



## PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISSION

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

RECEIVED

- The Planning Commission Meeting will be at:

'23 JUN 20 P 3:42

Office of Boards and Commissions  
4444 Rice Street, Suite 300  
Lihue, HI 96766

RECEIVED  
COUNTY CLERK  
COUNTY OF KAUAI

- Oral testimony will be taken on specific agenda items, 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, Lihue, Hawaii 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 [ADAVIS@KAUAI.GOV](mailto:ADAVIS@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.**

**SUBDIVISION COMMITTEE MEETING NOTICE AND AGENDA**

**Tuesday, June 27, 2023**

**8:30 a.m. or shortly thereafter**

**Līhu'e Civic Center, Office of Boards and Commissions**

**4444 Rice Street, Suite 300, Līhu'e, Kaua'i, Hawai'i**

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. APPROVAL OF AGENDA**

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

1. None for this meeting.

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

**F. UNFINISHED BUSINESS**

1. None for this meeting.

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

1. Preliminary Subdivision Extension Request

- a. Subdivision Application No. S-2017-6

**Moloa'a Valley Homeowners, LLC.**

Proposed 7-lot Subdivision

TMK: (4) 4-9-011: 013

Kawaihau, Kaua'i

- 1) Subdivision Report pertaining to this matter.

- b. Subdivision Application No. S-2021-7

**5425 Pa'u A Laka, LLC.**

Proposed 2-lot Consolidation and Resubdivision into 4-lots

TMK: (4) 2-8-014: 032

Kōloa, Kaua'i

- 1) Subdivision Report pertaining to this matter.

- c. Subdivision Application No. S-2022-6  
**Kukui'ula Development Company, LLC./  
MP Kaua'i HH Development Fund, LLC.**  
Kukui'ula Parcel HH Subdivision  
Proposed 3-lot Consolidation and Resubdivision into 51-lots  
TMK: (4) 2-6-019: 026, 029, 031  
Kōloa, Kaua'i

1) Subdivision Report pertaining to this matter.

- d. Subdivision Application No. S-2022-8  
**BBCP Kukui'ula Parcel X, LLC. Et. Al.**  
Kukui'ula Parcel X Subdivision  
Proposed 2-lot Consolidation and Resubdivision into 4-lots  
TMK: (4) 2-6-015: 010, 011  
Kōloa (Makai), Kōloa, Kaua'i

1) Subdivision Report pertaining to this matter.

## 2. Final Subdivision Map Approval

- a. Subdivision Application No. S-2022-5  
**Morton L. Cohen Family Trust**  
Proposed 2-lot Boundary Adjustment  
TMKs: (4) 4-4-013: 034, 035  
Kapa'a and Waipouli, Kawaihau, Kaua'i

1) Subdivision Report pertaining to this matter.

## H. EXECUTIVE SESSION

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

- a. Subdivision Application No. S-2017-6  
**Moloa'a Valley Homeowners, LLC.**  
Proposed 7-lot Subdivision  
TMK: (4) 4-9-011: 013  
Kawaihau, Kaua'i
- b. Subdivision Application No. S-2021-7  
**5425 Pa'u A Laka, LLC.**  
Proposed 2-lot Consolidation and Resubdivision into 4-lots  
TMK: (4) 2-8-014: 032  
Kōloa, Kaua'i

- c. Subdivision Application No. S-2022-6  
**Kukui'ula Development Company, LLC./**  
**MP Kaua'i HH Development Fund, LLC.**  
Kukui'ula Parcel HH Subdivision  
Proposed 3-lot Consolidation and Resubdivision into 51-lots  
TMK: (4) 2-6-019: 026, 029, 031  
Kōloa, Kaua'i
- d. Subdivision Application No. S-2022-8  
**BBCP Kukui'ula Parcel X, LLC. Et. Al.**  
Kukui'ula Parcel X Subdivision  
Proposed 2-lot Consolidation and Resubdivision into 4-lots  
TMK: (4) 2-6-015: 010, 011  
Kōloa (Makai), Kōloa, Kaua'i
- e. Subdivision Application No. S-2022-5  
**Morton L. Cohen Family Trust**  
Proposed 2-lot Boundary Adjustment  
TMKs: (4) 4-4-013: 034, 035  
Kapa'a and Waipouli, Kawaihau, Kaua'i

**I. ADJOURNMENT**

COUNTY OF KAUAI  
PLANNING DEPARTMENT

TO: Subdivision Committee, Planning Commission

SUBJECT: Extension Request

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

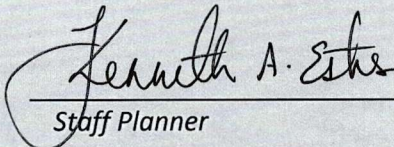
Subdivision Application No.		Applicant(s)	
S-2017-6		Moloka'a Valley Homeowners, LLC.	
Location:	Moloka'a	Tax Map Key:	(4) 4-9-011:013
Extension Request No. (1 <sup>st</sup> , 2 <sup>nd</sup> , etc.)		Tentative Approval Granted On:	Previous Ext. Expired On:
5th		May 09, 2017	May 09, 2023
Subdivision Bonded: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Deadline to Complete Improvements: Not Applicable	

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

**PLANNING DEPARTMENT  
EVALUATION & RECOMMENDATION**

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

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

  
Staff Planner

6.5.2023

Date

☒ Approved and Recommended  
to Planning Commission

☐ Denied

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

  
Planning Director

6/5/2023  
Date

**G.I.A.I.**

**JUN 27 2023**

## COUNTY OF KAUAI PLANNING DEPARTMENT

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

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

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

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

### FINDINGS/BACKGROUND:

The proposed development involves a six (6) lot subdivision and one (1) roadway lot. This application was granted tentative approval by the Planning Commission on May 09, 2017 and the Applicant's request is the **fifth** extension of the tentative approval.

The subject property is situated in the Moloa'a area and a section of the subject property is abutting Kūhi'ō Highway. The total area involved is approximately 190.09 acres within the County Open (O) zoning district and State Land Use Agricultural District. The surrounding parcels are similarly within the County zoned Open District with the exception of the parcels to the Southeast that are within the County Agriculture zoning district. All of the surrounding parcels are within the State Land Use Agricultural District.

Roadway Lot 7 will serve as the primary access for majority of the lots within the development. As represented, the applicant has intentions to dedicate the roadway to the County.

It is also noted that the subject parcel existed prior to the adoption of the Comprehensive Zoning Ordinance (CZO) in 1972 and will be subjected to the "one-time" subdivision limitation for parcels within the Open District, pursuant to Section 8-8.3(c) of the CZO, Kaua'i County Code (1987), as amended.

#### PROGRESS OF THE SUBDIVISION:

The Applicant is currently working to comply with Conditions 1.h. and 1.j. of tentative approval relating to roadway improvements on Lot 7. Currently, the construction plans for roadway improvements are outdated and do not conform to the current County standards. As a result, the Applicant is working on preparing new construction plans and will be submitting the plans for review and approval by the agencies. As represented, the Applicant is intending to post a bond for completion and will work with the Planning Department and the Department of Public Works in getting the matter resolved once the construction plans have been approved by all agencies. In addition, the Applicant is working with the County Fire Department to resolve driveway access within proposed Lots 3 and 4 of the development. Presently, it was determined that the proposed driveway in its current location is too steep for emergency vehicular access. As such, the Applicant has represented that they are working to clear a site to conduct a topographic survey to obtain an adequate driveway location to accommodate emergency vehicles.

In reviewing the extension request, it should be noted that the Applicant has shown progress with the development as reflected in their current status report submitted with their correspondence to the department dated May 8, 2023. The Applicant has submitted pre-final subdivision maps and already received final subdivision map approval recommendations from the Department of Water, the County Housing Agency, and the State Department of Health.

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

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

#### RECOMMENDATION:

It is recommended that an extension until **MAY 09, 2024** be granted to obtain final subdivision approval. However, the Applicant is made aware that an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements shall be submitted to the Planning Department for review for further extensions requests. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date.

# ESAKI SURVEYING & MAPPING, INC.

1610 HALEUKANA STREET - LIHUE, KAUAI, HAWAII 96766  
(808) 246-0625 FAX: (808) 246-0229  
esm@esakimap.Com

May 8, 2023

Mr. Ka`aina Hull  
Director of Planning  
County of Kauai  
4444 Rice Street, Suite A473  
Lihue, HI 96766

**RE: S-2017-6, MOLOAA VALLEY ONE, LLC  
5<sup>th</sup> SUBDIVISION EXTENSION REQUEST  
TMK (4) 4-9-11: 13  
KAWAIHAU, KAUA`I, HAWAI`I**

The subject subdivision was granted **TENTATIVE APPROVAL** by the Planning Commission at their meeting held on May 9, 2017. It was also granted an extension until May 9, 2023 by the Planning Commission at their meeting held on July 12<sup>th</sup>, 2022.

The applicant continues to work on the extensive list of conditions, including:

- Review draft deeds and CC&Rs.
- County provided applicant new draft of the Subdivision Agreement which requires bonding, new agreement has not been completed or returned since it requires bonding information that is not yet available.
- Road redesign and realignment is being sought out by the Owners; current road design does not conform to new County Standards.

During the extension period that was granted on July 12<sup>th</sup>, 2022, the applicant has been working on an alternate emergency vehicle access route. Esaki Surveying and Mapping, Inc. surveyed the alternate route, and after careful review determined that the proposed route was not feasible because the slope would not meet requirements for emergency vehicle access. The Owners are still pursuing a road redesign and realignment that would shorten the total length of roads and upgrade the previous design to current County standards.

Previously resolved conditions include:

- Appraisal report and price list provided to the Planning Department to forward to the Real Properties Division to calculate the Park Dedication fee amount.
- Park Dedication fee paid on June 8<sup>th</sup>, 2021.
- Environmental Impact Assessment fee paid on June 8<sup>th</sup>, 2021.
- Map amended to reflect no direct access from Kuhio Highway, as recommended by DOT (per email communication dated April 19<sup>th</sup>, 2021).
- Workforce Housing agreement executed and recorded with Bureau of Conveyances.
- Draft CC&Rs complete.
- Traffic Impact Analysis was completed on May 6<sup>th</sup>, 2019. The report was sent to County and to State DOT.
- Ag master plan was sent to County on May 2019.
- Draft Subdivision Agreement sent to County on June 30<sup>th</sup>, 2021.
- Taxes, fines, and encumbrances have been paid and are current. Title reports have been received.
- Ag master plan has been completed.
- Ag subdivision agreement has been drafted.
- Drainage study has been completed.
- Traffic Impact Analysis by Austin Tsutsumi and Associates, Inc. is complete.

The applicant requires more time to complete all the conditions. We respectfully request an extension in time of two years to file the Final Subdivision Map. Two years are being requested to allow for approval of construction plans and to post a surety bond for completion.

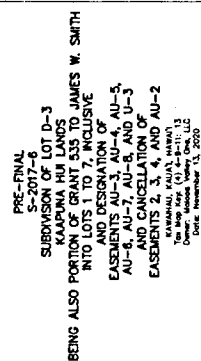
Thank you for your consideration,

Very truly yours,



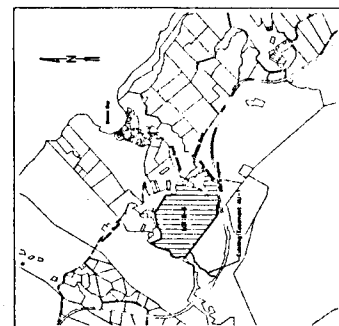
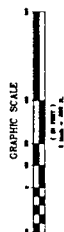
Dennis M. Esaki

cc: Carl Wright, Mark Freeman



RECEIVED: 04/11/2002 04:10 PM  
BY: [Signature]  
FROM: [Signature]  
SUBJECT: [Signature]

1. Domestic water service is not available from the Department of Water, County of Kauai.
2. Prior to building permit approvals, the applicant shall complete a Domestic Water Service Permit with the Department of Water, County of Kauai, and obtain the deeds of the lot to the Department of Water, County of Kauai. The permit shall state that domestic water service is not available from the Department of Water, County of Kauai.



## LOCATION MAP

(S-2017-6 MOLOAA VALLEY HOMEOWNERS, LLC.)

18 Kenichi Nakakura (w/ Mary E. T/8  
(Craig A. Jeffries) A/S

Michael R. Luchini  
545 2nd St. N. #200  
St. Petersburg, FL 33701-3400

**15** **Claf e.** This engine - 18 hp  
Belington L. P. Murphy & Co.  
Engine Works B. V. E. - 6.700  
J. Hane Engine - 6.700

Office of KAAPUNA & MOLOAA HUI LANDS, KAPAHULANI, KAUAI.

SUBJECT TO CHANGE

**PRINTED**

**TAXATION MAPS BUREAU**  
**STATE OF HAWAII**  
**TAX MAP**

FOURTH		DIVISION	
ZONE	SEC.	PLAT	
4	9	11	

CONTAINING PARCELS  
 SCALE: 1"=300ft.

COUNTY OF KAUAI  
PLANNING DEPARTMENT


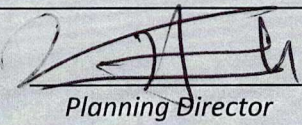
TO: Subdivision Committee, Planning Commission

SUBJECT: Extension Request

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

Subdivision Application No.		Applicant(s)	
S-2021-7		5425 Pa'u A Laka, LLC.	
Location:	Kōloa	Tax Map Key:	(4) 2-8-014:032
Extension Request No. (1 <sup>st</sup> , 2 <sup>nd</sup> , etc.)		Tentative Approval Granted On:	Previous Ext. Expired On:
1st		08.10.2021	N/A
Subdivision Bonded: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Deadline to Complete Improvements: Not Applicable	

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

PLANNING DEPARTMENT EVALUATION & RECOMMENDATION	
<b>EVALUATION:</b> Please refer to next page...	
<b>RECOMMENDATION:</b> Please refer to next page...	
<div style="text-align: right;"> Staff Planner</div> <div style="text-align: right;">06.07.2023 Date</div>	
<input checked="" type="checkbox"/> Approved and Recommended to Planning Commission	<input type="checkbox"/> Denied
Comments: _____ _____ <div style="text-align: right;"> Planning Director</div> <div style="text-align: right;">6/7/2023 Date</div>	

G.I.B.I.

JUN 27 2023

## COUNTY OF KAUAI PLANNING DEPARTMENT

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

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

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

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

### FINDINGS/BACKGROUND:

The proposed development involves a four (4) lot subdivision that establishes two (2) lots within the County Residential (R-10) zoning district, one (1) remnant lot within the County Open (O) zoning district and one (1) roadway lot. The proposed development is within the State Land Use Urban District and within the Kauai General Plan Resort District. This application was granted tentative approval by the Planning Commission on August 10, 2021 and the Applicant's request is the **1<sup>st</sup>** extension of the tentative approval.

The subject property is located in the Po'ipū area at the corner of Kiahuna Plantation Drive and Pa'u A Laka Street. The total area involved is 27.885 acres and the intent of the subdivision is to separate Kiahuna Plantation Drive from existing Lot 88 and Lot B. It should be noted that the portion of Kiahuna Plantation Drive that traverses through Lot 88 and Lot B is a constructed roadway and it currently provides access to the 73-lot Wainani at Kiahuna Subdivision (Subdivision No. S-2004-48) that was approved by the Kauai Planning Commission on October 24, 2006.

In evaluating the proposed development, it is noted that development of the subject property was previously reviewed through Project Development Use Permit PDU-2006-25, Use Permit U-2006-26 and Class IV Zoning Permit Z-IV-2006-27 that involves construction of a 280-unit multi-family residential project. The subject permits were approved with conditions by the Kauai Planning Commission on

August 22, 2006. In considering the subdivision, the Applicant is subject to the applicable requirements of the foregoing permits.

PROGRESS OF THE SUBDIVISION:

The Applicant is currently working with the Planning Department, the Department of Public Works and the Department of Water in resolving Conditions 1.g., 1.h. and 1.i. of tentative approval relating to water and roadway improvements including the construction of curbs, gutters, and sidewalks on Lot 2. Currently, the construction plans that contain roadway improvements on Lot 2 and a water meter plan servicing Lots 1 and 3 of the development has been approved, and the Applicant intends to post a bond for completion. The Applicant is also working with the Planning Department in resolving the applicable requirements of Project Development Use Permit PDU-2006-25, Use Permit U-2006-26 and Class IV Zoning Permit Z-IV-2006-27. The construction plans for the 280-unit multi-family residential project will be processed separately from this subdivision application and building permits for the development will be processed accordingly once the requirements of the Project Development Use Permit have been satisfied.

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

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

RECOMMENDATION:

It is recommended that an extension until **AUGUST 10, 2023** be granted to obtain final subdivision approval. However, the Applicant is made aware that an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements shall be submitted to the Planning Department for review for further extensions requests. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date.

# ESAKI SURVEYING & MAPPING, INC

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

April 24<sup>th</sup>, 2023

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

RE: S-2021-7, 5425 PAU A LAKA, LLC  
1<sup>st</sup> SUBDIVISION EXTENSION REQUEST  
TMK (4) 2-8-14: 32  
KŌLOA, KAUA'I, HAWAI'I

The subject subdivision was granted **TENTATIVE APPROVAL** by the Planning Commission at their meeting held on August 10<sup>th</sup>, 2021. Since then, the applicant has been diligently working on the conditions set forth in the Tentative Approval letter.

The following construction plans have been prepared, most of these plans have received final approval:

- Mass Grading Plans for Lot 1, Ka Ua Noe O Koloa
- Kiahuna Plantation Drive Roadway Improvement For Lot 2 & Water Meter Plan Servicing Lots 1, 3
- Construction Plans for Phase 1A and 1B, Lot 1 of Ka Ua Noe O Koloa
- Construction Plans for Phase 2, 3 and 4, Lot 1 of Ka Ua Noe O Koloa

Attached is the status on the conditions set forth by the Planning Commission.

The applicant requires more time to complete all the conditions. We respectfully request an extension in time of two years to file the Final Subdivision Map. Two years are being requested to allow for approval of all construction plans and to post a surety bond for completion and/or construct the improvements.

Thank you for your consideration,

Very truly yours,



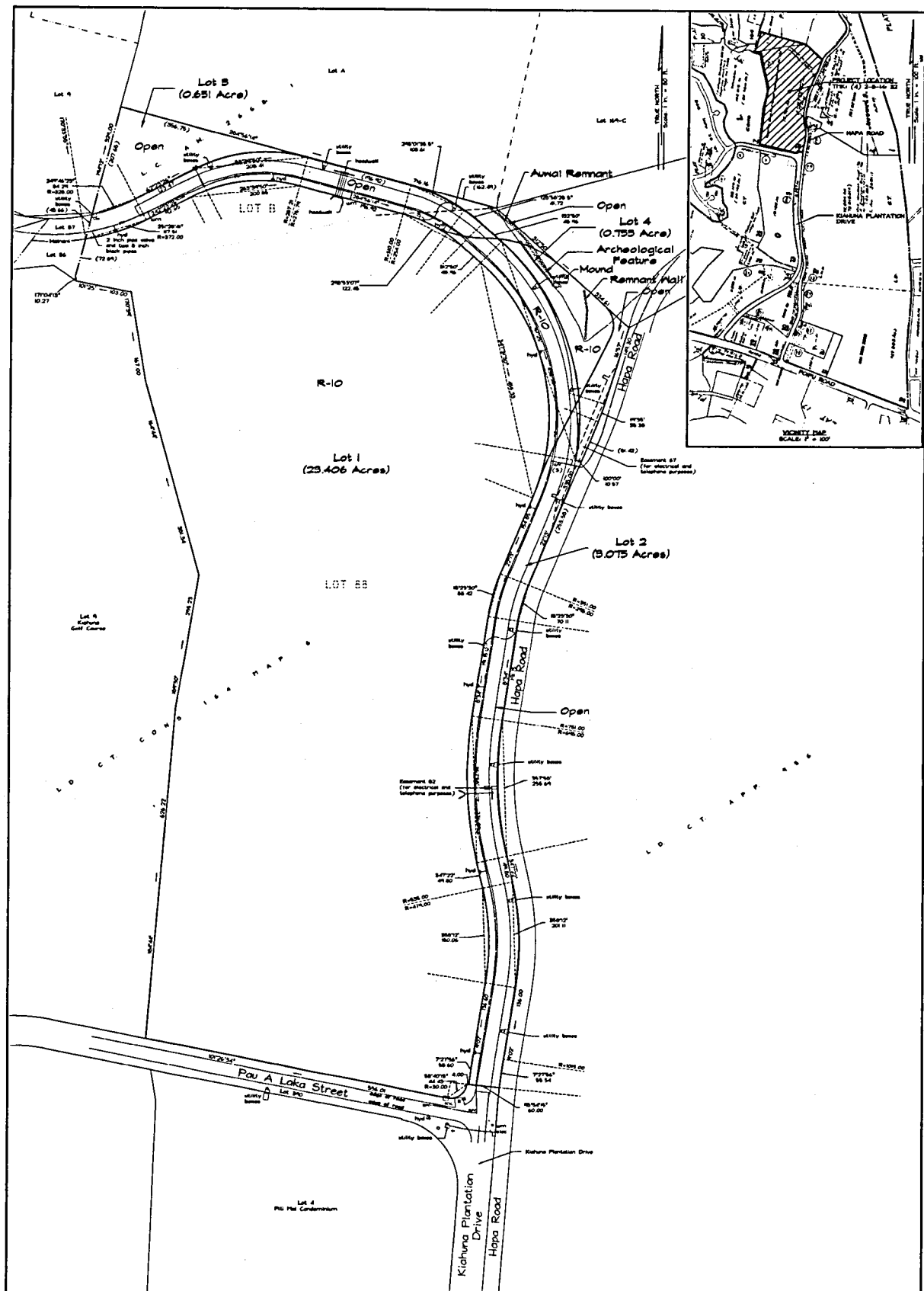
Dennis M. Esaki, Authorized Agent

**S-2021-7 Status on Conditions**  
**Kauānoe o Kōloa Subdivision**  
**5425 Pau a Laka, LLC (formerly Yellow Hale, LLC)**

#	Requirement	Status
	<b>Requirements of Planning Department:</b>	
1. a.	An updated preliminary title report for each existing lot shall be submitted to the Planning Department for review.	Acknowledged and will be complied with.
1. b.	All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.	Acknowledged and will be complied with.
1. c.	Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kauai County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.	Acknowledged and will be complied with.
1. d.	The street labeling for Pau A Laka Street needs to be amended to Pa'u A Laka Street.	Acknowledged and will be complied with.
1. e.	A Park Dedication Fee of Three Hundred Dollars (\$300.00) shall be paid to the County of Kauai.	Acknowledged and will be complied with.
1. f.	An Environmental Impact Assessment Fee of Two Hundred Fifty Dollars (\$250.00) shall be paid to the County of Kauai.	Acknowledged and will be complied with.
1. g.	The Subdivider shall comply with the requirements in Section 9-2.3(e) of the Kauai County Code (1987) relating to the provision of curbs, gutters and sidewalks along Roadway Lot 2. The extent of improvements shall be resolved with the Planning Department and Department of Public Works prior to final subdivision map approval.	Construction Plans for Roadway Lot 2 received approval in March 2023. Construction is expected to commence June 2023.
1. h.	The improvements within Roadway Lot 2 shall be constructed to the Department of Public Works standards for a "Minor Street" classification.	Acknowledged and will be complied with.
1. i.	Relative to Condition No. 1.j., the Applicant shall prepare and obtain construction plan approvals for necessary road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.	Acknowledged and will be complied with.
1. j.	Pursuant to Section 9-2.7(a) of the Subdivision Ordinance, all electrical services, street light wiring and other utility and communication services shall be installed underground within the proposed residential subdivision.	Acknowledged and will be complied with.
	The subject property was previously reviewed through Project Development Use Permit PDU-2006-25, Use Permit U-2006-26 and Class IV Zoning Permit Z-IV- 2006-27 that involves construction of a 280-unit multi-family residential project. Prior to final subdivision approval, the Applicant shall be subject to the applicable requirements of the forgoing permits. More particularly, the Applicant shall comply with Condition 2. that reads as follow:	Acknowledged and will be complied with.  The project has received SHPD's determination of "No Historic Properties Affected" and has permitted

#	Requirement	Status
1. k. (a)	(a) The Applicant shall provide clearance from SHPD that data recovery is complete for any non-significant sites on the parcel prior to any grading or grubbing on the site.	the project initiation process to continue (March 1, 2022).
1. k. (b)	(b) Prior to building permit approval, the Applicant shall provide to the Planning Department evidence that the subject parcel is clear of habitats for the Kaua'i cave amphipod or cave spiders worthy of preservation.	Biological Certification submitted and accepted by the Planning Department on May 12, 2022.
2. a.	Requirements of the Department of Water (DOW):  The subdivider shall comply with all requirements of the Department of Water, if any, prior to final subdivision approval.	Acknowledged and will be complied with.
3. a.	Requirements of the Department of Health (DOH):  The property is located within the covered area for Po'ipu Water Reclamation Facility private sewer treatment plant. All lots and structures within new subdivision must connect to private sewer for Po'ipu Water Reclamation Facility.	Acknowledged and will be complied with.
3. b.	The property may harbor rodents which will be dispersed to the surrounding areas when the site is cleared. In accordance with Chapter 11-26, entitled "Vector Control", Title 11, HAR, the applicant shall ascertain the presence or absence of rodents on the property. Should the presence of rodents be determined, the applicant shall eradicate the rodents prior to clearing the site.	Acknowledged and will be complied with.
3. c.	Noise will be generated during the construction and grading phase of the project. The applicable maximum permissible sound levels as stated in Title 11, Hawaii Administrative Rules (HAR), Chapter 11-46, "Community Noise Control", shall not be exceeded, unless a noise permit is obtained from the State Department of Health (DOH).	Acknowledged and will be complied with.
3. d.	Temporary fugitive dust emissions could be emitted when the project site is prepared for construction and when construction activities occur. In accordance with Title 11, HAR Chapter 11-60.1, entitled "Air Pollution Control", effective air pollution control measures shall be provided to prevent or minimize any fugitive dust emissions caused by construction work from affecting the surrounding areas. This includes the offsite roadways used to enter/exit the project. The control measures include but are not limited to the use of water wagons, sprinkler systems, dust fences, etc.	Acknowledged and will be complied with.
3. e.	The construction waste that will be generated by the project shall be disposed of at a solid waste disposal facility that complies with the applicable provisions of Title 11, HAR, Chapter 11-58.1, "Solid Waste Management Control", the open burning of any of these wastes on or off site is prohibited.	Acknowledged and will be complied with.
4.	The Applicant is advised the should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division and the Planning Department to determine mitigation measures.	Acknowledged and will be complied with.

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

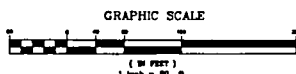


CONSOLIDATION OF LOT 88  
OF LAND COURT CONSOLIDATION 164  
AND LOT B  
BEING PORTION OF L.C. AW 2668, APANA I  
AND RESUBDIVISION  
INTO LOTS 1 THROUGH 4, INCLUSIVE  
KA UA NOE O KOLOA  
KOLOA, KAUAI, HAWAII  
OWNER: YELLOW HALE, LLC  
Tax Map Key: (4) 2-8-14: 32  
Date: May 21, 2021



THIS WORK WAS PREPARED BY ME  
OR UNDER MY SUPERVISION

ES&M SURVEYING & MAPPING, INC.  
EXPIRES: APRIL 30, 2023



LOCATION MAP  
Subdivision Application No. S-2021-7  
5425 Pau A Laka, LLC.

3. According to Section 206-10,  
the map is a true and correct  
copy of the original map.

Lawai Road

Poipu Beach  
Estates Subdivision

Wairani Subdivision

SUBJECT PROPERTY

KIAHUNA PLANTATION DRIVE

Hapa Road Trail

TAX MAP			
TERRITORY OF HAWAII			
FOURTH	ZONE	SEC	PLAT
2	8	14	
CONTAINING PARCELS			PRINTED

NOTE: All lots owned by Kapaeha & Kapaeha Trust - 1/8  
Bris & Kapaeha Trust - 1/8 unless otherwise noted.

27. The map is a true and correct  
copy of the original map.  
The map is a true and correct  
copy of the original map.  
The map is a true and correct  
copy of the original map.

FOR OF KOLOA, KOLOA, KAUAI.

SUBJECT TO CHANGE

SCALE: 1" = 400'

PRINTED

3057  
L.C. App. 958 (AM)  
Oct. 1958  
D.W. & A.L.C.  
BY

COUNTY OF KAUAI  
PLANNING DEPARTMENT

TO: Subdivision Committee, Planning Commission

SUBJECT: Extension Request

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

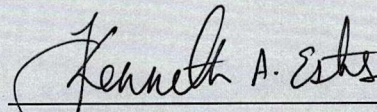
Subdivision Application No.		Applicant(s)	
S-2022-6		Kukui'ula Development Company, LLC. MP Kaua'i HH Development Fund, LLC.	
Location:	Kōloa	Tax Map Key:	(4) 2-6-019: 026, 029, 031
Extension Request No. (1 <sup>st</sup> , 2 <sup>nd</sup> , etc.)		Tentative Approval Granted On:	Previous Ext. Expired On:
1st		02.08.2022	N/A
Subdivision Bonded: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Deadline to Complete Improvements: Not Applicable	

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

**PLANNING DEPARTMENT  
EVALUATION & RECOMMENDATION**

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

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

  
Staff Planner

06.05.2023

Date

[☒] Approved and Recommended  
to Planning Commission

[ ☐ ] Denied

Comments:

  
Planning Director

6/5/2023  
Date

**G.I.C.I.**

JUN 27 2023

## COUNTY OF KAUA'I PLANNING DEPARTMENT

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

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

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

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

### FINDINGS/BACKGROUND:

The proposed development establishes forty-seven (47) lots within the County Residential (R-10) zoning district, one (1) roadway lot (Lot 48), one remnant Lot (Lot 50), proposed Lot 49 that encompasses The Club at Kukui'ula facility, and proposed Lot 51 that encompasses the Kukui'ula golf course. This application was granted *revised* tentative approval by the Planning Commission on February 08, 2022 and the Applicant's request is the **1<sup>st</sup>** extension of the tentative approval.

The subject property is located on the *makai* side of Ala Kukui'ula with its southern boundary being immediately adjacent to Lāwa'i Road. It is noted that the proposed residential lots are outside of the Special Management Area (SMA); however, proposed Lots 50 and 51 have portions of the lots that are within the SMA. Any new "development", as defined in Section 1.4 of the SMA Rules and Regulations of the County of Kaua'i, may require an SMA Permit and if so, the applicant is subject to all applicable requirements/conditions of the permit.

In considering the project, it is noted that the Public Path and Trails Exhibit dated October 2020 identifies the proposed subdivision as part of the trail system within the Kukui'ula planned community. Prior to final subdivision approval, the Application will be required to resolve with the Planning

Department the provision of public access that would be consistent with the previously approved public path and trails plan for Kukui'ula.

**PROGRESS OF THE SUBDIVISION:**

As represented, the Applicant has been working to resolve the various conditions of tentative approval. Currently, the Applicant is corresponding with both the Planning Department and the Department of Public Works in resolving the provision of public access as well as establishing an access point connection onto Lāwa'i Road. The construction plans for subdivision improvements have been prepared, however, the plans are awaiting agency review and approvals which has consumed much of the time. Since it is uncertain as to when all of the agency comments will be met, the Applicant is requesting additional time to complete the subdivision. The additional time allows the Applicant to meet all of the requirements of government agencies.

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

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

**RECOMMENDATION:**

It is recommended that an extension until **FEBRUARY 08, 2024** be granted to obtain final subdivision approval. However, the Applicant is made aware that an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements shall be submitted to the Planning Department for review for further extensions requests. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date.

# ESAKI SURVEYING & MAPPING, INC

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

April 24<sup>th</sup>, 2023

Mr. Ka`aina Hull  
Director of Planning  
County of Kauai  
4444 Rice Street, Suite A473  
Lihue, HI 96766

RE: S-2022-6, KUKUIULA DEVELOPMENT COMPANY, LLC./MP KAUA'I HH DEVELOPMENT FUND, LLC.  
1<sup>st</sup> SUBDIVISION EXTENSION REQUEST  
TMK (4) 2-6-19: 26, 29, and 31  
KŌLOA, KAUA'I, HAWAI'I


The subject subdivision was granted **TENTATIVE APPROVAL** by the Planning Commission at their meeting held on January 11<sup>th</sup>, 2022 and **REVISED TENTATIVE APPROVAL** at their meeting held on February 8<sup>th</sup>, 2022. Since then, the applicant has been diligently working on the conditions set forth in the revised Tentative Approval letter.

Attached is the status on the conditions set forth by the Planning Commission.

The construction plans for the improvements have been prepared but still need final approval. The applicant requires more time to complete all the conditions. We respectfully request an extension in time of two years to file the Final Subdivision Map. Two years are being requested to allow for approval of all construction plans and to post a surety bond for completion and/or construct the improvements.

Thank you for your consideration,

Very truly yours,



Dennis M. Esaki, Authorized Agent

**S-2022-6 Status on Conditions**  
**Kukui'ula Parcel HH Subdivision**  
**Kukui'ula Development Company, LLC. and MP Kaua'i HH Development Fund, LLC.**

#	Requirement	Status
1. a.	Requirements of the Planning Department:	
	An updated preliminary title report for each existing lot shall be submitted to the Planning Department for review.	Acknowledged and will be complied with.
1. b.	All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.	Acknowledged and will be complied with.
1. c.	<p>Pursuant to Ordinance No. PM-2004-370, the Applicant is allowed to credit Environmental Impact Assessment and Park Dedication fees for developments within their Project Area. Since the Applicant has not resolved with the Planning Department whether they will pay fees or provide improvements for credit, the following fees are being assessed:</p> <ol style="list-style-type: none"> <li>1) An Environmental Impact Assessment Fee of Twenty Three Thousand Five Hundred Dollars (\$23,500.00) shall be paid to the County of Kaua'i; and</li> <li>2) The Applicant shall pay a Park Dedication fee pursuant to Section 9-2.8 of the Kaua'i County Code Subdivision Ordinance. An appraisal report and price list shall be provided to the Planning Department to forward to the Real Properties Division to help calculate the fee amount.</li> </ol> <p>The Applicant shall resolve with the Planning Department the method that will be utilized to satisfy these fee requirements prior to final subdivision approval.</p>	Pursuant to Ordinance No. PM-2004-370, the Applicant intends to utilize its credit to satisfy these fees.
1. d.	<p>Relative to Condition No. 1.c. and prior to final subdivision map approval, the Applicant shall meet with the Planning Department to resolve the applicable requirements of Ordinance No. PM-2004-370. Specifically, the following conditions shall apply to this subdivision:</p> <p><u>Conditions of Ordinance No. PM-2004-370:</u></p> <ul style="list-style-type: none"> <li>o 3. (prohibition of Additional Dwelling Units)</li> <li>o 7. (improvements to roadway system)</li> <li>o 14. (EIA credit)</li> <li>o 15. (recreation)</li> <li>o 16. (park dedication credit)</li> <li>o 23. (wastewater system master plan)</li> <li>o 27. (solid waste management plan)</li> <li>o 30. (blasting plan)</li> </ul>	Acknowledged. The Applicant has met with the Planning Department to resolve applicable requirements and is in progress of receiving County approvals that will coordinate the work to meet their requirements.

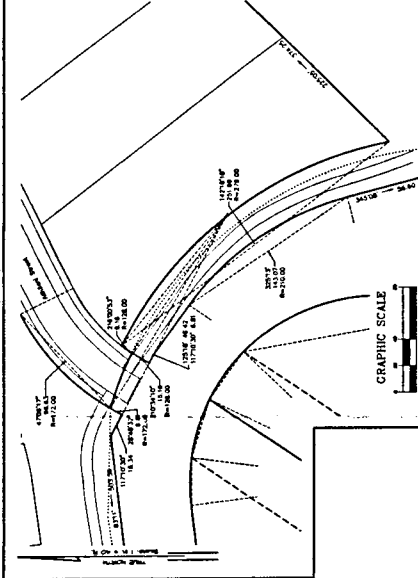
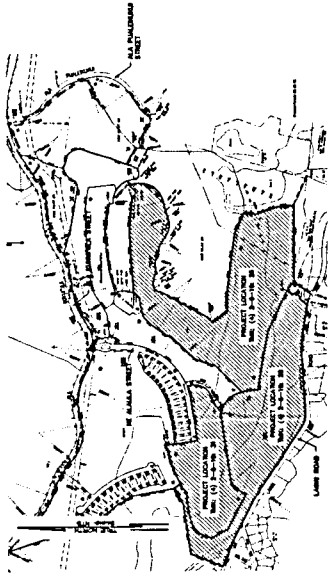
#	Requirement	Status
1. e.	Prior to final subdivision approval, Lot 26 (existing) shall be amended to be labeled as Lot 10 as shown on the final subdivision map of Subdivision Application No. S-2019-9 (Kukui'ula Parcel FF Subdivision) that was approved on March 24, 2020. Lot 26 was initially a part of the 10-lot subdivision that was approved through S-2019-9 where it subsequently became Lot 10 on the final subdivision map.	Acknowledged and will be complied with.
1. f.	Relative to the requirements/standards set forth in Ordinance No. 777, the Applicant shall resolve with the Planning Department the provision of public access.  The subdivider shall incorporate the features of the Conceptual Trail Master Plan (dated April 2004) within the project area, if applicable. The access plan shall be reviewed and approved by both the Planning and Parks & Recreation Departments. Furthermore, proper documents shall be prepared and ready for execution prior to final subdivision approval. The Planning Department reserves the right to impose additional conditions relating to this matter while in the process of resolving this condition.	Acknowledged. The Applicant has incorporated the feature of the conceptual Trail Master Plan within the project
1. g.	There shall be no vehicular access permitted onto Lawai Road from proposed lot 50. Semi-circles denoting no vehicular access permitted shall be shown on the final subdivision map. These provisions shall be incorporated as a restrictive covenant for the subject lot, draft copies of which shall be submitted to the Planning Department for review and approval.	Acknowledged and will be complied with.
1. h.	The Applicant is made aware that the streets designated within the subdivision must be officially named before the Department approves the construction plans. Street names should be in Hawaiian and be submitted to our Department for review and approval, along with a request letter and 12 maps (on 8½" x 14" paper). The maps should be detailed such that emergency vehicles, police services, postal deliveries, etc., are able to locate the street. References to roadway, such as the highway and other surrounding roads, should be shown on the street-naming map.	Acknowledged and will be complied with.
1. i.	The Subdivider shall comply with the requirements in Section 9-2.3(e) of the Kaua'i County Code (1987) relating to the provision of curbs, gutters and sidewalks along Roadway Lot 48. The extent of improvements shall be resolved with the Planning Department and Department of Public Works prior to final subdivision map approval.	Acknowledged and will be complied with.
1. j.	The Applicant shall prepare and obtain construction plan approvals for necessary road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.	Acknowledged and will be complied with. The Applicant submitted construction plans and is pending agencies approval.
1. k.	The Applicant shall establish bus stops/shelters pursuant to Ordinance No. 406. The details shall be resolved with the Planning Department and Department of Public Works prior to construction plan approval.	Acknowledged and will be complied with.
1. l.	The Applicant shall identify on the final subdivision map whether the proposed lots will be utilized for Transient Vacation Rental (TVR) purposes. If so, the total amount of the lots	Acknowledged and will be complied with.

#	Requirement	Status
	within the Kuku'i'ula Parcel HH Subdivision, shall be counted towards the total amount approved through Ordinance No. PM-2004-370.	
1. m.	The subdivider is informed that a portion of the subject property is located within the Special Management Area (SMA). Additional lots within the SMA or any new "Development," as defined in Section 1.4 of the SMA Rules and Regulations of the County of Kauai, may require an SMA Permit and if so, the applicant is subject to all applicable requirements/conditions of the SMA Permit.	Acknowledged and will be complied with.
1. n.	The applicant shall depict with a dotted line on the final subdivision map zoning lines delineating the boundaries between each County Zoning District as shown on the "Kuku'i'ula South Shore, Kauai, Zoning Refinement Area Map" dated June 8, 2020.	Acknowledged and will be complied with.
1. o.	Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kauai County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.	Acknowledged and will be complied with.
1. p.	<p>In Ka Pa'akai O Ka'aina v. Land Use Commission, the Hawai'i Supreme Court established a three-part analytical framework to fulfill the constitutional duty to preserve and protect traditional and customary native Hawaiian rights and resources while reasonably accommodating competing private interests. Prior to final subdivision approval the Applicant shall describe the actions taken and examination conducted to analyze the following:</p> <ol style="list-style-type: none"> <li>1) Identify whether any valued cultural, historical, or natural resources are present within the project area, and identify the extent to which traditional and customary Native Hawaiian rights are exercised. This part may include but not be limited to the following analyses: <ul style="list-style-type: none"> <li>o Describe the project area in relation to traditional and customary practices that occurred in the region or district.</li> <li>o Describe the extent that traditional and customary practices were practiced in the ahupua'a and project area.</li> <li>o Describe the community members you consulted with including their genealogical ties, long-standing residency, and relationship to region, ahupua'a and project area.</li> <li>o Describe the Land Commission Awards provided on the property.</li> <li>o Describe the prior archaeological studies that were conducted for the property.</li> <li>o Are you aware of any resources that found any evidence of subsurface habitation or excavation on the property?</li> <li>o Does the property contain any evidence that trails were in existence on the property?</li> <li>o Have any individuals ever requested access to the property for any reason?</li> </ul> </li> <li>2) Identify the extent to which the identified resources and rights will be affected or impaired by the proposed project.</li> </ol>	A Cultural Impact Assessment, Ethnographic Survey, and Ka Pa'akai O Ka'aina Analysis was prepared in June 2022 by Honua consulting for the proposed development and submitted to the Planning Department for review and consideration.

#	Requirement	Status
	3) Specify any mitigative actions to be taken to reasonably protect native Hawaiian rights if they are found to exist. Requirements of the Department of Public Works (DPW):	
2. a.	<p>We have no site-specific comments for the preliminary map for the proposed consolidation of lots 26, 29, and 31 and Resubdivision of said consolidation into lots 1 through 51 (Parcel HH).</p> <p>In general, the applicant shall comply with all the provisions of the "Sediment and Erosion Control Ordinance" to safeguard the public health, safety, and welfare, to protect property, and to control soil erosion and sedimentation. This shall include, but not limited to, a grading and/or grubbing permit, which is required if any of the following conditions apply:</p> <ol style="list-style-type: none"> <li>1) The work area exceeds one (1) acre.</li> <li>2) Grading involving excavation or embankment, or combination thereof exceeds 100 cubic yards.</li> <li>3) Grading exceeds five (5) feet in vertical height or depth at its deepest point.</li> <li>4) The work area unreasonably alters the general drainage pattern to the detriment of abutting properties.</li> </ol>	Acknowledged and will be complied with.
2.b.	Best management practices (BMPs) shall be incorporated to the maximum extent practicable to prevent damage by sedimentation, erosion, or dust to watercourses, natural areas, and other properties. The permittee and the property owner shall be responsible to ensure that BMPs are satisfactorily implemented at all times.	Acknowledged and will be complied with.
2.c.	<p>The existing grass strip and sidewalk on Lawai Road previously built by Kuku'i'ula Development Corporation is difficult for the County of Kauai Public Works Department to maintain due to limited equipment available. Therefore, we recommend that the Planning Commission include the following condition with this subdivision:</p> <p>"The applicant shall maintain the portion of the County right-of-way of Lawai Road between the curb (or edge of pavement where there is no curb) and the property line separating the County right-of-way and the properties being subdivided as part of this subdivision. The maintenance shall include mowing or otherwise maintaining the grass or other vegetation within this area, maintaining the concrete sidewalk to be free of obstructions and debris, and replacing the concrete sidewalk in the event it is broken or uneven in the future."</p>	Acknowledged and will be complied with.
3. a.	<p>Requirements of the Department of Water (DOW):</p> <p>Pay the Department of Water the following charges in effect at the time of receipt. At the present time, these charges include:</p> <ol style="list-style-type: none"> <li>1) A Facilities Reserve Charge (FRC) of \$705,750 (SO lots at \$14,115 per lot).</li> </ol>	Acknowledged and will be complied with.

#	Requirement	Status
3. b.	<p>Prepare and receive DOW's approval of construction drawings for the necessary water system facilities and either construct the said facilities or post a performance bond for construction. These facilities shall also include:</p> <p>1) All facilities required in the approved Kukui'ula Water Master Plan for the proposed project.</p>	The Applicant has submit construction drawing for the necessary water facilities and awaits DOW's approval.
3. c.	<p>Prepare and convey to the Department of Water a Right-of-Entry and Temporary Grant of Easement for the purpose of construction, repair, maintenance, and operation of the subdivision water system improvements installed in other than County-owned property.</p>	Acknowledged and will be complied with.
3. d.	<p>If a bond is filed, to secure final subdivision approval, the subdivider shall clearly letter the following on the approved construction plans, final subdivision map, and deeds:</p> <p>"Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kauai."</p> <p>This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.</p> <p>Kukui'ula Development Company (KDC) will be required to:</p>	Acknowledged and will be complied with.
3. e.	<p>1) Submit an updated Kukui'ula Water Demand and System Capacity Tracking Matrix.</p> <p>2) Be made aware that the Facilities Reserve Charge and the adequacy of source, storage and transmission facilities for the proposed development will be dependent on the approved updated Kukui'ula Water Demand and System Capacity Tracking Matrix.</p> <p>3) Show water service assignments on the subdivision map for DOW's review and approval. The DOW comments may change depending on the approved subdivision map.</p> <p>Requirements of the Department of Health (DOH):</p>	A Water Demand and System Capacity Tracking Matrix has been submitted to DOW and is being reveiwd concurrently with the construction drawings.
4. a.	<p>The property may harbor rodents which will be dispersed to the surrounding areas when the site is cleared. In accordance with Chapter 11-26, entitled "Vector Control", Title 11, HAR, the applicant shall ascertain the presence or absence of rodents on the property. Should the presence of rodents be determined, the applicant shall eradicate the rodents prior to clearing the site.</p>	Acknowledged and will be complied with.
4. b.	<p>Noise will be generated during the construction and grading phase of the project. The applicable maximum permissible sound levels as stated in Title 11, Hawaii Administrative Rules (HAR), Chapter 11-46, "Community Noise Control", shall not be exceeded, unless a noise permit is obtained from the State Department of Health (DOH).</p>	Acknowledged and will be complied with.
4. c.	<p>Temporary fugitive dust emissions could be emitted when the project site is prepared for construction and when construction activities occur. In accordance with Title 11, HAR Chapter 11-60.1, entitled "Air Pollution Control", effective air pollution control measures shall be provided to prevent or minimize any fugitive dust emissions caused by</p>	Acknowledged and will be complied with.

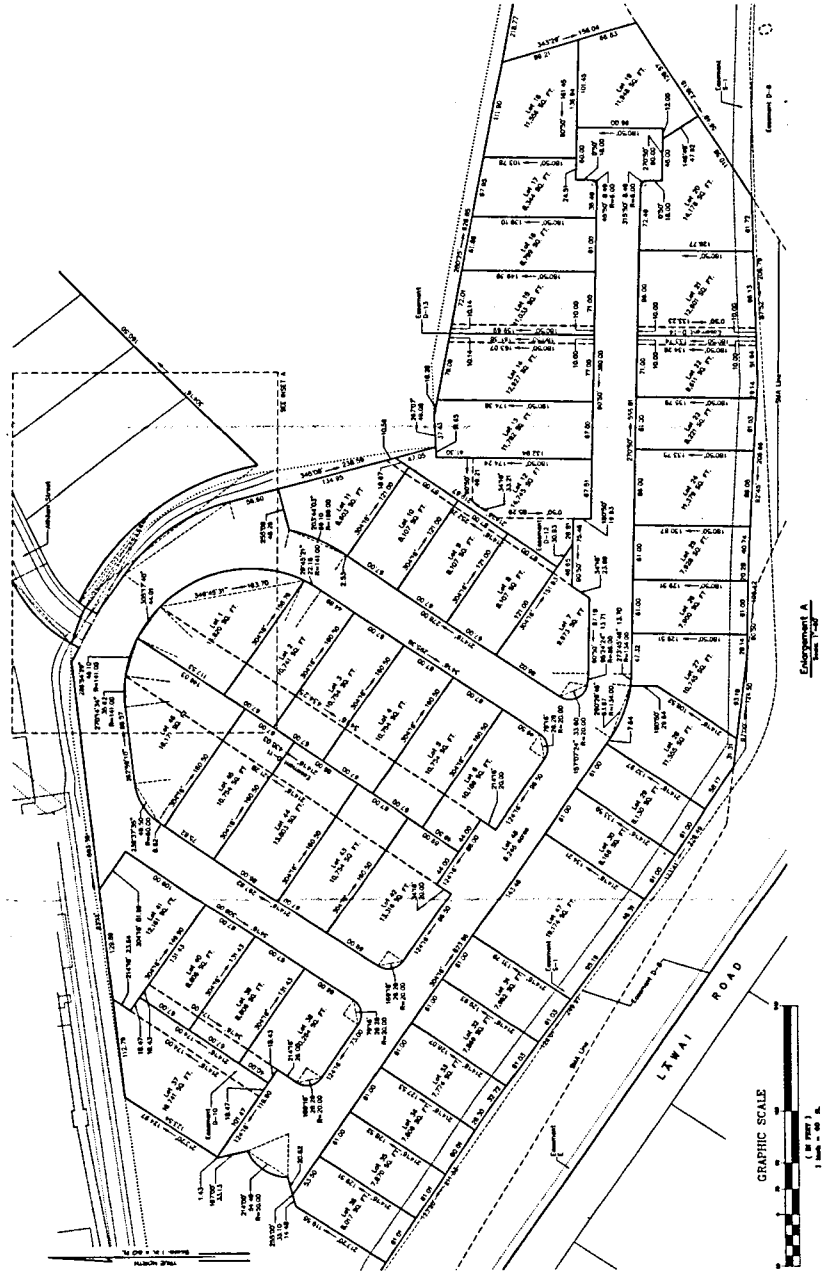
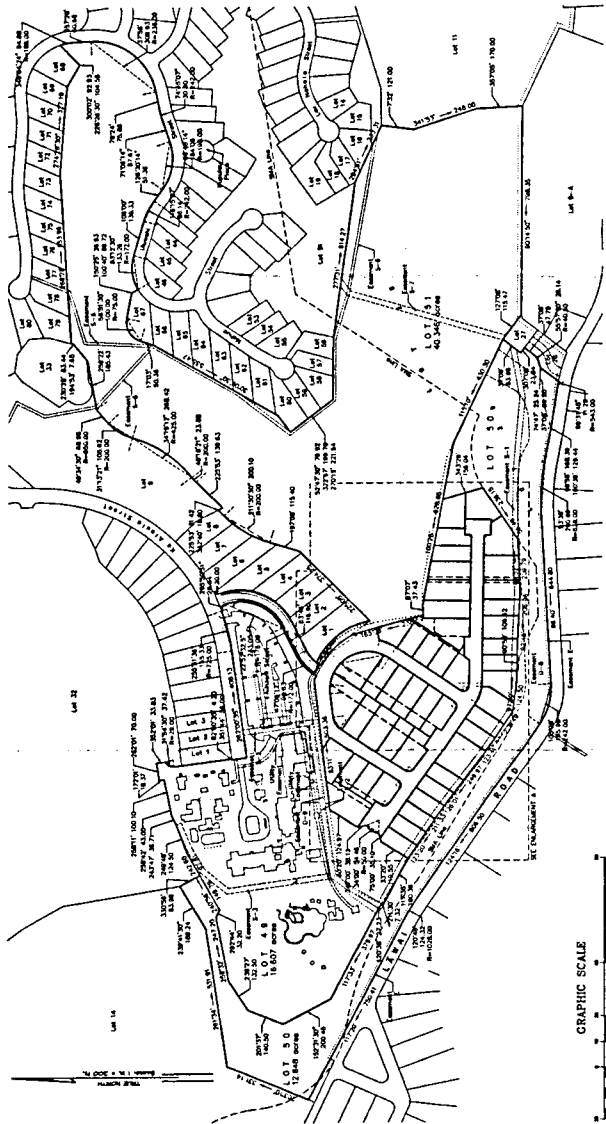
#	Requirement	Status
	construction work from affecting the surrounding areas. This includes the offsite roadways used to enter/exit the project. The control measures include but are not limited to the use of water wagons, sprinkler systems, dust fences, etc.	
4. d.	The construction waste that will be generated by the project shall be disposed of at a solid waste disposal facility that complies with the applicable provisions of Title 11, HAR, Chapter 11-58.1, "Solid Waste Management Control", the open burning of any of these wastes on or off site is prohibited.	Acknowledged and will be complied with.
5. a.	Requirement of the State Historic Preservation Department (SHPD):  The subdivider shall comply with the requirements of the State Historic Presentation Department, if any, prior to final subdivision approval.	Acknowledged and will be complied with. The project has received SHPD's determination of "No Historic Properties Affected" and has permitted the project initial process to continue (January 30, 2023).
6.	The Applicant is advised the should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division and the Planning Department to determine mitigation measures.	Acknowledged and will be complied with.
7.	The Applicant is advised that prior to and/or during construction and use additional conditions may be imposed by government agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).	Acknowledged.



Professional Engineer  
State of Hawaii  
License No. 4383

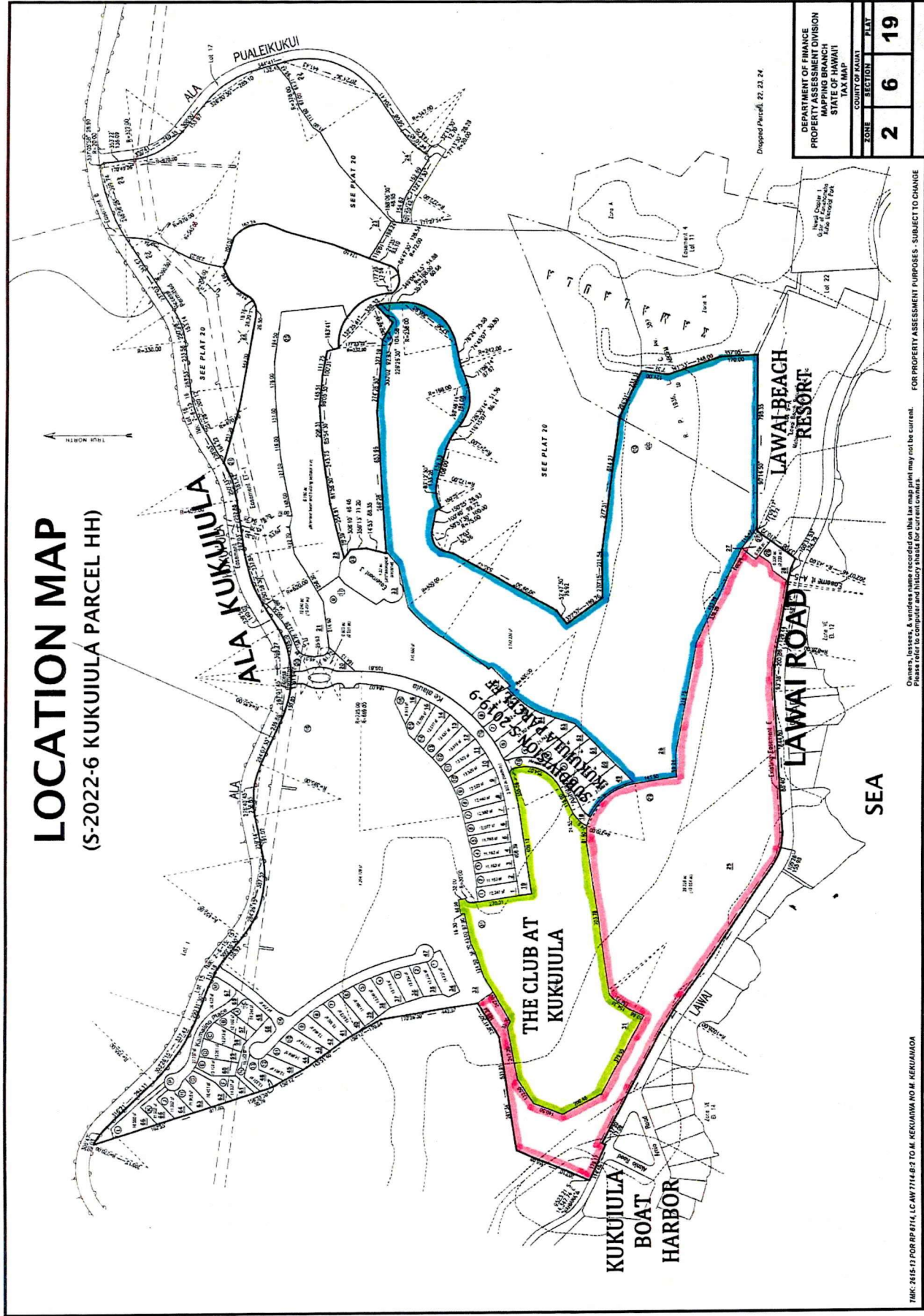
*[Signature]*  
Date: 10/10/2019

PRELIMINARY MAP  
(Parcel HH)  
CONSOLIDATION OF LOTS 26, 29, AND 31  
Kukui'ula Residential Subdivision, Phase III-A  
Being Portion of R.P. 6714,  
L.C. Aw. 7714-B, Ap. 2 to  
M. Kekuaia no M. Kekuaia  
RESUBDIVISION OF SAID CONSOLIDATION INTO  
LOTS 1 THROUGH 51, INCLUSIVE  
AND DESIGNATION OF EASEMENTS  
D-10 THROUGH D-14, INCLUSIVE  
Owner: Kuku'ula Development Co., LLC  
TKK: (4) 2-6-19: 26  
(4) 2-6-19: 29  
(4) 2-6-19: 31  
Date: October 9, 2019



# LOCATION MAP

(S-2022-6 KUKUIULA PARCEL HH)



DEPARTMENT OF FINANCE  
PROPERTY ASSESSMENT DIVISION  
MAPING BRANCH  
STATE OF HAWAII  
TAX MAP

ZONE	SECTION	PLAT
2	6	19

Observed, measured, & recorded as shown on this map may not be current. Please refer to computer and history sheets for current owners. FOR PROPERTY ASSESSMENT PURPOSES - SUBJECT TO CHANGE

TMK: 2615-17 POR RP 914, LC AW 71148-3 TO M. KENIATTA WO M. KENIATTA

COUNTY OF KAUAI  
PLANNING DEPARTMENT

TO: Subdivision Committee, Planning Commission

SUBJECT: Extension Request

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

Subdivision Application No.		Applicant(s)	
S-2022-8		BBCP Kukui'ula Parcel X, LLC. Et Al.	
Location:	Kōloa	Tax Map Key:	(4) 2-6-015: 010, 011
Extension Request No. (1 <sup>st</sup> , 2 <sup>nd</sup> , etc.)		Tentative Approval Granted On:	Previous Ext. Expired On:
1st		03.22.2022	N/A
Subdivision Bonded: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Deadline to Complete Improvements: Not Applicable	

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

**PLANNING DEPARTMENT  
EVALUATION & RECOMMENDATION**

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

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

  
Staff Planner

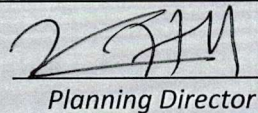
06.05.2023

Date

☒ Approved and Recommended  
to Planning Commission

☐ Denied

Comments:

  
Planning Director

6/5/2023  
Date

**e.i.d.i.**

**JUN 27 2023**

## COUNTY OF KAUAI PLANNING DEPARTMENT

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

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

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

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

### FINDINGS/BACKGROUND:

The subject property is located on the eastern side of the Kukui'ula master planned area and contains the parcel that includes The Shops at Kukui'ula (shopping center). The project area is adjacent to Ala Kalanikaumaka and Lāwa'i Road along its eastern and southern boundaries, respectively.

The proposed subdivision involves a two (2) lot consolidation and resubdivision into a total of four (4) lots identified as Lots 1 through 4. Lot 1 is a roadway lot that serves as the future east/west roadway serving Parcels X and R that would provide a direct connection to Ala Kalanikaumaka; Lot 2, consists of the parcel that was recently purchased by Kuponu Resorts, LLC. via the Parcel X Condominium Map. The lot is County zoned Resort District (RR-10) and Residential District (R-10). The applicant has represented that Kuponu Resorts is currently working on a master development and it is unclear as to whether the parcel will be further subdivided; Lot 3, is the remaining parcel that is owned by Kukui'ula Development Company, LLC. and it is zoned Residential District (R-10); and Lot 4, is the parcel that encompasses The Shops at Kukui'ula commercial complex and is County zoned Neighborhood Commercial (CN). The intent of the subdivision application is to consolidate and resubdivide the subject properties to be consistent with the boundary lines that are designated in the Parcel X Condominium Map. This application was granted tentative approval by the Planning Commission on March 22, 2022, and the Applicant's request is the **1<sup>st</sup>** extension of the tentative approval.

A portion of the property is within the Special Management Area (SMA). Any new "development", as defined in Section 1.4 of the SMA Rules and Regulations of the County of Kaua'i, may require an SMA Permit and if so, the applicant is subject to all applicable requirements/conditions of the permit. Further, a portion of Roadway Lot 1 is within the Special Management Area. The Applicant has obtained a Special Management Area Minor Permit (SMA(M)-2022-7) with the Planning Department to develop a roadway and other related improvements. In considering the subdivision, the Applicant is subject to the applicable requirements of the SMA permit.

The Applicant has been made aware that the proposal will require preparation of an Ka Pa'akai O' Ka'aina Analysis and will be subject to the requirements associated with the analysis. This requirement is required by law to fulfill the constitutional duty to preserve and protect traditional customary native Hawaiian rights and resources. Prior to final subdivision approval, the Applicant will be required to submit a Ka Pa'akai Analysis for the review and approval of the Planning Commission.

It is also noted that the Public Path and Trails Exhibit dated October 2020 identifies the proposed subdivision as part of the trail system within the Kukui'ula planned community. Prior to final subdivision approval, the Application will be required to resolve with the Planning Department the provision of public access that would be consistent with the previously approved public path and trails plan for Kukui'ula.

#### PROGRESS OF THE SUBDIVISION:

The Applicant has been working to resolve the various conditions of tentative approval. Presently, the Applicant has been working to resolve Condition 1.i. of tentative approval relating to establishing vehicular access to proposed Lot 3. It is the department's preference that access to Lot 3 be obtained from roadway Lot 1 and through Lot 2. As a result, the Applicant is working to complete the phased development plans between Lots 2 and 3, and this "phasing" needs to be established to adequately address vehicular access.

The Applicant is also working to resolve the required infrastructure improvements associated with this application. In considering this, since the subject property is situated within the Special Management Area (SMA), an SMA Permit may be needed for the development. The Applicant will work with the Planning Department to resolve this matter.

Lastly, the Applicant is working to submit a Ka Pa'akai Analysis for the subdivision application which is a requirement of tentative approval.

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

Additionally, the Applicant should demonstrate further progress with the subdivision within one (1) year from the approval of this extension request. As such, the Applicant shall be made aware that in further considering extension requests involving the proposed development, the Applicant shall continue to submit to the Planning Department an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements. The status report shall be

submitted to the Planning Department no later than sixty (60) days prior to the expiration date in order to allow sufficient time to evaluate whether progress has been made and conditions satisfied.

**RECOMMENDATION:**

It is recommended that an extension until **MARCH 22, 2024** be granted to obtain final subdivision approval. However, the Applicant is made aware that an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements shall be submitted to the Planning Department for review for further extensions requests. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date.



VIA EMAIL

February 20, 2023

Mr. Kenny Estes  
Department of Planning  
County of Kauai  
4444 Rice Street, Suite A-473  
Lihue, Hawaii 96756

Subject: S-2022-8  
Kukui'ula Parcel X Subdivision

Dear Kenny,

Kukui'ula received Tentative Map approval for the above referenced map on March 22, 2023.

We respectfully request a one-year extension for this tentative map as we have not yet completed our 'phased development' plans between proposed Lots 2 and 3... please understand that this 'phasing' needs to be established to adequately address and respond to the Planning Department conditions related to vehicular access to Lot 3.

Additionally, we have not yet completed the required SMA Permit application and the Ka Pa'akai Analysis required for Final Sub Map approval.

We anticipate being able to complete these tasks within one year. Once we work through these final steps and can submit the required additional documents we look forward to re-engaging with the Planning Department and the Planning Commission and obtaining Final Subdivision Map approval.

Thank you for your continued assistance.

Sincerely,

Chris Rivera  
Director of Land Development

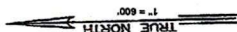
Cc: Erik Kaneshiro – Austin Tsutsumi & Associates



## Location Map

Subdivision Application No. S-2022-8

## Kukuila Parcel X, Phase 2



**Abstract**

DEPARTMENT OF FINANCE  
PROPERTY ASSESSMENT DIVISION  
MAPPING BRANCH  
STATE OF HAWAII  
TAYLOR

Owners, lessors, & vendees name  
recorded on this tax map print may  
not be current. Please refer to  
computer and history sheets for  
current owners.

POR TMK:2603-01 KOLOA, KAUAI

FOR PROPERTY ASSESSMENT PURPOSES - SUBJECT TO CHANGE  
current owners.

SCALE: 1 IN = 600'

# DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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

## SUBDIVISION REPORT

### I. SUMMARY

**Action Required by Planning Commission:** Consideration of Subdivision Application No. S-2022-5 that involves a two (2) lot boundary adjustment.

**Subdivision Permit No.** Application No. S-2022-5

**Name of Applicant(s)** MORTON L. COHEN FAMILY TRUST

### II. PROJECT INFORMATION

<b>Map Title</b>	Consolidation of Lot C and 90-A-3 Being Portions of Grant 8361 to Ethal Hanohano and Resubdivision of said Consolidation into Lots C-1 and 90-A-3-A and Designation of Easements AU-3 and AU-4 at Kapa'a, Kaua'i, Hawai'i.				
<b>Tax Map Key(s):</b>	4-4-013:034 & 035		<b>Area:</b>	2.91 acres	
<b>Zoning:</b>	Agriculture				
<b>State Land Use District(s):</b>	Agricultural		<b>General Plan Designation:</b>	Homestead	
<b>AGENCY COMMENTS</b>					
<input checked="" type="checkbox"/> <b>COK Public Works</b> pending <input type="checkbox"/> <b>State DOT-Highways:</b>					
<input checked="" type="checkbox"/> <b>COK Water:</b> pending <input checked="" type="checkbox"/> <b>State Health:</b> 11.03.2021					
<input type="checkbox"/> <b>Other(s)</b> <input type="checkbox"/> <b>DLNR – SHPD:</b>					
<b>EXISTING ROAD RIGHT-OF-WAY(S)</b>					
Road Name	Existing Width	Required Width	Pavement YES	NO	Reserve
Kanepo'onui Road	30 feet	44 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	
<b>APPLICABLE FEES</b>					
<b>Environmental Impact Assessment (EIA)</b>	N/A				
<b>Park Dedication</b>	N/A				
<b>Appraisal Report Required</b>	N/A				

G.2.a.1.

JUN 27 2023

I.10.1.

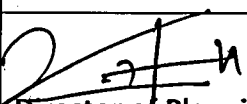
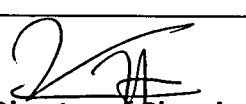
DEC 14 2021

### III. EVALUATION

The proposal redefines the boundaries between two (2) existing lots within the County Agriculture Zoning District. The intent of this proposal is to adjust the boundaries between existing Lots C and 90-A-3 to resolve a boundary encroachment of a swimming pool and fence. It should be noted that the swimming pool is a permitted structure through Class I Zoning Permit Z-1076-94 that was approved by the County of Kaua'i, Planning Department on April 6, 1994. However, the fence surrounding the pool is not a permitted structure and the Applicant should obtain a Class I Zoning Permit for the fence and pay all applicable fees prior to final subdivision approval. Since there are no additional lots being created with this application, there will be no assessment of EIA and Park Dedication Fees.

In further evaluating the proposal, the subject properties were originally a part of a three (3) lot subdivision, previously processed through Subdivision No. S-89-77 that was approved by the County of Kaua'i Planning Commission on January 9, 1992. Prior to the submittal of Subdivision No. S-89-77, the Applicant applied for a variance permit to deviate from the minimum average lot width within the County Agriculture Zoning District for a proposed three (3) lot subdivision. The variance was reviewed through Class IV Zoning Permit Z-IV-89-58 and Variance Permit Z-89-17 and was approved by the County of Kaua'i Planning Commission on August 10, 1989. Furthermore, Lot C was also a part of Subdivision No. S-93-62 that was approved by the County of Kaua'i Planning Commission on January 27, 1994. The subdivision involved a two (2) lot boundary adjustment between Lot C and Lot B, and created the lot boundaries as they are shown on the preliminary subdivision map of this subdivision application.

### IV. RECOMMENDATION

TENTATIVE APPROVAL	FINAL APPROVAL
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denied	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denied
Tentative Approval subject to all requirements as noted on the follow pages:	All conditions have been complied with
 Director of Planning 11/29/2021 Date	 Director of Planning 6/5/2022 Date

## **V. AGENCY REQUIREMENTS**

### **1. Requirements of the Planning Department:**

- a. An updated preliminary title report for the existing lots shall be submitted to the Planning Department for review.
- b. All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.
- c. Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kaua'i County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.
- d. The Applicant shall obtain a Class I Zoning Permit for the fence on proposed Lot C-1 and shall pay all applicable fees associated with the permit prior to final subdivision approval.
- e. The Applicant shall show on the final subdivision map a thirteen (13) foot future road widening reserve along the frontage of Kanepo'onui Road for proposed Lots C-1 and 90-A-3-A as depicted on the final subdivision map of Subdivision No. S-93-62.
- f. The applicant is advised that uses on the newly-created lots shall be limited to those listed as permissible uses within the "A" Agricultural District in the State Land Use Commission Rules and Regulations. Dwellings on the lot shall mean a single-family dwelling located on and used in connection with a farm where agriculture activity provides income to the family occupying the dwelling. These restrictions shall be included in the covenants for the proposed lots, draft copies of which shall be submitted to the Planning Department for review and approval.

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

- a. The subdivider shall comply with the requirements of the Department of Public Works, if any, prior to final subdivision approval. The subdivider shall be notified of such requirements upon receipt of their report.

3. Requirements of the Department of Water (DOW):
  - a. The subdivider shall comply with the requirements of the Department of Water, if any, prior to final subdivision approval. The subdivider shall be notified of such requirements upon receipt of their report.
4. Requirements of the Department of Health (DOH):
  - a. All structures and wastewater disposal systems are not shown on the subdivision map. Wastewater Branch will not recommend approval of the subdivision application until we have information on existing wastewater systems. The applicant must have his/her engineer or contractor submit a completed existing cesspool information card for each cesspool, identifying the location of all wastewater systems with associated structures and their relationship to existing and proposed property lines.
  - b. The property may harbor rodents which will disperse to the surrounding areas when the site is cleared. In accordance with Title 11, Hawaii Administrative Rules (HAR), Chapter 11-26, "Vector Control", the applicant shall ascertain the presence or absence of rodents on the property. Should the presence of rodents be determined, the applicant shall eradicate the rodents prior to clearing the site.
  - c. If / when construction occurs on lot 90-A-3-A, noise will be generated during the construction and grading phases of the project. The applicable maximum permissible sound levels as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control" shall not be exceeded unless a noise permit is obtained from the State Department of Health.
  - d. Temporary fugitive dust emissions could be emitted if / when Lot 90-A-3-A is prepared for construction and when construction activities occur. In accordance with Title 11, HAR Chapter 11-60.1 "Air Pollution Control", effective air pollution control measures shall be provided to prevent or minimize any fugitive dust emissions caused by construction work from affecting the surrounding areas. This includes the off-site roadways used to enter/exit the project. The control measures include but are not limited to the use of water wagons, sprinkler systems, dust fences, etc.

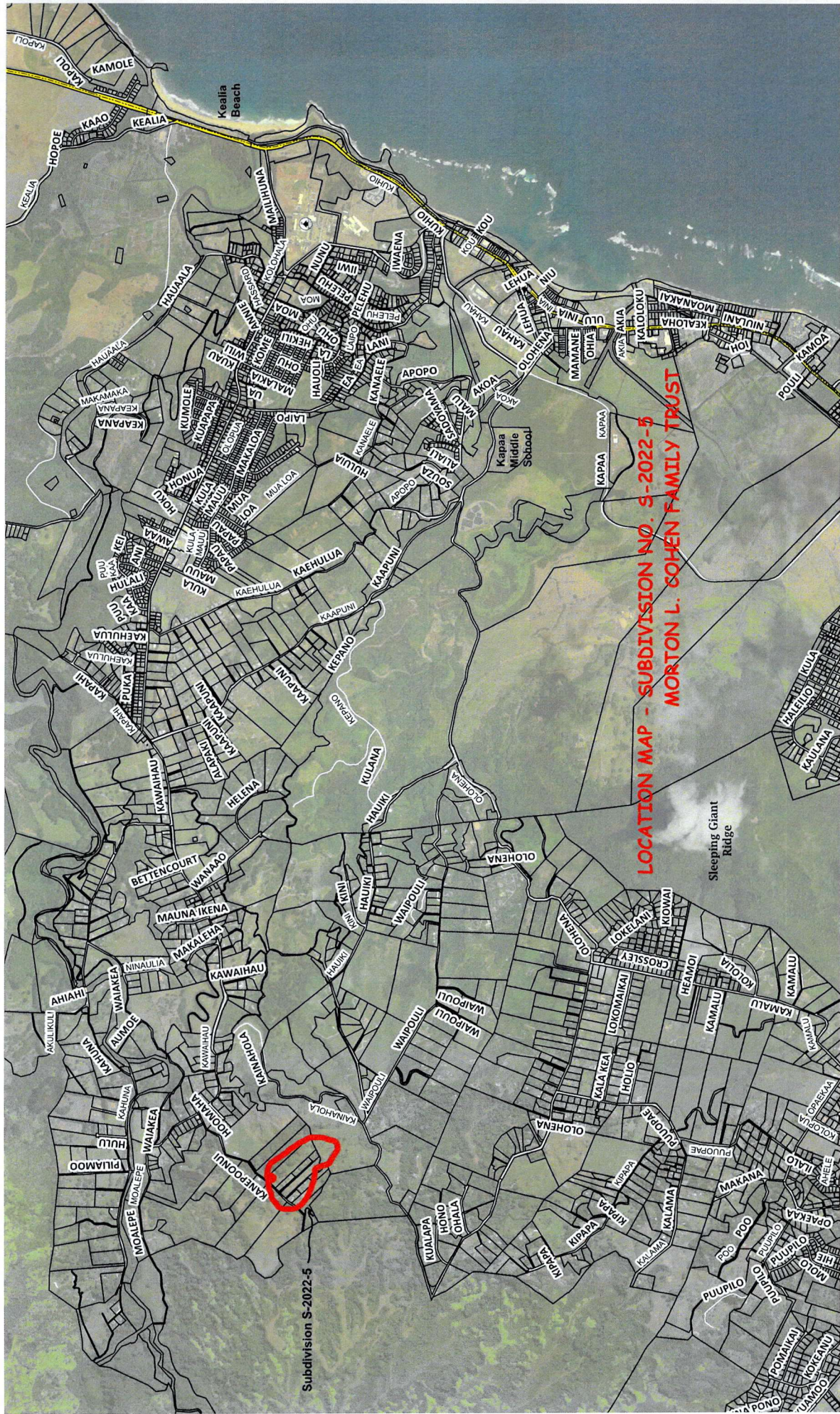
- e. If / when construction activities occur, the construction waste that will be generated by the project shall be disposed of at a solid waste disposal facility that complies with the applicable provisions of Title 11, HAR, Chapter 11-58.1 "Solid Waste Management Control", the open burning of any of these wastes on or off site prohibited.
5. The Applicant is advised the should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division and the Planning Department to determine mitigation measures.
6. The Applicant is advised that prior to and/or during construction and use additional conditions may be imposed by government agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).

The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for DECEMBER 14, 2021 whereby the entire record should be considered prior to decision-making. The entire record should include but not be limited to:

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

BY   
KENNETH A. ESTES  
Planner





LOCATION MAP - SUBDIVISION NO. S-2022-5  
MORTON L. COHEN FAMILY TRUST

Subdivision S-2022-5



COUNTY OF KAUA'I  
PLANNING DEPARTMENT  
4444 RICE STREET, SUITE A473 LĪHU'E, HAWAII 96766  
(808) 241-4050

**SUBDIVISION APPLICATION ROUTING FORM**

**DATE: June 5, 2023**

Subdivision Map Review and Approval			
<b>REQUEST:</b>	<input type="checkbox"/>	Preliminary (Revised Tentative)	<input type="checkbox"/> Final
	<input checked="" type="checkbox"/>	Pre-Final	<input type="checkbox"/> Extension
<b>SUBDIVISION APPLICATION NO:</b>		<b>Subdivision S-2022-5</b>	
<b>Owner(s)/Applicant(s):</b>		<b>Morton L. Cohen Family Trust</b>	
<b>Name of Surveyor/Engineer/Authorized Agent:</b>			
<b>Tax Map Key:</b>		<b>Assigned to:</b>	<b>Kenny</b>
<b>Improvements:</b>	<b>Pre-Final Subdivision Map Review and Approval, S-2022-5</b>		

**Route To:** **DPW Engineering**

We have no comments and recommend proceeding to Final Map.

Sincerely,

Bryan Wienand, P.E.  
Regulatory Section Head  
Engineering Division



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

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

### SUBDIVISION REPORT

TO: PLANNING DEPARTMENT  
FROM: DEPARTMENT OF WATER

April 13, 2022

TMK: 4-4-013:034; Morton L. Cohen  
4-4-013:035 NAME: Family Trust SURVEYOR: Dennis Esaki REPORT NO: S-2022-5

1. Tentative approval is recommended. ☐  
Water Requirements are not affected. Tentative approval is recommended. ☐
2. All requirements have been fully met and; therefore, Final approval is recommended. ☒
3. Before final approval can be recommended, the subdivider must: ☐
  - A. Pay the Department of Water the following charges in effect at the time of receipt. At the present time, these charges include: ☒
    - 1) The Facilities Reserve Charge (FRC): ☒  
1 5/8-inch = \$ 9,515 \*\*

**\*\*The applicant should be made aware that prior to DOW-Billing recommending meter application approval for the inactive water service connection assigned to parcel 35, the applicant will be required to pay the FRC difference.**

- 2) Payment to install one, service connections(s) at the fixed cost of \$ 2,850 . If the subdivider causes a delay in the service connection installation after one year since final map approval, the subdivider shall be charged the increase in the fixed cost, if any. ☐
    - 3) Deposit (the subdivider will either be billed or returned the difference between this deposit and the actual cost of construction of \$ \_\_\_\_ for construction by the Department of Water. ☐
  - B. Submit to the Department of Water a copy of the subdivider's permit to perform work upon a State highway from the State Highways Division ☐
  - C. Prepare and receive Department of Water's approval of construction drawings for the necessary water system facilities and either construct said facilities or post a performance bond for construction. These facilities shall also include: ☐
    - 1) The domestic service connection. ☐
    - 2) The fire service connection, if applicable. ☐
    - 3) The interior plumbing with appropriate backflow prevention device, if applicable. ☐
  - D. Prepare and convey to the Department of Water a Right-of-Entry and Temporary Grant of Easement for the purpose of construction, repair, maintenance and operation of the subdivision water system improvements installed in other than County-owned property. ☐
  - E. If a bond is filed, to secure final subdivision approval, the subdivider shall clearly letter the following on the approved construction plans, final subdivision map, and deeds: ☐

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

This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.
4. Installation of service connections will not be required until a request for water service is made. The applicant for service will be charged the applicable service connection charges at that time. ☐
5. Other (or remarks): ☐
  - a. Clearly letter the following on the final subdivision map and deeds ☐

"Due to the high elevation of these lots all applicants for water service must sign an elevation agreement with the Department of Water whereby the applicant accepts such water service as the Department is able to render and if necessary, agree to install and maintain a suitable pump, storage tank and appropriate backflow device."

This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.
  - b. Domestic and fire flow water demands as recommended by the DOW's Water System Standards may be inadequate to any or all the parcels within this subdivision however the required improvements to the DOW's water system may be deferred if full disclosure is made to existing and all future property owners through the appropriate deeds of ownership, restrictive covenants or any other instruments of conveyance unless certain water facilities have been constructed and installed in accordance with the requirements of the DOW, County of Kauai

Jason Kagimoto  
Jason Kagimoto, P.E.  
Acting Chief of Engineering VII  
Engineering Division

4/13/23

Date

SUBDIVISION REPORT NO. S-2022-5

JOSH GREEN M.D.  
GOVERNOR OF HAWAII

KENNETH S. FINK, M.D., M.G.A., M.P.H.  
DIRECTOR OF HEALTH



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

DATE: January 23, 2023

TO: **Kenneth Estes**

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

SUBJECT: RESPONSE\_Morton L. Cohen\_S-2022-5

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

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

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

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

**Clean Air Branch**

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

wherever possible.

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

#### **Clean Water Branch**

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

#### **Hazard Evaluation & Emergency Response Office**

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

#### **Indoor and Radiological Health Branch**

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

#### **Safe Drinking Water Branch**

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

#### **Solid & Hazardous Waste Branch**

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters 339D, 342G, 342H and 342I, and HAR Chapters 11-58.1, and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse and recycling are preferred

options over disposal. The Office of Solid Waste Management also oversees the electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.

3. Underground Storage Tank Program – The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction.
4. Standard comments for the Solid & Hazardous Waste Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

#### **Wastewater Branch**

By Revised Statute 11-62-31.1 If the parcel is less than 10,000sq feet, an individual onsite waste-water unit may not be possible for future construction. Please contact Sina Pruder at the DOH waste-water branch at 808-586-4288 for further information. For comments, please email the Wastewater Branch at [doh.wwb@doh.hawaii.gov](mailto:doh.wwb@doh.hawaii.gov).

#### **Sanitation / Local DOH Comments:**

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

#### **Other**

1. [CDC - Healthy Places - Healthy Community Design Checklist Toolkit](#) recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Kauai District Health Office at 808-241-3492.

*Janet Berreman*

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