahalelehua at Pihanakalani and her encounter with Kauakahiali'i.

The significance and merit of mo'ō'ōlelo - what an ingenious tradition of transmitting wisdom, knowledge, history and more through the succession of the voice conveyed through the telling of stories and the perpetuation of the art form of chants and the oral traditions that inspire the essence of indigenous Hawaiian cultural practices and beliefs.

The winds of Kapa'a and Waipouli are named in the *mo'olelo* of Kuapaka'a and these include the *kehau* for Kapa'a, the *ho'olua* for Makaiwa and the *inuwai* for Waipouli (Fornander 1917:IV:96). A *kama'āina* interviewed for the 50th anniversary book of Kapa'a School in 1933 (p. 28) identified the winds of Kapa'a:

...Some persons call the wind MAKANI LIHUE: That is, those who live here in Kapa'a, because the wind comes from Lihue. The wind we had on Jan. 30 was really, MAKANI LIHUE. The wind that comes from Hanalei is called MAKANI KIU which means, a very cold wind. The wind that comes from the northeast—(tradewind) is called MAKANI HOOLUA. This is the plant destroying wind...

### Waipouli Wahi Pana

Place names and *wahi pana* ("legendary place") (Pukui and Elbert 1986:377) are an integral part of Hawaiian culture. "In Hawaiian culture, if a particular spot is given a name, it is because an event occurred there which has meaning for the people of that time" (McGuire 2000:17). The *wahi pana* were then passed on through language and the oral tradition, thus preserving the unique significance of the place. Hawaiians named all sorts of objects and places, points of interest that may have gone unnoticed by persons of other cultural backgrounds.

Hawaiians named taro patches, rocks and trees that represented deities and ancestors, sites of houses and *heiau* (places of worship), canoe landings, fishing stations in the sea, resting places in the forests, and the tiniest spots where miraculous or interesting events are believed to have taken place. (Pukui et al. 1974)

The list of place names for Waipouli mentioned in this report. This list should by no means be considered complete. Place names were gathered from traditional literature (*mo'olelo*, chants), historical sources, maps and the Māhele records. Almost all of the 'ili names were taken from Land Commission Award records. Sadly, none of these 'ili names were documented on historic maps researched for this project, and their meanings and cultural associations appear to be lost and forgotten.

*Place Names of Hawai'i* (Pukui et al. 1974) was used as the primary source for all place name translations. Where there were no known translations, a literal translation of the place name was sometimes made using the *Hawaiian Dictionary* (Pukui and Elbert 1986). The intent of the author is merely to present the available information and let the reader come to his/her own conclusions.

An attempt was made to include the proper diacritical marks for all known and generally accepted translations of place names. Making incorrect assumptions about the pronunciation and where to place the diacritical marks in a name can entirely change the meaning of a name, (e.g. *pū'ā'ā*: "scattered; to flee in disorder and fright"; *pua'a*: "pig, pork"). Therefore, in cases where the pronunciation of a name was uncertain, diacritical marks were not used and no attempt was made to translate the name. In some cases, cultural relationships were made based on the literal translation of the root word.

One of the beauties of the Hawaiian language is the dualism in names and the double meanings—the literal meaning and the *kaona* or hidden meaning. It should be remembered that the true significance of a place name lies only with the people who use them and know their history.

Although by the twentieth century, Waipouli was considered "a rather insignificant *ahupua'a*" (Handy and Handy 1972), clues to the history of this particular *ahupua'a* (traditional land division) are in the records of the 1872-1873 Commission of Boundaries (1873) proceedings concerning Waipouli. The guardians of William C. Lunalilo petitioned for the definition and settlement of the boundaries for Waipouli Ahupua'a in the district of Puna on Kaua'i Island. Four witnesses, all Native Hawaiians familiar with Waipouli, gave evidence from which Duncan McBryde, the Commissioner of

Boundaries, made his decision on 7 November 1872. A subsequent survey by James Gay was undertaken in June 1873.

McBryde's decision and Gay's survey notes (both included in the Boundary Commission record) contain place names, most of which are missing on modern maps of Waipouli. The place names were culled from the Native Testimony (1847-1853) and Commission of Boundaries (1864-1905) records and from some nineteenth century maps. The place names provide some of the last non-tangible clues to the extensive Native Hawaiian activities that occurred throughout the *ahupua'a*. Some of these place names are especially worth noting, as they suggest the origin of names present in Waipouli today. Today, the *moku* or district including Waipouli is known as Kawaihau but it was once known as the Puna District. Many of the prominent place names of Waipouli are listed in Table 1.

The name Waipouli literally means the "dark water" (Pukui et al. 1974; Thrum 1923; Wichman 1998), although it is referred to as "black waters" in *Ruling Chiefs of Hawaii* (Kamakau 1961:159). According to one theory, people may have seen the water appear darker during a solar eclipse, hence the name (Wichman 1998:82). Waipouli refers to the *ahupua'a*, the village, and the beach. Waipouli Beach hugs the shoreline in a narrow stretch from the Coconut Plantation in Waipouli to Waika'ea Canal in Kapa'a. The currents remain strong throughout the year with the near-shore shallows quickly dropping into deep waters (Clark 1990:9).

Uhalekawa'a was the name of a village in Waipouli close to what was known as Kauwanawa'a (canoe harbor). Kauwanawa'a is understood as a canoe harbor on the shore at the southern boundary of Waipouli. Also in the southern boundary was an "old pig pen" called Pāpua'a. The *mauka* half of the northern boundary was the "site of old houses Pānene/Panini" and "old houses Kapukaili." A nearby stream was called Panene Stream; alongside it were two gulches named Wailapa and Waikaanumunumu.

Other names in the Boundary Commission records include Kopaea, a bank located by the border Waipouli shares with North Olohena; Ulalena, a big hole on the same side; and Kapapa, a stream and a spur, also on the boundary shared with North Olohena. On the western tip of Waipouli was Laauwaha (Loauwahia), a tree at the edge of the forest. On the boundary shared with Kapa'a was Kainamanu which is described as an "open space in bush" or "place for catching fowl" and Kahilimalanai (Kahilimalawa) is an area where a large 'ōhi'a tree stood (Commission of Boundaries 1872:26-31).

The generalization and clustering of traditional places to common districts (i.e., Anahola, Kapa'a, Līhu'e, etc.) has become acceptable, widespread



practice in the western framework of identifying and relating to places on Kauaʻi. Therein lays an example of how easily a traditional Hawaiian land area or division can be incorrectly identified, misunderstood, and misinterpreted as a significant place of its own.

In addition to Boundary Commission names, there are many storied places in Waipouli. Mākaha-o-Kūpānihi means "Kūpānihi is fierce" or "star of Kūpānihi"; it was the name of a deep bathing pool set aside for aliʻi (chiefly) use (Wichman 1998:83). Kūpānihi was the god one prayed to when canoes had to be carved. Mākaha refers to a star near the Pleiades—one of two stars (the other was Mākohi-Lani) that were the patrons of fighters (Wichman 1998:83). Keawe, half-brother of Kaumualiʻi, perished in the sacred pool of Mākaha-o-Kūpānihi after having been shot by two rival Maui chiefs hoping to curry favor from Kaumualiʻi. Instead of rewarding them, Kaumualiʻi had the two chiefs put to death (Wichman 1998:84).

Marking the boundary between Waipouli and Kapaʻa along the coast was Ka-lua-pā-lepo, "pit for dirty dishes," and the boundary with Olohena was at Kaunana-waʻa, "mooring place for canoes" (Wichman 1998:82). The Māhele records reveal six clusters of houses with names that provide a glimpse into pre-Contact Hawaiian society: Kāne-limua, "man overgrown with moss"; Maka-lokoloko, "eyes swelling up in tears"; Makamaka-ʻole, "without intimate friend"; Mokuna-hele, "traveling district"; and Nā-hale-ka-wawā, "houses where there is lots of noise" (Wichman 1998:82).

Table 1. Places Names in Waipouli.

<b>Inoa (Name)</b>	<b>Hi'ona 'Āina (Land Feature)</b>
Hapakio/Hopekia*	Fishpond
Hauiki	Boundary feature, grove of <i>hau</i> trees
Heahu (kahua)	Boundary point
Hinamakamakani/Hinamakani	Swamp, boundary point
Hulumoa	Ridge, boundary point
Kalehuawehe*	Surf site
Kainahola	Waterfall
Kalama	Stream
Kaloutulu	Grove of trees
Kaluapalepo	Boundary point, place
Kapukaili	Boundary point, place
Kauapea*	Beach
Kauakahoku	Stream
Kaumihewa	Rock
Kawaihau	District, village
Kawaiholana	Stream
Kololoku	Swamp, ditch
Konohiki	Stream
Kopaea	Boundary point
Kūlanihāko'i*	(Mythical) pond in sky
Kupanihi	Village, sacred pool
Mākahaokūpānihi	Pool, ditch
Makaleha	Mountain
Nā'ohe	Smaller land division
'Ōhi'a	Stream
Pānene	Boundary point, goose pen
Pōhakuhihina	Boundary point, stone, rock
Pohopohoiki	Boundary point, rock, stone
Puaki'i	Place of <i>hau</i> trees
Uhalekawa/Uahalekawawā/ Uhelekawawa/Nāhalekawawā	Village
Waipouli	Village, district

## **Hawaiian Religious & Cultural Practices, Gathering Rights in the Waipouli Ahupua`a**

Field investigations of the project area resulted in no evidence or findings of significant plants or natural resources that are associated with Hawaiian gathering rights for subsistence, cultural or religious practices. One archaeological survey had taken place in the project area (Dega and Dagher 2006). Ten stratigraphic trenches were mechanically excavated. Two historic properties were identified (Figure 31). SIHP # 50-30-08-3938 consists of an intact undulating cultural layer and SIHP # 50-30-08-3939 consisted of two human burials both interpreted as traditional (pre-Contact) interments of single individuals of Native Hawaiian ethnicity.

Informants that were interviewed for this analysis indicated there has been the long history of burials and burial clusters in the area. Since this parcel is inland nothing on this parcel has affected traditional access.

### **A Connection and Understanding of Place Traditional Wisdom & Knowledge**

Over the years, residents have lost touch with the place names and their meanings for this area. The habit of identifying traditional landmarks whether they are mountains, beaches, etc. by generalization is common. A greater misfortune is the more popular trend and use of nicknames created by recent generations of transient and kama`āina residents. Disappointedly, this has resulted in the greater loss of knowledge and awareness of traditional Hawaiian places and wahi pana.

Knowledge of wahi pana and their place names for both subject ahupua`a of this Ka Pa`akai analysis are on the verge of being forgotten and lost altogether. There is a sense of urgency to bring this to the forefront of our collective attention and create learning opportunities for the native Hawaiian community.

### **Land Commission Award Claims Waipouli Ahupua`a and Associated Knowledge**

Land Commission Awards and Mahele Awards are Sources of Title adjudicated by the Land Commissioners to claimants. Mahele Awards are Sources of Title specifically issued to those chiefs who received their lands from the king but failed to present their claims before the Land Commission and thus received

titles to their lands from the Minister of the Interior. Kamehameha Deeds are Sources of Title to Crown Lands that Kamehameha III, IV and V conveyed. Minister of Interior Deeds were Sources of Titles that conveyed lands from the government to private individuals by the Minister of the Interior during the Kingdom of the Monarchy. Patents - both Royal and Land were issued on the awards as evidence that the Government's right to commutation therein was satisfied. An award together with a patent perfected the awardee's title to the property. Grants by Royal Patent and Land Patent were Sources of Title deriving from the sales of government lands. The term "Royal" indicates that the document was issued during the Hawaiian Monarchy (up to 1893). The Land Patent or Land Patent Grant thus means the document was issued subsequent to the monarchy.

The Kuleana Act of 1850 allowed maka'āinana (Native Hawaiian commoners), in principle, to own land parcels at which they were currently and actively cultivating and/or residing. In the period of the Māhele and kuleana claims (1848-1853), the ahupua'a of Waipouli was awarded and patented to William Charles Lunalilo during the Mahele by Land Court Application 8559-B, Apana 42, and Royal Patent 7373. There are no *hoa'āina* (commoner) Land Commission Awards (LCA), or kuleana parcels, in the project area, which is a portion of Ali'i nui (high-ranking chief) LCA 8559B:42 (Royal Patent 7373) to William Lunalilo (sixth monarch of Hawai'i). As such, and as is typical of Ali'i nui LCAs, there are no survey maps or descriptions of the project area dating from the Māhele in the middle nineteenth century. This does not, however, mean Native Hawaiians did not occupy this landscape, which previous archaeological studies on adjacent parcels have demonstrated contain pre-Contact sites (including burials) in subsurface context.

Although many Hawaiians did not submit or follow through on claims for their lands, the distribution, and written testimonies of LCAs provides insight into patterns of residence and agriculture. Many of these patterns probably had existed for centuries. By examining the patterns of *kuleana* LCA parcels, insight can be gained into the likely intensity and nature of Hawaiian activity in the area at the time.

R. Lane's 1929 map, traced from a M.D. Monsarrat map based upon an 1886 survey, charts the disposition of the ten LCAs of Waipouli. Eight of the awards included separate 'āpana (parcel) for lo'i kalo or taro patches and pāhale (house site). However, it is in combination with details gathered from the Foreign Testimony for the Waipouli LCAs that the map—and the area itself—comes to life. Since seven of the ten claims are testified to by one man, Kaalihikaua (who is himself one of the claimants), and two other claimants testify for the remaining three claims, the testimonies, in aggregate, may possess a uniformity and heightened accuracy.

However, it is important to note that at least three LCAs were located on or in close proximity of the project site along the margins of the Uhelekawawa Kahawai (watercourse) or present day Waipouli Drainage Canal makai of present-day Kūhiō Highway. These include LCA 3622:2, near the coast on the north side of the watercourse to Kamaholelani, LCA 3624:2 on the southwest side of the watercourse just makai of present-day Kūhiō Highway, to Kaumiumi, and LCA 8839:2, adjacent to the north side of the watercourse just inland of Kamaholelani's place to Kuaiwa. These were all house sites ca. 1850. Given what appears to be a pattern of continuing residence in the same place in such prime "rural" areas, it would not be a surprise if these specific homesites had been homesites in prior centuries and thus these areas have a higher probability of attendant habitation deposits and human burials.

Seven of the LCA awards included separate 'āpana for taro lo'i and pāhale. Kula and lo'i associated with these awards were located within and adjacent to the swamp in the makai region of Waipouli.

**Table 2. List of LCAs in the vicinity of the project area.**

LCA No.	Claimant	'Ili of Ahupua'a	Land Use	No. of 'Āpana
3243	Honolii	Kupanihi Village	<i>Mahina'ai</i> (farm), seven lo'i	(Award in Kapa'a)
3560	Kauakahi	Pua/Puaa Puuiki	Three lo'i, kula, house lot	(Award in Wailua)
3622	Kamaholelani Kukaauli	Makamakaole Village	Three lo'i and kula, house lot	One (2 acres, 1 rood, 3 rods), one (1 rood, 2 rods)
3624	Kaumiumi	Pōhaku Makamakaole Village	Three lo'i and small kula, house lot	One (3 rods, 38 rods), one (1 rood, 8 rods)
3639	Kapalahua and Nalopi	Kekee Kanalimua Village	Three lo'i and uncultivated kula, house lot	One (3 rods)
3971 See 3243		Honolii	Living at Waipouli	
7636	Kanaka	Mokuapi, Makahokoloko Village	Three (5) lo'i, house lot	Two (3 rods, 27 rods)
8559B	Kanaina, C. for Lunalilo	Ahupua'a of Waipouli	Revenue	'Āpana 42
8836	Kaalihikaua	Kaheloko	Two lo'i, kula, wauke, pig pen, house lot	One (1 acre, 8 rods)

8838	Kahukuma	Pini	Two <i>lo 'i</i> , <i>kula</i> and house lot	One (1.5 acres, 37 rods)
8839	Kuaiwa	Hape Mokanehala / Mokunahala Village	Four <i>lo 'i</i> and small <i>kula</i> , house lot	One (3 roods, 13 rods), one (1 acre, 1 rood, 1 rod)
9013	Nawaimakanui Kawaimakanui	Naohe Uahalekakawawa	Three <i>lo 'i</i> , house lot	One (1 acre, 12 rods), one (1 rood, 27 rods)
10146	Mahi	Pau Paikahawai	Three <i>lo 'i</i> and small <i>kula</i> , house lot	One (1 acre, 17 rods), one (1 rood)

### Early Accounts of Waipouli

Accounts of excursions by missionaries and naturalist-travelers along the east coast of Kaua'i during the first half of the nineteenth century make no specific reference to Waipouli. These accounts may reflect a general destituteness within the area, the result of shifts in population that had taken place on Kaua'i in response to the stresses including disease and commerce of post-Contact life. J.W. Coulter, in his study based on the missionary censuses, comments that by the mid-nineteenth century "on the east coast of Kauai nearly all the people lived in Ko'olau Wailua [just south of the proposed project area] and in the vicinity of Nāwiliwili Bay" (Coulter 1931:15).

A map of Kaua'i in Coulter's study, showing population distribution in 1853, indicates no single area from Olohena to Kapa'a contained a population much greater than 50. This may reflect an ongoing migration of people from more remote, formerly well-populated areas (like Waipouli) to the population centers of the mid-nineteenth century (like Wailua and Nāwiliwili/Līhu'e). Few westerners visited the Waipouli and Olohena areas in the years just after Captain James Cook's arrival; hence detailed descriptions of the area are scarce. Most of the voyagers during the late eighteenth and early nineteenth centuries landed at Waimea, on the southwestern side of the island, a location that would eventually overshadow Wailua (just south of Olohena and Waipouli) in its royal importance because of the opportunities there to associate and trade with foreigners (Lydgate 1920).

In 1793, Wailua was still the "capital" of Kaua'i and Captain George Vancouver, who had already visited the island several times under Cook and later his own, knew this fact well and tried to land there in March. Although conditions prevented him from anchoring, Vancouver observed the area from off-shore



and gave this description:

This part seemed to be very well watered, as three other rapid small streams were observed to flow into the sea within the limits above mentioned. This portion of Attouai [Kaua'i], the most fertile and pleasant district of the island, is the principal residence of the King, or, in his absence, of the superior chief, who generally takes up his abode in an extensive village, about a league to the southward of the northeast point of the island. Here Enemo the regent, with the young prince Tamooerie, were now living [...] [Vancouver 1798:221–222].

The sugar industry came to the Kapa'a region in 1877 with the establishment of the Makee Sugar Company and subsequent construction of a mill near the north end of the present town. Cane was cultivated mainly in the upland areas on former *kula* lands. The first crop was planted by the Hui Kawaihau, a group composed of associates of King David Kalākaua. The king threw much of his political and economic power behind the project to ensure its success (Dole 1929:8-15).

By the late 1800s, the Makee Sugar Company had planted inland Waipouli in sugar cane and rice was cultivated in the marshy former taro lands in the makai section of the ahupua'a. For an undetermined period, the current project area lands were left unclaimed until 1929 when Edward Henry Walton Broadbent purchased these lands. Broadbent had purchased the shoreward lands of Waipouli in order to plant a coconut grove to produce copra and animal feed on what is now known as TMK: (4) 4-3-007:027 (Dega and Wilson 2006). The shoreline property was used only for horse pasturage and rodeo practice. In 1960 portions of the marsh were filled in during the construction of the Waipouli Drainage Canal (Esh et al. 2004).

## Archaeology of Waipouli

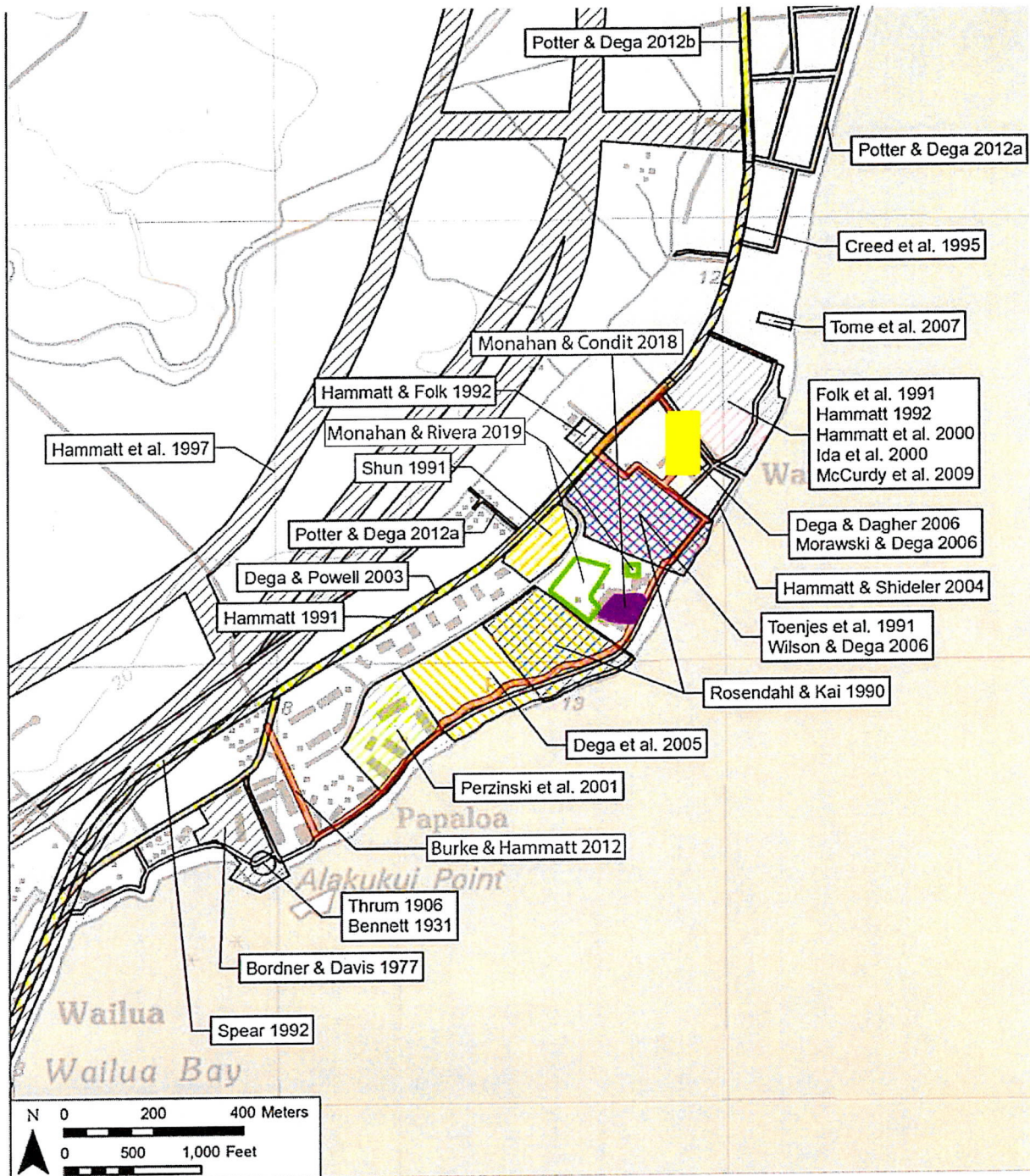


Figure 10. Previous Studies in the Area.

Numerous archaeological studies have been conducted along the coastline on both the northeast and southwest sides of the subject property. Results from

archaeological studies of the adjacent parcels on both sides (Rosendahl and Kai 1990) demonstrate laterally extensive subsurface cultural layers and multiple burials dating from pre-Contact times (see also Toenjes et al. 1991; Dega et al. 2005; Wilson and Dega 2006; Burke and Hammatt 2012). State Inventory of Historic Places (SIHP) # 50-30-08-1800 on the southwest side consists of two cultural layers and multiple burials. SIHP # 50-30-08-1801 on the northeast side also consists of two cultural layers and multiple burials. Further east, on the Golding property, 62 burials were documented.

Rosendahl and Kai (1990) conducted an archaeological inventory survey of two parcels ("Coconut Plantation") near the project area. Subsequently, Dega et al. (2005) conducted additional archaeological research in the parcel to the southwest. Rosendahl and Kai (1990) documented two cultural layers and three burials (SIHP # 50-30-08-1800) in subsurface context within the shoreline sand berm southwest of the project area. An upper cultural deposit (Layer I) containing midden (i.e., marine shell, fish bone, charcoal fragments, ash and fire-cracked rock), several pit features, and six historic-era artifacts extends about 25-80 ft. inland from the shoreline. A lower cultural deposit (Layer II) containing marine shell midden, charcoal flecks, fire-cracked rocks, several pits, and flaked stones, modified bone, and cut shells extends about 40-100 ft. inland from the shoreline. Three burials were identified in the northeastern portion of the cultural layer. Radiocarbon testing yielded a wide range of possible dates of site occupation, from AD 1270 to 1954, but Rosendahl and Kai (1990:13) note that these dates "should be viewed with some caution." Volcanic glass hydration- rind dating—which is no longer considered to be an accurate chronometric technique—indicates site occupation between AD 1496 and 1556 (Rosendahl and Kai 1990:13).

On the adjacent parcel south of the project area, Rosendahl and Kai (1990) documented two more cultural layers and five burials (SIHP # 50-30-08-1801) within the shoreline sand berm. The cultural layers contained midden (i.e., marine shell, fish, bird and mammal bone, charcoal fragments, and fire-cracked rock), several pit features, and an abundant ( $n=2,886$ ) diversity of traditional artifacts (i.e., basalt and volcanic glass flakes and debitage; adze fragments and hematite flakes; coral and urchin spines, files, and abraders; fishhooks; shell beads; several bone awls and picks; and cut and modified shell and bone). Midden samples were radiocarbon dated to approximately AD 1500. Interestingly, a pick was created on a bone of Audubon Shearwater (*Puffinus herminerie*), thought to have gone extinct prior to the Contact- era (Rosendahl and Kai 1990). Site # -1801 was interpreted as a major habitation locus where a variety of activities took place, including woodworking, stone tool production, fishhook manufacture, fishing, food preparation, and consumption.

Toenjes et al. (1991), during archaeological data recovery at Site # -1801, identified another cultural layer below the one described by Rosendahl and Kai (1990). This older layer, dated to around AD 1400, contained an abundance of hematite flakes and lithic debitage related to the production of fishing line sinkers and possibly cutting tools; and numerous shell, bone, coral, and sea urchin artifacts associated with fishing. Toenjes et al. (1991:88) summarizes the implications of their data recover work, in the context of the previous research, as follows: "A sequence of occupation developing from a limited workshop area to a site of permanent occupation has been preserved in the records of stratigraphy and material culture."

Dega et al. (2005) conducted archaeological inventory survey in the Coconut Plantation parcel southwest of the project area. They identified 42 additional features including seven burials, numerous pits, post molds, fire pits, portions of a traditional cultural layer, lithics, midden, and charcoal. These features were incorporated into SIHP # 50-30-08-1800. Radiocarbon dates for the project revealed use as early as the 14<sup>th</sup> century (Dega et al. 2005:ii).

Wilson and Dega (2006) also conducted additional archaeological data recovery at Site # -1801 in the same parcel studied by Toenjes et al. (1991). The purpose of Wilson and Dega's (2006) work was to disinter two of the five previously identified burials (originally documented by Rosendahl and Kai 1990); to define the boundaries of the site more systematically; and to gather additional information on the site through excavation. The two previously identified burials could not be found. The site boundary was redrawn to indicate that the area was smaller than the original drawn perimeter. A large amount of marine shell, bone, traditional Hawaiian artifacts, and historic artifacts were recovered from four test units and 10 shovel probes.

Burke and Hammatt (2012) conducted an archaeological inventory survey of the Lydgate Park-Kapa'a Bike and Pedestrian Path, Phases C and D. This project area—which is depicted in Figure 6 and Figure 7—identified portions of previously-identified sites (#s -791, -1800 and -1801), all of which include subsurface cultural layers and burials; as well as two new burial sites (one located about 800 ft. northeast of the project, the other about one-half mile southwest of the project area).

Shun (1991) conducted archaeological subsurface testing immediately mauka of the project area, makai of Kūhiō Highway (Long's Pharmacy). No significant findings were reported.

A short distance northeast of the project area, just northeast of Site # -1801, several archaeological studies of SIHP # 50-30-08-1836—consisting of a cultural layer with hundreds of features, numerous artifacts and 62 human burials—have been conducted at the Waipouli Beach Resort/Golding Property: archaeological survey and subsurface testing (Folk et al. 1991); an addendum to Folk et al.'s (1991) work

(Hammatt 1992); archaeological data recovery (Hammatt et al. 2000); burial disinterment (Ida et al. 2000); and archaeological monitoring (McCurdy et al. 2009). Identified features at Site # -1836 include hearths, pits, charcoal concentrations, imu, postholes, midden scatters, a lithic reduction area, a concentration of 'alaea (water-soluble colloidal ochreous earth, used for coloring salt, for medicine, for dye, and formally in the purification ceremony called hi'uwai), coral scatters, human burials, and an animal interment. The cultural layer contained 50,717 traditional artifacts and 9,024 historic artifacts, including 75 fishhooks or fragments, four tattoo needles, one basalt slingstone, a cache of limestone slingstones in various stages of completion, a basalt slingstone, a shell necklace (burial good), eight perforated boar tusks (burial goods), two carved stone effigy bowls (burial goods), basalt adzes and preforms, polished flakes, hammerstones, bone picks, coral abraders and files, sea urchin files, a shell grater, and four fishing net gauges. Four of the burials contained burial goods signifying status of the deceased (e.g., rare effigy bowls). The earliest radiocarbon dates range from AD 1280 to 1450, but widespread permanent habitation likely occurred between AD 1380 and 1550 (Hammatt et al. 2000). According to the authors, these data indicate the site was a permanent settlement that may have been a staging area for fishing events involving fleets of canoes and associated feasting and religious activities; a location for canoe construction, repair, and storage; a location for stone, bone, and shell tool manufacture; a place for the preparation and consumption of food; a location for the manufacture of slingstones; and a special place for tattooing (Hammatt et al. 2000).

Southwest of the project area, Perzinski et al. (2001) identified a cultural layer and two burials (SIHP # 50-30-08-791) during archaeological monitoring in South Olohena Ahupua'a. The cultural layer displayed a relatively high concentration of marine midden, which is suggestive of substantial fishing activity. Several artifacts were uncovered, including fishhook fragments, a cut shell fragment, a sea urchin spine file, a coral file, a coral manuport, and a broken fishhook preform, as well as such features as pits and a hearth. Perzinski et al. (2001) suggests this site was the location of a structure, possibly an eating house, that was radiocarbon dated to AD 1275 to 1645.

In 2006, SCS conducted an archaeological inventory survey of a small (0.44-acre) this project area – coastal parcel in Waipouli and North Olohena Ahupua'a (Dega and Dagher 2006). Ten backhoe trenches were excavated, and two sites were identified: SIHP # 50-30-08-3938, a cultural layer, and SIHP # 50-30-08-3939, two pre-Contact/early historic Hawaiian burials, found in the beach portion of the project area. A pit feature with charcoal and fire-cracked rocks was recorded from Site # -3938. The radiocarbon dating result for this feature, dated to AD 1690-1775, was first reported. An archaeological monitoring plan for the property (Morawski and Dega 2006:14) was approved.



For an AIS, Monahan and Condit (2018) excavated six (6) trenches in an approximately 0.5-acre area to be impacted by construction digging for the Sheraton Waipouli resort. One significant historic property was identified: State Inventory of Historic Places (SIHP) # 50-30-08-2384—consisting of an organic-rich, buried A horizon (old land surface) located 70-85 cm (2.3-2.8 feet) below the current ground surface in Trench # 6 (this trench did not contain any cultural materials). Regarding the results obtained from the other trenches, fieldwork demonstrated that Trench #s 3, 4 and 5 consist entirely of introduced fill layers extending down to the water table. These areas of the project area have been completely stripped of their natural soil-sediments. Trench #1 contains natural or probably natural clays below approximately 210 centimeters (6.9 feet [ft.]) below ground surface (cmbs). Above 210 cmbs, Trench #1 contains introduced fill layers. Trench #2 contains natural marine sand in parts of the excavation below 235 cmbs (7.7 ft.); above this depth, introduced fill layers are present down to the water table. Trench #s 2, 3, 4 and 5 did not contain any cultural material, modern garbage or rocks. The introduced fills in these trenches were clean.

TCP Hawai'i, LLC (Monahan 2020) reported on archaeological monitoring for a 1.6-Acre project area at the Sheraton Kauai Coconut Beach Resort (formerly Courtyard by Marriott at Coconut Beach), Waipouli (TMK [4] 4-3-007:028 (por.)). Two historic properties were identified: (1) SIHP # 50-30-08-2398, a partially disturbed subsurface burial site containing the human skeletal remains of two individuals, and an additional five isolated, fragmentary remains in disturbed context; and (2) SIHP # 50-30-08-2399, a subsurface burial site consisting of the remains of one individual.

In summary, referring specifically to the two adjacent subsurface cultural layers with burials documented on either side of the project area (SIHP #s 50-30-08-1800 and -1801), excavations by Rosendahl and Kai (1990), Toenjes et al. (1991), Dega et al. (2005) and Wilson and Dega (2006) demonstrated the archaeological materials are found in stabilized sand dune (Jaucas) deposits.





Figure 11. Burial and Historic Deposits in the Area.

## Native Hawaiian Cultural Consultation

It is the policy of the State of Hawaii under Chapter 343, HRS, to alert developers and decision makers, through the environmental assessment process, about significant environmental effects which may result from the implementation of certain actions. An assessment of cultural impacts gathers information about cultural practices and cultural features that may be affected by actions subject to Chapter 343 and promotes responsible decision making. Articles IX and XII of

the State Constitution, other state laws, and the courts of the state require government agencies to promote and preserve cultural beliefs, practices, and resources of native Hawaiians and other ethnic groups. Chapter 343 also requires an assessment of cultural resources, in determining the significance of a proposed project.

One of the most important parts of conducting a cultural assessment and study is to hold consultation with Native Hawaiian kūpuna or elders, Hawaiian cultural organizations, cultural practitioners, and individuals from the community who potentially have knowledge of traditional Hawaiian sites, resources and cultural practices that are related to the project area as well as to the adjacent and extended land areas of the Waipouli ahupua`a. Ultimately, the goal as preparers of this Ka Pa`akai Analysis is to produce a document that can be used to protect and preserve the valuable knowledge and traditional practices of nā `ōiwi kānaka, the Native Hawaiian people of these places.

EAL's goal was to meet with and interview a cross-section of indigenous Hawaiian people from the community; first and foremost, with kūpuna or elders that have memories and personal experiences of the project area and the surrounding lands in Kōloa ahupua`a. In addition, EAL was hopeful to receive their `ike or insight and knowledge about customary practices and traditional places associated with or relating to the project area.

EAL also aimed to seek out and speak with those of the mākua or parent generation who had potential knowledge, ties and experiences linked to the project area and Kōloa. In this endeavor to "interview" Native Hawaiians, EAL chose to do so in a Hawaiian manner of kukākukā or through "talk-story". In speaking with interviewees without being nīele or as a prying meddler by being annoyingly inquisitive was the approach. While there are specific points of interest for questions that lead the discussions, it is important that with each person engage in a manner that is respectful and without imposing pressure. To the Native Hawaiian, a nīele person will never get anywhere by being bold, blunt and direct. However, he or she can be successful by leading up to a subject through indirection and a more `olu`olu or gracious approach. Every attempt to avoid being maha`oi or presumptuous, brazen and insensitively forward was used. In the traditional Hawaiian household that was led by kūpuna and mākua who were adamant that the values of aloha (love), ha`aha`a (humility), ahonui (patience) and hō`ihi (respect) apply to the way that one behaves and interact with others. This is especially so when talking and meeting with kūpuna, for with the slightest tone of pejorative stance or speech, they will cease to share their valuable insight and experiences. It helps tremendously to have some sort of association with individuals as well, for more is shared when there is a level of comfort, trust and familiarity.

The interviewees that EAL engaged with for this Ka Pa`akai analysis are:

- |                            |                            |
|----------------------------|----------------------------|
| 1. Milton and Melody Ching | Kapaa Resident             |
| 2. Carol Lovell            | Anahola Resident/Rep KNIBC |
| 3. Kaliko Santos           | Ahu Moku Rep               |

All interviews were conducted by EAL in Feb- August 2022. Subsequently, EAL found that just about most of the interviewees were very knowledgeable about the coastal area its resources as well as the Waipouli area. Most of them know about the previous project and the concern about iwi on the property. Noe of them knew about any current traditional activities that were or have been conducted on the parcel.

As such, the priority topics needed to conduct this Ka Pa`akai analysis of cultural resources and impacts were overshadowed. It was a challenge to steer conversations into that direction without appearing to be presumptuous and insensitive to the needs of the interviewers to be informed of the project. EAL spent a considerable amount of time attempting to provide an overview of the project.

Two the informants also provided email responses see Appendix A. All agreed on having an archaeological monitor present for ground disturbances and one recommended a cultural monitor be present.

Mahalo a nui loa iā `oukou for your generous support to contribute and collaborate to this success of this Ka Pa`akai analysis.

## Consultation Methodology & Results

As with the composition of the Ka Pa`akai analysis document, EAL employed interview methods consistent with indigenous Hawaiian values. Specific values and methods applied to the interview process included:

Kukākukā, also known among locals as "talking story", is a quintessentially Hawaiian approach to sharing information intended to avoid being seen as *nīele* (i.e., nosy or meddling) and instead being perceived as *'olu'olu*—gracious—in conduct. By approaching the specific interview topics in an indirect manner, EAL interviewers communicated a level of sincerity and respect for the interviewee and subject matter and so avoided their curiosity being interpreted as *maha'oi*, i.e., brazen and forward.

To these ends, the use of recording devices and a standardized questionnaire were not employed unless requested to do so. Interviews were conducted in

individual and small-group settings in homes and back yards. Conversations could flow toward, and at times away from, the specific subject of the project as the interview subjects deemed appropriate.

## Selection of Interview Subjects

An assessment of cultural impacts gathers information about cultural practices and cultural features that may be affected by land use decisions. In the preparation of this Ka Pa`akai analysis, representatives of EAL identified certain criteria which guided the process of identifying individual's familiar with cultural practices and features in, or near, Waipouli ahupua'a. Was the candidate a *mākuā*, or member of the parent generation, with potential knowledge, ties, or experiences of the project area and the Waipouli- Puna region?

- Was the candidate familiar with, or possessing insight into, the customary practices and traditional places in or near to the project area?

In the timeframe available for the preparation of the Ka Pa`akai analysis, representatives of EAL spoke with 3 community members all with personal ties to Waipouli; and possessed of unique knowledge relevant to the assessment. Most interviewees were residents of the district of Puna and had a connect to Waipouli.

## Cultural Resources & Practices Identified

Neither the literature sources consulted, nor the interviews conducted identified any ongoing native Hawaiian cultural resources or practices located on the project. As indicated by background research and many of the interviewees, the broad Waipouli region does not have a rich history of *mo`olelo* (legends) and *wahi pana* (traditional place names and their stories) and those found none of these have any significant direct or indirect connection to the project site. In addition, the long history of ranching and some cultivation in this area has likely destroyed any cultural materials and since the land has been overgrown and private prevented in cultural practices which might have been present in the past.

One informant reported that there was a natural spring in area. Most of the informants did not know of any gather rights in the project area. Only one mentioned *huaka'i pō*.

## Analysis of Impacts

The Waipouli - Puna region, was probably a place of prehistoric and historic significance in the Hawaiian civilization. Oral histories and written records tell of the continuing traditions, beliefs, and cultural practices of the region. However, none of the background research, nor interviews conducted in the preparation of this Ka Pa`akai analysis indicates that the cultural practices, resources, or beliefs are tied to the proposed project site. The absence of cultural properties and resources in a region maybe due to rapid change in land ownership and usage brought to Waipouli. Or perhaps that the Hawaiian ali'i used this area as indicative of Queen Emma and therefore knowledge did not get passed down due to the sacredness of the lands.

Beginning in the 19th century and continuing throughout most of the 20th century, the project area was under continuous cultivation of sugar cane by a succession of commercial interests that included McBryde Sugar Company.

Those interviewed for this assessment reported that, during the decades of their knowledge within the project area, no traditional trails, no historic sites, no sacred sites, and no burials were observed. None knew of any traditional place names associated with the project area. All interviewees reported no ongoing traditional gathering or hunting practices occurred within the project.

Traditional uses, including habitation, agriculture, and gathering continues throughout the region, but none is known to exist within the project area. Access to sensitive *wahi pana*, streams, or the mountains will not be compromised by this project.

Native Hawaiian beliefs and traditions associated with the Waipouli ahupua'a persist in the coastal and Waipouli valley, but these are general associations and are not specific to the project area. No *kūpuna* (elders) or *mākuā* (parents) could be located that had knowledge of traditional beliefs or practices specific to the project area.

There are no known cultural resources or practices with the potential to be negatively impacted because of the proposed project.

## Closing

Cultural impacts upon Native Hawaiian people, customary practices and religious beliefs have infiltrated the history of Hawai'i Nei for more than 200 years since the arrival of Captain James Cook in 1778. Within a period of 40 short years, the Kapu system was abolished by Kamehameha II - Alexander Liholiho and the Queen Regent, Ka'ahumanu bringing an end to the strength of the closely-knit Hawaiian religion and political system of Hawai'i. With the arrival of Calvinist missionaries in 1820 came a new god and religion which leveraged the beginnings of severing the native Hawaiians' veneration of the natural world.

By the 1890s, subsistence lifestyles, agriculture and rural communalism had entirely been replaced by commercialism, urbanization and individualism as key features of life in the Hawaiian Islands. Foreign sugar plantation moguls usurped control of Hawai'i's prime agricultural lands and fresh water sources to sustain their crops. Miles and miles of irrigation ditches were engineered to redirect the natural flow of water out of the ahupua'a; forever changing the balance of environments and lifestyles of generations of native Hawaiian families.

This analysis does not foresee potential impacts of the proposed zoning amendment and proposed land use on Native Hawaiian cultural practices customarily and traditionally exercised for subsistence, cultural or religious purposes. Cultural informants from this area did recommend archaeological and cultural monitoring due to the sensitivity of finding iwi in this area.



# **Appendix A**

## **Informant Responses**

*Milton Ching's Response*

June 24, 2022

Ms. Nancy McMahon, Exploration Associates  
3-2600 Kaumualii Hwy  
Lihue, Kauai, Hawaii 96766

RE: Kamoā Kai Condo, 4460 Kamoā Road, TMK: (4) 4-3-7-8, Waipouli, Kauai

Dear Ms. McMahon,

This is our written response to your inquiry.

1. Lineage:

The 1900 U.S. census, ED 75:105-106, Waipouli District, lists my great-great-great-great grandfather, J. Kauhoe, born May 1823.

The 1910 U.S. census, ED 4:1, Waipouli District, lists my great-great-great grandmother, Emma Polani, born, 1854 and my great grandmother, Julia Kuhaulua, born 1893.

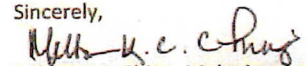
2 and 3, Land Commission Award 3624, Apana 2, awarded to KAUMIUMI a.k.a UMIUMI(k), who died in 1870, he was survived by Hauli(k). Hauli(k) married Kaala(w), my great grandfather's adopted parents.

4. Other families resided near the Project site, Z. Kakina, Charles Haae, Isaiah Kaauiwai, Wahine Kaiu(w), Lawrence Rose, Flora Kahiki, Lawrence Mundon, Paumano, S. Keolewa and others.

Comments: Article XII, section 7 and 8, Hawaii State Constitution mandates the protection of Traditional and Cultural Practices, protection of Native Hawaiian Burials in reference to the approve Burial Treatment Plan(BTP).

RECOMMENDATION: Archaeological and Cultural Monitor be present during construction of Project site.

Sincerely,



Milton K.C. Ching, Melanie-ann P. Ching, Kai-nani P.A. Ching, Milikona K.K. Ching and  
Kamuela K.K. Ching  
5369 Kawaihau Road  
Kapaa, Kauai, Hawaii 96746-2108

*Carol Lovell's Response*

**From:** Carol Lovell  
**To:** Nancy McMahon  
**Subject:** Re: Kapa'akai analysis for Kamoa Road TMK (4) 4-3-007: 008 Waipouli/Kapaa Area, North Oloheua Ahupua'a  
**Date:** Tuesday, July 5, 2022 9:11:14 AM  
**Attachments:** image001.png  
 image002.png  
 image004.png  
 image008.png

Aloha Nancy,  
 Mahalo for asking me to participate in the Kapa'akai analysis for the Darcy McCartney property, TMK (4)4-3-007:008.  
 I have no Hawaiian lineage to this site.  
 Per the Burial Treatment Plan for this site 50-30-08-3939, prepared by James Powell, B.A. and Michael Dega, PH.D., cultural practices and land use are addressed.  
 Recommend asking Milton Ching for his knowledge of the area as his wife's 'ohana were former residents.  
 This is my response to the best of my knowledge, which shall not be construed as an approval for the permitting process of the said project.  
 Na'u,  
 Carol Lovell

**From:** Nancy McMahon <explorationassociates@outlook.com>  
**Sent:** Thursday, June 2, 2022 5:33 AM  
**To:** Carol Lovell <anahola.lovell@hotmail.com>  
**Subject:** Kapa'akai analysis for Kamoa Road TMK (4) 4-3-007: 008 Waipouli/Kapaa Area, North Oloheua Ahupua'a

Carol

I spoke to you about this project a few months ago after the ceremony at the Sheraton Kapaa Hotel.

As a member of the KNIBC, I am asking for your input for a Kapa'akai analysis as to any concerns. The project area is in North Oloheua Ahupua'a.

The Hawai'i Supreme Court in *Ka Pa'akai O Ka 'Aina v. Land Use Commission*, 94 Haw. 31, 7 P.3d 1068 (2000), set forth an analytical framework to assist government agencies to fulfill the State's obligation to preserve and protect traditional and customary practices balanced against competing interests (including private property rights and other public interests). There are general questions that are asked regarding the Kapa'akai analysis:

- (1) what is your Hawaiian lineage to the area,
- (2) do you know practices or have knowledge of cultural sites on the property,
- (3) do you know of any cultural practices in the vicinity both past and ongoing.
- (4) referrals of *kupuna* or elders and *kama'aina* who might be willing to share their cultural knowledge of the project area and the surrounding ahupua'a lands.

Please refer to the maps for the project location (attached).

Back in 2006, there was an archaeological inventory survey where both a cultural deposit and burials were found (attached). Two lots were part of this original project (8 and 9). The burial treatment plan was revised to relocate the burials and approved by the KNIBC. Now one of the lots, parcel 8 which does have the burial (relocated on the property with approve burial treatment plan (attached) has a new owner Peter Whalley, a contractor here on Kauai. He is reducing the density to just two single family residence(plans attached). We will be revising or amending the archaeological monitoring plan to include the new design plans. Mt. Whalley has agreed to keep the footings less than 2 feet deep. Keep the new septic system mostly above ground as well as reduce the depth of the leach field, to avoid finding additional burials. I have also included the State Historic Preservation Division's correspondence on this project area.

Thank you in advance for all your assistance. If you would like to discuss the project details or any concerns you may have regarding any potential impacts to cultural resources or traditional cultural practices, let me know. You can call me directly or send me an email which I can include in the analysis report. I will let the applicant know any of your concerns.

\*\*\*\*\*  
 Nancy McMahon, Archaeologist/Cultural Resources  
 3-2600 Kaunualii Hwy  
 Suite 1300-306  
 Lihue, Kauai, HI 96766  
 mobile: 808-639-6695  
[explorationassociates@outlook.com](mailto:explorationassociates@outlook.com)

# DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR

MICHAEL A. DAHLIG, MANAGING DIRECTOR

## DIRECTOR'S REPORT

### I. SUMMARY

**Action Required by Planning Commission:** Consideration of a Special Management Area Use Permit to allow the construction of two (2) single-family residences.

**Permit Application Nos.** Special Management Area Use Permit SMA(U)-2023-5

**Name of Applicant(s)** Peter Whalley Trustee et., al.

### II. PERMIT INFORMATION

PERMITS REQUIRED	
<input type="checkbox"/> Use Permit	
<input type="checkbox"/> Project Development Use Permit	
<input type="checkbox"/> Variance Permit	
<input type="checkbox"/> Special Permit	
<input type="checkbox"/> Zoning Permit Class <input type="checkbox"/> IV <input type="checkbox"/> III	
<input checked="" type="checkbox"/> Special Management Area Permit <input checked="" type="checkbox"/> Use <input type="checkbox"/> Minor	Pursuant to Section 205A of the Hawaii Revised Statutes (HRS) and the Special Management Area Rules and Regulations of the County of Kaua'i, a SMA Use Permit is required as defined in Section 7.3(C) of the SMA Rules and Regulations where the Director finds that the proposal (1) is a "Development" as defined in Section 1.4F; and (2) is in excess of \$500,000.
AMENDMENTS	
<input type="checkbox"/> Zoning Amendment	
<input type="checkbox"/> General Plan Amendment	
<input type="checkbox"/> State Land Use District Amendment	

**Date of Receipt of Completed Application:** January 5, 2023

**Date of Director's Report:** February 21, 2023

**Date of Public Hearing:** February 28, 2023

**Deadline Date for PC to Take Action (60<sup>TH</sup>**

**Day):** April 28, 2023

**F.2.b.1.**

**Feb. 28, 2023**



### III. PROJECT DATA

PROJECT INFORMATION			
<b>Parcel Location:</b>	The project site is located along Kamoā Road, makai of Kūhiō Highway. Approximately 150 feet southwest of the Uhelekawawa canal (Waipouli Drainage Canal).		
<b>Tax Map Key(s):</b>	(4) 4-3-007:008, Units 1 & 2	<b>Area:</b>	0.2596 acres
ZONING & DEVELOPMENT STANDARDS			
<b>Zoning:</b>	Residential (R-20)		
<b>State Land Use District:</b>	Urban		
<b>General Plan Designation:</b>	Resort		
<b>Height Limit:</b>	No single family detached or single family attached dwelling, or accessory structure shall be more than two (2) stories above and one (1) story below from the finished grade at the main entry, over twenty (20) feet measured from the finished grade at the main entry to the highest exterior wall plate line, and over thirty (30) feet to the highest point of the roof measured at each point along the building from the finished grade at the main entry.		
<b>Max. Land Coverage:</b>	Shall not exceed ninety percent (90%)		
<b>Front Setback:</b>	10'-0"		
<b>Rear Setback:</b>	Five (5) feet or ½ the wall plate height whichever is greater		
<b>Side Setback:</b>	Five (5) feet or ½ the wall plate height whichever is greater		
<b>Community Plan Area:</b>	Kapa'a-Wailua Development Plan		
<b>Community Plan Land Use Designation:</b>	N/A		
<b>Deviations or Variances Requested:</b>	N/A		

### IV. LEGAL REQUIREMENTS

<b>Section 8.0, 9.0, and 10.0 of the Special Management Area Rules and Regulations:</b>	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Sections 8.0, 9.0, and 10.0 of the Special Management Area Rules and Regulations. The application was received on January 5, 2023, and the Applicant, through its authorized agent, was notified accordingly of the Planning Department's intent to commence permit processing.
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**V. PROJECT DESCRIPTION AND USE**

The subject property is within the County's Residential (R-20) zoning district and the Visitor's Destination Area (VDA). The subject property identified as Tax Map Key (4) 4-3-007:008 is currently vacant and further identified as Units No. 1 and 2 of Kamoā Kai Condominium that contains a total area of 0.2596 acre or 11,308 square feet. The subject site (Parcels 8 & 9) was previously a 4-unit Condominium Property Regime (CPR) and issued a Special Management Area Use Permit SMA(U)-2006-14 in 2006 that involved the construction of four (4) single-family dwelling units. However, SMA(U)-2006-14 project was abandoned by the previous owner and the current applicant reduced the total amount of CPR Units to what is presently 2 units.

In 2006, an Archaeological Inventory Survey with subterranean testing was conducted for the subject parcel. The survey discovered two human burials (determined to be of Hawaiian ancestry) and is presently identified as Site 50-30-08-3939 (refer to Figure 3 of Exhibit "F-1"). In addressing the issue, the Kaua'i/ Ni'ihau Islands Burial Council (KNIBC) concurred to relocate the burial to an on-site preserve area located on the subject property (see Figure 6 Exhibit "F-4"). A Declaration of Covenant, Conditions and Restrictions (DCCR) for the burial site was prepared and recorded with the State of Hawai'i Bureau of Conveyances on November 21, 2006 through Doc No(s) 2006-213071. The parcel is subject to the terms and conditions outlined within the DCCR.

As represented, the Applicant is proposing to construct two (2) single-family dwellings as shown in Exhibit "E-1" for Unit No.1 and Exhibit "E-2" for Unit No. 2. Both dwellings are 2-story structures and share identical floor plan layouts that feature two bedrooms, two (2) baths, living room, kitchen, dining, and a covered lāna'i on the main floor. The bottom floor consists of a 2-car garage, storage area, half (1/2) bath, outdoor shower, and an open patio area. Site improvements include a driveway, landscaping, and an elevated individual wastewater system supporting both dwellings.

The proposed dwellings display hip roof lines with composition asphalt roof shingle finish and 1x2 batten exterior siding on LP smart panels. Both dwellings are elevated above ground by 16-inch concrete masonry unit (CMU) columns.

**VI. APPLICANT'S REASONS/JUSTIFICATION**

(Refer to Application)



## ADDITIONAL FINDINGS

1. The project site is located along Kamoā Road, makai side of Kūhiō Highway in Kapaʻa. It is approximately 150 feet southwest of the Uhelekawawa Canal (Waipouli Drainage Canal) and vehicular access to the property is from Kamoā Road.
2. The State Land Use District (SLUD) designation for this parcel is "Urban", which allows for urban growth in a specified area.
3. The property is situated within the Kapaʻa-Wailua Development Plan (KWDP), however per Section 10-1.1(c)(2), the KWDP only applies to those parcels located with Special Planning Areas A, B, and C. The subject parcel is not located within these designations.
4. The proposed development is not a shoreline property. However, the subject site is within the 500 foot shoreline setback threshold, pursuant to the County's shoreline setback requirements contained in Chapter 8, Article 27 of the Kauaʻi County Code (1987), as amended. A shoreline setback determination would be required for the proposed dwelling units and associated site improvements prior to Planning Department Zoning Permit review.
5. The General Plan designation (GP) is "Resort". According to the GP, areas designated as Resort are generally within the Visitor Destination Area (VDA) and have the infrastructure to support these types of developments. The proposed development is within the VDA.
6. The subject parcel is located within the Zone "AE" and Zone "X" of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) (see Exhibit "C-10"). The proposed development will be primarily within the Zone "X" designation and meet all requirements of the Flood Plain Management Ordinance (FPMO). This parcel is also within the tsunami evacuation zone area. In addition to the FPMO, the subject site is within the County of Kauaʻi's Sea Level Rise Constraint District.
7. The topography is relatively flat, and no grading of the project area will occur. Existing drainage patterns on the property will not be affected.
8. Special Management Area (SMA)

In addressing the issues of the Special Management Area and its objectives and policies, the following aspects will be considered and evaluated:

- a. Recreational Resources
- b. Cultural/ Historic Resources
- c. Scenic resources
- d. Coastal Hazard

e. Coastal Ecosystem

Furthermore, the proposal does not:

- Involve dredging, filling or otherwise altering any bay, salt marsh, river mouth, slough or lagoon;
- Reduce the size of any beach or other area usable for public recreation;
- Reduce or impose restrictions upon public access to tidal and submerged lands, beaches, rivers, and streams within the SMA; and
- Adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, estuarine sanctuaries, potential or existing agriculture uses of land.

9. CZO Development Standards

The proposed development is subject to the standards prescribed in Sections 8-4.3, 8-4.5, and Chapter 8, Section 12:

- Setback Requirements:** Front property line setbacks are ten feet (10'-0") with a side and rear property line setback of five feet (5'-0") or half the distance of the plate height whichever is greater.
- Setback between buildings:** The distance between buildings shall be ten (10) feet minimum.
- Parking Requirements:** The applicant shall provide a minimum of two (2) off-street parking spaces for each of the proposed dwelling units.
- Lot Coverage:** The subject property is county zoned Residential (R-20) District. Land coverage within this zoning designation shall not exceed ninety percent (90%). As represented, the proposed development involving the construction of the two (2) single-family dwellings, along with driveway, and other associated site improvements will be approximately 4,698 square feet or forty-one and a half percent (41.5%) of the allowable ninety percent (90%).
- Sea Level Rise Constraint:** The subject parcel is located within the County of Kaua'i's Sea Level Constraint District which requires new construction for new residential structures to be elevated at level two (2) feet from the top of the Sea Level Rise Flood Elevation (SLRFE) of two (2) feet. The additional two (2) feet shall be calculated from the top of the SLRFE to the bottom of the lowest horizontal structural member.
- Building Height:** No single family detached or single family attached dwelling, or accessory structure shall be more than two (2) stories above and one (1) story

below from the finished grade at the main entry, over twenty (20) feet measured from the finished grade at the main entry to the highest exterior wall plate line, and over thirty (30) feet to the highest point of the roof measured at each point along the building from the finished grade at the main entry.

## **VII. AGENCY COMMENTS**

See attached Exhibit "A"

## **VIII. PRELIMINARY EVALUATION**

In evaluating the Applicant's request to allow the construction of the proposed development, the following are being considered.

### **1. General Plan**

The proposed development satisfies the following policies of the General Plan, as taken from Sections 1.3 and 1.4:

#### **A. 1.3, entitled "VISIONS AND GOALS"**

- 1) Goal #1 "Sustainable Island"** – The subject site is within the Waipouli resort/residential area. The proposed development of two (2) single-family dwellings is compatible and will have minimal impacts to the surrounding area.
- 2) Goal #2 "Unique and Beautiful Place"** – Based on the information about the project site through previous studies, the potential of encountering significant historic sites in underlying sediments of the subject site area, particularly Jaucus sand deposits, is high. Therefore, in order to avoid finding additional burials and persevere the cultural deposits, the applicant has reduced the number of dwelling units from four (4) to two (2). Foundations of the residences shall be no more than two (2)- two and a half (2-1/2) feet below grade. Finally, to avoid trenching to connect to the existing county sewer lateral line, the applicant is proposing to have both dwellings connected to one (1) elevated septic tank and leach field (see Figure 4, Exhibit "G").
- 3) Goal #3 "A Healthy and Resilient People"** – The proposed development is within an existing resort/residential area. The subject site is situated within Waipouli's walkable community. Recreational open spaces, shopping centers, and restaurants are within biking or walking distance.
- 4) Goal #4 "An Equitable Place, with Opportunity for All"** – The project would support economic and business opportunities by providing construction jobs.

#### **B. Section 1.4, entitled "POLICIES TO GUIDE GROWTH"**

- 1) **Policy #1 “Manage Growth to Preserve Rural Character”**– The proposed development would have minimal negative impacts to the rural character of the Waipouli area. The proposed dwellings are within the resort/residential area and is within biking or walking distance to recreational open spaces, shopping centers, and restaurants.
- 2) **Policy #3 “Recognize the Identity of Kaua’i’s Individual Towns and Districts”**- The proposed project remains compatible with the surrounding resort/residential area.
- 3) **Policy #8 “Protect Kaua’i’s Scenic Beauty”** – The subject site is adjacent to resort and condominium complexes. The proposed two (2) story dwellings would have minimal visual impacts to shoreline views as well as views from Kūhiō Highway.
- 4) **Policy #9 “Uphold Kaua’i as a Unique Visitor Destination”** – As previously mentioned, the proposed development is within designated Visitor’s Destination Area (VDA).
- 5) **Policy#14 “Prepare for Climate Change”** – The subject site of the proposed dwellings is located within the County of Kaua’i’s Sea Level Rise Constraint District (SLRCD). The proposed dwellings would have to be designed to meet all the requirements of the SLRCD and comply with existing overall height standards for residential dwellings.
- 6) **Policy#15 “Respect Native Hawaiian Rights and Wahi Pana”** – A Declaration of Covenant, Conditions and Restrictions (DCCR) for Burial Site was prepared and recorded with the State of Hawai’i Bureau of Conveyances on November 21, 2006 (Doc No(s) 2006-213071) to allow identified descendants wishing to visit the site with a right of access, as outlined in the terms and conditions of the DCCR (see Exhibit “F-1”).
- 7) **Policy#19 “Communicate with Aloha”** – The Planning Commission allows the public to participate in the planning and decision-making process of the proposed project.

## 2. Native Hawaiian Traditional and Cultural Rights

The applicant commissioned Exploration Associated Ltd. (EAL) to conduct the Ka Pa’akai Analysis to evaluate native Hawaiian traditions and customary practices on the subject property. The applicant’s consultant EAL met and interviewed a cross-section of indigenous Hawaiian people from the community; first and foremost, with kupuna or elders that have memories and personal experiences of the project area. The inquiry requested if they had any knowledge of on-going Native Hawaiian and Traditional Cultural Rights practices or activities involving the project site or in the vicinity. Based on the

available information, traditional agriculture and aquaculture practices would not be affected or impaired by the proposed development.

After the applicant consulted with members of the community with past historical knowledge of the area, a total of three (3) individuals responded. Based on the testimony presented by the individuals who are familiar with the area and evaluating historical information that was available to the department, the department finds that the proposed development involving a previously developed parcel should have no impact on any known Hawaiian traditional or customary practices for the following reasons:

- a. There are no known traditional or customary practices of native Hawaiians that are presently occurring within the Project Site.
- b. There are no special gathering practices taking place within any portion of the Project Site.
- c. The Project will not detrimentally affect access to any streams; access to the shoreline or other adjacent shoreline areas; or gathering along any streams, the shoreline or in the ocean.
- d. There are no known religious practices taking place within the project site.
- e. Other than historic sites noted in the approved Burial treatment Plan, there are no known burials within the petition area.

3. SMA Rules and Regulations

The COK SMA Rules and Regulations contain objectives, policies and guidelines designed to protect coastal resources. Within the SMA, special consideration is given to recreational opportunities, cultural and historic resources, scenic qualities and open space, coastal ecosystems, and coastal hazards. In evaluating the proposed development relative to the goals and objectives of the SMA Rules and Regulations, the following aspects are taken into consideration:

- A. Public Access and Coastal Recreation – There are no public recreational opportunities taking place on the subject property. Public beach access is located approximately fifty (50 feet) northeast of the property along Uhelekawawa canal. The proposed development will have minimal negative impacts to public access and coastal recreation.
- B. Cultural/ Historical Resources – The applicant reduced the number of dwellings from four (4) to two (2) and foundations of the residences shall be no more than two (2)-two and a half (2-1/2) feet below grade. County sewer service is available to the parcel however, both dwellings will be connected to one (1) elevated septic tank and leach field.
- C. Scenic and Open Space Resources – The proposed project shall have minimal

impacts to the scenic and open space resources of the area. Visual impacts from Kamoia Road shall be mitigated by existing landscaping, such as palm trees. The applicant shall incorporate landscaping to provide reasonable impacts to the surrounding area.

- D. Coastal Hazards – The subject parcel is located within the Zone “AE” and Zone “X” of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) (see Exhibit “C-10”). The proposed development will be primarily within the Zone “X” portion of the property and meet all requirements of the Flood Plain Management Ordinance (FPMO). Based on the County of Kaua’i’s Sea Level Rise Constraint District Viewer, the subject site is impacted by an annual high wave run up of two (2) feet. To comply with the County of Kaua’i SLRCD the lowest horizontal structural member will be a minimum of two (2) feet above the Sea level rise flood elevation (SLRFE) of two (2) feet.
- E. Coastal Ecosystems – The subject site is not a shoreline property. The proposed project shall have minimal negative impacts to the coastal ecosystem. All development shall be erosion or run-off shall be maintained on-site and not allowed to enter the nearshore area and Uhelekawawa canal.

4. CZO Development Standards

As proposed, the project complies with the building height, setback, and off-street parking requirements for development within the Residential (R-20) zoning district, as specified in Sections 8-4.3, 8-4.5, and Ordinance 1134 of the Comprehensive Zoning Ordinance (CZO).

In reviewing the architectural plans as represented in the application, it is noted that the lowest horizontal structural member should be a minimum of two (2) feet above the Sea Level Rise Flood Elevation (SLRFE), which is 2 feet. Also, in order to ensure that the half bath located on the bottom floor of the dwellings complies with the floor height requirements under the County of Kauai’s Sea Level Rise Constraint District, the applicant should work closely with the Planning Department prior to submittal of building permit application.

**IX. PRELIMINARY CONCLUSION**

Based on the foregoing, it is concluded that through proper mitigative measures, the proposed development can be considered, and that it complies with the policies and guidelines of the Special Management Area Rules and Regulations in that:

1. The development will not have any substantial adverse environmental or ecological effect.
2. The development is consistent with the objectives/goals/policies of the County General Plan, the Comprehensive Zoning Ordinance, and other applicable ordinances.

Furthermore, the proposal DOES NOT:



- a. involve dredging, filling, or otherwise altering any bay, estuary, salt marsh, river mouth, slough or lagoon;
- b. reduce the size of any beach or other area usable for public recreation;
- c. reduce or impose restrictions upon public access to tidal and submerged lands, beaches, rivers or streams within the special management area; and
- d. adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, estuarine sanctuaries or existing agricultural uses of land.

In addition, the proposed development should not have any detrimental impact to the environment or the surrounding area and complies with the criteria outlined for the granting of a Special Management Area Use Permit. The Applicant should institute the "Best Management Practices" to ensure that the operation of this facility does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project.

#### **X. PRELIMINARY RECOMMENDATION**

Based on the foregoing evaluation and conclusion, it is hereby recommended Special Management Area Use Permit SMA(U)-2023-5 to be **APPROVED**. If approved, the following conditions shall be implemented:

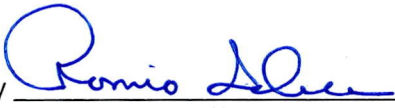
- 1. The proposed improvements shall be constructed as represented. Any changes to said development shall be reviewed by the Planning Director to determine whether Planning Commission review and approval is warranted.
- 2. The applicant shall observe and comply with terms and conditions as outlined in the Declaration of Covenant, Conditions and Restrictions for Burial Site, recordation date November 21, 2006 (Doc No(s) 2006-213071).
- 3. The lowest horizontal structural member of the dwelling units shall be a minimum of two (2) feet above the Sea level rise flood elevation (SLRFE), which is 2 feet. Also, the Applicant shall work closely with the Planning Department prior to submittal of building permit application.
- 4. 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 County of Kaua'i, Department of Planning to determine mitigation measures.

5. In order to ensure that the project is compatible with its surroundings and to minimize the visual impact of the structures, the external color of the proposed dwellings shall be of moderate to dark earth-tone color. The proposed color scheme and a landscape plan should be submitted to the Planning Department for review and acceptance prior to building permit application.
6. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, if external lighting is to be used in connection with the proposed project, all external lighting shall be only of the following types: downward-facing, shielded lights. Spotlights aimed upward or spotlighting of structures shall be prohibited.
7. The Applicant shall develop and utilize Best Management Practices (B.M.P's) during all phases of development in order to minimize erosion, dust, and sedimentation impacts of the project to abutting properties.
8. The Applicant shall resolve and comply with the applicable standards and requirements set forth by the State Health Department, State Historic Preservation Division-DLNR, and the County Departments of Public Works, Fire, Transportation, and Water.
9. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kauai contractors as long as they are qualified and reasonably competitive with other contractors and shall seek to employ residents of Kauai in temporary construction and permanent resort-related jobs. It is recognized that the Applicant may have to employ non-Kauai residents for particular skilled jobs where no qualified Kauai residents possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.
10. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project, such as Leadership in Energy and Environmental Design (L.E.E.D.) standards or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low-energy fixtures, low-energy lighting and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for building permit review.
11. The Planning Commission reserves the right to revise, add, or delete conditions of approval in order to address or mitigate unforeseen impacts the project may, create, or to revoke the permits through the proper procedures should conditions of approval not be complied with or be violated.

12. Unless otherwise stated in the permit, once permit is issued, the Applicant must make substantial progress, as determined by the Director, regarding the development or activity within two (2) years, or the permit shall be deemed to have lapsed and be no longer in effect.

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 FEBRUARY 28, 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   
ROMIO IDICA  
Planner

Approved & Recommended to Commission:

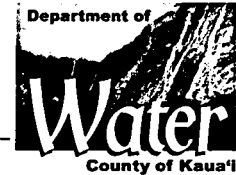
By   
KA'AINA S. HULL  
Director of Planning

Date: 2/21/2023

# EXHIBIT “A”

(Agency Comments)

**ENGINEERING DIVISION**  
DEPARTMENT OF WATER, COUNTY OF KAUAI  
MICHAEL K. HINAZUMI, P.E.



JOSEPH E. TAIT  
MANAGER AND CHIEF ENGINEER

DATE: January 12, 2023

TO: Planning Department  
Kaaina Hull, Director ( Romio )

SUBJECT: Special Mgt Area Permit SMA(U)-2023-5, Tax Map Key: (4) 4-3-007-008,  
Peter Whalley, Trustee Et. Al. Peter Whalley, Trustee Et. Al., Applicant

**DOW COMMENTS:**

We have no objections to the proposed Special Management Area Permit SMA(U)-2023-5. Water service will be limited to the existing water service assigned to this parcel. Requests for additional water meters or increases in water meter size will be dependent on the adequacy of the source, storage and transmission facilities existing at that time.

The applicant is also made aware that DOW comments are based on the assumption that the existing meter boxes fronting the parcels are connected to active service laterals. If it is determined during the installation work that this is not the case and new service laterals need to be installed, a water meter installation charge of \$2,850 per 5/8-inch water meter or \$5,700 will be charged instead (assuming the DOW is able to install the service laterals).

*Jason Kagimoto*  
\_\_\_\_\_  
Jason Kagimoto, P.E.  
Engineering Division  
Water Resources and Planning Section

1/12/23  
Date

SMA(U)-2023-5, 4-3-007-008, Whalley